



Zimbabwe  
Gender  
Commission

# Investigations and Complaints

## HANDLING MANUAL

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To Guide the Investigations and Complaints Handling Mandate of the Zimbabwe Gender Commission as provided for in Section 246 of the Constitution of Zimbabwe Amendment (No. 20) Act 2013 and Part III of the Zimbabwe Gender Commission Act: Chapter 10:31





**ZIMBABWE GENDER COMMISSION**

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# INTRODUCTION

# INTRODUCTION

- i.** The Constitution of Zimbabwe Amendment (No. 20) Act 2013 “hereinafter referred to as the Constitution” provides in Section 245 for the establishment of a Commission to be known as the Zimbabwe Gender Commission “hereinafter referred to as the Commission or ZGC”. The Commission is established as one of the five independent commissions supporting democracy in Zimbabwe.
- ii.** To operationalize the Commission, the Parliament of Zimbabwe passed the Zimbabwe Gender Commission Act: Chapter 10:31 “hereinafter referred to as the Act” in February 2016.
- iii.** Nine Commissioners, drawn from different backgrounds, were appointed in June 2015 and sworn in, in September 2015 by His Excellency, the President of the Republic of Zimbabwe.
- iv.** Amongst several responsibilities, the Commission is mandated to undertake investigations and handle complaints relating to gender-based discrimination.
- v.** The Investigations and Complaints Handling Manual is developed as a tool to assist the Commission in undertaking its mandate as provided for in the Constitution and in the Act. It provides for the procedure to be followed by citizens in making reports and lodging complaints with the Commission, and the processes to be followed by the Commission in addressing the reports and complaints received.
- vi.** In Section 2, the Act provides that the Commission shall not be bound by strict rules of evidence when conducting hearings. Using the same approach, this Manual is not intended to be a fixed and rigid tool nor should it be applied in such a manner. Instead, the Manual is meant to provide guidance whilst allowing flexibility for members of the public in making reports and lodging complaints and giving discretion to Commissioners and staff of the Commission in processing the reports and complaints received. Such discretion shall be applied in a manner that is not unfair or unjust to any person.
- vii.** The Manual is a “living” document and may be amended by the Commission at any time as dictated by circumstances. Further guidance on the amendment of the Manual is provided for under Article 2.4 of the Manual.

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# **PART I:** PRELIMINARY



# 1. PART I: PRELIMINARY

## 1.1 Short Title

This Manual shall be called the Investigations and Complaints Handling Manual of the Zimbabwe Gender Commission.

## 1.2 Purpose and Scope of Application

The purpose of the Manual is to provide the Commission with the procedure to be followed in undertaking its investigative and complaints handling function as provided for in Section 245 (b) and (c) of the Constitution and Part III of the Act.

The Manual shall apply to and be used by the Commissioners and staff of the Commission in receiving and processing complaints or reports on gender based discrimination and any acts or omissions that have the effect of impacting negatively on gender equality, gender equity or gender mainstreaming.

## 1.3 Commencement

The Manual shall come into operation on a date to be fixed by the Commission.

## 1.4 Amendment and Repeal of the Manual

Minor amendments to the Manual may be made by the Chairperson of the Commission after informing all the Commissioners. Minor amendments are changes to the Manual that do not result in changing the meaning or effect of any provision.

Major amendments shall be made by consensus at a meeting of the Commission called for the purpose of amending the Manual or where the amendment of the Manual is one of the items on the agenda of the meeting. If the meeting cannot make a decision by consensus and the matter is referred to a vote, the majority decision at the meeting shall be the decision of the Commission. Where there is a tie in voting, the Chairperson of the meeting shall cast a deciding vote. Major amendments are changes to the Manual that result in changing the meaning or effect of any provision.

## 1.5 Definition of Terms

### 1.5.1 Terms and Expressions Defined in the Act

The following terms and expressions are defined in Section 2 of the Act and are included in this Manual for ease of reference:

"*Annual Report*" means the annual report of the Commission referred to in Section 12(1) [of the Act];

"*Commission*" means the Zimbabwe Gender Commission established by Section 245 of the Constitution;

"*Chief Executive Officer*" means the Chief Executive Officer of the Commission appointed in terms of section 10;

"*Gender*" means the roles, duties and responsibilities which are culturally or socially ascribed to women, men, girls and boys;

"*Gender Equality*" means the equal enjoyment of rights and access to opportunities and outcomes, including resources, by women, men, girls and boys;

"*Gender Equity*" means the just and fair distribution of benefits, rewards and opportunities between women, men, girls and boys;

"*Gender Mainstreaming*" means the process of identifying and resolving gender gaps, and making the concerns and experiences of women, men, girls and boys integral to the design, implementation, monitoring and evaluation of

policies and programmes in all spheres so that they benefit equally;

"Minister" means Minister of Women's Affairs, Gender and Community Development or any other Minister to whom the President may, from time to time, assign the administration of this Act;

"Systemic barrier prejudicial to gender equality, gender equity or gender mainstreaming" means any barrier, practice, custom, law or other impediment prejudicial to the achievement of gender equality, gender equity or gender mainstreaming, including equality of opportunities and outcomes in the following spheres of activity or sectors of the society or economy (whose itemisation here is not to be taken as exhaustive or as limiting the generality of the foregoing) -

- a) Accessing social services, including those relating to education, health and housing;
- b) Accessing resources, including land, capital and finance;
- c) Employment in and upward mobility within the public, private and parastatal sectors and civil society organisations, including the provision of conditions in the workplace conducive to the employment of both genders;
- d) Engagement in and upward mobility of members within the professions and occupations, including the provision of conditions conducive to the engagement of individuals of both genders in the professions and occupations;
- e) In the sphere of family law (including marriage, divorce and custody and guardianship of minors), children's rights, succession and inheritance;
- f) Any other sphere or activity specified by the Commission in pursuance of its constitutional mandate.

### **1.5.2 Additional Terms and Expressions**

In this Manual, unless the context otherwise requires;

"Complainant" means any person making a complaint or report to the Commission as provided for in Part II of the Manual

"Complaint" means any report or allegation that is reported or made to the Commission claiming the existence of "a systemic barrier prejudicial to gender equality, gender equity or gender mainstreaming" as defined in Section 2 (2) of the Act or alleging gender-based discrimination.

"Days" refer to working days and shall not include Saturdays, Sundays and Public Holidays

"Gender based discrimination" means any distinction, exclusion, or restriction based on gender which has the effect of impairing or nullifying the recognition, enjoyment or exercising of human rights, and fundamental freedoms by any boy or girl, man or woman in the political, economic, social, cultural, civil or any other field.<sup>1</sup>

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<sup>1</sup>This definition is in line with the provisions of Article 1 (2) of the SADC Protocol on Gender and Development and Article 1 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). The adoption of this definition is meant to ensure that the Commission works within a standard and internationally accepted approach.

