

THE COMMISSION ON ADMINISTRATIVE JUSTICE ANNUAL REPORT FY 2021/22



Prepared and issued in accordance with Article 254(1) of the Constitution and Section 53(1) of the Commission on Administrative Justice Act No 23 of 2011 and Section 26(1) of the Access to information Act No. 31 of 2016.

VISION

A society that upholds administrative justice and access to information

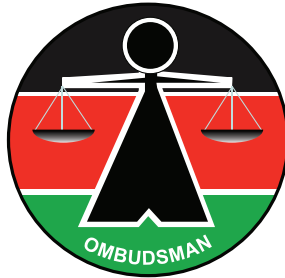
MISSION

To enforce administrative justice and access to information in Kenya through complaints resolution and public education for efficient and effective service delivery

CORE VALUES

Responsive, Independence, Fairness,
Transparency, Integrity

THE COMMISSION ON ADMINISTRATIVE JUSTICE
“Office of the Ombudsman”



Hata mnyonge ana Haki

ANNUAL REPORT FOR FY 2021/22

Prepared and issued in accordance with Article 254(1) of the Constitution and Section 53(1) of the Commission on Administrative Justice Act No 23 of 2011 and Section 26(1) of the Access to information Act No. 31 of 2016.

The Commission on Administrative Justice Annual Report FY 2020/2021

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ABBREVIATIONS and ACRONYMS

AGPO	Access to Government Procurement
AOMA	African Ombudsman and Mediators Association
AORC	African Ombudsman Research Centre
ATI	Access to Information
CAJ	Commission on Administrative Justice
CSOs	Civil Society Organizations
CCIO	Constitutional Commissions and Independent Offices
CMIS	Complaint Management Information System
FES	Friedrich-Ebert-Stiftung Kenya
GIZ	German Agency for International Cooperation
IAO	Information Access Officers
ICIC	International Conference for Information Commission
ICOAF	International Conference of Ombuds Institution for the Armed Forces
ICT	Information, Communication and Technology
IDLO	International Development Law Organization
IDUATI	International Day for Universal Access to Information
IOI	International Ombudsman Institute
KDPS	Kenya Devolution Support Programme
KNADS	Kenya National Archives and Documentation Services
MCK	Media Council of Kenya
MDAs	Ministries, Departments, and Agencies
MDACs	Ministries, Departments, Agencies and Counties
NCAJ	National Council of the Administrative Justice
NGAAF	National Government Affirmative Action Fund
NG-CDF	National Government Constituency Development Fund
OAG	Office of the Attorney General
ODPP	Office of the Director of Public Prosecution
SDGs	Sustainable Development Goals
SCAC	State Corporations Advisory Committee
UNESCO	United Nations Educational, Scientific and Cultural Organization
WCPS	Widows and Children Pension Scheme
Wee	Women Economic Empowerment

CONTENTS

STATEMENT OF THE CHAIRPERSON	ix
FOREWORD	x
EXECUTIVE SUMMARY.....	xii
CHAPTER ONE.....	1
1.0. ESTABLISHMENT AND MANDATE	1
1.1. Introduction.....	1
1.2. Mandate.....	1
1.3. Composition	1
1.4. Functions.....	4
1.5. Powers.....	5
1.6. Execution of the Mandate	5
1.7. Vision, Mission and Core Values	6
1.8. Key Result Areas.....	6
CHAPTER TWO.....	7
2.0 PROMOTION OF ADMINISTRATIVE JUSTICE IN THE PUBLIC SECTOR	7
2.1. Complaints Management.....	7
2.1.1. Lodging a Complaint.....	7
2.1.2. Complaints Handled	9
2.1.3. Analysis of Complaints Handled	10
2.2. Sample Success Stories and Cases	12
2.2.1. Success Stories	12
2.2.2. Sample Cases	16
2.2.3. Sample Feedback from Complainants	25
2.3. Investigations.....	33
2.4. Advisories	37
2.4.1. An Advisory Opinion on Mandatory Covid-19 Vaccination for Public Officers	37
2.4.2. An advisory to the Office of the Director of Public Prosecution (ODPP).....	38

2.4.3. An advisory opinion on the Misuse of Public Resources for Political gain	39
CHAPTER THREE.....	40
3.0 STRENGTHENING COMPLAINTS MANAGEMENT IN THE PUBLIC SECTOR	40
3.1. Resolution of Public Complaints Indicator	40
3.2. Access to Information Requests Processed by Public Institutions	45
CHAPTER FOUR	46
4.0 ACCESS TO INFORMATION.....	46
4.1 Introduction.	46
4.2 Activities Carried out in Year 2021/2022	46
4.2.1 Promotion of Access to Information.....	46
4.2.3 Sensitization of Public and Private Entities	50
4.2.4 Strategic initiatives.....	51
4.3.1 Classification of Requests	54
4.3.2 Limitations Invoked by the CAJ	55
4.3.3 Success stories on ATI	55
4.3.4 Enforcement of ATI Decisions.....	59
CHAPTER FIVE	64
5.0 PUBLIC EDUCATION AND OUTREACH	64
5.1 Introduction.....	64
5.2 Training of Public Officers	64
5.3 Awareness creation initiatives and thematic engagements with stakeholders	68
5.4 Outreach and Public Awareness Forums	70
5.5 Training of Journalists on Access to Information	71
5.6 Media Engagement.....	71
5.7 Own Motion Cases through Media Monitoring	72
5.8 Production and Dissemination IEC Materials and Ombudsman Newsletters.....	73
5.9 Branding of Headquarters and the Regional Offices	74

CHAPTER SIX	75
6.0 PARTNERSHIPS, NETWORKS AND LINKAGES	75
6.1 Domestic Linkages.....	75
6.1.1 Collaboration with the Electoral Law and Governance Institute (ELGIA)	75
6.1.2 Partnership with MISEREOR	76
6.1.3 Collaboration with National Council on the Administrative Justice.....	76
6.1.4 Financing Locally Led on Climate Action Program (FLLoCA)....	76
6.2 International Networks	76
6.2.1 African Ombudsman and Mediators Association.....	76
6.2.2 International Ombudsman Institute	77
6.3 Presentations	78
CHAPTER SEVEN	79
7.0 GOVERNANCE AND CORPORATE SERVICES	79
7.1 Corporate Affairs	79
7.2 Milestones achieved	79
7.3 Staff Welfare	83
7.4 Financial Report.....	83
7.4.1 Resource allocation and Utilization.....	83
7.5 Procurement of Goods and services	84
7.5.1 Pending Bills.....	84
CHAPTER EIGHT	102
8.0 CHALLENGES AND RECOMMENDATIONS	102
8.1 Challenges	102
8.2 Recommendations.....	102
8.3 Priorities – FY 2022/23	103

LIST OF FIGURES

Figure 1: Channels and service points of lodging complaints.....	8
Figure 2: Status of Complaints Handled by the Commission	9
Figure 3: Analysis of Complaints Received by the Commission	10
Figure 4: Complaints Handled by Nature of Complaint.....	10
Figure 5: Classification of Complaints Based on Public Institutions and Officers	11
Figure 6: Quarterly analysis of Complaints Received by Public Institutions.....	38
Figure 7: Quarterly analysis of Complaints Received by State Corporations	38
Figure 8: Quarterly analysis of Complaints Received by Ministries and Departments.....	39
Figure 9: Quarterly analysis of Complaints Received Tertiary Institutions ...	39
Figure 10: Analysis of Public Institutions Certified by Grade.....	40
Figure 11: A comparative analysis of the number of public institutions certified	41
Figure 12: Analysis for Requests for Information Processed by public Institutions	42
Figure 13: Public participation forum at Dedan Kimathi University in Nyeri County	45
Figure 14: Public Participation Forum in Nandi County	46
Figure 15: The Commissioner ATI, Lucy Ndungu joins participants during the Training for the MDAS in Education and Health Sector on ATI Matters for Public Procurement.....	47
Figure 16: Analysis for Requests for Information Reviewed	51
Figure 17: Analysis for Requests for Information Received	52
Figure 18: Levels of Government.....	53
Figure 19: Vice Chairperson, Mr. Washington Sati, is joined by other guests during the flagging off of the 10th Edition of the Desert Wheel Race.....	67
Figure 20: Social Media Presence	69
Figure 21: Commissions Assorted IEC and Branded Materials	70

Figure 22: CAJ staff during Election Observation training.....	72
Figure 23: The Chairperson took time to pay a courtesy call to the Kenya High Commission in South Africa on the sidelines of a meeting of the AOMA Executive Committee	74
Figure 24: Official launch of Nyahururu Regional Office held on 1st March, 2022.....	79
Figure 25:CMIS Public Portal Dashboard.....	80
Figure 26: Official Launch of the CMIS by Lady Justice Hon. Njoki Ndung'u, Held on 4th May, 2022	80

LIST OF TABLES

Table 1: Sample of Complaints Handled	16
Table 2: Access to Information Regulations Public Participation Fora	44
Table 3: Training of Officers.....	47
Table 4: A Sample of Enforcements of ATI Decisions.....	57
Table 5: Numbers for Disposal Applications Dealt with in the Financial year 2021-2022.....	59
Table 6: Summary of public officers trained for the last three years.....	61
Table 7: Training for Ministries Departments Agencies and Counties	61
Table 8: Non-State Actors Engagements.....	65
Table 9: Staff Recruited in the Period	77
Table 10: Expenditure by economic classification.....	81
Table 11: Pending Bills for the FY 2021-2022	82

STATEMENT OF THE CHAIRPERSON

It is my pleasure and honour to present the Commission's annual report for the FY 2021/2022. This report has been prepared in accordance with Article 254(1) of the Constitution and Section 53(1) of the Commission on Administrative Justice Act No. 23 of 2011 and Section 26(1) of the Access to information Act No. 31 of 2016. It is an account of the Commission's commitment to promote administrative justice and access to information in Kenya.

In the said Financial Year, the Commission in realization of its mandate, has implemented well-designed strategies and activities anchored on resolution of public complaints; oversight and enforcement of access to information; public education, awareness & visibility; institutional strengthening and capacity building. Through these strategies, we have particularly achieved the resolution of 3,592 complaints, review of 202 requests for information and training of 2,420 public officers from various Ministries, Departments and Agencies (MDAs) on administrative justice and access to information.

The discharge of our mandate has however, been fettered by insufficient resources. The increasingly budgetary constraints in the reporting period continue to challenge our desired efficacy to sufficiently manage the volume of complaints and scale of operations. Looking ahead, it is worth noting that the Commission has set up structures to enhance its resource mobilization capacity and diversify funding sources. We also look forward to enhancing partnerships with stakeholders at the national and county levels for accelerated achievement of our goals.

Based on the outputs and achievement of goals in this report, the commitment of Commissioners and staff who have continually served Kenyans in promoting administrative justice and access to information is commendable. I take this opportunity to thank them and assure the public of our dedication towards execution of our mandate.



HON. FLORENCE KAJUJU, MBS

CHAIRPERSON OF THE COMMISSION

FOREWORD

In line with the Constitution as well as other statutes that demand for transparency and accountability in the management of public affairs, the Commission on Administrative Justice has prepared this annual report to give an account of its operation in the financial year 2021–2022.

The Commission is charged with the twin mandate of promoting and enforcing administrative justice as well as providing oversight to all public institutions in Kenya on their adherence to the right to access information by the citizens. Cognizant of this noble responsibility, the Commission is dedicated to serving all Kenyans as emphasized in our slogan, “**Hata Mnyonge ana Haki**”. Over the last 10 years since its establishment, the Commission has endeavored to expand the reach of its services to the citizenry through various initiatives such as embracing technology, having a contact desk in twelve Huduma Centers and regional offices strategically positioned in six counties as part of its decentralization drive.

During this reporting period, the Country maneuvered through a highly competitive yet peaceful electioneering period with heightened campaigns for the August 9, 2022 elections and also faced other challenges related to the post COVID-19 recovery. The Country had also to bear the brunt of high inflation on fuel and food prices attributed to global crisis following the Russia-Ukraine war that began in February 2022. Despite the challenges, I am happy to note that the Commission achieved notable milestones and made significant progress in delivering strategic results envisioned in the 2019-2023 strategic plan. One key highlight to mention, the Commission launched a real time Complaints Management Information System (CMIS) through which any person aggrieved by a public officer(s) or public institution(s) can lodge a complaint online.

This report, therefore, details the progress in implementation of the Commission’s strategic objectives, its achievements, challenges, recommendations and the way forward. The Commission continued to ensure prudent utilization of the allocated resources to implement planned activities. As such, we expended 95% (absorption rate) of the KES 624,821,608 that was allocated to the Commission in the financial year under review. That notwithstanding, the funding of the Commission’s budget has remained a challenge and this continues to hamper implementation of the planned activities.

We recognize the immense contribution of the Chairperson and our two Commissioners through their leadership, support and commitment that enabled the Commission to register the achievements reported herein. Equally, I thank the senior management team and the entire secretariat

for their dedicated services to the Citizens, and in ensuring that this report is available for public accountability.

The Commission remains committed in its mission of enforcing fair administrative justice and access to information by upholding transparent and accountable public service that will ensure there is good governance and efficient service delivery in the public sector.

I hope you will enjoy reading the report and share in our resolve to ensuring that public service is available to all, is just and is respecting the human dignity.

A handwritten signature in black ink, appearing to read 'Mercy K. Wambua'.

Mercy K. Wambua, OGW

COMMISSION SECRETARY / CEO

EXECUTIVE SUMMARY

This is the eleventh Annual Report of the Commission on Administrative Justice. The report is prepared according to Article 254(1) of the Constitution and Section 53(1) of the Commission on Administrative Justice Act No 23 of 2011 and Section 26(1) of the Access to information Act No. 31 of 2016 which obligates the Commission to prepare and submit an Annual Report to Parliament and President.

The report highlights among others: description of the activities undertaken by the Commission, recommendations on legal and administrative measures to address specific concerns identified and the audited financial statements. The Report is structured into eight chapters with each chapter addressing a specific thematic area. Chapter one gives background information on establishment and mandate, vision, mission and core values. The content of the subsequent chapters is highlighted below.

Promotion of Administrative Justice in the Public Sector through Resolution of Public Complaints *(Chapter Two)*

This chapter highlights the activities the Commission undertook in redressing maladministration in public sector.

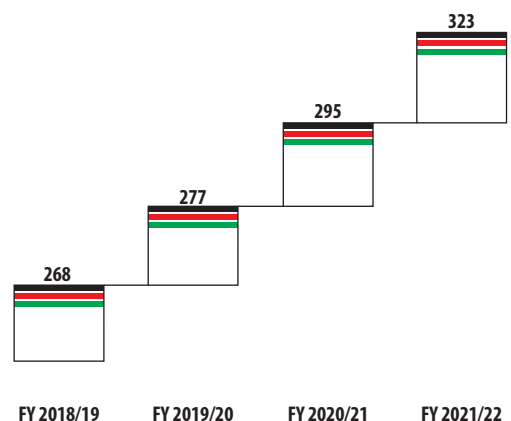
During the period under review, the Commission received **3,013** new complaints, in addition to 8,286 complaints that were brought forward from the previous financial year. Therefore, the Commission's total complaints for the financial year was **11,299**. Out of this, **3,592** complaints were resolved - representing a resolution rate of 31.8 %.

The Commission also issued several advisories on key emerging issues that affected democratic values and principles of governance in public service. Advisory opinions provide an important avenue for the Commission to recommend preventive measures and remedial action to government agencies.

Strengthening Complaints Management in the Public Sector *(Chapter Three)*

The Commission facilitates the setting up of, and strengthening of the complaint-handling infrastructure in the public sector. This is realised through training, monitoring of service delivery standard, provision of technical support and certification of MDAs in line with Performance Contracting requirements.

NUMBER OF MDAs CERTIFIED IN LAST FOUR FINANCIAL YEARS



Access to Information *(Chapter Four)*

The Commission is the oversight and enforcement agency of the right to access information held by public authorities as provided for under the Access to Information Act.

During the period under review the Commission developed several mechanisms for evaluating public entities' implementation of the right to access information. These included but not limited to mainstreaming of access to information in all public entities, reporting by public entities on implementation of access to information, review of appeals on access to information applications, capacity building and sensitization of public entities on the access to information law.

Partnerships and linkages

(Chapter Six)

Partnerships and linkages provide the Commission with the necessary networks and opportunities for cross-learning and other associated benefits.

During the period under review, the Commission, enhanced its efforts in the promotion of good governance through strategic local and international partnerships and linkages. This entailed cooperation with other Ombudsman institutions, joint initiatives with players in the administration of justice and engagement with development partners.

Public Education and Outreach *(Chapter Five)*

Public education and awareness is a key focus area for the Commission towards promoting visibility and creation of demand for services.

During the reporting period the Commission enhanced public education, awareness creations and training activities to promote on administrative justice and access to information. Public education and capacity building trainings were carried out to empower citizens and public officers to ensure efficient and effective service delivery as well as promote good governance. The commission used multi-faceted approach to carry out public education and trainings.

Governance, Human Resource Management and Finance

(Chapter Seven)

This chapter covers governance, human resource management, financial management, ICT and general administration. During the period under review, The Commission strengthened its capacity to deliver on its mandate by sponsoring various staff members for various professional development courses and training programmes, decentralised Ombudsman Services and officially launched a Complaints Management Information System (CMIS).

Challenges *(Chapter Eight)*

The Commission faced a number of challenges in the period under review, which hindered achievement of some of the targets. These included but not limited to

- Financial Constraints attributed to Low budgetary ceilings and austerity measures implemented during the financial year that reduced the budgetary allocation.
- Delayed in disbursement of the quarterly budgetary allocations
- Low levels of public awareness of the Commission's mandate among citizens
- Insufficient legal framework
- The culture of secrecy, unresponsiveness and impunity in the public sector
- Manual records management systems in the public sector which curtailed quick retrieval and access to information.

Priorities Moving Forward

- Implementation of the strategic plan (2019-2023) MTR Recommendations.
- Strengthening policy, legal and regulatory framework.
- Digitization and automation of systems and processes.
- Enhancement of resource mobilisation and partnerships.
- Scale up outreach and awareness creation.
- Decentralisation of Ombudsman services to enhance accessibility.
- Huduma Ombudsman Award

CHAPTER ONE

1.0. ESTABLISHMENT AND MANDATE

1.1. Introduction

The Commission on Administrative Justice (CAJ) is established under Article 59(4), Chapter 15 of the Constitution and the Commission on Administrative Justice Act, 2011. The need for good governance gave the impetus for the establishment of the Commission as envisaged in the Kenya's vision 2030.

1.2. Mandate

The Commission derives its mandate from the Commission on Administrative Justice Act (CAJ Act) 2011 and the Access to Information (ATI Act) 2016. The constitutive Act mandates the Commission to deal with maladministration and redress grievances by citizens against public officers and institutions in National and County Governments. On the other hand, the ATI Act gives the Commission the mandate to enforce and oversee implementation of the right to Access information as guaranteed under Article 35 of the Constitution. In addition, the Fair Administrative Action Act 2015 which implements Article 47 of the Constitution gives further impetus to the mandate of the Commission.

1.3. Composition

The Commission is composed of the Chairperson and two Commissioners as follows: -

- I. Hon. Florence Kajuju, MBS – Chairperson
- II. Mr. Washington Opiyo Sati, MBS – Vice Chairperson
- III. Mrs. Lucy Ndungu, EBS – Commissioner in charge of Access to Information

The Commission executes its mandate through a Secretariat headed by Ms. Mercy Kalondu Wambua, OGW, who is the Commission Secretary/CEO.

COMMISSIONERS



Hon. Florence Kajuju, MBS

Chairperson



Mr. Washington O. Sati, MBS

Vice Chairperson



Mrs. Lucy Ndung'u, EBS, HSC

Commissioner in charge of Access
to Information

SENIOR MANAGEMENT



Ms Mercy K. Wambua, OGW
Commission Secretary/CEO



Daniel Karomo
Director, Corporate Services



Osman Mohammed
*Director, Public Education Advocacy
and Corporate Communication*



Geoffrey Obonyo
*Director, Strategy, Research
and Compliance*



Florence Mumbi
*Director, Complaints, Investigations
and Legal Services*



Viola Ochola
Director, Access to Information

1.4. Functions

The functions of the Commission are stipulated under Section 8 of the CAJ Act and Section 21 of the ATI Act and include: -

A. Section 8 of CAJ Act

- I. investigate any conduct in state affairs, or any act or omission in public administration by any State organ, State or public officer in national and county governments that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice;
- II. investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector;
- III. report to the National Assembly bi-annually on the complaints investigated under paragraphs (a) and (b), and the remedial action taken thereon;
- IV. inquire into allegations of maladministration, delay, administrative injustice, discourtesy, incompetence, misbehaviour, inefficiency or ineptitude within the public service;
- V. facilitate the setting up of, and build complaint handling capacity in the sector of public service, public offices and state organs;
- VI. work with different public institutions to promote alternative dispute resolution methods in the resolution of complaints relating to public administration;
- VII. recommend compensation or other appropriate remedies;
- VIII. provide advisory opinions or proposals on improvement of public administration, including review of legislation, codes of conduct, processes and procedures; and
- IX. promote public awareness of policies and administrative procedures on matters relating to administrative justice.

B. Section 21 of the ATI Act

- I. investigate violations of the provisions in the ATI Act;
- II. receive reports from public entities with respect to implementation of the Act and evaluating the use and disclosure of information;
- III. facilitate public awareness and develop programmes on the right to access information and the right to protection of personal data;
- IV. promote right of access to information in public entities;

- V. monitor state compliance with international obligations related to the right to access information and protection of personal data;
- VI. hear and determine complaints and review decisions arising from violations of the right to access information; and
- VII. promote protection of data.

