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MANUAL

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Commission for Gender Equality
A society free from gender oppression and inequality

COMMISSION FOR GENDER EQUALITY

COMPLAINTS HANDLING PROCEDURES

Commission for Gender Equality Act No. 39 of 1996 (As amended)

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CHAPTER 1
PURPOSE OF PROCEDURES

CHAPTER 1: PURPOSE OF PROCEDURES

Purpose

1. The purpose of these Procedures is to determine -
   (a.) the procedure to be followed for lodging complaints with the Commission;
   (b.) the procedure to be followed for processing and screening complaints;
   (c.) the procedure to be followed for rejecting, referring or accepting complaints;
   (d.) the procedure to be followed for investigating complaints;
   (e.) the procedure to be followed for the resolution of complaints;
   (f.) the procedure to be followed for conducting hearings;
   (g.) the procedure to be followed regarding appeals;
   (h.) the procedure to be followed regarding conclusion of complaints;
   (i.) time frames regarding the handling of complaints;
   (j.) the procedure to be followed regarding institution of legal proceedings;
   (k.) the procedure to be followed when conducting watching briefs;
   (l.) the procedure to be followed when conducting court monitoring;
   (m.) the procedure to be followed when conducting legal advice clinic / outreach programmes;
   (n.) the procedure to be followed when conducting searches and seizures;
   (o.) the procedure to be followed when entering and searching of premises; and;
   (p.) the attachment and removal of articles that would assist in the resolution or finalization of complaints and / or investigations.

PREAMBLE

(i) The Constitution of the Republic South Africa, 108 of 1996 established the Commission for Gender Equality (CGE) and entrusted it, with the powers to promote gender equality as its main function. Given the historical context in which the Constitution was adopted, and the extent of the violation of fundamental rights which had preceded it, the effectiveness of the Commission in the performance of its responsibilities is of critical importance.

(ii) In terms of its constitutional mandate and as amplified in the Commission for Gender Equality Act 39 of 1996 as amended (CGE Act), the investigation of complaints is one of the principal ways in which the

Commission discharges its functions. In addition, the Commission is mandated to conduct research, disseminate information and develop educational programmes to foster the understanding of matters pertaining to the promotion of gender equality.

(iii) This manual describes the administrative procedures for dealing with the complaints that are lodged with the Commission for Gender Equality. These procedures must be measured against the Constitution as a backdrop and the CGE Act. Given the range and complexity of matters that may give rise to a complaint, it is neither possible nor desirable to lay down rigid rules to be invariably applied. Complaint handling calls for the exercise of judgment and discretion throughout the process. This manual is designed to guide this decision making and ensure that, within the available resources, matters are dealt with as efficiently and as effectively as possible. Due to the relatively short period that the Commission has been in existence, the continued development of this complaint handling practice manual will require the experience of staff, Commissioners and the public at large in applying these procedures. In the event that the manual is silent on a procedure, reference will be made to the procedures of the South African Human Rights Commission and or procedures of the other Chapter Nine institutions. It must be borne in mind that the intention is to manage a complaint and ensure relief as expeditiously where possible.

1. **The Constitution**

(i) The Commission is established in terms of Chapter 9 of the Constitution as one of the State Institutions supporting democracy. Section 181 of the Constitution provides that these institutions are independent and subject only to the Constitution, must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice. It also states that other organs of State through legislative and other measures must assist and protect these institutions to ensure the independence, impartiality, objectivity, dignity and effectiveness of these institutions. It further states that no person or organ of State may interfere with the functioning of these institutions. The powers of the Commission include the power to investigate and to report on the observance of gender equality, and protect that to secure appropriate redress where gender rights have been violated.

(ii) Chapter 2 of the Constitution sets out in the Bill of Rights in Sections 9 – 35 and describes each of the rights that are protected, subject only to the limitations contained in Section 36.

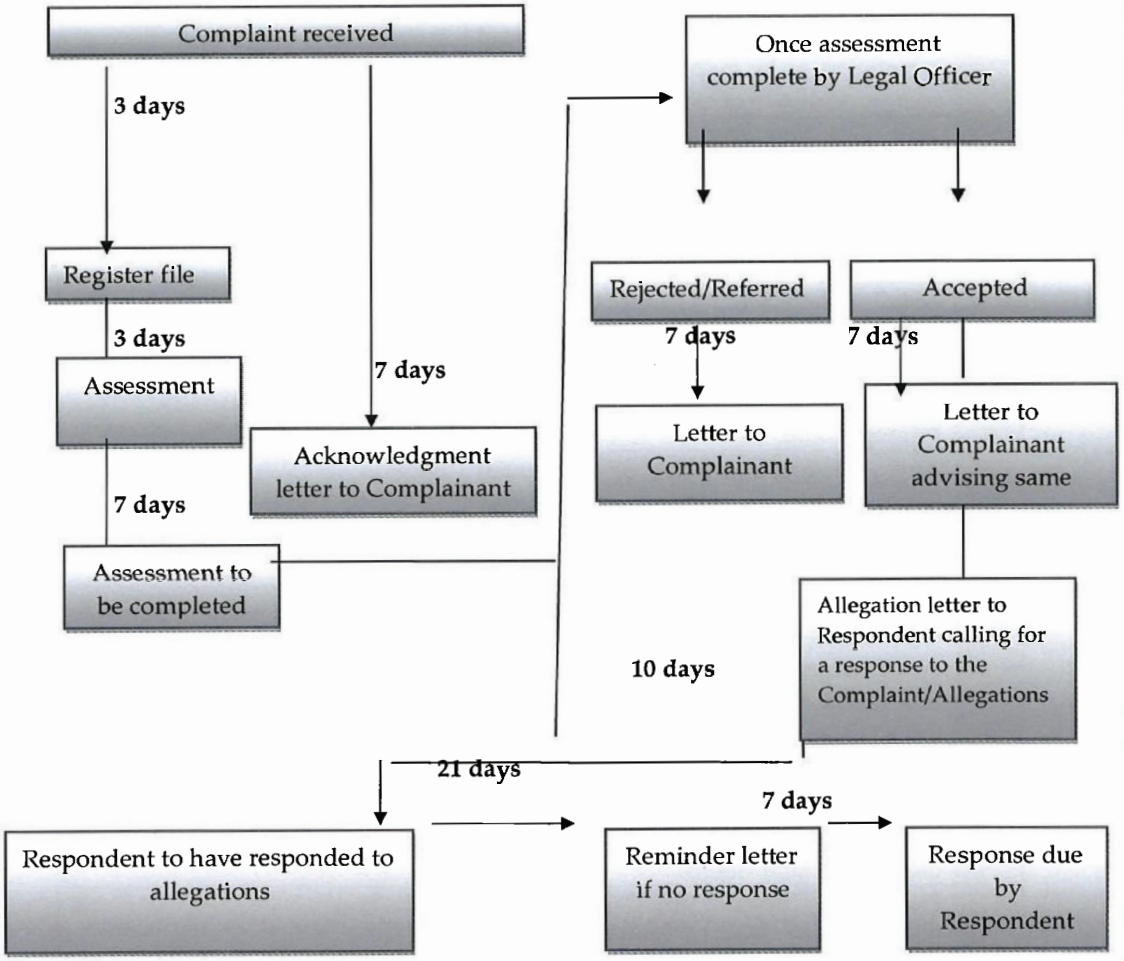
2. The Commission for Gender Equality Act

(i) The CGE Act states that its staff shall serve impartially and independently. In addition to the powers, duties and functions set out in Section 187 of the Constitution, the act provides that the Commission shall maintain close liaison with Constitutional bodies or authorities similar to the Commission in order to foster common policies and practices and to provide co-operation in relation to the handling of complaints in cases of overlapping jurisdiction.

(ii) Further to the powers of investigation, the Commission has power to enter and search premises, attach and remove articles as well as subpoena persons to either provide information to the Commission or provide documents or articles relevant to the investigation.

The Promotion of the Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA) provides that the Commission may take matters to a competent Court or Tribunal under its name or on behalf of a person or a group or class of persons. As this manual is primarily concerned with the Commission's internal complaints handling process, it does not deal with the litigation as the Rules of Court will apply as relevant.

COMPLAINTS HANDLING TIME FRAMES



CLASSIFICATION OF COMPLAINTS
TABLE ILLUSTRATING CATEGORIES OF COMPLAINTS

NO	DETAIL	CATEGORY
1.	Where any violence is perpetrated on a person on account of his or her sexual orientation or by a spouse on his or her partner inclusive of corrective rape.	Gender Based Violence
2.	Any exclusion from opportunities or benefits inclusive of disparate conditions of service and failure to reward any employee on account of their sex, sexual orientation or gender stereotyping.	Labour
3.	Any exclusion, restriction or discrimination based on cultural practices and customary law inclusive of virginity testing and initiation and male primogeniture.	Culture and Tradition
4.	Any exclusion, restriction or differential treatment by any religious organization or religious leader which is based on gender.	Religion
5.	Any exclusion, restriction or limitation experienced due to gender stereotyping for eg) women being denied membership of a men's only club or credit by a bank due to being divorced.	Patriarchy
6.	Any exclusion or denial of access to economic opportunities based on sex, sexual orientation or gender stereotyping inclusive of land claims.	Economic
7.	Exclusion from any educational institution or area of study based on gender stereotyping.	Education
8.	Any disparate benefit, exclusion of benefit that is specific to women by any medical aid scheme, health care provider, insurance company, financial service provider or health care supplier inclusive of state hospitals and clinics e.g.) denial of cover regarding surgery for breast cancer by a medical aid scheme and denial of full ante- natal / post natal services or benefits by any of the aforementioned.	Health Care

9.	Any gender related discriminatory practice associated with the dissolution of an estate and inheritance.	Succession
10	Any restriction, limitation, exclusion or differential treatment of men, women or any other person by a political party including practices and legislation which results in gender related discrimination in political life.	Political Representation and Participation
11.	Any other issue	General Discriminatory Practice if not gender related (outside mandate)and General Gender Discrimination (within mandate)
12.	Complaints flowing out of defamation, divorce, maintenance and claims sounding in money and any sexual offence except for corrective rape will be categorized as such.	Divorce, Sexual Offence, Maintenance, Defamation.
Note that the category "Other "is not used any longer.		

