

Media Council (MCM)

Malawi Media Code of
Ethics and
Complaints and Arbitration
Procedures

Draft Copy

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The Media Council of Malawi Code of Ethics and Professional Conduct

PREAMBLE

ACKNOWLEDGING that the media play a key role in any democratic state and is one of the pillars upon which democracy rests;

NOTING that journalists have as their primary function, the duty to inform the public accurately and to comment fairly on matters of public concern without fear or favour and that such duty is fundamental to the existence, sustainability and development of any democratic state;

RECOGNISING that journalists have a duty to maintain the highest possible professional and ethical standards in the discharge of their day-to-day duties;

REALISING that failure by journalists to maintain and observe such professional and ethical standards brings the integrity and impartiality of the media into disrepute;

APPRECIATING that it is necessary and desirable that basic standards of conduct which journalists should follow, be prescribed and published for the awareness of journalists themselves and the public at large;

AND NOTING FURTHER that the independence of journalists and their operations based on an ethical framework can only be guaranteed by a self-regulatory mechanism and institution;

THE MEDIA COUNCIL OF MALAWI at its meeting held from.....
.....at.....
adopted this Code of Ethics and Professional Conduct for Journalists in Malawi

CHAPTER ONE: THE INDIVIDUAL JOURNALIST

- 1.1 **Self-Representation:** A journalist has the responsibility to provide the public with accurate information. He/she shall also conduct him/herself with propriety at all times when performing his/her duties.
- 1.2 **Dress:** A journalist shall dress decently and observe etiquette as the situation demands.
- 1.3 **Interviews:** Since it is not an obligation for any person, public or otherwise, to talk to journalists, sources must be informed that they are being interviewed for a story and a journalist shall not insult abuse or otherwise embarrass interviewees.

Interviewees shall be at liberty to put restrictions on what is to be published as well as what is to be attributed to them.

- 1.4 **Language:** A journalist shall conduct an interview in a language the interviewee is competent in and may, where necessary arrange for an interpreter.
- 1.5 **Conflict of Interest:** A journalist shall not associate with situations that will bring a conflict of interest with his/her profession.
- 1.6 **Policy:** A journalist shall observe the editorial policy of the media house for which he/she is working.
- 1.7 **Cheque - Book Journalism:** A journalist shall not demand or accept payment in order to include or exclude material on a story he/she is writing.

CHAPTER TWO: THE JOURNALIST'S WORK

- 2.1 **Material:** All material produced by journalists shall be credible, balanced, fair and verifiable to all sides. In the same vein, headlines should reflect the gist of the story to avoid misleading the audience. Unwarranted distortion and speculation should be avoided, as should discriminatory and inflammatory language, slants involving racism, tribalism, religion, etc.
- 2.2 **Distinction in Presentation:** A journalist shall avoid traumatizing shocking or obscene pictures as much as possible. Pictures must be used appropriately, not for the sake of sales promotion. A journalist shall not publish pictures that infringe on individuals' right to privacy.
- 2.3 **Quotations:** Quotations must be accurate.

CHAPTER THREE: GENERAL PRINCIPLES AND ISSUES

- 3.1 **Accuracy:** A journalist shall strive for accuracy and thoroughness in the writing and reporting of news.
- 3.2 **Pictures:** A journalist shall ensure that picture relate to the story.
- 3.3 **Plagiarism:** A journalist shall avoid plagiarism.
- 3.4 **Correction:** Whenever it is recognized that a significant inaccuracy, misleading statement or distorted report has been published, it should be corrected promptly and with due prominence and an apology published whenever appropriate.
- 3.5 **Objectivity:** In reporting news, a journalist shall strive for objectivity.