1.5. Powers

Pursuant to sections 26, 27 and 28 of the CAJ Act read together with the CAJ Regulations and sections 23 and 24 of ATI Act, the Commission has powers to:

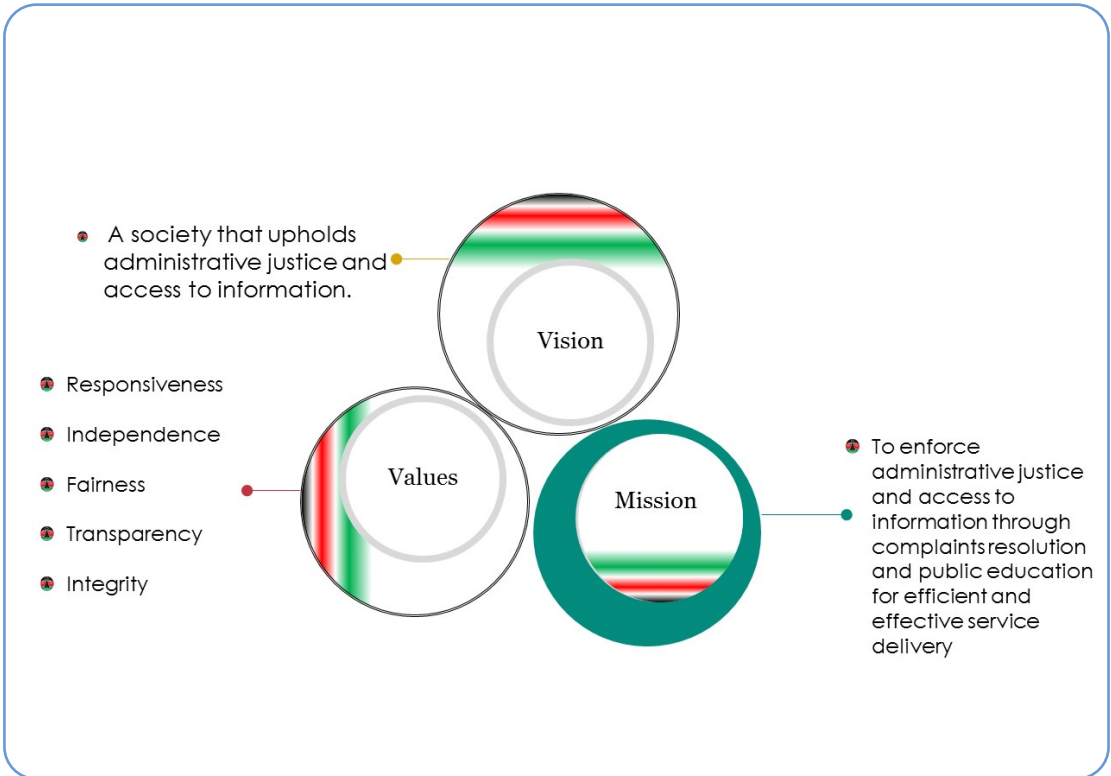
- I. issue summons;
- II. require that statements be given under oath;
- III. compel production of documents;
- IV. conduct searches and seizures of documents with court orders;
- V. interview any person;
- VI. require the discovery and production of any information from any person;
- VII. adjudicate on matters relating to administrative justice and access to information;
- VIII. requisition any public record or copy thereof from any public officer.
- IX. order release of any information withheld unlawfully; and
- X. recommend for the payment of compensation.

1.6. Execution of the Mandate

The Commission executes its mandate through: -

- I. complaints resolution which is carried out through inquiries, investigations, adjudication or other dispute resolution methods;
- II. public education and awareness creation;
- III. capacity building on complaints management and access to information;
- IV. advisory opinions on matters affecting public administration;
- V. public interest litigation;
- VI. review and make determination of applications on ATI requests made to public and certain private institutions; and
- VII. enforcing standards of public service delivery.

1.7. Vision, Mission and Core Values



1.8. Key Result Areas

The key result areas are stipulated in the Commission's Second Strategic Plan (2019/2023) under the following thematic areas:

- I. Resolution of Public Complaints;
- II. Oversight and Enforcement of Access to Information;
- III. Public Education, Awareness and Visibility; and
- IV. Institutional Strengthening and Capacity Building.

CHAPTER TWO

2.0 PROMOTION OF ADMINISTRATIVE JUSTICE IN THE PUBLIC SECTOR

This chapter highlights the performance of the Commission in redressing maladministration in the public sector. Maladministration is a hindrance to efficient public service delivery and manifests itself in various ways including unfair treatment, unresponsive official conduct, delay, discourtesy, misconduct, incompetence, improper conduct, and abuse of power among others.

2.1. Complaints Management

This section details the complaints handling processes established at the Commission.

2.1.1. Lodging a Complaint

The Commission receives complaints against public institutions and officers on various administrative injustices. Such complaints may be lodged by an aggrieved person or by a person acting on their behalf. Complaints may also be instituted anonymously, and the Commission may take up a matter on its own initiative. Figure 1 presents various channels and service points of lodging complaints.

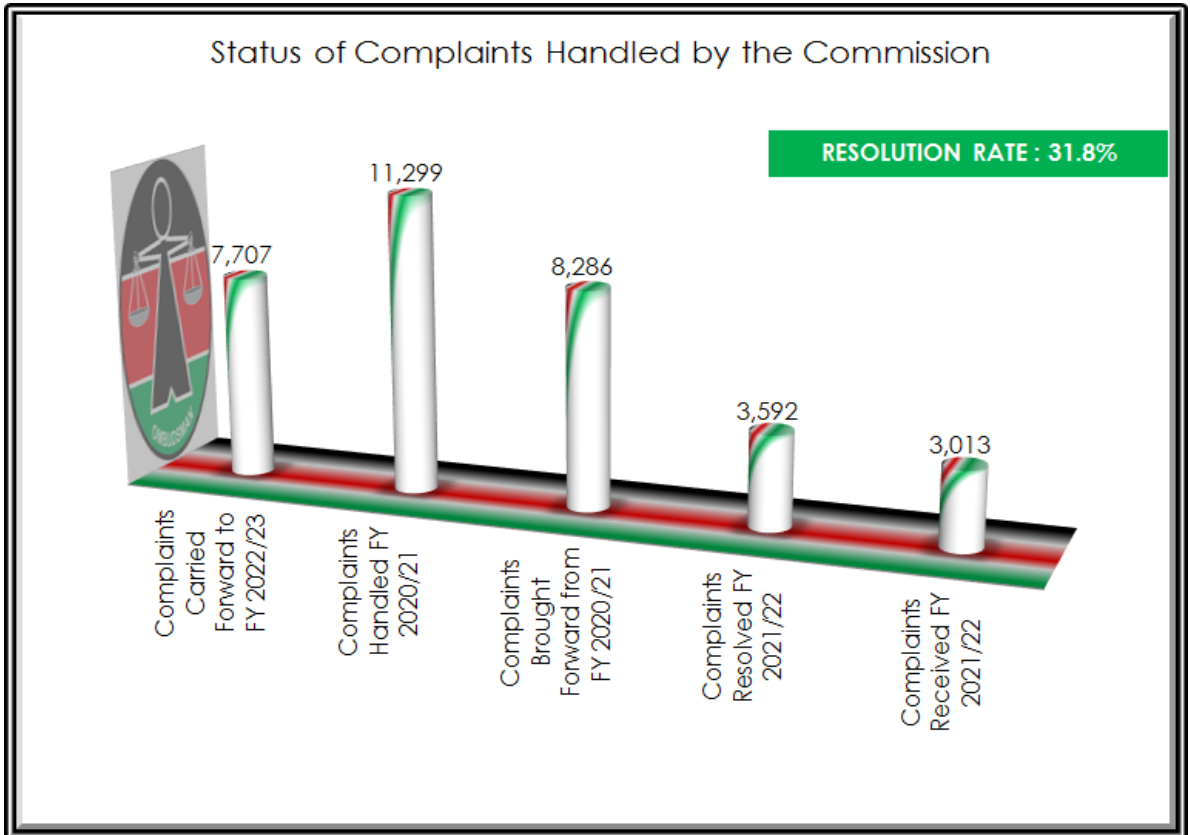
Figure 1: Channels and service points of lodging complaints



2.1.2. Complaints Handled

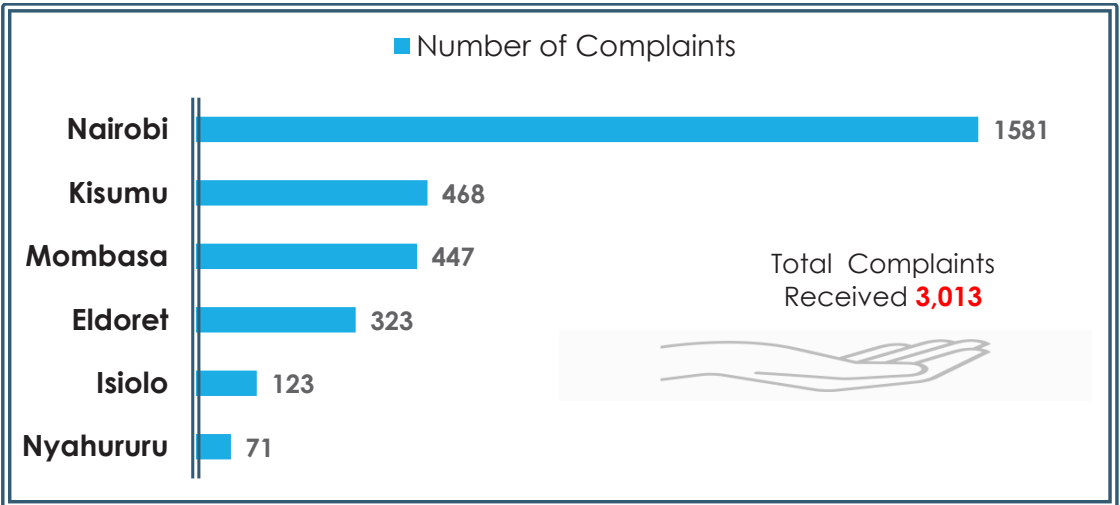
The Commission received a total of 3,013 new complaints during the reporting period. An additional 8,286 complaints were brought forward from the previous financial year. Therefore, the Commission handled a total of 11,299 complaints during the financial year. Out of this, 3,592 complaints were resolved - representing a resolution rate of 31.8 % as presented in figure 2 below.

Figure 2: Status of Complaints Handled by the Commission



The 3,013 complaints lodged directly by members of the public during the period under review, were received at the Commission's Headquarter and branch offices as presented in figure 3.

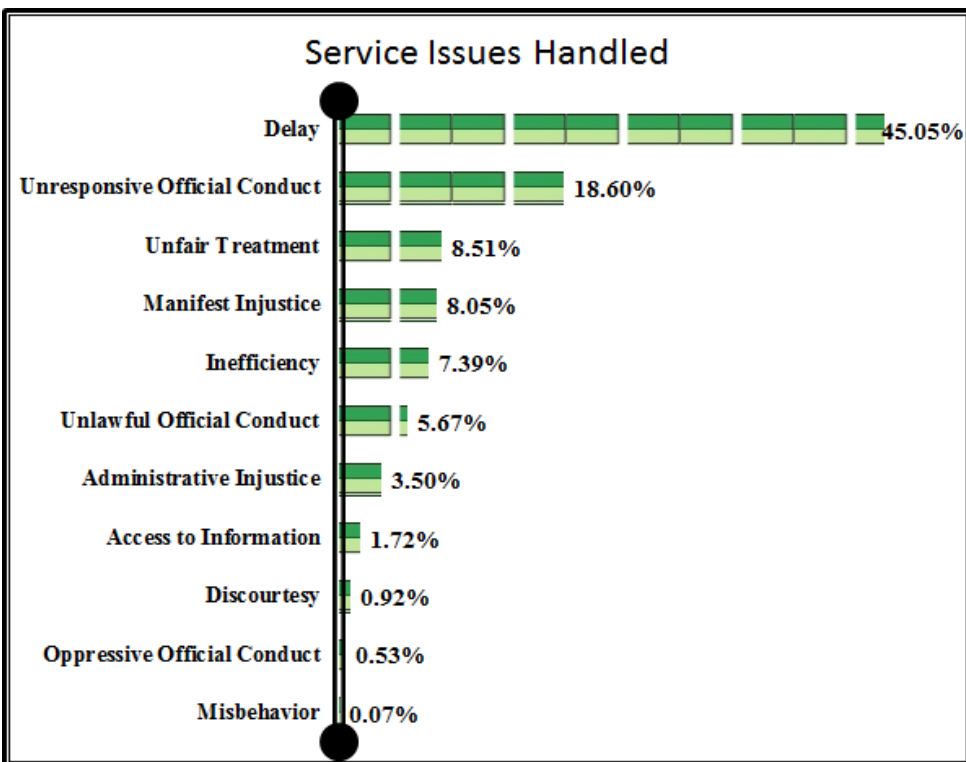
Figure 3: Analysis of Complaints Received by the Commission



2.1.3. Analysis of Complaints Handled

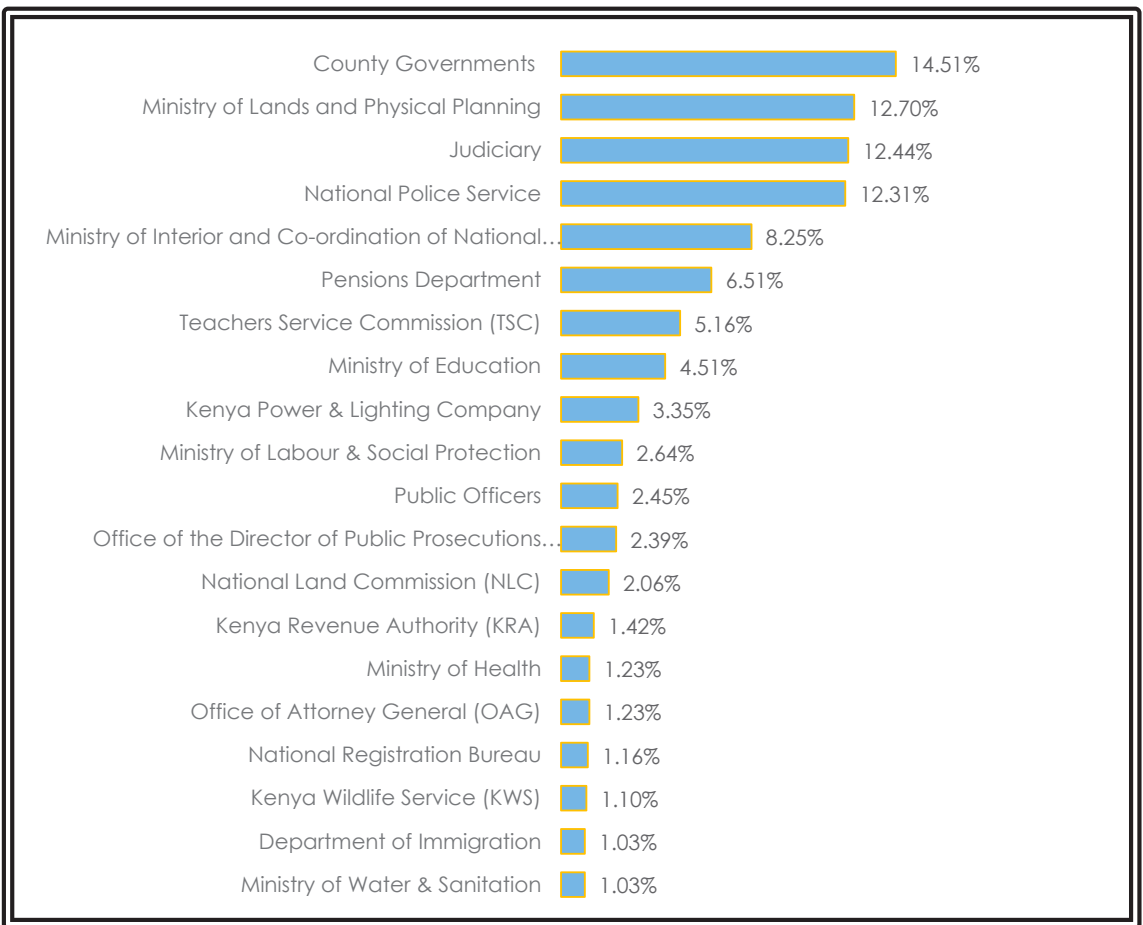
Below is a representation of complaints handled classified by the nature of complaints and, public institutions and Officers complained against. Figure 4 classifies complaints by service issues.

Figure 4: Complaints Handled by Nature of Complaint



The classification of complaints based on respondents, either as public officers or public institutions is depicted in figure 5 below.

Figure 5: Classification of Complaints Based on Public Institutions and Officers



2.2. Sample Success Stories and Cases

2.2.1. Success Stories

I. Customer Gets Meter Replacement Three Years Later

A complaint was lodged against Kenya Power alleging a three-year delay in processing his request to transfer the meter account from postpaid to prepaid. The complainant indicated that his request was informed by the constant wrongful meter readings by Kenya Power officials. Following intervention by the Commission, a new meter was installed.

II. Pension Benefits Paid to a Widow and her Children

A complaint was lodged with the Commission alleging delay in processing the Widows and Children Pension Scheme (WCPS) benefits by Teachers Service Commission (TSC) in 2018. According to the widow, she had availed all requisite supporting documents and despite follow-ups at the Pensions Department, the benefits were not processed prompting her to seek the intervention of the Commission in November 2021. Upon intervention by the Commission, the widow and her children were paid the pension benefits.

III. County Employee Re-designated and Salary Arrears Paid

A complaint was lodged from a county employee of Vihiga County Government relating to unfair treatment by the County's Public Service Board. According to complainant, the Board unfairly re-designated him from Job Group N to J without any justification. The decision compelled him to appeal to the Public Service Commission (PSC) but he received no response hence his complaint to the Commission. The Commission took up the matter with PSC and the Board redesignated the employee and paid all his salary arrears.

IV. Service Provider Paid

A service provider finally received his dues following the intervention of the Commission in a case of inordinate delay by the Ministry of Information, Communication, Innovation and Youth Affairs. The complainant, had provided consultancy services as a Master Craftsman to the National Industrial Training Authority (NITA) in the Kenya Youth Employment Opportunities Project (KYEOP) Circle 5 Programme between 23rd November, 2020, and 16th April, 2021. However, he had not been paid for the service even after making numerous follow ups, forcing him to seek the intervention of the Commission.

V. Statutory Deductions Remitted

An employee of Awasi P.A.G Boys High School, lodged a complaint with the Commission alleging non-remittance of his National Social Security Fund (NSSF) contribution by the School. The employee made several follow-ups with the institution in vain. The Commission by way of inquiry took up the matter with the school administration. Upon intervention by the Commission, the benefits to the employee were remitted to NSSF.

VI. Roads Agency Commits to Undertake Drainage Construction in Isiolo Town

Milimani Residents Community in Lower Waso Area, Bulapesa Ward, Isiolo County, lodged a complaint with the Commission's Isiolo Regional Office, alleging delay by KeRRA to construct a drainage system. This prompted the Commission to raise the issue with the Director General, KeRRA who committed to disburse funds within 90 days to have the drainage works undertaken.

VII. Gratuity Dues Settled

An employee of NG-CDF, Kitutu Masaba Constituency, lodged a complaint with the Commission alleging non-payment of his gratuity dues which he was entitled to at the end of the three-year contract. The Commission took up the matter with the Fund Manager, NG-CDF Kitutu Masaba Constituency, leading to settlement of the gratuity.

VIII. Inmate Secures Appeal Date

The Commission received a complaint from an inmate at the Naivasha Maximum Prison alleging delay in hearing and determination of his appeal at the Eldoret High Court. He lodged an appeal at the same court in 2016 but was yet to be assigned a hearing date. The Commission by way of inquiry took up the matter with the Deputy Registrar, Eldoret High Court, who updated the Commission that the appeal had been listed for mention at the Kapsabet High Court.

IX. Survey Department Releases Map

A resident of Kisumu County lodged a complaint with the Commission alleging a delay by the Survey Department to issue him with a map for Kadhiambo Adjudication Section. Following the Commission's intervention, the map was duly expedited and the same was availed to the complainant and to the public.

X. University Student Finally Graduates

A student of Kibabii University made a complaint to the Commission regarding his denial to graduate from the University. He alleged that he undertook a Bachelor of Education (Arts) course where he was exempted from taking first year courses due to his previous qualification of Diploma in Teaching. Upon completion of the course, he was denied an opportunity to graduate forcing him to complain to the Commission. Upon intervention of the Commission, he was allowed to graduate.

XI. Census Enumerator Paid Two Years later

The Commission received a complaint from a census enumerator who was engaged by the Kenya National Bureau of Statistics (KNBS) during the 2019 Census. She complained of non-payment of her dues despite making several follow-ups with KNBS. The Commission took up the matter and the institution settled her dues.

XII. Death Gratuity Paid

A complaint was lodged for failure by the public trustee to pay death gratuity to the beneficiaries. According to the complainant, the Pension's Department had processed the death gratuity and forwarded to the Public Trustee's office. The Commission took up the matter with the Public Trustee and the gratuity was paid to the beneficiaries.

XIII. Church Gets Electricity Connection Nine Years Later

A Secretary to the Council of Africa Inland Church, Mwenje, complained that KPLC had failed to connect the church with electricity despite paying the required fees. He alleged that the company was unresponsive and every time they visited the company's Nyahururu office they would be issued with new conditions and quotations of higher amounts. Following the intervention of the Commission, the Church was connected to the grid.

