



**ASIA PACIFIC FORUM**  
ADVANCING HUMAN RIGHTS IN OUR REGION

**APF Operational Good Practice Guide**  
Building effective Commissioner/Ombudsman  
and SEO working relationships

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**Draft**  
**March 2018**  
SEO Network

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## Introduction

National human rights institutions (NHRIs) are unique, independent bodies. They are established to promote human rights, stand up for those in need of protection and to hold governments to account for their human rights obligations. To do this work, NHRIs are commonly given legal powers to:

- Monitor the human rights situation in the country and the actions of the State
- Provide advice to the State so that it can meet its international and domestic human rights commitments
- Receive, investigate and resolve complaints of human rights violations
- Encourage human rights awareness through education programs for all sections of the community
- Engage with the international human rights community to raise pressing issues and advocate for recommendations that can be made to their State.

Importantly, NHRIs operate as part of the state, but independent from Government. This independence gives them the authority to challenge government legislation, policies and practices if they do not meet human rights standards. This legal and operational independence is key to their effectiveness.

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“NHRIs can make a genuine difference in the lives of people of all ages and backgrounds. For those on the margins of society, NHRIs are often their only avenue to seek protection and justice.”

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NHRIs have a responsibility – to all people in the country and especially those most vulnerable to human rights violations – to deliver on the mandate that they have been given. This responsibility rests with the leadership team of the NHRI: the Commission members<sup>1</sup> and the senior executive officer (SEO).<sup>2</sup>

The Commissioners and the SEO are required to work together to ensure the effective and efficient operation of the NHRI; one that has the capacity and the courage to respond to the pressing human rights challenges in the country. Commissioners and the SEO will play different but complimentary roles. An effective working relationship is based on each party understanding, respecting and supporting the role of the other. The relationship between Commissioners and SEOs (and through the SEOs, other managers) is critical to the effectiveness of the NHRI.

Generally, Commissioners are appointed to the NHRI by the government<sup>3</sup> following a selection process. They serve in this capacity for a fixed term, generally between three and five years. Their responsibilities may be set out in a Constitution in legislation, and in a few cases, by Presidential decree. Broadly, this includes setting the strategic direction of the NHRI, overseeing the implementation of the NHRI's work program and reporting annually to parliament on the NHRI's efforts to promote and protect human rights. Some Commissioners may also be directly involved in the day-to-day operations of the NHRI.

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<sup>1</sup> Depending on the NHRI model, there may be Commissioners or an Ombudsman appointed. In this document, the term Commissioners, is intended to be used interchangeably with Ombudsman as these two models are in the Asia Pacific region

<sup>2</sup> Depending on the NHRI, the SEO may have the title of Executive Director, Secretary-General or similar.

<sup>3</sup> Appointments can also be made by Parliament, by the Head of State, by the Government of the day or a mixture of these bodies

The SEO is employed by the NHRI to manage the operations of the organisation, such as staffing, finance and managing the NHRI's relationships with key stakeholders, including government and civil society bodies. The SEO also supports and reports to the Commissioners, in their collective role as the NHRI's 'board of directors'.

Because of the unique nature of NHRIs, governance and management relationships are distinctive to NHRIs, and differ in some crucial aspects from traditional government ministries and from private sector companies. These relationships can create challenges for both leadership and management.

This Operational Good Practice Guide has been developed to support SEOs, especially those new to their respective roles, as they undertake their vital work to build a strong, independent and effective NHRI.

It draws on the insights, experiences and good practice of members of the **Senior Executive Officer Network**, which includes senior representatives from the APF's 24 member institutions. The topic for this guide was selected by the SEO Network at their annual meeting in August 2017.

The SEO Network is the most significant of the APF's professional networks. Established in 2001, it provides a platform for SEOs to exchange information and expertise and to collectively strengthen their capacity to address operational challenges faced they can face in administering NHRIs. See the APF website for more information on the SEO Network:

<http://www.asiapacificforum.net/support/promoting-collaboration/professional-networks/seo-network/>

## Affirming the Paris Principles

The [Paris Principles](#)<sup>4</sup> ("Principles Relating to the Status of National Institutions") set out in general terms how NHRIs should be established and operate. They do not prescribe any single model or set of models<sup>5</sup> or how NHRIs should be structured. States can therefore choose a model that best meets their national context.<sup>6</sup>

Many NHRIs are established on one primary model, although some may incorporate elements of another model. It is also important to recognise that no one model is more effective than another; each has its strengths and weaknesses.

The majority of NHRIs in the Asia Pacific region are based on the 'commission' model, some have been established as 'ombuds' offices, others as a Council. Given the diverse structures of NHRIs, a 'one size fits all' approach to addressing operational issues will not be suitable. There are a number of common challenges confronting NHRIs that Commissioners, Ombudsmen, other Board Members and SEOs can, and should, address together.

### Independence

A fundamental requirement of the Paris Principles is that NHRIs must have their independence guaranteed by legislation or the constitution. In addition to the legal guarantee of independence, which is properly the responsibility of the parliament, NHRIs must be independent in the way they operate. They should act – and should be seen to act – independently, with a program of work that responds to the most serious or systematic human rights violations in the country.