- 3.6 **News and Opinions:** A journalist shall distinguish clearly between news reports, speculation and expressions of opinion.
- 3.7 **Headlines:** News headlines should be fully warranted by the contents of the articles they accompany. Photographs and broadcasts must give an accurate representation of an event.
- 3.8 **Balance and Fair Play:**
- (I) A journalist shall make every reasonable effort to present all sides of the story.
 - (ii) A fair opportunity for reply should be given to organizations or individuals.
- 3.9 **Advertising:** Advertisements and public announcements shall be accurate and clearly distinguishable from news items.
- 3.10 **The law and the Journalist:** In reporting matters that involve or may involve litigation;
- (a) a journalist shall avoid practices which would tend to interfere with the right of an individual to a fair trial.
 - (b) A matter that is pending court decision must not be commented on in a manner that would prejudice the outcome.
- 3.11 **The right to Know:** While facilitating the public's right to know, a journalist shall observe the following limits:
- (i) A journalist has an obligation to protect confidential sources of information.
 - (ii) A journalist shall not identify victims of sexual assault or publish material likely to contribute to such identification unless, by law, he/she is at liberty to do so. Similarly, a journalist shall not, even where the law does not prohibit it, identify children under the age of 13 who are involved in cases concerning sexual offences, whether as victims, witnesses or defendants.
 - (iii) A journalist shall avoid prejudicial or pejorative reference to a person's race, colour, ethnic origin, religion, sex or sexual orientation or to any physical or mental illness or disability unless such reference is relevant to the story.
 - (iv) A journalist shall generally not obtain or seek to obtain information or pictures through misrepresentation or subterfuge unless it can be justified that such materials cannot be obtained by any other means.

- (v) A journalist shall generally avoid identifying relatives or friends of persons convicted or accused of crime, unless the reference to them is necessary for the full, fair and accurate reporting of the crime or legal proceedings.

CHAPTER FOUR: RELATIONSHIP WITH THE PUBLIC AND OTHER JOURNALISTS

- 4.1 **Chance of Reply:** The public and institutions should be given the opportunity to reply to statements made about them in the media.
- 4.2 **Privacy:** A journalist shall respect the individual's private life without intrusion or harassment.
- 4.3 **Transparency:** A journalist shall strive for transparency at all times.

CHAPTER FIVE: MEDIA HOUSES

- 5.1 **Dress:** Media houses shall ensure that all journalists in their employ are properly dressed.
- 5.2 **Policies:** Media houses shall ensure that their editorial policies are not in conflict with media ethics.
- 5.3 **Cheque-Book Journalism:** Media houses shall not demand any financial inducement in order to publish or exclude material from publication.
- 5.4 **Refutals:**
- (a) Media houses may publish refutals as long as they are meant to clarify the issue at stake.
- (b) The medium that published the story that is being refuted may run the refutation free of charge.
- (c) Media houses have the liberty to comment on any refutation.
- 5.5 **Media Relationship:** Media houses shall foster relations, exchange of ideas, debate and discussion among themselves.

CHAPTER SIX: DISCIPLINARY ACTION RESULTING FROM PROFESSIONAL MISCONDUCT

- 6.1 Any infringement of any of the provision of this Code shall constitute an act of professional misconduct.

- 6.2 The Ethics, Complaints and Disciplinary of Media Council of Malawi shall be responsible for enforcing the observance of this Code.
- 6.3 Upon receipt of complaint against a journalist the Ethics, Complaints and Disciplinary Committee shall proceed in accordance with the procedures set out in Media Council Malawi, Ethics Complaints and Disciplinary Committee's rules of procedure.

Provided that any action taken by the said Ethics Complaints and Disciplinary Committee shall have regard to the rules of natural justice and shall not prejudice the right of a journalist to seek recourse in a court of law

ETHICS, COMPLAINTS AND DISCIPLINARY COMMITTEE

COMPLAINTS AND ARBITRATION (PROCEDURES) RULES

These rules are made pursuant to Clause 9.1(ii) of the Constitution of the Media Council of Malawi and are intended to promote the Council's Code of Ethics and Professional Conduct.

RULE 1 COMPLAINTS

1. In these rules "Complainant" shall mean any person, legal or natural, association, body corporate, institution, organisation or society who/which shall lodge a complaint against any publisher for material printed or broadcast or for conduct against any media house, entity or practitioner.
2. "Respondent" shall mean any publisher of material whether printed or broadcast or any media house, entity or practitioner against whom a complaint has been lodged in respect of any published material or any alleged misconduct or breach of the Code.
3. A complaint shall be made as soon as possible, but not later than one month after the publication or the broadcast of any material or any alleged misconduct or breach of the Code of Ethics and Professional Conduct.
4. The Executive Director may upon reasonable grounds accept a late complaint if in his/her opinion there is a good and satisfactory explanation for the delay.
5. The complaint shall specify where and by whom the article was printed or broadcast, the date or time of such printing or broadcasting and where possible quotations or cuttings of the offending material must be provided.