*“Investigating Officer”* means any employee of the Commission who is designated as such and is tasked with investigating any case before the Commission, whether initiated through a complaint or a report or through the Commission's own initiative.

*“Person”* means a natural person (human being) or a juristic or artificial person that is recognised at law, with rights and duties.

*“Preliminary Assessment”* means an initial investigation that is undertaken by an Investigating Officer upon receiving a complaint or report. The investigation is limited in scope and is meant to determine whether a full investigation on the complaint or report may be undertaken.

*“Quorum”* means half the total membership of the Commission as provided for in Section 344 (2) of the Constitution

*“Respondent”* means any person against whom a complaint or report has been lodged with the Commission, and whose action or omission is alleged to have the effect of constituting “a systematic barrier prejudicial to gender equality, gender equity or gender mainstreaming” as defined in Section 2 (2) of the Act, or has the effect of causing gender-based discrimination.

## **1.6 Reference Information**

In developing this Manual, the Commission considered a number of legislations, documents and international human rights frameworks, including but not limited to the following:

- a) The Constitution of Zimbabwe Amendment (No. 20) Act 2013;
- b) The Zimbabwe Gender Commission Act: Chapter 10:31;
- c) The Domestic Violence Act: Chapter 5:16;
- d) The Administrative Justice Act: Chapter 10:28;
- e) The Access to Information and Protection of Privacy Act: Chapter 10:27;
- f) The Zimbabwe Human Rights Commission Act: Chapter 10:30, Policies and Manuals;
- g) The SADC Protocol on Gender and Development, 2008;
- h) The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol), 2004;
- i) The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), 1979; and
- j) The Paris Principles Relating to the Status of National Institutions

## **1.7 Core Guiding Legislative Framework**

The Constitution of Zimbabwe and the Zimbabwe Gender Commission Act are the guiding legislative framework in the work of the Commission generally and in establishing the mandate of the Commission in relation to its investigative and complaints handling functions specifically. Although the Commission has in developing this Manual, considered other legislative, policy and operational frameworks, these two pieces of legislation remain cardinal.

### **1.7.1 The Constitution**

The Constitution provides for the establishment and composition of the Zimbabwe Gender Commission in Section 245 whilst Section 246 provides for the mandate of the Commission, which includes the following:

- a) To monitor issues concerning gender equality to ensure gender equality as provided in [the] Constitution;
- b) To investigate possible violations of rights relating to gender;
- c) To receive and consider complaints from the public and to take such action in regard to the complaints as it considers appropriate;
- d) To conduct research into issues relating to gender and social justice, and to recommend changes to laws and practices which lead to discrimination based on gender;
- e) To advise public and private institutions on steps to be taken to ensure gender equality;
- f) To recommend affirmative action programmes to achieve gender equality;
- g) To recommend prosecution for criminal violations of rights relating to gender;
- h) To secure appropriate redress where rights relating to gender have been violated; and
- l) To do everything necessary to promote gender equality.

As such the investigative and complaints handling mandate of the Commission underpins its purpose in that a significant amount of the functions are either informed by or contribute towards the fulfillment of its investigative and complaints handling role.

### **1.7.2 The Zimbabwe Gender Commission Act: Chapter 10:31**

Part III of the Zimbabwe Gender Commission Act: Chapter 10:31 reinforces the investigative and complaints handling mandate of the Commission by elaborating the investigative functions of the Commission, providing for the manner of conducting investigations and providing for the nature or recommendations that the Commission shall give to the Minister and Parliament after undertaking an investigation.

## **1.8 Legal Representation**

Any person appearing before or interacting with the Commission in any capacity may be represented by a lawyer.

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# **PART II:** LODGING COMPLAINTS AND REPORTS

## 2. PART II: LODGING COMPLAINTS AND REPORTS

### 2.1 Matters to be Investigated by the Commission

The Commission shall investigate matters that constitute a “systemic barrier prejudicial to gender equality, gender equity or gender mainstreaming” as defined in Section 2 (2) of the Act or any matter that has the effect of or potential to cause gender-based discrimination.

Provided that the Commission shall accept and log in every complaint or report received so as to make a determination on whether to accept, reject or refer the complaint or report to any other entity or institution.

### 2.2 The Commission shall not investigate a complaint if:

- a) The matter complained of is under investigation or consideration by any other Commission or body established in terms of the Constitution or Act of Parliament;
- b) The matter complained of is before the courts or has been previously determined by a competent court;
- c) The matter complained of is of a criminal nature;
- d) The matter complained of would ordinarily fall outside the jurisdiction of the courts of Zimbabwe;
- e) Where appropriate and where available, the complainant has not made use of or exhausted internal remedies of an institution complained against to address the matter. Where an institution complained against does not have written or determinable internal procedures to address the act or omission complained of, a complainant is not required to seek redress from within the institution before lodging the complaint with the Commission; and
- f) Where the report or complaint is made anonymously; provided that where possible and appropriate, the Commission may after receiving an anonymous report or complaint, commence an investigation as if it was of its own initiative.

### 2.3 Who Can Lodge a Complaint or Make a Report

The Constitution provides for wide rules of standing in the courts of law in order to ensure the enforcement of fundamental human rights and freedoms. In particular, Section 85 of the Constitution allows different categories of people to approach the courts in furtherance of the enjoyment of fundamental rights and freedoms.

As an institution that is tasked with the enforcement of gender equality rights and principles and ending gender based discrimination, the Commission will in line with the direction that has been provided by the Constitution, seek to promote wide rules of standing and allow different categories of people to approach the Commission to make reports and lodge complaints.

In order to promote access to the Commission, any person who is aggrieved by an act or omission by any individual, institution or organisation which in his or her opinion constitutes a systemic barrier prejudicial to gender equality, gender equity or gender mainstreaming or has the effect of causing gender based discrimination may lodge a gender based discrimination may lodge a complaint or report such act or omission to the Commission.

A person making a complaint or report may do so on behalf of the following:

- a) His or her own behalf;
- b) On behalf of a third party who is unable to represent himself or herself for a valid reason. Instances where a complaint may be lodged on behalf of a third party may include the following:
  - i. Where a parent or guardian lodges a report or complaint on behalf of a minor;
  - ii. Where a guardian lodges a report or complaint on behalf of a person with a mental disability; or
  - iii. Where a third party has the legal capacity to lodge the complaint but is unable to do so for any reason that is acceptable to the Commission.
- c) In the public interest;
- d) In the interest of a group or class of persons; or
- e) In the interest of members of an association or an organisation which the person lodging the complaint is a member of or represents.

Where a complaint or report is made on behalf of a third party, the consent of such third party where they have the legal capacity to give such consent shall be obtained.

