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**COMPLAINTS AND COMPLIANCE COMMITTEE'S  
PROCESSES AND PROCEDURES  
STANDARD OPERATIONS  
HANDBOOK  
2015**

**OCTOBER 2015**

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*The Executive responsible shall authorise the policy before submission to Exco.*

*The authorising and approving officers should sign and write the date of signature in the boxes below;*

PROCEDURE APPROVALS RECORD		
	Authorised by General Manager	Approved by Exco
Name and job title	Leona Mentz	Pakamile Pongwana
Signature		
Date		
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## 1. Purpose

The main objective of this procedure is to provide guidance on a mandatory process to be followed by all Divisions of ICASA preceding a submission of a complaint/dispute to the CCC for adjudication.

## 2. What is the CCC's Mandate?

The Complaints and Compliance Committee must –  
Investigate and hear if appropriate, and make a finding on:

- All matters referred to it by the Authority;
- Complaints received by it; and
- Allegations of non-compliance with the ICASA Act or underlying statutes received by it.

## 3. Referral of Complaints

Any regulatory Division of ICASA that has a reason to believe that a licensee has failed to adhere to:

- The terms and conditions of a licence
- The ICASA Act No. 13 of 2000
- The underlying statutes

may refer the complaint to the Complaints and Compliance Committee.

The Division may where the complaint concerns a licensee, direct the complaint within 30 days of receipt of the complaint, to the CCC for consideration.

### 3.1. Processes to be followed by Divisions when escalating matters to the CCC

3.1.1 The complaints must be referred by emails only to the CCC: Coordinator.

3.1.2 Divisions must give a detailed account of the steps taken in attempting to resolve a matter.

3.1.3 Divisions must provide steps taken in tracing licensees who cannot be found

3.1.4 The file must be in accordance with the checklist provided in Schedule B.

3.1.5. Once the file meets the prerequisites in the checklist it will be allocated for assessment.

3.1.6. The Division referring a complaint will be responsible for indicating that they have complied with checklist requirements.

### **3.2. The CCC Office's processes in Receiving Complaints**

The CCC will within five (5) days:

- 3.2.1 Acknowledge receipt of the complaint/file.
- 3.2.2 Check issues of jurisdiction and prescription where applicable.
- 3.2.3 Confirm compliance with the checklist.
- 3.2.3 Allocate a case number to the complaint.
- 3.2.4 Assess the contents of the file in preparation for the administrative justice process.

### **4. Administrative Justice Process**

- 4.1. CCC will afford the licensee fifteen (15) calendar days within which to reply to the allegations of contravention.
- 4.2. Once the CCC receives the response from the licensee it will afford the Division ten (10) calendar days to reply.
- 4.3. Parties will be notified within twenty (20) calendar days in writing of the date, time and venue of the hearing.

### **5. Research and Investigative Process**

The Divisions are required to co-operate in the research and investigative process whereby continuous consultation will occur between CCC and the divisions to procure further information.

### **6. Assessment for preparation for a recommendation to the CCC**

The CCC Office will:

- 6.1. Correlate and analyse all the evidence.
- 6.2. Advise the CCC, in consultation with the chairperson, whether the matter warrants a formal hearing or not.
- 6.3. Inform both parties of CCC's intention to hear the matter.

## 7. CCC Proceedings

- 7.1. CCC comprises of seven members and to adjudicate a matter a minimum of four (4) members (which must include the Chairperson and Councilor) must be present.
- 7.2. The CCC may hold a pre-hearing in terms of section 17C (4) of the ICASA Act.
- 7.3. The CCC may call an expert witness where necessary to assist in the adjudication process.
- 7.4. The parties are required to make oral representations in support of their evidence.
- 7.5. All proceedings are recorded.
- 7.6. The CCC will deliberate and make a recommendation of its findings within 90 days subsequent to hearing the matter.