CHAPTER 2: DEFINITIONS

In these Procedures, any word or expression to which a meaning has been assigned in the Act, bears the meaning so assigned and, unless the context otherwise indicates-

"Appellant"	means a person who lodges an appeal as contemplated in Chapter 9 of these Procedures against a determination, decision or finding made in terms of the Procedures;
"Assessment"	means the process of screening a complaint by the Provincial Legal Officer to confirm jurisdiction and make an initial finding;
"Association"	means a group of persons organised for a joint purpose;
"CEO"	Refers to the Chief Executive Office of the Commission for Gender Equality;
"CGE Act"	means Commission for Gender Equality Act 39 of 1996, as amended;
"Commission"	means the Commission for Gender Equality established in terms of the Commission for Gender Equality Act 39 of 1996, as amended;
"Constitution"	means the Constitution of the Republic of South Africa Act 108 of 1996, as amended;
"Chairperson"	means the Chairperson of the Commission for Gender Equality;
"Commissioners"	refers to the Commissioners of the Commission for Gender Equality;
"Complaint"	means allegation of gender discrimination; violation of gender rights or any case which is gender related, reported to the Commission for Gender Equality or where the Commission for Gender Equality initiated the investigation of its own accord, received whether oral, written or electronic communication;

"Complainant"	Any person, juristic person, group of persons, organisation or organ of state who lodge a complaint with the Commission for Gender Equality;
"Conciliation"	means the process of reconciling a matter between parties;
"Days"	Any day or number of days mentioned in this manual is referred to as working days;
"Discrimination"	the definition is obtained from Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women *(CEDAW)* and means any act of distinction, exclusion or restriction which has the intent/purpose or effect of nullifying, impairing or denying the enjoyment of rights even where discrimination was not intended;
"Finding"	means finding or recommendation stemming from an investigation by the Commission;
"Gender"	refers to the state of being male or female (typically refers to characteristics that society or culture delineates as masculine or feminine);
"Gender Based Violence"	means violence that is directed against a person on the basis of their gender. It constitutes a breach of the fundamental right to life, liberty, security, and dignity, equality between women and men, non-discrimination and physical and mental integrity;
"Hearing"	means a formal investigation contemplated in terms of Section 11(1)(e) and read with Section 12(4)(a) & (b) of the CGE Act;
"HOD"	means Head of Department: Legal Services;
"Investigation"	means an investigation in terms of Section 11(1)(e);
"Jurisdiction"	refers to where the cause of action arose and/or where the complainant or respondent is ordinarily domiciled. In these instances the HOD: Legal will have the discretion to determine which Provincial CGE office will attend to a complaint where jurisdiction is in dispute;

"Legal Officer"	means all Admitted Attorneys or Advocates employed by the Commission for Gender Equality;
"Legal clinic"	refers to the provision of legal advice and assistance to targeted groups;
"Legal Committee'	refers to the panel of Commissioners, Head of Department: Legal Services, external experts and other staff duly authorised / delegated to oversee the work and progress made in accordance with the Commission's legal mandate;
"Mediation"	means the process of intervention between parties by an independent person or mediator to reach and agreement;
"Negotiation"	means the process of conferring with the parties in order to reach and agreement;
"Organ of State"	bares the meaning assigned to it in section 239 of the Constitution;
"Panel of Commissioners"	means a panel comprising any number of Commissioners of the CGE assigned to conduct hearings for the purpose of initiating, mediating, negotiating and / or resolving a complaint emanating from a gender related concern or investigation;
"PEPUDA"	Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000;
"Priority Complaint"	refers to any dispute alleging a violation or infringement of a constitutional right which has the potential of serious prejudice to gender transformation if not attended to within a reasonable time and with the availability of additional resources i.e. expert advice, investigation and collaboration with stakeholders, hosting of public hearings and costs associated there with;
"Provincial Office"	means the office of the Commission for Gender Equality as contemplated in terms of Section 187 of the Constitution, in each of the nine Provinces;

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"Report"	means a written account given or opinion formally expressed after an investigation or finding/ recommendation;
"Respondent"	means any person, group or class of persons, association, organisation or organ of state who is allegedly in violation of or imminent threat or act of discrimination and / or any form of gender-based violence;
"Sex"	refers to the biological differences; chromosomes, hormonal profiles, internal and external sex organs;
"Sheriff"	means a person appointed in terms of Section 2 of the Sheriff's Act No. 90 of 1986 and also a person appointed in terms of Section 5 and Section 6 of that Act as an acting sheriff and deputy sheriff, respectively;
"Urgent Complaint"	refers to a complaint that is referred to the Commission where there is a threat of imminent harm or prejudice thereby requiring immediate intervention by the Commission or any other party deemed suitable to resolve the complaint.

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CHAPTER 3: LODGING OF COMPLAINTS

1 **Complaints which may be investigated by the Commission:**

1.1. A complainant may lodge a complaint alleging unfair treatment on the basis of gender, including but not limited to the following:

(i) Gender discrimination;
(ii) Sexual harassment;
(iii) Violation of gender rights;
(iv) Any gender related complaints;
(v) Public interest matters.

1.2 The Commission has the jurisdiction to conduct or cause to be conducted an investigation on receipt of a complaint, into any alleged violation in the following manner:-

(i) orally;
(ii) by facsimile;
(iii) by post;
(iv) by e-mail;
(v) telephonically;
(vi) in writing.

2 **Complaints that fall beyond the mandate of the Commission and those which necessitate the HOD Legal discretion / authorisation:**

2.1. The Commission has the jurisdiction to deal with anonymous complaints, at the discretion of the HOD:-

(i) Wherein the nature and veracity of the allegations will be assessed;
(ii) Wherein the HOD may also ask for a pre-investigation to be conducted to determine the viability of the complaint.

2.2. The Commission may not have jurisdiction to handle any complaint that occurred before 27 April 1994;

2.3. The Commission may not handle any of the following matters: claims sounding in money, criminal matters, motor vehicle accident claims, insolvency, administration and distribution of deceased estates, and matters that are specifically excluded by the relevant Law Societies and Uniformed Rules, specifically guiding Law Clinics.

2.4. Complaints which fall outside the Commission's jurisdiction are to be referred. Standard letters of referrals are to be decided by or on behalf of

the HoD. Once this letter is dispatched, the file may be closed if there is no need for further monitoring.

2.5. The Commission shall not deal with complaints based on hearsay or rumour. However, the Commission may conduct an enquiry to verify any violation of gender discrimination that is reported in the media. This may be referred to as an enquiry, presumably to distinguish such a process from a formal investigation that the Commission is empowered to attend to. Any such action in response to media reports will be dealt with at the discretion of the HOD Legal.

2.6. Complaints which are couched in offensive language are not to be dealt with and may be dismissed on that basis. However, if the matter otherwise appears to involve a significant violation of gender rights, it may be appropriate to offer the complainant the opportunity to submit a amended complaint, with the necessary deletions, for assessment.

2.7. Complaints containing matters which are within the jurisdiction of any statutory body, or tribunal are not to be dealt with at the discretion of the HOD legal. In instances where a complainant has not exhausted all of the internal remedies of the body complained about, such complaints will fall outside the jurisdiction of the Commission and referred back to the relevant entity for resolution.

2.8. Priority complaints and urgent complaints are to be dealt with at the discretion of the HOD legal, who will firstly undertake an assessment of the nature and veracity of the complaint.

CHAPTER 4: Processing of Complaints

1 Procedure followed after lodging a complaint

1.1. Upon the Legal Officer receiving a complaint he or she shall within **seven (7) working days** from the date of receiving the complaint furnish the complainant with a written acknowledgement or confirmation of receipt together with a reference number allocated to the complaint.

1.2. The Legal Officer will proceed to conduct an assessment of the complaint within **ten (10) working days** and make a determination weather the facts and the merits of the case fall within the ambit of the Commission Legal mandate, and in making such a determination the Legal Officer would accept, reject, request further particulars or refer the complaint to the relevant institutions for further handling.

1.3. Other relevant factors that need to be considered when screening complaints are as follows:
   (i) Issue of standing;
   (ii) The relation between the complaint and the alleged incident;
   (iii) The date of the incident;
   (iv) Identity of parties;
   (v) Clarification of facts alleged;
   (vi) Existence of related court and other proceedings;
   (vii) Appropriateness of other remedies;
   (viii) Any other information that maybe relevant.

1.4. If at the discretion of the Legal Officer the complaint is rejected or referred the process for closure should be followed as stipulated in Chapter 8 of the complaints manual.

1.5. It the complainant fails to respond to the request for further information, a follow up letter should be sent within **fourteen (14) working days.**

1.6. If no response if received, the assessment should be concluded on the basis of the information available to the Commission.

2 Confidentiality

2.1. The issue of confidentiality is left to the discretion of the Commission as dealt with by Section 12(2) of the CGE Act which states as follows: -
   - *If it is in the interests of justice or to any person who might otherwise ensue,*
   - *The Commission or a member thereof may direct that any person or category of persons shall not be present at the proceedings during the investigation or any party thereof;*
   - *No person shall disclose to any other person the contents of any document in the possession of the member or member of the staff of the Commission or the record of evidence given before the Commission during an investigation, unless the Commission determines otherwise."*

2.2. Having regard to the aforementioned, the following must be considered,
   - If it in the interests of the public and in the interest of justice and if no harm comes to any person, hearings of the Commission should be open to the public;
   - If complaints accepted and investigated by the Commission are generally and not the subject of a public hearing.

2.3. Nevertheless, the possibility that a complaint may be referred to the Commission for a public hearing, or that the findings of an investigation may be publicised, or otherwise made known to people not directly

implicated in the complaint, means that the confidentiality of parties to a complaint cannot automatically be guaranteed.

2.4. This also applies to the information sought by, and provided to the Commission for the purposes of its investigation of a complaint. Any attempt by a party or a witness to limit the Commission's research material gathered during the course of the investigation by claiming it is "confidential" should be politely and firmly rejected. Thus, Legal Officer's must take care to ensure that in the dealings with complainants and respondents they do not inadvertently bind the Commission in this regard, for example by agreeing to treat a particular document or statement as "confidential". It must be reiterated that it is in the discretion of the Commission to decide whether a document or information can be treated as confidential or not, taking into account the interests of justice or if any person may suffer harm as a result of disclosure. Any concern in this regard must be referred to the HoD or the Legal Researcher.

2.5. It must be noted, that privacy during the investigation process enables such a process to proceed speedily and tends to maximise the opportunities to ultimately resolve the matter by conciliation, negotiation or mediation. Thus it will build a more efficient and effective way of dealing with these complaints. Where a complaint is dealt with in this matter, the Commission may choose to publish the outcome, in the interest of promoting respect for human rights and educating the public about particular issues. It may choose to do so, however, in a way that ensures the continuing privacy of the parties concern especially if disclosure of the identity is not necessary to the achievement of the broader educative objective.

2.6. The Commission may not at any stage publicise the names and the detail of the complainant without obtaining a written consent, in cases where publicising of the complaints is in the interest of justice, false names and details shall be used.

3 Format of lodging a complaint

3.1. The standard format that is to be used is a statement of facts which will be incorporated in the Complaint Form attached hereto and marked annexure "A".

3.2. It is not an ordinary requirement that the complaint form be commissioned or attested to by the said complainant; however should the facts of the matter necessitate that an affidavit is required, i.e. for example the lodging of an Equality Court application, the Provincial Legal Officer

will in the circumstances obtain an affidavit to ensure that due process is followed.

