

# **COMPLAINTS PROCEDURES**

## **PART I: - COMPLAINTS**

### **1. What Complaint can be brought to the Commission?**

The Commission will accept and register complaints that allege human rights or freedoms have been violated. The act or conduct complained of must however have happened after the 26<sup>th</sup> August 2004 when the law that established the Commission came into force.

The Commission will receive any complaint that alleges violation of the right to life, personal liberty, and freedom from torture or inhuman treatment, right to privacy of one's person or home, right to fair hearing, freedom of movement, and violations of the rights of children, women, and persons with disabilities by public officials state agents or institutions

The above is not a full list of rights which you can complain about in case of violation. What you need to do is to come to the Commission when you feel your right has been violated. The Commission will advise you whether or not your complaint can be accepted or not. The Commission will also give you appropriate advice in case your complaint falls outside the mandate of the Commission.

### **2. What is a Human Rights Violation?**

A human rights violation happens in any of the following cases:

- ✚ When a public officer does something that violates or denies somebody his or her rights or freedom. A public officer is a government or local government official or an official of an institution or organization supported with government funds.
- ✚ When a person acting on behalf of government or a government institution or on behalf of a public officer violates or denies somebody his or her rights or freedom.
- ✚ When a public officer or government or its agents fails to perform his or her duty and as a result violates or denies somebody his or her right or freedom.
- ✚ When a public officer approves of an act or fails to intervene when a person's right is being violated.
- ✚ When a public officer or the government knows or should have known that human right was likely to be violated but did nothing to protect a person or group of persons from the violation.
- ✚ When the government or its servants or agents refuse, or neglect to investigate and or act on a clear violation of human rights. Government has a duty to investigate all violations of human rights. This is one way human rights can be protected.
- ✚ When a person is treated with discrimination: Discrimination takes place when you are or a group of persons are treated less favorably

compared to another person or group because of age, or race, or colour or sex or ethnicity, or disability. Public officials must treat all people whom they serve equally without discrimination.

✚ When government or its officials or agents fail in their obligation to provide basic services leading to violation of human rights.

### 3. How do I lodge a complaint?

You can lodge a complaint by walking into any of the offices of the Commission located in **Freetown, Makeni, Bo and Kenema**. If you can read and write, an official in the office will give you a Form to fill. The Form has all the relevant questions to be answered to help you properly file your complaint.

If you are unable to read and write or wish to be assisted to fill the complaint form, an officer will assist you to lodge your complaint – by helping you write down the information needed for the complaint. You can also take the form and ask a friend or a lawyer to help you fill it.

Complaints can also be filed by sending a letter or e-mail to the Commission. It is also possible to print the complaint form from our website and use it to lodge the complaint.

The working language of the commission is English. You are nevertheless free to file your complaint in the language you understand well. The Commission will get an interpreter to translate it into English.

### 4. What kind of complaints will the Commission not accept?

The law clearly states that the Commission will not handle the following type of complaint:-

- ❖ Complaints arising from something that happened before 26<sup>th</sup> August 2004
- ❖ Complaints based on a matter already decided by a court or pending before a court.
- ❖ Complaints not based on acts or commissions or negligence of a public officer or person acting on their directives.
- ❖ Complaints that do not reveal serious content or appear to be brought in bad faith. Such complaints are usually those intended primarily to annoy, harass or embarrass somebody rather than to seek a remedy.
- ❖ Complaints based on hearsay, rumor or media reports.
- ❖ Complaints that fail to identify the complainant or the victim.

- ❖ Complaints not filed within 9 months from the time the act complained of took place unless the complaint has valid satisfactory reason for the delay.

**5. Will I pay fees to lodge a complaint?**

No, the HRCSL receives and investigates complaints free of charge. We will impartially handle all complaints and try to resolve them without much technical formality.

**6. How long will it take to have my complaint concluded?**

The length of time it will take to conclude a complaint depends on how complex the issues are. It could take weeks to several months to finally conclude a complaint. By law however a complaint must be resolved within one year. The Commission however, can give priority to a complaint depending on its nature and urgency of the matter.

**7. What will happen after my complaint is filed?**

- ❖ When your complaint is received it will be registered and the receiving officer will give you an acknowledgement letter stating your file number. You will be given a pack giving you information about complaints. The officer will also provide you with all relevant information and any advice you may require.
- ❖ After registration your complaint will be assessed by the Commission to find out whether it is the correct type of complaint to be brought before the Commission. If it is not your file will be closed. A written notice with reasons will be sent to you explaining why your file was closed. You will also be advised of your right to appeal to the Supreme Court if you are not satisfied with the reasons why your complaint was terminated.
- ❖ If your complaint is correctly before the Commission the person or institution you have accused (the respondent) will be notified of the complaint and required to respond to the allegations in the complaint. A copy of your complaint will be forwarded to the respondent to enable him make a proper response.
- ❖ When a response from the respondent is received, the Commission will assess the information. The Commission may forward the response to you the complaint to ask for clarifications on any conflicting facts arising as a result of the information contained in the response.

- ❖ The Commission may advise a mediation or conciliation of the complaint. If the parties agree and the matter is successfully mediated or conciliated an appropriate agreement will be concluded between the parties and the file will be closed.
- ❖ Where mediation or conciliation is not possible the Commission shall investigate the matter and reach a decision based on the evidence gathered by the investigation .The parties will be informed of the decision reached by the Commission. Either party is free to appeal to the Supreme Court against the decision reached by the Commission .Both will formally be informed of this right.
- ❖ The Commission may at its own discretion decide to conduct a formal hearing on the complaint; In that case the parties will be advised to bring their witnesses to testify before the Commission after which the Commission will write a decision based on the evidence of the parties.