The consent of a third party who may have the legal capacity to give consent will not be required where it can be proved that:

- a) The person is staying outside the country;
- b) The person has been intimidated, harassed or otherwise threatened from making the complaint or report; or
- c) That there is any other impediment, acceptable to the Commission that makes it difficult or impossible for the person to make the report himself or herself.

## **2.4 Format to be used in lodging complaints**

A complaint or report can be made to any office of the Commission in the following manner:

- a) In person and orally at any office of the Commission;
- b) Via registered mail
- c) Via couriered mail
- d) By hand delivering a letter or written report

- e) Via ordinary post office mail
- f) By telephone;
- g) Via email;
- h) Using any social media platforms;
- i) By facsimile;
- j) Using the Commission's online reporting form; or
- k) Through any other form that facilitates easy lodgement of complaints and reports with the Commission.

Provided that; a person making a report is encouraged to use only one form of reporting for each complaint or report lodged with the Commission.

By allowing a wide array of reporting formats the Commission seeks to increase its accessibility to citizens and not limit or restrict the lodging of complaints due to distance, lack of resources or other inhibiting factors. The above reporting formats are however used to trigger the complaints and reporting process and further processing of a complaint or report received will be undertaken.

After receiving a report or complaint using any of the formats provided above, an Investigating Officer shall contact the complainant to request him or her to provide further information by completing Annexure A of the Manual, where necessary.

Even though the Commission permits the utilisation of the various initial reporting formats provided above, persons making a complaint or report are encouraged as much as possible to make a detailed initial report by completing Annexure A of the Manual, which shall be submitted to the Commission via registered mail, ordinary post office mail, facsimile, email or in person by the complainant or a third party.

## **2.5 Information required when lodging an initial report or complaint**

When making an initial report or complaint, the person making such a report or complaint shall provide the following information:

- a) Surname and Name (s)
- b) Sex or Gender
- c) National Identity Number
- d) Physical address (and postal address where applicable)
- e) Telephone number, whether fixed or mobile
- f) Where applicable, an email address



- g) Where a report is made on behalf of a third party or organisation, the above information shall be provided in respect of the third party or organisation concerned as appropriate.
- h) Details of the respondent including the following:
  - i. Name and surname of person or entity as appropriate
  - ii. Physical address (and postal address where applicable)
  - iii. Telephone number whether fixed or mobile
  - iv. Where applicable, email address
  - v. If the respondent is an organisation, the name of the responsible person at the organisation and the actual person accused of an act or omission complained of.
  - vi. If the respondent is a natural person, their gender or sex
  - vii. If the respondent is a natural person, their national identification number if known
    - i) Details of the nature or allegations levelled against the person or organisation including the following:
      - I. Date (or if spanning over more than 2 days, dates) of occurrence
      - ii. Nature of the act or omission complained of
      - iii. Any witnesses if available
      - iv. If known, relevant section or sections of the Constitution that are alleged to have been breached as a result of the act or omission complained of.
- a) Where a report or complaint is received verbally or through telephone, the Officer receiving such a report or complaint shall reduce it to writing.
- b) The Commission shall not reject a report or complaint received on the basis that it lacks adequate information, but shall endeavour using the available information to make contact with the complainant and acquire all the information that is necessary to process the report or complaint.
- c) It is important that complainants are given adequate opportunity to provide the Commission with enough information to use in undertaking investigations. At the same time, the Commission should not be saddled with cases that are not being pursued and can therefore strike such cases off the list of cases before it. To ensure that this balance is maintained, the following procedure shall be followed in striking off cases that are not being pursued:
  - I. The Investigating Officer shall send a reminder for the supply of further information every 30 days to a complainant who has been requested to provide such information but has not provided the information.

The reminders shall be sent for three consecutive months.

- ii. If after the third reminder, the complainant has not submitted the requested information, the complaint shall be struck off the list of matters that are before the Commission.

A complaint that is struck off the list of matters before the Commission for lack of information as requested by the Commission may at any time be reinstated at the instance of the complainant, provided the requested information has been supplied to the Commission.

## **2.6 Anonymous Tip-offs**

In order to encourage wider reporting of actions or omissions that constitute a systemic barrier prejudicial to gender equality, gender equity or gender mainstreaming or actions or omissions that have the effect of or potential to cause gender-based discrimination, members of the public may make anonymous reports and provide “tip-offs” on such actions or omissions to the Commission.

The Commission shall protect the identity of every person who makes an anonymous report or tip-off to the Commission, and shall not require them to provide any information that might reveal their identity, except where they are willing to provide such information.

Where it is preferred, the person making an anonymous report or “tip-off” may keep their identity away from any person, including the Commission.

If after receiving the anonymous report or “tip-off” the Commission makes a decision to investigate the matter, it shall undertake such an investigation in the same manner as an investigation that is initiated by the Commission.

## **2.7 Investigations Without a Complaint**

The Commission may initiate an investigation on its own accord and without receiving a report or complaint from any person. An investigation by the Commission on its own accord may be initiated in any of the following situations:

- a) If there are media reports indicating or suggesting the existence of a practice, custom, law or other impediment prejudicial to the achievement of gender equality, gender equity or gender mainstreaming, the absence of laws to address these or a deficiency in an existing law;
- b) If in their interactions with communities or segments of society, Commissioners or staff of the Commission receive reports or suggestions of the existence of a practice, custom, law or other impediment prejudicial to the achievement of gender equality, gender equity or gender mainstreaming, the absence of laws to address these or a deficiency in an existing law; or

- c) If aggregation of the reports or complaints received by the Commission indicate or suggest the existence of a systemic barrier prejudicial to gender equality, gender equity or gender mainstreaming

## **2.8 Language of Communication**

Section 6 of the Constitution provides for 16 officially recognised languages in Zimbabwe. The Constitution further provides that all officially recognised languages shall be treated equitably and that the State shall promote and advance the use of all languages used in Zimbabwe. In line with this requirement, the Commission shall in interfacing with any person whether as a complainant, respondent, witness or interested party allow such person to use their preferred language.

Where the Commission does not have the necessary language skills from amongst the Commissioners and members of staff, the services of an external interpreter shall be secured, as necessary.

At the point of receiving an initial report or complaint, if the report is made orally or via telephone and the services of an interpreter cannot be immediately secured, the Officer receiving the report shall record the report or complaint in audio format and immediately secure the translation of the report for further processing.

Thereafter all future communication with the complainant shall be in the complainant's preferred language

Failure to secure interpreters shall not be used as an excuse by the Commission not to process complaints or reports within the stipulated timeframes.

## **2.9 Procedure after receiving a complaint or report**

All reports and complaints received shall be logged in by the Officer receiving the complaint or report and be allocated a case tracking number. Thereafter the report or complaint shall be directed to the Chief Executive Officer who shall, either in person or through a delegated official immediately assign the report or complaint to an Investigating Officer for further processing.

