
MINISTRY OF NATURAL RESOURCES & ENVIRONMENT ANTI-HARASSMENT POLICY

1. PREAMBLE

The Ministry of Natural Resources & Environment (referred herewith as the Ministry) is committed to maintaining a positive learning, working and living environment for its staff to pursue excellence in their professional endeavors. This opportunity can exist only when each member of its staff is assured an atmosphere of mutual respect. As the employer of the Samoa Public Service (SPS), the Ministry is committed to provide a work environment where all persons working for the Ministry are treated with respect and dignity.

Harassment affects workplace and individual well-being and will not be tolerated. This policy aims to prevent harassment by promoting increased awareness, early problems resolution and the use of mediation. Informing all managers and employees about harassment is an essential step in eliminating harassment and will also help people recognize when their own behaviour may be harassing. The application of this policy will help create a work environment where all are treated with respect and dignity. It will not only promote the well-being of all in the workplace, but will also enforce the 'Code of Conduct' and uphold the 'Values and Principles' of the Public Service as stipulated in the Public Service Act 2004.

The policy promotes the prevention of harassment and focuses on the prompt resolution of harassment. Any incidents of harassment will be regarded extremely serious by the Ministry and can be grounds for disciplinary action which may include expulsion or dismissal. Harassment needs to be addressed with sensitivity, promptness and discretion. Open communication and early intervention are essential in preventing and resolving harassment. By letting people know that harassment will not be tolerated, the policy can improve morale, and improve efficiency and increase productivity.

The policy will provide an effective complaint process to guide all staff to report a complaint of harassment or inappropriate behaviour designed to encourage victims to come forward. When an employee complains about an alleged harassment, the Ministry is obligated to investigate the allegation regardless of whether it conforms to a particular format or is made in writing. This will be supported by a process for a prompt, thorough, and impartial investigation into alleged harassment guided by the principle of 'procedural fairness'. This includes the right to be heard, the right to be treated without bias, the right to be informed of allegations being made and to be provided with an opportunity to respond to them and the right to be able to find out about the status of the grievance.

2. PURPOSE

1. To educate employees in the recognition and prevention of workplace harassment;
2. To provide an effective means of eliminating such harassment from the workplace;
3. To foster a respectful workplace through the prevention and prompt resolution of harassment.
4. Establishes the procedures to be followed in responding to a complaint and a possible breach of the Code of Conduct and where necessary determine an appropriate action to resolve the matter.

3. POLICY STATEMENT

Harassment in the workplace is unacceptable and will not be tolerated. All employees (ie., permanent officers, temporary, wage staff and staff under contract) working for the Ministry will enjoy a harassment free workplace. An essential part of developing that environment is ensuring that employees are encouraged to come forward with their grievances in the knowledge that the Ministry will take prompt and effective action to address complaints of harassment.

This policy shall be interpreted in a manner consistent with the Public Service Act 2004, Public Service Regulations 1979, Managing Breaches of the Code of Conduct 2005 and the Grievance Procedures 2004. Any allegation of misconduct relating to harassment may constitute a breach of the Code of Conduct. It is intended that employees who violate this Policy will be investigated by the Complaints Review Committee and recommendations to the CEO will help determine whether the allegations should be dealt with under the formal Disciplinary Procedure. Whether the alleged misconduct breaches the requirement of the Code of Conduct, (Section 44 on 'Breach of Conduct' & Part 9.44 of the Public Service Regulations) a penalty to be imposed on the employee will be determined based on the breach in question. (Section 45 on 'Penalties').

The Complaints Review Committee appointed by the CEO will undertake investigations into any alleged harassment and present finding and recommendations to the Management. The Committee comprises of the following members: Mulipola Ausetalia Titimaea (Chair), Tagaloa Jude Kohlhase, Ms Tuilolo Schuster & Mrs Frances Brown – Reupena.

This Policy provides:

- a. A general definition of harassment;
- b. Prohibited conduct and types of harassment;
- c. Sets out procedures to follow when an employee believes a violation of the Policy has occurred.

