



The National Bargaining Council for the Private Security Sector
("the NBCPSS")

CODE OF CONDUCT

PREAMBLE

1. We, as councillors of the NBCPSS acknowledge that –
 - 1.1. we shall perform the NBCPSS functions in good faith, honest and in a transparent manner;
 - 1.2. at all times act in the best interest of the NBCPSS in such a way that the credibility and integrity of the NBCPSS are not compromised; and
 - 1.3. Whilst councillors primary duty is to ensure the operations and solvency of the NBCPSS we also consider ourselves to hold a position of trust and we therefore acknowledge further that:
 - 1.3.1. irrespective of whether any of us may be employer appointed or labour appointed, we each owe the same fiduciary duty to the NBCPSS and its workings;
 - 1.3.2. as councillors we are required to act independently, and in particular may not submit to influence by any party, whether the employer, labour, any service provider or any other person, to act differently from that which the office of the NBCPSS requires of us;
 - 1.3.3. we must avoid conflicts of interest (which do not include for this purpose the interests any of us as councillors may have as employees of the employer, labour, or as members of the NBCPSS).



1.4. Our respective functions as councillors require us not only to fulfil all the requirements imposed on us by law and the onus on us by each parties contingencies in the execution of our duties, but also to ensure that the NBCPSS is governed by us in such a way as will –

1.4.1. comply with all the laws regulating the NBCPSS;

1.4.2. ensure that the mandates are adhered to;

1.4.3. We are accountable for our governance of the NBCPSS as set out in the constitution; and

1.4.4. Adhere to the principles as set out in the constitution, collective agreements and any other policy of the NBCPSS.

2. We accordingly bind ourselves to govern the NBCPSS to the best of our ability, both individually and collectively, and now set out how we intend to do this so that the beneficiaries, the employer, the Registrar, the Department of Labour and Employment, all relevant legislation (Labour Relations Act) and those service providers serving the NBCPSS can know and understand what we expect of ourselves and what we will require of the service providers of the NBCPSS in order to ensure that we achieve the governance purposes.

MANAGEMENT OF OURSELVES AS COUNCILLORS AND PRINCIPAL OFFICER

3. We acknowledge that as councillors we are obliged to act jointly and we understand that if any of us comprise a minority in respect of a majority decision which is carried then the minority must respect the majority decision. As councillors, furthermore, we undertake to work together, notwithstanding that some of our number are appointed by the employer and some of our number elected by members and; some of our number may be independent councillors, and we undertake to trust each other and to be trustworthy.



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4. We look to the Chairperson and the General Secretary of the councillors to lead us proactively to ensure that councillor meetings are run effectively, to ensure that sub-committees fulfil their responsibilities, to be responsible for communication with the employer on matters of interest to the employer, and to act as spokesperson of the NBCPSS where required.

5. We as councillors look to the chairperson for effective liaison with the service providers and the beneficiaries, being the repository of much of the institutional history of the NBCPSS and providing support to the Chairperson and to us as councillors in our responsibilities.

6. I, as councillor, accept responsibility for the above and acknowledge that although I have no vote and only a member of the council at councillor meetings I nevertheless am expected to make contributions to those meetings and to provide input particularly, in my compliance function, to the risk management responsibilities of the councillors.

7. We undertake –
 - 7.1. to record our acceptance of the responsibilities as councillor and chairperson in terms of both the legal duties we have and our commitment to the governance of the NBCPSS as reflected in this code, in terms of an acceptance of trust document attached hereto as “A”;

 - 7.2. to agree a policy on gifts offered to any of us as councillors or chairperson on the lines of the document annexed hereto as “B” which may be revised from time to time by us;



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- 7.3. to declare annually or more frequently as we may decide, as councillors, our interests on the lines of the document annexed hereto as “C” which may be revised from time to time; and to agree on common and uniform procedures for the management of councillor discipline in terms of documents annexed hereto as “D” which procedure will replace all existing procedures and regulations and may be revised from time to time.
8. We acknowledge as councillors that every councillor is entitled to receive such training and orientation, at the expense of the NBCPSS if necessary, as is necessary or desirable in order for that councillor to fulfil his or her responsibilities as such.
9. We undertake as councillors to ensure that our skills and learnings as councillors are, to the extent possible, passed on to those councillors who succeed us, and we undertake to be available to provide information about what has happened during our tenure as councillors notwithstanding our vacation of office. We look to the employer and labour to appoint councillors who will enhance the skills we possess collectively as councillors and we expect the employer and labour to ensure that any councillor appointed by it is an appropriate person from the employer and labour’s perspective whom the employer and labour accepts must as councillor act first and foremost in the interests of the NBCPSS.
10. We acknowledge that information about the NBCPSS, the employer, and labour, the service providers and the proceedings of the councillors are confidential and may only be disclosed to a third party, unless there is a contrary duty in law, in such manner and through such person as we as councillors may agree.
11. We undertake to submit ourselves, individually and collectively, to such assessment as is appropriate, acknowledging that the purpose of any such assessment is to ascertain our performance, particularly in fulfilling our governance purposes.



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12. We acknowledge that each of us as a councillor may be sanctioned, whether in the form of censure, suspension subject to any terms determined by the other councillors, or removal from office, for any breach of this code; and that any such sanction may only be imposed after that councillor accused of such breach has been furnished with the opportunity to defend himself or herself.

MANAGEMENT OF THE BUSINESS OF THE NBCPSS

13. We acknowledge that we must exercise an oversight responsibility over the administration of the NBCPSS as defined within the constitution and act within the scope of the our responsibilities as defined in the constitution of the NBCPSS. In particular we undertake to ensure that every service provider reports appropriately and timeously to us, that the contractual relationships with service providers are on terms which are not disadvantageous to the NBCPSS and are reviewed periodically; that there is a periodic revision of the rules, and that there is a periodic review and assessment of the service providers of the NBCPSS.
14. We undertake to ensure, as far as is possible, that our service providers avoid or remove any conflicts of interest.