An Investigating Officer does not represent the interests of the complainant but is a neutral party who is tasked with the gathering of information and evidence to assist the Commission in making a fair determination on a matter.

The Investigating Officer who is allocated a case by the Chief Executive Officer shall contact the complainant immediately and in any way within 2 days and acknowledge receipt of the complaint or report

In every case, the Investigating Officer shall, where this is not provided at the initial reporting or complaint lodging stage

request the complainant to provide further details of the case in writing by completing Annexure A and dating and signing it.

Where the complainant is unable to read or write, a third party, trusted by the complainant may complete Annexure A on behalf of the complainant.

Where no other person is able to complete Annexure A on behalf of the complainant, the Investigating Officer shall complete the Annexure, read the contents to the complainant and thereafter request the complainant to sign the Annexure.

If the complainant is unable to sign, he or she shall submit his or her fingerprint or other mark to the Investigating Officer. Where the submission of a fingerprint or other mark is not possible, the Investigating Officer shall attach to Annexure A, a sworn statement (affidavit) confirming that the contents were read to the complainant, who understood the contents and agreed that the information supplied is correct.

Where desired, the complainant may request and shall be provided with an Investigating Officer of the same sex.

## **2.10 Preliminary Assessment**

An Investigating Officer shall undertake a preliminary assessment in respect of all complaints and reports received by the Commission

After undertaking a preliminary assessment, the Investigations Officer may do any of the following:

- a) Recommend to the Commission a rejection of the report or complaint stating the reasons for the rejection and the advice that should be given to the complainant if any.

Provided that an Investigating Officer may only recommend a rejection of a report or complaint based on the criteria provided for in Article 3.2 of this Manual.

- b) Recommend to the Commission that the report or complaint be referred to another Commission, body or institution established in terms of the Constitution or an Act of Parliament, a governmental or quasi-governmental institution, a private sector institution, a non governmental organisation, an academic institution or any other institution that in his or her opinion is better placed to deal with the matter; or
- c) Accept the report or complaint for further investigations.

### **2.10.1 Procedure in Relation to a Rejection**

Where an Investigating Officer makes a recommendation to the Commission for the rejection of a report or complaint, the Commission may:

- a) Adopt the recommendation of the Investigating Officer; or

b) Reject the recommendation of the Investigating Officer and order the Investigating Officer to undertake further investigations on the report or complaint.

Where a complainant is aggrieved by the decision of the Commission to reject the report or complaint at the preliminary investigation stage, he or she may take the decision on review to the High Court.

### **2.10.2 Procedure in Relation to Referrals**

If after a preliminary assessment, the Investigating Officer is of the view that another institution or entity is better placed to handle such a complaint or report, he or she shall provide a report to the Chief Executive Officer and make a recommendation for a referral. The Investigating Officer shall provide reasons for the recommendation and the name of the preferred institution to which the matter may be referred.

The Chief Executive Officer shall place the report and recommendation by the Investigating Officer before the Commission for a determination of whether or not the matter should be referred to the recommended institution.

Where the Commission rejects the recommendation of the Investigating Officer, it shall order the Investigating Officer to undertake further investigations and process the report and complaint until it is finalised or otherwise disposed of by the Commission

Where the Commission accepts the recommendation of the Investigating Officer, a referral shall be made using Annexure E within 7 days of the Commission making the decision. The referral shall be made either to the institution recommended by the Investigating Officer or to any other institution that the Commission deems appropriate. The Commission shall keep a copy of such referral.

Within 5 days of making a referral, the Investigating Officer shall make a follow up with the complainant and the institution to which the referral was made to make a determination of the nature of assistance rendered and progress made in resolving the matter.

Thereafter a follow up shall be made every 30 days until the matter is closed or otherwise disposed of.



**PART III:**  
INVESTIGATIONS,  
ALTERNATIVE  
DISPUTE RESOLUTION  
AND HEARINGS

## 3. PART III: INVESTIGATIONS, ALTERNATIVE DISPUTE RESOLUTION AND HEARINGS

### 3.1 Launching of an Investigation

Before launching an investigation, and in compliance with Section 5 of the Act, the Commission shall if the investigation focuses on a “systemic barrier prejudicial to gender equality, gender equity or gender mainstreaming in a specific named sphere of activity or named sector of the society or economy” publish a notice in the Gazette and in any one or more national newspapers informing the public that, no earlier than fourteen days or later than thirty days after the publication of the notice in the Gazette, it intends to undertake such an investigation.

The notice referred to above will not be published where the investigation by the Commission does not focus on a “systemic barrier prejudicial to gender equality, gender equity or gender mainstreaming in a specific named sphere of activity or named sector of the society or economy”

Where the investigation is as a result of a report or complaint made to the Commission, the Commission shall no earlier than 14 days, and no later than 30 days after the publication of the notice in the Gazette, inform the respondent of the allegations levelled against him or her or it, and how the allegations constitute systemic barrier prejudicial to gender equality, gender equity or gender mainstreaming in a specific named sphere of activity or named sector of the society or economy.

Where an investigation is not preceded by a notice in the Gazette or newspaper as provided for above, the Commission shall notify the respondent of the allegations leveled against him or her or it within 14 days of receiving the complaint.

The respondent shall be required to respond to the allegations in writing within 14 days, or appear at the Commission in person with 14 days to respond to the allegations.

If the respondent fails to respond to the allegations within the stipulated period, the Investigating Officer shall contact him or her by either telephone or email where details of only one of the contact method is provided and by both telephone and email where details of both are provided.

Where communication cannot be effected using telephone or email, the Investigating Officer may communicate using any other suitable method.

If the respondent fails to respond within 5 days of being contacted by the Investigating Officer, the investigation shall proceed without his or her or its input.

### 3.2 Manner of Investigating

An investigation shall commence within 5 days of receiving a response from the respondent and where no response is received from the respondent, a day after such a response was due.

In undertaking investigations, the Investigating Officer may do any of the following:

- a) Interview the parties to the matter or any other witnesses that he or she considers appropriate, either in person, through telephone or by requesting written responses to written questions;

- b) Consider the views of any expert that he or she considers as necessary;
- c) Undertake inspections in loco or visit any place;
- d) Require a person to produce any report, document, object or provide any information that he or she requests;
- e) Enlist the services of any person or institution such as the police, a non governmental organisation or the Zimbabwe Human Rights Commission to assist in the investigations; or
- f) Do everything necessary to ensure that an effective investigation is undertaken.

After undertaking an investigation, the Investigating Officer shall submit a report to the Commission providing details of the matter under investigation, processes followed in undertaking the investigation, details of witnesses and experts interviewed, names and details of any other person or institution involved in the investigation, findings, a legal opinion and recommendations.

