



**FEDERAL REPUBLIC OF NIGERIA  
CODE OF CONDUCT TRIBUNAL**

**CODE OF CONDUCT TRIBUNAL  
PRACTICE DIRECTION, 2017**

## CODE OF CONDUCT TRIBUNAL PRACTICE DIRECTION, 2017



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# CODE OF CONDUCT TRIBUNAL PRACTICE DIRECTION, 2017

*Commencement* [16 February, 2017]

**In exercise of the inherent powers of the Tribunal and by virtue of all other powers enabling the Tribunal in that behalf, the Tribunal hereby issues the following Practice Direction for the Code of Conduct Tribunal -**

## **1. Objective and Guiding Principles**

The objectives of this Practice Direction are to –

- (a) establish a system of case management that will provide for a fair, speedy and impartial administration of justice;
- (b) ensure that at trials the parties focus on matters which are genuinely in issue and avoid objections aimed at delaying fair trial;
- (c) ensure that cases are fully ready for trial before trial dates are appointed;
- (d) minimise undue adjournments and delays;
- (e) ensure that trials are not delayed by the hearing and determination of interlocutory applications; and
- (f) ensure transparent and fair sentencing of convicted persons.

## **2. Application**

This Practice Direction shall apply to all cases filed before the Tribunal and all interlocutory applications that may arise in the determination of a case before the Tribunal.

### **3. Applications to Prefer Charge**

- (1) The Prosecution shall not make an application to prefer a charge unless it is accompanied by an affidavit stating that—
  - (a) all investigations into the matter had been concluded and it is in the public interest to charge the defendant;
  - (b) all witnesses are available and ready to testify whenever so called upon in the course of trial and that the Prosecution is ready to commence trial and see it through to a logical conclusion; and
  - (c) the address for service of the defendant is valid, traceable, and verifiable.
- (2) The application shall be accompanied by four copies of the charge along with summary of the evidence, the proof of evidence, consisting of:
  - (i) the list of witnesses;
  - (ii) the list of exhibits to be tendered;
  - (iii) summary of statements of the witnesses; and
  - (iv) any other document, report, or material that the prosecution intends to use in support of its case at the trial.
- (3) Where the Tribunal grants leave to proceed to trial it shall:
  - (a) order a date for arraignment; and
  - (b) issue a summons to the defendant.
- (4) Where the Tribunal refuses the application to grant leave, it shall communicate the decision to the applicant within 5 working days of decision stating among other things, the reasons for refusal to grant the application.

### **4. Arraignment**

- (1) The Tribunal shall within 14 days of granting leave, issue a summons to the defendant indicating the date of arraignment.

- (2) On the date fixed for arraignment, the Tribunal shall read or cause to be read to the defendant the substance of the complaint against him and the defendant shall be asked whether he is guilty of the offence or offences charged.

## **5. Pre-hearing Procedures**

- (1) Where the defendant pleads not guilty or does not make any plea, the Tribunal may, or shall if any of the parties so requests, set down the case for pre-trial hearing within 14 days of the arraignment.
- (2) At the pre-trial hearing, the Tribunal shall deal with issues including –
  - (a) the number of witnesses to be called by each party;
  - (b) the time available to the Prosecution to present its case and the defendant to lead his case;
  - (c) specification of days and times for hearing;
  - (d) expected duration of the trial including when judgment will be delivered; and
  - (e) such orders and directives that in the opinion of the Tribunal ensures fair and speedy trial.
- (3) The Tribunal shall deliver a composite ruling on all applications made during pre-hearing conference within 7 days of the last pre-trial hearing (where more than one is held).
- (4) No application taken at the pre-hearing stage shall be entertained during the hearing except in the opinion of the Tribunal the facts and circumstances of the applications did not exist at the time of the pre-trial hearing.
- (5) Where there is a preliminary objection challenging the jurisdiction of the Tribunal to hear a case before it, the Tribunal shall deliver the ruling along with the final decision.
- (6) The Tribunal shall effectively use the pre-trial conference medium to ensure speedy trial.
- (7) At the end of the pre-trial hearing, the Tribunal may issue orders and directives as in the opinion of the Tribunal ensure the speedy dispensation of the trial.

## **6. Service of Processes on Parties**

- (1) Where the defendant fails to appear on the date fixed for arraignment, the prosecution may apply to the Tribunal for a warrant of arrest.