CHAPTER 5: Investigation of Complaints

1 Format and procedure of Investigations

1.1. Once a complaint is lodged, and it has been determined that a formal investigation is necessary, the complainant will be notified in writing within **5(five) days.**

1.2. The Legal Officer shall, in that letter, confirm issues for investigation, the role of the Commission in connection with its investigation and the time frame, and shall keep record of such communication.

1.3. If further particulars are requested from the complainant, he/she must, within **7 (seven) days** of receipt of such request, furnish such information to the Legal Officer, depending on the seriousness of the matter and the urgency, failure which a reminder will be made in writing and sent to the complainant giving them further **7 (seven) days** to respond.

1.4. Should the complainant fail to furnish the requested information within the stipulated time frames, the Legal Officer must record such failure and submit a report to the Head of Legal Department, with a recommendation on whether the investigation should proceed or the file should be closed, upon approval of which, the matter will be dealt with accordingly.

1.5. The Legal Officer, as the case may be, must within **10 (ten) days** after the investigation resumed or after receipt of further information from complainant, send a letter to Respondent stating particulars of the complainant and full details regarding alleged violation of gender rights, and request a response thereto.

1.6. The Respondent must, within **21 (twenty-one) days** of receipt of the complaint, respond to the allegations raised, and if no response is received within the time stipulated, the Legal Officer sent them a reminder to that effect, allowing them further **7 (seven) days** to respond.

1.7. Having set out the Complainant's allegations, the Commission's letter will then identify, by reference to the relevant sections of the Constitution, the gender rights that have been violated. A copy of the section cited should be included with the letter especially if the Respondent is unlikely to be familiar with these provisions.

1.8. If the Respondent fails to furnish the response within the time stipulated, the Legal Officer must record such failure and submit the complaint with recommendations to the Head of Legal Department.

1.9. The Head of Legal Department may after receipt of the complaint and upon expiry of time frames, and in the absence of a response by respondent, make recommendations relying on the witness statements. However, rather than simply leaving it to the Respondent to reply to the Complainant's allegations, the Commission is in a position to focus its inquiry to the central issues of concern in terms of possible violations of gender rights, so that on receipt of the Respondent's reply, it may be in a position to determine the most appropriate outcome for the resolution of a complaint.

1.10. Upon receipt of the Respondent's reply to the Commission's letter of enquiry, the matter is to be reviewed. If the response is sufficiently comprehensive, this may mark the end of the Commission's investigation.

1.11. The Respondent may not have addressed all the issues raised in the complaint or may have listed issues that should be put to the Complainant. In these circumstances, further investigation will be needed but, as with the initial notification, follow up correspondence with the parties should detail specific questions to be answered or evidence to be provided and set deadlines within which this is to occur.

1.12. Unless otherwise determined by the Head of Legal Department, the format of an investigation may include the following or any combination thereof:

- communication by telephone, e-mail or any other form of correspondence,
- research, inspections in loco, fact-finding missions, survey or questionnaire,
- meetings with affected parties or persons reasonably believed to have information relevant to the investigation,
- appearance of a person before the Legal Officer or any other staff member duly authorised, for purposes of obtaining or clarifying information or produce any articles or documents as contemplated in section 12(4)(b) of the CGE Act.

1.13. During the investigation of a complaint, the Head of Legal Department or any other person duly authorised, may exercise any powers as contemplated in section 12 of the CGE Act.

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1.14. The Legal Officer, as the case may be, in consultation with the Head of Legal Department, issue a notice to respondent to attend meetings or hearings in pursuance of an investigation and be compelled to produce any article or documents in his/her possession or custody or under his/her control which may be necessary in connection with the investigation as contemplated in section 12(5)(i)(ii) of the CGE Act.

1.15. Any member of the Commission or any member of staff as duly designated, or police officer authorised thereto by a member of the Commission, may enter and search premises and collect any evidence as contemplated in section 13 of the CGE Act.

1.16. If the complaint is resolved during the investigation a final report must be prepared and submitted the Head of Legal Department before the file can be closed.

1.17. The Legal Officer must keep the complainant informed of the status of his/her complaint on a monthly basis in writing.

2 **Format and procedure followed in relation to investigation on own accord**

2.1.The provisions of chapter 5 will apply with such changes as may be required by the context, in matters where the Commission investigates an alleged gender rights violations on its own accord.

CHAPTER 6: Resolution of Complaints

1 **Methods of resolving complaints**

The Legal Officer must endeavour to resolve a complaint at the earliest possible opportunity in accordance with the manner provided for in the Act and these Procedures, including but not limited to the following:

1.1. Where insufficient information has been provided, request complainant to provide further information as contemplated in chapter 5.
1.1. Where sufficient information has been provided, send an allegations letter to the respondent and request a response as contemplated in chapter 5.
1.3. Where all the required information has been received, proceed with negotiation or conciliation process, if necessary.
1.4. Where the complaint cannot be resolved by negotiation or conciliation process, proceed with mediation process.
1.5. Where the complaint cannot be resolved by mediation process, proceed with a hearing process.

1.6. At any stage institute legal proceedings in a competent court or tribunal as contemplated by provisions of the Act.
1.7. At any stage institute legal proceedings as contemplated in section 20 of PEPUDA.
1.8. At any stage an investigative report with findings and recommendations may be drafted and finalised.

2 **General provisions relating to resolving of complaints**

2.1. The Legal Officer or any member of staff as dully designated may resolve a complaint by applying a combination of one or more methods of dispute resolution or by any other means appropriate in the circumstances.

2.2. If any party fails to attend a conciliation, negotiation or mediation process, or fails to come to an agreement after such proceedings, the Legal Officer or any member of staff as duly designated may resolve the matter in any appropriate method and take any action provided for in the Act.

2.3. In deciding on an appropriate method of resolving a complaint as contemplated in (2), the Legal Officer or any member of staff as duly designated must take into account:
- whether the party has previously failed to co-operate with proceedings of the Commission,
- any reason given for that party's failure to attend the proceedings or to co-operate,
- whether the proceedings can continue effectively in the absence of that party,
- the impact of the decision of the Legal Officer on the other party,
- whether or not the party has been properly notified of the date, time and place of the proceedings, and
- any other member of staff as duly designated, may deem fit.

2.4. Once the parties reach an agreement after conclusion of a conciliation, negotiation or mediation proceedings, the Legal Officer or any member of staff as duly designated, must ensure that such agreement is reduced to writing and signed by the parties **within 3 (three)** days of resolution thereof.

2.5. The Legal Officer or any member of staff as duly designated, may, on request of a party to the proceedings or by agreement of the parties to the proceedings, make a determination on the disclosure of relevant documents.

2.6. The Legal Officer or any member of staff as duly designated, may dismiss a complaint if the complainant-

- fails to participate in the conciliation, negotiation or mediation process, or
- fails to attend any other proceedings on invitation by the Commission.

2.7. The Legal Officer or any member of staff as duly designated, must **within 7(seven) days** of the dismissal, notify the parties thereof and the reasons thereof in writing.

3 Conducting of proceedings

3.1 The Legal Officer or any member of staff as duly designated must determine the manner in which the proceedings relating to the conciliation, negotiation or mediation must be conducted.

3.2 A complaint must be conciliated, negotiated or mediated at the Provincial Office, unless otherwise directed by the Head of Legal Department.

3.3 The Legal Officer or any member of staff as duly designated must determine the venue where the proceedings are to take place.

3.4 At any time during the proceedings, the Legal Officer or any member of staff as duly designated, may postpone or adjourn the proceedings to allow the parties the opportunity to discuss the matter.

4 Conciliation and Negotiation

4.1 The Legal Officer or any member of staff as duly designated may decide on conciliation or negotiation of a complaint, including a complaint referred to the Commission by order of the Equality court.

4.2 The Legal Officer or any member of staff as duly designated, must within **14 (fourteen) days** of receipt of response letter from respondent, set up a conciliation or negotiation process.

4.3 The Legal Officer or any member of staff as duly designated, must within 5 **(five) days** of setting up of a conciliation or negotiation process, determine the issues to be conciliated or negotiated and must within **7 (seven) days** inform the parties accordingly.

4.4 The Legal Officer or any member of staff as duly designated, must direct the proceedings, develop and propose the terms of a settlement, as well as the outcome of issues being conciliated or negotiated.

4.5 The conciliation or negotiation process must, within **30 (thirty) days** after the decision contemplated in (1) above, be finalised.

4.6 The complainant and the respondent, and if applicable, the clerk of the Equality court, must within **7 (seven) days** of finalisation of proceedings, be notified of the outcome thereof, in writing.

4.7 If parties fail to reach an agreement, the Legal Officer or any member of staff as duly designated, must prepare a report on the reasons for failure to resolve the complaint and submit it to the Head of Legal Department for consideration.

4.8 The matter will be placed before the Legal Committee who will then decide on the appropriate action, which may include mediation, a hearing or the institution of legal proceedings, **within 7 (seven) days**.

5 **Mediation proceedings**

5.1 If Legal Officer or any member of staff duly designated, propose that mediation proceedings be conducted in respect of a complaint, including a complaint referred to the Commission for mediation in terms of an order of the Equality court, and the parties agree thereto, such proceedings must, **within 14 (fourteen) days**, be set up.

5.2 Should any party object to their complaint being brought for mediation proceedings, they should lodge an objection in writing within **14 (fourteen) days** of them being informed of the mediation process.

5.3 The Legal Officer or any other member of staff as duly designated must facilitate the mediation proceedings and examine and evaluate the presentations of the parties.

5.4 The Head of Legal department may recommend to the CEO that an external mediator or any suitably qualified person be appointed at the costs of the Commission.

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CHAPTER 7: Conduct of Gender Transformation Investigations

1 **Circumstances under which a Gender Transformation Investigation will be conducted:**

1.1. This is not an exhaustive list and serves to guide the legal department. Accordingly, the discretion of the HOD Legal will prevail in general when a decision is being taken on whether to conduct a formal investigation. The short term used for a gender transformation investigation whether designed to ascertain compliance with any gender related legislation, including national, regional or international instruments or any other gender related infringement will be referred to as a formal investigation.

1.2. In terms of the above, salient considerations for a formal investigation would inter alia comprise of the following:

- Where the Commission on its own accord decides to embark on a formal investigation based on any reasonable ground(s);
- Following due process in terms of a complaint where conciliation has been unsuccessful and no other intervention would be appropriate;
- Where the HOD Legal considers an investigation to be the most appropriate initiative in the circumstances;
- Where the HOD Legal believes that a collective approach in the form of an investigation would serve the interests of similar complainants;
- In circumstances where widespread infringements of the right to gender equality or the status of women is being undermined and the Commission seeks to promote gender equality by way of general deterrence;
- Where trends in complaints indicate systemic violations of a gendered nature which cannot be resolved by any other means this will necessitate a formal investigation.