XIV. Tax Payment Dispute Resolved

The Commission received a complaint from a citizen alleging that Kenya Revenue Authority (KRA) had falsely accused him of non-payment of tax on account of having secured tenders from the County Government of Nyeri. The complainant, in his response, stated that he was a public officer and had never bid for any tender nor transacted with the County Government as alleged. The Commission intervened and KRA acknowledged the oversight alleging similarity in names and absolved the complainant of any claims.

XV. Police Clearance Certificate Issued

A complaint was lodged with the Commission by a citizen alleging delay by the Director of Criminal Investigation (DCI) to expunge incorrect and misleading information about his brother from its record. Upon intervention by the Commission, the DCI rectified the information and issued a new police clearance certificate.

XVI. Electricity Pole Replaced after Six Years

A complaint was lodged with the Commission alleging inordinate delay by Kenya Power Company to replace a loosely dangling electricity pole in Gopha village in Golini, Kwale County. According to her, the issue was brought to the attention of Kenya Power in 2016 and the company became unresponsive. The Commission took up the matter with the company leading to the immediate replacement of the pole. The complainant in a letter to the Commission confirmed the replacement.

XVII. Driving License Issued after Eight-Year Wait

A complainant enrolled for a driving course with one of the driving schools in Ukunda, within Kwale County in November 2014. He completed his course, registered for examinations and passed, and was issued with an interim driving license. However, upon visiting NTSA offices in Mombasa to process and obtain a driving license, he was informed that his details were missing in the system and was advised to register again in a driving school and start the course afresh. His predicament and unresponsiveness from the Authority impelled him to lodge a complaint with the Commission. The Commission by way of inquiry took up the matter with NTSA. The Authority indicated that the problem was caused by a shift from the manual processing system to the online system and requested the complainant to visit their offices where he was eventually issued with a driving license.

XVIII. Employment Secured Four Years Later

A complaint was lodged to the Commission alleging unfair treatment and discrimination on account of disability by Kenya Ports Authority (KPA). The complainant was interviewed and issued with a letter of offer for the position of Artisan- Electrical Engineering- Grade HG3 Seg.3 in June 2016. However, he was never substantively appointed for the position. Upon intervention by the Commission, the complainant was issued with the letter of appointment by KPA.

XIX. Court Judgement Delivered After Five Year-Wait

A complaint was lodged alleging delay to deliver judgement in three consolidated land cases at a Kaloleni law court where the court had indicated that judgement would be delivered on 16th June 2016. However, this did not materialise despite the litigants following up on the matter individually and through their advocate on record. This impelled them to seek the intervention of the Commission in February 2021. The Commission took up the matter with the Judiciary and judgement was delivered on 14th September 2021.

2.2.2. Sample Cases

Table 1 presents a sample of different complaints handled by the Commission during the period under review.

Table 1: Sample of Complaints Handled

No.	Complaint Ref No.	Respondent	Classification	Summary of the Complaint
1.	CAJ/ MSA/CG/ MSA/068/115/ 2020	County Government of Mombasa	Delay	Complainant claimed a refund of Kshs 68,000 erroneously charged at Coast General Hospital, Mombasa. In November 2021, the Commission engaged officials of the County Government of Mombasa led by the County Secretary on outstanding complaints against the County Government, and this resulted in successful resolution of the complaint.

No.	Complaint Ref No.	Respondent	Classification	Summary of the Complaint
2.	CAJ/MSA/CG/MSA/068/25/2015	County Government of Mombasa	Delay	Complainant claimed payment of NSSF benefits & Gratuity due to her following her exit from the defunct Mombasa Municipal Council. Similarly, in November 2021, the Commission engaged officials of the County Government of Mombasa led by the County Secretary on outstanding complaints against the County Government, and the complaint was resolved.
3.	CAJ/KEBS/074/22/21-FN	Kenya Bureau of Standards (KBS)	Unfair Treatment	The complainant alleged that the Kenya Bureau of Standards (KEBS) had failed to respond to his complaint dated 16th February 2021 regarding an allegedly faulty flask reported to them. Upon the intervention of the Commission, KEBS carried out an investigation of the allegedly faulty item and provided feedback to the complainant.

No.	Complaint Ref No.	Respondent	Classification	Summary of the Complaint
4.	CAJ/PEN/000/1374/2021-EF	The Department of Pensions	Delay	The Complainant alleged that she applied for dependant pension benefits following the demise of her husband who was a teacher. That her file no. 322718 was still awaiting action. Upon intervention by the Commission by way of inquiry, the benefits were paid to the complainant.
5.	CAJ/ODPP/027/248/21-EF	Office of the Director of Public Prosecutions (ODPP)	Outside mandate	The Complainant was aggrieved by the decision of a prosecutor to decline prosecution of a case he reported at the Kasagam Police Station. The prosecutor advised that he pursues a civil claim. The Commission referred the complaint to the Office of the Director of Public Prosecutions with a request to review the file. The ODPP took up the matter and initiated an inquiry.

No.	Complaint Ref No.	Respondent	Classification	Summary of the Complaint
6.	CAJ/ELD/CG/ KAKAMEGA/ 053/2/21-NK	County Government of Kakamega	Unfair treatment	The Complainant alleged that Kakamega County Government Ward Administrator asked him to take a sabbatical leave without giving him the reasons. Following the Commission's intervention, the complainant's suspension was lifted by the Kakamega County Chief Officer Public Service and he was reinstated to work.
7.	CAJ/ELD/ JUD/001/ 138/21-NK	The Judiciary	Delay	The complainant alleged that Judiciary delayed in issuing the complainant with copy of the orders made by the court in Iten civil case no. 384 of 2015 and 516 of 2016 since 28/8/2015. Following the Commission's intervention, the Complainant was issued with the orders sought and proceeded to initiate the execution proceedings.

No.	Complaint Ref No.	Respondent	Classification	Summary of the Complaint
8.	CAJ/ELD/M. WIF/010/1/ 21-NK	Kenya Forest Service	Unfair Treatment	The complainant alleged that Kenya Forest Service dismissed the complainant from service for gross misconduct. The Complainant sought legal representation from the Commission. The complaint was referred to the National Legal Aid Service for legal aid.
9.	CAJ/ KPLC/021 /533/21-FN	Kenya Power	Delay	A complaint that the complainant made an application to Kenya Power in June 2020 regarding electricity connection to Plot No. KIKUYU/BLOCK1/301 but the same was not connected. The same was connected on the Commission's intervention.
10.	CAJ/ POL/015/ 4040/21-JMM	National Police Service	Outside mandate	The Complainant alleged that police were harassing their client in a matter that was pending in court. The matter was referred to Independent Policing Oversight Authority since it was pending in court.

No.	Complaint Ref No.	Respondent	Classification	Summary of the Complaint
11.	CAJ/ISL/ M.IGC /062/049/ 2021 -MBA	National Registration Bureau	delay	<p>The complainant alleged that there was inordinate delay in issuance of the National Registration card (ID) to her son, who applied for the ID on 9th October 2018 and availed all the requisite documents in support of his application and was subjected to vetting but he had not received it. They made several follow ups with the County Registration office and the Huduma Service desk without any success. He was later advised to make a second application, of which he did on 22nd June 2021, and the ID was issued following the Commission's intervention.</p>

No.	Complaint Ref No.	Respondent	Classification	Summary of the Complaint
12.	CAJ/ KRA/000/ 1393/21-SK	Kenya Revenue Authority	Unresponsive Official Conduct	The complainant alleged failure by Kenya Revenue Authority to rectify its iTax platform which required the complainant to pay tax for businesses yet he did not own any. The complaint was resolved on the Commission's intervention.
13.	CAJ/KPLC/ 021/551/21-SK	Kenya Power	Delay	The Complainant alleged delay by Kenya Power Malindi Branch in rectifying erroneous meter charges in complainant's meter amounting to Kshs. 20,122. It was rectified upon the Commission's intervention.
14.	CAJ/NTSA/ 004/508/2021-SAK	National Transport and Safety Authority (NTSA)	Delay	The complainant alleged that he applied for the log book via the e-citizen portal on 5th October 2021. Upon following up on the portal, the same was apparently dispatched to Kisumu, but the Kisumu office had not received it. The complaint was resolved on the Commission's intervention.

No.	Complaint Ref No.	Respondent	Classification	Summary of the Complaint
15.	CAJ/KASNEB/013/2221/2021-SAK	Kenya Accountants and Secretaries National Examinations Board (KASNEB)	Delay	The complainant alleged that the KASNEB exam results for August 2021, for some learners were withheld without any due explanation. The results were released in October 2021 for a majority of students, and the rest were not advised on the status of their results. The Commission contacted the KASNEB who gave a satisfactory reason for withholding the results and communicated to the complainant.
16.	CAJ/KSM/TSC /013/352/2021-WT	Teachers Service Commission (TSC)	Delay	The complainant alleged that he retired from the TSC on 30th June 2020, and submitted the necessary clearances in July 2020. Despite several follow ups, his file had not been released. The file was released on the Commission's intervention.

No.	Complaint Ref No.	Respondent	Classification	Summary of the Complaint
17.	CAJ/KSM/ M.EDU/013/ 354/21-WT	Maseno University	Delay	The complainant alleged failure by Maseno University to refund his caution money, having been cleared by the University and applied for the refund on 22nd September 2020. He said that, he wrote to the University on 1st July 2021 lodging a formal complaint on the delayed refund, but the complaint was not addressed. The University refunded the caution money to the complainant upon the Commission's intervention.
18.	CAJ/MSA/ NSS F/017/ 177/2021-EM	National Social Security Fund	Delay	The Complainant alleged delay in receiving his NSSF benefits despite submitting all the requisite documents since 2020. The complaint was paid his benefits following Commission's intervention on 21st July 2021.

2.2.3. Sample Feedback from Complainants

ABDI NOOR MOHAMED
P.O BOX 62-80300, VOI
TELEPHONE: 0727828881
DATE:01ST APRIL, 2022



TO:
THE OFFICE OF OMBUDSMAN
TAITA TAVETA HUDUMA CENTRE

Dear Sir/Madam,

RE: LETTER OF APPRECIATION

I wish to express my sincere appreciation following your effort to help me get my passport after delay for two years.

After lodging my complaint with your office and upon your inquiry to the department of immigration over the delay in issuance of my passport the department officials called me and requested me to visit the Nyayo House and Collect my passport.

I wish to inform you that I have been issued with my passport without any conditions whatsoever.

May you continue assisting Kenyans who face challenges in getting government services in good time.

Yours sincerely,

Abdi Noor Mohamed.



AFRICA INLAND CHURCH - KENYA

MWENJE LOCAL CHURCH COUNCIL



FOUNDED IN 1895

P.O BOX 208 - 20320

KINAMBA TEL: 0721328785

021/54663mm

Date 19th February 2022

COMMISSION SECRETARY /CEO,
THE COMMISSION ON ADMINISTRATIVE JUSTICE
OFFICE OF THE OMBADSMEN,
P.O BOX 20414-00200,
NAIROBI.



Dear Sir,

REF: APPRECIATION

On behalf of the A.L.C Mwenje Local Church, I wish to convey our sincerely thanks for your effort that our church has been installed with electricity.

May our almighty God bless you personally and entire office for the good work you are doing.

God bless

Yours sincerely


Kiboi Ndirangu

Your Complaint Against HELB

Alan Masakhalia <alarnies@gmail.com>
To: Salome KARIMI <s.karimi@ombudsman.go.ke>

Mon, Feb 14, 2022 at 2:20 PM

Hello,

This is to say ASANTE

HELB has indeed confirmed that they had made an error

I wish to confirm that they have since refunded me the amount that was in question

Thanks once again

Regards

Alan Masakhalia



ALBERT MWAGAWE BAYA
F V C INT'L
P. O Box 20
MTWAPA
27TH SEPTEMBER 21

THE OFFICE OF OMBUDSMAN
MOMBASA
Box 80979 - 80100

DEAR SIR/MADAM

REF: ACKNOWLEDGEMENT TO THE OFFICE:

I hereby acknowledge your effort to help me get my Court Case Judgement. which had taken too long since 2010 upto 14TH September 2021, the day I received it at Kizurini law Courts.

I and my entire family appreciate your good work without bribery or payment. May God bless you and help you assist as many as possible who are helpless.

Thanks in advance

Yours faithfully

Albert Mwagawe Baya
Phone 0721787439
Sign *Albert Baya*



*Noted
I acknowledge
the gratitude.
Thank
Sk. Chau
2/3*

CPA Christine Ndaka
Ministry of Devolution
Teliposta Towers 5th Floor
P.O. Box 30004-00100
NAIROBI

28th February, 2022

The Chairperson,
Commission on Administrative Justice, (Ombudsman), Kenya,
West End Towers, Wayaki Way, 2nd Floor,
NAIROBI, KENYA

Dear Madam,

**RE: APPRECIATION ON YOUR INTERVENTION TO SALARY
REINSTATEMENT- FEBRUARY 2022**

I am writing to express my gratitude for your timely intervention to the reinstatement of salary in the month of February, 2022; and payment of all arrears since November, 2021.

I would also wish to acknowledge receipt of a copy of the letter Ref: CAJ/M.EDU/008/259/22-SK, dated 2nd February, 2022; which was received on 9th February, 2022; addressed to the Principal Secretary in the Ministry of Devolution, on my complaint of unfair treatment and action taken to resolve the matter.

On my part, I decided to seek transfer from the Ministry and have placed the request, for transfer to the Public Service Commission, as per the attached copy of the letter dated 21st January, 2022.

I am most grateful to the cordial reception accorded at your offices, right from the entrance gate, warm courtesy and proper guidance which was very consoling at a moment of distress.

I am thankful God for your esteemed services and the human dignity you embed to the service; and above all your responsiveness which is exemplary.

May God Bless you ALL and reward you abundantly and your families for empathizing with those most afflicted who seek your services.

Your's sincerely,
CPA Ndaka
CPA Ndaka
Encls

Florence Atieno Anditi
0712407670
KWALE

20/12/2021



REF: HUD/KWL/KPLC/021/21-AM

The Commission on Administrative Justice-Office of the Ombudsman
West End Towers
2nd Floor Waiyaki Way, Westlands
P.O. Box 20414-00200, Nairobi

Dear Sir/Madam,

RE: COMPLAINT BY FLORENCE ATIENO ANDITI AGAINST KENYA POWER

I would like to express my appreciation for taking my complaint into consideration. The problem was solved and the pole was replaced.

Thank you.

Yours Faithful

Florence. *[Signature]*

CC:

Branch Manager
Kenya Power
P.O. Box 595-80400

George Siengo
P.O. Box 80
MOMBASA

TEL: 0720201948

to
Commissioner of Administrative Justice
MOMBASA



Dear Sir

RE: My Complaint to your office and
Appreciation for your resolution

As for the above subject I came and reported the matter concerning the land registration at Siyos Land Registry without my consent, and I was only helped and the matter was brought to court through (DCIO) office in Siyos.

Therefore I appreciated your assistance to this matter.

Kind regards
George D. Siengo

7/6/22, 12:40 PM

Commission on Administrative Justice Mail



COMMISSION ON
ADMINISTRATIVE
JUSTICE
OFFICE OF THE OMBUDSMAN

COMPLAINING MATTER: TAX DEDUCTED BY MOMBASA COUNTY GOVERNMENT...
DATE: 6/7/22
P.O. Box 80979 - 80100, MOMBASA <mombasa@ombudsman.go.ke>

TAX COMPLAINS MATTER -TAX DEDUCTED BY MOMBASA COUNTY GOVERNMENT

harriet ngeera <harrietngeera@yahoo.co.uk>
To: CAJ MOMBASA <mombasa@ombudsman.go.ke>

Wed, Jun 29, 2022 at 6:43 PM

Dear Sir/Madam,

I kindly wish to refer to your letter dated 8th December 2020 (Copy attached) in respect to the above matter and our subsequent communication on the same.

Today, 29th June 2022, I was called by an officer from KRA Mombasa who informed me that they have established the money was paid by Mombasa County but they have not posted it in our ledger because they are still reconciling.

Earlier, I had applied for a tax compliance certificate but it was rejected due to the 'arrears' in my ledger. The officer told me that I was compliant but the problem was due to delay in completing the reconciliation that was being undertaken by the public sector section of KRA and she advised me to follow with the KRA headquarters in Nairobi.

I had earlier applied for a Tax Compliance Certificate (TCC) but it was declined on the basis of this matter. However, the officer from KRA told me that since I was compliant in my tax matters, and the problem was not on my side, I could get the TCC. Through the officer, KRA generated for me a TCC (Copy attached) and I was able to print it.

The officer sent me a letter dated 15th December 2020 (Copy Attached) explaining the matter. But for reasons that I do not know, I had not received the said letter till today when she emailed it to me.

The purpose of this email is therefore to:

1. Update your office on the status of the matter.
2. Share with your office the letter that was emailed to by KRA.
3. Share with you the TCC which I received today.

4. To express my most felt gratitude to your office for the efforts, support and sacrifice made this far in assisting me resolve this matter. I feel very much humbled by the quick responses, follow ups and several actions that your kind office has taken to assist me in resolving this matter. I am truly grateful and I request that you accept my gratitude and appreciation. Kindly keep up the good job.

Thank you and kind regards,

Harriet.

3 attachments

CAJ ON TAX MATTERS.pdf
445K

3.3 Customer Complaints--LETTER FROM KRA 29TH JUNE 2022.pdf
1812K

Tax Compliance Certificate 29TH JUNE 2022.pdf
18K



Elizabeth Fundi <e.fundi@ombudsman.go.ke>

Your complaint against KPLC

Muturi Mukabi <mukabi3@gmail.com>
To: "Fundi, Elizabeth" <e.fundi@ombudsman.go.ke>

Tue, Aug 3, 2021 at 12:45 PM

Dear Elizabeth

Thanks a lot for the concern on the matter. Though you have asked for the feedback late. My complain was launched to your office last year February.

I followed it up with your office. It was quite difficult as most of the numbers were not going through.

But on July last year finally KPLC Re-routed the power lines which had passed on top of my plot and the problem was over.

Thanks a lot i didn't believe this government bodies works.

Before I approached Ombudsman i had approached KPLC offices in Ruai. There was nothing being done some wanted money i was totally frustrated i was building then got stuck as there were powerlines. Time was running out i was loosing money.

Thanks for your effort and thanks to Ombudsman atleast some departments in the government still works.

Any further information you need please let me know.

Thanks and best regards

James Muturi
0721383770
[Quoted text hidden]

P.O.Box 636-20200
Kericho
kenoseno@gmail.com

20th Sept, 2021

The Commission Secretary/CEO
The Commission on Administrative Justice
P.O.Box20414-00200
Nairobi.

RE: UPDATE ON PROGRESS OF THE COMPLAINT MADE ON 17TH MARCH ABOUT FRAUDELENT REGISTRATION OF CAYMAN NATION HOLDINGS LIMITED.

Your letter Ref No. CAJ/POL/015/3820/20-EF dated 13th August, 2020 on the above subject matter refers.

I am writing to inform the commission that the Company **CAYMAN NATION HOLDINGS LIMITED** registration no. PVT-KAUJ2P5 was dissolved vide Kenya Gazette Vol. CXXII NO.122 on 26th June, 2020, a copy attached for your record. In this regard, the said company stands dissolved.

I want to sincerely thank you and your office for your commitment in assisting me to address this matter. Additionally, I refer to telephone conversation with Elizabeth Fundi, I am satisfied with the manner the commission handle this matter; consequently, I request that the file be closed.

Yours Faithfully



Kennedy Okeyo Osen.

COMMISSION ON ADMINISTRATIVE JUSTICE
COAST REGIONAL OFFICE
RECEIVED
DATE: 22/2/2022
P.O. Box 80979 - 80100, MOMBASA

KUPEA KEEPERTO
P.O. Box 210
MOMBASA

22/2/2022

COMMISSION ON ADMINISTRATIVE JUSTICE
P.O. Box 80979
MOMBASA

RE: COMPLAINT BY KUPEA KEEPERTO
AGAINST KPZC

I write this letter to Congratulate your office for the effort made vide letter of 28 February, 2022 (CAJ/MS/ML/021/2021-KK addressed to KPZC to act with immediate effect to address the matter.

I do confirm that KPZC acted and the loosely hanging high tension electricity power lines were fixed.

Your office can proceed and close my file. Thank you and congratulations for the effort to ensure enforcement of administrative justice.

Yours Sincerely
(Signature)
Kenneth Kingo

COMMISSION ON ADMINISTRATIVE JUSTICE
COAST REGIONAL OFFICE
RECEIVED
DATE: 16.11.2021-10
P.O. Box 80100, MOMBASA

Mwazondo Salimu Rama
P.O. Box 109-80400
Ukunda
Tel: 0720828994/0729810087

16th November 2021

The
Commission on Administration Justice
Office of the OMBUDSMAN
MOMBASA

Dear sir/madam

LETTER OF APPRECIATION

I would like to thank you, most sincerely for taking time to listen to my complaint against Kenya Port Authority for the delay of my appointment letter for the post of Artisan Electrical Engineering. It was great to meet and work with your team.

I am glad to inform you that Kenya Port Authority has today issued me with an appointment letter for the post of Assistance Mechanic, with effect from 5th November 2021.

Your help and support during this time are greatly appreciated.

(Signature)

Yours sincerely
Mwazondo Rama

RIZIKI ABDALLA MWAKULO
P. O BOX 282-80102
MOMBASA



OMBUDSMAN
MOMBASA REGIONAL
OFFICE

MOMBASA

REF: CAJ/MSA/M-ICG/062/283/21-EM

I happy to inform the office of the ombudsman that I went to the Bank and I confirmed that the money was deposited

- A total of 1,080,61360/- was deposited and I am happy for the work office of Mombasa did.

Thank you.
Riziki ABDALLA.

