

# THE INSTITUTE FOR LOCAL GOVERNMENT MANAGEMENT

## Constitution

as amended on 23 July 2014

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### Preamble

The Institute for Local Government Management of South Africa (ILGM) is constituted with the primary objective of enhancing the managerial skills of persons in managerial positions in local government.

Through the development of managerial expertise, the ILGM aims to make a meaningful contribution to achieving cost effective and efficient services for all communities.

The ILGM recognises that it is part of a bigger system of governance and therefore encourages interdependency and co-operation with other bodies serving the interest of local governance.

The Constitution incorporates and strives to give effect to the following basic principles:

**Accessibility:** Admission criteria aimed at promoting access to membership and steering away from an exclusive approach.

**Democracy:** The election of office bearers and the general conduct of the affairs of the institute in a democratic manner and transparent processes, recognising the need for wide consultation.

**Transformation:** Recognition of the transformation of local government and acceptance of the responsibility to contribute to community development by enhancing managerial skills of managers in local government.

**Professionalism:** An institute with a professional approach which performs its functions with full recognition of and respect for other related organisations

**Representativity:** A membership base which reflects as broad a representation of the demographics of society as possible.

### 1. DEFINITIONS AND INTERPRETATION:

1.1 In the Constitution the following words and expressions shall have the following meaning set opposite them respectively, unless the contrary appears:

1.1.1 Annual General Meeting A meeting of the members of the Institute convened annually.

1.1.2 CEO The CEO of the Institute.

1.1.3 Constitution This Constitution of the Institute for Local Government Management of South Africa.

1.1.4 Enfranchised Member A member entitled to vote at any meeting of the Institute.

1.1.5 Institute The Institute for Local Government Management of South Africa.

1.1.6 Local Government A body established as provided for in section 151 of the Constitution of the Republic of South Africa, 1996, provincial department/directorate of local government, South African Local Government Association, Department of Provincial & Local Government, companies wholly owned by municipalities, companies performing duties exclusively for municipalities.

1.1.7 Managerial Post A senior management position in a local government held by any official, who in the opinion of the NEC of the Institute, occupies a managerial and/or senior post in local government.

1.1.8 NEC The National Executive Committee established in Clause 24.

1.1.9 PCC The Presidential Co-ordinating Committee of the Institute

1.1.10 South Africa The national territory of the Republic of South Africa as comprised, from time to time, in the Constitution of the Republic of South Africa.

1.2 Any reference to the singular includes the plural and vice versa.

1.3 Any reference to natural persons includes legal persons and vice versa.

1.4 Any reference to a gender includes the other gender.

1.5 If any definition contains a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive provision in the body of this Constitution notwithstanding that it appears only in the definition clause.

1.6 The clause headings in this Constitution have been inserted for convenience only and shall not be taken into account in its interpretation.

1.7 Words and expressions defined in any sub-clause shall, for the purposes of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.

1.8 This Constitution shall be governed by and construed and interpreted in accordance with the Law of the Republic of South Africa.

## **2. NAME**

2.1 The name of the Institute is the Institute for Local Government Management of South Africa.

2.2 The abbreviated name of the Institute is ILGM.

2.3 The Institute shall be entitled to change its name in accordance with the provisions of this Constitution relating to the amendment of any of its provisions.

## **3. LEGAL PERSONALITY**

The Institute is a legal persona with the capacity to sue and to be sued in its own name and furthermore to acquire assets in its own name and shall as such be a legal person distinct from its members. The Institute has locus standi to institute and defend proceedings on behalf of its members.

## **4. AREA OF OPERATION**

The area of operation of the Institute comprises that area demarcated as South Africa.

## **5. OBJECTS OF THE INSTITUTE**

The principal object of the Institute is to promote the common interest of its members holding managerial positions in local government by enhancing their managerial skills. In furtherance of its preceding principal objective, the Institute undertakes:

5.1 To research, promote research and develop the management sciences pertaining to local governance so as to promote and ensure the effective teaching and training of managerial skills for local governance.

5.2 To promote membership of the Institute as a primary consideration for the appointment of persons in managerial posts in local government.

5.3 To promote the image of local governance.

5.4 To develop criteria which will guide the selection of candidates into local government managerial posts.

5.5 To determine the admission requirements for the various membership categories.

5.6 To deliberate on matters concerning local governance.

5.7 To deliberate on all matters concerning the duties and responsibilities of officials in managerial posts.

5.8 To deliberate with other associations, institutes or institutions and to act jointly in matters that may promote the purpose of the Institute.

5.9 To establish and maintain an information centre concerning local governance, undertake investigation into all aspects of local governance, hold meetings and congresses separately or jointly with other associations, institutes and institutions with reconcilable aims to promote the objects of the Institute and matters incidental thereto and when requested by the national, provincial or a local government or other institution or body, give advice and assistance on matters pertaining to local government or on its own initiative make representations concerning such matters.

5.10 To print, publish, sell, loan and distribute any communiqué to or for the Institute or a similar institute or association, any report of the proceedings and actions of the Institute or a similar institute or association or any act, bill, circular or official document and to buy, reproduce, print, publish or distribute, whether separately or jointly with any other institute or association, any other book, lecture, dissertation or communiqué regarding local government and administration.

5.11 To promote the professionalism of its members.

5.12 To undertake and execute any task entrusted to the Institute conducive to its objects.

5.13 To initiate, provide technical advice, promote or challenge proposed legislation pertaining to local governance to enhance effectiveness and efficiency within the framework of the guidelines in the Constitution of the Republic of South Africa.

5.14 To develop or support criteria and guidelines that will promote community participation in local government.

## **6. POWERS**

The Institute shall have the following powers:

6.1 To purchase or acquire any movable or immovable property.

6.2 To manage, insure, lease, mortgage, dispose of, give in exchange, work, develop, build on, improve, turn to account or in any way otherwise deal with its undertaking or all or any part of its property and assets.

6.3 To apply for, purchase or by any other means acquire, protect, prolong and renew any patents, patent rights, licences, trade marks, concessions or other rights and to deal with and alienate them as provided in 6.2.

6.4 To borrow money.

6.5 To secure the payment of monies borrowed in any manner including the mortgaging and pledging of property.

6.6 To lend money to any person or company.

6.7 To open and operate banking accounts and to overdraw such accounts.

6.8 To make, draw, issue, execute, accept, endorse and discount promissory notes, bills of exchange and any other kind of negotiable or transferable instruments.

6.9 To enter into indemnities, guarantees and suretyship and to secure payment thereunder in any way.

6.10 To remunerate any person or persons for services rendered to the Institute.

6.11 To make donations for the purpose of promoting and financing the objects of the Institute.

6.12 To pay gratuities and pensions and establish pension schemes in respect of its officers and employees.

6.13 To make donations to any company or institute with objects similar to those of the Institute.

6.14 To appoint officers and employees for the execution of its powers.

6.15 To buy, lease or acquire by any other means, movable or immovable property for the purposes of the Institute and to sell, hire out or dispose of such property in any way.

