



CODE OF ETHICS

July 2016

Abstract

The people of Saint Helena have a right to confidentiality, fairness, competence and quality decision-making from the EHRC.

This Code of Ethics (Code) applies to all Commissioners and staff during their term of appointment for any work they do for the Equality & Human Rights Commission (EHRC). Members of the Commission commit themselves to act honourably and conscientiously, independently and without bias or conflict of interest.

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INTRODUCTION

The people of Saint Helena have a right to confidentiality, fairness, competence and quality decision-making from the EHRC.

This Code of Ethics (Code) applies to all Commissioners and staff during their term of appointment for any work they do for the Equality & Human Rights Commission (EHRC). Members of the Commission commit themselves to act honourably and conscientiously, independently and without bias or conflict of interest.

When Members of the Commission accept an appointment, they also accept reasonable limitations on some of their activities. Commissioners and staff must not be biased, and must never create the appearance of bias.

This Code is a living document, which will be amended from time to time as new concerns arise. To demonstrate commitment to transparency and accountability, this Code is available to the public on the Commission website (<http://www.humanrightsthelena.org/>).

OBJECTIVES/CORE VALUES/CODE OF ETHICS

OBJECTIVES

The primary objectives of this Code of Ethics are to govern the conduct of the Commissioners and staff and to provide the public and anyone assisting in an inquiry, an understanding of the standards of ethics that apply to Members of the Commission.

The Code of Ethics constitutes an important element of the accountability framework within which the Commission operates. The Code is founded on the recognition that the conduct of Members of the Commission must be governed by the requirements of fairness, integrity and independence in decision-making.

This Code seeks to combine the rules set out in law and the principles of the vital matters of personal conduct, bias, and conflict of interest.

OUR CORE VALUES

-  *Respect for the communities we work with and serve;*
-  *Integrity in our actions;*
-  *Responsibility for our decisions and their consequences.*

THE CODE OF ETHICS

-  We are committed to act honestly, truthfully and with integrity in all our transactions and dealings.
-  We are committed to avoid conflicts of interest and the appropriate handling of actual or apparent conflicts of interest in our relationships.
-  We are committed to treat our clients fairly and to treat every individual with dignity and respect.
-  We are committed to treat our employees with respect, fairness and good faith and to provide conditions of employment that safeguard their rights and welfare.

-  We are committed to be a good corporate citizen and to comply with both the spirit and the letter of the law.
-  We are committed to act responsibly toward the community in which we work and for the benefit of the community we serve.
-  We are committed to be responsible, transparent and accountable for all of our actions.

PRINCIPLES OF CONDUCT

1. FAIRNESS

Members of the Commission will ensure that meetings, investigations and inquiries are conducted in a manner that is transparent and fair.

Members of the Commission will make every effort to ensure that all parties understand the process, even if they are represented.

2. EXPERTISE

Members of the Commission will strive to maintain and advance their professional competence. It is up to each Commissioner to meet a high standard of decision making and to become familiar with human rights law.

3. COURTESY AND INTEGRITY

Members of the Commission will ensure that each person with whom they interact is treated with dignity and respect.

Members of the Commission should ensure that their actions and comments maintain and enhance the integrity of the Commission's processes.

4. COOPERATION

Members of the Commission should foster a cooperative working environment with other Members of the Commission and staff.

5. IMPARTIALITY

Members of the Commission must approach every proceeding and every issue arising with an open mind, and avoid doing or saying anything to cause any person to think they are biased in favour of one of the parties involved.

Decisions are based on consideration of the evidence presented in each case with reference to the Constitution of St Helena and not on irrelevant considerations.

6. DUTY TO AVOID AND REPORT REAL OR PERCEIVED CONFLICTS OF INTEREST

Commissioners and staff must avoid acquiring any business interests which may with or could reasonably appear to create a conflict of interest. When Members of the Commission find themselves in a situation that could affect their ability, or be perceived within reason to affect their ability, to be impartial, they have a duty to report this potential conflict immediately to the Chairperson or Deputy Chairperson.