- (2) Where any notice or other process is required under the Administration of Criminal Justice Act, 2015, the Code of Conduct Tribunal Rules of Procedure, or these Practice Directions to have an address for service endorsed on it, it shall not be deemed to have been properly filed unless such address has been endorsed on it.
- (3) Any person desiring to change his address for service shall give notice of the new address to the Registrar and all other parties.
- (4) The Tribunal bailiff shall, within 24 working hours of service of any process on a party in any case before the Tribunal, depose to an Affidavit of Service stating the circumstances of the service, and a copy of such Affidavit of Service shall be kept in the case file.

## **7. Notices**

- (1) All processes filed by a party shall include address for service, email address and telephone numbers of the party or his legal representative.
- (2) No party shall serve a notice of an application on another party on the date scheduled for hearing.
- (3) Parties or their counsel shall communicate and correspond with the Tribunal through the Registrar only.
- (4) A counsel to one party shall not seek to see the Chairman or any Member in chambers about a matter before the Tribunal in the absence of counsel on the other side.

## **8. Scheduling of Trial or Hearing Dates**

- (1) Except as may otherwise be determined by the Chairman, trial or hearing of a matter shall commence on the date fixed by the Tribunal.
- (2) Where a counsel agrees to a trial or hearing date, the counsel is presumed to have made a commitment to appear on that date

- (3) When setting a date for trials or hearings in the Tribunal, counsel has a duty to disclose previous commitments to another court or tribunal that may conflict with a proposed date for a trial or hearing.
- (4) In fixing dates for trials or hearings, the Tribunal, shall avoid fixing dates that make it impossible for counsel to keep commitments already made in other tribunals or courts.

## **9. Self-representation**

A defendant who represents himself shall be informed of his right to counsel of his own choice.

## **10. Hearing and Proceedings of the Tribunal**

The Tribunal shall conduct all its proceedings as follows –

- (a) the proceedings shall be conducted daily by 9:00 AM or so soon thereafter on working days;
- (b) a counsel holding the brief of another counsel in any case before the Tribunal shall be presumed to be fully and properly briefed to conduct the case;
- (c) no party shall be entitled to more than five adjournments from arraignment to final judgment;
- (d) a no-case submission intended to be made by the Defence shall be filed within 7 days after the close of the case of the Prosecution and the Tribunal may refuse to grant an adjournment on the date fixed for hearing the no-case submission.

## **11. Trials**

- (1) Hearing of cases shall be from day to day as the diary of the Tribunal may permit for the purpose of fair and speedy trial.

- (2) The Tribunal shall not entertain any act deemed as an abuse of the justice system or intended to frustrate the course of justice.

## **12. Seizures**

- (1) The prosecution may at the commencement of the trial or at a reasonable time thereafter apply to the Tribunal for an interim order of seizure, forfeiture and confiscation of the property, the subject of the charge pending the final determination of same by the Tribunal.
- (2) An application for temporary seizure may be heard in chambers or in open court by the Tribunal.
- (3) Application for temporary seizure shall be made by motion ex-parte supported by an affidavit and schedule of the property to be so attached.

## **13. Motions and Other Applications**

- (1) Whereby these directions any application is authorised to be made to the Tribunal such application shall be made by motion accompanied with a written address. The motion may be supported by an affidavit.
- (2) Where the other party intends to oppose the application, he shall within 3days of service of such application file his response.
- (3) On receipt of the response, the applicant may within 2 days file a written reply on points of law.

## **14. Filing of Written Address**

- (1) This direction shall apply to all applications and final addresses.
- (2) A written address shall be printed on white opaque A4 size paper and set out in paragraphs numbered serially and shall contain:
  - (a) The claim or application on which the address is based.
  - (b) A brief statement of facts with reference to exhibit(s) mentioned in the affidavit or tendered at the trial.



- (c) The issues arising from the evidence.
  - (d) Summary of argument on each issue incorporating the purport of the authorities cited with full citations.
- (3). All written addresses shall be concluded with a numbered summary of the points raised.
  - (4) A certified true copy of any unreported judgment relied upon shall be submitted with the written address.

### *Sentencing*

#### **15. Scope of Application and Procedural Steps**

- (1) In the application of this Practice Direction –
  - (a) each case shall be treated on its own merit in line with the provisions of section 416(2)(a) of the Administration of Criminal Justice Act 2015;
  - (b) the objectives of sentencing including prevention, restraint, rehabilitation, deterrence, education of the public, retribution and restitution, shall be borne in mind in sentencing a convict in line with the provisions of sections 401(2) and 416(2) (b) of the Administration of Criminal Justice Act 2015; and
  - (c) the interest of the victim, the convict and the public should be considered in line with the criteria set out under section 311(2)(b) of the Administration of Criminal Justice Act 2015.
- (2) The provisions of this Practice Direction shall not derogate from the statutory discretion of the Tribunal to determine and impose sentences.
- (3) This Practice Direction shall not apply to sentencing of a person below 18 years of age.

