



# Procedural Manual: Human Rights Committee (HRC) of the North-West University

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# Procedural Manual: Human Rights Committee (HRC) of the North-West University

## 1 Foundation of the NWU Human Rights Committee

The Human Rights Committee, (hereinafter referred to as the 'Committee') was established by the Human Rights Policy (approved by the NWU Council on 22 September 2006). In exercising its mandate, the Committee will be guided by chapter 2 of the South African Constitution

The Committee exercises its mandate on behalf of the North-West University (NWU) Council.

## 2 Lodging and screening of complaints

- 2.1 Any person(s) who alleges an infringement or threat of a fundamental right may lodge a complaint with the Committee. Person(s) include:
  - (a) anyone acting in their own interest;
  - (b) anyone acting on behalf of another person who cannot act in their own name;
  - (c) anyone acting as a member of or in the interest of a group or class of person;
  - (d) anyone acting in public interest, and
  - (e) an association acting in the interest of its members.
- 2.2 Any complaint submitted to the Committee for consideration shall be submitted in writing on the HRC Complaint Form (annexure A) and shall be accompanied by all relevant supporting documents that substantiate the complaint.
- 2.3 Complaints may be lodged with the Chairperson or any member of the Committee delegated by the Chairperson or electronically at [humanrights@nwu.ac.za](mailto:humanrights@nwu.ac.za) to receive complaints.
- 2.4 Upon receipt of the complaint, the Chairperson/Secretariat shall by electronic mail, send the complaint to all members of the Committee for screening.
- 2.5 The screening and assessing of the complaint shall be done by all members of the Committee and the process shall be completed with 7 (seven) days after receipt of the complaint.
- 2.6 If the majority of the Committee members, after screening and assessing the complaint, are satisfied that the complaint should be rejected or referred to a proper tribunal, the complainant shall be informed in writing, within 7 (seven) days, of the decision taken by the Committee to reject or refer the complaint and shall give full reasons thereof and advise the complainant of his or her right of appeal to the said decision to reject or refer the complaint in terms of paragraph 9 of these procedures (Procedure Manual: HRC).
- 2.7 If on the other hand, a majority of the Committee members, after screening the process are satisfied that the complaint does constitute a prima facie violation of fundamental rights, the Chairperson/Secretariat shall within 7 (seven) days, inform the complainant in writing of the decision taken by the Committee to accept the complaint.
- 2.8 Where any of the time limits prescribed in paragraphs 2.5, 2.6 and 2.7 above cannot for whatever reason be met, the Chairperson must in that case advise the complainant of same and the complainant shall be furnished with reasons of such a failure.
- 2.9 A register of all human rights complaints is to be managed by Employee Relations (within Human Capital).

## 3 Complaints that the Committee shall not deal with

The Committee may reject any complaint, which is:

- (a) based on hearsay, rumour or reports disseminated through the media, provided that the Committee may conduct an enquiry to verify any allegation of violation of fundamental rights is repeated in the media or obtained from any source; and upon verification, such alleged violation shall be dealt with in terms of these procedures;
- (b) couched in a language that is abusive, insulting, rude or disparaging, provided that the Committee may consider a complaint if such language is removed;

- (c) the subject of a dispute before a court of law, tribunal, any statutory body, and body with internal dispute resolution mechanism or a dispute settled between the parties, or in which there is a judgement on the issues in the complaint or finding of such court of law, tribunal or statutory body;
- (d) an anonymous complaint, provided that the Committee may in its discretion make enquiries to ascertain the allegations of possible human rights violations and if ascertained, it may deal with the complaint in terms of these procedures. Notwithstanding the aforementioned the Committee may consider a complaint in which the complainant requests to keep his or her identity confidential;
- (e) is viewed to be frivolous, misconceived, unwarranted, incomprehensible and manifestly incompatible with fundamental rights or does not comply with the provision of these procedures;  
or
- (f) unattended due to the conduct of the complainant in failing to respond to the Committee's request for information or documents in terms of a written request to do so by the Chairperson or any member of the Committee delegated by the Chairperson to fulfil the aforesaid task.