**8. Do I have any rights as a complainant?**

Yes. A complainant has several rights

- a) Right to have the complaint impartially investigated and resolved as soon as possible.
- b) Right to be informed from time to time of the progress of the case.
- c) Right to be represented by a lawyer at his or her expense.
- d) Right to appeal to the Supreme Court against any decision of the Commission.
- e) The right to discontinue the complaint at any stage of the investigations.
- f) The right to be informed of his/her rights.
- g) The right to receive a written acknowledgement from the Commission that his/her complaint was received.
- h) Right to have his/her complaint investigated free of charge.
- i) Right to confidentiality of information obtained at mediation or conciliation.
- j) Right to be treated with dignity and respect by the Commission and its officials.

**9. Do I need a lawyer to handle my complaint?**

You do not require a lawyer to lodge and follow up your complaint. Our complaints management system allows a complaint to be managed without the need for a lawyer. Under the law however, you have the right to engage a lawyer to take up your complaint on your behalf.

**10. What do I do if my complaint is dismissed or if I lose the case?**

If your complaint is dismissed or if you lose the case you will be given a written explanation. You are thereafter entitled to appeal against the decision to the Supreme Court. It may be necessary in such a case for you take legal advice

whether or not to appeal. Any cost related to your appeal will be paid by the party appealing. The Commission does not meet the cost of the appeal.

**11. Can I decide to discontinue with my complaint?**

It is not unusual that the people sometimes change their mind after filing a complaint and may wish to discontinue with their complaint. Others may negotiate with the respondent and reach amicable solution and therefore agree to have the complaint discontinued. A complainant is free to discontinue with a complaint without any penalty whatsoever. To discontinue a complaint simply write to the Commission or contact the officer handling the complaint. You do not have to give any reason why you have decided to discontinue with the complaint.

**12. What is expected of me as a complainant?**

For a quick and fair resolution of a complaint a complainant has certain responsibilities:

- ❖ To tell the truth in clear and understandable manner.
- ❖ To provide names and contact addresses of all relevant witnesses.
- ❖ To remain in contact with the Commission and notify the Commission of any new facts regarding the complaint and change of addresses.
- ❖ Generally to cooperate with the Commission in investigating the complaint.

**PART II: - THE RESPONDENT.**

**1. Who is a respondent?**

A Respondent is a defendant in a complaint filed at the Commission. A person or institution/organisation accused in a complaint of violating human right is a respondent who by law must respond to the allegations. When a complainant lodges a complaint he/she will name the person or institution complained against. A complainant however, may not be able to name the proper respondent. The human rights officer receiving the complaint will make the necessary assessment and advise accordingly.

A Respondent is not necessarily the person who commits the act or fails to do an act complained about. For example a policeman who violates a person's right may not be the respondent, if he/she was acting in the course of his/her duties. The respondent would be the Inspector General of Police or the Attorney General who represent the Government in all legal claims.

## **2. What happens when a complaint is filed against respondent?**

All complaints before the Commission must be investigated fairly and impartially. To ensure fairness and impartiality, and to allow proper investigations, the respondent will be notified of a complaint filed against him/her. A copy of the complaint will be forwarded to the respondent.

The respondent will be required to file a defense or state his/her side of the story. This must be done within 15 days on service of the notice.

If the respondent fails to file his/her side of the story the investigations into the complaint will nevertheless continue. A decision on the complaint may be reached without his/her side of the story.

### **1. As a respondent do I have any rights?**

As a respondent one has several rights:

- ❖ The right to be notified of any allegations made by a complaint.
- ❖ The right to respond and contest any allegations made against him/her.
- ❖ The right to be represented by a lawyer at own expense.
- ❖ The right to an impartial and fair consideration of the complaint.
- ❖ The right to seek clarifications on the nature of the complaint.
- ❖ The right to call witnesses in support of his/her case.
- ❖ The right to adequate time to prepare his/her defense.
- ❖ The right to be notified in writing and as soon as possible about any decision of the Commission on the complaint.
- ❖ The right to be treated with dignity and respect by the officials of the Commission.
- ❖ The right to appeal to the Supreme Court against a decision of the Commission on the complaint.
- ❖ The right to request that the complaint be resolved by mediation or conciliation.

### **2. What is expected of me as a respondent?**

- ❖ When a respondent gets a notification letter he should respond within 15 days. He should do so in writing with detailed answers about the alleged facts. If you fail to respond as required a decision on the complaint will be reached without your side of the story.
- ❖ Respondent should state facts truthfully in answer to the allegations in the complaint.
- ❖ Respondent is expected to provide names and contact addresses of any witness that can help decide the dispute fairly and impartially.
- ❖ To generally co-operate with the Commission during the investigation of the complaint.
- ❖ To take all communications and directives or orders from the Commission seriously and obey them to avoid being punished for contempt.

### **PART III: PUBLIC INQUIRIES.**

It may happen that several complaints will reach the Commission alleging similar violations. This may for example be because of acts attributed to public officials in various parts of the country. Such instance would suggest a pattern of violation. The best course of dealing with such situation is not to deal with the individual complaints but to find out why such a pattern of violation is going on. That would allow the Commission to deal with the cause in order to eliminate the violation.

Where the Commission receives several complaints indicating a pattern of conduct complained about, it may instead of dealing with individual complaints, decide to hold a public inquiry on the issue. In such cases the complainants will be informed accordingly. Taking such course of action will not be to the disadvantage of the complainants. All their rights to seek remedies will still be considered by the Commission.