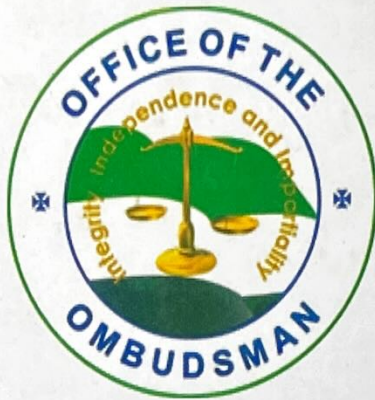




OFFICE OF THE OMBUDSMAN OF THE REPUBLIC OF SIERRA LEONE

Complaint Handling Manual

November, 2017

FOREWORD

The mandate of the Office of the Ombudsman is to receive, mediate, investigate and resolve complaints against Ministries, Departments and Agencies, and in so doing, to recommend reforms in Law and Policy.

This manual is designed to assist staff members of our institution, in the Complaints, Mediation and Investigations Division, to deal with complaints in a professional manner.

The manual sets out the "*modus operandi*" of the Office, from the time a complaint is received, to the time the complaint is resolved and the file closed and stored.

I implore each and every staff in the aforementioned division to be familiar with the contents of this manual, and the Ombudsman Act of 1997, in order to deal with complaints speedily and with the highest degree of professionalism, and in accordance with the provisions of the law.

I would like to thank all those who have contributed to the development of this manual, especially James M. Kpaka Esq, Alhaji Mansaray and Ajan Fofanah.

.....
Melron C. Nicol-Wilson Esq.

Ombudsman of the Republic of Sierra Leone

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1. DEFINITIONS

COMPLAINANT: A Person or an entity affected by the action or inaction of a Government Ministry, Department or Agency.

COMPLAINT: An expression of dissatisfaction with a specific action/inaction or service of a Government Ministry, Department or Agency, including the failure by the same, to comply with its public Service Charter or Mission.

FORMAL COMPLAINT: A formal written statement of dissatisfaction with a specific action/inaction or service of a Government Ministry, Department or Agency, including the failure by the same, to comply with its public Service Charter or Mission.

COMPLAINT FILE: The official file in which letters and other correspondences pertaining to a particular case/complaint are recorded and kept.

GOVERNMENT: The Government of the Republic of Sierra Leone.

SYSTEMIC INVESTIGATION: Investigation of an Issue identified through complaints, to be a problem in service or action of an agency, which is likely to be ongoing and apply to multiple cases.

RESPONDENT: Any Government Ministry, Department or Agency whose action and/or inaction has been complained of to the Office of the Ombudsman.

WHISTLE-BLOWER: Any person who makes a disclosure about improper conduct, by public bodies and Officers.

COMPLAINT REGISTER: The official list and record of all complaints addressed to the Office of the Ombudsman.

COPY REGISTER: The official list and record of all complaints not addressed to the Ombudsman, but in which the Ombudsman is copied.

COPY FILE: The official file where complaint letters in which the Ombudsman is copied are kept.

COMPLAINT DATABASE: Official file where the records of all Complaint Files are kept, with specific details of the status of the said files, and the Officer in conduct of the files.

2. BEFORE A COMPLAINT IS RECEIVED

Having a clear complaints process in place will mean that, the Office of the Ombudsman is ready to deal with complaints, whenever they are made.

- The Office Appoints **Intake Clerks** to act as a point of contact, to whom complaints made or addressed to the Ombudsman should be sent, in the first instance. The intake clerk must receive and record all complaints addressed to the ombudsman. This will avoid the possibility of complaints going unanswered, due to lack of ownership.
- In addition to having Intake Clerks, a **Mediation Officer** should be involved, in the early process. This will allow the complaint to be moderated, and gives the Office the benefit of a more objective viewpoint. Furthermore, complainants often appreciate having a second opinion.

- The complaints process should be accessible to all, including vulnerable complainants and those with special needs or requirements. Therefore, the Office should be contactable by email, phone and/or letter. Complaints do not need to be made in writing.
- Even though Complaints need not be in writing, yet, for record purposes, the Intake Clerks must assist complainants to put their complaints in writing
- Complaints that are not addressed to the Office , but in which the Office is copied, should be recorded in the "Copy Register" and filed.