Riziki Abdalla Mwakulo



013/38

SAMSON EDMOND MURANSA
% BAYANI P. SCHOOL
PO BOX 168
MARIKANI.
30/12/2021

THE OFFICE OF THE OMBUDSMAN
MOMBASA.

Dear sir/madam

RE: MY PENSION CLAIM FROM THE TEACHERS SERVICE COMMISSION ON RETIREMENT BACK IN 2016:

I wish to give my warmest gratitudes following the intervention of your office on the above named issue.

I kindly appologise for having delayed to inform you after this issue was solved. I thankfully wish you the best as you serve me and those in such problems.

Yours faithfully Samson Edmond
Mwanga.
Mwanga.
0717093552.

THE
COMMISSION ON ADMINISTRATIVE JUSTICE
"OFFICE OF THE OMBUDSMAN"

Dear Sir/Madam

RE: THANK YOU LETTER

Following a complaint letter written to you on date 2/8/2021 concerning student Nick Mutai, admission number 9663 of Kabarnet Boys High School, I hereby write to you this letter to thank you for your steadfast commitment and followup towards the issue.

On date 11/8/2021, I travelled to meet the school principal on that issue. He told me to bring back the boy the following date 12/8/2021 and also assured to me that they have registered the boy to sit for his K.C.S.E examination. As at now the boy is in school, Kabarnet High School. He reported back on date 12/8/2021.

Thank you for your tireless efforts to see the boy back to school. May God bless you abundantly.

Yours faithfully,



ZACHARIAH KIMUTAI KAPTEIT

0724 558 564

2.3. Investigations

This section highlights the systemic and specific investigations that were undertaken by the Commission during the reporting period.

I. **Alleged Abuse of Power by the Managing Director (MD) of Nairobi City Water and Sewerage Company (NCWSC)**

Two complaints were received on 17th and 18th February, 2020 from an employee of Nairobi City Water and Sewerage Company alleging abuse of power by the Managing Director for facilitating and aiding industrial facilities/factories to illegally discharge dangerous chemicals into public sewer and verbally intimidating him in execution of his enforcement roles and subsequently unfairly transferring him. Investigations established that the allegation against the MD were founded.

In light of these findings, the Commission recommended, inter-alia, that:

- I. NCWSC consider deploying the complainant to a duty station with roles/responsibilities that are in line with his contract, in order to efficiently utilize his expertise as an investigations officer;
- II. the Company develop a transfer policy to come up with clear procedures for transfer of employees in order to avoid abuse;
- III. NCWSC Board of Directors further investigate the allegations of verbal intimidation by the MD on the complainant or any other officer and the existing communication breakdown between the MD's office and the staff, with a view of resolving it and report back to the Commission the steps taken to rectify the situation within three months;
- IV. NCWSC Board review the issuance of conditional licenses to non-conforming industries, indicate the period the industries are expected to undertake the continuous improvement in a view to prevent constant discharge of untreated effluent into the public sewer.

II. **Alleged Irregular Recruitment and Promotion of Staff at Kenya Urban Roads Authority (KURA)**

The Commission undertook an investigation into an anonymous complaint alleging irregular recruitment and promotion of staff in disregard to the organizational policy. It was further alleged that the experience and qualifications of candidates were overlooked in recruitments and promotions of staff. The investigation sought to establish whether any laws, regulations or policies were violated in undertaking the alleged recruitments and promotions.

Investigations established that the recruitment of Engineers (Job Group 6) was conducted in accordance with the PSC Act, 2017 and PSC Regulations of 2020 though it contravened the KURA HR Policy and Procedure Manual which made it mandatory for the Authority to first exhaust internal recruitment mechanisms before considering an open advert. The credibility of the interview results for the position of Engineers (Job Group 6) was found to be questionable. The promotions of Superintendents (Job Group 7) to Senior Superintendents (Job Group 6) though well intended was ill advised. Further, the alleged recruitment of Human Resource Officer (Job Group 6) was unsubstantiated. However, a Human Resource Officer was promoted from grade 4 to grade 5 (currently grade 6) based on her cumulative experience and good performance though she did not possess a degree which was a requirement for that grade.

In light of these findings, the Commission recommended that KURA should:

- I. revise its HR Policy and Procedures Manual to make internal recruitment a necessary but not a mandatory process in filling of vacancies;
- II. Make promotions on merit (qualification, experience and performance);
- III. accord adequate and equal opportunities to all qualified candidates through a competitive internal interview in order to promote fairness and reduce disgruntlement; and
- IV. ensure due diligence in handling interview results and sufficient time be allocated for interviews.

III. Allegations of Maladministration at the Kenya Industrial Research & Development Institute (KIRDI)

The Commission received an anonymous complaint against the Director KIRDI, alleging administrative injustice on disciplinary cases, irregular appointment & reinstatement of staff, irregular promotion of staff, irregular payment of leave allowances, impropriety involving an official vehicle, unfair implementation of SRC recommendations, unfair transfers, insubordination of the Board of Directors, and contravention of transport policy as well as covid-19 regulations.

Investigations established that an officer filed a case in court about disciplinary action that was instituted against him and the court ruled in his favor. The allegations that the institute's vehicle was on an unauthorized journey and that some occupants succumbed to injuries in an accident involving the vehicle were unsubstantiated. It was also found that recruitments done in 2019 for the positions were undertaken irregularly and

in contravention with section 36 (1) of the PSC Act, 2017 as well as Section B.5 of the KIRDI HRPPM, 2018. The appointment of an officer to the position of Artisan I in 2019 was found to be irregular and the reinstatement of another officer as a Leather Technician in the year 2020 was found to be irregular.

Further, the Promotions and appointments to the positions of head of divisions, sections, and centers were found to be irregular, given that the positions did not exist in the Career Progression Guideline (CPG) and that the appointments on acting capacity were conducted unfairly and at the discretion of the Director. Some officers diploma certificates from Kisii University were authentic although the appointment of one officer to the position of Acting Head of Payroll was also irregular. Commutation of leave for cash in the case of another officer was authorized by the Director. The allegations that staff were denied official transport to the burial of two of their colleagues contrary to the policy and previous practice was unsubstantiated.

In light of these findings, the Commission recommended that:

- I. KIRDI Board nullify all appointments in the capacity of Heads of Centers, Divisions, and Units;
- II. the PS, State Department for Industrialization ensure that the cost of Senior Management training undertaken by the recruited senior staff be surcharged from members of the Board who irregularly approved the training;
- III. KIRDI Board nullify the appointments of officers who were appointed and reinstated irregularly;
- IV. the Board and Management consider partnering with CAJ in enhancing the capacity of the institution's internal complaints Office;
- V. the State Corporations Advisory Committee (SCAC) in collaboration with the Public Service Commission review the Human Resource practices with a view to addressing systemic malpractice at the institute;
- VI. SCAC to fast-track review of the Human Resource instruments with the aim to streamline human resource practices at the institute;
- VII. SCAC to monitor compliance by the Board and management with the Human Resource Policies and Procedures and Career Progression guidelines; and
- VIII. the Commission of University Education to conduct an audit on Kisii University with a view to establish the cause of discrepancies in academic certificates and ensure standardization of the same.

IV. Alleged Irregular Registration of Parcel of Land Number 341, Nkararo Adjudication Section, Transmara West Sub-County

The Commission carried out an investigation into alleged fraudulent registration of parcel number 341, Nkararo Adjudication Section, Transmara West Sub County in the name of Simion Masake instead of the complainant, Hellen Moraa Nyangwara who has occupied the land for more than thirty years and has undertaken several developments on it.

The investigation established that the registration of the parcel of land in favor of Simion Masake was done fraudulently given that the adjudication record relied upon during the registration was found to be fake. It was prepared in disregard of the primary document (Demarcation Book/Rough book) and no entry was made on the book to explain the changes; Its serial number and color doesn't tally with other adjudication records in that cluster and no explanation was either noted down or given to CAJ investigators for the mismatch. The purported signature of the Adjudication Committee chairperson was confirmed to be fake by the purported signatory. The person (current registered owner) in whose favor the record was made never signed it.

The Commission, therefore, recommended rectification of the irregularity in line with Section 79(2) of the Land Registration Act, 2012, and revert the ownership of the land to Hellen Moraa Nyangwara.

V. Alleged Service Failure at The Kajiado Referral Hospital

The Commission undertook an investigation into alleged failure in the service delivery at the Kajiado Referral Hospital following an industrial action by casual workers between 7th and 9th July 2021 over delayed payment of salaries for five consecutive months, which had accrued to KShs. 3,750,000. The investigation was undertaken suo motto (on its own motion) following various media reports featuring the protest.

The investigation established that the Hospital casual workers went on strike to protest about delay in payment of their five-month salary arrears. The county officials interviewed attributed the problem to delay by both National Treasury and NHIF to disburse funds to counties and reimburse the Hospital respectively. It was also established that there were no drugs in the Hospital due to an outstanding debt of KSh. 61.7 Million owed to KEMSA by the County.

Consequently, the Commission recommended that;

- I. County undertake an audit of all the County casual employees with a view to regularizing their employment;

- II. the casuals should have clear terms and conditions of service, particularly minimum wage remuneration;
- III. the County Public Service Board delegate the recruitment of casuals to the Hospital Management;
- IV. the employment of casuals should be conducted competitively by the Hospital Management on a need basis;
- V. the County give first priority to the payment of county staff including casual workers;
- VI. health being an essential service, the county prioritize settling KEMSA and MEDS outstanding debt to allow the county to continue ordering drugs and other medical commodities;
- VII. the process of ordering drugs within the county should be streamlined to ensure its efficiency; and,
- VIII. the County liaise with the Commission on Administrative Justice to establish a robust complaints handling system.

2.4. Advisories

The Commission, alongside others, has the mandate to protect the sovereignty of the people, while also ensuring observance by state organs of fair administrative action, democratic values and principles as provided by Article 249(1) of the Constitution. Further, Article 59 (2) (h) and (i) of the Constitution, and Section 8 (a) and (b) of the Act grant the Commission powers to investigate any conduct of State officers, or any act or omission in public administration that is alleged or suspected to be prejudicial or improper, or to result in any impropriety or prejudice. Section 8(h) of the Act empowers the Commission to issue Advisory Opinions or proposals on improvement of public administration, including review of legislation, codes of conduct, processes and procedures while section 2(1) empowers the Commission to deal with a decision made or an act carried out in public service or a failure to act in discharge of a public duty.

Advisory opinions provide an important avenue for the Commission to recommend preventive measures and remedial action to government agencies. The advisories deal with a variety of issues with the objective of improving public administration and promoting good governance. Some of the key advisories issued by the Commission in the reporting period include:

2.4.1. An Advisory Opinion on Mandatory Covid-19 Vaccination for Public Officers

The advisory was in reference to the circular dated 5th August 2021 emanating from the Head of Public Service directing public servants to be vaccinated against Covid-19 by 23rd August 2021. The directive further

stated that non-compliance would attract disciplinary actions with the attendant consequences.

The Commission raised concerns on the legality of the circular in view of the logistical and procurement challenges witnessed in the quest for mass availability of vaccines, priority for those at the greatest health risk, and human rights implication prompting the Commission to advise THAT:

- I. the circular be revoked and a new one issued from a rights-based perspective. The Commission emphasized the need for the government to employ a persuasive approach to increase the vaccine uptake process rather than focusing on the coercive measures;
- II. due regard be had for the logistical and procurement challenges involved in obtaining vaccines during the period as well as prioritizing those at the greatest risk. The Commission advised the timelines for vaccine mandates (if any) be revised accordingly and be applicable to public servants whose nature of work could not be executed without vaccine;
- III. public servants be allowed to make individual choices on whether to take up vaccination or not, the paramount concern being adherence to preventive protocols; and
- IV. uniformity in communication from the Government was key since the Cabinet Secretary for Health was on record as stating that vaccination would be voluntary while the above-mentioned circular was not only arbitrary but unsupported by scientific practices and protocols on vaccination worldwide.

2.4.2. An advisory to the Office of the Director of Public Prosecution (ODPP)

The Commission's issued an advisory pursuant to a statement issued by the ODPP on 19th April 2022, titled "Statement on prosecution of cases during the election period". In the said statement, the Director of Public Prosecution indicated that prosecution and fight against corruption would not be a priority for the next 3 months, a position not grounded on any provision of law.

The Commission advised that suspension of prosecution of individuals facing graft charges three months to an election, on the justification of prioritization by the ODPP was a threat to the rule of law. Further reference was made to Section 4 of the Office of The ODPP Act, 2013, which does not provide for the suspension of prosecution pending elections.

In line with its oversight role to ensure effective and efficient service delivery in the public Sector, the Commission postulated that all public administration processes; civil and criminal proceedings should continue seamlessly notwithstanding the election period. At no particular time should a public or state officer cease to carry out his/her duty on the basis of political, economic or social perception which is an unfair practice and against the rule of law. On this account the Commission advised THAT:

- I. the DPP, in reference to ODPP Act Sec 4(b) and (c), should implement an effective prosecution mechanism to maintain the rule of law and cooperate with other institutions to ensure fairness in continuous public prosecution of all graft charges notwithstanding the electoral period; and
- II. all state/public offices, Constitutional Commissions and independent offices continue to discharge their functions efficiently and effectively in service to the public with reference to the law.

2.4.3. An advisory opinion on the Misuse of Public Resources for Political gain

The Commission issued an advisory opinion on the misuse of public resources during the 2022 electioneering period, pursuant to the media statements on the reckless misuse of government vehicles by persons who had access to the public resources.

The Commission emphasized that public officers were entrusted with the responsibility of safeguarding public resources in public interest. The misuse of public resources was not only unlawful in reference to the Election Offences Act, 2016 but also undermines the principles of good governance and breaches Article 10 and 232 of the Constitution. Consequently, the Commission advised THAT:

- I. state and public officers should refrain from misuse of public resources and participating in the activities of political parties or candidates for such activities;
- II. the Independent Electoral and Boundaries Commission (IEBC) and the Director of Public Prosecutions (DPP) should monitor and ensure strict compliance with the Election Offences Act, 2016;
- III. where applicable, prosecution, disqualification, surcharge and removal from office should be swiftly carried where there is breach of the law; and
- IV. IEBC should take action against any political party or candidate found to have aided or abetted the misuse of public resources which includes disqualification from contesting during the 9th August 2022.

CHAPTER THREE

3.0 STRENGTHENING COMPLAINTS MANAGEMENT IN THE PUBLIC SECTOR

The Commission facilitates the setting up of, and strengthening of the complaint-handling infrastructure in the public sector. This is realised through training, monitoring of service delivery standards and provision of technical support.

3.1. Resolution of Public Complaints Indicator

The Commission mainstreamed complaints management in the public sector through inclusion of 'Resolution of Public Complaints' and implementation of citizen service delivery charter indicators in the performance contracting framework.

Under the Indicators, public institutions were required to establish a mechanism of addressing complaints and create awareness on service delivery charter and complain handling mechanisms. The institutions were required to report to the Commission on quarterly basis. The Commission analyzed the reports and certified the Ministries, Departments, Agencies and Counties (MDACs) based on the established assessment criteria to ensure compliance.

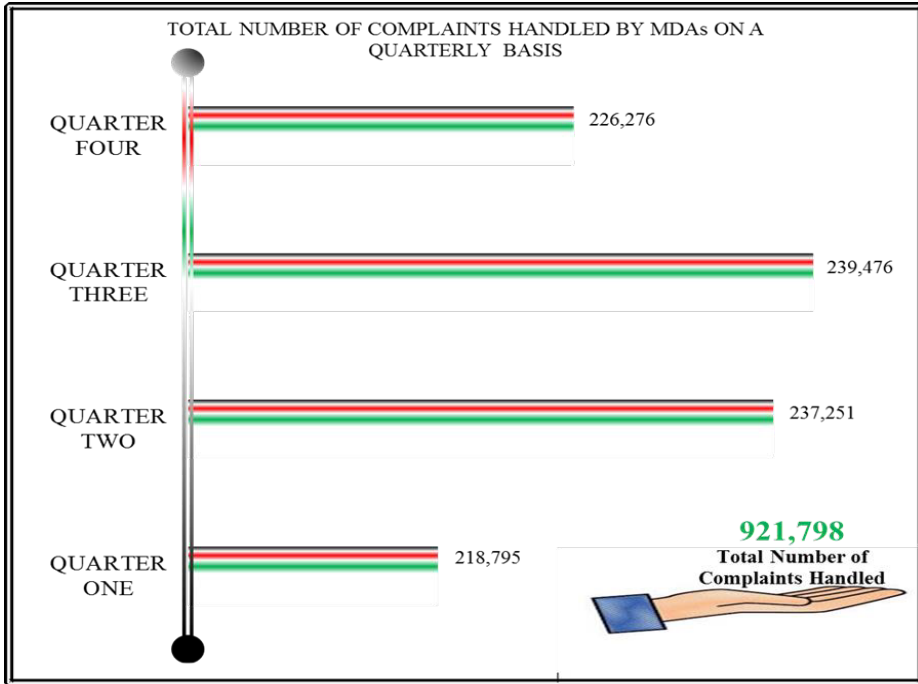
During the period under review, the Commission developed the Eleventh Edition reporting guidelines for implementing the indicators.

In assessing the level of compliance, the Commission considered the following parameters:

- i. resolution of all complaints received by MDACs;
- ii. submission of quarterly reports to the Commission; and
- iii. awareness creation initiatives on complaints handling framework and citizen service delivery charters;

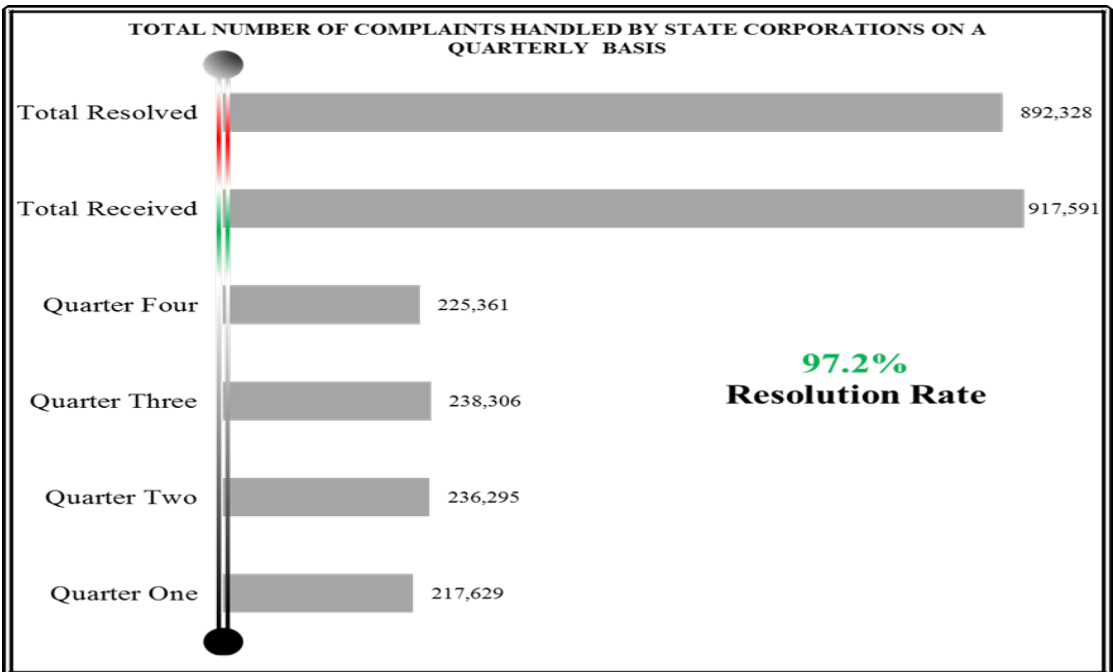
During the reporting period, a total of 921,798 complaints were received by public institutions out of which 896,254 complaints were reported to be resolved, translating to 97.2% resolution rate by the MDACs. Figure 6 depicts total number of complaints received by institutions on a quarterly basis.

Figure 6: Quarterly analysis of Complaints Received by Public Institutions



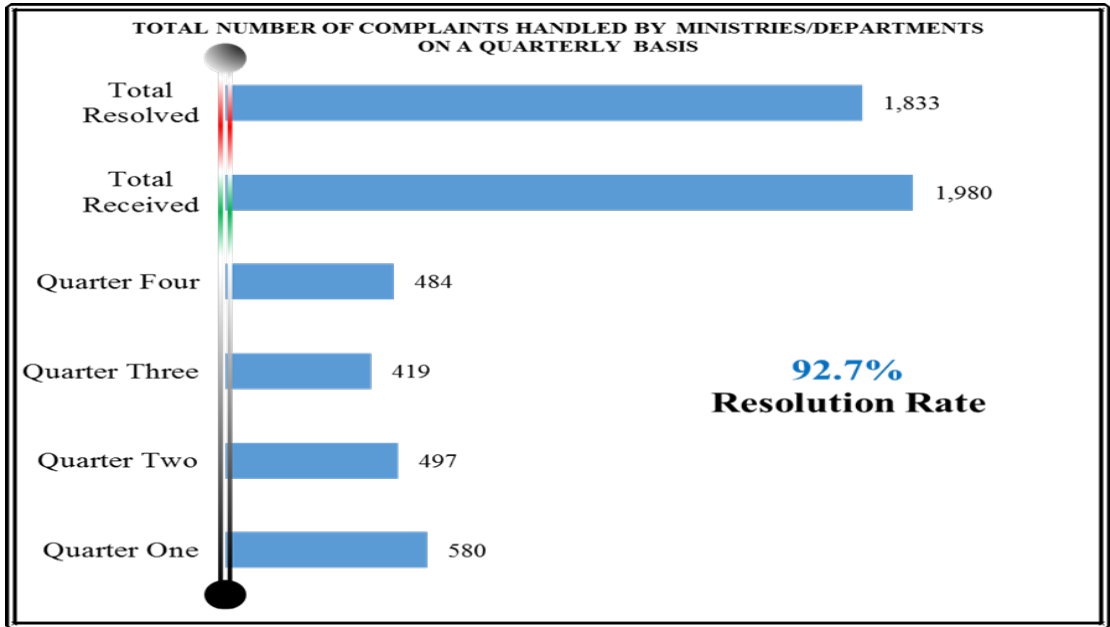
The state corporations received 917,591 complaints out of which 829,328 were resolved.