6.16 To maintain or alter movable or immovable property or erect buildings on land of the Institute for purposes of the Institute.

6.17 To negotiate loans for its activities and ensure repayment thereof by means of debentures, bonds, mortgage bonds or notarial bonds.

6.18 To invest money not required to defray running expenses with any financial institution or on first mortgage bond on immovable property.

6.19 In general, to do all such things and perform all such acts as the Institute may deem expedient in the interests of its members and in pursuance to its objects, which are not calculated to hinder the attainment of the objects of any law or are unreasonable in relation to the members or public.

6.20 The institute may not directly or indirectly distribute any of its funds or assets to any person other than in the course of furthering its objectives.

6.21 The Institute is required to utilize substantially the whole of its funds for the sole or principal object for which it has been established.

6.22 No member may directly or indirectly have any personal or private interest in the Institute.

6.23 Substantially the whole of the activities of the Institute must be directed to the furtherance of its sole or principal object and not for the specific benefit of an individual member or minority group.

6.24 The Institute may not have a share or other interest in any business, profession or occupation which is carried on by its members.

6.25 The Institute must not pay to any employee, office bearer, member or the other person any remuneration, as defined in the Fourth Schedule, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.

6.26 Substantially the whole of the Institutes funding must be derived from its annual or long term members or from an appropriation by the government of the Republic in the national, provincial or local sphere.

6.27 The Institute must as part of the dissolution transfer its assets to:

6.27.1 Another Institute approved by the Commissioner in terms of this section.

6.27.2 A Public benefit organization approved in terms of section 30.

6.27.3 An Institute, Board or Body which is exempt from tax under section 10(1)(cA)(i); or

6.27.4 The government of the Republic in the national, provincial or local sphere.

6.28 The Institute will comply with such reporting requirements as may be determined by the Commissioner from time to time.

6.29 The Institute is not knowingly or will not knowingly become a party to, and does not knowingly and will not knowingly permit itself to be used as part of, an impermissible avoidance arrangement contemplated in Part IIA of Chapter III, or a transaction, operation or scheme contemplated in section 103(5).

## **7. SPECIAL CONDITIONS**

7.1 The income and property of the Institutes shall be applied solely towards the promotion of its objects and no portion thereof shall be paid or transferred, directly or indirectly, to the members of the Institute provided that nothing herein contained shall prevent the payment of reasonable remuneration to an officer or employee of the Institute or compensation to a member for:

(a) any services actually rendered to the Institute;

(b) travelling and other expenses to such persons arising from their attendance of the Institute's business.

7.2 Upon its winding-up or dissolution the assets of the Institute remaining after satisfaction of all its liabilities shall be donated or transferred to some company or institution having objects similar to the objects of the Institute.

## **8. MEMBERSHIP**

Membership of the Institute shall consist of the following:

### **8.1 FULL MEMBERS**

Any person who:

8.1.1 occupies a managerial position in local government; and

8.1.2 has obtained a three year post-matric qualification; or

8.1.3 has successfully completed such courses as may be prescribed from time to time by the Institute;

Provided that the NEC may relax or waive the qualification requirements for full membership, subject to a member so admitted obtaining the qualification requirements prescribed in subclauses 8.1.1, 8.1.2 or 8.1.3 within such period of time as determined by the NEC.

### **8.2 STUDENT / TRAINEE MEMBERS**

8.2.1 Any person who is registered for a course at an acknowledged educational institution which is, in the opinion of the NEC, suitable for a managerial or administrative career in local government;

8.2.3 Any person who, on completion of a course referred to in 8.2.1 shall be entitled to apply for membership as contemplated in 8.1 or 8.5.

### **8.3 FELLOW MEMBERS**

Any person who:

8.3.1 is a full member of the Institute; and

8.3.2 has rendered exceptional service to -

8.3.2.1 the Institute with regard to its objects; and/or

8.3.2.2 local governance in general; and

8.3.3 is recommended by a PEC, provided that the NEC can also initiate such nomination; and

8.3.4 receives the support of majority of the votes of the NEC for his/her admission.

#### 8.4 HONORARY MEMBERS

The NEC may, in its discretion confer honorary life membership of the Institute on any person who has rendered exceptional service to the Institute.

#### 8.5 SPECIAL CATEGORY MEMBERS

Any person who:

8.5.1 is a member of a professional institute or association outside South Africa which, in the opinion of the NEC, promotes objectives which are reconcilable with the objectives of the Institute, or possesses a qualification and has experience which in the opinion of the NEC equips such person with suitable managerial competencies; or

8.5.2 is not in the employ of local government and has complied with the admission requirements of the Institute or to whom exemption from compliance with the said admission requirements has been granted, may be admitted by the NEC as a special category member.

### **9. APPLICATION FOR MEMBERSHIP**

9.1 An application by any person to become a member of the Institute shall be submitted in writing to the CEO accompanied by:

9.1.1 the personal particulars of the applicant as the NEC may from time to time determine;

9.1.2 the business and residential address of the applicant;

9.1.3 an undertaking signed by the applicant to abide by the Constitution.

9.2 The NEC shall consider all applications for membership and shall only confer membership on a person if it is satisfied that such person is fit for admission to a specific category of membership.

9.3 Subject to the provisions of this Constitution a resolution by the NEC with regard to the admission of a person to a specific category of membership shall be final.

### **10. CHANGE OF MEMBERSHIP**

10.1 A full member who leaves the service of local government shall cease to be a member of the Institute unless he/she on application is granted special category membership in accordance with 8.5.



10.2 A special category member may, if he/she takes up employment with a local government and satisfies the requirements for full membership, apply for admission as such member.

## **11. LIST OF MEMBERS**

The CEO shall keep an up to date list of members reflecting, in relation to each member:

11.1 his/her name;

11.2 his/her office;

11.3 the local government where employed;

11.4 his/her membership category;

11.5 his/her residential and business address;

11.6 his/her academic qualifications;

11.7 his/her practical experience at the time of application.

## **12. RIGHTS OF MEMBERS**

Every member, except a student/trainee member, special category and an honorary member, shall enjoy the same rights and shall be entitled to vote and to hold office.

## **13. DUTIES OF MEMBERS**

13.1 A member shall be obliged -

13.1.1 upon admission and subsequently annually before 30 September, to pay the membership fee which the NEC may from time to time determine; and

13.1.2 to advise the CEO as soon as possible of any change of his office, employer, residential and business address and academic qualifications.

13.2 A member shall remain liable for payment of any amount:

13.2.1 which he/she owes to the Institute; and

13.2.2 of his/her annual membership fee for the year in which he/she resigns as a member.

## **14. TRANSFER OF MEMBERSHIP**

Membership of the Institute is not transferable.

