



Province of the
EASTERN CAPE
COOPERATIVE GOVERNANCE
& TRADITIONAL AFFAIRS

**GUIDELINES ON THE ADMINISTRATION OF JUSTICE BY TRADITIONAL
LEADERS (COUNCILS)**

Departmental Contact Details

Physical Address	Tyamzashe Building Phalo Avenue Bisho 5605
Postal Address	Department of Cooperative Governance and Traditional Affairs Private Bag X0035 Bisho 5605
Document Number	2
Document Name	Guidelines on the Administration of Justice by Traditional Leaders (Councils)
Contact Person	Malibongwe Ngcai
Designation	Chief Director
Directorate / Section	Traditional Governance and Finance
Telephone No.	040 940 7276
Cell Phone No.	072 637 7218
Fax No.	040 635 0137
E-mail Address	Malibongwe.Ngcai@eccogta.gov.za
Custodian of the Guidelines	Traditional Leadership Institutional Support & Capacity Building
E-mail Address	Dumza.vuba@eccogta.gov.za
Date Completed	February 2025
Date of Approval	March 2025
Date Last Amended	N/A
Date For Next Review	February 2030
Related Policies	N/A

Executive Authority
Initials: AD

Acting Head of Department
Initials: W


SIGN OFF

1. Head of Department

These Guidelines on the Administration of Justice by Traditional Leaders (Councils) has been recommended by **Mr. V. Mlokothi** in my capacity as the Acting Head of the Department of Cooperative Governance and Traditional Affairs.

I am satisfied and concur with the content of these Guidelines.

The development of these guidelines will ensure that the Department is able to support Traditional Leaders and Councils in their endeavours to carry out their legal obligation of promoting restorative justice, social cohesion, peace, and harmony within traditional communities in the province.


Signed:	
Designation:	Acting Head of Department (Mr. V. Mlokothi)
Date:	07/03/2025


SIGN OFF

2. **Executive Authority**

The Department of Cooperative Governance and Traditional Affairs has an unprecedented opportunity to improve the lives of the people by effectively rendering many services that it is expected to provide. We have envisaged a department that has the required capacity to respond adequately to challenges of its people.

I therefore trust that these Guidelines on the Administration of Justice by Traditional Leaders (Councils) will positively contribute towards the Department's endeavour of promoting peace and the restoration of justice within the rural communities of our Province.

Signed:	
Designation:	MEC: Honourable Zolile Williams Department of Cooperative Governance and Traditional Affairs
Date:	06/03/2025.

Executive Authority
Initials: 

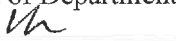
Acting Head of Department
Initials: 

Table of Contents

No.	Contents	Page/s
1.	Definitions	6
2.	Introduction	7
3.	Purpose of the Guidelines	8
4.	Objectives of the Guidelines	8
5.	Legislative and Regulatory Framework	8
6.	Values and Guiding Principles	10
7.	Scope of Applicability	11
8.	Procedure for resolving claims or disputes through traditional justice system.	11
9.	The Procedure to be followed in the Administration of Justice by a Traditional Courts	12
10.	Process and Procedure for imposing sanctions	12
11.	Sanctions or Orders to be imposed by a Traditional Court	13
12.	Keeping of Certain Records	14
13.	Subpoenas / Summons	14
14.	Appeals	15
15.	Development of By-Laws	16
16.	Referral of matters to Other Traditional Courts and Magistrate's Court	16
17.	Review of Decision or Judgment of a Traditional Court	17
18.	The role of Department	17
19.	Approval of the Guidelines	17
20.	Administration of the guidelines	18
21.	Effective date of the guidelines	18
22.	Procedure of the guidelines	18
23.	Review of the Policy	18
24.	Annexures	19

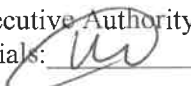
Executive Authority
Initials: *AD*


Acting Head of Department
Initials: *AL*

1. DEFINITION OF KEY TERMS

In these guidelines unless the context indicates otherwise, the following expressions bear the meanings assigned to them below—

