



Code of Good Practice

Guiding Chapter 9 Institutions in their Interactions with the South African Parliament



PRINCIPLES

Respect for the Constitution

Independence

Impartiality

Compliance with Laws, Regulations and Rules

Adherence to Protocol

Professionalism

Accountability

Honesty & Integrity

Confidentiality

Principles

1. Respect for the Constitution

Commissioners and personnel must respect the Constitution in the exercise of all their duties and activities.

- a) They must have a clear understanding of the role and status of the Chapter 9 institution under the Constitution.
- b) They must seek to promote respect for the Constitution through their conduct as representatives of the Chapter 9 institution.
- c) The constitutional and statutory mandate of the Chapter 9 institution must be the basis for any activity relating to Parliament and/or its members. It must guide all interactions with other role players in and around Parliament.

2. Independence

While interacting with Parliament and/or its members, Commissioners and personnel must at all times uphold the independent status of the Chapter 9 institution.

- a) In planning or undertaking any interaction with Parliament and/or its members, Commissioners and personnel must at all times uphold the independent status of the Chapter 9 institution. This duty extends to both the reality and perception of independence.
- b) Commissioners and personnel must be free to act within their constitutional and statutory mandate. They should not be threatened, compromised or harassed whilst carrying out their duties within agreed boundaries set out in the Constitution, the law and this code. If such behaviour occurs, it must be reported in the appropriate manner.
- c) When engaging in a joint activity with other role players in Parliament, Commissioners and personnel must maintain a separate identity and ensure that this is communicated to other role players.
- d) The Chapter 9 institution must ensure that any submissions made to Parliament are self-contained and do not rely on material being covered in submissions by others.

3. Impartiality

While interacting with Parliament and/or its members, Commissioners and personnel must at all times seek to uphold the impartiality of the Chapter 9 institution.

- a) In planning or undertaking any interaction with Parliament and/or its members, Commissioners and personnel must at all times seek to uphold the impartiality of the Chapter 9 institution. This duty extends to both the reality and perception of impartiality.
- b) Any interaction with Parliament and/or its members must be as free from conflict of interests as is possible, both in design and operation. Commissioners and personnel must actively seek to reduce conflicting interests.
- c) The interactions of the Chapter 9 institution with Parliament may not concentrate on one political party to the exclusion of other parties. Commissioners and personnel must be seen to be inclusive in their interactions.
- d) Commissioners and personnel must give due consideration to the perception that their activities and interactions may create. They must take all reasonable steps to ensure that their actions are not, and do not appear to be, partisan.
- e) Commissioners and personnel shall not place representatives of other role players in a conflict of interest by proposing or undertaking any action that would constitute improper influence on them.
- f) Commissioners and personnel must avoid any activity that would allow them to be subject to improper influence by other role players.
- g) Commissioners in their personal capacity may not engage in any party political activities.
- h) Personnel must fully consider the impact that party political activities they undertake in their personal capacity may have and avoid any such activities that may undermine the impartial status of the Chapter 9 institution.

4. Compliance with Laws, Regulations and Rules

Commissioners and personnel must comply with all laws, regulations and rules applicable to their interactions with and in Parliament.

- a) Commissioners and personnel must make themselves aware of all laws, regulations, rules and conventions, applicable to the conduct of their work whilst within parliamentary premises and generally involving Parliament. They should not engage in any violations of such laws, regulations, rules and conventions.
- b) Commissioners and personnel should not be the cause of parliamentary staff or representatives of other role-players in and around Parliament violating any law, regulation, rule or convention applicable to the interactions between Parliament and the Chapter 9 institution.

5. Adherence to Protocol

Commissioners and personnel must seek to adhere to both parliamentary protocol and the internal protocol of the Chapter 9 institution.