## **15. EXPIRY DATE OF MEMBERSHIP**

15.1 Membership of the Institute shall expire:

15.1.1 on the date of death;

15.1.2 on receipt by the CEO at the registered office of the Institute a written resignation;

15.1.3 when annual membership fees have not been paid by 30 September of any year; provided that the NEC may suspend this provision at the written request of such member and with due regard to the circumstances;

15.1.4 in the case of a student member if he/she terminates the course relevant to local government.

15.2 A person whose membership has expired may, on written application, be re-admitted by the NEC subject to such conditions as it may determine.

## **16. TERMINATION OF MEMBERSHIP**

The NEC may, on a majority vote of two thirds of all the members of the NEC, terminate the membership of a member who in the opinion of the NEC:

16.1 no longer satisfies the requirements of membership;

16.2 is guilty of unprofessional conduct or conduct which is detrimental to the status of the Institute.

## **17. HEAD OFFICE**

The head office of the Institute shall be situated at such address as the NEC may from time to time determine.

## **18. PROVINCES**

18.1 In order to promote the objects of the Institute, the NEC:

18.1.1 shall divide its area of operation into provinces as constituted in terms of the Constitution of the Republic of South Africa Act 108 of 1996.

18.2 Every member of the Institute, excluding an honorary member referred to in clause 8.4, and a special category member referred to in clause 8.5 shall be a member of a province.

18.3 If the NEC admits a person as a special category member it shall forthwith include such member in the province deemed to be the most convenient for such member.

18.4 No member of the Institute shall be a member of more than one province.

18.5 The Provincial Secretary shall compile, in collaboration with the CEO, a list of members of the province reflecting the information contemplated in Clause 11.

18.6 One or more provinces may jointly perform their powers.

## **19. PROVINCIAL EXECUTIVE COMMITTEE (PEC)**

19.1 The members of the province shall elect from among their ranks by way of ballot, a PEC, consisting of not more than **ten (10)** members which broadly represents the province. A PEC shall be elected at each general meeting of the province as contemplated in clause 21.1 and members of the PEC shall be eligible for re-election.

19.1.1 The CEO, or a person authorised by him/her, shall conduct the election of the PEC, which is composed of a Chairperson, Vice Chairperson, **Treasurer**, Provincial Secretary and **six (6)** additional members.

**19.1.2 The term of the office of the PEC shall be two (2) years.**

19.2 A PEC shall from among its rank:

19.2.1 designate a member or members with an alternate or alternates to represent the province on the NEC;

19.3 A member of a PEC shall vacate his/her office as member of the PEC if, as a result of change of employment, he/she becomes a member of another province.

**19.4 The PEC shall elect District Chapters of five (5) members which should be composed of Chairperson, Secretary and three (3) members**

## **20. MEETINGS OF PROVINCE AND PEC**

20.1 A general meeting of the province where a report is made of the activities of the PEC and the financial statements of the province are approved shall be held at least once a year and not less than ninety (90) days before the Annual General Meeting of the Institute.

20.2 A PEC shall meet as often as it may deem expedient and shall determine the proceedings of such meeting: Provided that it shall meet at least once a year at a venue and date as determined by the chairperson of the PEC.

20.3 The Provincial Secretary of the PEC shall give notice in writing to every member in a province of a general meeting and to the members of the PEC of its meetings and shall specify:

20.3.1 the venue, date and time of the meeting; and

20.3.2 the matters to be discussed at such meeting.

## **21. POWERS OF THE PEC**

21.1 A PEC may:

21.1.1 subject to the directives determined by the NEC promote the objects of the Institute;

21.1.2 co-operate with a municipal association, other institutes or institutions of local government in the province;

21.1.3 make arrangements or cause arrangements to be made for any group of members of the Institute or of members and non-members to meet to discuss matters peculiar to the duties of such persons;

21.1.4 apply to the NEC for funds and invest such funds when such funds are not immediately required to defray expenses;

21.1.5 exercise such other powers and perform such other duties assigned to it under this Constitution, the rules or by the NEC.

## **22. PRESIDENT, VICE-PRESIDENT AND IMMEDIATE PAST PRESIDENT**

22.1 Subject to the provisions of this clause the Vice-President of the Institute shall be elected by way of ballot at the annual general meeting. Candidates for election shall be nominated by a province and such nomination(s) shall be regarded as having duly been seconded.

22.2 The President shall hold office for a period of two years and upon expiry thereof, the Vice-President shall succeed to the office of President.

22.3 The President and Vice-President shall not be members of the same province except where no other valid nomination in respect of a vice-president is received or where a president or vice-president after the election should become a member of the same province in consequence of a change in employment in either case.

22.4 Where a casual vacancy occurs in the office of the President or Vice-President, steps shall immediately be taken for the election by members of the NEC of a president or vice-president as the case may be, from the ranks of the NEC, for the duration of the unexpired term.

22.5 The provisions of Clause 28 shall mutatis mutandis be applicable to the office of President and Vice-President.

22.6 The President, Vice-President and Immediate Past President are a PCC, which shall be led by the President.

## **23. MEETINGS OF THE PCC**

23.1 The PCC shall meet as often as may be necessary and shall determine the manner in which meetings of the PCC are convened and the proceedings to be followed at such meetings;

## **24. POWERS OF THE PCC**

24.1 The PCC shall monitor progress of the day to day running of the Institute's administration, including;

24.1.1 taking decisions not inconsistent with the decisions of the NEC or the AGM; and

24.1.2 taking corrective steps to ensure compliance with the objectives of the Institute.

## **25. REPORTS OF THE PCC**

25.1 All decisions or actions taken by the PCC must be reported to the following meeting of the NEC

## **26. COMPOSITION OF NEC**

26.1 The NEC shall consist of:

26.1.1 the President;

26.1.2 Vice-President;

26.1.3 Secretary

26.1.4 Treasurer

26.1.5 Two members representing each province as contemplated in Clause 19.2.1 and designated in the manner determined therein.

The CEO shall provide administrative support.

## **27. CHANGE IN COMPOSITION OF NEC**

27.1 The Institute may at an annual or extraordinary general meeting by resolution:

27.1.1 change the composition of the NEC;

27.1.2 increase or decrease the number of its members;

27.1.3 appoint members who shall have no vote on the NEC;

27.1.4 change the term of office of members.

## **28. VACATING POSITION AS MEMBER OF NEC**

28.1 A member of the NEC will remain in office until his/her successor has been designated: Provided that, where a member has resigned, a vacancy shall arise as from the date stipulated in his/her written notice of resignation or, in the absence of such stipulation, immediately on the date of receipt of such notice by the CEO.

28.2 A member who has resigned from the NEC may be re-elected.

28.3 A member designated by virtue of Clause 19 who, as a result of a change of employment becomes a member of another province, shall vacate his/her office as member of the NEC as from the date when he/she assumes such other employment.