TERM	DEFINITION
“Administrative area”	means an area of jurisdiction under the authority of headman ship or headwoman ship and within the jurisdictional area of a senior traditional leader in accordance with customary law.
“Administration of Justice”	means the process and structures which allows conflicts between parties to be settled by a body dedicated for that purpose.
“Black Administration Act”	means the Black Administration Act, 1927 (Act No. 38 of 1927).
“Constitution”	means the Constitution of the Republic of South Africa, 1996.
“court”	means a headman or headwoman, senior traditional leader, principal traditional or king or queen’s courts.
“department”	means the department responsible for Cooperative Governance and Traditional Affairs in the Province.
“Eastern Cape Traditional Leadership and Governance Act”	means the Eastern Cape Traditional Leadership and Governance Act, 2017 (Act No. 1 of 2017).
“headmen or headwomen”	means a headmen or headwomen as defined in section 1 of the Traditional Leadership and Governance Act, read with section one of the Eastern Cape Traditional Leadership and Governance Act;
“the Act”	means the Black Administration Act, 1927 (Act No. 38 of 1927) as amended and partly repealed.
“traditional council”	means a traditional council established in terms of section 6 of the Eastern Cape Traditional Leadership and Governance Act, 2017 (Act No. 1 of 2017).
“traditional court”	means a court established as part of the traditional justice system which— <p>(a) function in terms of customary law and custom; and</p> <p>(b) is presided over by a senior traditional leader, headmen or headwomen or any member of a traditional council who</p>

Executive Authority
Initials: 

Acting Head of Department
Initials: 

	<p>has been designated as a presiding officer of a traditional court by the Minister in terms of section 12 and 20 of the Black Administration Act, as partly repealed, and which includes a forum of family and community elders who meet to resolve any dispute which has arisen, referred to herein as—</p> <p>(i) <i>iNkundla</i>; and</p> <p>(ii) <i>Kgotla</i>;</p>
“traditional justice system”	means a system of law which is based on customary law and customs.
“Traditional Leader”	means any person who, in terms of customary law of the traditional community concerned, holds a traditional leadership position, and is recognised in terms of the Traditional and Khoi-San Leadership, Act 2019 (Act No. 3 of 2019).

2. INTRODUCTION

It is the Department’s considered view that the institution of traditional leadership plays a critical role within the society and traditional communities in general in respect of the administration of justice. It forms an integral part of the cultural heritage of most African communities and as such in South Africa the institution is recognised by the Constitution as the supreme law of the land.

The role of traditional leadership institution in relation to the administration of justice can be traced back to the origin of human beings. Many people in the Eastern Cape resides in rural areas and as such subscribe to the principles of customary law and embraces the customary structures that apply this form of law.

The importance of traditional leadership institution in the administrative of justice is informed by the fact that, the institution is much closer to the communities and that it uses the language and methods that members of the communities can understand and relate with better than the complicated procedures that are being applied by the formal courts.

Executive Authority
Initials: 

Acting Head of Department
Initials: 

3. PURPOSE OF THE GUIDELINES

- 3.1. The purpose of these guidelines is to affirm the statutory obligation of the institution of traditional leadership in the administrative of justice in accordance with applicable legislation.
- 3.2. The primary purpose of these guidelines is to provide the process to be adhered to by Traditional Leaders and Councils whilst presiding over civil cases or disputes arising from customary law and practices, brought before a Traditional Leader (Council) and the process going forward in respect of registering the judgements and sanctions imposed to the defendant with the concerned Magisterial Court.