7. DISCLOSURE

It is the responsibility of each Member of the Commission to declare in writing to the Chairperson those private interests and relationships that they think could be seen to impact the decisions or actions they take on behalf of the Commission. When there is a change in their responsibilities within the Commission or in their personal circumstance, Members shall disclose in writing any relevant new or additional information about those interests as soon as possible. Where a real or reasonably perceived conflict of interest cannot be avoided, Members must take the appropriate steps to manage the conflict.

This provides Members of the Commission, following a review by the Chairperson, an opportunity to take action to minimize or remove the conflict. To actively manage a conflict of interest, options include:

- Ensuring the conflict is recorded on the register of Commissioners interests
- removing themselves from matters in which the conflict exists or is perceived to exist;
- giving up the particular private interest causing the conflict; and,
- in rare circumstances, resigning their position with the Commission.

8. POST-SERVICE CONDUCT

When the term of a Member of the Commission ends, a former Member shall:

- Abide by the Commission's rules governing post-service conduct;
- Not take improper advantage of past office;
- Not appear before a human rights Tribunal as a representative, expert witness or consultant for a 24-month period when that appearance would compromise the ability of the Tribunal to fulfil its obligation to provide services and perform statutory functions in an impartial, lawful, unbiased and just manner; and
- Continue to observe obligations of confidentiality after leaving office.

WHERE TO GET ADVICE

When members of the Commission require advice and guidance whether a potential for misconduct or conflict exists, or needs clarification, they may discuss the issue with:

- The Chairperson
- The Deputy Chairperson
- The CEO
- A fellow Commissioner

AFFIRMATION

The Code of Ethics for the Saint Helena Equality & Human Rights Commission was introduced in 2016 and is reaffirmed annually by the Commission to ensure it remains current and relevant

COMPLAINTS PROCEDURE

1. WHAT IS A COMPLAINT?

A complaint is an expression of dissatisfaction, whether justified or not.

Our policy covers complaints about:

- the standard of service the complainant should expect from us
- the behaviour of our staff in delivering that service
- any action, or lack of action, by our staff or others engaged on Commission business

These complaints are "service complaints".

Our complaints policy does not cover:

- comments about our policies or policy decisions
- dissatisfaction or complaints expressed with our policies or decisions about individual cases, funding, or requests for legal advice and assistance
- matters that have already been fully investigated through this complaints procedure
- anonymous complaints or complaints by third parties (except as described in section 2 below).

These are 'non-service complaints'.

2. OUR STANDARDS FOR HANDLING COMPLAINTS

- We treat all complaints seriously.
- You can expect to be treated with courtesy, respect and fairness at all times. We expect that the complainant will treat our staff dealing with their complaint with the same courtesy, respect and fairness.
- We will treat a complaint in confidence nothing will be discussed outside the Commission, unless
 - **We are required by law to disclose information, or**
 - **We have the expressed approval of the Complainant**
- We will deal with any service complaint promptly.
- We will not treat complainants less favourably than anyone else on the grounds of:
 - sex or legal marital or same-sex partnership status: this includes family status, responsibility for dependants, and gender (including gender reassignment, whether proposed, commenced or completed)
 - sexual orientation
 - colour or race: this includes ethnic or national origin or nationality

- disability
- religious or political beliefs, or trade union affiliation
- any other unjustifiable factors, for example language difficulties, age, pregnancy and maternity.

THIRD PARTY REPORTING

Complainants may wish to have a third party act on their behalf. A third party is any person or organisation acting on behalf of or making enquiries for the complainant. For example, third parties may include:

- advice organisations
- professionals such as social workers, community psychiatric nurses, doctors or solicitors
- family members or friends when acting on behalf of a client or former client who lacks the capacity to complain on their own behalf.

Where a third party is helping a complainant with a particular complaint, we need written consent to that effect or a capacity statement. Where we have this authority, we will endeavour to take all possible steps to keep the third party informed of progress on the complaint.