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<sup>4</sup> The Paris Principles were approved by a UN General Assembly resolution in 1993 and today are accepted as the international standard or test of an NHRI's independence and effectiveness.

<sup>5</sup> Classifying NHRIs into models is difficult as no classification works for every NHRI. Nonetheless, a classification system assists in understanding the range of choices available in establishing NHRIs and of the ways in which they operate when established. The classification system that is most helpful, and the one that is most commonly used, identifies the models as: the commission model; the ombuds model; the consultative council model; and the research institute model.

<sup>6</sup> Vienna Declaration and Programme of Action, A/CONF.157/23, Part I, para. 36.

*How can SEOs support this outcome?*

- Support Commissioners to develop an independent program of work, supported by complaints data and other relevant research and analysis
- Support the implementation of an independent program of work by advising on the appropriate and timely allocation of financial and other resources
- Support the implementation of an independent program of work by hiring appropriately qualified staff and ensuring their ongoing professional development.

## **Pluralism**

The ultimate purpose of pluralism, as set out in the Paris Principles, is to ensure the NHRI can establish 'effective cooperation' with other parts of government and society. Pluralism and diversity are important: they enhance an institution's independence, credibility and effectiveness; they increase the likelihood of cooperation and collaboration with other stakeholders, and they demonstrate that the institution takes equality seriously.

Pluralism should be reflected in the diversity of Commissioners appointed to the NHRI. However, this is not always the case and the appointment process is outside the control of the NHRI. Further, those NHRIs that are established on the ombuds model may have only one Commissioner/Ombudsman.<sup>7</sup>

Staffing, however, should be entirely within the control of the NHRI. Pluralism in the composition of the staff can enhance and strengthen the visibility of an NHRI's commitment to diversity and positively influence the credibility and effectiveness of NHRI activities, including complaint handling and investigations.

*How can SEOs support this outcome?*

- Ensure that all aspects of the NHRI's recruitment process – including developing position descriptions, advertising positions and interviewing applicants – are inclusive and accessible to ensure a diverse pool of suitably qualified applicants
- Promote the establishment of NHRI advisory groups that draw on the expertise of a broad cross-section of the community, as well as identify those issues that should be brought to the attention of panel members for their consideration and comment

Good practice example: Advisory panel established by the Ombudsman of Samoa ...

- Promote pluralism in the selection of topics for research projects, seminars and in public education materials
- Promote pluralism in the selection of facilitators for NHRI workshops or events, the groups of people who are invited to attend and the locations in which they are held.

## **Supporting new Commissioners**

New Commissioners appointed to the NHRI will often come from a diverse range of backgrounds. For example, they may be former judges, government officials, civil society advocates, academics or faith leaders. All will bring knowledge, skills and relationships that can greatly strengthen the work of the NHRI.

Newly-appointed Commissioners may, however, be unfamiliar with the unique role and mandate of the NHRI, as well as their specific legal responsibilities as Commission members. Building this knowledge

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<sup>7</sup> Some NHRIs in the Asia Pacific provide for one or two deputy ombuds positions.

ensures that new Commissioners are well placed to understand where and how the NHRI can affect change and how they can most effectively contribute to the organisation's strategic goals.

#### *How can SEOs support this work?*

SEOs can support new Commissioners by providing a comprehensive induction process to introduce the key aspects of the NHRI's legal framework and work priorities. This induction program, implemented in a phased approach over the first few months of a Commissioner's term, could include briefings on the:

- Legal framework relating to the role and mandate of the NHRI, including its founding legislation (which may include obligations of the SEO), its relationship with other state institutions and human rights standards set out in the Universal Declaration of Human Rights and international human rights treaties to which its State is a party
- International human rights framework, including the Paris Principles and the role of the NHRI in relation to the UN Human Rights Council, the human rights treaty bodies, the special procedures and the Universal Periodic Review, as well as with regional and global NHRI bodies, including the APF and GANHRI<sup>8</sup>
- Current NHRI priorities and programs, as set out in the existing strategic plan or annual plan, legacy work flowing from previous NHRI initiatives, key complaints and investigations before the NHRI and other issues that may have come to the attention of the NHRI
- Responsibilities of NHRI staff, including internal reporting lines and the responsibilities and accountabilities of key positions
- Media responsibilities of Commissioners, including whether they would benefit from a program of media training.

The APF offers a High Level Dialogue to engage newly-appointed Commissioners in a conversation on their responsibilities and their individual and collective goals. The two-day meeting is facilitated by one of the APF's Expert NHRI consultants – who are themselves former Commissioners – and includes topics such as the key elements of effective NHRIs, the role and responsibilities of Commissioners, their national and international accountabilities, and the capacity building support available to NHRIs in the Asia Pacific through the APF.

## Defining roles and responsibilities

Commissioners and SEOs must be clear about their respective roles to inform, implement and report on the NHRI's work program. Clarifying these roles and responsibilities ensures that the NHRI can operate as effectively and as efficiently as possible, with clear strategic priorities, delegations, reporting procedures and internal policies. It also ensures that the NHRI has the leadership capability to respond promptly and confidently to internal or external crises that may arise.

#### *How can SEOs support this outcome?*

SEOs should ensure that time is allocated early on in the term of the Chairperson and Commissioners to discuss and clarify roles and responsibilities in relation to:

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<sup>8</sup> More information on this topic is available in [International Human Rights and the International Human Rights System: A Manual for National Human Rights Institutions](#) (APF, 2012).

- Setting the strategic direction of the NHRI, including the development and adoption of the strategic plan and the annual business plan
- Meeting the NHRI's international and national reporting obligations, including preparation of the annual report and the audited financial accounts
- Management and oversight of staff and resources, including a clear delineation of responsibilities and lines of reporting
- Recording formal delegations, including financial and personnel delegations
- Implementation of existing organisational policies and a process to guide the development of additional policies, as required
- Developing robust performance indicators and monitoring and evaluation processes.

## Setting the NHRI's strategic direction

No NHRI has the resources – human or financial – to do everything it may want to do. It is therefore up to the leadership of the NHRI to identify the human rights priorities in the country and determine how best it can allocate its resources to affect change. These priorities will be articulated through the NHRI's strategic plan.

If all Commission members are appointed at the same time, it may be appropriate to review and revise the NHRI's strategic direction early in the life of this leadership group. If one Commissioner is appointed to join an existing NHRI leadership team, it may be appropriate to discuss with the Commissioner how best s/he can contribute to the organisation's priorities for the remainder of the strategic plan and then help shape the subsequent strategic plan.

The SEO can encourage a sense of continuity in the NHRI's strategic direction, in order to foster understanding of and support for the NHRI among its stakeholders and the community. The SEO should also advise the Commissioners on the capacity of the NHRI to deliver on the commitments made in the strategic plan and to respond to unforeseen issues when they arise. In addition, the SEO should ensure there is a robust process in place to monitor implementation of the strategic plan and support the NHRI's reporting requirements.

*How can SEOs support this outcome?*

- Contribute to the vision, values and strategic direction of the NHRI, that is formally adopted by the Commissioners
- Ensure that the Commissioners have access to up-to-date data and analysis to inform the development of the NHRI's strategic plan
- Provide management expertise to ensure that adequate resources are available to implement the NHRI's strategic plan
- Develop a monitoring framework to assess the implementation and impact of the NHRI's strategic plan
- Develop a process to assess reactive issues that come to the attention of the NHRI and make a recommendation to the Commissioners as to which issues should be pursued
- Allocate sufficient time and resources so that the NHRI is able to respond to reactive issues as they arise.

The Paris Principles provides that “a national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.” This mandate must include the responsibility to both promote and protect human rights. Promotion can include measures such as public education, publishing reports, engaging with the news media or using social media to ensure that individuals understand human rights standards and their responsibility to respect the rights of others. Protecting human rights requires the NHRI to ensure that there are effective mechanisms in place to investigate complaints or monitor the human rights situation.

## Building trust and credibility in the NHRI

Commissioners and SEOs have a responsibility to foster an organisational culture that reflects the human rights principles it promotes more broadly. The NHRI should be accessible to the public, accountable to the parliament, transparent in its reporting and support its staff to work to the best of their abilities.

A human rights-based approach to managing the operations of the NHRI helps build trust in the NHRI among its stakeholders. SEOs should also be attuned to those issues that have the potential to undermine the credibility of the NHRI or damage its relationships with key stakeholders, and have strategies in place to manage those situations.

*How can SEOs support this outcome?*

- Ensure a rigorous process to data collection and analysis underpins the NHRI’s reporting, based on principles of integrity, accountability and transparency
- Build open and constructive relationships with NHRI stakeholders (government, business and civil society) and encourage them to engage with the NHRI on substantive issues
- Recognise potential areas of risk – both internally and externally – and take proactive steps to mitigate that risk and protect the NHRI’s reputation
- Encourage and support efficient performance among NHRI staff, with a focus on meeting the high expectations of the public.

## Maintaining a positive working relationship

Independent and effective NHRIs can be powerful agents for change. They have the potential to make a lasting difference in the lives of individuals, especially those who are vulnerable to human rights violations. Strong and consistent leadership is the cornerstone of an effective NHRI.

Commissioners and SEOs share the responsibility to develop and maintain a positive working relationship. This collaboration ensures that there is a clear focus on how best to deliver on the NHRI’s strategic objectives and, when challenges arise, how best to address those hurdles in a collaborative manner.

*How can SEOs and Commissioners support this outcome?*

- Invest time for the Chairperson and the SEO to meet on a regular basis
- Invest time for the Commissioners and the SEO to meet, either individually or collectively
- Invest time for Commissioners and other staff to meet
- Agree on clear and regular communication to manage expectations

- Agree on timely actions or allocated time for decision making
- Identify and understand Commissioners' experience i.e. for specific human rights issues, that could be shared with staff for mutual knowledge exchange
- Reaffirming the role and responsibilities of the SEO in relation to different management and project-based issues, and how this role supports and complements the role of Commissioners.