It is also a violation of this Policy for anyone acting knowingly and recklessly either to make a false complaint of harassment or to provide false information regarding a complaint.

4. TERMINOLOGY

4.1 DEFINITIONS:

Harassment

Any unwelcome verbal, written or physical conduct (includes an act, comment or display) that demeans, belittles or causes personal humiliation or embarrassment towards a person on the basis of race, sex, colour, national origin, religion, sexual orientation, age, political affiliation or disability that:

1. has the purpose or effect of creating an intimidating, hostile or offensive work environment;
2. has the purpose or effect of unreasonably interfering with an employee's work performance

Any behaviour which shows lack of respect and which creates an atmosphere in which people feel uncomfortable and unwelcome can constitute harassment.

Complaint	A formal allegation of harassment submitted in writing to the Committee
Complainant	A person who is subject to alleged harassment
Respondent	A person whose alleged conduct is the subject of a complaint
Resolution	A voluntary process used to resolve conflict in a mutually acceptable solution
Retaliation	Overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual under this policy.

4.2 PROHIBITED CONDUCT & TYPES OF HARASSMENT:

The Ministry strictly forbids harassment of any employee and harassment will be dealt with seriously. Any form of retaliation directed against an employee who either complains about harassment or who participates in any investigation concerning harassment will not be tolerated.

The following types of harassment are prohibited.

Bullying	Physical and psychological harassing behaviour perpetrated against an individual, by one or more persons. Include verbal abuse or comments that put down or stereotype people, threats, intimidation, and coercion.
Psychological harassment	This is humiliating or abusive behaviour that lowers a person's self-esteem or causes them torment. This can take the form of verbal comments, actions or gestures. Eg., workplace mobbing, backlash or victim blaming, continuous verbal abuse.
Racial harassment	The targeting of an individual because of their race or ethnicity. The harassment's include words, deeds and actions that re specifically designed to make the target feel degraded due to their race of origin or ethnicity.
Religious harassment	Verbal, psychological or physical harassment's used against targets because they choose to practise a specific religion (stereotypes). This harassment can also include forced or involuntary conversions. It can include; spoken or written putdowns, gestures, jokes.
Sexual harassment	Any unwanted and unwelcome words, deeds, actions, gestures, symbols or behaviours of a sexual nature that make the target feel uncomfortable .eg., Degrading words or pictures displayed in the workplace, circulated on paper or by email, or put on a computer or fax machine or on the internet, physical contact of any kind, sexual demands, offensive jokes.

5. POLICY VIOLATIONS:

5.1 Being subjected to harassment.

Any employee, who believes he or she has been harassed in any form such as physical, psychological, sexual, racial or other forms of harassment described in this Policy, are encouraged to report and take action. Do not feel it is your fault or that you have to tolerate it. Any alleged misconduct can be considered a potential breach of the Code of Conduct and a violation of the Policy and Public Service Act.

5.2 Engaging in harassment.

Any employee who engages in conduct determined to be harassment or who encourages such conduct by others, will be subject to disciplinary actions under the Policy and the Public Service Code of Conduct.

5.2 Allowing harassment to continue

Supervisors and/or Managers who allow harassment to continue or fail to take appropriate action upon becoming aware of the harassment may be considered party to the offence, even though they may not have engaged in such behaviour.

6. POLICY REQUIREMENTS

1. All employees must be informed of this Policy and are expected to conduct themselves in a manner consistent with this Policy;
2. All employees must comply with the Code of Conduct and uphold the Values and Principles of the Samoa Public Service (SPS);
3. All employees are expected to act towards other individuals professionally and respectfully;
4. Problems should be addressed and resolved as soon as possible in a timely manner;
5. Employees are encouraged to 'resolve the issue' with the other party before proceeding with the complaint process;
6. The Ministry is required to address all instances of harassment promptly, confidentially and properly;
7. The complaint process should be completed without undue delay within 7 days;
8. Any form of harassment as listed will result in corrective or disciplinary measures being taken;
9. Obligation to Report: In order to take appropriate corrective action, anyone that believes he or she has experienced or witnessed harassment should promptly report such behaviour to the Complaints Review Committee.

