



# COMPLAINTS PROCEDURE

## **Functions of Media Complaints Committee**

The Media Complaints Committee (MCC) is guided by a desire to promote and protect a set of common professional standards of conduct for media practitioners, media institutions, media owners and publishers, and to provide all parties, including members of the public, with an adequate opportunity to obtain redress where there has been a violation of the Code.

The MCC will consider a complaint by any individual and/or institution concerning possible breach/es of the Code by any media practitioner, media institution, media owner or publisher in Zimbabwe, whether a member of the Voluntary Media Council of Zimbabwe or not.

## **Independence of Media Complaints Committee**

The MCC is independently constituted and will carry out its mandate and functions with complete impartiality.

## **Authority of Media Complaints Committee**

Media practitioners, media institutions, media owners and publishers have voluntarily bound themselves to the Code in their desire to ensure voluntary regulation of the media profession.

The authority of the MCC rests in the willingness of media practitioners, media institutions, media owners and publishers to cooperate fully with the MCC and to accept and respect its adjudications, irrespective of the outcome thereof.

Where a media practitioner, media institution, media owner or publisher has agreed to be bound by the Code and has submitted to the disciplinary jurisdiction of the Committee, the adjudication of the MCC will be final and binding.

## **Informal Nature of Procedure of Media Complaints Committee**

The MCC places a strong emphasis on the speedy, cost-effective and informal resolution of complaints, wherever possible.

## **Preliminary Requirements in Complaints Procedure**

Where a complainant alleges that there has been violation/s of the Code, and the complaint cannot reasonably be said to be frivolous and vexatious, s/he is first encouraged to take reasonable steps to resolve the matter amicably with the media practitioner, media institution, media owner or publisher concerned by writing a letter of complaint and/or speaking to the media practitioner, head of the media institution, media owner or publisher concerned to request an explanation and/or clarification and/or correction of the alleged violation of the Code. Where such action is unsuccessful in resolving the complaint, the complainant may then approach the MCC for assistance.

## **Lodging a Complaint**

Within thirty (30) days of the date of the alleged violation of the Code, the complainant must complete the Complaint Form, clearly and succinctly stating the following:

1. the name of the complainant;
2. her/his/its full contact details;
3. the name of the media practitioner, media institution, media owner or publisher against whom the complaint is directed;
4. the date/s of publication and/or broadcast;
5. the page number of the publication, together with the edition (in the case of a major metropolitan newspapers), or the time of broadcast;
6. the main points of complaint;
7. the provision/s of the Code which is/are alleged to have been violated.

The complainant must make a cutting or a clear photocopy or a recording (where available) of the material which is alleged to have breached the Code and enclose this with the Complaint Form.

The complainant must send the complaint to the Executive Director by post, facsimile or electronic mail. Even when not provided initially, the complainant will be required to complete the Complaint Form, so that the MCC has a clear understanding of what the complainant sees as the main areas of concern.

A complainant who makes a complaint more than thirty (30) days after the initial publication or broadcast must explain the delay, and give reasons why the complaint is one of those rare, special cases where the thirty-day guideline should be waived. In these circumstances, the Executive Director will have discretion as to whether to accept or reject the complaint.

### **Lodging of complaints by legal practitioner**

As the procedure is designed to be a speedy, inexpensive and informal means of redress for violations of the Code, the MCC will not accept the direct involvement of a legal practitioner in the complaints procedure and a legal practitioner will not be entitled to appear before the Complaints MCC to represent his or her client.

Where a complaint has been lodged by a legal practitioner acting on behalf of a client, the Executive Director will request that the legal practitioner ensures that the correspondence is passed on to the complainant and that the latter be responsible for dealing with the matter.

The only exception will be where the legal practitioner is representing the interests of a child who is alleging breach(es) of the Code.

Procedure on receipt of complaint

#### **1. Resolution without the involvement of the Committee**

Upon receipt of a complaint, where the matter clearly does not fall within the jurisdiction and mandate of the Committee, and would be better dealt with by another body, the Executive Director will refer the matter to that body and inform the complainant accordingly.

Upon receipt of a complaint, where the Executive Director considers that a settlement is possible, the complaint will immediately be referred to the media practitioner, media institution, media owner or

publisher concerned before the complaint is formally processed, with a request for a direct settlement with the complainant and for written confirmation thereof to be transmitted to the Executive Director.

Where the Executive Director receives written confirmation of the amicable resolution of the complaint, s/he will note this in writing in the complaint file and the file will be closed.

Where the media practitioner, media institution, media owner or publisher concerned has not positively responded to the Executive Director within fourteen (14) days of receipt of the request for direct settlement with confirmation of the resolution of the complaint, the Executive Director will refer the complaint to the Chairperson of the MCC after receipt of the waiver document and inform the complainant accordingly.