MANAGEMENT OF RELATIONSHIPS

15. We undertake as councillors to communicate regularly with relevant and clear information about the NBCPSS with regards to the workings of each subcommittee and any other meeting and or information received.
16. We undertake to deal with any communication from, a query or complaint by any party, the employer, labour and the Department of Labour and Employment.



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17. We acknowledge that the NBCPSS owes a duty of good faith to the employer and labour which has an interest in the governance of the NBCPSS.
18. We commit the NBCPSS to a constructive, co-operative and open relationship with the Registrar and any other regulatory authority, including the South African Revenue Services, with which the NBCPSS may have dealings.
19. We undertake as members of the NBCPSS of Management to attend all NBCPSS meetings and Sub-Committee meetings to which we have been elected, except where leave of absence has been granted by the Chairperson.
20. We undertake as members of the NBCPSS of Management to allocate sufficient time to ensure that we are sufficiently prepared for NBCPSS meetings.

DISCLOSURE OF INTEREST

21. A Councillor must:
 - 21.1. disclose to the NBCPSS, or to any Committee of which that Councillor is a member, any direct or indirect personal or private business interest that, that Councillor, or a spouse, partner or business associate of that Councillor may have in any matter before the Council or the Committee; and
 - 21.2. withdraw from the proceedings of the Council or Committee when that matter is considered by the Council or Committee, unless the Council or Committee decides that the Councillor's direct or indirect interest in the matter is trivial or irrelevant.
 - 21.3. A Councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the NBCPSS, must disclose full particulars of the benefit of which the Councillor is aware at the first meeting of the NBCPSS at which it is possible for the Councillor to make the disclosure.



PERSONAL GAIN

22. A Councillor may not use the position or privileges of a Councillor, or confidential information obtained as a Councillor, for private gain or to improperly benefit another person.
23. Except with the prior consent of the NBCPSS, a Councillor may not:
 - 23.1. be a party to a beneficiary under a contract for:
 - 23.1.1. the provision of goods or services to the NBCPSS;
 - 23.1.2. obtain a financial interest in any business of the NBCPSS.

REWARDS, GIFTS AND FAVOURS

24. A Councillor may not use his/her position as a Councillor to request or accept any reward, gift or favour for:
 - 24.1. voting or not voting in a particular manner on any matter before the NBCPSS or before a committee of which that Councillor is a member;
 - 24.2. persuading the Council or any committee in regard to the exercise of any power, function or duty;
 - 24.3. making a representation to the Council or any Committee of the Council; or
 - 24.4. disclosing privileged or confidential information.

UNAUTHORISED DISCLOSURE OF INFORMATION

25. A Councillor may not without the permission of the NBCPSS disclose any privileged or confidential information of the Council to any unauthorised person.
26. For the purpose of this item privileged or confidential information includes any information:



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- 26.1. determined by the NBCPSS to be privileged or confidential;
 - 26.2. discussed in closed session by the Council;
 - 26.3. disclosure of which would violate a persons right to privacy; or
 - 26.4. declared to be privileged, confidential or secret in terms of the law.
27. This item does not derogate from the right of any person access to information in terms of national legislation.

INTERVENTION IN ADMINISTRATION

28. A Councillor may not:
- 28.1. interfere in the Management or Administration of any department of the NBCPSS;
 - 28.2. give or purport to give any instruction to any employee of the Council except when authorised to do so;
 - 28.3. obstruct or attempt to obstruct the implementation of any decision of the Council or a committee by an employee of the Council; or
 - 28.4. encourage or participate in any conduct which would cause or contribute to maladministration in the Council.

COUNCIL PROPERTY

29. A Councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the NBCPSS to which that Councillor has no right.

DUTY OF THE NATIONAL GENERAL SECRETARY OF NBCPSS



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30. If the National Secretary of the NBCPSS, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the National General Secretary must:
 - 30.1. authorize an investigation of the facts and circumstances of the alleged breach;
 - 30.2. give the Councillors a reasonable opportunity to reply in writing regarding the alleged breach; and
 - 30.3. report the matter to a meeting of the NBCPSS after paragraphs (a) and (b) have been complied with.
31. The Chairperson must report the outcome of the investigation to the full Council.
32. The National Secretary must ensure that each Councillor when taking office is given a copy of this Code and that a copy of the Code is available in every room or place where Council meets.

BREACHES OF CODE

33. The Council may:
 - 33.1. investigate and make a finding on any alleged breach of a provision of this code;
or
 - 33.2. establish a special committee:
 - 33.2.1. to investigate and make a finding of any alleged breach of this Code;
and
 - 33.2.2. to make appropriate recommendations to the Council.
34. If the Council or a special committee finds that a Councillor has breached a provision of this code, the Council may:
 - 34.1.1. issue a formal warning to the Councillor;



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- 34.1.2. reprimand the Councillor
- 34.1.3. remove the Councillor; or
- 34.1.4. failure to comply with paragraph (a) and (b) above, the Councillor's conduct shall be dealt in accordance with the decision and outcome recommended by the investigation.