1.3 In addition to the above the HOD Legal will be entitled to embark on a formal investigation in respect of complaints where:

- such complaint cannot be resolved by any other means referred to in the CGE Act and the procedures herein;
- if a formal investigation will offer an appropriate solution regarding the complaint;
- if it is in the public interest;

- if the complaint cannot be decided fairly on the basis of documentary evidence or written statements submitted by the parties or any other person having relevant information;
- if a party requesting a formal investigation, provides reasonable justification in such circumstances including:
  - The request for a formal investigation must be done in writing setting out reasons why a formal investigation is deemed necessary, and
  - The material issues that the party intends to raise during the formal investigation.

2 Delegated Powers in respect of Formal Investigations

The authority to conduct any investigation in terms of the CGE Act as amended is delegated to the CEO who further delegates this responsibility to the HOD Legal. In terms of the operations of the Commission, the HOD Legal is also authorized to delegate an investigative responsibility to any officer who is employed at Level 10 and above in the Commission.

3 Compliance with Applicable Legislation

The Commission has jurisdiction to conduct formal investigations in terms of section 10, 11, 12,13,14,15, 17 and 18 of The CGE Act. Accordingly, this chapter must be read in conjunction with the aforementioned provisions of the CGE Act.

4 Panel which Presides in a Formal Investigation

The panel represents the CGE and must preside over all formal investigations. The panel must consist of the following persons:

- The Chairperson or any other Commissioner designated by the Chairperson who will lead the Panel;
- At least two additional Commissioners;
- The HOD Legal;
- Any other person in the capacity of "Assessor" who has specialized or expert knowledge that will assist the panel.

In this regard the Commission will usually appoint a Professor in Law, Advocate or Retired Judge.

Other Parties

- The Chief Investigator – HOD Legal.
- Investigator – any Legal Officer involved in the investigation and who is employed by the Commission.

- Complainant – In instances where the investigation flows out of a complaint it will be the Complainant and the Commission where the investigation is *mero motu*.
- Respondent – any party subject to an investigation.
- Assessor – an expert who will be representing the Commission on the panel.
- Lead Commissioner – refers to the Chairperson of the Commission or his / her designated replacement who will lead the Panel.

5 Notice of Hearing

5.1 The HOD Legal or delegated officer will in all formal investigations cause the issue of a Notice in terms of Section 12(4)(b) to be served on all relevant parties. In this regard:

(a) The notice may be issued under the hand of any serving Commissioner;

(b) The notice must be delivered by a Sheriff to any person:

(i) Who is believed to be able to furnish any information on the subject of the investigation or to have control of any book, document or any other object that has a bearing on the matter,

(ii) The Notice will be titled; Notice to Attend and Produce at an Investigation in terms of Section 12(4)(b) of The CGE Act.

(c) In addition to the above the notice must contain the following information and instructions:

- the place where the hearing will be held;
- the time and date of the hearing;
- the aspects in respect of which evidence will be required;
- an indication of whether or not any document (s) or article(s) must be brought to the investigation venue;
- any other information which is deemed necessary such as: the right to be represented, the right to privilege, penalties for non-compliance, the fact that all persons are required to be in attendance for the duration of the investigation unless any indulgence is extended by the Chairperson and all persons required to attend will be competent and compelled to answer questions related to the investigation.

(d) All notices and processes such as proof of service must be held on file by the investigator and made available to the panel on request during the formal investigation.

6 Persons who may attend a Formal Investigation

The formal investigation is open to the public but the Commission will be obliged to direct which person or category of persons shall not be present at an investigation in terms of Section 12(3) (b). In this regard the following may be excluded:

- minors,
- members of the media,
- any person who may unduly influence or interfere with the proceedings,
- any person who is threat to the security of any person involved in the investigation,
- where a minor is involved in an investigation then the Chairperson may direct that any person or all persons whose presence is not necessary or undesirable, not to be present,
- the Chairperson may on request by the Investigator issue a directive in respect of the disclosure of any information obtained during the investigation,
- in the case of a child or person with any mental disability his or her identity may not be disclosed.

7 Nature of Investigation and Role Of Panel

7.1 The procedure in any formal investigation, in terms of Sections 12(1), (4), (5), (6) and (7) read with Section 11(1)(e) may be inquisitorial and not prosecutorial in nature. Notwithstanding this the Commission is entitled to lead evidence and examine any person involved in an investigation.

7.2 The investigation must be conducted in a formal manner as contemplated in terms of Section 18(e).

7.3 The investigator / Commissioners Panel will lead evidence and examine any party during the formal investigation.

(i) The Panel:

- is competent to put any question to a witness or any other person including the investigator during a formal investigation;
- rephrase a question for the benefit of any party or person;
- elicit any information from any party during the formal investigation;
- advise any party, complainant or person involved in the formal investigation of their rights and obligations in terms of the CGE Act or any other law where necessary;
- consider any request or application made and hand down a suitable decision;

- may retain any book, document or other object for examination until the investigation has been finalized or any longer period on good cause;
- must administer an oath or affirmation to any party who will be subject to any examination or who will provide any evidence before the Panel;
- All members of the Panel are competent to ask questions through the Chairperson but decisions are by consensus and handed down by the Chairperson / Lead Commissioner of the Panel.

8 Procedure during a Formal Investigation

8.1 The Chairperson / Lead Commissioner of the Panel must formally open the session and explain very briefly:

(i) the purpose of the investigation,
(ii) the inquisitorial nature of the proceeding and
(iii) the procedures that will be followed during the investigation.

8.2 The Chairperson will provide a summary of the complaint and the issues that are subject to the investigation.

8.3 The Chairperson will then introduce all the participants and officials and state their role(s) in the investigation as briefly as possible.

8.4 The Chairperson will then declare the session open and permit the investigator to present his evidence which will comprise of the information collated during the preliminary investigation, consultations and interviews. This presentation will include leading of evidence by any witnesses for the Commission.

8.5 The panel will then be allowed to pose any questions of clarity or elicit any information it deems necessary from the investigator or the witnesses concerned to establish the truth or accuracy of evidence.

8.6 Any relevant document or article must be handed up to the Chairperson during the presentation.

8.7 Once the investigator has completed his or her presentation then the Chairperson will call on the Respondent to firstly take an oath or make an affirmation before making his or her presentation to the Panel.

8.8 The Respondent will only be allowed to make any presentation after an oath has been taken or an affirmation made.

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8.9 If the Respondent has a legal representative then the legal representative will not be required to take an oath or make an affirmation but the Respondent will be required to affirm at the end of the session that all what was presented and declared on the Respondent's behalf was the truth.

8.10 All witnesses whether for the Commission or Respondent must take an oath or make an affirmation before presenting any evidence.

8.11 The Panel must make any determination regarding any article, document or information that is to be disclosed during the investigation.

8.12 The Panel must give direction on any aspect of the investigation.

8.13 The Panel may receive evidence in any manner it deems fit, including by teleconference, video conference, affidavit or even an intermediary in the case of a child or in gender based violence (GBV) matters. In such instances the Panel is entitled to receive an affirmation that the evidence so received is under oath.

8.14 Any party in an investigation is entitled to be represented by an advocate or an attorney. Furthermore, such a party is also allowed to peruse any document or record which is not subject to privilege in order to refresh his or her memory.

8.15 Any party involved in an investigation must be given an opportunity to respond to any evidence including the opportunity to question other witnesses either personally or through his or her legal representative in terms of Section 12(7) of the CGE Act.

8.16 A party may in response to any evidence presented to the Panel is entitled to:

(i) give evidence,
(ii) call witnesses,
(iii) hand in documents,
(iv) hand in written submissions.

8.17 The Panel must conduct the investigation in a fair and impartial manner and must take steps necessary to establish the truth and accuracy of any statement, submission or evidence given.

8.18 Both parties namely the representative (investigator) and respondent must be given reasonable opportunity to make closing statements.

8.19 The Chairperson will be responsible for postponements, excusing of witnesses, calling of witnesses, making adjournments, administering of

an oath / affirmation and closing of sessions as well as closure of an investigation.

9 **Warrant entering and searching in terms of Section 13 of the CGE Act**

9.1 At any stage during an investigation where any article, document or information which has a bearing on the investigation is being withheld and cannot be obtained in any other manner then the Commission must obtain a warrant to enter, search, attach and remove any article or information in terms of Section 13 (5) of the CGE Act.

9.2 The warrant referred to in Section 13(5) of the CGE Act must be sought by the relevant legal officer from a magistrate's court having jurisdiction. Where a magistrate's court is unable to grant such a search warrant then the relevant High Court must be approached.

9.3 The warrant to enter, search and remove any article will be executed the relevant Legal Officer in the presence of a police officer.

9.4 In the event of any article or document being removed then a receipt will be issued and the item place in safe keeping until the investigation has been finalized.

10 **Conclusion of Formal Investigation**

10.1 At the end of the investigation the Panel is obliged to provide a summary of the evidence tendered at the formal investigation.

10.2 The Panel is also required to make a finding on the facts and provide brief recommendations including remedial action that must be implemented.

10.3 All findings and recommendations are final and not subject to any appeal in terms of the CGE Act. This concludes the formal investigation.

10.4 A final report will be prepared comprising of the following:

(a.) The complaint and the issue that was subject to the investigation;
(b.) A summary of the preliminary investigation and a report thereof;
(c.) The evidence that was presented at the formal investigation;
(d.) The findings of the Panel;
(e.) The recommendations made by the Panel;
(f.) Any monitoring or evaluation that will be undertaken to ensure compliance with the recommendations made;
(g.) The final report of each formal investigation will be tabled in Parliament.

11 Compliance and Penalties

The Commission will at all time conduct any investigation with due regard to decency and order as contemplated in Section 13(2) of the CGE Act. Where any party refuses to cooperate and conducts itself in an unlawful manner then the Commission will pursue the requisite remedies in the following circumstances:

Table of Contraventions and Probable Remedies

NO	CONDUCT	REMEDY
1.	Refusal or failure to comply with a Section 12(4) (b) Notice	Warrant to enter, search and remove as well as a criminal charge ito S 18
2.	Refuses or fails to furnish particulars or information as required ito 12(4) (c)	Warrant to enter, search and remove as well as a criminal charge ito S 18
3.	Wilfully providing false information after taking and oath /affirmation.	Criminal Charge ito S18
4.	Wilfully interrupts the proceedings during an investigation, misbehaves in any manner at a place where an investigation is in progress.	Criminal Charge ito S18
5.	Defames the Commission or any Commissioner	Criminal Charge ito S18
6	Makes any attempt to influence the proceedings or any finding	Charge ito S18
7.	Commits any act which in a court of law constitutes contempt of court	Criminal Charge ito S18
8	Contravenes Section 10(2) of the CGE Act	Charge ito S18

CHAPTER 8: Conclusion of Complaints

1 Conclusion of complaints

1.1 A complaint is concluded under the following circumstances:-

(a) after the conclusion of an assessment if the complaint is rejected or in the case of a direct referral, if no further action is required;

(b) if the complaint is resolved by means of conciliation, negotiation or mediation;

(c) after the conclusion of an investigation where it is found that:-

(i) there is no gender violation or;

(ii) there is no violation of a fundamental right as stipulated in Chapter 3 of the complaints manual;

(iii) there is a remedy of the said violation.