Figure 7: Quarterly analysis of Complaints Received by State Corporations



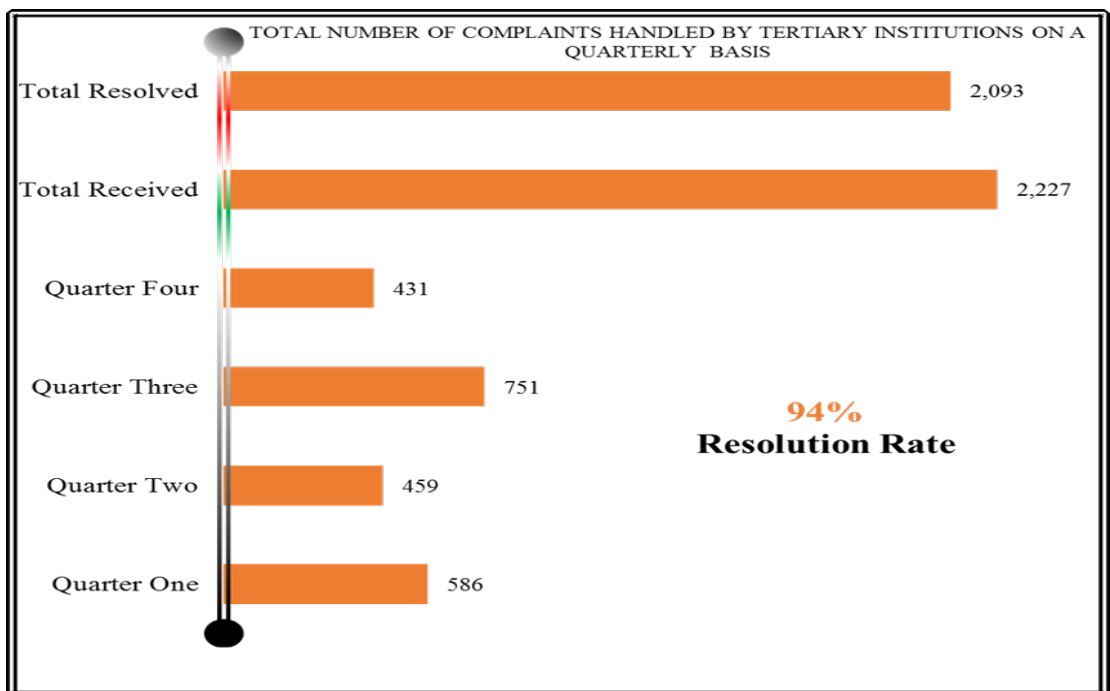
Ministries and government departments resolved 1,833 of the 1,980 complaints received.

Figure 8: Quarterly analysis of Complaints Received Ministries and Departments



Tertiary Institutions resolved 2,093 complaints of the 2,227 complaints received.

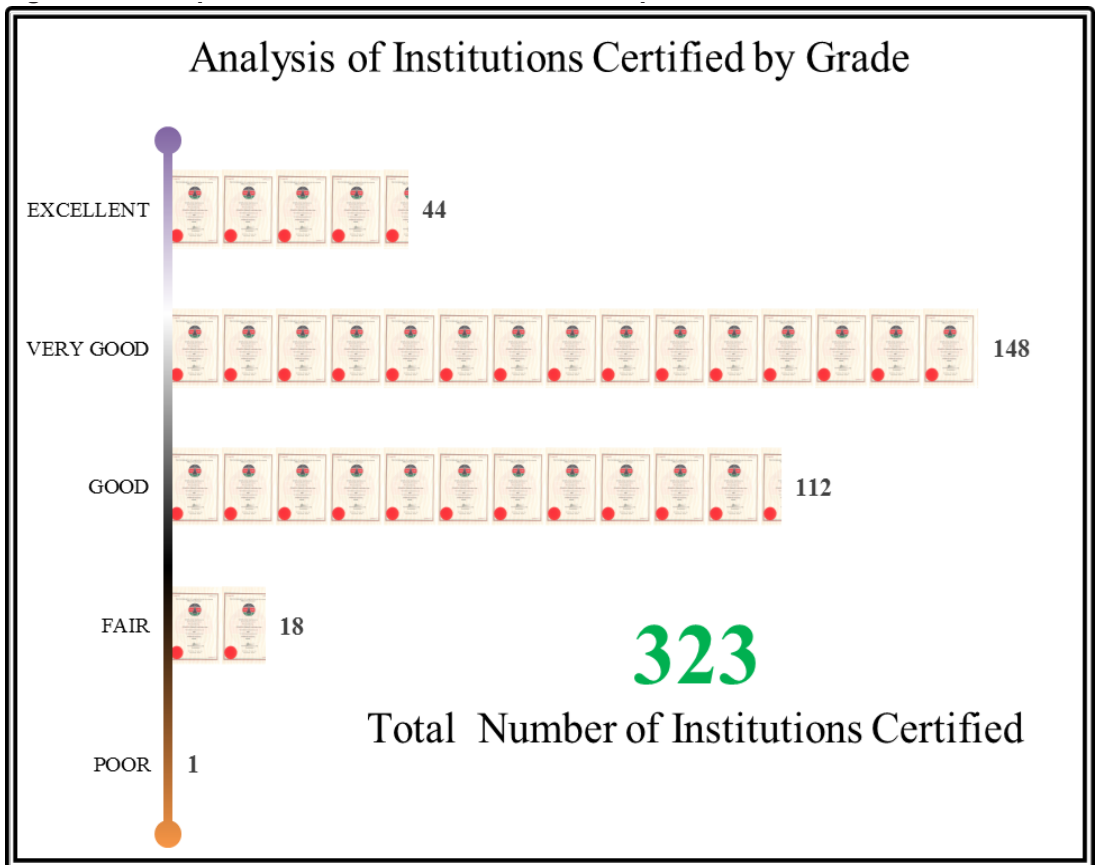
Figure 9: Quarterly analysis of Complaints Received Tertiary Institutions



The total number of complaints handled by MDAs in the Financial Year 2021/2022 increased by 25% from 735,382 handled in the previous year.

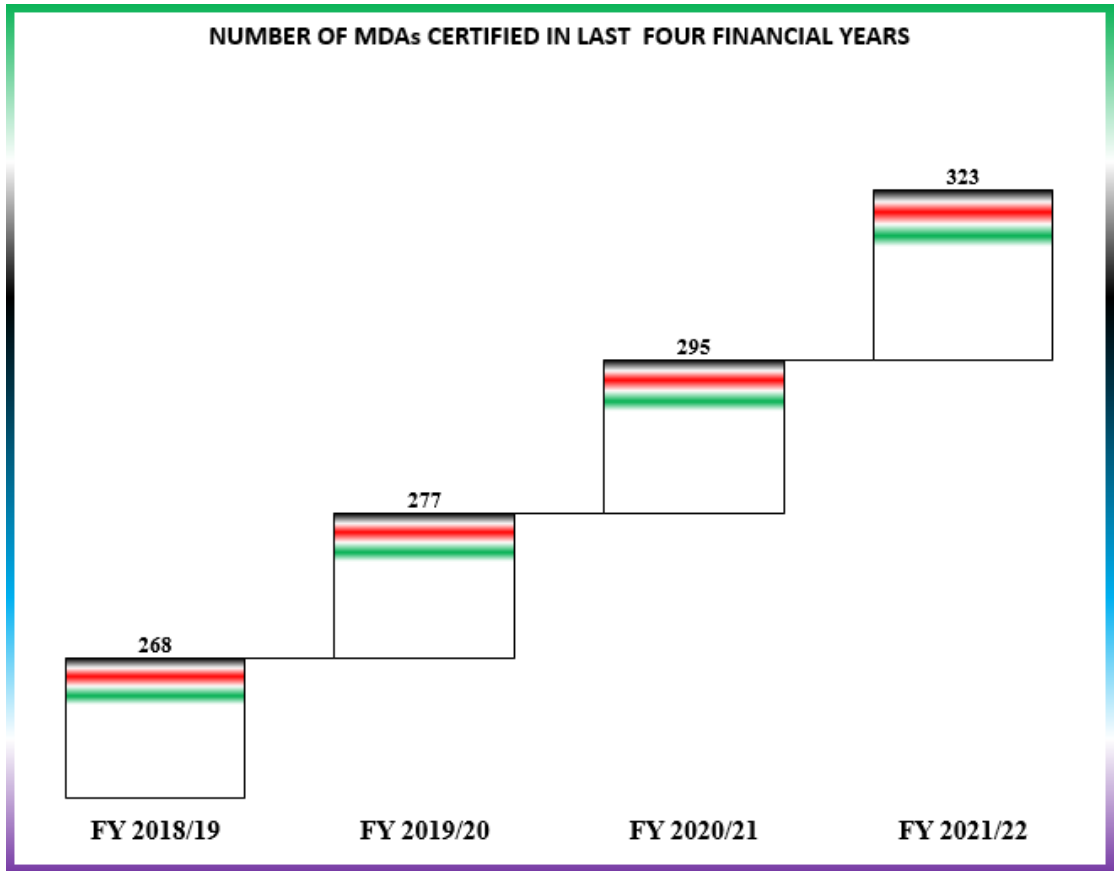
A total of 323 public institutions complied with requirements on the Resolution of Public Complaints Indicator and were certified by the Commission during the period under review.

Figure 10: Analysis of Public Institutions Certified by Grade



The number of the institutions certified by the Commission have been increasing over the last four years. This can be attributed to the interventions by the Commission to strengthen the capacity of public institutions to manage complaints. Figure 11 depicts a comparative analysis of the number of public institutions certified over the four financial years.

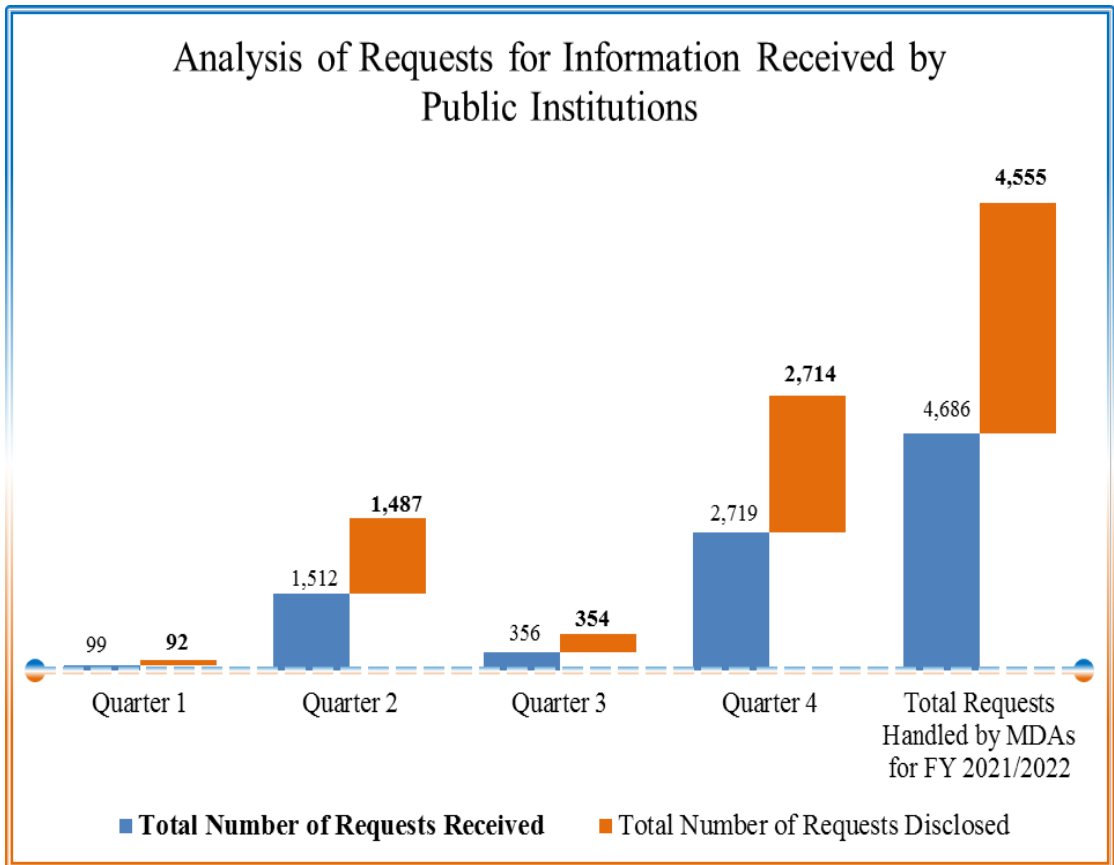
Figure 11: A comparative analysis of the number of public institutions certified



3.2. Access to Information Requests Processed by Public Institutions

Public institutions received a total of 4,686 requests for access to information in the Financial Year 2021/2022. Based on the reports submitted to the Commission, a total of 4,555 requests for access to information were granted. Figure 12 is illustrating the requests for information processed.

Figure 12: Analysis for Requests for Information Processed by public Institutions



CHAPTER FOUR

4.0 ACCESS TO INFORMATION

4.1 Introduction.

The Commission is the oversight and enforcement agency of the right to access information held by public authorities as provided for under the Access to Information Act. The Commission is required to report annually to the president and parliament in line with the Constitution and the Access to information Act. The report entails the general assessment of the Government's performance with regard to the realization of the right to access information. In this regard, the Commission has developed several mechanisms for evaluating public entities' implementation of the right to access information. This focuses on mainstreaming of access to information in all public entities, reporting by public entities on implementation of access to information, review of appeals on access to information applications, capacity building and sensitization of public entities on the access to information law.

4.2 Activities Carried out in Year 2021/2022

In the year under review, the Commission undertook the following activities to promote the right to access information.

4.2.1 Promotion of Access to Information

I. Development of ATI Regulations

The Commission developed the draft '*Access to Information (General) Regulations*' to provide the appropriate operationalization framework for the Access to Information Act, 2016, in conjunction with other key stakeholders.

With reference to Article 10 of the Constitution, views from the public were sought through a notice published in the print media and electronic media. Cognizant of the challenges brought about by the Covid-19 pandemic, public participation was conducted both in-person and virtual meetings with the key stakeholders in order to widen the pool of comments on the draft regulations. The public participation forums were conducted in phases in the following 17 regions, the first phase falling in the tail end of the 2020-2021 financial year while the second phase followed in the first and second quarter of the 2021/2022 financial year.

The Commission received feedback from a wide range of institutions such as Constitutional Commissions, professional associations, MDAs, CSOs, and Universities.

Table 2: Access to Information Regulations Public Participation Fora

Phase 1		
Date	Region	Counties
21st June – 25th June 2021	North Rift	Nandi & Nakuru Counties
	Coast	Mombasa, Taita Taveta Counties
	Eastern	Kitui & Makueni Counties
	North Eastern	Garissa & Wajir Counties
	Nairobi	Nairobi County
Phase 2		
Date	Region	Counties
30th August – 3rd September 2021	Central	Nyeri & Murang'a Counties
	South Rift	Narok & Bomet Counties
	Upper & Central Eastern	Marsabit & Meru Counties
6th September – 10th September 2021	Western	Kakamega & Bungoma Counties
Stakeholders Engagements		
19th August 2021	Development Partners 19th August 2021	
18th August 2021	Government Ministries, Departments and Agencies	
22nd September 2021	County Assemblies Forum Officers	
28th September, 2021	Radio talk-show hosted by Radio Baraza	
4th October, 2021	Media Editors & Journalists breakfast meeting	
6th December 2021	Persons with Disabilities (PWDs) Forum	

Following the public participation engagements, the taskforce incorporated the comments received on the draft regulations. As required by law, the taskforce held a consultative meeting with the Parliamentary Committee on Delegated Legislation to apprise them on the draft regulations and get their comments on the same. The Commission then submitted the final draft of the Access to Information (General) Regulations to the Cabinet Secretary, Ministry of ICT, Innovation and Youth Affairs for execution and submission to the Attorney General for publication.

Figure 13: Public participation forum at Dedan Kimathi University in Nyeri County



Figure 14: Public Participation Forum in Nandi County



4.2.2 Development of ATI Curriculum with the Kenya School of Government

In an endeavor to create a structured capacity building engagement with public officers, the Commission, with the support of International Development Law Organisation (IDLO), partnered with the Kenya School of Government (KSG) to develop an ATI curriculum. This was to enable training of public officers tasked with implementing the ATI Act at the institutional level to process requests in line with the law.

On this basis, the Commission developed a Facilitator's Guide and subsequently conducted a Training of Trainers (TOT) comprising of officers from the Commission and KSG to create a pool of competent trainers.

Further, the Commission successfully undertook a pioneer cohort training on 8th to 12th November 2021 at the KSG which targeted the County Government access to Information officers. ATI curriculum has been used to develop an ATI course at the institution.

4.2.3 Sensitization of Public and Private Entities

The Commission, in line with its mandate, has continuously undertaken trainings and capacity building initiatives of public officers. A total of 169 officers were trained as enumerated below;

Table 3: Training of Officers

Institution	Period	No. of offices
MDAs in the Education & Health Sectors	July 2021	25
County Assemblies Forum	September 2021	87
ATI officers from the 47 counties	March 2022	47
Office of the Attorney General & Department of Justice	June, 2022	10

Figure 15: The Commissioner ATI, Lucy Ndungu joins participants during the Training for the MDAS in Education and Health Sector on ATI Matters for Public Procurement



Figure 16: CAJ Officer, MS. Joyce Kihara, Training the MDAs on ATI Matters



4.2.4 Strategic initiatives

A. Political Parties Model Manifesto

The Commission entered into a partnership with the Vision 2030 Delivery Secretariat (VDS) and other like-minded institutions including the SDGs Forum, Centre for Multiparty Democracy, UN Women and FES Kenya and came up with model manifesto for political parties. The aim of this initiative was to promote the Kenya's Vision 2030 and Access to Information Agenda towards free, fair and credible elections that were to be held later in August 2022.

The model manifesto was to guide political parties on pertinent issues that needed to be addressed. The manifesto is anchored in the Constitution of Kenya and is aligned to the Commission's mandate, the United Nations Sustainable Development Goals (SDG) as well as Kenya's Vision 2030.

B. Stakeholders' Sensitization on ATI Requirements During Elections

The Commission partnered with Article 19 Eastern Africa and held multi-stakeholder sensitization engagements on the requirements of ATI during the 2022 electioneering period. The sensitization targeted the media, election management bodies, law enforcement agencies and regulatory institutions. The engagements centred on ATI law both at the National and Regional levels which provide direction on access to information in the electoral process as a means of strengthening democratic governance in Africa. The participants were sensitized on *Access to Information Act (2016)*, *Declaration of Principles on Freedom of Expression and Access to Information in Africa* and the *2017 Guidelines on Access to Information and Elections in Africa*.

The sensitization was aimed at promoting transparency and accountability to safeguard peace, security and stability. The sensitization covered four regions, namely; Nairobi, Kisumu, Eldoret and Mombasa.

C. Media Collaboration

The Commission appreciates the critical role played by the media, in disseminating information and facilitating Access to Information. In this regard, it partnered with the Media Council of Kenya (MCK), to sensitize the media on their roles in ensuring compliance with the provisions of Access to Information Act through sensitization fora, as follows:

- I. Senior Political Journalists Roundtable on access to information and election preparedness;
- II. Media Summit on Election-panel discussion on the Civic Empowerment and Access to Information in the Electoral Process; and
- III. Media Summit whose theme was 'Elections, Media and Information Integrity'.

D. Celebration of the International Day for Universal Access to Information (IDUAI)

The Commission, in collaboration with the Media Council of Kenya and Garissa County Government, spearheaded the celebrations to mark the international Day for Universal Access to Information (IDUAI). This day is observed annually to create awareness on the importance of the right to information and its implementation worldwide as well as accelerate realization of SDG 16.

During the reporting period, the commemoration was held in Garissa County on 28th September, 2021. The Commission reiterated its commitment to partner with other institutions to ensure the realization of the right to information in Kenya.

E. Open Government Partnership (OGP)

The Open Government Partnership is an initiative that brings together government reformers and civil society leadership to promote inclusivity, responsiveness and accountability in government. CAJ, being the institution mandated to oversee and enforce the right to Access to Information, is represented both at the steering and technical committee level of the OGP.