4. OBJECTIVES OF THE GUIDELINES


In the main the guidelines seek to among others:—

- 4.1. Re-affirm the applicability of section 12 and 20 of the Black Administration Act No. 38 of 1927 in respect to the powers of Traditional Leaders to preside over certain cases.
- 4.2. Affirm the legal mandate for Traditional Leaders and Councils to preside and enhance access to justice.
- 4.3. Provide a process of registering or filling judgements and sanctions imposed by traditional councils with Magisterial' Court having jurisdiction.
- 4.4. Create a uniform procedure to be followed by Traditional Leaders and Councils in the resolution of disputes, in accordance with the constitutional imperatives and values.
- 4.5. Enhance the effectiveness, efficiency and integrity of Traditional Leaders and Councils in the resolution of disputes.

5. LEGISLATIVE AND REGULATORY FRAMEWORK

The legislative framework for the role of traditional leaders in the Administration of Justice is contained in various pieces of legislation including but not limited to following:-

- 5.1. Section 211 of the Constitution recognises the “the institution, status and role of traditional leadership, according to customary law, are recognised, subject to the

Executive Authority
Initials: 

Acting Head of Department
Initials: 

Constitution”. It further recognises that a traditional authority observing a system of customary law may function, subject to any applicable legislation and customs.

- 5.2. In terms of Section 166 (e) of the Constitution, the Courts include “any other court established or recognised in terms of an Act of Parliament, including any court of a status similar to either the High Courts or the Magistrates’ Courts”.
- 5.3. The Constitutional Court confirmed in 1996 that Section 166[e], which refers to “any other court established or recognised by an Act of Parliament” accords recognition to traditional courts established in accordance with the provisions of Black Administration Act No. 38 of 1927.
- 5.4. Section 16(1) of Schedule 6 of the Constitution is more direct in its recognition of the traditional courts wherein it states that “every court, including courts of traditional leaders, existing when the new Constitution took effect, continues to function and to exercise jurisdiction in terms of the legislation applicable to it, and anyone holding office as a judicial officer continues to hold office in terms of the legislation applicable to that office, subject to:-
 - (a) any amendment or repeal of that legislation; and
 - (b) consistency with the new Constitution”
- 5.5. Section 12 of the Black Administration Act, 1927 (Act No. 38 of 1927) as amended and partly repealed gives power to the Minister to authorise any traditional leader recognised and appointed in accordance with the applicable legislation to hear and determine any civil claims arising out of disputes on customary law and practices brought before a Traditional Leader (Council).
- 5.6. Accordingly, section 20 of the same Act states that the authorisation of traditional leaders to preside over civil disputes should be confirmed in writing by the Minister responsible for Justice and constitutional development.
- 5.7. Whilst the Repeal of the Black Administration Act and Amendment of Certain Laws Act, 2005 (Act No. 28 of 2005) repeals the provisions of the Black Administration Act, 1927, section 1 (3) of the Act, accordingly provides for the continued enforcement of section 12 (1), (2), (3),(4) and 20 (10, (20, (30, (4), (6)and (9) until such time a national legislation is put in place to regulate matters dealt with in these sections respectively.

Executive Authority
Initials:

Acting Head of Department
Initials:

6. VALUES AND GUIDING PRINCIPLES

6.1. Values

When presiding over civil cases or disputes arising from customary law, a traditional court must be guided and adhere to customary values that seek to promote social cohesion, co-existence, peace, and harmony within traditional communities. Therefore, in the administration of justice by traditional courts, the following values of the Constitution of the Republic of South Africa (1996) should apply: -

- 6.1.1. human dignity.
- 6.1.2. the achievement of equality.
- 6.1.3. the advancement of human rights and freedom.
- 6.1.4. promotion and advancement of gender equality.
- 6.1.5. non-racialism and non-sexism.
- 6.1.6. elimination of unfair discrimination and inequality.