The date of approval by the councillors of the NBCPSS of this code of conduct is _____
(date)

Chairperson

Date

Councillor

Date



ACCEPTANCE OF APPOINTMENT ("A")

as councillor of the

THE PRIVATE SECURITY SECTOR PROVIDENT NBCPSS

("the NBCPSS")

In respect of my appointment as a councillor of the above NBCPSS for the period from
to I declare that -

1. I accept the appointment of councillor of the above NBCPSS. I appreciate the responsibilities and duties attaching to the office of councillor of a retirement NBCPSS, in particular the fiduciary nature of those responsibilities.
2. I undertake to abide by the rules of each NBCPSS, any decision of the NBCPSS of councillors of the NBCPSS, any policy document or practice note issued by the NBCPSS (in particular any code of conduct and any other policy document) as determined by the NBCPSS of councillors from time to time. I acknowledge that I may not divulge any confidential information about the NBCPSS, any employer, or labour, service provider or any beneficiary of the NBCPSS unless such information is in the public domain or I am authorised by the NBCPSS to whom such information relates to release it.
3. I am not disqualified from acting as councillor in terms of the rules or any law.
4. I understand and accept that my ongoing competence and performance as councillor will be evaluated in a frequency and manner to be prescribed by the NBCPSS of councillors of the NBCPSS from time to time.



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5. I understand that I can be removed as a councillor of the NBCPSS in the manner prescribed by the rules of the NBCPSS and that I can resign as a councillor by written notice of resignation to the Chairperson of the councillors.

6. I certify as correct the details of my personal information, experience and any interests in the NBCPSS, the employer, the administrator, any service provider to the NBCPSS and my appointment to any other retirement NBCPSSs that I have recorded in the *Councillor Details and Declaration of Interests* forms attached.

I undertake to provide the NBCPSS, the employer and administrator with any changes to these details from time to time.

Signed at:

Councillor name:

Councillor signature Date:



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DETAILS OF COUNCILLOR

Surname: _____

Full Names: _____

ID Number: _____

Telephone Numbers:

Work: _____

Home: _____

Cell: _____

Email Address: _____

Residential Address: _____

Employer: _____

Employment Address: _____

I am an [delete which is not applicable]:

- employer appointed councillor
- labour appointed councillor



“B”

THE PRIVATE SECURITY SECTOR PROVIDENT NBCPSS

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NBCPSS OF COUNCILLORS POLICY ON GIFTS

1. This document sets out the policy of the NBCPSS applicable to each councillor and the chairperson in respect of any gift received by or offered to him or her by virtue of holding his or her office as councillor. For the purpose of this document “gift” means any property of whatsoever nature and any benefit, direct or indirect, which has a financial value; but does not include agreed remuneration for services to the NBCPSS. A gift may include but is not limited to –

- a movable item, such as a book or bottle of wine;
- the payment of the costs, including travelling costs, to attend a conference, whether or not convened by a service provider to the NBCPSS;
- an invitation to attend any sporting, social or recreational event.

For the purposes of this policy, the payment by the employer, or any company associated with the employer, of the costs, including travelling and subsistence costs, of any councillor to attend a conference or seminar related in any way to the retirement NBCPSS industry does not constitute a gift.



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2. The purpose of this policy is to determine appropriate conduct in relation to any gift offered to or received by any councillor or the principal officer. In this way the governance of the NBCPSS is intended to be demonstrated as one of integrity, independence and accountability.
3. Any councillor who is offered a gift must notify in writing that offer to the other councillors before acceptance. A gift may only be accepted by a councillor if so decided by the NBCPSS of councillors by resolution. Only thereafter may the gift be accepted by the councillor.
4. The NBCPSS of councillors may from time to time determine that any gift below a certain monetary amount need not require a resolution of the NBCPSS of councillors in order to be accepted. Any gift less than this amount must, nevertheless, be disclosed to the NBCPSS of councillors at the first councillor meeting after its receipt. It is recorded that at the date of approval by the NBCPSS of councillors of this policy it was determined that any gift below R1000-00 does not require a resolution of the NBCPSS of councillors in order to be accepted.
5. Non-compliance with this policy by a councillor constitutes a breach of his or her duties to the NBCPSS and renders that councillor liable to such sanction as the councillors may consider appropriate. This sanction may include, at the discretion of the NBCPSS of councillors, the forfeiture of the gift to the NBCPSS or its financial equivalent, as well as the suspension for a limited period of time or the expulsion of the councillor from the NBCPSS of councillors.



“C”

THE NATIONAL BARGAINING COUNCIL FOR THE PRIVATE SECURITY SECTOR

(“the NBCPSS”)

COUNCILLORS DECLARATION OF INTERESTS

1. I acknowledge that the purpose of this declaration is for me as a councillor of the NBCPSS to declare my interest in any matter or entity which may compromise the impartiality and independence I am required to possess, to demonstrate and to be seen to demonstrate as councillor.
2. For the purposes of this declaration the following words or phrases have the meanings indicated –
 - 2.1. “financial interest” means any shares held by me directly or indirectly (an indirect shareholding includes one held through a trust, company or legal entity controlled by me or members of my immediate family or, in respect of a trust, of which I or members of my immediate family are the primary beneficiaries), but excludes any shareholding held through a collective investment scheme;
 - 2.2. “professional fees” means those fees in respect of any type of work, including acting as a councillor of NBCPSS;
 - 2.3. “service provider” means an administrator, auditor, provider of risk benefits, provider of short term insurance, brokerage or any other entity contracted by the NBCPSS to provide any services which, for this purpose, includes the



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- 2.4. management of any assets of the NBCPSS whether in the form of a mandate or an insurance policy.
3. I acknowledge that as councillor –
 - 3.1. the incorrect completion of this may constitute a breach of the code of conduct of the NBCPSS;
 - 3.2. my co-councillors may require more information about any aspect of the declaration made by me in terms hereof.
4. I confirm that there is no other fact which to the best of my knowledge compromises my ability to act independently and impartially as a councillor.

(Insert Name)Councillor

DATE:_____



“D”

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(“the NBCPSS”)

JUSTIFIABLE GROUNDS FOR THE REMOVAL OF A COUNCILLOR

Justifiable Grounds for Removal

1. It would be justifiable to deny the right of candidature for election or disqualification as councillor to a person:
 - 1.1. who is an unrehabilitated insolvent;
 - 1.2. who is absent from the country for more than six months;
 - 1.3. who is mentally or physically incapable of discharging his or her duties in terms of the rules of the NBCPSS and/or the applicable legislation;
 - 1.4. who suffers from mental incapacity;
 - 1.5. whose own interests, or who occupies positions in relation to third parties whose interests conflict with the person’s duties towards the NBCPSS or entity to which the duties are owed;
 - 1.6. who are, or who have been guilty of a breach of trust, even if in committing that breach, he or she acted honestly *albeit* erroneously;
 - 1.7. whose incumbency may endanger the proper operation of the NBCPSS;
 - 1.8. who is found by the councillors to have been in breach of the NBCPSS’s code of conduct;



- 1.9. who has been discharged by a court from any office of trust on account of misconduct;
 - 1.10. who has been convicted by a court on any offence involving dishonesty and sentenced to a prison term without the option of a fine;
 - 1.11. who fails to sign the acceptance of trust form, incorporating the NBCPSS's code of conduct, together with any annexure thereto within 30 (thirty) days of appointment;
 - 1.12. who fails to comply with the minimum meeting attendance requirement of attendance at 75% (seventy-five per cent) of all councillor meetings, including meetings of any sub-committee of which the councillor is a member, or if a councillor fails to attend 3 (three) consecutive councillor meetings or 3 (three) consecutive sub-committee meetings of which the councillor is a member. The may however, condone the non-compliance with the attendance of 3 (three) consecutive meetings on good cause shown by the councillor.
2. The abovementioned list of people could be regarded as not being fit and proper to hold or continue a position of trust because they may be regarded as not able to fulfil their duties.
 3. Accordingly the NBCPSS has adopted a rule providing for the disqualification or removal the of a councillor who is not acting in a manner consistent with his or her duty in terms to oversee the operations of the NBCPSS and to ensure that the interests of the NBCPSS are protected at all times.
 4. In terms of rule as stipulated in Clause 3 the procedure of removing a councillor is a follows:
 - 4.1. if, an independent investigation finds that a councillor is not a fit and proper person to hold office and provided that not less than $\frac{3}{4}$ (three quarters) of the



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councillors in office agree with this finding, subject to the councillors having heard representations in the matter by the councillor concerned, or his or her representative, before accepting or rejecting the finding;

- 4.2. through a councillor decision made in a councillor meeting, in which meeting 50% (fifty per cent) plus 1 (one) of the councillors present vote in favour of the decision; provided that each employer councillor and labour councillor has 2 (two) votes each, and provided further that the persons voting in favour of the decision include both a labour councillor and an employer councillor.



The Code of Conduct of the Private Security Sector Provident NBCPSS

1. Attending NBCPSS & Subcommittee Meetings

The councillors of the NBCPSS are expected to attend all NBCPSS meetings and all meetings of NBCPSS committees of which they are members, either physically or through electronic means. Councillors are also expected to attend all meetings of any committee of which they are a member. A member of a NBCPSS who participates in a meeting through electronic means is considered to be present at the meeting. If a councillor expects to be absent from a regular NBCPSS meeting, that councillor can have the absence authorized by a NBCPSS resolution entered in the minutes. A councillor will lose his or her seat for being absent without authorization for three consecutive meetings.

The Chairperson or the Chairperson's designate must be physically present in the meeting room for every meeting of the NBCPSS or committee of the whole NBCPSS. He or she cannot attend meetings by electronic means.

2. Councillors who come late to meeting or miss part of the meeting

If a Councillor arrives considerably late for a meeting and in so doing misses a significant portion of the scheduled meeting time and does not advance a valid reason for such late arrival, subject to the discretion of the said meeting attendees, the Councillor also automatically forfeits a portion of his/her meeting fee relative to the portion of the meeting missed.

In the event that a Councillor arrives timeously at the meeting but is however, not present for a significant portion of the meeting, he/she automatically forfeits his/her representation on any issues or decisions made during the time they are not present. Further, subject to the discretion of the said meeting attendees the Councillor also



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automatically forfeits a portion his/her
meeting fee relative to the portion of the meeting missed.

3. Making a complaint/enforcement of the code of conduct

The enforcement provisions relating to the Code of Conduct are encapsulated in the Code of Conduct. A councillor who has reasonable grounds to believe that another councillor has breached the NBCPSS's Code of Conduct may bring the alleged breach to the attention of the NBCPSS of councillors.

3.1. A complaint about the conduct of a Councillor should –

- be made in writing, as per Annexure A attached hereto, to the Chairperson of the NBCPSS. Should the complaint be directed at the Chairperson of the NBCPSS then in that instance the Complaint should be directed to the Chairperson of the NBCPSS;
- be signed by the Complainer;
- state the Complainer's name and address;
- be made by an individual person ("the Complainer");
- name the Councillor who is the subject of the complaint;
- set out the facts relevant to the conduct complained about;
- be accompanied by any supporting evidence which the Complainer wishes to submit; and
- be made within 14 days from the date when the Complainer could reasonably have become aware of the conduct complained about.



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- 3.2. An individual who considers that there are mitigating circumstances that prevent them from complying with any of the first three criteria listed in 3.1 should contact the Chairperson or the Principal Officer.
- 3.3. A complaint which fails to meet one or more of the requirements set out above is referred to as a "Procedurally Defective Complaint". Procedurally Defective Complaints may be dismissed by the Commissioner.
- 3.4. A Procedurally Defective Complaint which does not name the member who is the subject of the complaint is an "Undirected Complaint".
- 3.5. "The Commissioner" is the person appointed by the NBCPSS to either investigate, conciliate, arbitrate or take any other necessary steps the NBCPSS deems appropriate in order to resolve the complaint expeditiously.