#### **4 Accepted complaints**

- 4.1 After a complaint has been accepted, the complainant must provide the Committee with a full statement on oath or affirmation, including details of all witnesses, for instances where the aforesaid statement was obtained as part of the screening process.
- 4.2 The Committee has the responsibility to provide appropriate assistance to a person wishing to make a complaint, particularly if the complainant is unrepresented and does not appear capable of formulating the complaint with sufficient particularity. Alternatively, if the complainant is represented and/or able to articulate the complaint and gather evidence (documentary or from witnesses), they shall be asked to do so within a specified time frame.
- 4.3 The Committee may, attempt to resolve the accepted complaints by mediation, conciliation or negotiation.
- 4.4 The following factors may influence the Committee to resolve the complaint by negotiation and/or conciliation:
  - (a) The nature of the complaint and the relationship between the parties;
  - (b) If the respondent is cooperative with the Committee and in circumstances where a complainant appears to seek a reasonable outcome;
  - (c) If it appears to the Committee that the complaint can be conciliated and both parties agree to conciliation, the Chairperson may convene a meeting between the respondent and the complainant as soon as possible.
  - (d) All contacts with the parties throughout this process shall be documented either in letters or, if by telephone, in file notes which are to be placed securely on the file. If during the conciliation process the parties reach an agreement, the latter should be documented in letters from the Committee to the parties. The aforesaid agreement will serve to record the fact that the complaint has been resolved to the satisfaction of the parties and the Committee's file will be closed.
  - (e) If complaints are formally investigated, the possibility of resolving them by conciliation or negotiation should always be kept in mind, and considered as an option throughout the later stages of the complaint handling process.
  - (f) If the Committee decides to resolve a complaint by mediation and both parties agree to such mediation, the Committee may, amongst its members, appoint a suitably qualified person to conduct such mediation. Any agreement that is reached between the parties shall be recorded by the Committee to confirm closure of the complaint if the matter has been successfully resolved by mediation.

#### **5 Preliminary Investigation**

- 5.1 Once the Committee has accepted a complaint and determined that formal investigation of the complaint is necessary, the respondent shall be notified in writing of the decision to investigate a complaint.
- 5.2 A notice referred to in paragraph 5.1 shall include a comprehensive statement of the complaint, reference to the human rights that have allegedly been violated and a reference to the power of the Committee in connection with its investigation.

- 5.3 If the complainant's letter contains information that is irrelevant to the complaint, this should be pointed out in the Committee's covering letter to prevent the respondent from being distracted from addressing central issues in the complaint.
- 5.4 If the Chairperson is of the view that it would be insufficient to send a copy of the complaint to the respondent, the Committee's letter is to include a clear and objective summary of the allegation to enable the respondent to provide a comprehensive response for the purpose of the Committee's investigation of the matter.
- 5.5 The respondent must respond to the complainant's allegations within 14 (fourteen) days on receipt of the Committee's letter of inquiry as referred in paragraph 5.2 above. Notwithstanding the aforesaid period, in less complex or urgent matters the Chairperson of the Committee may specify a shorter period of time.
- 5.6 If the respondent fails to meet the deadline stated in paragraph 5.6, the Chairperson shall contact him or her by telephone to ascertain the reasons for the delay and thereafter request the respondent to furnish the Committee with reasons for the delay within 4 (four) days of such request being made. This new deadline (to furnish reasons) must be communicated in writing to the complainant and the complainant must advise the Committee of the reasons for the delay.
- 5.7 If the respondent still fails to reply to the Committee's letter of inquiry, the Committee may summon any person, who the Committee reasonably believes that such person may assist it in its investigation, to appear before the Committee. It may request the aforesaid person to produce any document(s) in his possession or custody which may be necessary in that investigation, provided that such notice shall contain reasons why any such article or document should be produced.
- 5.8 The Committee may question the person mentioned under paragraph 5.8 under oath or affirmation in connection with any matter which may be necessary in connection with that investigation.
- 5.9 On receipt of the respondent's reply to the Committee's letter of inquiry, the Committee shall review the matter. If the report is comprehensive and satisfactory the Committee's investigation may be ended and thereafter the Committee must communicate the findings to the parties.