F. Membership and International Engagements

The need to partner with the international community on Access to Information is critical in promoting best practices. In this regard,

the Commission subscribes to various international organization, key among them:

i. International Conference for Information Commissioners (ICIC)

Kenya is a member of the International Conference for Information Commissioners (ICIC) and is represented in the Executive Committee which spearheads the strategic priorities. This is a global forum that connects Information Commissioners responsible for the protection and promotion of access to information laws, in order to enhance transparency and accountability.

ii. Africa Network for Information Commissioners

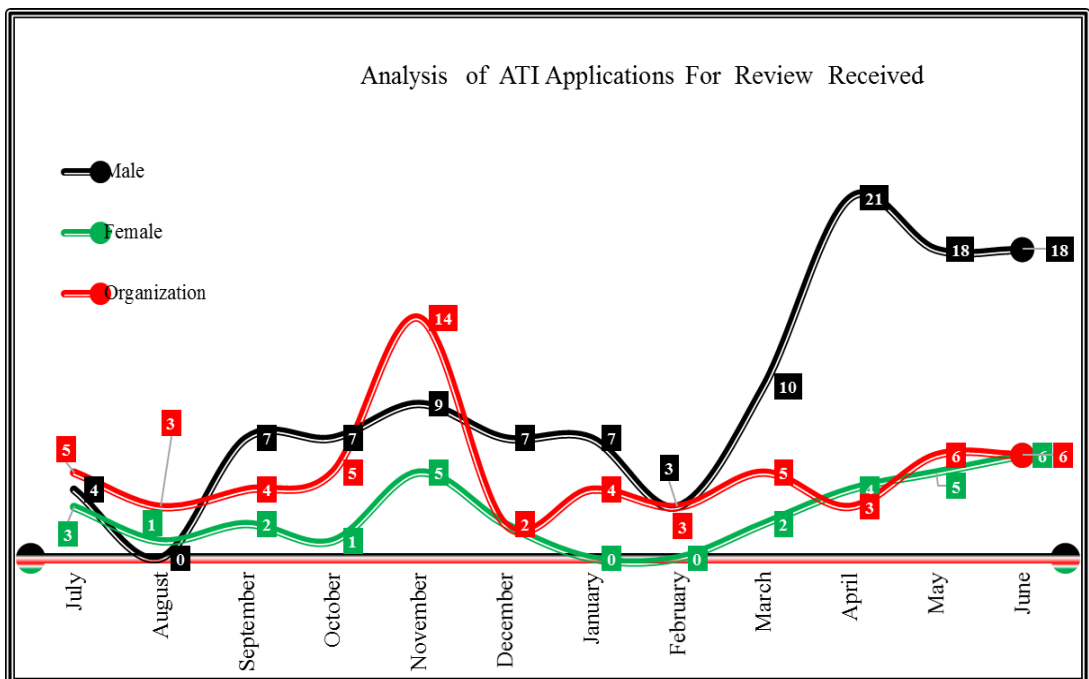
African Network of Information Commissioners forum is a regional network that seeks to bring together African Countries that have enacted the right to information laws.

The forum held its inaugural Executive Committee Elections in June 2022 and the ATI Commissioner at CAJ was elected to the Executive Committee. The other members include representatives from South Africa, Ghana and Morocco.

4.3 ATI Applications for Review

The Commission received 202 applications for review during the financial year which are disaggregated as follows in the table # below:

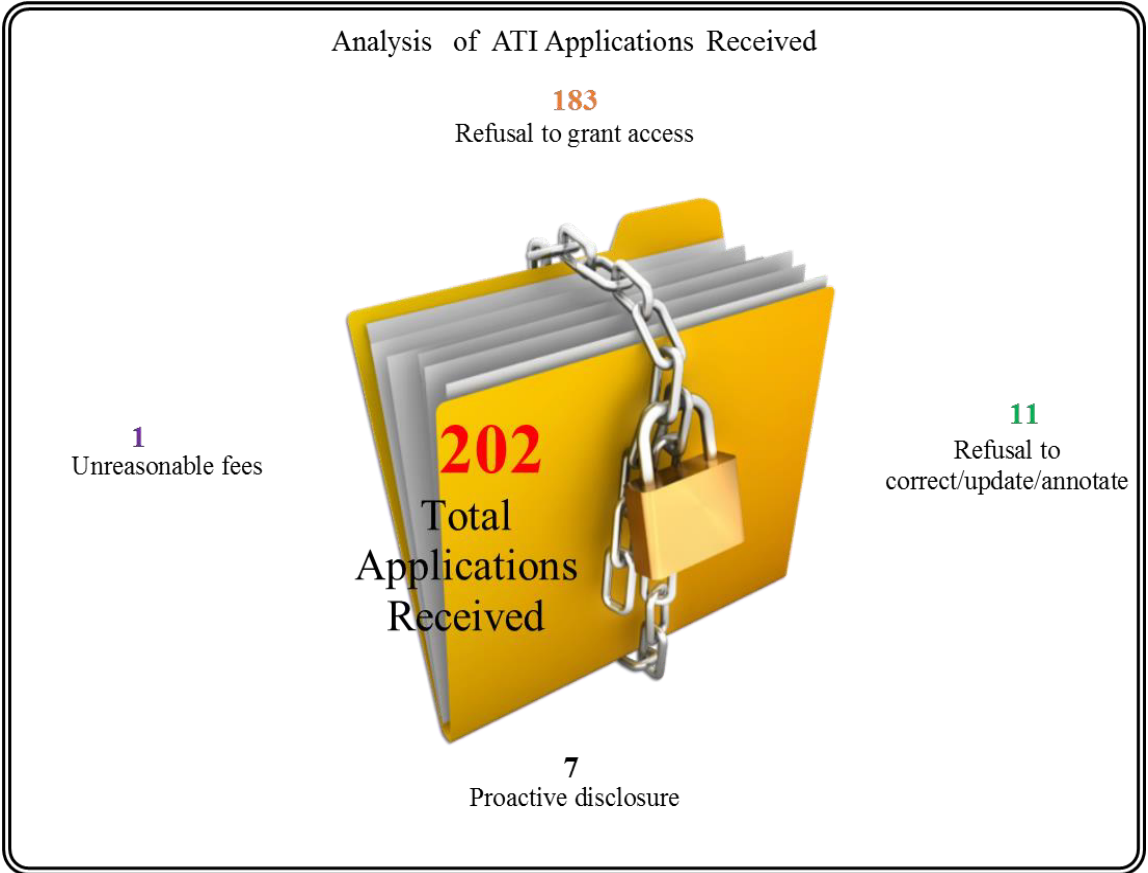
Figure 16: Analysis for Requests for Information Reviewed



4.3.1 Classification of Requests

The applications received are classified into the following categories of Access to Information requests during the reporting period:

Figure 17: Analysis for Requests for Information Received



The highest number of applications received were on 'refusal to grant accesses with 183 applications lodged against a total of 202 applications.

Below is the disaggregated data on the entities (Public or Private) and the Levels of Government against which applications for review were received by the Commission.

Figure 19: Private and Public Entities

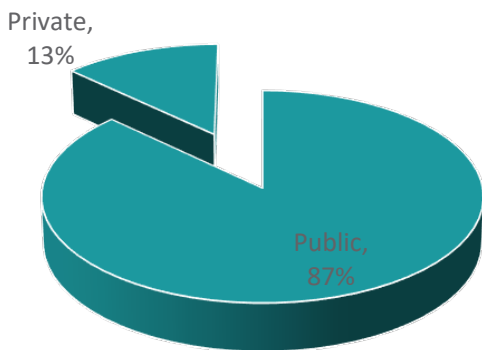
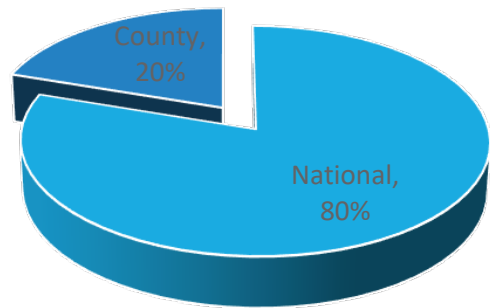


Figure 18: Levels of Government



4.3.2 Limitations Invoked by the CAJ

The Access to information Act under section 6 provides for instances where Access to Information may be limited. Where the information requested is limited by the Act, the Commission invokes the provisions of Section 6. For instance, the Commission received an application for review from the University of Nairobi seeking for information relating to individual tax payers' information for purposes of executing warrants of attachment and related court orders from the Kenya Revenue Authority. After review, the Commission determined that the requested information was limited under Section 6(1) (d) of the Access to Information Act.

4.3.3 Success stories on ATI

I. Request for Pension information by Isuzu East Africa Employees

The Commission received an application for review from former employees of Isuzu East Africa requesting for information relating to: certified copies of individual contribution records to Isuzu East Africa pension scheme; certified copies of all computation records provided to the respondent by Minet ICDC Kenya Limited; and copies of all records showing payments of pension dues. After the Commission's interventions Isuzu East Africa provided all the information sought to the employees.

II. Request for information from National Treasury

The Commission received an application for review from an applicant requesting for information relating to:

- a. the treaties entered into by the Republic of Kenya on procurement of external lending in the last nine years;
- b. any sovereign bond agreement signed by the Government of Kenya and any bond holder(s);

- c. the list of Kenya's sovereign bond holders including beneficial ownership information of the issuing companies; and
- d. how the proceeds of the sovereign bonds had been utilized.

After the Commission's intervention, the National Treasury provided the information sought.

III. Request for information relating to KenGen's Marsabit Wind Energy Project

The Commission received an application for review requesting for information relating to:

- a. the results of the September 2021 Environmental and Social Impact Assessment study conducted in Loiyangalani on El-Molo community land;
- b. international investors and stakeholders involved in KenGen's Marsabit Wind Energy Project;
- c. estimated dates of construction; and
- d. formal due-diligence report with details on the project's community engagement conducted with the El-Molo people.

Upon the Commission's intervention, KenGen provided the information requested.

IV. Request for information on estimates of revenue and expenditure from 2014-2020 from Office of the Director of Public Prosecutions

The Commission received an application to review a request for information relating to budget allocations by Parliament and estimates of revenue and expenditure completed by ODPP from 2014 to 2021. Upon the Commission's intervention, the Director of Public Prosecution provided the information sought.

V. Request for certified copies of proceedings from the Capital Markets Tribunal

The Commission received an application to review a request for information for the certified proceedings of the Capital Markets Authority Tribunal Appeal No. 4/2007. Upon the Commission's intervention, the applicant confirmed that the respondent had provided the information sought.

VI. Request for information from the Kenya Urban Roads Authority

The Commission received an application for review from the National Environmental Complaints Committee to the Kenya Urban Roads Authority relating to public complaints on the construction of a footbridge along Ngong Road adjacent to the Nairobi Hospital. The public complaints

received by NEMA Committee related to whether the projects had all the necessary approvals, whether relevant Environmental Impact Assessments Reports and licenses had been obtained, whether the required public consultation and participation was undertaken and information on measures undertaken by KURA to mitigate possible risks and adverse effects the project could pose. This information was required by NEMA Complaints Committee to allow appropriate decisions on several complaints lodged by citizens and stakeholders on the project. Upon the Commission's intervention, the CEO of KURA vide their letter dated 11th April 2022 provided feedback on the information sought.

VII. Request for information from the County Government of Laikipia on grading of the Ngenia Njeru-Gitugi Road

The Commission received an application to review a request for information relating to the contractor awarded the contract for the grading and gravelling of the Ngenia Njeru-Gitugi Road, the bill of quantities and the current status of the project. The Governor of Laikipia County provided the information sought, after the Commission intervened.

VIII. Request for information from the National Government Affirmative Action Fund (NGAAF)

The Commission received an application to review a request for information relating to the NGAAF expenditure for Marsabit County and particularly on the delivery service plan for the County for the financial years 2018/2019 to 2020/2021, annual expenditure reports, activities undertaken and a list of tenders awarded. The CEO of NGAAF provided the information sought.

IX. Request for information from the Ministry of Water and Sanitation

The Commission received an application to review a request for information relating to award of tender Reference No. MENWNR/QT/050/14-15 and local service Order No. 0914798 from the Ministry of Water and Sanitation. The Permanent Secretary responded giving the status of the tender after the Commission's intervention.

X. Request for information from the Office of the Auditor General

The Commission received an application to review a request for information relating to the audited reports of Eldas Constituency Development Fund for the financial years 2013-2020 from the Office of the Auditor General. Upon the intervention of the Commission, the Auditor General provided the requested information.

XI. Teacher Promoted After Twenty-Seven Years in Service

A complaint was lodged with the Commission alleging delay by the Teachers Service Commission (TSC) to promote her after serving at job group C4 for twenty-seven years. According to the complainant, she attended two interviews for job group C5 but TSC did not communicate the results prompting her to seek the intervention of the Commission to have TSC give reasons for not promoting her. The Commission by way of inquiry took up the matter with TSC leading to her promotion thereafter.

XII. KCSE Candidate Issued with Exams Results Eight Years Later

A complainant who was named Wycliff Thirikwa Wanjohi at birth sat for his Kenya Certificate of Primary Education (KCPE) examination in 2007 under the name of Eliud Maina Kinyua following a decision by his mother to change his name in his early life. However, midway through high school, he proceeded to change his name back to Wycliff Thirikwa Wanjohi through an affidavit in 2010 following his father's intervention. In 2010, Thirikwa acquired a birth certificate under the name Wycliff Thirikwa Wanjohi and sat for his KCSE exams in 2012 under the same name. However, this was the beginning of his predicament when KNEC withheld his KCSE exams on the basis that the name which was on his KCPE certificate was different from the name he used when registering for KCSE.'

Having been unsuccessful in convincing KNEC to release his results, Thirikwa sought the intervention of the Commission by lodging a complaint at the Commission's desk at the Huduma Centre, Nyeri, in March 2018 to have KNEC release his results stating that his name change was occasioned by lack of cordial relationship between his biological parents and as a child he had no control over the issue.

The Commission by way of inquiry took up the matter with the Chief Executive Officer (CEO) of KNEC on 19th March 2018. The Council in its response to the Commission on 5th April 2018 stated that the KCSE regulations requires candidates to register for the examination using their KCPE certificates and not a birth certificate, and that the secondary school which registered Wanjohi Wycliff Thirikwa using the KCPE certificate of Kinyua Eliud Maina was in contravention of KCSE registration regulations. Consequently, the KCSE results were pending and the principal of the school was informed

of the decision in writing and was required to present the KCPE certificate for Wycliff Thirikwa Wanjohi and not Kinyua Eliud Maina to be submitted to KNEC.

Further, the Council stated that it would not release the results until the KCPE results for Wycliff Thirikwa Wanjohi were presented to them. To have the matter addressed, the Commission held a meeting with KNEC on 1st October 2019 and each party was tasked with obligations to fulfil to help in resolving the stalemate. However, since 2019, KNEC did not make any indications addressing the matter. As such, the Commission was compelled to exercise its powers and issued a determination under the Access to Information Act on 16th August 2021. The recommendations of the Commission were as follows;

- i. That the Kenya National Examinations Council do herein forthwith and without delay issue to Mr. Thirikwa his 2012 KCSE Certificate as duly registered for under the names Wycliffe Thirikwa Waithera, and;
- ii. Any party aggrieved with the order has the liberty to appeal to the High Court under Section 23(3) of the Access to Information Act, 2016 within twenty-one days from the date of receipt of the determination.

Consequently, vide the letter of 15th September 2021, KNEC agreed to release the results for and issue the certificate in the name of Wycliff Thirikwa Waithera

4.3.4 Enforcement of ATI Decisions

Section 23(2) of the Access to Information Act gives the Commission the powers to issue orders where it is satisfied that there has been an infringement of the provisions of the Act. During the financial year 2021-2022 the Commission issued a total of 20 (Twenty) orders some of which have been enforced as decrees of the High Court in accordance with Section 23 (4) of the Act. The following are some of the matters where issues and orders have been enforced;

Table 4: A Sample of Enforcements of ATI Decisions

No.	Applicant	Respondent	Summary of Issues	Court's decision
1.	Paragon Electronics Limited	Njeri Kariuki (Arbitrator)	<p>An application for review of a request for information on time sheets in the arbitration proceedings Paragon Limited & Another from Arbitrator, Njeri Kariuki. Upon review of the request, Commission ordered the Arbitrator to release the requested information.</p> <p>the applicant went to court to have the order enforced as a decree of the Court.</p>	<p>The Judgement was in favour of the applicant and the Commission's decision was adopted as a decree of the High Court.</p>

No.	Applicant	Respondent	Summary of Issues	Court's decision
2.	Khelef Khalifa & Wanjiru Gikonyo	Principal Secretary, Ministry of Transport, CAJ and 3 Others	<p>Applicants sought provision of information relating to: All contracts for carrying out of feasibility studies relating to the construction, operation and servicing of the SGR; all documents relating to expression of interest for the financing, construction, management, operation and servicing of SGR prepared by the GOK; Contracts and/ or Memorandum of Understanding between GOK and any third party relating to the financing, construction, management, provision of operating stock, operation and maintenance of SGR; all agreements and contracts entered into including loan agreements, concession agreements, guarantees for financing construction of SGR; and any concessions, agreements and/or MOU relating to the operation of the SGR. The matter was lodged with CAJ and later escalated to the Court where CAJ participated in the proceedings.</p>	<p>In a judgement delivered on 13th May 2022, the Court ordered that the information sought by the Petitioner be provided.</p>

No.	Applicant	Respondent	Summary of Issues	Court's decision
3.	Wesley Charo Mdawida	Kenya National Examinations Council & CAJ	The applicant applied for amendment and re-issue of his KCPE and KCSE certificates respectively to have them reflect and read his name that was changed through deed poll. The matter was lodged with CAJ and later escalated to the Court where CAJ participated in the proceedings.	In a judgement passed on 4th November 2021, the Court ordered KNEC to correct the Applicants' examination certificates to reflect his changed name.

4.3.5 Disposal of Records

Section 17 of the Access to Information Act, 2016 gives the Commission an obligation of management of public records in a manner that facilitates the realization of the right of access to information. Part of this obligation is to destroy /dispose public records as required by the law. Consequently, the Kenya National Archives and Documentation Services Act (KNADS) was amended by the Access to Information Act under section 7 to make it mandatory for the Director KNADS to consult the Commission before giving his authority for destruction of public records. A Committee was formed in 2017 comprising of two officers from the Commission and two officers from KNADS where consultations between the two entities is supposed to happen leading to the Commission's concurrence for authority to destroy public records.

4.3.6 The Process of Disposal of Records

The Committee holds meetings when a request for authority to dispose public records has been received at KNADS offices. Some of the modalities developed by the committee to ensure progress include communication through correspondence, emails and also tele-conversations. The Committee also holds meetings to deliberate on issues when necessarily.

The scrutiny of documents proposed for disposal is based on the following criteria:

- i. The applicable law;
- ii. The appraisal/retention reports by KNADS;
- iii. Nature of public records in issue;
- iv. Preservation of information/data;
- v. Protection of personal data.

Table 5: Numbers for Disposal Applications Dealt with in the Financial year 2021-2022

No.	Category	Q1	Q2	Q3	Q4	Total
1.	Number of requests	21	21	14	18	74
2.	No. of Institutions who applied for authority to dispose public records	21	21	14	18	74
3.	Total number of records where concurrence was granted	251,025	279,543	4,811,387	21,423	5,363,378
4.	Total Number of records where concurrence was not given	21	0	0	0	21

CHAPTER FIVE

5.0 PUBLIC EDUCATION AND OUTREACH

5.1 Introduction

During the reporting period, the Commission enhanced public education, awareness creation and training activities to promote administrative justice and access to information. Public education and capacity building trainings were carried out to empower citizens and public officers to ensure efficient and effective service delivery as well as promote good governance. The commission used multi-faceted approaches to carry out public education and trainings. These approaches included:

- i. Training in Ministries, Departments, Agencies and Counties;
- ii. Collaboration with state and non state actors;
- iii. Courtesy calls by the Commission leadership;
- iv. Participation in County public education forums;
- v. Participation in Agriculture Society of Kenya (ASK) shows;
- vi. Participation in Devolution Conferences;
- vii. Holding Ombudsman open day;
- viii. Carrying out Ombudsman Mashinani in informal settlements;
- ix. Media engagements; and
- x. Holding public education Webinars

5.2 Training of Public Officers

During the reporting period, the Commission trained 2,482 officers, 1,295 males (52%) and 1,187 females (48%) drawn from 164 MDACs. These trainings targeted members of complaints handling committees and officers in charge of access to information in public institutions. The objectives of the trainings included: -

- i. To strengthen and enhance effectiveness of complaints handling and access to information capacity in the public sector;
- ii. To enhance responsiveness and accountability in the public sector;
- iii. To build capacity of public officers on citizen focused service delivery;
- iv. To improve compliance with performance contracting requirements;
- v. To develop appropriate skills of public officers to help them resolve public complaints amicably; and
- vi. To enlighten public officers on CAJ functions and mandates relating to resolution of public complaints and implementation of citizen's service delivery charters.

Under performance contracting, public institutions are required work closely with the Commission as a lead agency to train public officers in resolution of public complaints and implementation of citizen's service delivery charter indicators.

Below is a summary of MDACs trained in the last three years including the year under review.

Table 6: Summary of public officers trained for the last three years

Financial Year	2019/2020	2020/2021	2021/2022
No. of Institutions trained	37	80	164
No. of Public officers trained	1652	1201	2,482

The Table 7 presents the names of public institutions and the number of officers trained during the FY 2021/2022.