7. PROCEDURES

If you believe you are being subjected to sexual, racial or other forms of harassment, including bullying, do not feel that you have to tolerate it.

- ☞ If at all possible, make it clear to the person causing offence that such behaviour is unacceptable and ask him/her to stop;
- ☞ Its important to keep a record of incidents to help you in your case;
- ☞ File a complaint if the harassment continues or on the first instant it occurs;
- ☞ Report the problem to the Committee.
- ☞ The Committee will investigate complaints and determine any appropriate actions.

7.1 Early Problem Resolution

Early resolution aims to resolve any situation as soon as possible, in a fair and respectful manner without having to resort to the 'Complaint Process' (7.3). The use of problem resolution mechanisms such as coaching, counselling and facilitation can be used to resolve the issue(s) and prevent the situation from escalating to the point where filing a complaint is necessary.

The person who feels offended by the actions of another person is encouraged to make it known to that person as soon as possible in an attempt to resolve the problem. It is also the opportunity for the complainant and the Committee to discuss the issue, provide support and assist in identifying the most appropriate course of action. It is important for the Committee to resolve the issue between parties as quickly as possible.

If early resolution is not successful, the employee may file a complaint with the Committee and commence with the Complaint Process as set out below.

7.2 Immediate and Appropriate Corrective Action

The Ministry will undertake immediate and appropriate corrective action(s), including discipline, whenever it determines that harassment has occurred in violation of the Policy. Both parties will be informed about these measures. The remedial measures are considered to stop the harassment, correct its effects on the employee, and ensure that the harassment does not recur. In determining disciplinary measures, these will depend on the nature and circumstances of each grievance and proportional to the seriousness of the offence (in line with the Formal Disciplinary Procedures)

7.3 Complaint Process (refer to Flowchart - Figure 1)

If you believe you have been subjected to any form of harassment, file a complaint.

If asking the harasser to stop his/her behaviour and the harassment continues, you have the right to report the event.



Step 1 – Filing a Complaint

- ❖ The complainant submits a complaint in writing to the Committee (immediately) of the alleged harassment leading to the complaint.
- ❖ *The information provided should be as precise and concise as possible.*

Step 2 – Review of the Complaint

- ❖ The Committee reviews the complaint to determine if the allegations are related to harassment.
- ❖ Interview both the complainant and the alleged harasser with the agreement of the parties in an attempt to resolve the problem.
- ❖ If the complaint is not related to harassment, the Committee will offer appropriate recourse actions and will end the procedure.
- ❖ If allegations are related to harassment, the Committee will determine all or if any efforts have been made to resolve the problem and proceed to **Step 3**.

Step 3 – Investigation

- ❖ If mediation has not resolved the complaint, an investigation will be undertaken immediately.
- ❖ If the investigation reveals evidence to support the complaint of harassment, a Report will be prepared for Management.
- ❖ If the allegation(s) constitutes a breach of the Code of Conduct, procedures under the **Disciplinary Process should be applied**.
- ❖ CEO appoints a Charging Officer (*from the Complaints Review Committee*) to determine evidence and lay charge(s) as Preliminary Considerations.
- ❖ If the breach is a **criminal offence**, it will be reported to the Police (or the Attorney General)
- ❖ Charging Officer completes the findings and submits Report.

Step 4 – Decisions

- ❖ Report submitted to the CEO and Management with recommendations of appropriate disciplinary actions.
- ❖ The CEO considers the Report and determines corrective and/or disciplinary measures to be imposed as per Section 45 of the Act.
- ❖ Penalty implemented.

Step 5 - If the employee is not satisfied with the decision:

- ❖ The employee may resubmit the complaint under the Grievance Procedure to the PSC
- ❖ PSC decides on the validity of the grievance
- ❖ PSC conducts an investigation
- ❖ CEO decides on PSC recommendations

Disciplinary measures may include: Caution and reprimand the officer, Fine not exceeding \$1000 be deducted by way of penalty, dismissal, demotion, unwanted transfer, denial of training opportunities etc (*in compliance with penalties as per Section 45 of Act*)

8. COMPLAINTS REVIEW COMMITTEE

The Committee is appointed by the CEO to review complaints received and undertake investigations conducted under this policy. The Committee is responsible for making confidential findings and recommendations to the CEO and Management.

- ❖ The Committee are expected to be impartial in any complaint process in which they are involved.
- ❖ They are expected to apply the established steps in the complaint process.
- ❖ They are expected to apply the principles of procedural fairness
- ❖ They are expected to take the necessary action to ensure the confidentiality of complaints.
- ❖ They are expected to ensure that both complainants and respondents have access to advice during any resolution process associated with the complaint.
- ❖ They are expected to ensure that corrective and/or disciplinary measures are taken where warranted under the Disciplinary Process.
- ❖ The Committee is expected to facilitate efforts by the Ministry to promote awareness and information regarding harassment issues.
- ❖ They are expected to comply with measures provided under the Act and Regulations.

RELATED POLICIES

For related complaint, grievance or disciplinary processes refer to the following:

Public Service Act 2004

Public Service Regulations 1977

Section 17: Samoa Public Service Values

Section 18: Principles of Employment

Section 19: Code of Conduct

Section 44: Breach of Conduct

Public Service Grievance Procedures

Manual on Managing Breaches of the Code of Conduct (Disciplinary Procedures)