Procedure for dealing with a complaint

- 3.6. The procedure for dealing with a complaint (other than an Excluded Complaint) consists of four stages.
 - 3.6.1. Stage 1 - (Admissibility) - The NBCPSS will investigate and determine the admissibility of the complaint.
 - 3.6.2. Stage 2 - (Investigation) - If a complaint is admissible, the complaint may either be investigated internally, by the councillors, or by a Commissioner, depending on the seriousness of the complaint.

- Process for minor complaints:

A complaint should be submitted in writing, by means of email, to the Chairperson of the NBCPSS. If the complaint is against the Chairperson, then the complaint is to be submitted to the Principal Officer. The Chairperson must within 48 hours circulate the complaint



amongst all councillors,
including the councillor against whom the complaint is made.

The alleged offender will then be afforded a month to prepare a response to the complaint, which will be presented at the NBCPSS of Councillors meeting. If there is adequate information before the NBCPSS, it may make a decision based on the evidence submitted to it on the merits. It may make the decision to dismiss the complaint against the affected Councillor or it may impose the relevant sanction. However, should the NBCPSS deem it necessary to further investigate the matter, it may refer it to a relevant subcommittee and the matter will accordingly be held in abeyance until the conclusion of that process. This process should however not be longer than 6 (six) weeks after the NBCPSS Meeting at which the complaint was presented. At the following NBCPSS of Councillors meeting, a decision will be made and the complaint will be finalised or where it is found that the matter is serious or complex it may be referred to a Commissioner for an investigation and Ruling.

- **Process for Serious complaints:**

Where the NBCPSS has reviewed a complaint and has found it to be admissible and of such a serious or complex nature, it may refer the matter for investigation and a ruling, to a commissioner, having reviewed all the evidence submitted, the Commissioner may, in all relevant instances, call for the hearing of evidence. The purpose of the hearing is not to victimise anyone, it simply enables people who have information to place it before the Commissioner, whether the information is adverse or in favour of the complainant, in order to assist the Commissioner in making his/her findings. In the process anyone



who has information will be allowed to put the information forward, which will be placed before the alleged offender and he/she will be afforded an opportunity to respond thereto. The Commissioner will then consider all evidence submitted by both parties and thereafter report the findings in fact and law and the conclusion to the Legal & Compliance Subcommittee of the NBCPSS.

The Chairperson or Chairperson will be the initiator at the enquiry and lead the evidence on behalf of the NBCPSS.

The alleged offender may thereafter raise his defence and present his case.

The Commissioner will thereafter make his ruling.

If the alleged offender does not attend the proceedings without good reason, the proceedings will proceed in his/her absence.

In instances where a complaint was referred to the Commissioner, the Commissioner's Ruling will be provided to the NBCPSS, for noting.

Stage 4 – (Decision) - If the Commissioner has recommended the imposition of sanctions against a member, the NBCPSS will thereafter deliberate on that recommendation and make a decision..



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Notification

- 3.7 After receiving a complaint, the Chairperson or Chairperson will notify the member who is the subject of the complaint. The notification will inform the Councillor of the nature and details of the complaint. The notification will also inform the Councillor of the name of the Complainer
- 3.8 In considering whether or not it would be appropriate to inform the member of the name of the Complainer, the Chairperson or Chairperson will have regard to—
- whether or not the Complainer is or appears to be a vulnerable person;
 - any reasons given by the Complainer as to why the Councillor should not be given the name of the Complainer; and,
 - whether giving the name of the Complainer would prejudice an investigation into the complaint.
- 3.9 If the Chairperson or Chairperson considers that it would be inappropriate to give the Councillor the name of the Complainer, the Chairperson or Chairperson will make a report on the matter to the NBCPSS giving the reasons for that decision.

Admissibility

- 3.10 The NBCPSS will investigate and determine whether or not a complaint is admissible.
- 3.11 A complaint is admissible if it appears to the NBCPSS that the complaint—
- is relevant, which means:
 - the complaint is about the conduct of a Councillor of the NBCPSS;
 - the complaint is not an Excluded Complaint or it is subject to a reference by the Legal & Compliance Subcommittee of the NBCPSS; and,
 - if proved, the conduct complained about would amount to a breach of the Code of Conduct or the interests of members NBCPSS;



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- is not a Procedurally Defective Complaint or, as the case may be, is not to be treated as a Procedurally Defective Complaint ; and
- warrants further investigation, which means:
- it appears to the NBCPSS after an initial investigation that the evidence is sufficient to suggest that the conduct complained about may have taken place.

Stage 1 – Procedure

- 3.12 Paragraphs 3.14 to 3.18 apply to complaints which are not Undirected Complaints.
- 3.13 A complaint which appears to the NBCPSS to be irrelevant will be dismissed by the NBCPSS.
- 3.14 The NBCPSS will investigate whether a relevant complaint warrants further investigation.
- 3.15 If the NBCPSS finds that a relevant complaint does not warrant further investigation, the NBCPSS will dismiss the complaint.
- 3.16 If the NBCPSS finds that a Procedurally Defective Complaint other than an Undirected Complaint is relevant and warrants further investigation, the NBCPSS will provide a report which will include—
- the reasons why the NBCPSS considers that the complaint is a Procedurally Defective Complaint;
 - the reasons (if known) for the failure to meet the requirements set out in paragraph 3.1;
 - any other matters which the NBCPSS considers relevant; and,
 - the NBCPSS's decision as to whether the complaint should be dismissed on the ground that it is a Procedurally Defective Complaint or should be treated as if it were not a Procedurally Defective Complaint.