Table 7: Training for Ministries Departments Agencies and Counties

NO	INSTITUTION	NO. OF MALES	NO. OF FEMALES	TOTAL
1.	Baringo Technical College	36	30	66
2.	Betting Control and Licensing Board	7	5	12
3.	Centre for Mathematics Science and Technology Education in Africa	13	8	21
4.	Communications Authority of Kenya	19	16	35
5.	County Assembly of Bungoma	6	1	7
6.	County Assembly of Kakamega	3	3	6
7.	County Assembly of Machakos	6	5	11
8.	County Government of Bungoma	2	1	3
9.	County Government of Elgeyo Marakwet	9	7	16
10.	County Government of Isiolo	16	3	19
11.	County Government of Kakamega	3	3	6
12.	County Government of Kisii	12	8	20
13.	Council of Legal Education	3	2	5
14.	Directorate of Immigration Services and the National Registration Bureau Services training workshop	24	18	42
15.	Energy and Petroleum Regulatory Authority	34	30	64
16.	Engineers Board of Kenya	4	3	7

NO	INSTITUTION	NO. OF MALES	NO. OF FEMALES	TOTAL
17.	Jomo Kenyatta University of Agriculture and Technology	7	5	12
18.	Kenya Development Corporation	3	7	10
19.	Kenyatta International Convention Centre	16	24	40
20.	Kenya Institute of Special Education	5	4	9
21.	Kenya Intellectual Property Institute	17	21	38
22.	Kenya Law Reform Commission	4	6	10
23.	Kenya Maritime Authority	10	6	16
24.	Kenya Medical Research Institute	2	2	4
25.	Kenya National Commission for UNESCO	6	7	13
26.	Kenya National Highways Authority	35	7	42
27.	Kenya National Innovation Agency	5	4	9
28.	Kenya National Shipping Line	6	1	7
29.	Kenya National Trading Corporation	3	2	5
30.	Kenya National Qualifications Authority	8	5	13
31.	Kenya Pipeline Company	1	5	6
32.	Kenya Railways	41	45	86
33.	Kenya Roads Board	18	20	38
34.	Kenya Rural Roads Authority	38	30	68
35.	Kenya Trade Network Agency	9	9	18
36.	Kenya Urban Roads Authority	166	88	254
37.	Kirinyaga University	24	21	45
38.	Konza Technopolis	4	7	11
39.	Maasai Mara University	36	36	72
40.	Machakos University	18	26	44
41.	Masinde Muliro University of Science and Technology	19	58	77
42.	Ministry of Defense	11	5	16
43.	Ministries Departments and Agencies Webinar on investigations	50	60	110

NO	INSTITUTION	NO. OF MALES	NO. OF FEMALES	TOTAL
44.	Ministries Departments and Agencies Webinar on the Commission's Performance Contracting requirements	200	210	410
45.	Ministries Departments and Agencies Regional training in Mombasa, Kisumu and Nakuru (79 public institutions)	58	66	124
46.	Ministry of Interior	7	8	15
47.	Ministry of Water, Sanitation and Irrigation	2	2	4
48.	Moi Teaching and Referral Hospital	9	5	14
49.	National Aids Control Council	2	7	9
50.	National Biosafety Authority	16	16	32
51.	National Cancer Institute	8	10	18
52.	National Cereals Produce Board	6	11	17
53.	National Construction Authority	21	6	27
54.	National Environment Management Authority	26	23	49
55.	National Industrial Training Authority	8	11	19
56.	National Treasury	7	4	11
57.	Retirement Benefits Authority	7	7	14
58.	State Department for Planning	5	8	13
59.	State Department for University Education and Research	3	4	7
60.	State Department for Youth Affairs	7	5	12
61.	Regional training for Counties in Mombasa, Kisumu and Nakuru (23 Counties)	39	24	63
62.	Turkana University College	53	42	95
63.	University of Eldoret	25	48	73
64.	Rural Electrification and Renewable Energy Corporation	27	16	43

5.3 Awareness creation initiatives and thematic engagements with stakeholders

During the period under review, the Commission had robust engagements with state and non-state actors to create awareness on its mandate and empower citizens on good governance principles. In total, there were over 60 engagements with stakeholders who included special interest groups, civil society organizations and community groups.

Some of the key engagements included:

- I. Thematic engagement for persons living with Disability from the Northern Nomadic Disabled Persons Organization held on 21st & 22nd October, 2021 in Isiolo- A total of 165 participants from 10 counties were trained.
- II. Public education & participation forums on the draft Access to Information regulations for persons living with disability in Nairobi on 6th December, 2021. A total of forty-five(45) participants attended the forum;
- III. Virtual engagement with the Gender Committee of Council of Governors on 31st March 2022, that brought together fifty-two (52) participants i.e. County Attorneys and selected officers from different County Governments;
- IV. Held 10 different engagements with Kawangware Youth Paralegal Trust (KAYPAT) in partnership with GIZ on diverse dates. A total of two hundred and eighty six (286) people were trained;
- V. Engagement with the International Justice Mission human rights defenders drawn from Kiamaiko, Kiamumbi, Githurai, Kangemi and Kawangware Justice Centers on 24th August, 2021 at Bestwestern Meridian Hotel. A total of forty-three (43) defenders were trained;
- VI. Engagement with USAID Nawiri (Nutrition in ASALS within integrated Resilient Institutions) & the Catholic Relief Services Isiolo on 30th August, 2021; and
- VII. Virtual engagement with Twaweza Communications to celebrate Access to Information Day and sensitize them on the ATI obligations. This forum targeted participants in the Arts industry i.e. Film, Actors and Musicians. It was held on 28th September, 2021 and attracted fifteen (15) participants.

The table 8 below represents some of the Non-State Actors engaged during the year under review:

Table 8: Non-State Actors Engagements

No.	Non-state Actor	No.	Non-state Actor
1.	Centre for Enhancing Democracy and Good Governance (CEDGG)	30.	Center For Development and Peace
2.	Nakuru Town East Neighborhood Association	31.	Ajenda Kenya
3.	Baharini Community Forum	32.	Kituo cha Sheria
4.	Centre for Transformational Leadership	33.	Fast Action
5.	Resource Conflict Institute (Reconcile)	34.	Together for Society
6.	Nakuru Youth Bunge	35.	Project Kenya
7.	Youth Bila Noma	36.	CWID
8.	NEPHAK	37.	E4G
9.	Reproductive Health Champions	38.	Inspire Life
10.	Nakuru East Neighborhood Association	39.	WKHRN
11.	Mwariki Residents Association	40.	Kisumu Progressive Youth Organization
12.	London Residents Association	41.	Magnam Environmental Network
13.	Nakuru Legal Aid Centre	42.	Transparency International-Kenya
14.	Kwacha Afrika Youth Organization	43.	National Taxpayers Association
15.	Tunaweza PWD	44.	Abled Differently
16.	Kzandgmi Creative Youth Organization	45.	Kenya Female Advisory Organization
17.	Haki Centre	46.	KAPPNET
18.	Uzalendo Afrika Initiative	47.	Kisumu Advocacy and Accountability Network
19.	FIDA Kenya	48.	Mothers of Tomorrow
20.	ONUGPWANI	49.	YWCA Kenya
21.	Shakirina Youth For Development	50.	KELIN
22.	Ujamaa Center	51.	TEAM

No.	Non-state Actor	No.	Non-state Actor
23.	Uhaki na Usawa	52.	Pamoja For Transformation
24.	Provident Community Initiative	53.	KNA
25.	Rapid Response Team	54.	Kilele kenya
26.	MINELA Trust	55.	Twaweza communications
27.	Shibutse women group	56.	Transparency international- Kisumu
28.	Rural development organization	57.	Justice Mission
29.	National Taxpayers association	58.	Blue Cross

Figure 19: Vice Chairperson, Mr. Washington Sati, is joined by other guests during the flagging off of the 10th Edition of the Desert Wheel Race.



5.4 Outreach and Public Awareness Forums

The Commission employed a multi-pronged approaches to sensitize citizens on the Commission's mandate and empower them on good governance principles. Some of the key activities implemented during the financial year were:

1. Public education forums in nine counties to create awareness on the commission mandate, empower on good governance principles and provide ombudsman services. The counties visited were the following Counties; Nairobi, Nyeri, Muranga, Marsabit, Meru, Bomet, Narok, Kakamega and Bungoma);
2. Ombudsman Mashinani Programs in the informal settlements, among them: Kangemi, Dagoretti, Kawangware, Gatina, Ngando & Riruta wards, Kiambiu and Korogocho;

3. Celebration of the Ombuds Day on 14th October, 2021;
4. Legal Aid Clinic at Tononoka Grounds, Mombasa, in partnership with the National Council for Persons with Disability (NCPWD);
5. Participated in LSK Legal Awareness Week at the Eldoret, Kisumu and Mombasa Law Courts;
6. Participated in Customer Service Week from 4th to 8th October, 2021;
7. Engagements on social media platforms to create awareness i.e., Twitter (@Kenyasombudsman) and Facebook pages (Ombudsmankenya); and
8. Engagement through mainstream media and community radios, namely; Marsabit Community Radio, Standard Newspaper, NTV, Star Newspaper, The standard, West TV, Radio Midnimo Garissa, KBC's Iftin Radio, Sauti ya Pwani, STN Somali TV, TV 47, KBC, K24, Mwangaza TV, Kirk Tv, Sahan Tv, Koch FM, Inooro TV, Radio Baraza, IBSE Radio, WES TV, Radio Amani, and Wajir Community Radio.

Through the above activities and media engagements, the Commission reached more than 6.5 million people to create awareness on its mandate.

5.5 Training of Journalists on Access to Information

The media are vital for the creation and the development of a democratic culture in any country. They provide people with information, which influences the process of shaping opinions and attitudes and of making political choices. Therefore, the media and particularly journalist need to empowered on access to information laws to enable them gather reliable and accurate information to inform and educate citizens.

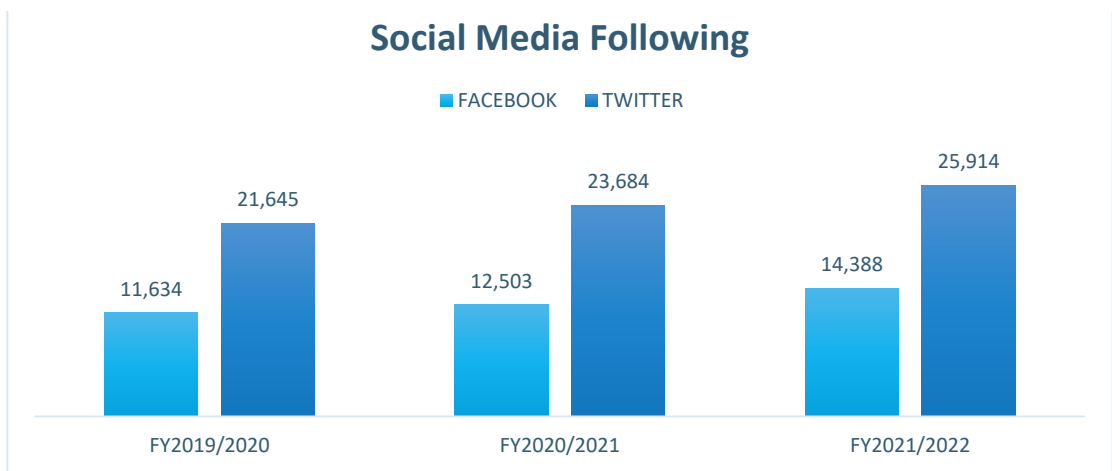
During the reporting period, the Commission trained a total 80 journalists, correspondents, and editors from mainstream media houses and community Fm stations. The journalists were drawn from Garissa, Nairobi, Nakuru and Kisumu counties. The training was aimed at developing the capacity of the media stakeholders to promote right of access to information, increase their knowledge on access to information laws and enhance their investigative journalism skills.

5.6 Media Engagement

The Commission used different media platforms for public education on various radio and television stations including Marsabit Community Radio, NTV, Star Newspaper, The Standard, West TV, Radio Midnimo Garissa, KBC's Iftin Radio, and Wajir Community Radio. The Commission also engaged the public on its own media including Facebook, Twitter, You Tube and the website. The interactive nature of social media continues to

enable the citizens to demand accountability. Kenyans continue to make inquiries, report cases and even make follow ups through the Commission's Facebook, Ombudsman Kenya and Twitter page, @KenyasOmbudsman. As such social media has enhanced accessibility of the Commission with the audience size on Twitter growing from 23,683 to 25,914 and from 12,303 to 14,388 on Facebook. During the reporting period, the Commission shared 324 posts on Facebook and 981 tweets. Within the same period the interaction rate increased by 70 percent an indication that social media continues to be an interactive platform for engagement with the public.

Figure 20: Social Media Presence



During the reporting period, the Commission shared **324** posts on Facebook and **981** tweets on twitter.

5.7 Own Motion Cases through Media Monitoring

The Commission has since its establishment handled complaints *Suo Moto* based on media reports i.e. newspaper reports, TV and Radio broadcast and presently issues raised on social media including Twitter, Facebook among others. Media monitoring and keeping tabs with coverage of issues on administrative justice informs programming. Monitoring has also enabled the Commission to identify issues that fall within its mandate and through this has initiated number of cases *Suo Moto* (Own Motion).

Own Motion has also helped to identify issues which some are systemic in nature and would require investigations while others are specific issues affecting individual complainants. In the period under review, twelve issues were raised for consideration own motion with seven from the mainstream media with five being from social media.

5.8 Production and Dissemination IEC Materials and Ombudsman Newsletters

During the year under review, the Commission produced and disseminated over 30,000 copies of assorted IEC and branded materials and four quarterly newsletters to create awareness and visibility.

Figure 24 below depicts some of the IEC materials that were developed and shared with members of the public to create awareness about the Commission.

Figure 21: Commissions Assorted IEC and Branded Materials



5.9 Branding of Headquarters and the Regional Offices

During the reporting period, the Commission branded the headquarters and two regional offices; Nyahururu and Isiolo. The Commission has over the years sought to promote and grow its brand as the ultimate protector of the public with a slogan **'Hata mnyonge ana haki'**. Branding is important in building relationships with the public as well as in creating confidence and trust in the services offered by the Commission.

Figure 23: Opening of the Nyahururu Regional Office led by the Commission's Chairperson Hon. Florence Kajuju, MBS



CHAPTER SIX

6.0 PARTNERSHIPS, NETWORKS AND LINKAGES

The Commission is a member of IOI and AOMA - the respective global and regional bodies for cooperation of ombudsman institutions. The Commission's participation in these bodies cannot be gainsaid as such forums provide the opportunity for cross-learning and the psychological benefit of not being alone in the difficult task of holding wielders of public power accountable. Under the aegis of these networks, the Commission was involved in the following activities in the reporting period:

6.1 Domestic Linkages

6.1.1 Collaboration with the Electoral Law and Governance Institute (ELGIA)

The Commission, with the support of the Electoral Law and Governance Institute (ELGIA), hosted a two- and half-day training for election observers, on the 27th – 29th of June 2022. The aim of the training was to impart skills that will provide the officers with an in-depth understanding of their role during the observation and monitoring exercise. Further, it was aimed at ensuring that the observation by CAJ officers is aligned with the mandate of the Commission. The training was attended by 20 commission staff.

Figure 22: CAJ staff during Election Observation training



6.1.2 Partnership with MISEREOR

The Commission partnered with the German Catholic Bishops' Organisation for Development Cooperation based in Nairobi dubbed "MISEREOR" together with other 28 NGOs, in a workshop themed "Kenyan Elections and the Role of Partners in promoting peace and securing communities pre, during, and post-election periods" held on 6th -7th April 2022. The participants were also sensitized on the mandate of the Commission.

6.1.3 Collaboration with National Council on the Administrative Justice

The Commission participated and provided technical support during the Second National Committee on Criminal Justice Reforms Conference, held in the month of May, 2022, under the theme "Towards a Right-Based approach to Criminal Justice Sector".

6.1.4 Financing Locally Led on Climate Action Program (FLoCA)

Financing Locally-Led Climate Action (FLoCA) program is the follow-up program built on the pilot County Climate Change Funds and the World Bank technical assistance to Devolution. It is a government initiative that seeks to deliver locally-led climate resilience actions and strengthen the County and national government's capacity to manage climate risks. The objective of the program is to strengthen local resilience to the impact of climate change, natural hazards, and other shocks/stressors by building the capacity to plan, implement and monitor resilience investments in partnership with county governments and communities.

The Commission has been considered for support under this program as the national institution mandated to address grievance redress mechanisms in the public sector. Under the program, the Commission will enhance the capacities of the County Government on Complaint Handling and Access to Information.

6.2 International Networks

6.2.1 African Ombudsman and Mediators Association

The Chairperson of the Commission serves as the Secretary General of the African Ombudsman and Mediators Association (AOMA). In this capacity, the Chairperson presided over the 20th, 21st and 22nd meetings of the AOMA Executive Committee – all of which were held virtually.

6.2.2 International Ombudsman Institute

The Chairperson of the Commission attended a UN Working Group meeting of the IOI on the margins of the UN General Assembly in 2022, convened with the aim of championing for the recognition of ombudsman institutions at the UN level and establishment of a cooperation framework between ombudsman institutions and the UN through the IOI.

During the reporting period, the Commission continued its efforts to be more visible, active and engaged in local and international partnerships and linkages. The Commission's activities in this area included hosting visiting international delegations, delivering presentations in conferences and meetings, and participating in activities of ombudsman networks such as the International Ombudsman Institute (IOI) and the African Ombudsman and Mediators Association (AOMA). The Commission enters into partnerships and collaborations with a view to strengthen its capacity to effectively deliver on its mandate.

Figure 23: The Chairperson took time to pay a courtesy call to the Kenya High Commission in South Africa on the sidelines of a meeting of the AOMA Executive Committee



6.3 Presentations

The Commission was invited to various conferences and international meetings in which presentations were made on behalf of the Commission, including the following:

- I. A Presentation made at the inaugural Commonwealth Parliamentarians with Disabilities (CPWD) Africa Region Conference on the theme 'Mainstreaming Disability Considerations in Legislative Agenda in the 21st Century';
- II. Participated in the Global Challenges for ombudsman and Human Rights conference during the commemoration of the 10th Anniversary of establishment of the Office of the Ombudsman in Mozambique;
- III. Participated in the conference of constitutional commissions and independent offices held to mark and celebrate a decade of service to the public under the aegis of "Chairs' Forum"; and
- IV. Participated in the International Commission of Jurists conference on the theme 'Towards Advancing Transparency and Accountability in Public Contracting through Open Contracting and Proactive Disclosure of Information'.

CHAPTER SEVEN

7.0 GOVERNANCE AND CORPORATE SERVICES

The Commissioners play an important role in providing leadership and policy direction. Their guidance and leadership is articulated in the 2nd Strategic plan, covering 2019-2023. The plan spells out the Vision, Mission and the core values that guide the Commission, towards realization of its mandate. In the year under review, the Commission led by the Chairperson Hon. Florence Kajuju, spearheaded mid-term review of the strategic plan 2019-2023. The review provided an opportunity to take stock of the achievements, challenges and adjustment of the strategies, to enhance implementation. It is hoped that the review will enable the Commission achieve the intended goals and objectives, that will go a long way in promoting administrative justice and the right to access information. During the reporting period, Mr. Leonard Ngaluma, who was the Commission Secretary/CEO, exited in February 2022, having served for the maximum term of ten years. The Commission lauded him for the successful operationalization and positioning of the Commission, since its inception in 2011. He was succeeded by Ms. Mercy K. Wambua, who was appointed in March 2022.

7.1 Corporate Affairs

The COVID 19 Pandemic was a big challenge for the Commission in the year that preceded the reporting period, given its devastating effects to human resource and the pressure it exerted on our financial resources. A raft of measures was put in place to counter the effects of the deadly disease, in line with the Government protocols. However, the pandemic yielded some positive gains that were adopted to ensure continuity of service delivery, among them use of technology and adoption of flexible working hours. To this end, a robust on-line Complaint Management Information System (CMIS) was established. The system enables members of the public to lodge and follow up on the status of their complaints conveniently and with ease.

The challenges posed by the pandemic notwithstanding, the Commission achieved notable milestones.

7.2 Milestones achieved

I. Strengthening Human Resource Capacity:

The Commission continued to strengthen its human resource capacity, through recruitment of additional staff. To this end, the Commission recruited a total of 12 staff within the financial year. The recruited staff were deployed across the Commission's departments in ICT, Human Resource Management, Complaints & Legal Services, Resource Mobilization Unit,

Access to Information, Advocacy & Communication and in Administration. The officers included the following: -

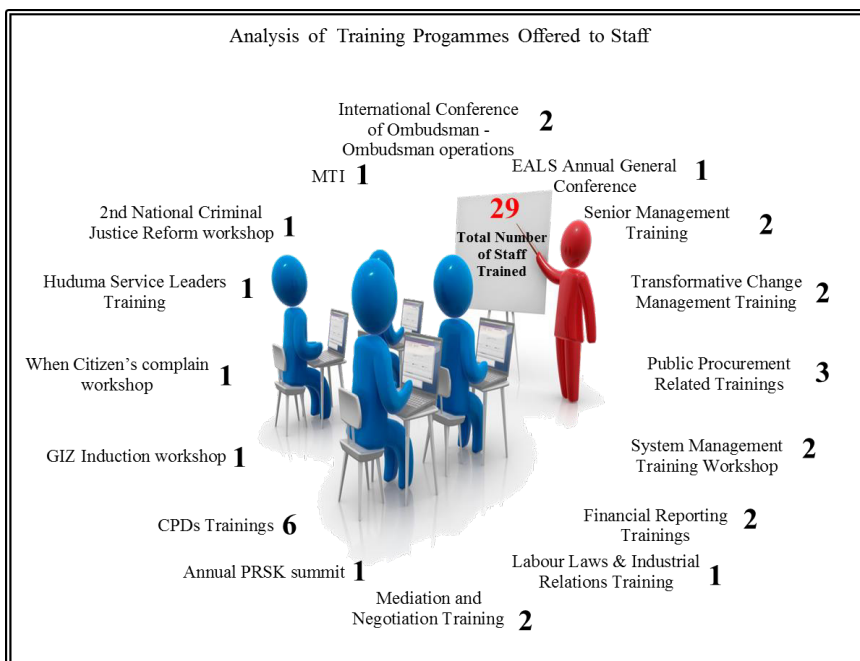
Table 9: Staff Recruited in the Period

DESIGNATIONS	NO. OF POSITIONS
Assistant Director - ICT	1
Assistant Director Complaints/legal services	1
Senior Human Resource Officer	1
Senior Resource Mobilization Officer	1
Access to Information Officer	1
PA	1
Legal Officer - Complaints	1
Compliance Officer II	1
Photographer - II	1
Assistant Office Administrator I	1
Driver	2

II. Skills Development

The Commission recognizes the important role played by the human resource towards realizing its mandate hence, it invests in the development of skills for its work-force through training. To this end, employees were sponsored for various professional development courses and training programmes, as indicated in the figure below: -

Figure 25: Analysis of Training Programmes



III. Decentralization of Ombudsman Services

The devolved system of government ushered in by the Constitution aims at taking services closer to the people hence, the Commission is committed to enhancing oversight at the counties. To realize this, the Commission decentralized its services to the Counties where two regional offices were established in Garissa and Laikipia Counties. The offices will not only serve the two counties, but also the adjacent ones. This will enhance oversight of service delivery at the county level. It is worthwhile to note that in the current strategic plan, the Commission targets to establish at least two branch offices every financial year, and is committed to implement a resolution by the Senate, to establish Ombudsman offices in all the forty-seven (47) the Counties. This endeavor requires a huge resource outlay hence, our appeal to the National Assembly to allocate adequate resources to the Commission.

Figure 24: Official launch of Nyahururu Regional Office held on 1st March, 2022



IV. Embracing Technology

In the period under review, the Commission officially launched a Complaints Management Information System (CMIS). The launch was held at the Kenyatta International Convention Centre (KICC), on 24th May 2022. The system aims to enhance efficiency in complaint management, where the public can lodge their complaints and track them online, in real time. However, the Commission continued to face budgetary constraints to implement the roll-out plan of the CMIS to the MDACs. The Commission appreciates the support from GIZ, who provided the technical assistance in developing the system, under the auspices of the Good Governance Programme. The figure below is a screen-shot of the CMIS Public portal.

Figure 25: CMIS Public Portal Dashboard

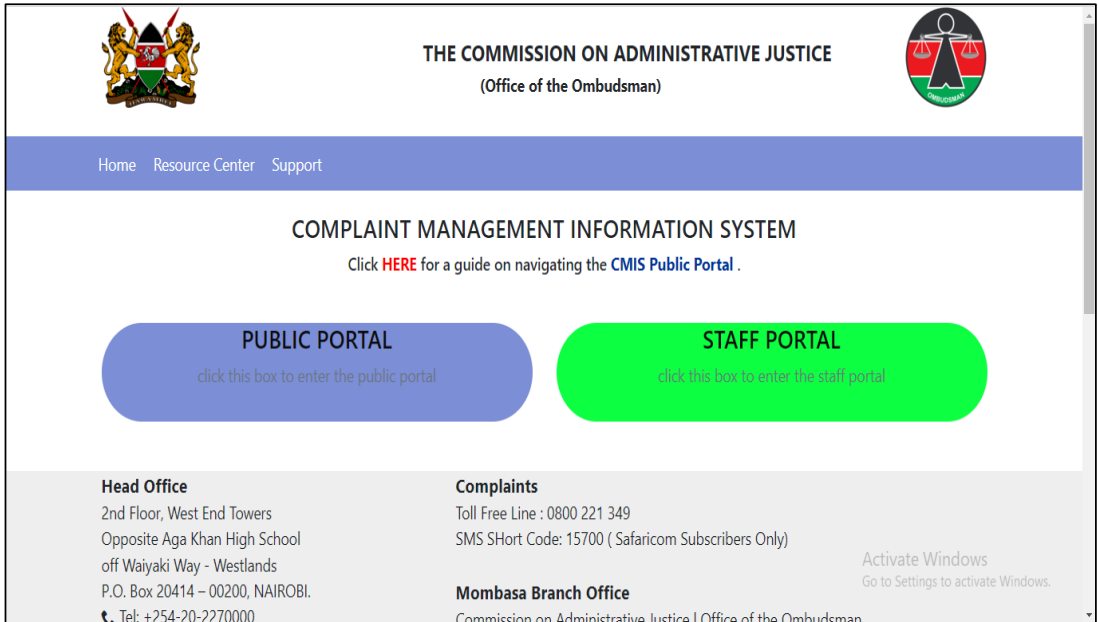


Figure 26: Official Launch of the CMIS by Lady Justice Hon. Njoki Ndung'u, Held on 4th May, 2022



7.3 Staff Welfare

The Commission appreciates the need for a highly motivated human resource hence, it endeavours to provide an enabling work environment, that facilitates staff to achieve both personal and corporate goals for the Commission. In this regard, the Commission manages a Staff Mortgage and Car Loan Scheme, in line with the government policy. The Fund accounts for the period under review were audited by the Auditor-General who issued an unqualified opinion. A detailed report on the staff welfare is provided hereunder: -

7.4 Financial Report

7.4.1 Resource allocation and Utilization

In the Year under review, the Commission was allocated KES 624,821,608 out of which a total of KES 592,670,212 was expended by the closure of 2021/2022 Financial Year. This signifies 95 per cent absorption rate. The Commission ensured that the allocated resources were utilized prudently by upholding the value-for-money principle and in compliance with the public financial management framework. The table # below presents a summary of expenditure by economic classification.

Table 10: Expenditure by economic classification

Receipt/ Expense Item	Printed Estimates	Approved Budget	Expended Amount	Budget Utilization Difference	% of Utilization
Compensation of Employees	364,100,000	334,100,000	331,845,293	2,254,707	99%
Use of goods and services	166,409,999	205,409,999	177,376,328	28,033,671	86%
Transfers to staff mortgage & car loan fund	32,000,000	32,000,000	32,000,000	-	100%
Social Security Benefits	12,000,000	12,000,000	11,970,014	29,986	99%
Acquisition of Assets	40,311,609	41,311,609	39,478,576	1,833,033	96%
TOTAL	614,821,608	624,821,608	592,670,212	32,151,397	95%

7.5 Procurement of Goods and services

The Commission total procurement budget (**rent inclusive**) for the financial year 2021-2022 was estimated at **KES 177,978,909.00**, during the period under review, the commission procured goods, works and services from various suppliers worth **KES 146,993,323.93** representing **83% utilization of the total procurement budget**.

Procurement plan (**less rent**) was **KES 132,018,909.00** out of which **KES 39,605,672** was reserved for the special group category, of women, youth and people with disabilities under the government initiative of Access to Government Procurement (AGPO) which requires 30% of the procurement budget be earmarked for the special groups. The total awarded contracts to the group was **KES 21,910,881** representing (**17%**) of the procurement plan.

Worth to note is that the highest proportion of the total procured goods, works and services amounting to **KES 125,082,442.93** was spent on rent, insurance, purchase of motor vehicles, conference & accommodation, fuel among other categories which fall outside the procurement items earmarked for this category and therefore, the Commission did not meet the 30 percent.

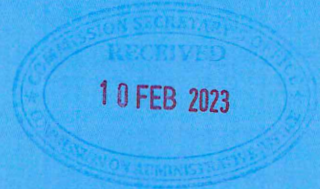
7.5.1 Pending Bills

Out of the same procurement the commission carried forward a Pending bill amounting to Kshs 5,533,492.20 translating to 3.8%. The bills will be settled in the 2022/2023 Financial year as a first charge.

Table 11: Pending Bills for the FY 2021-2022

No.	Supplier	Nature of goods/ services	Amount (KShs.)
1.	Oxpear Consultants Ltd	Consultancy services	315,800
2.	Premier Safaris	Air ticketing services	4,700
3.	Leakey Ventures	Supply of office water	17,200
4.	Worldmate Travel & Tour Company	Air ticketing services	111,000
5.	The Monarch Insurance	Motor vehicle insurance	692,196
6.	Postal Corporation of Kenya	Courier & Postal services	2,859,351
7.	Fast Choice Ltd	Supply of furniture	280,000
8.	KICC	Conference Services	792,240
9.	Fly Beyond Africa	Air ticketing services	461,005
	Total		5,533, 492

REPUBLIC OF KENYA



REPORT

OF

THE AUDITOR-GENERAL

ON

**THE COMMISSION ON
ADMINISTRATIVE JUSTICE**

**FOR THE YEAR ENDED
30 JUNE, 2022**

THE COMMISSION ON ADMINISTRATIVE JUSTICE
(OFFICE OF THE OMBUDSMAN)



Hata Mnyonge ana Haki

ANNUAL REPORT AND FINANCIAL STATEMENTS

FOR THE FINANCIAL YEAR ENDED

JUNE 30, 2022

Prepared in accordance with the Cash Basis of Accounting Method under the International
Public Sector Accounting Standards (IPSAS)

REPUBLIC OF KENYA

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NAIROBI

REPORT OF THE AUDITOR-GENERAL ON THE COMMISSION ON ADMINISTRATIVE JUSTICE FOR THE YEAR ENDED 30 JUNE, 2022

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided under Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of The Commission on Administrative Justice set out on pages 1 to 21, which comprise the statement of assets

and liabilities as at 30 June, 2022, and the statement of receipts and payments, statement of cash flows, statement of comparison of budget and actual amounts and summary statements of appropriation – recurrent for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of The Commission on Administrative Justice as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and the Commission of Administrative Justice Act, 2011.

Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of The Commission on Administrative Justice Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

Pending Bills

Annex 1 to the financial statements indicates that the Commission had pending bills totalling Kshs.5,533,492 as at 30 June, 2022, which were not settled in 2021/2022 but were instead carried forward to the 2022/2023 financial year.

Failure to settle bills during the year to which they relate, adversely affects the budgetary provisions of the subsequent year to which they are charged.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether processes and systems of internal controls, risk management and governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Commission's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Commission or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Commission's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution of Kenya. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Commission to cease to continue to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Commission to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.


 CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

01 February, 2023

9. STATEMENT OF RECEIPTS AND PAYMENTS FOR THE YEAR ENDED JUNE 30, 2022

Description	Note	2021-2022	2020-2021
		Kshs	Kshs
Receipts			
Exchequer Releases	1	610,634,094	464,880,613
Other Receipts		-	-
Total Receipts		610,634,094	464,880,613
Payments			
Compensation Of Employees	2	331,845,293	299,473,383
Use Of Goods and Services	3	177,376,329	111,362,392
Transfers to the staff Mortgage and car loan fund	4	32,000,000	32,000,000
Social Security Benefits	5	11,970,014	11,241,010
Acquisition of Assets	6	39,478,576	4,159,205
Total Payments		592,670,212	458,235,990
Surplus/Deficit		17,963,882	6,644,623

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 30/06/2022 2022 and signed by:

		
.....
Mercy K. Wambua, OGW	Daniel M. Karomo	Benard Nyariki
Commission Secretary/CEO	Director, Corporate Services	Assistant Director – Finance & Accounts
		ICPAK M/No. 9143

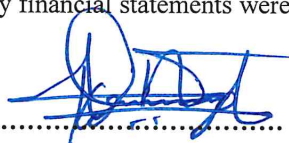
10. STATEMENT OF ASSETS AND LIABILITIES AS AT JUNE 30, 2022

Description	Note	2021-2022	2020-2021
		Kshs	Kshs
Financial assets			
Cash and cash equivalents			
Bank balances	7A	19,127,911	7,798,552
Cash balances	7B	423,335	183,657
Total cash and cash equivalent		19,551,246	7,982,209
Imprests and advances	8	-	-
Total financial assets		-	-
Financial liabilities			
Third party deposits and retention	9	(1,403,707)	(1,195,745)
Net financial assets		18,147,539	6,786,464
Represented by			
Fund balance b/fwd.	10	6,786,464	3,358,743
Prior year adjustment	11	(6,602,807)	(3,216,902)
Surplus for the year		17,963,882	6,644,623
Net financial position		18,147,539	6,786,464

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 20/09/2022 and signed by:


.....

Mercy K. Wambua, OGW
Commission Secretary/CEO


.....

Daniel M. Karomo
Director, Corporate Services


.....

Benard Nyariki
Assistant Director – Finance & Accounts
ICPAK M/No. 9143


11. STATEMENT OF CASH FLOWS FOR THE YEAR ENDED JUNE 30, 2022

Description	Notes	2021-2022	2020 -2021
		Kshs	Kshs
Receipts for Operating Income			
Exchequer releases	1	610,634,094	464,880,613
Other receipts		-	-
Payments For Operating Expenses			
Compensation of employees	2	331,845,293	299,473,383
Use of goods and services	3	177,376,329	111,362,392
Social security benefits	5	11,970,014	11,241,010
Adjusted For:			
Adjustments during the year			
Decrease/(Increase) in accounts receivable		-	23,445
Increase/(Decrease) in deposits and retention		207,962	(99,760,425)
Prior year adjustments	11	(6,602,807)	(3,216,902)
Net Cash Flow from Operating Activities		83,047,613	(60,150,055)
Cash flow From Investing Activities			
Transfers to staff Mortgage and car loan fund	4	(32,000,000)	(32,000,000)
Acquisition of assets	6	(39,478,576)	(4,159,205)
Net Cash Flows from Investing Activities		(71,478,576)	(36,159,205)
Net increase in cash and cash equivalents		11,569,037	(96,309,260)
Cash & Cash Equivalent at Start of The Year		7,982,209	104,291,469
Cash & Cash Equivalent at End of The Year		19,551,246	7,982,209

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 30/09/2022 and signed by:

.....
Mercy K. Wambua, OGW
Commission Secretary/CEO


.....
Daniel M. Karomo
Director, Corporate Services


.....
Benard Nyariki
Assistant Director – Finance & Accounts
ICPAK M/No. 9143


*The Commission on Administrative Justice
Annual Report and Financial Statements for the year ended June 30, 2022*

12. STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS FOR THE YEAR ENDED JUNE 30, 2022

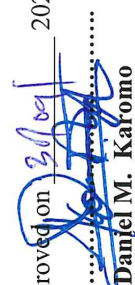
Receipt/Expense Item	Original Budget	Adjustments	Final Budget	Actual on Comparable Basis	Budget Utilization Difference	% of Utilization
	a	b	c=a+b	d	e=c-d	f=d/c %
Exchequer releases	614,821,608	10,000,000	624,821,608	610,634,094	14,187,514	98%
Other receipts	-	-	-	-	-	-
Total Receipts	614,821,608	10,000,000	624,821,608	610,634,094	14,187,514	98%
Payments						
Compensation of employees	364,100,000	(30,000,000)	334,100,000	331,845,293	2,254,707	99%
Use of goods and services	166,409,999	39,000,000	205,409,999	177,376,329	28,033,670	86%
Transfers to the staff Mortgage and car loan fund	32,000,000	-	32,000,000	32,000,000	-	100%
Social security benefits	12,000,000	-	12,000,000	11,970,014	29,986	99%
Acquisition of assets	40,311,609	1,000,000	41,311,609	39,478,576	1,833,033	96%
Total Payments	614,821,608	10,000,000	624,821,608	592,670,212	32,151,396	95%
Surplus/ Deficit				17,963,882		

Note: Underutilization of 14% in use of goods and services was due to late approval of supplementary II budget by The National Treasury.


The Commission's financial statements were approved on 30 July 2022 and signed by



 Mercy Wambua, OGW



 Danjel M. Karomo



 Bernard Nyariki

Commission Secretary/CEO Director, Corporate Services Assistant Director – Finance & Accounts

ICPAK M/No. 9143

*The Commission on Administrative Justice
Annual Report and Financial Statements for the year ended June 30, 2022*

11 (a) Summary Statement of Appropriation: Recurrent for FY2021/22

Receipt/Expense Item	Original Budget A	Adjustments b	Final Budget c=a+b	Actual on Comparable Basis D	Budget Utilization Difference e=c-d	% of Utilization f=d/c %
Receipts						
Exchequer releases	614,821,608	10,000,000	624,821,608	610,634,094	14,187,514	98%
Other receipts	-	-	-	-	-	-
Total Receipts	614,821,608	10,000,000	624,821,608	610,634,094	14,187,514	98%
Payments						
Compensation of employees	364,100,000	(30,000,000)	334,100,000	331,845,293	2,254,707	99%
Use of goods and services	166,409,999	39,000,000	205,409,999	177,376,329	28,033,670	86%
Transfers to the staff Mortgage and car loan fund	32,000,000	-	32,000,000	32,000,000	-	100%
Social security benefits	12,000,000	-	12,000,000	11,970,014	29,986	99%
Acquisition of assets	40,311,609	1,000,000	41,311,609	39,478,576	1,833,033	96%
Total Payments	614,821,608	10,000,000	624,821,608	592,670,212	32,151,396	95%
Surplus/ Deficit				17,963,882		

The Commission's financial statements were approved on 30/06/2022 and signed by:

.....
Mercy K. Wambua, OGW
Commission Secretary/CEO

.....
Daniel M. Karomo
Director, Corporate Services

.....
Benard Nyariki
Assistant Director – Finance & Accounts

ICPAK M/No. 9143

*The Commission on Administrative Justice
Annual Report and Financial Statements for the year ended June 30, 2022*

11 (b) Budget Execution by Programmes and Sub-Programmes for FY2021/22

Programme/Sub-programme	Original Budget	Adjustments	Final Budget	Actual on comparable basis	Budget utilization difference
	2021/22FY Kshs	2021/22FY Kshs	2021/22FY Kshs	2021/22FY Kshs	2021/22FY Kshs
Programme: <i>Promotion of Administrative Justice</i>					
General Administration and support services	469,377,610	5,000,000	474,377,610	449,561,075	24,816,535
Administrative Justice services	125,229,454	-	125,229,454	122,376,525	2,852,929
Access to information services	20,214,544	5,000,000	25,214,544	20,732,612	4,481,932
Total	614,821,608	10,000,000	624,821,608	592,670,212	32,151,396

This statement is a disclosure statement indicating the utilisation in the same format at the Commission's budgets which are programme based.

The Commission's financial statements were approved on 29/06/22 2022 and signed by:

.....
Mercy K. Wambua
.....

Mercy K. Wambua, OGW
Commission Secretary/CEO

.....
Daniel M. Karomo
.....

Daniel M. Karomo
Director, Corporate Services

.....
Benard Nyariki
.....

Benard Nyariki
Assistant Director – Finance & Accounts
ICPAK M/No. 9143

REPUBLIC OF KENYA



REPORT

OF

THE AUDITOR-GENERAL

ON

**COMMISSION ON ADMINISTRATIVE
JUSTICE - STAFF MORTGAGE
AND CAR LOAN**

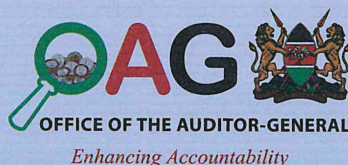
**FOR THE YEAR ENDED
30 JUNE, 2022**

**COMMISSION ON ADMINISTRATIVE JUSTICE STAFF MORTGAGE AND CAR LOAN
FUND**

**Annual Report and Financial Statements
For the financial year ended June 30, 2022**

REPUBLIC OF KENYA

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Website: www.oagkenya.go.ke



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Monrovia Street
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NAIROBI

REPORT OF THE AUDITOR-GENERAL ON COMMISSION ON ADMINISTRATIVE JUSTICE - STAFF MORTGAGE AND CAR LOAN FUND FOR THE YEAR ENDED 30 JUNE, 2022

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of Commission on Administrative Justice Staff Mortgage and Car Loan Fund set out on pages 1 to 22, which comprise the

Report of the Auditor-General on the Commission on Administrative Justice Mortgage and Car Loan Fund for the year ended 30 June, 2022

statement of financial position as at 30 June, 2022 and the statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Commission on Administrative Justice Staff Mortgage and Car Loan Fund as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Public Finance Management Act, 2012.

Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Commission on Administrative Justice Staff Mortgage and Car Loan Fund Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

CHAPTER EIGHT

8.0 CHALLENGES AND RECOMMENDATIONS

8.1 Challenges

The Commission faced a number of challenges in the period under review, which hindered achievement of some of the targets as follows: -

1. Financial Constraints attributed to:
 - a. Low budgetary ceilings;
 - b. Austerity measures implemented during the financial year that reduced the budgetary allocation; and
 - c. Pending bills for services that were already procured under running contracts, but could not be settled by the closure of the financial year;
2. Delayed in disbursement of the quarterly budgetary allocations, especially the fourth quarter hindered timely implementation of planned activities and contributed to creation of pending bills;
3. Low public awareness levels of the Commission's mandate among citizens;
4. Insufficient legal framework which inhibited enforcement of the decisions and recommendations of the Commission;
5. The culture of secrecy, unresponsiveness and impunity in the public sector;
6. Manual records management systems in the public sector which curtailed quick retrieval and access to information; and
7. Continued resistance by duty bearers being public entities and relevant private bodies, from complying with their obligations under the Act.

8.2 Recommendations

1. There is need for consultation when revising the budgetary allocation, to avoid a one-jacket-fit all given that MDAs are better placed to rationalize their budgets, whenever the need to institute austerity measures may arise;
2. Increased budgetary allocation to the Commission to allow for better enforcement and oversight by the Commission of its mandate;
3. Intensify public education and awareness creation campaigns as well as decentralize ombudsman services;
4. Strengthen legal framework to ensure that the decisions and

- recommendations of the Commission are binding to curb impunity;
5. Promote automation of processes, procedures and systems in the public sector including records management;
 6. Digitization of the records of Government be done as per the ATI Act which required under Sec.17 that by September 2019, all public entities should have digitized their records; and
 7. Inclusion of access to information as one of the key performance Indicators in the performance contracting requirements by public entities.

8.3 Priorities – FY 2022/23

Some of the key issues that the Commission will focus on moving forward include:

- I. Implementation of the strategic plan (2019-2023) MTR Recommendations for realization of set objectives.
- II. Strengthening policy, legal and regulatory framework.
- III. Deepen digitization and automation of systems and processes.
- IV. Enhancement of resource mobilisation and partnerships.
- V. Intensify capacity building and collaboration with MDACs to advance CAJ Mandate
- VI. Intensify outreach, public education and awareness creation initiatives.
- VII. Decentralisation of Ombudsman services to enhance accessibility.
- VIII. Huduma Ombudsman Award



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