## **2. Waiver**

Where the complaint is referred to the MCC for formal adjudication, the complainant will be required to sign a document waiving her/his/its right to institute legal action in respect of the complaint. This waiver will be placed in the complaint file before the Executive Director transmits the file to the Chairperson of the Committee.

## **3. Rejection of Complaints by Chairperson of the Committee**

The Chairperson must scrutinize the complaint within seven (7) days of receiving it and may reject it where s/he reasonably considers that:

- a. the complaint is frivolous or vexatious; or
- b. the complainant has failed to take reasonable steps to resolve the matter amicably; or
- c. the complainant has taken legal action, unless the complainant agrees by waiver not to pursue such action; or
- d. the complaint does not appear to breach any of the provisions of the Code.

The Chairperson must provide written reasons explaining her/his decision.

An appeal against the rejection of the complaint by the Chairperson will lie with the remainder of the Committee. Such appeals can be entertained within fourteen (14) days of the refusal and must be lodged by the complainant in writing.

The decision of the remainder of the MCC in the appeal will be final and must be provided to the complainant in writing within seven (7) days of receipt of the appeal.

## **4. Adjudication Procedure**

Upon receipt of the complaint with all the documentation, including the signed legal waiver, the Chairperson will refer the complaint to the MCC for consideration.

A copy of the complaint will immediately be forwarded to the media practitioner, media institution, media owner or publisher concerned with a request for a formal written response to be made and delivered to the MCC within fourteen (14) days. The complaint will be made public by the MCC within seven (7) days of the complaint being referred to it by the Chairperson. This may be by way of printed or broadcast advertisement or via e-mail or posting on the MCC's website.

Where a response is not received from the media practitioner, media institution, media owner or publisher concerned, the MCC will adjudicate in favour of the complainant. The MCC, through the Chairperson, may request further information from any party to the complaint at any time.

Parties must respond promptly to requests from the MCC and comply with any time limits set. Where correspondence is not responded to within the stipulated time limits, the MCC will normally treat the complaint or defence as abandoned, depending on the party in default. The MCC will be convened at such time and venue to be decided upon by the Chairperson to consider the complaint.

The complaint will be adjudicated upon on the basis of the documentation provided, and there will be no formal hearing or attendance by the parties to the complaint.

Parties will however be notified by the Executive Director of the date upon which the complaint will be considered. Once a date for consideration of the complaint has been notified, the MCC will not accept any further written material from either party without the approval of the Chairperson. An adjudication will be made by the MCC within thirty (30) days of referral of the complaint by the Chairperson to the MCC, save where there are compelling reasons for the MCC to extend the time limit. In such a case, the adjudication must be made within forty-five (45) days of referral of the complaint by the Chairperson to the MCC.

### **Powers of Co-option of the Media Complaints Committee**

The MCC may co-opt a representative of an association or union of media practitioners to assist it in the performance of its functions, including its deliberations, but such representative will have no voting powers.

### **Powers of the Media Complaints MCC in Adjudication**

The MCC will have powers to:-

- a. Dismiss the complaint; or
- b. Find in favour of the complainant and:-
  - i. Issue a reprimand; and/or
  - ii. Order the publication of a prompt and prominent retraction and apology.

The Commission will not have powers to impose a financial penalty but may order that the unsuccessful party pay reasonable costs associated with pursuing the complaint, such as costs of express post, other mail, photocopying, and communication costs. The adjudication of the MCC must be provided in writing.

### **Publication of Adjudication**

The Executive Director must send the Committee's written adjudication to the parties by express post, fax or email within three (3) days of the adjudication having been made, and must distribute the adjudication to the media.

The general publication of an adjudication may be embargoed for ten (10) days from the date of adjudication to enable the affected party to publish first, where such party is a media practitioner, media institution, media owner or publisher, except where there is a compelling interest to the contrary.

The MCC may restrict communication and reporting of adjudications where there is a compelling interest, such as where the complainant is a child. Where the adjudication has not been published by the affected party, or where the MCC believes that the publication is a misrepresentation of the adjudication, or where the adjudication has not been published with adequate prominence, the MCC may recommend to the Council such action as it considers appropriate in the circumstances.

The MCC must also publish all adjudications in its annual report, and such adjudications will also be included in the annual report of the Council. The MCC and/or the Council may make public a failure by a media practitioner, media institution, media owner or publisher to submit to the jurisdiction of the MCC and/or abide by an adjudication of the MCC.

### **Appeals**

The decision of the MCC will be final and there will be no appeal, provided that a party to the proceedings will be entitled to lodge a complaint with the Voluntary Media Council of Zimbabwe about any material procedural unfairness that adversely affected the adjudication and the Council will adjudicate on this complaint. The proceedings of the MCC will be reviewable by the High Court.