3. CONFIDENTIALITY

All complaints received will be dealt with confidentially, subject to the need to disclose information as required by statutory authorities, and/or as a result of statutory, legal obligations placed on the Commission. **However the EHRC reserves the right to discuss the complaint within the Commission. If a complaint is about an individual/individuals all information regarding the complaint will be shared with those individuals.**

4. HOW COMPLAINTS MAY BE MADE

A complaint, may be made by email letter or in person.

If the complainant is disabled, and needs a reasonable adjustment to ensure they can register their complaint the EHRC will make every effort to assist, i.e. going out to the complainants home, writing it up on their behalf etc.

Contact Details:

Tel: 22133, email catherine@humanrightssthena.org

or visit

EHRC,

PWD Yard,

The Castle, Jamestown

5. SERVICE COMPLAINTS PROCEDURE

HOW WE WILL RESPOND TO A COMPLAINT

STAGE 1

The complaint will be shown to the relevant staff member or Commissioner for consideration and explanation. The evidence will be presented to a special meeting of all the remaining Commissioners. The relevant Commissioner/staff member may be called in to provide further information or documents for clarity.

The complaint will be deliberated on by the remaining Commissioners who will decide on the action, if any to be taken.

In most cases, where a complaint is upheld, this will result in an explanation and apology. In exceptional cases the Commission may need to instigate the disciplinary procedure. This will be at the Commission's discretion and in keeping with the principles of the EHRC Code of Ethics.

STAGE 2

If the Complainant is not satisfied they can request that the complaint be reviewed. This review will be carried out (when available) by another British Overseas Territory Human Rights Institution.

At each stage of the complaints procedure the person investigating the complaint will endeavour to get as much clarity and detail as possible, including any documents and correspondence relating to a complaint. If we do not have all the details required to deal with the complaint, we will contact the complainant and ask for further information. If this withheld the complaint may not be able to be considered.

5. REMEDIES

When we get things wrong we will act to:

- accept responsibility and apologise
- explain what went wrong and why, and
- put things right by making any changes required
- learn lessons from mistakes and change policies and practices where proportionate and sensible to do so

The action we take to put matters right (i.e. redress) in response to a service complaint may include any combination of the remedies set out in the list below. The general principle the EHRC will follow is that complainants should, so far as possible, be put in the position they would have been in, had things not gone wrong.

The remedy applied needs to be proportionate and appropriate to the failure in service, and take into account what redress people seek when they complain. In some cases an apology may be appropriate, but other action (including disciplinary action) may also be necessary in some circumstances.

List of remedies

- A full apology, explaining what happened and/or what went wrong. (an apology is not an acceptance of liability)
- Remedial action, which may include reviewing or changing a decision on the service given to an individual complainant
- Provision of the service required in first instance (immediately, if appropriate)
- Putting things right (for example a change of procedure to prevent future difficulties of a similar kind, either for the complainant or others)
- Training or supervising staff; or a combination of both

The reason for our decision will be recorded by the decision maker and included in our response.

E) CONSEQUENCES OF A BREACH

Members of the Commission who do not comply with the standards of behaviour identified in this Code including taking part in a decision or action that furthers their private interests may be subject to disciplinary action up to and including recommending the removal of the Commissioner to H.E. the Governor.

F) REVIEW OF A DECISION

Members of the Commission found guilty of an offence or the aggrieved complainant can request in writing that HE the Governor reviews the decision that has been made by the Chairperson/Panel or other resources

VEXATIOUS COMPLAINTS, UNREASONABLE AND ABUSIVE BEHAVIOUR

Unreasonable or abusive complaint behaviour does happen from time to time. Difficulties in handling such situations can place strain on time and resources and can be stressful for staff who have to deal with these complex and challenging issues.

The Commission defines unreasonably persistent complainants as “those who, because of the frequency or nature of their contact with an authority, hinder the Commission’s consideration of their or other people’s, complaints”.