(d) if a complaint is withdrawn by the complainant and the Legal Officer is satisfied that there are no compelling reasons to proceed with the investigation;

(e) if a complainant does not provide further particulars as contemplated in Chapter 3 of the complaints manual: Provided that the complainant may be reopened on good cause show by the complainant;

(f) after resolution of a matter subsequent to the institution of legal proceedings as contemplated in Chapter 3 of the Complaints Manual.

2 Notifying parties of the outcome of the complaint

The Legal Officer or any member of the staff, as duly designated, must, within **seven days** of the finalization of the matter, notify a complainant and respondent of the outcome of the complaint in writing.

3 Making a finding or recommendation

3.1 The Legal Officer may, within **21 days** of the finding, make a finding available to the parties and any person, association, organization or organ of state implicated in any such finding, where such a report is requested, and with the discretion of the HOD.

3.2 The person, association or organ of state implicated in the finding must be given an opportunity to respond, on a date determined by the Legal Officer or the HOD, to the finding and recommendations made in writing.

3.3 Monitoring recommendations and or follow-up resolutions stemming from hearings and investigations is within the general purview of the Provincial Co-ordinator, under the guidance of the Legal Officer or HOD, with a consultative process, resulting in a written report being produced on findings.

CHAPTER 9: Appeal Process

1. Any party to proceedings under these Procedures who feels aggrieved by a determination, rejection of complaint, decision or finding, bar a finding made at a Hearing as contemplated in Chapter 7 of these Procedures, may lodge an appeal with the Office of the Chairperson of the Commission.

2. The appeal must be made within 30 days of being notification of such determination, rejection of complaint, decision or finding from the date notification. Should the notification be dispatched in the form of post, an additional 10 days shall be added to allow for service of the said post.

3. The appeal must be in writing and must be on the Appeal form, attached hereto marked, Annexure "D".

4. No appeals shall be accepted unless in writing and on the prescribed Appeal form.

5. Under receipt of the appeal, the Chairperson of the Commission or an authorised designated person, must within 14 days of receipt of the appeal, acknowledge receipt thereof and advise the Appellant of the reference number allocated to the appeal and provide an explanation of the process that shall ensue.

6. If the Chairperson of the Commission must provide written reasons to either upheld or dismiss the appeal within 30 days of receipt of the appeal.

7. Where any of the prescribed time frames in this article cannot be met by the Commission, the Chairperson must within 7 days as the expiry of the time frames, inform the Appellant.

CHAPTER 10: Joint Investigations

1. The Provincial Legal Officer may conduct a joint investigation with another entity or organ of state if:
   a) The mandate of that institution or organ of state overlaps with the mandate of the Commission in respect of the resolution of the complaint
   b) The objective of the investigation is mutually shared.

c) Should there be any dispute as to the findings of the investigations, the Commission's decision shall be final and supersede that of the entity or organ of state.

2. The Provincial Coordinator shall dispatch in writing to the entity or organ of state confirming the joint investigation and the means /process of proceedings. All parties to the investigation shall also be notified in writing within 14 days.

CHAPTER 11: Conducting Legal Advice Clinics / Legal Outreach Programme

1 Rationale for Conducting Legal Advice Clinics

1.1. Provide legal advice or make legal aid available to indigent persons who experience any form of gender discrimination in line with the Commission's mandate as specified in the CGE Act and Section 9 of the Constitution;

1.2. Conducting legal advice clinics is the primary source of delivery of access to justice of affected individuals who have experienced any form of gender related discrimination, gender based violence and infringement of their rights.

1.3. Conducting legal advice clinics is also a method of obtaining more gender related complaints, raising awareness on topical issues or developing trends within the field of gender and is aimed at raising the visibility and public profile of the Commission.

2 Process to follow:

2.1. Each of the Commission's Nine Provincial Legal Officers are to host / conduct and / or facilitate provincial legal advice clinics / desks in key strategic venues, where access by the members of communities is easy, and convenient.

2.2. At such clinics, people would be educated about their human rights, with a specific focus on gender and PEPUDA.

2.3. Clients would be interviewed and statements taken, with a view to initiate litigation, that would be taken up by the Commission for negotiation, mediation and resolution of complaints.

2.4. This initiative will utilize the involvement of other relevant stakeholders who have similar objectives as that of the Commission in promoting individuals right in accessing the justice system / facilities.

2.5. Clause 11 (1)(g) of the CGE Act 39 of 1996 states that in order to achieve our object as set out in the Constitution, the Commission "shall liaise and interact with any organization which actively promotes gender equality and other sectors of civil society to further the object of the Commission". The provision referred to above envisages active engagement with civil society in order to achieve our object and mandate – that is, the Commission will not be able to do this effectively *without* engaging with civil society or relevant stakeholders.

2.6. Section 11(b) of the CGE Act requires the Commission to develop, manage or conduct public information and education programmes to foster public understanding of matters linked to the promotion of gender equality, as well as the role and activities of the Commission.

CHAPTER 12: Monitoring and Evaluation of Courts

1 Rationale for assessing Courts

1.1. The Commission may from time to time embark on a monitoring and evaluation assignment within the requisite timeframes as may be allocated by the Legal Head of Department or any other staff member duly authorised / designated, with the aim of measuring / assessing or verifying the effectiveness and adequacy of the service rendered to the public by the court structure. This will include the availability of essential services as highlighted in policy documents / legislation and or regulations i.e. Victim Empowerment Programme, National Instructions, and Standard Operating Procedures to name a few.

1.2. The Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) was enacted with the main objectives to promote equality, prohibit and prevent unfair discrimination, and to prevent hate speech. The Equality Act endeavours to facilitate the transition to a democratic society that is united in its diversity and guided by the principles of equality, fairness, equity, social progress, justice, human dignity and freedom. It places a positive duty and responsibility on the state, civil society, traditional institutions and all persons to promote equality.

1.3. In terms of PEPUDA, the Commission for Gender Equality is one of the institutions mandated to monitor the functioning of and refer cases to Equality Courts and any other justice centre / facility. The CGE, in line with its statutory mandate, is committed to promote equality, through advocacy, investigations, monitoring, education and research.

2 Procedure to follow when engaging Court Officials

2.1. It is the prerogative of the Commission's Legal Officerss located in the nine Provincial Offices to engage the relevant court officials / structures by means of written communication to request the following:

a) Introducing the Commission's mandate and functions;
b) Advising the recipient of the rationale and reasons for approaching the court;
c) Soliciting information and data that would aid in compiling a report and publication of varies findings and / or recommendations;
d) Requesting a date, time and the name and contact number of the assigned official who would best assist in obtaining the requisite information and data;
e) Furnishing a copy of the set questionnaire to be completed or administered through face-to-face interviews, physical inspection of facilities and / or telephonic consultation.

2.2. The aforementioned written request must be acknowledged by the recipient and should bare the court official's signature, name and date stamp.

3 Reporting on Findings and Recommendations

3.1. Following the process set out in chapter 12.2 and 12.4, the Legal Officer shall consolidate the information and data captured / received from the recipient or observations recorded and shall compile a detailed report with comprehensive findings and / or recommendations.

3.2. The consolidated report shall be shared with the Provincial Coordinator and Legal Head of Department, the latter who will present the report to the Legal Committee and / or CEO of the Commission.

4 Watching Briefs

4.1. It is the prerogative of the Commission's Legal Officers located in the nine Provincial Offices to engage the relevant court officials / structures by means of written communication to request the following:

a) Introducing the Commission's mandate and functions;
b) Advising the recipient of the rationale and reasons for approaching the court;
c) Requesting the courts assistance in securing a space / seat wherein the Legal Officer may observe court proceedings without compromising the integrity of the judiciary and / or the outcome of

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proceedings and / or influencing or affecting the outcome of proceedings;

4.2. The aforementioned written request must be acknowledged by the recipient and should bare the court official's signature, name and date stamp.

CHAPTER 13: Litigation Proceedings

1 Litigation in other courts or tribunal inclusive of Equality Courts

a. When the need to litigate arises in a matter, the Legal Officer will hand over the file to the Legal Head of Department or any staff member duly authorised / designated, along with a litigation request / report incorporating the facts of the complaint and reasons for instituting litigation proceedings.

b. The Legal Head of Department or any staff member duly authorised / designated will assess the facts or merits of the case and forward / table the request at the next Legal Committee meeting for approval or amendment.

c. In the event of the Legal Committee recommending litigation, the Commission shall instruct a suitable Legal Practitioner, who is in possession of necessary expertise in the field, to litigate the matter in the appropriate court following the Commission's Procurement Procedures.

d. Should the Legal Officer in the employ of the CGE be able to deal with the litigious matter (e.g. Equality Court matters), the Legal Officer should litigate on behalf of CGE.

THE END

("A")

Commission for Gender Equality
A society free from gender oppression and inequality

Physical address:
2 Kotze Street
Women's Jail, East Wing
Constitution Hill
Braamfontein
South Africa
2017

Postal address:
P O Box 32175
Braamfontein
2017

Tel : 011 403 7182
Fax: 011 403 5609

COMMISSION FOR GENDER EQUALITY
COMPLAINT FORM

For office use only

Province:		Reference No/File Number	

- Please write clearly and use **CAPITAL LETTERS**. If there is not enough space on this form for your answer, please use a separate page and send it to us together with this form.
- If there is more than one person who would like to send a complaint to us, each person must complete a separate form.