6.2. Guiding Principles

In administering justice, a Traditional Leader (Council) must adhere but not limited to the following principles: -

- 6.2.1. Need to effectively resolve cases or disputes arising from customary law and practice brought before a traditional council.
- 6.2.2. Need to promote and ensure access to justice for all persons residing within the jurisdiction of a traditional council.
- 6.2.3. Promotion of measures of restorative justice and reconciliation.
- 6.2.4. Enhancement of the quality of life of traditional communities under the jurisdiction of a traditional council through mediation.
- 6.2.5. The need to demonstrate procedural fairness when adjudicating cases or disputes arising from customary law.
- 6.2.6. Ensure that procedures and processes of the traditional justice system are simple, flexible, and familiar to traditional communities with no rigid rules.

Executive Authority
Initials:

Acting Head of Department
Initials:

7. SCOPE OF APPLICABILITY


These Guidelines are applicable to all: -

- 7.1. Recognised Traditional Leaders.
- 7.2. Secretaries, members of Traditional Councils and communities under the jurisdiction and authority of traditional leadership.
- 7.3. Headman or headwoman's Courts.
- 7.4. Senior Traditional Leader's Courts.
- 7.5. Principal Traditional Leader's Courts.
- 7.6. King or Queen's Courts.

8. PROCEDURE FOR RESOLVING CASES OR DISPUTES THROUGH TRADITIONAL JUSTICE SYSTEM

- 8.1. The process of resolving claims or disputes must start at the family, wherein the elders in the family concerned must attempt to resolve the claim or dispute.
- 8.2. If for whatever reason the family fails to resolve the claim or dispute, such a claim or dispute must be referred to the headmen or headwomen's court for resolution.
- 8.3. The process of resolving a claim or dispute at the family or headmen or headwomen's court level must be based on customary law and practice of the concerned family or administrative area (local level).
- 8.4. If whatever reasons the matter is also not resolved at the headmen or headmen's court level, such matter must be referred to the traditional council for resolution.
- 8.5. The senior traditional leader or any person designated as the head of a traditional council must convene a meeting of a traditional council to hear and debate the matter.
- 8.6. A traditional council must adopt a dispute resolution mechanism that seeks to facilitate an agreement between the parties involved in a claim or dispute.
- 8.7. If no agreement is reached through the proposed resolution mechanisms, a senior traditional leader or any person designated as head of a traditional council in consultation with members of a traditional council must establish a traditional court to hear and adjudicate over the matter.

Executive Authority
Initials: 

Acting Head of Department
Initials: 

- 8.8. The hearing and adjudication must be done through formal processes of a traditional court which must be open to members of the community.
- 8.9. All claims or disputes brought before the headmen or headwomen as well as the judgement and sanctions imposed thereof, must be reported, and registered with the traditional council concerned.
- 8.10. A traditional council may decide which claims or disputes are supposed to be heard and adjudicated at local level by a headmen or headwomen's court.
- 8.11. The procedure followed must be in terms of the customary law applicable to the relevant traditional community.

9. THE PROCEDURES TO BE FOLLOWED IN THE ADMINISTRATION OF JUSTICE BY TRADITIONAL COURTS

- 9.1. A traditional court may only preside over cases or disputes that arise from the customary law and practices in line with the customs and practices of a traditional community concerned.
- 9.2. When resolving disputes arising from customary law or the interpretation of customs traditional councils must follow customary procedures applicable to the customs and practices within their jurisdictional areas.
- 9.3. All civil cases brought before a traditional court must be recorded before any adjudication by a traditional court (but taking into consideration that traditional courts are not courts of law).
- 9.4. An accused or defendant may be represented by a member of the family or community who is knowledgeable about customary law practice of the community or tribe concerned.
- 9.5. A traditional council must inform or register all reported civil cases with the Magisterial Office having jurisdiction before the adjudication processes.

10. PROCESS AND PROCEDURE FOR IMPOSING SANCTIONS

- 10.1. A traditional court may impose sanctions in accordance with applicable customary law and practices of a traditional community concerned in line with section 20 (2) of the Act.
- 10.2. A traditional court must not impose any form of imprisonment or suspended sentence.