## **6 Formal investigation**

- 6.1 If the respondent has not addressed all the issues raised in the complaint or may have raised issues that should be put to the complainant, the Committee must investigate the matter further.
- 6.2 The Chairperson or any member of the Committee delegated by the Chairperson may, by written notice, summon the complainant and the respondent to appear before the Committee to state their case and respond to the allegation(s). The Committee may appoint an Inquiry Panel to investigate the matter on behalf of the Committee.
- 6.3 The notice in paragraph 6.2 shall detail specific questions to be answered or evidence to be provided at the hearing.
- 6.4 The appointed Inquiry Panel may carry out its activities at any venue on which the Chairperson may decide after consulting other members of the Committee.
- 6.5 The Inquiry Panel may carry out its activities on any day except on a Sunday and Public holidays.
- 6.6 The Chairperson of the Inquiry Panel determines the time at which the activities will commence and the hours during which the Inquiry Panel will carry out its activities, but must obtain the consent of both the complainant and the respondent if the Inquiry Panel wants to continue with the inquiry longer than four hours per day.
- 6.7 The Inquiry Panel may adjourn its activities or postpone them to another day or days, depending on the demands of the matter under investigation, provided that a request to postpone a hearing shall only be considered if good reasons for such request, in the sole discretion of the Inquiry Panel, are provided in writing.

## **7 Inquiry Procedure: Committee Panel**

- 7.1 The Chairperson shall at the commencement of the inquiry procedure (hearing), inform all persons appearing, of the nature of the complaint and the purpose of the inquiry.
- 7.2 The Inquiry Panel may put any questions relating to the purpose of the inquiry to witnesses, and require such persons to answer them.
- 7.3 The respondent and witnesses, who appear before the Inquiry Panel shall be entitled to be represented by another person (the latter may include a friend, colleague and a legal

representative), the aforesaid representative shall be entitled to peruse all documentation in the possession of the Committee which is relevant to the purpose of the hearing and cross-examine witnesses.

- 7.4 The Inquiry Panel shall afford any person (the latter refers to the respondent and any other witness), who has been implicated in the matter before it an opportunity to appear as a witness and such person shall have the same rights and obligations referred to in paragraph 7.2 and 7.3 above.
- 7.5 After the Inquiry Panel has considered all evidence presented by the parties or their representatives, the Inquiry Panel decides by majority vote whether or not the allegations levelled by the complainant have been proven to have occurred.

## 8 Findings

- 8.1 After the Inquiry Panel's deliberations and subsequent vote as mentioned in paragraph 7.5 above, the Inquiry Panel shall make a finding on the matter before it where-after, it shall decide on a suitable recommendation in the case and if the complainant's allegations are proven to be true.
- 8.2 The Inquiry Panel shall compile a report, and must communicate its findings to the parties. The date on which the Committee makes its findings marks the closure of the complaint.
- 8.3 The findings of the panel shall be final and binding on the parties.

## 9 Review procedure: Committee Panel

- 9.1 An appeal, in terms of these procedures, which shall be in writing, may be lodged within 14 (fourteen) days from the date of posting, delivering, faxing or emailing the rejection, referral or finding. Appeals lodged after the period referred to the above may still be considered provided that the complainant has showed good reason for such failure to lodge within the time limits prescribed.
- 9.2 An appeal shall be lodged with the Executive Director: Human Capital.
- 9.3 One or more committee members may assist the Chairperson in the task of considering the appeal, provided that such member(s) of the Committee was not a party to the process of assessing or making any determination or in decision making relating to a complaint. The above exclusion does not apply to the Chairperson of the Committee.
- 9.4 If the Chairperson or any member of the Appeal Panel, is satisfied that the appeal should be rejected, he or she shall within 5 (five) working days, inform the complainant in writing of the decision taken by the Chairperson or the said member of the Appeal Panel, to reject the appeal. However, the Appeal Panel must give reasons for their decision and advise the complainant of his or her right of judicial review.
- 9.5 If the Appeal Panel upholds the appeal, the Chairperson shall within 5 (five) working days inform the complainant in writing of the decision taken by the Appeal Panel to uphold the appeal.

## 10 Reporting

- 10.1 A resolution of the Council Executive Committee dated 17 September 2010 approved that the HRC, as an independent structure, must report to the Executive Director: Human Capital.
- 10.2 A bi-annual report of the HRC is submitted to the Council, Institutional Management Committee and the Institutional Forum in June/July and November.
- 10.3 After consideration, the HRC may submit a report to the Institutional Management Committee (for noting) and the Council regarding a specific human rights violation(s), apart from the annual reports.

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