PART A: YOUR DETAILS

Name and surname	
ID Number	
The address where we can send letters to	
Cell phone number	
E-mail address	
Fax number	
Telephone number at home	

PART B: THE COMPLAINT

1. Date:

On what date did the incident happen _____

2 Where did it happen:

Place _____ Town _____ Province _____

_____

_____

_____

_____

_____

_____

3. If you know, the full name(s) and surname(s) of person(s), association, organisation or organ of state who violated these rights, please tell us

_____

_____

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4. In your own words, tell us exactly what happened (include all information but be as brief as possible)

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5. Have you reported the matter to anyone else

Yes _____ No _____

If yes, who (e g Police, lawyer, Public Protector) _____

6 Were any steps taken by the person/association/organisation/organ of state to resolve the matter Yes _____ No _____

If yes, please tell us what _____
_____
_____

7. What outcome do you propose or expect from this complaint (tell us what you would like to achieve with this complaint and the relief sought)

_____
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_____

******NOTE: in terms of the Commission for Gender Equality's Complaints Handling Procedures the Commission for Gender Equality may provide this complaint form to the person and / or entity you are lodging a complaint against.**

*******NOTE: after receiving your written complaint, the Commission for Gender Equality shall notify you in writing within a period of thirty (30) working days whether your complaint falls within the mandate of the Commission. Should your complaint be rejected, you have the right to appeal the decision by writing to the Commission for Gender Equality within thirty (30) working after receiving the letter rejecting the complaint. All appeals should be addressed to the Head of the Legal Department fax : 011 403 7188 or Postal Box : P O Box 32175, Braamfontein, 2017.....**

Please sign and date the form:

Signature: ..... **Date: .....**
COMPLAINANT

Remember:

- To attach a copy of your ID, birth certificate, passport or proof of the registration number of an association, organisation or organ of state, if available.
- To attach any copies of documents which can assist in this matter.
- If you need any help to fill in this form, please contact one of our Legal Officers at the nearest Provincial CGE office on the details below.

Once you have filled in this form, please post or fax it to us at:

Postal Address	Physical address:	Contact Numbers
Johannesburg (Head Office) P O Box 32175 Braamfontein, 2017	2 Kotze Street East Wing, Women's Jail Constitution Hill Braamfontein, 2017	Tel : +27 11 403 7182 Fax No: +27 11 403 7188 Alt. Fax: +27 11 403 5609
Gauteng Province: N/A	267 Lillian Ngoyi Street, Preator Forum Pretoria,0002	Tel: +27 12 341 6090 Fax: +27 12 362 4689
Eastern Cape Province: P O Box 348 East London, 5200	33 Phillip Frame Road Waverly Park Chilselrust East London, 5200	Tel : +27 43 722 3489 Fax : +27 43 722 3474
Free State Province: P O Box 3082 Bloemfontein, 9300	49 Charlotte Maxeke Street, 2nd Floor, Fedsure Building, Bloemfontein, 9300	Tel: +27 51 430 9348 Fax : +27 51 430 7372
KwaZulu Natal Province : P O Box 208 Durban, 4000	40 Dr. A.B Xuma Road, Suite 313, Commercial City Durban 4001	Tel : +27 31 305 2105 Fax : +27 31 307 7435
Limpopo Province: P O Box 55796 Polokwane, 0700	Cnr. Grobler & Schoeman Streets, 1st Floor, Library Gardens Square, Polokwane 0700	Tel : +27 15 291 3070 Fax : +27 15 291 5797
Mpumalanga Province: P O Box 1163 Nelspruit, 1200	32 Belle Street Office 212-230 Nelspruit, 1200	Tel : +27 13 755 2428 Fax : +27 13 755 2991
Northern Cape Province: P O Box 427 Kimberley, 8301	143 Du Toitspan Road . Kimberley 8301	Tel : +27 53 832 0477 Fax : +27 53 832 1278
North West Province: P O Box 115 Montshiwa, 2737	38 Molopo Road Mafikeng	Tel : +27 18 381 1505 Fax : +27 18 381 1377
Western Cape Province: P O Box 1774 Cape Town, 8001	132 Adderly Street 5th Floor, ABSA Building, Cape Town 8001	Tel : +27 21 426 4080 Fax : +27 21 424 0549

"B"

Commission for Gender Equality
A society free from gender oppression and inequality

NOTICE IN TERMS OF SECTION 12 (4) (b) OF THE COMMISSION ON GENDER EQUALITY ACT NO 39 OF 1996

NOTICE TO APPEAR before the Commission for Gender Equality sitting at the

---

In the Matter of:

TO:

AND TO THE SHERIFF OF THE COURT

WHEREAS

1. In terms of section 187(a) of the Constitution of the Republic of South Africa, 108 of 1996 (Constitution), the Commission for Gender Equality (Commission)

   must promote respect for gender equality and the protection, development and attainment of gender equality.

2. In terms of section 187(2) of the Constitution, the Commission

   has the power, as regulated by national legislation, necessary to perform its functions, including the power to monitor, investigate, research, educate, lobby, advise and report on issues concerning gender equality.

3. In terms of Section 11(1) (e) of the Commission for Gender Equality Act 39 of 1996 (as amended)

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The Commission shall investigate any gender related issue of its own accord or on receipt of a complaint.

4. Section 12(4)(b) of the Commission on Gender Equality Act (CGE Act) provides that the Commission may

require any person by notice in writing under the hand of a member of the Commission, addressed and delivered by a sheriff, to appear before it at a time and place specified in such notice and to produce to it specified articles or documents in the possession or custody or under the control of any such person: Provided that such notice shall contain the reasons why such person's presence is needed and why any such article or document should be produced.

NOW THEREFORE, TAKE NOTICE

That you are required in terms of section 12 (4) (b) of the CGE act to appear before the Commission on the

.....

AND FURTHER TAKE NOTICE

That you are entitled in terms of section 12(6) of the CGE Act to be assisted when you appear before the Commission by an advocate or an attorney, or both.

That if you fail to appear as aforesaid at the time, place and date or willfully interrupt the proceedings or refuse to cooperate with the Commission or defame the Commissioner/s in his or her or their capacities as Commissioner/s or commit any offence/s stipulated in Section 18 of the Commission on Gender Equality Act, you will be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six (6) months.

DATED and Signed at .....on this the .....day of .....

_____

Commissioner
(*Member of the Commission*)
Commission for Gender Equality
No: 2 Kotze Street
Old Women's Jail, Eastwing
Constitutional Hill
Braamfontein
Johannesburg

2

("C")

GOVERNMENT GAZETTE

Vol 373 Cape Town, 24 July 1996 No 17341

PRESIDENT'S OFFICE

No 1212 24 July 1996

It is hereby notified that the President has assented to the following Act which is hereby published for general information: -

No. 39, 1996: Commission on Gender Equality Act, 1996

Act
Preamble
Definitions
Seat of Commission
Composition of Commission
Vacancies in Commission
Meetings of Commission
Committees of Commission
Staff of Commission
Remuneration and allowances of members of Commission
Expenditure, finances and accountability
Independence
Powers and functions of Commission
Investigations by Commission
Entering and search of premises and attachment and removal of articles
Compensation for certain expenses and damage
Reports by Commission
Approach to President or Parliament
Legal proceedings against Commission
Offences and penalties
Short title and commencement

ACT

To provide for the composition, powers, functions and functioning of the Commission on Gender Equality; and to provide for matters connected therewith.

PREAMBLE

WHEREAS section 119 of the Constitution provides for the establishment of a Commission on Gender Equality; the determination of the members of the Commission; the requirements for appointment as members of the Commission;

AND WHEREAS the Constitution provides that the object of the Commission on Gender Equality shall be to promote gender equality and to advise and to make recommendations to Parliament or any other legislature with regard to any laws or proposed legislation which affects gender equality and the status of women;

AND WHEREAS section 120 of the Constitution provides that an Act of Parliament shall provide for the composition, powers, functions and functioning of the Commission on Gender Equality and for all other matters in connection therewith,

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BE it therefore enacted by the Parliament of the Republic of South Africa, as follows:-

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Definitions

1. In this Act, unless the context indicates otherwise-
   i. "Chairperson" means the chairperson of the Commission; (ix)
   ii. "Commission" means the Commission on Gender Equality established by section 119 of the Constitution; (iii)
   iii. "committee" means a committee established under section 6; (ii)
   iv. "investigation" means an investigation contemplated in section 11(1)(e); (v)
   v. "joint committee" means a joint committee of the Houses of Parliament appointed in accordance with the Standing Orders of Parliament for the purpose of considering a matter contemplated in section 3(2) and (5); (i)
   vi. "Minister" means the Minister of Justice; (iv)
   vii. "premises" includes land, any road, building or structure, or any vehicle, conveyance, ship, boat, vessel, aircraft or container; (vi)
   viii. "Public Service Commission" means the Commission established by section 209(1) of the Constitution. (vii)

Seat of Commission

2. 1. The President shall determine the seat of the Commission.
   2. The Commission may establish such offices as may be necessary to enable it to exercise its powers and to perform its duties and functions conferred on or assigned to it by this Act or any other law.

Composition of Commission

3. 1. Subject to section 119(2) of the Constitution, the Commission shall consist of a chairperson and no fewer than seven and no more than eleven members, who shall-
      a. have a record of commitment to the promotion of gender equality; and
      b. be persons with applicable knowledge or experience with regard to matters connected with the objects of the Commission.
   2. The President shall, whenever it becomes necessary, appoint as a member of the Commission a person-
      a. proposed by interested parties as contemplated in subsection (3);
      b. nominated by a joint committee; and
      c. approved by the National Assembly and the Senate by a resolution adopted by a majority of the total number of members of both Houses at a joint meeting: Provided that if any nomination is not approved as required in paragraph (c), the joint committee shall nominate another person.
   3. Before the members of the Commission are appointed the Minister shall invite interested parties through the media and by notice in the Gazette to propose candidates within 30 days of the publication of the said notice, for consideration by the committee referred to in subsection (2)(b).
   4. a. The members of the Commission may be appointed as full-time

or part-time members and shall hold office for such fixed term, not exceeding five years, as the President may determine at the time of each appointment: Provided that the term of office of the full-time members shall not expire simultaneously.

b. No fewer than two and no more than seven members shall be appointed on a full-time basis.

5. The President shall remove any member from office if-

a. such removal is requested by a joint committee contemplated in subsection (2)(b); and

b. such request is approved by the National Assembly and the Senate by a resolution adopted by a majority of the total number of members of both Houses at a joint meeting.

6. The President may, in consultation with the Commission, appoint a part-time member as a full-time member for the unexpired portion of that part-time member's term of office.

7. Any person whose term of office as a member of the Commission has expired, may be reappointed for one additional term.

8. A member of the Commission may resign from office by submitting at least three months' written notice thereof to Parliament unless Parliament by resolution allows a shorter period in a specific case.

9. a. A Chairperson of the Commission shall as often as it becomes necessary be appointed by the President and a Deputy Chairperson of the Commission shall as often as it becomes necessary be elected by the members of the Commission from among their number.

b. When the Chairperson is not available, the Deputy Chairperson shall perform the functions of the Chairperson.

Vacancies in Commission

4. 1. A vacancy in the Commission shall occur-

a. when a member's term of office expires;

b. when a member dies;

c. when a member is removed from office in terms of section 3(5); or

d. when a member's resignation, submitted in accordance with section 3(8), takes effect.

2. A vacancy in the Commission shall not affect the validity of the proceedings or decisions of the Commission.

3. a. A vacancy in the Commission shall be filled as soon as practicable in accordance with section 3(2).

b. Any vacancy so filled shall be for the unexpired period of the term of office in respect of which the vacancy occurred.