Executive Authority
Initials:


Acting Head of Department
Initials:


- 10.3. A traditional court may impose fines and monetary or livestock compensation in accordance with the customs and practices of traditional communities concerned.
- 10.4. A traditional court must impose sanctions in accordance with the applicable legislation.
- 10.5. The sanctions imposed by a traditional court must seek to facilitate reconciliation and restorative justice between parties involved in a dispute.
- 10.6. Before imposing a sanction, a traditional court must seek to offer the accused person the opportunity to voluntarily impose sanction on himself or herself to indicate his or her contribution and to wash away his or her offence.
- 10.7. After imposing a sanction, a traditional court must ask the accused / defendant if he or she understands and agrees with judgement and sanction thereof.
- 10.8. If the accused / defendant does not agree with the judgement and sanction, the court must inform the accused / defendant of his or her rights to appeal the judgement or sanction with the upper applicable traditional court or Magistrate's Court within the jurisdiction.

11. SANCTIONS OR ORDERS TO BE IMPOSED BY TRADITIONAL COURT

A Traditional Court may impose or make any but not limited to the following Sanctions or Orders, after having deliberated on a dispute: -

- 11.1. A sanction or an order in favour of the party who instituted the proceedings to be expressed in a monetary or livestock.
- 11.2. A sanction or an order directing a party against whom proceedings were instituted who cannot afford to pay monetary or livestock fine, to render certain benefits or services to the aggrieved person.
- 11.3. A sanction or an order directing that the defendant render services to the complainant or community without any remuneration.
- 11.4. A sanction or an order for the defendant to issue unconditional apology to the complainant.
- 11.5. An order requesting parties involved in a dispute to keep peace.
- 11.6. A sanction or an order that the defendant attends any form of training, orientation, or rehabilitation, in line with the practice of the relevant community.
- 11.7. A sanction or an order that the matter be referred to SAPS for investigation and prosecution by NPA.

Executive Authority
Initials: 

Acting Head of Department
Initials: 

11.8. In the event of a monetary sanction, a Traditional Court may order that payment be paid in full or instalments and at a time or times deems appropriate by such Court.

12. KEEPING OF CERTAIN RECORDS

12.1. A traditional court must record all the proceedings of the hearing.

12.2. However, a traditional council must have and keep a register in which the following must be accurately recorded: -

12.2.1. All civil cases or disputes brought before a traditional court.

12.2.2. All cases or disputes adjudicated by a traditional court.

12.2.3. All sanctions imposed to accused/offenders.

12.2.4. All fines paid by offenders to a traditional council and / or to complainant.

12.2.5. All monies paid by a traditional council to the complainant as a compensation.

12.2.6. All decisions or judgement and the reasons for such decisions or judgement taken by a traditional court in respect of cases or disputes brought before a traditional council.

12.2.7. The date of the judgement.

12.2.8. All completed cases registered with the Magisterial Office having a jurisdiction.

12.3. The records must be signed by the senior traditional leader, or any person designated as head of a traditional council or traditional council.

12.4. The records of the proceedings must be registered or filed with the clerk of the Magistrate's Court having jurisdiction in accordance with the applicable procedure and processes.

12.5. Copies of the records must be given to the affected parties and one copy must be kept by the traditional council.

12.6. The purpose of filing records with Magistrate Court is to indicate that a particular case or dispute was brought before and adjudicated by a traditional court as well as for purpose of processing an appeal or assistance in the execution of judgement by the Magistrate's Court having a jurisdiction.