- (4) In determining the sentence to be imposed on a convict in any of the offences to which the Practice Direction applies, the Tribunal shall follow the procedural steps prescribed in paragraphs 16 to 22 below.

## **16. Sentencing Hearing**

- (1) Where the Tribunal pronounces a guilty verdict, it shall direct the commencement of sentencing hearing.
- (2) The Prosecution shall first be called upon to lead evidence and proffer arguments, if any, to aid the Tribunal in arriving at the appropriate sentence decision.
- (3) The Convict shall then be called upon to lead evidence and proffer arguments, if any, to aid the Tribunal in arriving at the appropriate sentence decision.
- (4) Each party shall be given not more than two days each to present its evidence and arguments.

## **17. Category of Offence**

- (1) In sentencing the convict, the Tribunal shall determine the categories of the offence in accordance with the level of culpability of the convict and the severity of harm caused by the offence, after considering the qualifying factors set out in sub-paragraphs (2) and (3) of this paragraph.
- (2) The level of culpability of a convict shall be determined in the following categories:
  - (a) it shall be deemed high culpability if the convict -
    - (i) played a leading role where the offence is committed by a group;
    - (ii) pressured or influenced others into involvement;
    - (iii) abused position of significant power, trust or responsibility;
    - (iv) abused position occupied upon taking constitutional or statutory oath of office;

- (v) by corrupt action, directly or indirectly targeted at a public officer or a law enforcement officer;
  - (vi) committed an offence involving significant planning, due to the sophisticated nature of the offence;
  - (vii) committed the offence continuously or repeatedly over a period of time; or
  - (viii) is motivated by an expectation of substantial financial, commercial or political gain.
- (b) it shall be deemed low culpability if the convict -
- (i) is involved through coercion, intimidation and or exploitation;
  - (ii) is not motivated by personal gain;
  - (iii) played peripheral role in planning and executing the corrupt act;
  - (iv) commits a “one-off” offence with very little or no planning and the offence is opportunistic or spontaneous; or
  - (v) has a limited awareness or understanding of corrupt activity.
- (3) The severity of harm caused by a convict shall be determined in the following categories:
- (a) serious harm shall be deemed to have been caused where the corrupt act-
- (i) affects the fundamental rights of any person;
  - (ii) threatens security of the State;
  - (iii) undermines revenue or economy of the State;
  - (iv) has a serious detrimental effect on person or persons;
  - (v) has a serious environmental impact;
  - (vi) seriously undermines the government; including in the provision of public services or business; or
  - (vii) substantially results in actual or intended loss to the State or other person.

- (b) limited harm shall be deemed to have been caused where there -
  - (i) is insignificant harm or risk of harm to a person(s); or
  - (ii) is insignificant harm or a risk of harm to business, government or the general public.

## **18. Starting point and category range**

- (1) After determining the categories of culpability of the convict and severity of harm caused, the Tribunal shall apply the corresponding starting points of sentencing within the category range specified in the First Schedule to this Practice Direction.
- (2) The starting point shall apply to all convicts, notwithstanding the plea of guilt or previous convictions.
- (3) Where the level of culpability of a convict is qualified by multiple features of culpability specified in paragraph 17(2) above, an upward adjustment from the starting point may be made, before further adjustments for aggravating or mitigating features, set out in paragraph 19 below.

## **19. Aggravating and Mitigating Factors**

- (1) Based on the evidence before the Tribunal, the Tribunal may consider aggravating or mitigating factors including those listed under this paragraph and decide whether any combination of these, or other relevant factors, shall result in an upward or downward adjustment from the starting point set out in the First Schedule to this Practice Direction.
- (2) Aggravating factors shall include –
  - (a) previous convictions;
  - (b) multiplicity of offences committed;
  - (c) taking steps to prevent victims or witnesses from supporting investigation or testifying;
  - (d) concealment, disposal or destruction of evidence;
  - (e) failure to comply with Tribunal orders during the pendency of the trial;
  - (f) influencing, frustrating, compromising or delaying investigation or prosecution; or

- (g) failure to respond to cautions, including administrative disciplinary actions.
- (3) Mitigating factors shall include –
- (a) absence of any previous conviction;
  - (b) remorse, particularly evidenced by restitution or reparation;
  - (c) evidence of good character;
  - (d) guilty plea made by the convict immediately after arraignment; or
  - (e) any assistance given by the convict to investigators during investigation or prosecution particularly in complex cases, including where availability of evidence is limited.