An Investigating Officer shall conclude an investigation and submit a report to the Commission within 30 days of commencing an investigation.

### **3.3 Admission by the Respondent**

Where the respondent admits to the allegations, the Commission shall within 7 days call for a meeting between the complainant and the respondent to agree on an appropriate remedy.

If the parties agree on the appropriate remedy, the matter shall be closed and the agreed remedy shall be registered as an order of the Commission.

Where the parties fail to agree on an appropriate remedy, the Commission shall make a determination on an appropriate remedy and close the matter.

Any party who is aggrieved by the remedy ordered by the Commission may appeal to the High Court against the decision.

### **3.4 Negotiation**

Where the complainant denies the allegations, the matter may be referred to negotiation. If parties resolve the matter at the negotiation stage, the Commission shall close the case.

The agreement reached during negotiation shall be registered as an order of the Commission.

The negotiation process shall involve a discussion of the issues between the parties without the assistance or involvement of a third party.

The Commission shall provide meeting facilities for the parties to undertake the negotiation at the offices of the Commission or at any other venue provided by the Commission.



The process shall be voluntary and parties may not be compelled to submit themselves and may withdraw from the process at any time before an agreement is reached.

Negotiation proceedings shall be completed within a day of commencement.

### **3.5 Mediation**

Where the matter is not resolved at the negotiation stage, the Commission may refer the matter to mediation. If the parties resolve the matter at the mediation stage, the Commission shall close the case.

The agreement reached during mediation shall be registered as an order of the Commission.

The mediation process is a voluntary process to which the parties shall not be compelled to submit themselves and from which they can withdraw at any time before an agreement is reached.

Mediation shall be facilitated by a mediator, who is an officer of the Commission trained in mediation or alternative dispute resolution.

The mediator shall act in an impartial manner to facilitate discussions between the parties, shall not make a decision on who is right or wrong and shall allow the parties to come up with a solution to the dispute themselves.

The mediation proceedings shall be completed within 5 days of commencement.

Where the matter is not resolved at the mediation stage, the Commission shall refer the matter to a hearing.

### **3.6 Hearing**

Where a matter is not resolved at the mediation stage, or where the parties refuse to submit themselves to a mediation process, the matter shall proceed to a hearing.

#### **3.6.1 Decision based on the Report of the Investigating Officer**

The Commission may make a decision based on a report submitted by the Investigating Officer following a full investigation, if satisfied that such a report provides adequate information and recommendations and that making a decision based on such report would meet the interests of justice and would not prejudice any person.

#### **3.6.2 Public Hearings**

Hearings of the Commission that focus on “systemic barriers prejudicial to gender equality, gender equity or gender mainstreaming in a specific named sphere of activity or named sector of the society or economy” shall take place in public.

In all other cases, it is preferred that hearings take place in private as a way of encouraging members of the public to make reports or complaints to the Commission without the discomfort that is associated with public hearings.

Where the following circumstances exist, a hearing shall be closed:

- a) Where any party to the proceedings is a minor and the Commission is of the opinion that the identity of such a minor must be protected. In such a matter the Commission may hear evidence from the minor in camera, and open up the rest of the hearing where the minor is not directly participating.

- b) Where a hearing of the matter in public may bring harm to any person or organisation. Instances may include where a person or organisation has been threatened with specified or unspecified action for participating in or cooperating with the Commission in its investigations.
- c) Where the Commission is of the view that a public hearing will not be in the interest of justice; or
- d) Where the Commission has been served with a certificate by the Minister in terms of Section 6 (6) of the Act, to the effect that the disclosure of any evidence or documentation or class of evidence or documentation specified in the certificate is, in the opinion of the Minister, contrary to the public interest on the grounds that it may prejudice the defence, external relations, internal security or economic interests of the State. Upon receiving such certificate from the Minister, the Commission shall make arrangements for evidence relating to that matter to be heard *in camera* at a closed hearing and shall take such other action as may be necessary or expedient to prevent the disclosure of that evidence or documentation.

Provided that the Commission or any other person aggrieved by the issuance of the certificate by the Minister, may appeal against such decision as provided for in Section 7 of the Act.

### **3.6.3 Calling of further evidence and Subpoena of Witnesses**

If after considering the report and recommendations of the Investigating Officer, the Commission is of the view that more information is required before making a determination on a matter, it may Subpoena a witness and require the witness to give oral evidence and/or produce any document, report, object or any other evidence as directed by the Commission

The Act allows for criminalisation of failure to abide by the instructions of the Commission in relation to a person's appearance before the Commission to provide information or evidence. As such, in terms of Section 9 (a) and (b) of the Act, a person who for no just reason:

- a) Refuses or fails to appear before the Commission;
- b) Refuses or fails to provide any document, record, information or evidence as directed by the Commission;
- c) Fails to remain in attendance until excused by the Commission; or
- d) Gives false evidence knowing such evidence to be false.

Shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

Where a witness identified by the Commission during its investigations has not been called by any of the parties, the Commission shall call such a witness as its own.

Witnesses shall be given a minimum of 10 days' notice to appear before the Commission.

### **3.6.4 Composition of Panel**

A Panel hearing a matter shall consist of a quorum of the Commission.

Decisions of the Commission shall be by consensus.

Where the Panel fails to reach consensus during a hearing, the decision of the majority shall prevail.

If there is a tie in voting on any issue, the chairperson of the particular hearing shall cast a deciding vote.

### **3.6.5 Decision of the Commission**

After the conclusion of a hearing, the Commission shall render its decision within 14 days.

In making its decision, the Commission may affirm the allegations made by the complainant in part or in whole, reject the allegations made by the complainant in part or in whole or make any other appropriate decision.

### **3.6.6 Actions, Remedies and Recommendations of the Commission**

Section 246 of the Constitution and Section 7 of the Act provide for specific actions that may be taken by the Commission after conducting a hearing. In terms of the two provisions the Commission may do one or more of the following after concluding a hearing:

- a) Conduct research in order to better understand and provide information related to any matter that is or has been a subject of investigation;
- b) Recommend changes to laws and practices which lead to gender-based discrimination;
- c) Advise a party to the matter on steps to take to ensure gender equality;
- d) Recommend to a party, affirmative action programmes to achieve gender equality;
- e) Recommend prosecution if during the investigation, the Commission establishes that a criminal violation of rights relating to gender has taken place; or
- f) Take legal action in its own right or on behalf of a party to a hearing or any other person identified during an investigation or hearing as having been impacted by a matter handled by the Commission.

In addition to the specific remedies provided for in Section 7 of the Act and 246 of the Constitution, Section 246 (h) and (i) of the Constitution also give the Commission the authority to “secure appropriate remedies where rights relating to gender have been violated” and to “do everything necessary to promote gender equality.” In light of these wide-ranging powers, the Commission after an investigation or hearing may amongst others, make any of the following orders, or take any of the following actions:

- a) Recommend that the respondent pays damages to the complainant. Where an order of damages has been made, the Commission shall refer the matter to the High Court for assessment of damages and enforcement of the order;

- b) Where the respondent is an institution, whether private, public or a non governmental organisation, recommend that such an institution within a prescribed period changes its policies, practices, programmes or any other operational procedures to ensure the elimination of any systematic barrier prejudicial to gender equality, gender equity or gender mainstreaming;
- c) Recommend that the respondent or where the respondent is an institution, its senior managers, undergo training on gender equality, gender equity or gender mainstreaming; or
- d) Where the respondent is an institution, and the Commission is of the view that gender-based discrimination is prevalent within the institution, recommend that the institution provides training to all its employees on gender equality, gender equity or gender mainstreaming at the institution's own cost.

### **3.6.7 Elaboration of the certain orders, remedies or actions**

#### **Recommendation for Criminal Prosecution**

A recommendation by the Commission for criminal prosecution shall be made to the police and/ or to the National Prosecuting Authority (NPA). Such a recommendation shall be accompanied by the full report that is produced by the Commission following an investigation or hearing. The Police or the NPA may use the report of the Commission in undertaking a criminal prosecution or may carry out further investigations as necessary.

#### **Litigation by the Commission**

The Commission can after an investigation or hearing undertake litigation to remedy a wrong that is identified or confirmed during the investigation or hearing. The Commission may also undertake preventive litigation to interdict any person from doing anything that may have the effect of permitting the existence of any barrier prejudicial to gender equality, gender equity or gender mainstreaming or of causing gender-based discrimination.

The Commission may litigate in any court in the country, although the preferred forum for litigation shall be the Constitutional Court and the litigation pursued shall be strategic. This choice of preferred forum for litigation and the focus on strategic litigation seeks to ensure that the work of the Commission assists the Constitutional Court in developing jurisprudence that can help the country in addressing and eliminating gender based discrimination.

### **3.6.8 Communication of the Decision of the Commission**

The Chief Executive Officer or the Investigating Officer shall communicate the decision of the Commission to all parties within 5 days after the Commission has rendered a decision.

### **3.6.9 Means of Communication by the Commission**

The preferred form of communication of decisions of the Commission shall be through registered mail, electronic mail or facsimile.

Where the communication is sent via registered mail, it shall be deemed to have been received 14 days from the date of posting.

Where communication is sent via electronic mail, it shall be deemed to have been received on the day that the electronic mail was sent.

Where the communication is sent via facsimile, and there is confirmation from the Commission's facsimile machine that delivery has been effected, it shall be deemed to have been received on the date and time indicated on the delivery receipt of the Commission's facsimile machine.

Provided that where the communication is sent through means other than those prescribed herein, the Commission shall make an assessment on a case-by-case basis of when the communication is deemed to have been received.



**PART IV:**  
MISCELLANEOUS

## 4. PART IV: MISCELLANEOUS

### 4.1 Information Handling

The Act provides in Section 6 (10) for strict rules to be followed in handling information that comes into the possession of the Commission during the process of performing its mandate. Both Commissioners and staff of the Commission, who without authorisation disclose certain information, may face criminal sanctions, including imprisonment.

To protect both the Commissioners and staff of the Commission, the following procedure shall be followed in relation to disclosure of information that comes into the possession of the Commission during the course of performing its investigative and complaints handling role:

- a) Only the Chairperson and Deputy Chairperson of the Commission may provide information to the media.
- b) The Chief Executive Officer may after authorisation from the Chairperson or Deputy Chairperson give information to the media.
- c) Names of parties or witnesses to any matter before the Commission may only be disclosed to third parties that have no role to play in the investigation or in resolving the matter with the consent of the parties.


Only the Chief Executive Officer or the Investigating Officer handling a particular matter may dispatch written communication to any person in relation to a matter that is being handled by the Commission.

### 4.2 Reporting Requirements

The Commission is required in terms of both the Constitution and the Act to make periodic reports on its work to both the Minister and Parliament. In terms of these provisions, the Commission is required to make the following reports:

- a) By the 31st of March of each year, the Commission shall submit an annual report to Parliament through the Minister, fully describing its operations and activities for the preceding year (Section 323 of the Constitution, Section 12 of the Act.) The Act provides for the structure and contents of the report.
- b) Without limitations as to the number of reports and timeframes for reporting, the Commission may submit reports to Parliament through the Minister on matters relating to gender issues, which in the Commission's opinion must be brought to the attention of Parliament (Section 247 of the Constitution).

If after undertaking an investigation in terms of its Investigative Mandate, the Commission is of the view that the investigation has revealed any "systemic barrier prejudicial to gender equality, gender equity or gender mainstreaming", it shall make a report to Parliament after informing the Minister (Section 7 of the Act). Such a report is informed by the findings of the Commission after an investigation. The format, contents and structure of the report are provided for in Section 7 of the Act.

A large, stylized number '5' is centered on the page. It is rendered in a dark green color with a slight gradient and a thick, rounded font style. The number is positioned behind the main text.

# **PART V:** ANNEXURES



## 5. PART V: ANNEXURES



Zimbabwe  
Gender  
Commission

1st Floor, Pax House  
89 Kwame Nkrumah Avenue  
Tel: +263 4 250296 / +263 4 701101

### Annexure A: DETAILED COMPLAINT FORM

Please write legibly and in bold letters.

This form may be completed on one's own behalf or on behalf of another person or on behalf of an institution.

#### FOR OFFICE USE ONLY

Office Receiving the Complaint: \_\_\_\_\_

Date of Receiving Complaint: \_\_\_\_\_

Name and Signature of Officer  
Receiving the Complaint \_\_\_\_\_

Case Number: \_\_\_\_\_

#### Part A: Details of the Person completing the form

##### Personal Information

Surname \_\_\_\_\_

Name(s) \_\_\_\_\_

ID Number \_\_\_\_\_

Date and Place of Birth \_\_\_\_\_

Gender: Male \_\_\_\_\_ Female \_\_\_\_\_

Marital Status: Married \_\_\_\_\_ Single \_\_\_\_\_ Widowed \_\_\_\_\_ Divorced \_\_\_\_\_

##### Contact Information

Physical Residential Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Work Address (if applicable) \_\_\_\_\_  
Postal Address (If applicable) \_\_\_\_\_  
Telephone Number (fixed) \_\_\_\_\_  
Telephone Number (Mobile) \_\_\_\_\_  
Fax Number \_\_\_\_\_  
Email Address \_\_\_\_\_  
Telephone number (fixed or mobile of next of kin) \_\_\_\_\_  
Telephone number (fixed or mobile) of a relative or friend,  
not staying with you that we can contact \_\_\_\_\_

## Part B: Details of the person on whose behalf the Complaint is made

If same as above, please tick here

If Different, and a natural person, please provide the following information:

### Personal Information

Surname \_\_\_\_\_  
Name(s) \_\_\_\_\_  
ID Number \_\_\_\_\_  
Date and Place of Birth \_\_\_\_\_  
Gender: Male \_\_\_\_\_ Female \_\_\_\_\_  
Marital Status: Married \_\_\_\_\_ Single \_\_\_\_\_ Widowed \_\_\_\_\_ Divorced \_\_\_\_\_

### Contact Information

Physical Residential Address  
\_\_\_\_\_  
\_\_\_\_\_  
Work Address (if applicable) \_\_\_\_\_  
Postal Address (If applicable) \_\_\_\_\_  
Telephone Number (fixed) \_\_\_\_\_  
Telephone Number (Mobile) \_\_\_\_\_  
Fax Number \_\_\_\_\_  
Email Address \_\_\_\_\_

Telephone number (fixed or mobile of next of kin) \_\_\_\_\_

Telephone number (fixed or mobile) of a relative or friend, not staying with the person that we can contact \_\_\_\_\_

Please tell us why you are completing the form on behalf of this person?

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How are you related to this person?

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If different and an institution, please provide the following information:

Name of Institution \_\_\_\_\_

Physical Address \_\_\_\_\_

Postal Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

Contact Person (shall be the person responsible for running the institution or any other senior official) \_\_\_\_\_

Email Address of Contact Person \_\_\_\_\_

## Part C: Details of the person against whom the complaint is being made

If a natural person, please provide the following information if known. You shall give us as much information as you can in order for us to be able contact the person and direct your complaint to them:

### Personal Information

Surname \_\_\_\_\_

Name(s) \_\_\_\_\_

Date and Place of Birth \_\_\_\_\_

Gender: Male \_\_\_\_\_ Female \_\_\_\_\_

Marital Status: Married \_\_\_\_\_ Single \_\_\_\_\_ Widowed \_\_\_\_\_ Divorced \_\_\_\_\_

### Contact Information

Physical Residential Address

\_\_\_\_\_  
\_\_\_\_\_

Work Address (if applicable) \_\_\_\_\_

Postal Address (If applicable) \_\_\_\_\_

Telephone Number (fixed) \_\_\_\_\_

Telephone Number (Mobile) \_\_\_\_\_

Fax Number \_\_\_\_\_

Email Address \_\_\_\_\_

Telephone number (fixed or mobile of next of kin) \_\_\_\_\_

Telephone number (fixed or mobile) of any of their friend or relative that we can contact \_\_\_\_\_

### If an institution, please provide the following information:

Name of Institution \_\_\_\_\_

Physical Address \_\_\_\_\_

Postal Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

Fax Number \_\_\_\_\_





If you know, please tell us why you think the act or omission detailed above constitutes a barrier prejudicial to gender equality, gender equity or gender mainstreaming:

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Please tell us what remedy you are expecting to get from the ZGC in this case:

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Would you be represented by a lawyer in this matter? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please provide the name and contact details of your lawyer?

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The ZGC conducts its business in English, but can provide interpretation to ensure that any person appearing before it can use their preferred language.

Would you be able to follow the proceedings in English? Yes \_\_\_\_\_ No \_\_\_\_\_

If no, the ZGC should provide an interpreter of which language? \_\_\_\_\_

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Please tell us how you got to know about the ZGC: \_\_\_\_\_

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After completing this form, please return it to the Zimbabwe Gender Commission using only **ONE** of the following ways:

Post it by registered mail to: \_\_\_\_\_

Email it to: \_\_\_\_\_

Fax it to: or \_\_\_\_\_

Deliver it physically to: \_\_\_\_\_

Signature of person completing the form \_\_\_\_\_

Date \_\_\_\_\_

Signature or mark of Complainant \_\_\_\_\_

Date \_\_\_\_\_





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Commission

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## Annexure B: ACKNOWLEDGEMENT OF RECEIPT LETTER

Date

Reference: [Case Tracking Number]

Contact Person:

Complainant's Name and Address

Dear Sir/Madam

**Reference: Acknowledgement of Receipt of Complaint**

I write to acknowledge receipt of your complaint, which you lodged with the Commission on [Insert date]

The matter has been allocated to an officer of the Commission whose name is given above for further processing.

The Commission will be communicating with you in the near future with regards to the matter.

Should you wish to contact the Commission regarding the matter, please use the reference number provided above and direct all your communication to the contact person mentioned above.

Yours Sincerely,

Chief Executive Officer



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## Annexure C: LETTER OF REJECTION

Date:

Our Reference [Case Tracking Number]

Our Contact Person:

Complainant's Name and Address

Dear Madam/ Sir

**Reference: Rejection of Complaint: [Case Tracking Number] Received on [Date]**

I refer to your complaint with the above reference number, which you lodged with the Commission on [Insert Date]

I regret to advise that your complaint has been rejected for the following reasons:

1)...

2)...

[Provide Reasons]

The Commission will not be investigating the case any further at this stage. If you are not happy with the decision of the Commission, you may take the decision on review to the High Court of Zimbabwe. You will be deemed to have received this letter on [insert date based on the means used to communicate with the complainant]

Please use the reference number and direct your communication to the contact person above in all future communication with the Commission regarding this matter.

Yours Sincerely,

Chief Executive Officer



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## Annexure D: ACCEPTANCE LETTER

Date

Reference: [Case Tracking Number]

Contact Person:

Complainant's Name and Address

Dear Sir/Madam

**Reference: Acceptance of Your Complaint**

I am writing to advise that the Zimbabwe Gender Commission has accepted your complaint for further investigation.

The matter remains allocated to the officer of the Commission whose name is given above.

The Commission will be communicating further regarding next steps.

Should you wish to contact the Commission regarding the matter, please use the reference number provided above and direct all your communication to the contact person mentioned above.

Yours Sincerely,

Chief Executive Officer







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## Annexure F: NOTIFICATION OF COMPLAINT TO RESPONDENT AND REQUEST FOR A RESPONSE

Date

Our Reference [Case Tracking Number]  
Our Contact Person

Name of Respondent

Respondent's Name and Address

Dear Madam/ Sir

**Reference: Notification of a Complaint lodged with the Zimbabwe Gender Commission (ZGC) against yourself/ your institution and request for a response**

The ZGC wishes to advise you that a complaint alleging gender based discrimination or violations has been lodged against you [name of individual ] or your company [name of company] by [name of complainant]

Details of the complaint against you/ your institution are that [provide a summary of the complaint]

You are required to respond to these allegations in writing within 14 days of receiving this letter, failure which an investigation into the matter may proceed without you or your representative. You will be deemed to have received this letter on [insert date based on the means used to communicate with the complainant]

Please use the reference number and direct your communication to the contact person above in all future communication with the Commission regarding this matter.