Executive Authority
Initials: W

Acting Head of Department
Initials: lh

13. SUBPOENAS / SUMMONS

- 13.1. A Traditional Court may subpoena or summon any person to appear before a Traditional Court.
- 13.2. A Traditional Court may appoint any member of the community in case of a headman or headwoman' courts or any member of the council in case of a Traditional Council, Principal Traditional Council or King or Queen's Council, to issue summons to a person whom proceedings have been instituted or reported against.
- 13.3. The summon must indicate the date which the accused person must appear before a Traditional Court, to which such date must be at least 14 days from the date such summons were issued and received by such accused person.
- 13.4. The summons must indicate that the accused person must in writing inform the Court that he or she will appear or not appear before it on the set date.
- 13.5. If a person indicates that he or she will not appear before the Court as summoned, members of the Court must be informed accordingly.

14. APPEALS

- 14.1. Any decision of a traditional court may be appealed with the upper court of traditional leadership applicable to the relevant community.
- 14.2. Any person who is not satisfied by the sanction or order imposed by the headman or headwoman's courts, may lodge an appeal with the relevant senior traditional leader's court (Traditional Council).
- 14.3. Any person who is not satisfied by the sanction or order imposed by the senior traditional leader's court, may lodge an appeal with the relevant principal traditional leader's or king or queen's court.
- 14.4. An appeal with any court must be lodged within 30 calendar days, after the aggrieved person has been informed of the specific sanction or order by the relevant court, against him or her.
- 14.5. A court to which an appeal has been lodged with: -

(a) may dismiss the appeal against a sanction or an order made by a lower court and confirm the relevant sanction or order.

Executive Authority
Initials:

Acting Head of Department
Initials:

(b) may uphold an appeal and set aside or vary the specific sanction or order, wholly or in part; and

(c) must in writing, inform the person who lodged an appeal and the relevant lower court of its decision and reasons for such decision.

14.6. Any appeal lodged with the upper court must be dealt with by such court within 30 days from the date on which such an appeal was lodged.

15. DEVELOPMENT OF BY-LAWS

15.1. A traditional court must develop by-laws in relation to the sanctions or orders to be imposed by such court in respect of but not limited to the cases listed in Annexure 2 of the Guidelines.

15.2. Such by-laws must be developed in consultation with members of the relevant community by being presented and adopted in a community meeting of the traditional council.

15.3. The by-laws must be adopted by the relevant traditional community and the traditional council.

15.4. The by-laws must be used by the relevant court when determining the appropriate sanction or order to be handed down in respect the instituted proceedings.

15.5. The adopted and determined by-laws of each lower court must be submitted to the upper court to be used by such relevant upper court when considering any appeal lodged with such court.

15.6. The Department may assist and guide traditional courts on the development of by-laws and their enforcement thereof.

16. REFERRAL OF MATTERS TO OTHER TRADITIONAL COURT AND MAGISTRATE'S COURT

16.1. A traditional court may refer a matter reported or instituted with such court to the lower or upper court for proceedings.

16.2. An upper court may refer the matter reported with such court to the relevant lower court, upon determining that such matter was not instituted and presided over by such relevant lower court.

Executive Authority
Initials:

Acting Head of Department
Initials:

- 16.3. A lower court may refer any matter reported with such court upon determining that it does not have jurisdiction to preside over such matter.
- 16.4. A party who is not satisfied by a decision or order made by the highest court of the traditional court, after exhausting all available appeal processes within the traditional courts, he or she may refer the decision or order to the Magistrate's court having jurisdiction.
- 16.5. A traditional court to which a dispute has been reported with or referred to may upon noting that, such dispute does not fall within the matter which such a court is competent to deal with in terms of Annexure 2 of the Guidelines, refer such dispute to the Magistrate' court having jurisdiction.
- 16.6. A Magistrate's court to which a matter has been referred may deal with the matter in terms of the applicable process and procedure.

17. REVIEW OF THE DECISION OR JUDGEMENT OF A TRADITIONAL COUNCIL

A decision or judgement of a traditional court and sanction imposed by a traditional court thereof, may be reviewed by the Magistrate' Court having jurisdiction.