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Undirected Complaints

- 3.17 Paragraphs 3.17 to 3.19 apply to Undirected Complaints.
- 3.18 An Undirected Complaint which appears to the NBCPSS to be irrelevant will be dismissed by the NBCPSS.
- 3.19 The NBCPSS will make a report in respect of a relevant Undirected Complaint without investigating whether it warrants further investigation. The report will include—
- the reasons why the NBCPSS considers that the complaint is a Procedurally Defective Complaint; the reasons (if known) for the failure to meet the requirements set out in paragraph 3.1; any other matters which the NBCPSS considers relevant; and, the NBCPSS's recommendation as to whether the complaint should be dismissed on the ground that it is a Procedurally Defective Complaint or should be treated as if it were not a Procedurally Defective Complaint.
- 3.20 Pursuant to the report, the NBCPSS will direct that the complaint either be dismissed or it will treat the complaint as if it were not a Procedurally Defective Complaint and investigate whether the complaint warrants further investigation.

Determination of admissibility

- 3.21 If the NBCPSS considers that a complaint is admissible, the NBCPSS, or if the NBCPSS refers the complaint to the Commissioner, he/she will proceed to Stage 2 of the procedure for dealing with a complaint.

Notification of determination of admissibility

- 3.22 The NBCPSS will notify the Complainer and the Councillor who is the subject of the complaint (unless the complaint is an Undirected Complaint) of the fact that the NBCPSS/Commissioner is proceeding to Stage 2.



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- 3.23 The NBCPSS/Commissioner will notify the Complainer and the Councillor who is the subject of the complaint (unless the complaint is an Undirected Complaint) of the fact that a complaint has been dismissed and will set out the reasons for the dismissal as appropriate.

Time limits for determination of admissibility

- 3.24 If the NBCPSS has not determined the admissibility of a complaint within 7 days of receipt of the complaint, the NBCPSS will provide a progress report to the member who is the subject of the complaint (unless the complaint is an Undirected Complaint).

Further provisions in respect of Stage 1

- 3.25 The provisions of paragraphs 3.28 and 3.29 below will apply to any interview by the NBCPSS/Commissioner which is carried out during an investigation at Stage 1.

Stage 2 – Investigation

- 3.26 The NBCPSS/Commissioner will invite parties to submit evidence supporting the allegations. This will enable the NBCPSS/Commissioner to make a finding based on the strength of evidence provided to it or him/her.
- 3.27 The NBCPSS/Commissioner will investigate any complaint which has not been dismissed at Stage 1 with a view to—
- making findings in fact as to whether or not the conduct complained about was committed; and
 - reaching a conclusion as to whether or not, as a result of the conduct complained about, there has been a breach of the provisions of the Code or the interests of members of the NBCPSS.



Interviews

- 3.28 If the Commissioner/NBCPSS interviews any person in the course of an investigation, the Commissioner/NBCPSS will—
- have regard to whether that person is or appears to be a vulnerable person;
 - allow that person to have a third party present at the interview; and
 - allow that person to have his or her views conveyed through an interpreter if that person so requests
- 3.29 At least 48 hours before interviewing any person for the first time in the course of an investigation, the Commissioner/NBCPSS will notify that person in writing of—
- the purpose of the interview;
 - the powers of the Commissioner/NBCPSS to call for witnesses and evidence;
 - the procedure to be followed in connection with the investigation of the complaint including the fact that the interview will be tape-recorded (see paragraph 3.27 above);
 - the right of that person to have a third party present at the interview; and,
 - the right of that person to have his or her views conveyed through an interpreter (see paragraph 3.28 above).



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Time limits for completion of Stage 2

- 3.30 If the Commissioner has not completed the investigation of a complaint within 14 days of the date when the Commissioner found the complaint to be admissible, the Commissioner will make a report as to progress to the NBCPSS.

Report at Stage 2

- 3.31 At the conclusion of an investigation into a complaint at Stage 2, the Commissioner will make a report to the NBCPSS upon the outcome of the investigation.
- 3.32 The report by the Commissioner/ the NBCPSS will include—
- details of the complaint;
 - details of the investigation carried out by the Commissioner;
 - the facts found by the Commissioner in relation to whether or not the conduct complained about was committed by the Councillor; and,
 - the Commissioner's conclusion in relation to the complaint.



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- 3.33 Before making a report under paragraph 3.31 above, the Commissioner/Subcommittee will give the member concerned a copy of the draft report and will give the member concerned the opportunity to make representations about the alleged breach and on the draft report. The representations of the member will be annexed to the report in as far as they are not given effect to in the report.

Stage 3 – Consideration by the NBCPSS

- 3.34 A copy of any report to the NBCPSS under paragraph 3.31 will be made available to the Councillor concerned by the Chairperson of the NBCPSS. The Secretary will ask the member to confirm in writing whether or not the member agrees with the Commissioner's/NBCPSS's findings in fact or the Commissioner's/NBCPSS's conclusion. The Secretary will also ask the Councillor whether or not the Councillor wishes to appear before the NBCPSS to make representations about the Commissioner's findings in fact or conclusion.
- 3.35 The NBCPSS will consider in private any report of the Commissioner under paragraph 3.31 and any representations by the member concerned about the Commissioner's findings in fact or the Commissioner's conclusion. This is in order to ensure the privacy of any further investigation into the complaint.
- 3.36 Following consideration of the report and any representations by the member, the NBCPSS will decide whether—
- to agree with the Commissioner's findings in fact and conclusion;
 - to refer the complaint back to the Commissioner for further investigation or clarification; or
 - to conduct its own investigation into the complaint.