28.4 A member of the NEC shall vacate his/her office when he/she:

28.4.1 ceases to be an enfranchised member of the Institute;

28.4.2 is suspended for a period as member of the Institute;

28.4.3 becomes insolvent;

28.4.4 is declared insane;

28.4.5 is found guilty of an offence of which dishonesty is an element;

28.4.6 is sentenced to imprisonment without the option of a fine or

28.4.7 failed to attend three (3) consecutive meetings of the NEC without having given prior written notice thereof to the CEO and such leave of absence had not been granted by the NEC.

## **29. VACANCIES IN NEC**

When a vacancy in the office of a member referred to in Clause 26.1.4 occurs in the NEC, the PEC which designated such member shall redesignate another member to represent the province on the NEC for the unexpired term of such first mentioned member on the NEC.

## **30. MEETINGS OF NEC**

30.1 The President or, in his/her absence, the Vice-President, shall act as chairperson of a NEC meeting.

30.2 If both the President and Vice-President are absent from a meeting of the NEC, the members present shall elect a person from their own rank to act as chairperson at such meeting.

30.3 The NEC shall meet as often as may be necessary and shall determine the manner in which meetings of the NEC are convened and the proceedings to be followed at such meetings; provided that:

30.3.1 The CEO, at the request of the President or at the written request of any three provinces, shall convene a meeting of the NEC;

30.3.2 a quorum for a meeting of the NEC shall be constituted by a majority of provinces;

30.3.3 subject to the provisions of this constitution every resolution of the NEC shall be passed by a majority of fifty percent (50%) plus one (1) of the NEC members present when such resolution is taken.

30.3.4 every member of the NEC shall have one (1) vote and, in the event of an equality in votes, the chairperson shall have a second or casting vote in addition to his/her deliberative vote.

### **31. POWERS OF NEC**

31.1 The NEC may make rules not contrary to the provisions of this Constitution in respect of:

31.1.1 the admission and annual membership fees payable by the various categories of members;

31.1.2 the requirements and qualifications that have to be met by candidates who wish to become members of the Institute;

31.1.3 the training and evaluation of a candidate who wishes to qualify as a member;

31.1.4 the issuing of certificates and diplomas;

31.1.5 the proceedings of the Annual General Meeting in so far as such procedures are not regulated in this Constitution;

31.1.6 any other matter it may deem necessary towards attaining the objects of the Institute.

31.2 All rules or amendments thereof shall be submitted to the members for information not later than the date of the forthcoming Annual General Meeting.

31.3 Subject to the provisions of this Constitution and the rules, the NEC shall also have the power to:

31.3.1 appoint and dismiss a CEO and any other functionary of the Institute;

31.3.2 determine the conditions of service, remuneration and honoraria;

31.3.3 prescribe duties and powers of such officials;

31.3.4 approve and review the business plan of the Institute;

31.3.5 approve and review the annual budget of the Institute

31.4 The NEC may

31.4.1 invest in the name of the Institute monies of the Institute not immediately required for purposes of the Institute with a financial institution; and

31.4.2 invest monies of the Institute not immediately required on first mortgage bond on immovable property.

31.4.3 grant appropriate funds of the Institute to a PEC;

31.4.4 conduct or cause to be conducted the evaluation of persons who wish to qualify as members; and

31.4.5 exercise all powers and take such steps as may be necessary or desirable for attaining the objectives of the Institute.

31.5 Delegate any of its functions to a PEC, a member of the NEC or its CEO.

31.6 No single person may directly or indirectly control the decision-making powers relating to the entity.

31.7 The Nec will submit any amendments of the constitution or written instruction of the Institute to the Commissioner within 30 days of its amendments.

## **32. DUTIES OF CEO**

32.1 The CEO shall be responsible for:

32.1.1 the compiling of agendas, submission of agendas and the recording of minutes of the NEC and PCC's proceedings and preparation of the report referred to in clause 38.1.3

32.1.2 the safekeeping of documents, records and registers of the Institute;

32.1.3 the updating of the register of members; and

32.1.4 any other duty or power prescribed in accordance with Clause 31.3.3.

## **33. VALIDITY OF ACTIONS**

Any action of the NEC, a committee thereof or of a member who acts, by virtue of authorization by the NEC, with plenary powers, irrespective of the fact that it may be found that an irregularity of whatever nature occurred relative to the election or nomination of



such a member, shall be valid and of force as if such election or nomination had been conducted properly.

#### **34. INDEMNIFICATION AND COMPENSATION OF THE NEC AND FUNCTIONARIES**

34.1 The NEC -

34.1.1 may consider to compensate a member of the NEC and the NEC's functionaries from funds of the Institute for any cost, damage and expenses incurred in the execution of his/her normal powers and duties or specifically authorised;

34.1.2 shall not be liable for any loss or damage suffered by the Institute which may have arisen from the execution of such powers and duties unless such loss or damage were caused by the deliberate or negligent action of such member or functionary.

#### **35. ANNUAL GENERAL MEETING**

An Annual General Meeting of the Institute shall be held once in every calendar year during the month and at such venue as the NEC may from time to time determine.

#### **36. EXTRAORDINARY GENERAL MEETINGS**

36.1 The NEC may, in its discretion, convene an extraordinary general meeting of the Institute and, subject to the provisions of 36.2, shall convene such meeting, upon receipt by the Executive Director of a request signed by at least twenty percent (20%) of the enfranchised members which request may consist of various documents in the same form, each of which is signed by one or more of the enfranchised members in which the purpose of such meeting is set out.

36.2 If the NEC fails to convene a meeting within thirty (30) days of the submission of a request referred to in 36.1 the members who submitted the request may convene such meeting to be held on a date not later than ninety (90) days after submission of such request.

36.3 A meeting contemplated in 36.2 elects a chairperson from the ranks of enfranchised members.

#### **37. NOTICE OF ANNUAL GENERAL MEETINGS AND EXTRAORDINARY MEETINGS**

37.1 A written notice shall be given personally by ordinary mail by the CEO to every member of the Institute at least thirty (30) days before an Annual General Meeting and extraordinary general meeting of the Institute (unless at a preceding annual general meeting it has been decided otherwise) and shall specify:

37.1.1 the venue, date and time of the meeting; and

37.1.2 the matters to be discussed at such meeting.

37.2 The non-receipt by a member of a notice referred to in 37.1 shall not invalidate the proceedings at such meeting.

### **38. PROCEEDINGS AT MEETINGS**

38.1 At an Annual General Meeting

38.1.1 the accounts and annual financial statements;

38.1.2 the report of the auditor;

38.1.3 the report of the NEC;

38.1.4 the appointment of an auditor and his/her remuneration;

38.1.5 any other matter submitted;

38.1.6 all matters required by this Constitution; shall be dealt with, considered and approved or rejected.

38.2 At an Extraordinary General Meeting only the matters specified in the notice shall be considered.

### **39. QUORUM**

39.1 A quorum at any meeting of members of the Institute shall be twenty (20%) of the total number of enfranchised members.