The Zimbabwe Gender Commission is established in terms of Section 245 (1) of the Constitution of Zimbabwe Amendment (No. 20) Act 2013 as one of the five independent commissions supporting democracy in Zimbabwe. The focus of the work of the Commission is on promoting gender equality, gender equity and gender mainstreaming in the country.

Yours Sincerely,

Chief Executive Officer



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Gender  
Commission

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## Annexure G: REQUEST FOR FURTHER INFORMATION

Date

Reference: [Case Tracking Number]  
Contact Person:

Complainant's Name and Address

Dear Sir/Madam

**Reference: Request for further information**

I refer to your complaint, which was received by the Commission on [insert date]

After perusing the information that you supplied, we request that you supply the following additional information pertaining to your complaint

- 1...
- 2...
- 3...

We also request that you provide the following documents and/or reports:

- 1...
- 2...
- 3...

You are required to provide the said information and the documents and/or reports within 14 days of receiving this letter. If you do not supply the requested information within the stipulated period, your matter may be struck off the list of cases that are before the Commission. You will be deemed to have received this letter on [insert date based on the means used to communicate with the complainant]

Should you wish to contact the Commission regarding the matter, please use the reference number provided above and direct all your communication to the contact person mentioned above.

Yours Sincerely,

Chief Executive Officer



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Gender  
Commission

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## Annexure H: NOTICE TO APPEAR AS A WITNESS (SUBPOENA)

Date

Reference: [Case Tracking Number]

Contact Person:

Witness's Name and Address

Dear Sir/Madam

**Re: Appearance at the Zimbabwe Gender Commission as a Witness**

I write to advise that you are required to appear as a witness at the Offices of the ZGC situated at [insert address] on [insert date] at [insert time] in relation to a complaint that has been lodged by [insert name of complainant] against [insert name of respondent]

You are required to bring and produce the following documents/reports/objects:

- 1...
- 2...
- 3...

You are advised that failure to appear on the said date and time constitutes a criminal offence and you may be liable to pay a fine or to imprisonment or both.

If you require any further information in relation to this matter, you can write to the ZGC quoting the reference number and directing your communication to the contact person provided above.

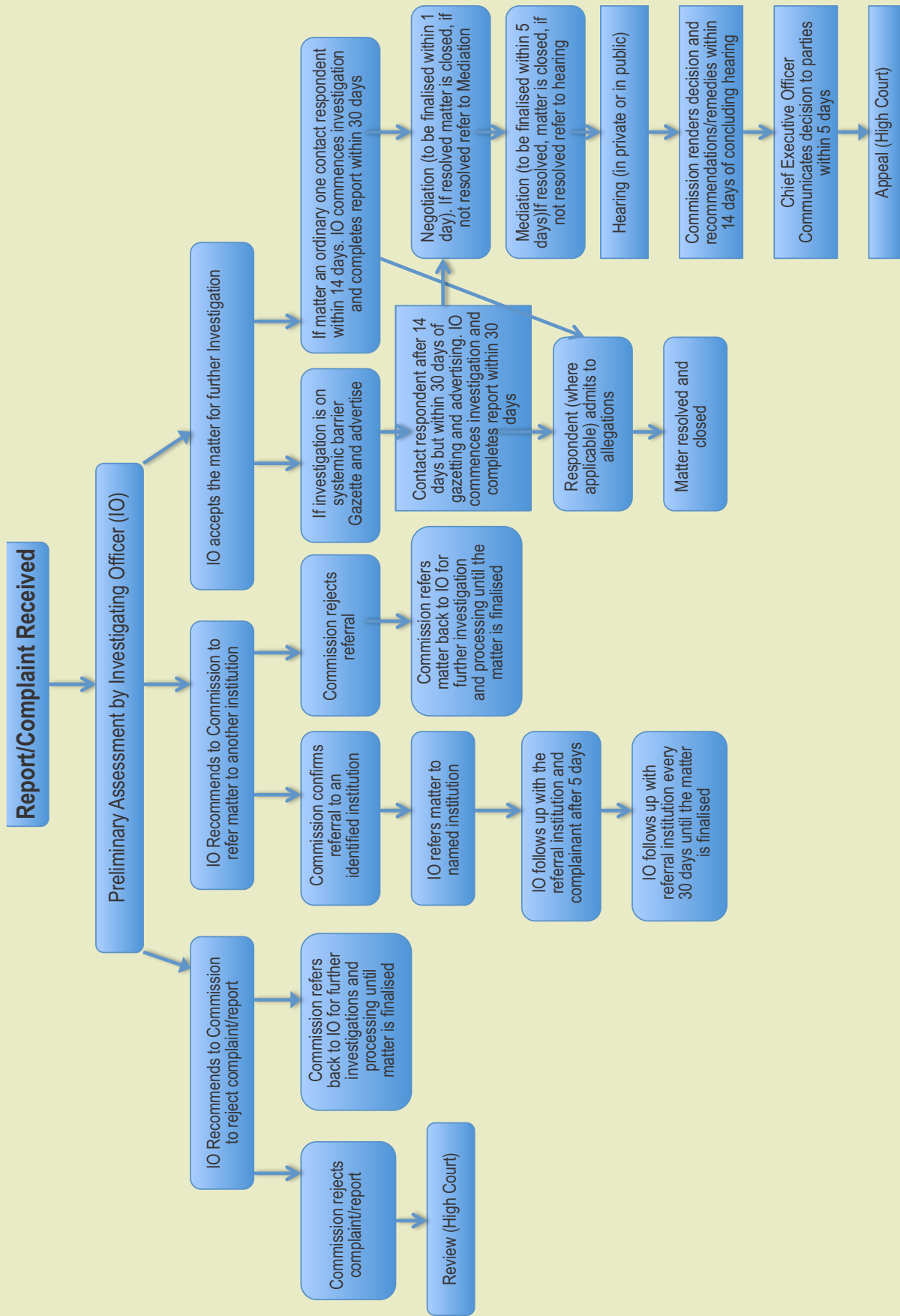
The Zimbabwe Gender Commission is established in terms of Section 245 (1) of the Constitution of Zimbabwe Amendment (No. 20) Act 2013 as one of the five independent commissions supporting democracy in Zimbabwe. The focus of the work of the Commission is on promoting gender equality, gender equity and gender mainstreaming in the country.

Yours Sincerely,

Chief Executive Officer



# Investigations Flow Chart







**Zimbabwe Gender Commission**

1st Floor, Pax House  
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With Support from UN Women and DANIDA

