

## ***II JUDICIAL CONDUCT***

### ***1 Important matters***

- The main duty of a judge is to present before the public an image of justice.
- A judge must be a person of integrity.
- A judge administers justice to all without bias or favour.
- A judge performs official tasks competently and with dignity, courtesy and self control.
- A judge obeys the laws of the land.
- A judge does not accept any gift, favour or benefit of whatsoever nature which may possibly influence him or her in the execution of official duties or create the possible impression that this is the case.
- A judge must not decide any matter in which he or she has a direct or indirect interest.
- A judge must maintain good order in court.

### ***2 The principles in practice***

#### ***(i) Diligence***

The duty of judges to serving diligently requires judges to deliver decisions to the best of their ability, and without any unnecessary delay. To ensure this, judges should:

- be familiar with common offences,
- prepare as much as possible before sitting in court.

#### ***(ii) Integrity***

Judges must conduct themselves with the utmost integrity to sustain and enhance public confidence in the judiciary. Judges should make every effort to ensure that their personal and public conduct is lawful and that they are respected by the people of Tokelau.

(iii) Equality

Judges must conduct themselves and proceedings so as to ensure equality according to the law. This means judges should:

- carry out their duties with appropriate consideration for all persons (for example, parties, witnesses, court clerks) without discrimination;
- disapprove of improper conduct in the court. Improper conduct includes sexist, racist, or discriminatory language or actions which are prohibited by law.

(iv) Judicial independence

An independent judiciary is indispensable to justice under the law. Judges must make their decisions independently and free from influence by other people.

(v) Impartiality

Justice requires judges not only to be impartial, but also to appear to be impartial in their decision making.

Impartiality requires judges to not hear cases in which they have a personal involvement, either through the parties involved or through the subject of the case. Judges should never hear a case where close family members are parties.

If the Commissioner is the subject of a case, the matter must be heard by the High Court (Rule 88 of the Crimes Rules).

(vi) Judicial demeanour

At all times judges should maintain firm control of court processes and ensure all people in the court are treated with courtesy and respect.

(vii) Courtroom conduct

Judges should:

- Be courteous and patient.
- Be dignified.
- Be humble.
- Never make fun of a party or witness.
- Show appropriate concern for distressed parties and witnesses.

Judges should ensure that all people appearing before the court treat it with respect by:

- keeping order in court;
- being polite and respectful and expecting the same from all people in court.

(viii) Communication in court

Judges should:

- Use simple language without jargon.
- Avoid a patronising and/or unduly harsh tone.
- Generally, not interrupt witnesses.
- Always express themselves simply, clearly and audibly. It is important that:
  - the party examined and every other party understands what is happening in the court and why it is happening;
  - the court clerk is able to hear what is being said for accurate records; and
  - the public in the court are able to hear what is being said.