3. PRACTICAL STEPS FOR HANDLING COMPLAINTS

A) Identify a Complaint

In some cases, Complainants that are unhappy with the actions or omissions of Ministries, Departments and Agencies, which amounts to Maladministration, may not make a formal complaint. Complainants might feel intimidated or concerned that certain facts will affect their cases, or they may have special needs or requirements, which prevent them from making a formal complaint. Such Complainants should be accommodated, in order to make the complaints process accessible and fair to all.

B) Understand the Reason for the Complaint:

The officer in conduct of the file must take into consideration the nature of the complaint that is being made, the person making the complaint and against whom the complaint is being made. This is to determine, whether it is a complaint that falls within the mandate of the Office of the Ombudsman, or one that the office can refer.

C) Record and file the Complaint:

The Intake Clerks shall record the complaint in a "Complaint Register", and open a "Complaint File" in the name of the Complainant, against the name of the Respondent. (For instance, "Kenneth Cole Vs. The Ministry of Defence"). A reference number should be allocated to such File.

All documents in connection with the complaint must be kept in the Complaint File, and all information relating to a complaint must be handled with utmost confidentiality.

D) Conduct of the Complaint File:

Once a complaint has been recorded and filed, the Intake Clerk shall hand over the file to the Director of Complaints, Mediation and Investigations, at the end of each working day. The Director, in consultation with the Ombudsman, shall then assign the file to a Mediation Officer, where mediation is a viable first option. Where the nature of the case demands a full-blown investigation, the Director shall hand over the file to the Principal Investigator or Regional Investigator, or the Principal Legal Officer, or any other designated Officer.

4. ACKNOWLEDGEMENT, NOTIFICATION AND REFERRAL

All files to be handled by a Mediation or Investigation Officer shall be assigned to such said Officer, within a working day, from the date of the complaint. Such said Officer shall acknowledge the complaint in writing, and notify the Respondent in writing, not later than 2 (Two) working days, from the date of receipt of the complaint. Please see **annexure 1, 2 and 4**, for the appropriate forms.

Complaints that do not fall within the mandate of the Ombudsman shall be referred to the appropriate institution, for action. Please see **annexure 3**, for the appropriate form.

5. ASSESSMENT OF COMPLAINTS

Not every complaint requires investigation. The majority of concerns raised by complainants could be resolved at an informal level, or through other processes, such as mediation. Many complaints involve communication problems or misunderstandings that can be resolved by discussions between the parties or with a Mediator.

Relevant factors to be considered in assessing the complaint include:

- whether it falls within the statutory mandate of the Office of the Ombudsman, under Section 7 of the Ombudsman Act, 1997;
- whether an alternative and satisfactory means of redress is available; or whether the complaint is trivial, scandalous, frivolous or vexatious;
- whether the time has elapsed, since the events of the complaint took place;
- how serious the complaint is and the significance it has for the Complainant and the Respondent;
- whether it indicates the existence of a systemic problem; and/or
- Whether it is one of a series of complaints, indicating a pattern of conduct or a widespread problem.

6. COMMUNICATION / CORRESPONDENCES

Written correspondences between the Office of the Ombudsman and Complainants/Respondents shall follow a standard format, as the Ombudsman may prescribe. No correspondences shall be made from the Office, without the knowledge and/or approval of the Ombudsman.

During the course of an investigation, all Officers shall use clear, comprehensible language and a neutral tone in communicating with Complainants and Respondents.

• Service of Official Correspondences:

Except otherwise prescribed by the Ombudsman, correspondences shall be served personally by delivering to the person to be served a copy of the document duly signed and stamped by the Ombudsman or any other officer duly authorised by the Ombudsman.

The address for service must be the official address of the person to be served and in some cases a secretary of an addressee may accept service on behalf of a person to whom a correspondence is addressed.

Where personal service of any correspondence is hindered by violence or threats or other acts of obstruction of that person or any other person with or under that person it shall be sufficient service to leave as near that person as may be practicable.

There shall be a log book of service. The log book must state by and on whom the document was served, the day of the week and the date and the hour on which it was served and how it was served.

7. MEDIATION AND LEGAL SERVICES

- Mediation shall be a voluntary process, which only takes place with the consent of all of the parties involved.