- a) In planning or undertaking any interaction with Parliament and/or its members, Commissioners and personnel must be aware of, and adhere to parliamentary protocol. This applies to both written and unwritten expected standards of behaviour.
- b) The onus is upon the Chapter 9 institution to ascertain what the expected standard of behaviour for Commissioners and personnel is, when they interact with Parliament and/or its members.
- c) Commissioners and personnel must not be the cause of any other role player in Parliament failing to comply with parliamentary protocol.
- d) Commissioners and personnel must not engage informally with other role players if a formal institutionalised process is, or could, be put in place.
- e) The Chapter 9 institution must be represented by a Commissioner if a formal interaction is taking place.
- f) In planning or undertaking any interaction with Parliament and/or its members, Commissioners and personnel must be aware of, and adhere to the protocol of the Chapter 9 institution. This applies to both written and unwritten expected standards of behaviour.

- g) Commissioners and personnel must ensure that other role players with whom they engage are made aware of the protocol of the Chapter 9 institution and what it requires regarding their conduct.

6. Professionalism

While interacting with Parliament and/or its members, Commissioners and personnel must observe the highest professional and ethical standards.

- a) In the planning or undertaking of any interaction with Parliament and/or its members, Commissioners and personnel must conduct themselves in a manner that befits their role as representatives of the Chapter 9 institution.
- b) They must seek to comply not only with the letter but also the spirit of this code of good practice and other relevant codes of conduct.
- c) They must foster among the public and through their professional dealings a good understanding of their interactions with Parliament and/or its members and of the legitimacy of such activities.
- d) They must refrain from acting in any manner that may discredit the Chapter 9 institution.
- e) Commissioners and personnel must have a good understanding of parliamentary and governmental processes and such specialised knowledge as is necessary to represent the Chapter 9 institution in a competent and professional manner.
- f) They must seek to maintain their understanding of parliamentary and governmental processes and specialised knowledge through appropriate methods.

7. Accountability

Commissioners and personnel must be held accountable for all their actions, while interacting with Parliament and/or its members.

- a) The Chapter 9 institution must have in place a system for the effective monitoring and evaluation of its work with Parliament.
- b) In order to maintain transparency and answerability, personnel must keep up to date and accurate written records of action taken and progress made in relation to their work with Parliament.

8. Honesty & Integrity

While interacting with Parliament and/or its members, Commissioners and personnel must conduct any activity with honesty and integrity.

- a) Commissioners and personnel must be truthful in communicating with Members of Parliament and any parliamentary staff. They must also be truthful in their communication with other role players, such as civil society organisations and members of the public. This duty must be reinforced by always seeking to provide factually correct, current and accurate information.
- b) The duty to inform and provide accurate information also applies if a material change in the factual information provided occurs and the commissioner or staff member knows that other role players may still be relying upon that information.

9. Confidentiality

Commissioners and personnel must respect the confidentiality of information they obtain in pursuit of their constitutional mandate when using such material in their interactions with and in Parliament.

- a) If possible and practical, permission must be obtained from people whose details or stories are to be used as part of an interaction with Parliament and/or its members.
- b) Commissioners and personnel must be honest with the person whose experience is to be used as part of their interactions with Parliament regarding the level of confidentiality they can realistically guarantee.
- c) In the case of people under age and others who cannot legally give permission, individual permission must be sought from the appropriate legal guardian.
- d) If obtaining individual permission is not practical, a policy of non-disclosure of personal details must be followed, coupled with general warnings issued at the Chapter 9 institution's activities that information garnered may be used to support its work in and with Parliament.

Glossary

In this Code of Good Practice, unless the context indicates otherwise-

'Constitutional and statutory mandate' means the functions and powers of the Chapter 9 institution provided for in the Constitution and the relevant legislation.

'Conflict of interests' means a situation in which an individual's own personal beliefs, relationships or interests, financial or other, are likely to compromise the exercise of his or her duties and/or professional position.

'Impartiality' means that the actions of an individual or institution are, and appear to be, non-partisan in nature.

'Improper influence' includes expecting certain actions from others by offering them financial or other material benefits for themselves, their family or their friends; and placing yourself under any financial or other obligation to others that might compromise the performance of your duties and/or your professional position.

'Independence' means that a person or institution is, and appears to be, free to act within agreed boundaries set out in the Constitution, the law and this code; that a person or institution performs its, his or her functions in good faith and without fear, favour, bias or prejudice; and that no person or organ of state may interfere, hinder or obstruct the person or institution in the performance of its, his or her functions.