39.2 When, within half an hour of time for which a meeting was convened, there is no quorum;

39.2.1 the meeting shall, if it is one that has been convened by virtue of Clause 36.2 at the request of members disband; and

39.2.2 if it is any other meeting, it shall adjourn to one hour later on the same day or to the same hour at the same venue the following day: Provided that if at the adjourned meeting a quorum is still not present within half an hour of the time determined for such meeting, the meeting shall be disbanded.

### **40. CHAIRPERSON**

40.1 The President is the chairperson of the meeting of the Institute or if he/she is absent, the Vice-President shall act as chairperson of such a meeting.

40.2 If the President and the Vice-President are temporarily absent from a meeting the members present shall elect from among their own rank a person to act as chairperson of such meeting: Provided that, should both the President and Vice-President be temporarily

absent from a congress, the President or in his/her absence the Vice-President, may nominate a person as chairperson of such congress.

#### **41. ADJOURNMENT**

41.1 The chairperson of a meeting of the Institute may, with the consent of the members present adjourn a meeting at which a quorum is present and shall if the meeting so decides, adjourn such meeting from time to time and to a specific date and venue.

41.2 When a meeting is adjourned in accordance with 41.1:

41.2.1 the provisions of this constitution shall be applicable mutatis mutandis;

41.2.2 no business other than that not finalised shall be discussed at such meeting.

41.3 When a meeting is adjourned for a period longer than ten (10) days:

41.3.1 notice of such adjourned meeting shall be given in the same manner as the meeting contemplated in Clause 37.

41.3.2 notice of only the unfinished matters shall be given in such notice.

#### **42. ATTENDANCE OF MEETINGS**

42.1 Any member of the Institute may attend the meetings of the Institute and shall be entitled to receive a copy of the minutes of such meeting: Provided that only enfranchised members may vote at the meeting.

42.2 Any person who is not a member of the Institute may, with the consent of the chairperson, attend a meeting of the Institute and participate in the discussions but shall not be entitled to vote.

#### **43. MOTIONS**

43.1 Any motion may be put before a meeting of the Institute if properly signed by the proposer as well as seconded by an enfranchised member.

43.2 A member who wishes to submit a motion as contemplated in 43.1 shall give at least thirty (30) days written notice of the contents and purpose of such motion to the CEO.

43.3 The CEO shall, as soon as possible after receipt of a motion referred to in 43.1, give written notice to every member of the Institute of such motion.

#### **44. VOTING**

44.1 When a matter is brought to the vote at any meeting, every enfranchised member present shall have one (1) vote and in the event of an equality of votes the chairperson of the meeting shall have a second and casting vote in addition to his/her deliberative vote.

44.2 Every resolution at the meeting of the Institute shall be adopted by a majority of fifty percent (50%) plus One (1) of the votes of the members present.

44.3 Subject to the provisions of 44.6 and 44.8 voting shall take place by a show of hands.

44.4 When voting takes place, the chairperson of the meeting shall designate a member or members to act as scrutineers and a result of such voting shall be announced immediately.

44.5 A vote recorded by a member shall be valid unless the chairperson, mero motu or in consequence of an objection by a member present at such meeting, declares such vote void.

44.6 The chairperson may, and if at least twenty five (25%) of the members present so request, shall rule that voting shall take place by way of a secret ballot.

44.7 When a secret ballot is directed a ballot paper shall be handed to every enfranchised member present who shall then indicate whether or not he/she votes in favour of a matter whereafter the chairperson shall designate two members to determine the result of the ballot.

44.8 Subject to the provisions of this constitution the NEC may, and shall -

44.8.1 If at least twenty (20%) of the enfranchised members present at any meeting of the Institute so request; or

44.8.2 If, in connection with an item on the agenda, at least five (5%) of the enfranchised members submit a request in writing to the CEO at least forty eight (48) hours before the commencement of a meeting; or

44.8.3 If a dissolution of the institute is intended, cause postal voting to take place.

44.9 When postal voting takes place, every enfranchised member of the Institute shall be furnished with a ballot paper:

44.9.1 in which the proposal is set out;

44.9.2 on which the member may indicate whether or not he/she supports such matter or whether he/she abstains from voting;

44.9.3 specifying the period which shall not be less than thirty (30) days after dispatch of such ballot paper within which such recorded vote must reach the CEO;

44.9.4 Specifying the address to which and the manner in which a ballot paper shall be dispatched.

44.10 The NEC shall designate two members of the Institute, who are not members of the NEC, to take receipt of the ballot papers received by the CEO to count the ballot papers, determine a result and to confirm such result to the NEC in writing.

44.11 Any resolution adopted in accordance with the provisions of this Clause shall have the same effect as a resolution adopted at an annual general meeting or extraordinary meeting of the Institute.

#### **45. MINUTES**

The CEO shall keep the minutes of any meeting of the Institute and any such minutes, after being adopted by a majority of the members present at a subsequent meeting and signed by the chairperson of such meeting shall be regarded as an accurate version of the proceedings of such meeting unless the contrary is proved.

#### **46. ACCOUNTS, BOOKS AND RECORDS OF THE INSTITUTE**

46.1 The NEC shall cause accurate accounting records and financial statements of the Institute's revenue and expenditure and assets and liabilities to be kept.

46.2 The accounting records and financial statements referred to in 46.1, register of members, records, books and documents of the Institute shall be kept at the registered office of the Institute or any such other place as the NEC may determine and shall during normal office hours be open to inspection to any member of the Institute.

#### **47. ANNUAL FINANCIAL STATEMENTS**

47.1 The NEC shall for every financial year cause financial statements reflecting the Institute's revenue and expenditure and balance sheet to be drawn up and approved at an annual general meeting.

47.2 The financial statements shall be made available to every member of the Institute at least thirty (30) days before the date of an annual general meeting in the matter in which notice is given in terms of this Constitution.

47.3 For the purpose of 47.1 "financial year" shall mean the period from 1 July to 30 June of the following year

#### **48. SERVICE**

48.1 Any notice which has to be given to a member in accordance with the provisions of the Constitution shall:

48.1.1 Be given personally or by ordinary mail or e-mail addressed to the address of members as reflected in the register of members;

48.1.2 be signed by the CEO or any other person as the NEC may determine and dispatched in the name of the CEO or that other person, except a notice given in accordance with the provisions of 36.2 which shall be given under the name and signature of the members referred to in that clause.

48.2 A notice referred to in 48.1 given by ordinary mail shall, unless the contrary is proved, be deemed to have been received on the seventh (7th) day following the day of posting of such notice.

#### **49. OFFICIAL SEAL**

49.1 The official seal of the Institute shall be placed on such documents only as authorised by the NEC.

49.2 Every document bearing the seal of the Institute shall be signed by the President, or in his absence, the Vice President or by such other person as the NEC may determine.

#### **50. DISSOLUTION**

50.1 The Institute shall not be dissolved except by a resolution passed by a majority of two thirds of the members present at an extraordinary general meeting called for such purpose. No such resolution shall be in order unless six (6) weeks notice thereof has been given to each member.

50.2 If a resolution for the winding-up of the Institute has been passed or if for any reason the Institute is unable to continue to function the following shall apply:

50.2.1 The last appointed President of the Institute or, if he/she is not available, the available members of the last appointed NEC shall forthwith appoint a liquidator to carry out the winding-up. The liquidator shall not be a member of the Institute and shall be paid such fees as may be agreed upon between him and the said members of the Institute's last appointed NEC;

50.2.2 The liquidator so appointed shall call upon the last appointed office bearers of the Institute to deliver to him the Institute's books of account showing the Institutes assets and liabilities together with a list of its members. The liquidator shall also call upon the said office bearers to hand over to him all unexpended funds of the Institute and to deliver to him the Institute's assets and documents necessary in order to liquidate;

50.2.3 The liquidator shall take the necessary steps to liquidate the debts of the Institute from its unexpended funds and any other monies realised from any assets of the Institute and if the said funds and monies are insufficient to pay all creditors after the liquidator's fees and the expense of winding-up have been met, creditors shall be paid in the same sequence as that prescribed in any law for the time being in force relating to the distribution of assets of an insolvent estate and the liquidator's fees and the expenses of winding-up shall rank in order of preference as though he/she were a liquidator of an

insolvent estate and as though the expenses were the cost of liquidation of an insolvent estate;

50.2.4 After the payment of all debts, the remaining funds, if any, shall be given to some other institution or institutions having objects similar to that of the Institute to be determined by the members at an extraordinary general meeting;

50.2.5 The liability of members shall for the purposes of this clause be limited to the amount of subscriptions due by them to the Institute in terms of this Constitution as at the date of dissolution.

## **51. CODE OF PROFESSIONAL ETHICS**

In order to regulate the expected behaviour of members of the Institute and standardise the procedure to be followed in cases of alleged non-compliance with the expected behaviour, the Guide on Code of Ethics shall be used in all cases of such nature.

The Guide on Code of Ethics, which is Part A of the Constitution, shall be accepted by every member of the Institution by virtue of becoming such a member.

## **52. AMENDMENT**

This Constitution shall not be repealed or amended except by a resolution by not less than two thirds of the members having cast their votes at a meeting called in terms of this Constitution.

### **PART A**

#### **GUIDE ON PROFESSIONAL ETHICS**

##### **1. BACKGROUND**

Recent spate of conflicts between managers and councillors at many municipalities has prompted the Institute for Local Government Management of South Africa (“the iLGM” or “the Institute”) to review its Code of Ethics. It is clear that there has been an increase in expectations for members of the iLGM to behave in a certain manner that is acceptable in a normal society.

The ethical issues in public office and local government area have been elevated by the need for local managers to become agents for change of people’s lives. In response to this challenge the iLGM decided to make public a robust ethical standard with a belief that that will have considerable influence on the public perception of local government practitioners, and members of the iLGM in particular.

The iLGM is a voluntary, professional association of local government practitioners. It is expected that members of the Institute must conform to its values and rules. Each member has a stake in maintaining general compliance with the values of the Institute.

In this Guide, we only cover matters related to ethics that we believe should influence members of the Institute in their work environment. Other behaviour, like personal and religious beliefs have been left out. That behaviour cannot be regulated by this Code of Ethics in as far as it does not impact on the expected ethical behaviour as a result of being a member of the Institute.

As an organisation, the iLGM believes:

1.1 That professional ethics is a process and subject to review at an appropriate time,

1.2 There is a motive for all human behaviour, like power, financial gain, etc.,

1.3 Actions have consequences, 1.4 Ethics are perceived,

1.5 We are each susceptible to the actions of others,

1.6 Respect is not a right but must be earned.

## **2. ACCEPTANCE OF THE CODE OF ETHICS**

Each person assuming membership of the iLGM must sign the Code of Ethics as an indication of their acceptance of the values of the Institute.

## **3. ENFORCEMENT OF THE CODE OF ETHICS**

It is expected of members of the Institute to behave in a manner consistent with the values of the Institute. However, it could be found that a member does not adhere to the standards expected from them. The Institute must therefore reserve disciplinary powers to persuade members to comply with the values of the Institute.

## **4. ESTABLISHMENT OF A COMMITTEE TO ENFORCE THE CODE OF ETHICS**

It is generally accepted that matters of discipline must be expeditiously carried out. The iLGM commits itself to handling matters of discipline both carefully and swiftly. For that reason a standing **Committee on Professional Conduct (CPC)** is established.

The CPC will have three (3) members:

4.1 a practising lawyer of at least five years experience as an attorney (as chairperson),

4.2 a retired local government practitioner and

4.3 an appointee of the South African Local Government Association.

The CPC makes the final decision with regard to the sanction and reports its decision to the National Executive Committee (NEC) of the iLGM. The decision of the CPC can be appealed, as a review, using the South African Mediation Services.



## **5. COMMITMENT BY INDIVIDUAL MEMBERS**

Each member commits him/herself to -

5.1 Uphold the Constitutions of the Republic of South Africa and the Institute and all other legislation,

5.2 Efficient, effective and democratic local governance, believing in the worth of local government and a sense of community responsibility,

5.3 Belief that local governments exist to serve the best interests of their communities,

5.4 Ensure that the roles of elected representatives and officials do not overlap,

5.5 Separate but complementary roles of elected representatives and management and

5.6 A high standard of professionalism.

## **6. FUNDAMENTAL PRINCIPLES APPLICABLE TO ALL MEMBERS**

### **6.1 The public interest**

Members must at all times safeguard the interests of their employers, provided that these interests do not conflict with the duties and loyalties they owe to the community, its laws, social and political institutions.

### **6.2 Honesty, propriety and integrity**

Members must act with honesty, propriety and integrity in the pursuit of their professional duties. Honesty includes acting with sincerity and not lying, cheating or stealing. Propriety is to behave correctly as befits the duties of a member's professional responsibilities and role. Integrity refers not only to knowing what the right thing to do is but having the moral strength and courage to act on one's convictions and on principle rather than expediency.

### **6.3 Competence and duty of care**

Members must strive continually to maintain and improve their professional knowledge and skills. They must not undertake work which they are not competent to handle. This work should be allocated to others who are better qualified to undertake the tasks competently. Members must discharge their duties with due care and diligence.

### **6.4 Confidentiality and respect for privacy**

Members must respect the rights of individuals concerning confidentiality and privacy. Members must not disclose confidential and private information gained in the course of their professional work unless consent to do so is obtained from the person or persons concerned or when it is in the public interest to do so or if required to do so by any Statute.

## **6.5 Conflict of interest**

Members must avoid conflicts of interest in fact and conflicts of interest in appearance. Members should conduct their official and personal affairs in such a manner as to give the clear impression that they cannot be improperly influenced in the performance of their official duties.

## **6.6 Objectivity and independence**

Members must be objective in undertaking their professional duties. Objectivity is a state of mind which imposes on an individual the obligation to be impartial, intellectually honest, and free of conflicts of interest. There are two aspects of objectivity and independence; these are the judgment which comes from being mentally independent and the freedom from personal relationships which avoid impairing or appearing to impair the ability of the member to exercise objectivity and independence. Safeguarding professional objectivity and independence is a matter of integrity.

## **6.7 Duties of non malfeasance (non injury)**

Members must not cause harm and must prevent harm from being done to their employer, clients, profession, community, and the Institute. Engagement in incompatible business or activities, even if it is not a conflict of interest, may bring the status and recognition of the profession into disrepute. This does not preclude serving on legitimate Boards or Committees which contribute to the wider good of the community and/or economic development of the member.

## **6.8 Appointment Commitment**

Members who accept an appointment to a position should not fail to report for that position. This does not preclude the possibility of a member considering several offers or seeking several positions at the same time, but once a bona fide offer of a position has been accepted, that commitment should be honoured. Oral acceptance of an employment offer is considered binding unless the employer makes fundamental changes in terms of employment.

## **6.9 Whistle Blowing**

Members should ensure that there are suitable arrangements for the internal review of decisions, policies and actions in the event that a member of their organisations raises concerns of unethical behaviour. Individuals should be encouraged to raise matters for review. Employees should not be penalised for raising matters of ethical concern even if this results in a loss to the organisation, a client or another individual unless it is done with malicious intent.

## **7. MEMBER'S RESPONSIBILITY**

In order to maintain an ethical dimension to their professional work, individuals have a responsibility to:

- 7.1 keep their own actions under review,
- 7.2 maintain their level of knowledge and training appropriate to their area of work,
- 7.3 conform to advice given by iLGM on ethical behaviour and
- 7.4 assist their own local governments to develop ethical ways of working.

## **8. ASSISTANCE FROM iLGM**

The iLGM undertakes to:

- 8.1 incorporate ethical dilemma management into accredited courses,
- 8.2 keep under review existing codes of ethical practice and develop programmes to educate members of their responsibilities,
- 8.3 explore ways to require current practicing members to participate in ethics training and testing programmes and
- 8.4 provide mechanisms to support members in managing ethical dilemmas.

## **9. SANCTIONS**

9.1 Sanctions may be imposed in accordance with these rules upon members who are found to have violated the code. In determining the kind of sanction to be imposed, the following factors may be considered:

- 9.1.1 the nature of the violation,
  - 9.1.2 prior violations by the same individual,
  - 9.1.3 the willfulness of the violation,
  - 9.1.4 the level of professional or public responsibility of the individual,
  - 9.1.5 and any other factors which bear upon the seriousness of the violation.
- 9.2 The following sanctions may be imposed singly or in combination at the conclusion of an investigation and/or hearing under these rules:

9.2.1 Private Censure: A letter to the respondent, the complainant and the Provincial Executive Committee (PEC) indicating that the respondent has been found to have violated

the Code of Ethics, that iLGM disapproves of such conduct, and that, if it is repeated in the future, it may be cause for more serious sanctions. If the complainant is a nonmember, he or she shall be notified that the case was considered and resolved, and that no public action was taken.

9.2.2 Public Censure: Notification to the respondent, complainant, the PEC and appropriate local government body indicating that a violation of the code took place and that iLGM strongly disapproves of such conduct and the nature of the sanction(s) imposed.

9.2.3 Expulsion: A revocation of the respondent's membership privileges.

9.2.4 Membership Bar: A prohibition against reinstatement of the respondent's membership in iLGM.

9.3 Upon receiving documented evidence that a member has been found guilty after trial by a judge or a jury of criminal conduct, which constitutes a violation of the iLGM Code of Ethics and which occurred while the person was a member of iLGM, the CEO shall immediately issue a notice of suspension of membership to that person by registered mail and that person's membership shall be suspended as of the date of that notice. The CEO shall advise the CPC of any such action and shall refer the case to the CPC. The CPC may commence an investigation or it may defer proceedings until the person has exhausted all appeals or the time for appeal has expired. The suspension shall continue in effect until such time as sanctions provided for in these Rules are imposed, or the case is dismissed, in accordance with these Rules.

9.4 A member who has been barred or expelled from membership under these rules may apply for reinstatement to iLGM membership only after a period of at least five (5) years from the date of the bar or expulsion, or from the date of the last review of a request for reinstatement. The barred or expelled former member must submit a written request to the National Executive Committee (NEC) for a reinstatement review and include the reasons why he or she believes it should be considered. Such requests shall automatically be referred to the CPC.

The CPC may ask PECs to provide additional information through a fact-finding process. The CPC will review all the information provided, including any PEC reports, and make a recommendation to the NEC. The former member requesting reinstatement review is entitled to a hearing before the NEC.

## **10. INITIATION OF PROCEDURES**

10.1 Proceedings against an individual for an alleged violation of the Code of Ethics may be initiated by the CEO upon receiving a written complaint or other written information from any source indicating that a violation may have occurred.

10.2 Upon receiving such a written complaint or information, the CEO must ascertain whether it is sufficiently clear and complete to initiate proceedings, and, if so, whether it alleges conduct that may be a violation of the Code of Ethics. If the CEO concludes that the

complaint is not sufficiently clear or complete to initiate proceedings, he or she shall seek further clarification from the complainant or other source before taking any further action.

10.2.1 If the CEO cannot determine whether the conduct alleged, if proven, might violate the Code of Ethics, he or she shall refer the question to the CPC for a ruling. No further action shall be taken with respect to the complaint or information unless the CPC rules that the conduct alleged, if true, may constitute a violation of the code.

10.2.2 If the CEO concludes that the complaint is sufficiently clear and complete to initiate proceedings, and may, if proven, indicate a violation of the code, a copy of the complaint or information shall be forwarded by registered mail to the respondent named in the complaint or information. The respondent shall be informed at the time of the provisions of the code which he or she is alleged to have violated. The CEO may also request that the respondent answer specific questions pertaining to the alleged violation.

10.2.3 The respondent shall be given thirty (30) days within which to respond in writing to the complaint or information, to provide any further information or material he or she considers relevant to the allegations, and to answer any specific questions asked by the CEO.

10.2.4 As soon as the respondent's response is received, but in no event more than thirty (30) days after written notice of the alleged violation has been given to the respondent, the CEO shall refer the case to the CPC for proceedings in accordance with these rules.

## **11. INVESTIGATIONS**

11.1 Upon receiving a case of an alleged violation of the Code of Ethics from the CEO, the CPC shall commence an investigation into the allegations.

However, no investigation shall be required if:

11.1.1 the respondent admits to the violation in his or her initial response, or

11.1.2 the respondent has already entered a guilty plea, or has been found guilty and has exhausted all appeals, in a criminal case involving the same conduct.