18. THE ROLE OF DEPARTMENT

18.1. The Department (Capacity Building Directorate) must: -

- (a) Facilitate the training of Traditional Leaders by relevant institutions on Judicial Skills and Indigenous La and Restorative Justice, and other related areas.
- (b) Identify skills gaps on the part of Secretaries and Traditional Leaders in respect of judicial proceedings and seek to address them through training and workshops.
- (c) Ensure that necessary stationery in relation to recording court proceedings and judgement writing, are available to all traditional courts.

19. APPROVAL OF THE GUIDELINES

These guidelines shall be approved by the Executive Authority on the recommendation of the Head of Department as per the updated departmental delegations.

Executive Authority
Initials:

Acting Head of Department
Initials:

20. ADMINISTRATION OF THE GUIDELINES

Responsibility and accountability for implementing the guidelines rests with the Head of Department and ultimately the Executive Authority.

21. EFFECTIVE DATE OF THE GUIDELINES


These guidelines shall become effective on the date it is signed by the Executive Authority (MEC) responsible for Cooperative Governance and Traditional Affairs.


22. PROCEDURE FOR IMPLEMENTING THESE GUIDELINES

There is no separate procedure for the implementation of the guidelines as they will be incorporated into the daily activities of the management of all affected directorate's programmes. It is therefore critical that the management of affected programmes or directorates who are responsible for providing support to Traditional Leaders and Traditional Councils, to familiarise themselves with the contents of the guidelines.

23. REVIEW OF THE POLICY

This policy will be reviewed in five (5) years from the date of its approval by the Executive Authority or when the need arises.

Executive Authority
Initials: 

Acting Head of Department
Initials: 

ANNEXURES

ANNEXURE: 1.

**AFFIRMATION BY A TRADITIONAL LEADER OR ANY PERSON DESIGNATED
TO PRESIDE OVER THE PROCEEDINGS OF A TRADITIONAL COURT**

I,(name of a Traditional Leader or designated person), do swear that I will be faithful to the traditional court and solemnly and sincerely promise that at all times will promote and protect the values enshrined in the Constitution of the Republic and any other applicable laws of the Land.

Executive Authority
Initials: W

Acting Head of Department
Initials: M


ANNEXURE: 2


Matters to be presided over or cases to be dealt with by traditional courts / leaders:-

- (a) Theft where the amount involved does not exceed R20 000.
- (b) Malicious damage to property where the amount involved does not exceed R20 000
- (c) Assault where the grievous harm is not inflicted.
- (d) Breaking or entering any premises with intent to commit an offence either at common law or in contravention of any statute where the amount involved does not exceed R20 000.
- (e) Receiving any stolen property knowing it has been stolen where the amount does not exceed R20 000
- (f) Crimen Injuria

Matters to which a traditional court / leaders may provide advice on:-

- (a) UkuThwala
- (b) Customary Male Initiation Practice
- (c) Customary Marriages
- (d) Custody and guardianship of minor or dependent children
- (e) Succession and Inheritance; and
- (f) Customary law benefits.

Executive Authority
Initials: 

Acting Head of Department
Initials: 

ANNEXURE: 3.

Matters not to be presided or dealt with by a traditional courts / leader.

A traditional court / leader must not preside or institute proceedings on matters relating to:-

- (a) Any constitutional matters.
- (b) Any question of nullity, divorce or separation arising out of a marriage, whether a marriage under the Marriage Act, 1961 (Act No. 25 of 1961), a customary marriage under Recognition of Customary Marriage Act, 1998 (Act No. 120 of 1998), or a civil union under the Civil Union Act, 2006 (Act No. 17 of 2006).
- (c) Any matter relating to the custody and guardianship of minor children.
- (d) Any matter relating to the validity, effect, or interpretation of a will; and
- (e) More serious offences such as treason, sedition, murder, culpable homicide, rape, Gender Based Violence (GBV), arson, and robbery where the damage exceed R20 000.

Executive Authority
Initials:

Acting Head of Department
Initials:

