

Complaint Handling Guidelines

Introduction

If any person believes that their human rights have been violated, they can make a complaint to the Seychelles Human Rights Commission.

The Commission will evaluate the Complaint, and if there is substance to the Complaint, the Commission, as far as possible, will assist the person in finding redress.

The following are the guidelines that the Human Rights Commission may follow when dealing with complaints.

Making a Complaint Received

Any person can make a complaint in the following ways:

1. By filling out the electronic form found on the Seychelles Human Rights Commission's website;
2. By filling out the hard copy form found out the office of the Human Rights Commission's office located at Bel Air Complex, Mahe.

If a person requires assistance in filling out the form, they can contact the Seychelles Human Rights Commission on 4303220 or visit the office of the Seychelles Human Rights Commission.

A person also has the option of organising a video conference with the Seychelles Human Rights Commission for assistance in filling out the form by either calling the Seychelles Human Rights Commission or emailing the Commission at info@seychelleshumanrights.com.

Complaint Received

Once the Seychelles Human Rights Commission receives a complaint, the Complaints Department will open a file for the Complaint and provide the Complainant with a reference number.

Complaint Evaluated

Once a file for the Complaint has been opened, the Complaints Department will evaluate the Complaint.

First, the Complaints Department will determine whether the Complaint falls under the specific jurisdiction of another Statutory Institution.

Secondly, the Complaints Department will evaluate whether the complaints meet the following criteria:

1. The Complaint is consistent with the Charter of Human Rights and Fundamental Freedoms of the Constitution of Seychelles, the Charter of the United Nations, the Universal Declaration of Human Rights and other applicable instruments in the field of human rights law.
2. The Complaint has not been delayed for more than 5 years without reasonable cause.
3. The Complaint provides a factual description of the alleged violations.
4. The Complaint provides the redress which the Complainant is seeking.
5. The Complainant has not received redress for the Complaint.
6. Where adequate means to adequate and possible redress for the Complaint is available, and the Complainant has exhausted all of these means.
7. Where the matter is not currently under consideration by any Court or Tribunal.

If the Complaint does not meet these criteria, the Complaints Department may contact the Complainant to request further information.

The Complaint's Department will then fill out a Complaint Evaluation form detailing the above evaluation.

Once the Complaint's Department has completed this form it will file the same in the Complainant's file and it will contact the Complainant and set a meeting for them with the Complaint's Committee.

Complainant's Initial Meeting with the Complaints Department Committee

The Complaints Department Committee will discuss the matter with the complainant to ensure that the complaint has been fully completed.

Where the Complaints Department Committee determines that a complaint does not meet the criteria and that there are no extraordinary to deviate from the criteria it will advise the complainant of the same in the meeting and provide a letter detailing the same to the complainant as soon as practicable.

Where the Complaints Department Committee determines that a complaint does meet the criteria it will explain the next steps relating to alternate dispute resolution. Should the complainant agree to alternate dispute resolution, the complainant will be given a date to return to the Complaints

Department to complete and sign the Alternate Dispute Resolution. The Complaints Department Committee will explain that the Commission is an independent truth seeking institution and not an advocate for any party.

Other parties requested to respond to the Complaint

The Complaints Department may now send the Complaint to the Complaints Department, who may send a letter in the prescribed form to the other party for their response. The letter may also include a request for the participation of the other side in an appropriate alternative dispute resolution mechanism, which they deem appropriate given the circumstances of the Complaint. The mechanisms which may be utilised are as follows:

- a. Negotiation;
- b. Mediation;
- c. Conciliation.

The Complaints Department may also request an interview with the other party to discuss the matter and may attempt negotiations to bring a settlement to the matter. Any settlement proposed will be provided to the Complainant for their consideration.

Depending on the nature of the complaint, the Complaints Department may elect not to engage in alternate dispute resolution.

If the parties agree to an alternate dispute resolution mechanism, the Alternate Dispute Resolution Department will organise for the same to occur.

Once the alternate dispute resolution mechanism has been completed, the Alternate Dispute Resolution Department will send the Complaint back to the Complaints Department with a report on the outcome of the same.

If the Complaint has been resolved, the Complaints Department will make a note of the same in the file and close the file.

If the Complaint has not been resolved, the Complaint will then move to the next stage of these Guidelines.

Investigations

The Complaints Department will now instigate an investigation into the Complaint.

Once the Complaints Department has completed its investigations, it shall produce a report including its findings to the Complaints Department Committee for their determination.

If the Complaints Department Committee finds there is substance to a Complaint, the Complaints Department Committee will, in so far as it is, able to do so, assist the Complainant in securing redress.

If the investigation is of a serious nature the Complaints Department Committee, as soon as possible, will submit to the President reports on the findings which were performed or conducted by it.

Securing Redress

The Complaints Department Committee will assist the Complaint to secure redress amicably.

If the Complaint is resolved amicably, then the Complaints Department Committee will make a report and send the Complaint to the Complaints Department.

The Complaints Department will make a note of the same in the file and close the file.

If the Complaint has not been resolved amicably, the Complaint will then move to the next stage of these Guidelines.

Recommendations to a public authority

Where the other party is a public authority the Complaints Department Committee will report on the findings and make recommendations to address the violation to the responsible authority.

The Complaints Department Committee shall produce a monitoring plan for the recommendations and together with the authorities concerned agree on timeframes. The responsible authorities shall be monitored on the implementation of the recommendations and progress reports will be produced.

If the responsible authorities do not comply within the agreed timeframe, providing adequate reasons as to why they have not implemented the recommendations, the Complaints Department Committee may start pre-court discussions. If these discussions fail to settle the matter, the Complaints Department Committee may commence legal proceedings.

Legal Proceedings

The Complaints Department Committee may decide whether to arrange for or provide financial assistance to enable proceedings to be initiated in a competent court for necessary relief or direct the Complainant to an appropriate forum or to initiate proceedings in a competent court or tribunal

in the name of the Human Rights Commission or on behalf of the Complainant. Financial assistance from the Human Rights Commission will be dependent on the available budget.

If the Complaints Department Committee decides to initiate legal proceedings, then a request for the same will be sent to the Legal Department for their action.

Once the outcome of the legal proceedings is completed, a report on the same will be sent to the Complaints Department.

The Complaints Department will make a note of the same. It will follow up on any decisions made by any competent court or tribunal. Once all matters concerning any decisions are concluded, the Complaints Department will make a note of the same and close the file.

Deviation from Guidelines

Given the circumstances of the complaint, the Human Rights Commission may at any time deviate from these guidelines where it deems it necessary.