11.2 In all cases other than those in which an investigation is not required, the CEO, at the request of the CPC, shall request the PEC for the province in which the violation is alleged to have occurred to appoint an iLGM fact-finding committee to conduct the investigation. If the violation is alleged to have occurred in more than one province, at least one member of the committee shall be from the province involved.

In the event that there is no active PEC in a province, the CPC shall appoint an iLGM fact-finding committee from one or more province(s) for this purpose.

11.2.1 The fact-finding committee shall consist of not less than three (3) iLGM members. No one other than an iLGM member may serve on the iLGM fact-finding committee.

11.2.2 A fact-finding committee must be appointed within fifteen (15) days of the request being made.

11.2.3 The fact-finding committee shall afford the respondent an opportunity to meet with the committee in person and may, at its discretion, afford such an opportunity to the complainant as well. The respondent may appear at such a meeting personally and be accompanied by a representative. Alternatively, the respondent may appear through a representative.

11.2.4 The fact-finding committee shall prepare and maintain notes of all meetings and interviews with the respondent, the complainant, and any witnesses, and may request any such person to sign a statement prepared on the basis of those notes. The respondent shall be entitled to review these notes and statements, and any other documentary evidence gathered in the course of the investigation, and shall be afforded the opportunity to respond in writing thereto.

11.2.5 The fact-finding committee shall take all reasonable steps to ascertain the facts relevant to the case, including, but not limited to, interviews with witnesses, review of the respondent's submission(s), and examination of all published material judged to be relevant and reliable.

11.2.6 Within sixty (60) days of the appointment of the fact-finding committee, the investigation shall be concluded, and a written report of the committee's proposed findings of fact shall be sent to the CEO and the respondent. Each finding must be supported by reliable and relevant evidence which has been made available to the respondent for review.

## **12. DECISIONS**

12.1 The CPC shall promptly review the fact-finding committee's proposed findings of fact and shall ascertain whether they are supported by sufficient reliable and relevant evidence.

12.1.1 If the evidence is not sufficient, the CPC may either

12.1.1.1 dismiss the case; or

12.1.1.2. return it to the fact-finding committee for further investigation in accordance with these rules; or

12.1.1.3 set the case for a hearing in accordance with these rules.

12.1.2 If the CPC determines that the proposed findings are supported by the evidence, it shall determine whether they demonstrate that a violation of the Code of Ethics has occurred. If not, it shall dismiss the case and so advise the respondent, the fact-finding committee, the PEC, and the CEO.

12.1.3 If the CPC concludes on the basis of the fact-finding committee's report that a violation has occurred, it shall determine the appropriate sanction(s). The CPC shall then

notify the respondent of its intent to adopt the fact-finding committee's report as final, and to impose the specified sanction(s) for the reasons stated, unless the respondent can show that the findings of facts are erroneous, or that the proposed sanctions(s) should not be imposed in light of certain mitigating factors which the CPC did not previously consider. The respondent shall have fifteen (15) days in which to submit a written response to the CPC and/or to request a hearing.

12.1.4 In the event that the respondent makes no submission, and does not request a hearing, the CPC shall promptly adopt the proposed findings and sanction(s) as final and so inform the CEO.

12.1.5 In the event that the respondent makes a written submission, but does not request a hearing, the CPC shall review the submission and may either adopt, or revise and adopt as revised, the proposed findings and/or sanction(s), as it deems appropriate. The CPC shall promptly notify the CEO of its decision.

12.1.6 In the event that the respondent requests a hearing, the CPC shall refer the case, including its recommended sanction(s), for a hearing before the NEC. Hearings shall be conducted in accordance with these rules. No sanction(s) shall be imposed before the hearing is concluded.

12.2 Upon receiving notice from the CPC of its determination that a private censure is the appropriate sanction, and that the respondent has not requested a hearing, the CEO shall send a letter of private censure to the respondent, with copies to the complainant and the PEC. The case shall then be closed.

12.2.1 No other notification of a private censure shall be made. However, the iLGM may publish the fact that certain kinds of conduct have resulted in the issuance of private censures, provided that no names or identifying details are disclosed.

12.3 Upon receiving notice from the CPC of its determination that a public censure, expulsion, or membership bar is the appropriate sanction, and that the respondent has not requested a hearing, the NEC may vote to adopt the recommended decision of the CPC, to modify said decision, or to dismiss the case without imposing sanctions. The respondent shall be immediately notified of the decision of the NEC and the sanction, if any, shall be implemented.

### **13. HEARINGS**

13.1 These procedures shall govern all hearings conducted pursuant to these rules.

13.2 No NEC member may hear any case if his or her participation in that case would create an actual or apparent conflict of interest.

13.3 Within ten (10) days of receiving a request for a hearing, the CEO shall notify the respondent by registered or certified mail that a hearing has been scheduled before the

NEC. The hearing date shall be at least fifteen (15) days after the date the notice is postmarked.

The notice shall also state that the respondent has the following rights:

13.3.1 To appear personally at the hearing;

13.3.2 To be accompanied and represented at the hearing by an attorney or other representative;

13.3.3 To review all documentary evidence, if any, against him or her in advance of the hearing;

13.3.4 To cross-examine any witness who testifies against him or her at the hearing; and

13.3.5 To submit documentary evidence and to present testimony, including the respondent's, in his or her defence at the hearing.

13.4 The NEC shall not be bound by any formal rules of evidence but may accord appropriate weight to the evidence based on its relevance and reliability.

13.4.1 The fact-finding committee's report shall be admissible evidence at the hearing.

13.4.2 The NEC may not hear evidence of any alleged ethics' violation by the respondent that was not the subject of the initial investigation.

13.5 At any hearing conducted under these rules, the CPC shall first present evidence in support of its recommended decision. Upon conclusion of its presentation, the respondent shall have the opportunity to present evidence in his or her defense.

13.6 Within five (5) working days of the conclusion of the hearing, the NEC shall render a decision in the case.

13.6.1 The decision shall be in writing and shall include a statement of the reasons therefore. Only evidence which was put before the NEC may be considered as a basis for the decision.

13.6.2 The NEC's decision may be to:

13.6.2.1 Dismiss the case;

13.6.2.2 Adopt the findings and sanction(s) recommended by the CPC; or

13.6.2.3 Revise, and adopt as revised, the findings and/or sanction(s) recommended by the CPC.

However, the NEC may not increase the sanction(s) recommended by the CPC unless new evidence, not previously available to the CPC, is disclosed at the hearing, which indicates



that the respondent's violation was more serious. No sanction may be imposed for any violation of which the respondent had no prior notice.

13.6.3 A copy of the written decision of the NEC shall be sent immediately by registered mail to the respondent, the CPC, the PEC, and the CEO.

13.6.4 Promptly after receiving a copy of the written decision, the CEO shall implement the sanction(s), if any, imposed by the NEC in accordance with the rules.



**Jean Venter**  
**Chief Executive Officer**

**23 July 2014**  
**Durban**

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