Responsible Officer



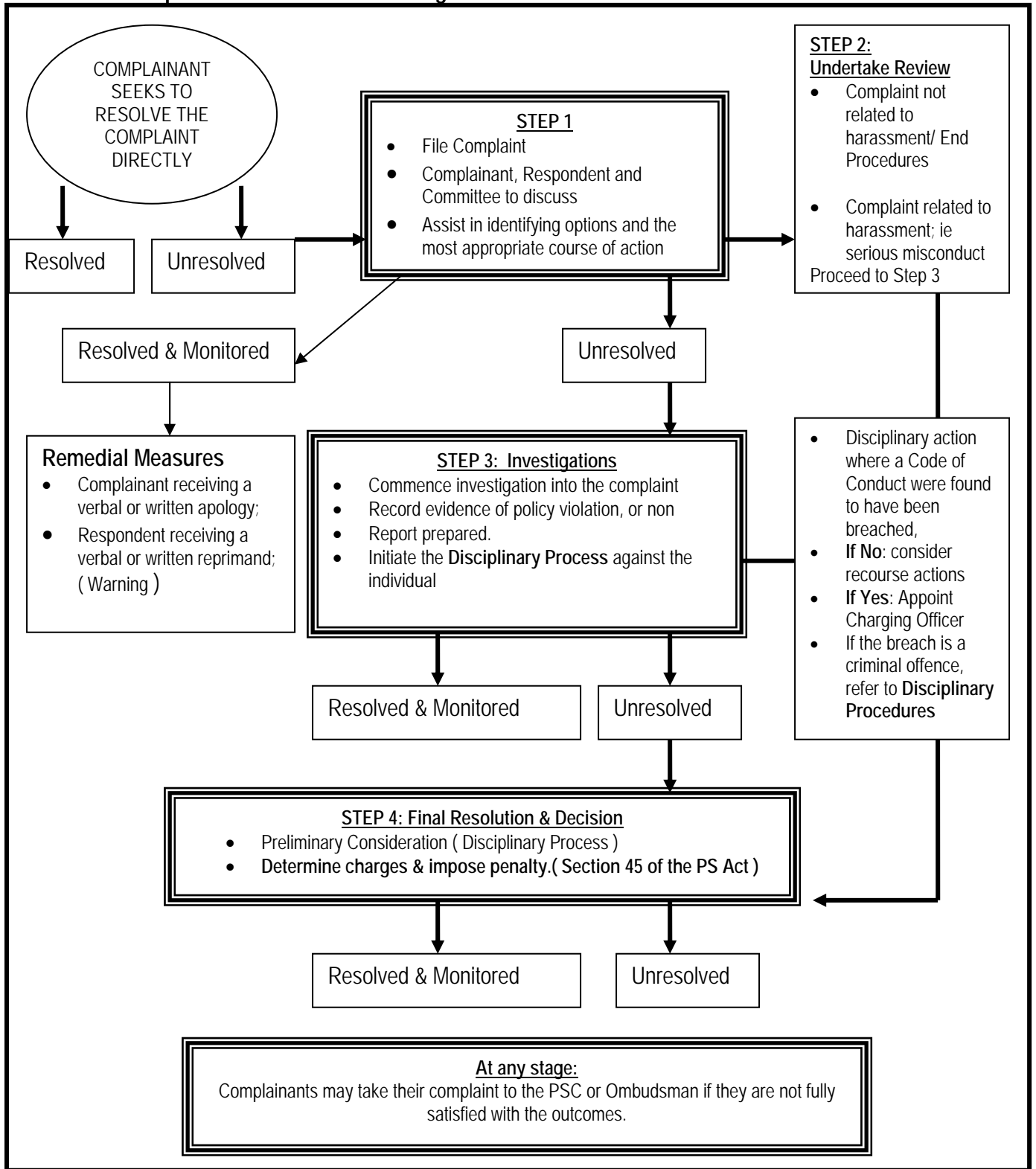
Tu'u'u Dr Ieti Taule'alo

Chief Executive Officer, MNRE

Date of approval

19th November 2008

Harassment Complaint Process – Flowchart Figure 1



Appendix A:
Guide for determining what constitutes harassment.

The questions can be used as a guide to assist in determining whether or not the behaviour (act, comment or display) constitutes harassment: (Any actual investigation must be tailored to the particular facts.)

- Is the behaviour unwelcome or offensive?
- Would a reasonable person view the conduct as unwelcome or offensive?
- Did it demean, belittle or cause personal humiliation or embarrassment?
- Is it a single incident?
- is it is series of incidents over a period of time?

The following are examples of questions that may be appropriate to ask the parties and potential witnesses.

Who, what, when, where, and how:

Who committed the alleged harassment?

What exactly occurred or was said?

When did it occur and is it still ongoing?

Where did it occur? How often did it occur?

How did it affect you? How did you react?

What response did you make when the incident(s) occurred or afterwards?

How did the harassment affect you?

Has your job been affected in any way?

Are there any persons who have relevant information?

Was anyone present when the alleged harassment occurred?

Did you tell anyone about it?

Did anyone see you immediately after episodes of alleged harassment?

Did the person who harassed you harass anyone else?

Do you know whether anyone complained about harassment by that person?

Are there any notes, physical evidence, or other documentation regarding the incident(s)?

How would you like to see the situation resolved?

Do you know of any other relevant information?

Questions to Ask the Alleged Harasser:

What is your response to the allegations?

If the harasser claims that the allegations are false, ask why the complainant might lie.

Are there any persons who have relevant information?

Are there any notes, physical evidence, or other documentation regarding the incident(s)?

Do you know of any other relevant information?

Questions to Ask Third Parties:

What did you see or hear? When did this occur? Describe the alleged harasser's behavior toward the complainant and toward others in the workplace.

What did the complainant tell you? When did s/he tell you this?

Do you know of any other relevant information?

Are there other persons who have relevant information?

**PART IV : PUBLIC SERVICE ACT 2004
VALUES, PRINCIPLES AND CODE OF CONDUCT**

17. Values of the Public Service –

(1) Subject to the constitution and the rule of law, the Commission, every CEO and every employee must uphold the following values in their work:

- a) Honesty – acting honestly, being truthful and abiding by the laws of Samoa;
- b) Impartiality – providing impartial advice, acting without fear or favor, and making decision on their merits;
- c) Service – serving the people well, through faithful service to the Government;
- d) Respect – treating the people, the Government and colleagues with courtesy and respect;
- e) Transparency – taking actions and making decision in an open way;
- f) Accountability – being able to explain the reason for actions taken, and taking responsibility for those actions; and
- g) Efficiency and effectiveness – achieving good results for Samoa in an economical way.