## 8. Appearance

Parties:

- 8.1 must appear before the Committee to present their case.
- 8.2 are entitled to legal representation or other advisors.
- 8.3 must furnish the CCC Office with the names of their legal representatives.
- 8.4 are entitled to call witnesses in support of their cases.
- 8.5 must be informed that they may lead evidence and be questioned during the proceedings.
- 8.6 may be required to take an oath.
- 8.7 must notify the CCC Office if they will require the services of an interpreter.
- 8.8 must notify the CCC Office of their intention to utilise the services of an interpreter within five (5) days upon receipt of the hearing date.
- 8.9 will be furnished with the indexed and paginated bundles.
- 8.10 will be required to apply for condonation providing valid reasons for failure to comply with the legislative timelines, in accordance with regulation 8 of Regulations Governing Aspects of the Procedure of the Complaints and Compliance Committee.

## 9. CCC Recommendation

The CCC Office will table the recommendation of the Committee to the Council of the Authority.

## 10. Publication

10.1 The CCC Office shall publish the recommendation/judgment of the CCC as approved by the Council.

10.2 The recommendation/judgment will be posted on the ICASA website.

## 11. General

11.1 It is imperative for divisions to provide all correspondence held between their office and the licensee. These must also include all communications subsequent to referral of the matter to the CCC Office.

11.2 When referring a complaint, any reference to repealed and/or incorrect citations of the applicable legislation and /or regulations will not be accepted by the CCC Office. The CCC will then send it back to the Divisions for rectification.

11.3 Once the matter is referred to the CCC, the Divisions cannot engage in any settlement proposal with the licensee where there is non-compliance, except where valid reasons are provided to the CCC by a Division.

## 1. ANNEXURES

The following documents are process instructions and guidelines that support the implementation of the procedure and are attached as Annexures:

### ANNEXURE A

#### SCHEDULE A: FREQUENTLY ASKED QUESTIONS

##### 1. What is CCC?

The CCC is an acronym which stands for the Complaints and Compliance Committee established in terms of section 17A of the ICASA Act No. 13 of 2000. It operates as an independent administrative tribunal of ICASA to adjudicate complaints received by it.

##### 2. What are the powers and functions of the CCC?

The CCC investigates, hears matters and makes findings and make a recommendation to the Council of ICASA.

##### 3. How many members does the CCC comprise of?

Seven members, six of whom are part time.

##### 4. Who can refer a matter to the CCC?

A person who has a reason to believe that the Licensee or another person is guilty of any non-compliance with:

- i. The terms and conditions of a licence;
- ii. The ICASA Act;
- iii. The underlying statutes.
- iv.

##### 5. Can the CCC hear criminal matters?

No, the CCC does not have jurisdiction to hear criminal matters.

##### 6. Can a complainant withdraw a matter once it has been referred to the CCC Office?

No, under no circumstances may a matter be withdrawn.



**7. Who must appear at the CCC hearings?**

Complainant and respondent and their legal representatives or other advisors.

**8. Are the CCC hearings open to the public?**

Yes

**9. What possible sanctions can be imposed by the CCC?**

The CCC may recommend that one or more of the following orders be issued by the Authority namely:

- a. Desist order;
- b. A fine in accordance with the applicable legislation;
- c. Remedial action;
- d. Amend or revoke licence or;
- e. Direct the Licensee to comply with any settlement.

**10. Where can you access your judgment once published?**

<https://www.icasa.org.za/CCC/CCCJudgments/tabid/286/Default.aspx>

**ANNEXURE B: ASSOCIATED DOCUMENTS**

**SCHEDULE B: CCC REFERRAL CHECKLIST**

1	<b><u>Charge Sheet to include the following:</u></b>	Yes	No
1.1	Licensee company name and recent contact details		
1.2	Alleged contraventions		
1.3	Applicable current legislation and /or regulations with correct citation of sections.		
1.4	Years of contravention		
1.5	Date, name and signature of the Division's official		
1.6	Name of the Division's official who will present the matter		
2	<b><u>Complaint to include the following:</u></b>		
2.1	Factual Background		
2.2	Relief sought		
3	<b><u>Pre-requisite Documents:</u></b>		
3.1	Copies of the Licence/s		
3.2	All correspondence between Division and Licensee (inclusive of letters and emails) printed.		