- The Mediation Officer shall assist the parties to work towards a resolution of the dispute, with the parties themselves remaining in control of the final decision.
- Where at any stage, during the Mediation process, it becomes apparent to the Mediation Officer that, there are legal issues raised or likely to be raised, the Mediation Officer shall involve the Legal Officer, attached to the Investigations Unit, who will then assist the Mediation Officer, throughout the Mediation process.
- The Mediation process shall be without prejudice. Therefore, discussions held, positions put forward and documents produced for the purpose of mediation should not be released, for the purpose of a Tribunal and/or Court Proceedings.
- If the dispute is not resolved during the mediation process, the Mediation Officer shall then pass the file to the Principal Investigator, with a full briefing, and the status of the file.
- The Principal Investigator, in consultation with the Director, shall advise the Ombudsman on the decision to investigate the complaint, where such a decision has been so made.
- Where and when advised, the Respondent shall be notified of the decision to investigate the complaint. Please see **annexure 5**, for the appropriate form.

8. INVESTIGATION AND LEGAL SERVICES:

A) Determine the Nature of the Investigation

This includes determining whether the complaint is about the law, policies, procedures and practices, or the conduct of public individuals/officials.

The Office will determine whether the nature of the investigation has a bearing on the resources, both human and material, necessary to conduct the investigation; whether Legal services may be required; and the possible outcome of the complaint.

B) Develop the Investigation Framework

It is critical that a framework be established for investigations. This framework should include a notification to the Respondent, of the decision to investigate; the Terms of Reference, which establish a focus and set limits on the investigation. An Investigation Plan will be developed, on a case-by-case basis, by the Complaints, Mediation & Investigation Department, with the assistance of a designated Legal Officer.

C) Gather Evidence

The main task of an Investigator is to prove or disprove, if possible, any matters of fact raised by a Complainant. The Investigator does this by gathering evidence. In an investigation, the main sources of evidence may include oral evidence (recollection), documentary evidence (records), expert evidence (technical advice) and/or site inspection.

Although only one witness may be required to prove any fact or set of facts, additionally evidence in the form of corroboration is desirable. Evidence should be gathered in accordance with the '**Rules of Evidence**'. A basic awareness of these rules is useful for the Investigator, to ensure

that the evidence obtained is the best available, and where applicable, will be admissible in any court or tribunal.

D) Apply the Appropriate Standard of Proof

In disciplinary and administrative investigations, allegations must be proved '**on a balance of probabilities**'. It must be more probable, than not, that the allegations are made out. This standard of proof possesses a measure of flexibility, so that the more serious the allegation, the higher the degree of probability required.

E) Record and Store Information Appropriately

Investigators must maintain a **Complaint File**, which is a complete record of the investigation, documenting every step, including all discussions, phone calls, interviews, decisions and conclusions made, during the course of the investigation. This file must be kept securely to prevent unauthorised access, damage or alteration and to maintain confidentiality.

F) Prepare the Investigation Report

This must be done by the Ombudsman with the assistance of the Legal Officers, and the '**Conducting Investigator**', at the conclusion of the investigation. The report will be for public records and may be subject to external scrutiny. Staff of the Office of the Ombudsman shall, therefore, ensure that, they observe procedural fairness, in preparing the final investigation report.

G) Close the Investigation

At the close of an investigation, all paperwork will be completed and filed. It is best practice to conduct a '**Review of the Investigation**', preferably done by someone more experienced than the Investigator. This

enables the investigation to be assessed, and may highlight some improvements in investigative mechanisms, for future reference purposes.

H) Letter to the President about a Complaint

Where the Respondent fails and/or refuses to comply with the Recommendations of an Investigation Report, and where it is deemed as the only option left to resolve the complaint, the Ombudsman will write to His Excellency the President for necessary action.

I) Report to Parliament about a Complaint

Where His Excellency the President could not act on a report forwarded to him within 90 days, the Ombudsman will refer the matter to the Speaker of Parliament for necessary action.

9. CLOSURE AND STORAGE OF INVESTIGATION FILES

At this stage, all documents used and relied upon, throughout the investigation process, must be securely stored, both in hard and electronic copies. Hard copies of all completed investigation files must be handed to the Director of Complaints, Mediation & Investigations, for safe keeping. The electronic copies shall be stored in designated folders, within a password protected computer. Both copies shall have a minimum retention period of five years.

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Melron C. Nicol-Wilson Esq.
Ombudsman

Republic of Sierra Leone Office of the Ombudsman

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Dr. Sheku Conteh
Executive Secretary

Document Dated: November, 2017

ANNEXURE 1

4th September, 2017.

Ref: OMB:.....