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- 3.37 The Commissioner will carry out such further investigations as the NBCPSS may direct. 3.38 The NBCPSS will determine the procedure to be followed in relation to any investigation which it wishes to carry out itself.
- 3.39 If the NBCPSS finds that there has been a breach of the Code of Conduct or the interests of members of the NBCPSS, the Councillor concerned may be afforded a further opportunity to make representations to the NBCPSS.
- 3.40 Following consideration of any such representations, the NBCPSS will make a decision as to whether or not to recommend the imposition of sanctions against the member. If the NBCPSS decides to recommend the imposition of sanctions it will also decide in Committee which sanctions to recommend.
- 3.41 The NBCPSS must conclude as to whether or not the complaint should be upheld; and recommend the sanctions (if any) which should be imposed on the member concerned.

Stage 4 – Consideration of a complaint by the NBCPSS

- 3.42 Where the NBCPSS considers that a sanction should be imposed on the Councillor concerned, it would have regard to the Code of Conduct and the Addendums thereto, and such other relevant information or evidence as the NBCPSS may determine.

Withdrawal of complaints

- 3.43 Prior to the Commissioner's report to the NBCPSS or finalisation of the matter by the NBCPSS complaints other than Excluded Complaints may be withdrawn by the Complainer giving the Commissioner/NBCPSS notice to that effect.



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- 3.44 Where a complaint is withdrawn during Stage 1, the Commissioner/NBCPSS will cease to investigate the complaint and will inform the member concerned of that fact and of any reasons given by the Complainer for the withdrawal of the complaint.
- 3.45 Where a complaint is withdrawn during Stage 2, the Commissioner/NBCPSS will inform the Councillor concerned of that fact and of any reasons given by the Complainer for the withdrawal of the complaint. The Commissioner/NBCPSS will also invite the Councillor's views as to whether the investigation of the complaint should take place despite the withdrawal of the complaint. After considering any relevant information including any reasons given by the complainer for withdrawing the complaint and any views expressed by the Councillor, the Commissioner/NBCPSS will decide whether or not the investigation of the complaint should nevertheless continue.

Excluded complaints

- 3.46 Where an Excluded Complaint has been referred to the NBCPSS it will be dealt with in such manner as the NBCPSS deems appropriate. The NBCPSS may refer such a complaint to the Commissioner for further investigation.

4. General role of Councillors of the NBCPSS in relation to conduct

- 4.1. The responsibility of Councillors is to consider and report on—
- a) the practice and procedures of the NBCPSS in relation to its business;
 - b) whether a Councillor's conduct is in accordance with these Rules and any Code of Conduct for Councillors, matters relating to Councillor's interests, and any other matters relating to the conduct of Councillors in carrying out their NBCPSS duties;
 - c) the adoption, amendment and application of any Code of Conduct for Councillors ;



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5. Sanctions

- 5.1. If it is considered appropriate, the NBCPSS may decide to impose sanctions on a Councillor found guilty of misconduct, breach of the code of conduct or any of his/her duties as a councillor. The appropriate sanction in a particular case will be decided by the NBCPSS on the basis of the facts and circumstances of the case.
- 5.2. Misconduct involves contravention of the above obligations. Serious misconduct involves serious and/or repeated contravention of the above obligations. If established, misconduct may lead to a reprimand and warning. Serious misconduct, if established, will usually lead to Suspension, Expulsion or summary Expulsion, that is, expulsion without notice.
- 5.3. If the NBCPSS of councillors determines that a councillor has breached the NBCPSS's code of conduct, the NBCPSS of councillors may impose one or more of the following sanctions:
 - A requirement for the councillor to remedy the breach;
 - Seek a written or verbal apology;
 - The NBCPSS may impose a fine;
 - Censure;
 - Bar the councillor from attending all or part of a meeting of the NBCPSS or meeting of a committee of the NBCPSS, or
 - Bar the councillor from sitting on one or more committees of the NBCPSS, for the period of time specified by the NBCPSS.
 - Suspension for a prescribed period
 - Expulsion

6. Conducting a Suspension Appeal/Expulsion Appeal Hearing

- 6.1 An affected councillor found to be in breach of the CODE has the right to appeal against any finding, penalty or decision made by the NBCPSS.



- 6.2 An appeal shall be conducted by a Specialist Professional which may include an independent legal practitioner appointed by the NBCPSS.
- 6.3 All decisions, penalties, rulings, determinations or findings of a Specialist Professional shall be communicated to the NBCPSS of Councillors as a recommendation, which the NBCPSS will note at the NBCPSS meeting and the decision reached will thus be final and binding on the Councillor concerned.
- 6.4 The NBCPSS upon having regard to recommendations of the Specialist Professional, shall have the powers:
- 6.4.1 To allow or dismiss the appeal;
 - 6.4.2 To substitute any finding or decision as it deems fit or substitute such penalty as it deems fit, including any increased penalty;
 - 6.4.4 To make such rulings as it in its sole discretion shall determine including postponing or adjourning any appeal.
- 6.5 Suspension

The suspended councillor may appeal, to the NBCPSS, its decision to suspend the said councillor. The NBCPSS shall designate the NBCPSS Secretary for the purposes of receiving notices of the intention to appeal a suspension. The Specialist Professional shall hear and determine, in terms of 6.1 above, the appeal of a suspension and the decision of a NBCPSS pursuant to the recommendations of the Specialist Professional on an appeal is final. Appeals of suspensions are conducted by the Specialist Professional, in terms of 6.1 to 6.4 above, in accordance with the NBCPSS's discretion.



6.6 Expulsion/ Removal from office

The NBCPSS's decision to expel or remove a councillor from office may be appealed against to a designated Specialist Professional, who may be an independent legal practitioner appointed by the NBCPSS. The Specialist Professional will in turn make recommendations to the NBCPSS of Councillors for noting. The Specialist Professional's recommendation is final.