## **20. Totality Principle**

In sentencing a convict for more than one offence the Tribunal shall consider a sentence commensurate with the totality of offences committed.

## **21. Confiscation, Forfeiture, Compensation, Restitution and Ancillary Orders**

- (1) In all cases, the Tribunal shall consider whether to make confiscation, forfeiture, compensation, restitution or other ancillary orders in accordance with the provisions of applicable laws.
- (2) Where the offence has resulted in loss or damage, the Tribunal may make a restoration order in accordance with Sections 336 and 342 of the Administration of the Criminal Justice Act, 2015.
- (3) Where applicable, the Tribunal shall order the Registrar to forward a copy of the judgement to –
  - (a) the Corporate Affairs Commission for the purpose of disqualification under Sections 3(4)(c), 509(1)(f), 675(1)(d) of the Companies and Allied Matters Act, or

- (b) relevant Professional Regulatory Bodies for the purpose of barring a convict from practising a profession under sections 16(3) and (4) of the Money Laundering (Prohibition) Act or other similar legislation.

## **22. Reasons for Sentence Decision**

The Tribunal shall give reasons for the sentence imposed.

## **23. Reporting of proceedings of the Tribunal**

- (1) Proceedings of the Tribunal shall be open to the public.
- (2) No person shall disseminate information that –
  - (a) pre-judges the decision of the Tribunal; or
  - (b) obstructs the course of justice.

## **24. Drawing up of Orders**

- (1) Every order of the Tribunal shall bear the date on which it was made.
- (2) An order shall bear the seal of the Tribunal.

## **25. Abridgment or Enlargement of Time**

The Tribunal may on application abridge or enlarge time for doing any act or taking any steps under this Practice Direction.

## **26. Filing fees**


The fees set out in the Second Schedule to this Practice Direction shall be –

- (a) payable in respect of matters to which they relate; and
- (b) paid to the Registrar of the Tribunal.

## **27. Saving**

From the commencement of this Practice Direction, pending matters or applications shall not be defeated in whole or in part, or suffer any censure, or be struck out or prejudiced, or be adjourned or dismissed for failure to comply with this Practice Direction.

MADE at Abuja this 16th day of February, 2017.



Honourable Danladi Yakubu Umar  
*Chairman, Code of Conduct Tribunal*



Honourable William Aqwadza Atedze  
*Member Code of Conduct Tribunal*

### **EXPLANATORY MEMORANDUM**

*This note does not form part of this Practice Direction but intends to explain its purport*

This Practice Direction reflects and supplements certain provisions in the Code of Conduct Tribunal Rules of Procedure and the Administration of Criminal Justice Act 2015 to ensure that the Code of Conduct Tribunal is accessible, fair and efficient and to provide general guidance and assistance to parties and their legal representatives in order to speedily dispense justice and save the time and costs of all parties in any matter before the Tribunal.

**FIRST SCHEDULE**

**Category of Offence**

Starting Point (Applicable to all convicts)

Category Range (Applicable to all convicts)

**[Paragraph 18]**

**By section 23 of the Code of Conduct Bureau and Tribunal Act, the Tribunal is empowered to impose the following sentences:**

- (a) Vacation of office;
- (b) Disqualification from holding public office for ten years; and
- (c) Forfeiture of corruptly acquired property

	<b>HIGH CULPABILITY</b>	<b>LOW CULPABILITY</b>
<b>SERIOUS HARM</b>	<p><b>Starting Point</b> (a + b = 10 years + c)</p> <p><b>Range</b> (a + b = 7 years + c) ↔ (a + b = 5 years + c)</p>	<p><b>Starting Point</b> (a + b = 7 years + c)</p> <p><b>Range</b> (a + b = 5 years + c) ↔ (a + b = 2 years + c)</p>
<b>LIMITED HARM</b>	<p><b>Starting Point</b> (a + b = 5 years + c)</p> <p><b>Range</b> (a + b = 3 years + c) ↔ (a + b = 1 year + c)</p>	<p><b>Starting Point</b> (a + b = 2 years + c)</p> <p><b>Range</b> (a + b = 1 year + c) ↔ (a + c)</p>



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