VEXATIOUS OR REPETITIVE COMPLAINTS

A complaint will be considered vexatious when, taking into account the context and history of the complaint it is likely to cause unjustified distress, disruption or irritation. In particular, we will consider the following issues:

- Does the complaint appear to be designed to cause disruption or annoyance?
- Could the complaint fairly be seen as obsessive?
- Is the complaint harassing or causing distress to staff?
- Does the complaint lack any serious purpose or value?

The concern we will address is whether a complaint is vexatious in terms of the effect of the request on us and not whether the applicant is personally vexatious.

Context may include other complaints made by the applicant to us (whether complied with or refused), the number and subject matter of the complaints, as well as the history of other dealings between the complainant and ourselves. The effect a complaint will have may be determined as much, or indeed more, by that context as by the complaint itself.

We will take into consideration the following factors (which are not an exhaustive list) when determining whether a complaint is vexatious:

- where the complaint requests information which has already been provided
- where the nature and extent of the complainant's correspondence with us suggests an obsessive approach to disclosure
- where the tone adopted by the complainant is confrontational and/or haranguing and demonstrates that the purpose is to argue and not really to obtain information
- where the correspondence could reasonably be expected to have a negative effect on the health and well-being of our staff
- where the complaint, viewed as a whole, appears to be intended simply to reopen issues which have been disputed several times before, and is, in effect, the pursuit of a complaint by alternative means
- where responding to the complaint would likely entail substantial and disproportionate financial and administrative burdens for us
- where it is not a one-off complaint, but a case of the same complaints having been made repeatedly, or where on repetition, the particulars of the complaints have been varied making it difficult to know exactly what the complainant is seeking and making it less likely that the request can be satisfied

No single one of the above factors would lead to a finding, by itself, that a complaint was vexatious. However, based on the strength of the various factors, taken together with the history and context of a complaint, a complaint may be deemed vexatious by the Commission.

Complaints from a single source will not be deemed vexatious just because some may have been so previously.

Complaints can sometimes become a vehicle for individuals to try to reopen previous issues. Although we recognise that people are not always satisfied with the responses they receive, the raising of complaints is not a panacea for problems that have not been resolved through other channels. Continued complaints after the underlying complaint has been addressed, go beyond the reasonable pursuit of resolution.

UNREASONABLE BEHAVIOUR

The Commission understands that people may act out of character in times of distress or due to frustration. We do not view behaviour as unreasonable just because a complainant is forceful or determined. Commission staff make reasonable allowances for complainants' behaviour.

However, if the behaviour of the complainant becomes unacceptable, for example becoming abusive, aggressive or threatening we may restrict or bring to an end communication and access to our premises or staff.

Our staff have the right to undertake their work free from abuse, threats and harassment, or vexatious and repetitive complaints. We expect our staff to be treated with courtesy and respect. The Commission has a duty to protect the welfare and safety of staff and considers that violence, threats or abuse towards staff is unacceptable. Staff are also expected to treat complainants with courtesy, respect and fairness.

Furthermore, Commission staff will bring to an end phone calls if the caller is considered aggressive, abusive or threatening. The complainant will first be told that we consider their language offensive or their behaviour unacceptable, and will be asked to stop using such language or behaviour.

Where complaints are deemed vexatious, the complainant will be notified in writing that no further correspondence will be entered into on the matter in question. The Commission will initially keep one form of contact open so that there is not a 'blanket ban' on contact for any individual.

Where unreasonable or abusive behaviour is determined, the complainant will be notified in writing that no further contact will be undertaken, and this will apply to all Commission contacts. A copy of this policy will be included and, if and where appropriate, a no-contact period specified. If further contact is necessary, the complainant will be informed that it will be made through a Commissioner. A decision to restrict contact will be reconsidered if the complainant subsequently demonstrates more reasonable behaviour.

All incidents of harassment or aggression will be documented and referred to the Commissioners. In appropriate circumstances these matters may be referred to the police and the Commission may consider taking appropriate legal action against the complainant, if necessary, without prior warning.