Meetings of Commission

5. 1. The meetings of the Commission shall be held at the times and places determined by the Chairperson: Provided that the first meeting shall be held at the time and place determined by the Minister.

2. If both the Chairperson and Deputy Chairperson are absent from a meeting of the Commission, the members present shall elect one from among their number to preside at that meeting.

3. The quorum for any meeting of the Commission shall be a majority of the total number of members appointed in terms of section 3(2).

4. The decision of the majority of the members of the Commission present at a meeting shall be the decision of the Commission, and

in the event of an equality of votes concerning any matter, the member presiding shall have a casting vote in addition to his or her deliberative vote.

5. a. The Commission shall determine its own procedure: Provided that due regard shall be given to the principles of transparency, openness and public participation.
   b. The Commission shall cause minutes to be kept of its proceedings.

6. The Commission shall from time to time by notice in the Gazette make known the particulars of the procedure which it has determined in terms of subsection (5).

Committees of Commission

6. 1. The Commission may establish one or more committees consisting of one or more members of the Commission designated by the Commission and one or more other persons, if any, whom the Commission may appoint for that purpose and for any period determined by it.

2. The Commission shall designate a chairperson for every committee and, if necessary, a deputy chairperson.

3. Subject to the directions of the Commission, a committee-
   a. may exercise such powers of the Commission as the Commission may confer on it; and
   b. shall perform such functions of the Commission as the Commission may assign to it.

4. On completion of the functions assigned to it in terms of subsection (3), a committee shall submit a written report thereon, including recommendations, if any, for consideration by the Commission.

5. The Commission may at any time dissolve any committee.

6. The provisions of section 5 shall, with the necessary changes, apply to a meeting of a committee.

7. The Commission shall not be absolved from responsibility for the performance of any functions entrusted to any committee in terms of this section.

Staff of Commission

7. 1. The Commission shall at its first meeting or as soon as practicable thereafter-
   a. in consultation with the Public Service Commission and the Minister of Finance, appoint a suitably qualified and experienced person or a person seconded in terms of subsection (4) as Chief Executive Officer of the Commission for the purpose of assisting the Commission in the performance of its financial, administrative and clerical functions; and
   b. be assisted by such staff, seconded in terms of subsection (4) or appointed by the Commission in consultation with the Public Service Commission and the Minister of Finance, as may be necessary to enable the Commission to perform its functions.

2. The persons appointed by the Commission in terms of subsection (1) shall receive such remuneration, allowances and other employment benefits and shall be appointed on such terms and conditions and for such periods, as the Commission may, in consultation with the Public Service Commission and the Minister of Finance, determine.

3. a. A document setting out the remuneration, allowances and

other conditions of employment determined by the Commission in terms of subsection (2), shall be tabled in Parliament within 14 days after such determination.

b. If Parliament disapproves of any determination such determination shall cease to be of force to the extent to which it is disapproved.

c. If a determination ceases to be of force as contemplated in paragraph (b)-

i. anything done in terms of such determination up to the date on which such determination ceases to be of force shall be deemed to have been done validly; and

ii. any right, privilege, obligation or liability acquired, accrued or incurred up to the said date under and by virtue of such determination, shall lapse upon the said date.

4. The Commission may, in the performance of its functions contemplated in subsection (1)(a), at its request after consultation with the Public Service Commission, be assisted by officers of the public service seconded to the service of the Commission in terms of any law regulating such secondment.

5. The Commission may, in consultation with the Public Service Commission, in the exercise of its powers or the performance of its functions by or under this Act or any other law, for specific projects, enter into contracts for the services of persons having technical or specialised knowledge of any matter relating to the work of the Commission, and with the concurrence of the Minister of Finance, determine the remuneration, including reimbursement for travelling, subsistence and other expenses, of such persons.

Remuneration and allowances of members of Commission

8. 1. The remuneration, allowances and other terms and conditions of office and service benefits of the full-time and part-time members of the Commission shall be determined by the President.

2. The remuneration of the members of the Commission shall not be reduced during their term of office.

3. A part-time member of the Commission may, for any period during which that member, with the approval of the Commission, perform additional duties and functions, be paid such additional remuneration as may be determined by the President.

4. The provisions of section 7(3) shall apply, with the necessary changes, in respect of the tabling in Parliament of a document setting out the remuneration, allowances and other terms and conditions of office and service benefits of the full-time and part-time members of the Commission.

Expenditure, finances and accountability

9. 1. Expenditure incidental to the performance of the functions of the Commission in terms of this Act or any other law shall be defrayed from money appropriated by Parliament in the same manner, with the necessary changes, and subject to the same laws, as in the case of the expenditure of a department of the National Government.

2. The Chief Executive Officer referred to in section 7(1)(a)-

a. shall be responsible for the management of and administrative control over staff appointed in terms of section 7(1)(b) and shall for those purposes be accountable to the Commission;

b. shall, subject to the Exchequer Act, 1975 (Act No. 66 of

1975)-
i. be charged with the responsibility of accounting for money received or paid out for or on account of the Commission;
ii. cause the necessary accounting and other related records to be kept; and
c. shall perform the functions which the Commission may from time to time assign to him or her in order to achieve the objects of the Commission, and shall for those purposes be accountable to the Commission.

3. The records referred to in subsection (2)(b)(ii) shall be audited by the Auditor-General .

Independence

10. 1. a. The Commission shall be independent.
b. A member of the Commission as well as a member of the staff of the Commission shall perform his or her functions in good faith and without fear, favour, bias or prejudice.

2. No organ of state and no member or employee of an organ of state nor any other person shall interfere with, hinder or obstruct the Commission, any member thereof or a person appointed under section 6(1) or 7(1) or (5) in the performance of its, his or her functions.

3. All organs of state, including any statutory body or functionary, shall afford the Commission such assistance as may reasonably be required for-
a. the protection of its independence and dignity;
b. the effective exercise of its powers and performance of its functions.

4. No person shall conduct an investigation or render assistance with regard thereto in respect of a matter in which he or she has any pecuniary or any other interest which might preclude him or her from exercising or performing his or her powers and functions in a fair, unbiased and proper manner.

5. If any person fails to disclose an interest contemplated in subsection (4) and conducts or renders assistance with regard to an investigation while having an interest so contemplated in the matter being investigated, the Commission may take such steps as it deems necessary to ensure a fair, unbiased and proper investigation.

Powers and functions of Commission

11. 1. In order to achieve its object referred to in section 119(3) of the Constitution, the Commission-
a. shall monitor and evaluate policies and practices of-
i. organs of state at any level;
ii. statutory bodies or functionaries;
iii. public bodies and authorities; and
iv. private businesses, enterprises and institutions, in order to promote gender equality and may make any recommendations that the Commission deems necessary;
b. shall develop, conduct or manage-
i. information programmes; and
ii. education programmes,
to foster public understanding of matters pertaining to the promotion of gender equality and the role and activities of the Commission;
c. shall evaluate-

i. any Act of Parliament;
ii. any system of personal and family law or custom;
iii. any system of indigenous law, customs or practices; or
iv. any other law,
in force at the commencement of this Act or any law proposed by Parliament or any other legislature after the commencement of this Act, affecting or likely to affect gender equality or the status of women and make recommendations to Parliament or such other legislature with regard thereto;

d. may recommend to Parliament or any other legislature the adoption of new legislation which would promote gender equality and the status of women;

e. shall investigate any gender-related issues of its own accord or on receipt of a complaint, and shall endeavour to
i. resolve any dispute; or
ii. rectify any act or omission,
by mediation, conciliation or negotiation: Provided that the Commission may at any stage refer any matter to-
A. the Human Rights Commission to deal with it in accordance with the provisions of the Constitution and the law;
B. the Public Protector to deal with it in accordance with the provisions of the Constitution and the law; or
C. any other authority, whichever is appropriate:

f. shall as far as is practicable maintain close liaison with institutions, bodies or authorities with similar objectives to the Commission, in order to foster common policies and practices and to promote co-operation in relation to the handling of complaints in cases of overlapping jurisdiction or other appropriate instances;

g. shall liaise and interact with any organisation which actively promotes gender equality and other sectors of civil society to further the object of the Commission;

h. shall monitor the compliance with international conventions, international covenants and international charters, acceded to or ratified by the Republic, relating to the object of the Commission;

i. shall prepare and submit reports to Parliament pertaining to any such convention, covenant or charter relating to the object of the Commission;

j. may conduct research or cause research to be conducted to further the object of the Commission;

k. may consider such recommendations, suggestions and requests concerning the promotion of gender equality as it may receive from any source.

Investigations by Commission

12. 1. The procedure to be followed in conducting an investigation referred to in section 11(1)(e) shall be determined by the Commission with due regard to the circumstances of each case.

2. The Commission shall from time to time by notice in the Gazette make known the particulars of the procedure which it has determined in terms of subsection (1).

3. a. If it is in the interest of justice or if harm to any person might otherwise ensue,

b. the Commission or a member thereof may direct that any person or category of persons shall not be present at the proceedings during the investigation or any part thereof.

c. No person shall disclose to any other person the contents of any document in the ossession of a member or a member of the staff of the Commission or the record of evidence given before the Commission during an investigation, unless the Commission determines otherwise.

4. For the purposes of conducting an investigation referred to in section 11 (1)(e), the Commission may-
   a. through a member require from any person such particulars and information as may be reasonably necessary;
   b. require any person by notice in writing under the hand of a member of the Commission, addressed and delivered by a sheriff, to appear before it at a time and place specified in such notice and to produce to it specified articles or documents in the possession or custody or under the control of any such person: Provided that such notice shall contain the reasons why such person's presence is needed and why any such article or document should be produced.
   c. through a member of the Commission, administer an oath to or take an affirmation from any person referred to in paragraph (b), or any person present at the place referred to in paragraph (b), irrespective of whether or not such person has been required under the said paragraph (b) to appear before it, and question him or her under oath or affirmation.
5. Any person questioned under subsection (4) shall, subject to any law governing privilege -
   i. be competent and compelled to answer all questions put to him or her regarding any fact or matter connected with the investigation;
   ii. be compelled to produce to the Commission any article or document in his or her possession or custody or under his or her control which may be necessary in connection with that investigation.
6. Any person appearing before the Commission by virtue of the provisions of subsection (4)(b) and © may be assisted at such examination by an advocate or an attorney, or both, and shall be entitled to peruse such of the documents or records referred to in subsection (4)(b) as are necessary to refresh his or her memory.
7. If it appears to the Commission during the course of an investigation that any person is being implicated in the matter being investigated, the Commission shall afford such person an opportunity to be heard in connection therewith by way of the giving of evidence or the making of submissions and such person or his or her legal representative shall be entitled, through the Commission, to question other witnesses, determined by the Commission, who have appeared before the Commission in terms of this section.