Director-General
Rainball Office
Water Lane
Freetown.

Dear Sir/Madam,

RE: ACKNOWLEDGMENT OF RECEIPT OF COMPLAINT (A)

We write to acknowledge receipt of your letter of complaint, dated the (1st day) of September, 2017, addressed to the Office of the Ombudsman.

We are pleased to inform you that, we have assessed your complaint and concluded that it falls within our mandate, under subsection (2) of section 146 of the Constitution of Sierra Leone, Act No.6 of 1991, and section 7 of the Ombudsman Act No.2 of 1997.

Your complaint is therefore receiving the attention of the Office of the Ombudsman, and you will be contacted, in due course.

Thank you for your cooperation.

Yours Faithfully,

.....
Melron C. Nicol-Wilson Esq.
Ombudsman of The Republic of Sierra Leone

ANNEXURE 2

4th September, 2017.

Ref: OMB.....

Director-General
Rainball Office
Water Lane
Freetown.

Dear Sir/Madam,

RE: ACKNOWLEDGMENT OF RECEIPT OF COMPLAINT (B)

We write to acknowledge receipt of your letter of complaint, dated the (1st day) of September, 2017, addressed to the Office of the Ombudsman.

We are sorry to inform you that we have assessed your complaint and concluded that, it does not fall within our mandate, under subsection (2) of section 146 of the Constitution of Sierra Leone, Act No.6 of 1991, and section 7 of the Ombudsman Act No.2 of 1997.

Your complaint has therefore been referred to (Name the appropriate institution) for their attention.

Thank you for your cooperation.

Yours Faithfully,

.....
Melron C. Nicol-Wilson Esq.
Ombudsman of The Republic of Sierra Leone

ANNEXURE 3

4th September, 2017.

Ref: OMB:.....

Director-General
Rainball Office
Water Lane
Freetown.

Dear Sir,

RE: REFERRAL OF COMPLAINT

We are in receipt of a letter of complaint, dated (1st day) of September, 2017, against (The relevant institution) from Mr. Sorie Sesay, relating to allegations of Wrongful Termination. It is our considered view that the said complaint falls outside our mandate and may be better resolved by your institution.

We have attached a copy of the complaint letter, for your attention and appropriate action.

Whilst counting on your prompt cooperation in this regard, we remain.

Yours Faithfully,

.....
Melron C. Nicol-Wilson Esq.
Ombudsman of The Republic of Sierra Leone

ANNEXURE 4

4th September, 2017.

Ref: OMB:.....

Director-General
Rainball Office
Water Lane
Freetown.

Dear Sir,

**RE: NOTIFICATION OF COMPLAINT FOR (WRONGFUL
TERMINATION).**

We are in receipt of a letter of complaint, dated (1st day) of September, 2017, against your institution, from Mr. Sorie Sesay, relating to allegations of Wrongful Termination; a copy of which is hereby enclosed, for your perusal.

We are kindly requesting that, you use your good Office to resolve the matter; or in the alternative, direct that a response be sent to us, within 10 working days, of receipt of this letter.

Whilst counting on your prompt cooperation in this regard, we remain.

Yours Faithfully,

.....
Melron C. Nicol-Wilson Esq.
Ombudsman of The Republic of Sierra Leone

ANNEXURE 5

4th September, 2017.

Ref: OMB:.....

Director-General
Rainball Office
Water Lane
Freetown.

Dear Sir/Madam,

**RE: DECISION TO INVESTIGATE A COMPLAINT, BY MR. JOHN
DOE, AGAINST THE MINISTRY OF FOOTBALL.**

We write to notify you that, following our preliminary inquiries (and mediation) between your institution and Mr. John Doe, the Office of the Ombudsman has decided to investigate the complaint made against your institution, pursuant to section 10 (1) of the Ombudsman Act No.2 of 1997, on the following grounds:

- i. To determine whether the complainant was wrongfully dismissed; and
- ii. To determine whether the complainant is entitled to payment of benefits.

In light of the above, you are hereby invited to appear before the Principal Investigation Officer, to make oral or written submissions in support of your response to the complaint, within 10 days from the date hereof.

In the alternative, you can forward documents to our Office in support of same, within 10 days from the date hereof.

Whilst counting on your prompt cooperation in this regard, we remain.

Yours Faithfully,

.....
Melron C. Nicol-Wilson Esq.
Ombudsman of The Republic of Sierra Leone