6. Where the complaint is for misconduct or alleged breach of the Code of Ethics and Professional Conduct, the name of the Respondent must be mentioned and the time when and, where applicable, the place where, the alleged misconduct or breach took place and, where possible, reference must be made to the provision of the Code that has been breached.
7. The complaint shall be made to the Executive Director of the Media Council of Malawi either in person, or by telephone or in writing. "Writing" shall include cable, telex, fax and e-mail message. Where a complaint is made other than in writing it shall be reduced in writing by the Council's Secretariat.
8. Where the complaint is made against the Executive Director of the Media Council of Malawi or against the Ethics, Complaints and Disciplinary Committee, it shall be lodged with the Chairperson of the Council and where it is made against the Chairperson it shall immediately be referred to the Committee without any attempts by the Executive Director to resolve it.
9. Where the Executive Director declines to accept a complaint on any ground the complainant may request the Chairperson of the Committee to review the Executive Director's decision. In the event of the Chairperson overruling the Executive Director's decision, the matter shall proceed in the same manner as any other matter provided that for purposes of calculating time for its determination, time will start running from the date of the Chairperson's decision.

RULE 2 CONCILIATION PROCEDURE

1. The Executive Director shall immediately upon receipt of a complaint transmit it to the Respondent who shall be expected to comment on it within 14 days of its receipt. For purposes of this provision, a Respondent will be deemed to have received the complaint within 7 days after it is sent through the post, immediately a transmission report is out, if sent through a fax and where it is sent through e-mail, immediately it shows that it has been sent. For the avoidance of doubt, the maximum period within which a Respondent will be deemed to have received the complaint will be 7 days regardless of the manner of transmission.
2. The Executive Director shall allow the Complainant to comment on the Respondent's response within 14 days of the former's receipt of the response.
3. The Executive Director shall hold discussions with the parties on an informal basis with the objective of achieving a speedy settlement.
4. The Executive Director shall give his/her opinion to the parties as to the resolution of the dispute and if the parties accept this opinion it shall be binding on them as if it were the decision of the Committee. Where either party rejects the opinion, the matter shall immediately be referred to the Committee for

adjudication and the parties shall be advised that they may bring witnesses at such hearing and in the event that they want to furnish more written evidence, they must provide such evidence within 14 days of the Executive Director's decision to afford the Committee time to consider it.

6. Upon the matter being referred to the Committee for adjudication, the Chairperson of the Committee shall determine a date, time and venue for considering the dispute which shall be within 14 days of the receipt of such matter.

RULE 3

ADJUDICATION

- 3.1 The Executive Director shall submit copies of the parties' documents to the Chairperson of the Committee.
- 3.2. No further written material will be accepted from either party thereafter without the consent of the chairperson.
- 3.3. The Executive Director shall notify the parties of the date, time and venue at which the dispute will be adjudicated. It shall not be obligatory for either party to appear personally before the Committee, but they are entitled to attend and address the Committee. The Chairperson may however request the parties to appear personally. The Chairperson shall advise the parties that an adverse inference may be drawn from failure to comply with such request without good cause and, in case of a respondent, that costs might be awarded against him/her.
- 3.4. The parties shall be entitled to legal or other representation when appearing before the Committee.
- 3.5. If one or both parties appear before the Committee, the proceedings shall take the form of a round table discussion and not a trial. There shall be no formal taking of evidence and no new material may be introduced at the meeting without the consent of the Chairperson acting on the advice of the Committee.
- 3.6. The proceedings shall be public unless the Chairperson rules otherwise
- 3.7. The Committee shall deliberate over the issue and make its finding and give directions.

4. FINDINGS OF THE COMMITTEE

- 4.1. The Executive Director shall cause any findings, reason for a finding and/or requirements of the Committee to be sent to the complainant and to the respondent who shall carry out the Committee's directions to put into effect any decision which the Council may have taken.

- 4.2 The Committee may censure the offending party may direct that such party publishes the findings of the Council and an apology or retraction of the offending material within a prescribed period and where possible in such conspicuous manner as the offending article itself may have been published.
- 4.3 There shall be no right of appeal against the decision of the Committee within the Media Council of Malawi but parties are at liberty to pursue the matter in a court of law.
- 4.4 The Secretariat of the Media Council of Malawi shall in every year publish reports of cases handled by the Committee.