18. Principles of employment

(1) It is the duty of each member of the Commission and each CEO to act as a good employer in the performance of their functions under this Act.

(2) As a good employer, the Commission and each CEO shall, subject to the Constitution and the rule of law, carry out employer functions under this Act according to the following principles:

- a) Appointments and promotion must be made on the basis of merit;
- b) Decision on employment matters must be made fairly and properly;
- c) Employees must have access to a simple and fair grievance system ;
- d) Employees must receive reasonable access to training and development opportunities
- e) Employees must receive reasonable remuneration and reasonable terms and conditions of employment;
- f) Eligible persons must have reasonable opportunity to apply for employment in the public service;
- g) There must be equal employment opportunity in the public service;
- h) Employees must be provided with a safe environment to work in; and
- i) There must be only as many employees working in the public service as are necessary for the public service to function efficiently and effectively.

19 Code of Conduct – Every employee and every CEO shall:

- a) Be honest and impartial;
- b) Work carefully and diligently;
- c) Treat everyone with respect and courtesy and without coercion or harassment;
- d) Comply with all laws that apply to them;
- e) Comply with all lawful and reasonable directions given to them by persons who have authority to give those directions;
- f) Disclose, and make all reasonable steps to avoid, any real or apparent conflicts of interest in relation to their employment;
- g) Use government resources properly
- h) Use official information only for official purposes;
- i) Act with integrity and not misuse their status or authority to seek or obtain a benefit for themselves or any other person or body;
- j) Uphold the values of the public service set out in section 17;
- k) Comply with any other conduct requirements set out in the regulations; and
- l) Uphold the good reputation of the public service.

SECTION 44 BREACH OF THE CODE OF CONDUCT

(1) Where a CEO believes that an officer may have breached the Code of Conduct, the CEO may appoint an officer or a contract employee in the CEO's Ministry to consider the matter and:

- (a) Charge the officer in writing with a breach of the Code of Conduct; or
- (b) Give the officer a warning; or
- (c) Take no further action.

(2) Where an officer has been charged with a breach of the Code of Conduct, the relevant CEO must appoint an officer or a contract employee from a Ministry other than the Ministry in to make recommendations to the CEO.

(3) A person must not be appointed for the purpose of subsection (2) unless the Commission has certified that the person is qualified to carry out an inquiry.

(4) A person appointed for the purpose of subsection (2) may amend a charge made against an officer and must inform the officer of the amendment without delay.

(5) The procedure for investigating and determine the charge is set out in the regulations, but as a minimum, the procedure must provide that:

- (a) the charged officer is to be informed of the case against them;
- (b) the charged officer has a right to be heard on the question of their guilt or innocence and on the question of any of any penalty to be imposed on them; and
- (c) The person who investigates the charge and the person who decides on the guilt or innocence of the charged officer and decides on any penalty to impose on the officer must not be biased in the matter.

(6) Despite the other provisions of this Act, where:

(a) in the reasonable opinion of the Commission a CEO is unwilling or unable to exercise any of the functions or powers given to a CEO under this section and sections 43,45,47,47 and 48; and

(b) the Commission is, after consulting with the relevant CEO, of the opinion that the CEO's unwillingness or inability under paragraph (a) will or is likely to adversely affect the performance and / or reputation of any Ministry or other part of the Government,

The Commission may exercise any of the CEO's functions and powers under this section and sections 43,45,46,47 and 48.

(7) Where the Commission acts under subsection (6), the Commission shall be taken for all purposes to be the CEO and the provisions of this section and sections 43,45,46,47 and 48 shall apply, with such adaptations and alterations are required, and powers under this section and sections 43,45,46,47 and 48.