7. Procedure in Appeals

- 7.1 Any councillor who wishes to appeal ("the appellant") shall give notice in writing of his or her intention ("Notice of Intention to Appeal") to the NBCPSS within 48 hours from the date on which the decision of the NBCPSS was communicated to him/her. Should a Notice of Intention to Appeal not be lodged within the prescribed time periods the right of appeal shall lapse.
- 7.2 All reports, evidence and exhibits which form part of the record of the decision appealed against, shall be made available for inspection by the appellant and his/her legal representative/s on a date and at a time and venue determined by the Special Practitioner.
- 7.3 Within 48 hours from the day referred to in clause 7.2 the appellant shall lodge with the Specialist Practitioner a Notice of Appeal which shall set out whether he/she appeals against the decision of the NBCPSS, the penalty or both, and giving reasons why such decision and/or penalty ought to be set aside. Should a Notice of Appeal not be lodged within this time period (or as may be extended under 7.5), the appeal shall lapse.



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- 7.5 The period for lodging a Notice of Appeal may be extended by the Committee at its discretion on receipt of a written application from the appellant. This application must be lodged within the time period allowed for the lodging of the Notice of Appeal
- 7.6 Where an appellant or NBCPSS intend to be legally represented at an appeal, they shall give notice of this to the Specialist Practitioner at the time of lodging the Notice of Appeal or the reply to the Notice of Appeal.
- 7.7 The operation of the finding, penalty or decision of the NBCPSS concerned shall be suspended –
- 7.7.1 during the period referred to in rule 7.1; and/or
 - 7.7.2 when a Notice of Intention to Appeal has been lodged; and/or
 - 7.7.3 pending the final determination of such appeal by the NBCPSS upon consulting the Special Practitioner's recommendations.

8. Timeframes for the lodgement of Complaints

Complaints must be lodged timeously, relative to the incident in question. Complaints shall be lodged within 21 days of the incident in question or within 21 days of the councillor becoming aware of the breach of the Code of Conduct. Failure to do so within the stipulated timeframe or if outside the stipulated timeframe, without proper reason, will result in the complaint being disregarded. Condonation of late lodgement of the complaint may however be granted in special circumstances.

9. Costs



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The cost of the disciplinary process against a Councillor shall be borne by the NBCPSS..

10. Confidentiality provisions

It is an offence for a Councillor to produce, disclose or communicate to any other person, including a court or tribunal, any information or document about the affairs of a Councillor which is acquired by the Councillor in the course of duty unless it is necessary to do so for the purposes of performing a function of, or prosecuting an offence arising out of the matter.

11. Establishing vision and method of operation

The NBCPSS of councillors shall help to establish the NBCPSS's vision and method of operation. The NBCPSS contributes to the shaping of a vision for the NBCPSS that is reflective of the Pension NBCPSSs Act, Rules of the NBCPSS and other related and relevant legislation. They then work to develop a strategic plan and policies that build a climate that supports the interests of NBCPSS members and emphasizes teamwork and shared accountability among NBCPSS and NBCPSS staff.

11.1 Planning, goal setting, and appraisal

Strategic planning is a key leadership responsibility of members of the NBCPSS. The NBCPSS shall have a multi-year plan that is directed at achieving the NBCPSSs' goals in the various areas of its engagement. This plan describes what the NBCPSS hopes to achieve, what its priorities are and how it plans to meet its objectives. It is developed through a process that involves the NBCPSS. It will have goals for each of the years of the plan; the NBCPSS will review it annually.

11.2 Policy making



**NATIONAL BARGAINING
COUNCIL
FOR THE PRIVATE SECURITY SECTOR**

NBCPSS Policy number BC002

**Central Office Park, Block Q, No.400,
16th Road, Randjespark, Midrand**

Email: ceo@nbcps.org.za

A key responsibility of the NBCPSS is to develop and adopt policies that are based on the NBCPSS's vision and that provide a framework for implementation of the vision. PF 130 read in conjunction with the Act requires NBCPSSs to develop and maintain policies and organizational structures that promote the NBCPSS's goals and objectives. It is the responsibility of NBCPSS members to monitor and evaluate how efficiently the NBCPSS's policies are implemented and how effective they are in achieving the NBCPSS's goals.



Private Security Sector Provident NBCPSS Code of Conduct: Complaint Lodgement Form

Complaints must be lodged timeously, relative to the incident in question. Complaints shall be lodged within 21 days of the incident in question or within 21 days of the councillor becoming aware of the Code of Conduct infringement. Failure to do so within the stipulated timeframe or if outside the stipulated timeframe, without proper reason, will result in the complaint being disregarded.

Complainant Contact Information:

Name: _____

Designation: _____

Phone: _____

Address: _____

Email: _____

1. Provide details (in writing) of the NBCPSS Councillor/Other against whom you are making a complaint:



**NATIONAL BARGAINING
COUNCIL**
FOR THE PRIVATE SECURITY SECTOR

Central Office Park, Block Q, No.400,
16th Road, Randjespark, Midrand

Email: ceo@nbcps.org.za

NBCPSS Policy number BC002

2. Please give detailed information pertaining to the circumstances relating to your complaint (include, on additional paper, as much information as possible, including dates etc.):

3. Provide evidence to support your allegations (note that if you withhold any information it could cause delays)

4. Detail any prospective or on-going tribunal or legal proceedings relating to the matters raised.



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Central Office Park, Block Q, No.400,
16th Road, Randjespark, Midrand

Email: ceo@nbcps.org.za

Sign: _____

Name: _____

Date: _____

Your Complaint should be sent directly to the Chairperson of the NBCPSS. Should your complaint be directed at the Chairperson of the NBCPSS then in that instance your Complaint should be sent directly to the Independent Councillor of the NBCPSS.