Entering and search of premises and attachment and removal of articles

13. 1. Any member of the Commission or a police officer authorised thereto by a member of the Commission may, for the purposes of exercising the powers and performing the functions mentioned in section 11, on the authority of a warrant issued in terms of subsection (5), search any person or enter and search any premises on which anything connected with an investigation is or is suspected to be.
    2. The entry and search of any person or premises under this section shall be conducted with strict regard to decency and order, including the protection of a person's right to-
       a. respect for his or her dignity;

b. freedom and security; and
c. his or her personal privacy.

3. A member or police officer contemplated in subsection (1) may, subject to the. Provisions of this section -
   a. inspect and search the person or premises in question, and there make such enquiries as he or she may deem necessary;
   b. examine any article or document found on the person or premises;
   c. request information regarding such article or document from the owner or person in control of the premises or from any person in whose possession or control that article or document is, or who may reasonably be expected to have the necessary information;
   d. make copies of or take extracts from any book or document found on the person or premises;
   e. attach anything on the person or premises which has a bearing on the investigation;
   f. if he or she wishes to retain anything contemplated in paragraph (e) for further examination or for safe custody, remove it from the person or premises against the issue of a receipt: Provided that any article that has been so removed, shall be returned as soon as possible after the purpose for which it was removed has been achieved: Provided further that if there is no person present to receive the receipt when it is issued, it shall be affixed to a prominent place on the premises.
4. Any person from whom information is required in terms of subsection (3)(a) and (c) may be assisted in supplying the information by a legal representative and shall be so informed before being required to give such information.
5. a. A warrant referred to in subsection (1) shall only be issued by a magistrate, or a judge of the Supreme Court, if it appears to such magistrate or judge from information on oath that there are reasonable grounds for believing that any article or document, which has a bearing on the investigation is in the possession or under the control of any person or on any premises within the area of jurisdiction of such magistrate or judge and cannot reasonably be obtained in any other manner.
   b. A warrant referred to in subsection (1) shall be executed by day.
   c. A warrant referred to in subsection (1) may be issued on any day and shall be of force until-
      i. it is executed; or
      ii. it is cancelled by the person who issued it or, if such person is not available, by any person with like authority; or
      iii. the expire of one month from the day of its issue, whichever may occur first.
   d. A person executing a warrant under this section shall, at the commencement of such search, hand the person referred to in the warrant or the owner or the person in control of the premises, if such a person is present, a copy of the warrant: Provided that if no such person is present, he or she shall affix a copy of the warrant to the premises at a prominent and visible place.
   e. A person executing a warrant under this section shall, at the commencement of such execution, identify himself or herself and if that person requires authorisation to execute a warrant under this section, the particulars of such authorisation shall also be furnished.
6. a. A person who may lawfully under this section enter and search any premises may use such force as may be necessary to overcome any resistance against such entry and search of

the premises, including the breaking of any door or window of such premises: Provided that such person shall first audibly demand admission to the premises and notify the purpose for which he or she seeks to enter and search such premises.

b. The proviso to paragraph (a) shall not apply where the person concerned is on reasonable grounds of the opinion that any article or document which is the subject of the search may be destroyed, disposed of or tampered with if the provisions of the said proviso are complied with.

7. If during the execution of a warrant in terms of subsection (5), a person claims that an article or document found on the person or premises contains privileged information and refuses the inspection or removal of such article or document, the person executing the warrant may request the registrar of the Supreme Court which has jurisdiction or his or her delegate, to attach and remove that article or document for safe custody until a court of law has made a ruling on the question whether or not the information in question is privileged.

Compensation for certain expenses and damage

14. 1. Subject to the provisions of subsection (2), the Commission may, with the specific or general concurrence of the Minister of Finance, order that the expenses or a portion of the expenses incurred by any person in the course of or in connection with an investigation by the Commission, be paid from State funds.

2. Any person appearing before the Commission in terms of section 12(4)(b) who is not in the public service, shall be entitled to receive from moneys appropriated by law for such purpose, as witness fees, an amount equal to the amount which he or she would have received as witness fees had he or she been summoned to attend criminal proceedings in the Supreme Court held at the place mentioned in the written notice in question.

3. If, in the execution of a warrant in terms of section 13(5), it is necessary to use force to gain entry to premises as contemplated in section 13(6)(a) and the force of such entry causes damage to any lock, door, window, wall or other part of the premises or to anything inside the premises, the Commission may order that such damage be made good from State funds: Provided that no such order shall be made if the person responsible for the premises was present at the time of entry and failed, without just cause, to facilitate the entry.

Reports by Commission

15. 1. The Commission may, subject to the provisions of subsection (3), in the manner it deems fit, make known to any person any finding, point of view or recommendation in respect of a matter investigated by it.

2. The Commission shall report to the President at least once every year on its activities and the achievement of its objectives, and the President shall cause such report to be tabled promptly in Parliament: Provided that the Commission may at any time submit any other report to the President and Parliament.

3. The findings of an investigation by the Commission shall, when it deems it fit, be made available to the complainant and any person implicated thereby.

Approach to President or Parliament

16. The Commission may, at any time, approach the President or Parliament with regard to any matter relating to the exercise of its powers or the performance of its functions.

Legal proceedings against Commission

17. 1. The Commission shall be a juristic person.
2. The State Liability Act, 1957 (Act No. 20 of 1957), shall apply with the necessary changes in respect of the Commission, and in such application a reference in that Act to "the Minister of the department concerned" shall be construed as a reference to the Chairperson.
3. No-
a. member of the Commission;
b. member of the staff of the Commission;
c. person contemplated in section 7(4); or
d. member of any committee who is not a member of the Commission,
shall be liable in respect of anything reflected in any report, finding, point of view or recommendation made or expressed in good faith and submitted to Parliament or made known in terms of this Act.

Offences and penalties

18. A person who without just cause-
a. refuses or fails to comply with a notice under section 12(4)(b) or refuses to take the oath or to make an affirmation at the request of the Commission in terms of section 12(4)(c) or refuses to answer any question put to him or her under section 12(4)(c) or refuses or fails to furnish particulars or information required from him or her under that section;
b. after having been sworn or having made an affirmation contemplated in section 12(4)(c), gives false evidence before the Commission on any matter, knowing such evidence to be false or not knowing or believing it to be true;
c. wilfully interrupts the proceedings at an investigation or misbehaves in any manner in the place where such investigation is being held;
d. defames the Commission or a member of the Commission in his or her capacity as a member;
e. in connection with any investigation does anything which, if such investigation were proceedings in a court of law, would have constituted contempt of court;
f. anticipates any findings of the Commission regarding an investigation in a manner calculated to influence its proceedings or such findings;
g. does anything calculated to influence the Commission improperly in respect of any matter being or to be considered by the Commission;
h. contravenes section 10(2);
i. acts contrary to the authority of a warrant issued under section 13(5) or, without being authorised thereto under section 13, enters or searches any premises or attaches any article or document or performs any act contemplated in section 13(3),
shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

Short title and commencement

19. This Act shall be called the Commission on Gender Equality Act, 1996, and shall come into operation on a date fixed by the President by proclamation in the Gazette.

1

Commission for Gender Equality
A society free from gender oppression and inequality

COMMISSION FOR GENDER EQUALITY

Notice of Appeal

For office use only

Province:		Reference No/File Number	

Should you be unsatisfied by any determination , decision , finding , rejection of complaint , bar a finding made at a hearing , you have the right to appeal the decision by writing to the Commission for Gender Equality within thirty (30) working after receiving the letter rejecting the complaint. All appeals should be addressed to the Chairperson of the Commission for Gender Equality fax: 011 403 7188 / 5609 or P O Box 32175, Braamfontein, 2017.....

A : YOUR DETAILS (*the Appellant*)

Name and surname	
ID Number	
Physical Address	
Postal Address	
Telephone Number	

PART B: Details of determination, decision or findings, rejection of complaint against which the appeal is lodged

Reference no of your file with the CGE	
Date of determination, decision, finding or rejection of complaint **Please attach a copy of the letter of notification and / or closing letter**	

C : Reasons for the Appeal

You may attach any additional documentation in support of the reasons for your appeal.

Please sign and date the form:

Signature: ..... **Date: .....**
Appellant

"E"

Commission for Gender Equality
A society free from gender oppression and inequality

INTERNAL COMPLAINT ASSESSMENT FORM

DATE:

RE:

TYPE:

1. Summary of Complaint

2. Jurisdiction of the CGE		
ACCEPTED	REFERRED	REJECTED
3. Basis of acceptance/referral/rejection		
Name of Provincial Legal Officer		
Date:		
Signature :		

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"F"

Commission for Gender Equality
A society free from gender oppression and inequality

WARRANT TO SEARCH AND SEIZE IN TERMS OF SECTION 13 (1) OF THE COMMISSION FOR GENDER EQUALITY ACT 39 of 1996

Whereas it appears from the information under oath contained in the affidavit of: (*state names of deponent*) of which copies are attached to this application that within the Magisterial district of

_____ (*state magisterial district*) there are articles identified in "Annexure A" hereto, which:

(a)* is on reasonable grounds believed to be concerned in the investigation conducted by the Commission for Gender Equality;

(b)* may afford evidence in the investigation conducted by the Commission For Gender Equality and such articles are:

* in the possession of or under the control of (*state name(s) of person(s)*;

* Upon or at (*describe premises*),

Application is hereby made that a search warrant be issued in terms of section 13(5) of the Commission on Gender Equality Act 39 of 1996, requiring the following members of the South African Police Service and/or members of the Commission to:

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* search the identified persons;

* enter the identified premises and search all persons found on the premises who can be linked to the activities on such premises and to seize any articles referred to in "Annexure A" found in the possession or under the control of such person;

The search shall be conducted during daytime.

The following members will conduct the search:

Name, Designation and Work address

(a)

(b)

(c)

(d)

(e)

This Search warrant is applied for by (full names)..... on this day.....of 2015

I, the undersigned, (full names).....

* hereby declare under oath/solemnly confirm:
* I am acquainted with the contents of this statement and understand it.
* I have no objection to the taking of the prescribed oath.
* I declare the oath to be binding on my conscience.

OR

I am acquainted with the contents of this statement, and understand it, and solemnly confirm it.

2

_____

SIGNATURE OF DEPONENT

Signed and attested in my presence on this the.....day of 2015

COMMISSIONER OF OATH

Full names: _____

Capacity: _____

Business Address: _____

Area: _____

I .....do hereby accept that there are reasonable grounds for believing that an article or document referred to in "Annexure A" which has a bearing on the investigation of the Commission For Gender Equality is in the possession or under the control of ……. or on the premises within the area of jurisdiction of the above Magistrates' Court.

The application for a warrant to search and seize is hereby granted.

……

Magistrate

STAMP

3

Annexure A

(a)

(b)

(c)

(d)

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