

**The Commission on Administrative Justice
(Office of the Ombudsman)**



Hata Mnyonge ana Haki

**Reporting Framework on
Resolution of Complaints and Implementation of
Service Charters under the Public Service
Performance Contracting in Kenya**

Financial Year: 2022/2023

12th Edition

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

- Responsiveness
- Independence
- Fairness
- Transparency
- Integrity

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1. PREFACE

A. ESTABLISHMENT OF THE COMMISSION ON ADMINISTRATIVE JUSTICE

The Commission on Administrative Justice (CAJ) was established as a successor Commission to the Kenya National Human Rights and Equality Commission and the Public Complaints Standing Committee pursuant to Article 59(4) of the Constitution of Kenya through the Commission on Administrative Justice Act, 2011 (Cap 102A of the Laws of Kenya).

The Commission is mandated to enforce administrative justice in the public sector by addressing maladministration through effective complaints handling and alternative dispute resolution; promoting good governance and efficient public service delivery by enforcing the right to fair administrative action; and by investigating abuse of power, manifest injustice and unlawful, oppressive, unfair or unresponsive official conduct. In addition, the Commission has a constitutional mandate to safeguard public interest by promoting constitutionalism, securing the observance of democratic values and principles, and protecting the sovereignty of the people of Kenya. Additionally, the Commission is powered to oversee and enforce the right to access to information under Article 35 of the Constitution and Access to Information Act, 2016.

B. FUNCTIONS

The functions of the Commission as provided for in Section 8 of the CAJ Act, 2011 include:

- 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 against persons or bodies to which this Act applies;
- 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.

In addition, the Commission has the following functions under Access to Information Act;

- i) to investigate violations of the provisions of the Act;
- ii) to receive reports from public entities with respect to implementation of the Act and evaluating the use and disclosure of information;
- iii) to facilitate public awareness and develop programs on the right to access information and the right to protection of personal data;
- iv) to promote right of access to information in public entities;
- v) to monitor state compliance with international obligations related to the right to access information and protection of personal data;
- vi) to hear and determine complaints and review decisions arising from violations of the right to access information;
- vii) to promote protection of data; and
- viii) to perform such other function as the Commission may consider necessary for the promotion of access to information and promotion of data protection.

2. ROLE OF THE COMMISSION IN PERFORMANCE CONTRACTING FRAMEWORK

The Commission is a specialised agency under the performance contracting framework in Kenya whereby it oversees implementation of the '*Resolution of Public Complaints and Citizens' Service Delivery Charters* indicators. To this end, the Commission facilitates setting up and building complaint handling capacity in the public sector to enhance efficient service delivery.

3. PURPOSE

This Framework provides guidelines to public institutions with regard to compliance with the resolution of complaints and implementations of citizens' service delivery charters indicators.

4. SCOPE

This Framework applies to public institutions at the national and county levels.

5. DEFINITIONS

- i) **Audit:** Independent examination of data, statements, records, operations and performance of a public institution for purposes of compliance with the indicator.
- ii) **Monitoring:** Continuous assessment of service delivery through supervisory visits and spot checks.
- iii) **Citation Register:** A reference document kept by the Commission for citing unresponsive and malfeasant public officers and institutions.
- iv) **Complaint:** An expression of dissatisfaction by a person, group, or organisation about an unsatisfactory or unacceptable service, situation, including an act of commission or omission by a public officer or institution.
- v) **Complainant:** A person, group of persons or organisation lodging a complaint.
- vi) **Complaint channel:** A medium through which a complaint is transmitted to its intended audience or organization, e.g., email, telephone, mail, ...
- vii) **Complaint issue:** A brief description of the complaint.
- viii) **Complaint handling procedure:** The steps taken by an institution to process a complaint.
- ix) **Request for information processing procedure:** The steps taken by an institution to process request for information.
- x) **Action taken:** The intervention measure(s) taken by an institution to either resolve a complaint or process request for information.
- xi) **Corrective action:** Preventive measures taken by an institution to mitigate on future occurrence of a complaint.
- xii) **New complaint:** A complaint received less than 30 days to the end of the reporting period and has not been resolved.
- xiii) **On-going complaint:** A complaint received within the reporting period, but has not been resolved.
- xiv) **Pending complaint:** Unresolved complaint brought forward from previous reporting period.
- xv) **Public institution:** Any institution of the National or County Government, Constitutional or Statutory Commission, Tribunal, Bodies or Committee, Parastatal or State Corporation, and any other institution which is funded directly from the consolidated fund or receives money appropriated by Parliament.
- xvi) **Reporting period:** Timelines set for submission of reports as per this Framework.

xvii) Resolved Complaint: A complaint to which remedial action has been taken.

xviii) Root Cause of a Complaint: The underlying cause(s) of a complaint.

xix) Information Access Officer: Any officer of a public institution designated under Section Seven of Access to Information Act, 2016.

xx) Information: Includes all records held by a public institution regardless of the form in which it is stored, its source or the date of production.

xxi) Reactive Disclosure: This is release of information held by a public institution upon request.

6. MONITORING AND REPORTING

- i. **Submission of quarterly reports:** Every public institution is required to submit a quarterly report on complaints handling and implementation of citizen service delivery charters to the Commission, within fifteen (15) calendar days following the end of each quarter, as per the templates provided in the annexures (*marked Table I to Table VI*).
- ii. **Mode of reporting:** Reports shall be submitted via e-mail in PDF format. The dedicated e-mail address for submission is certificationpc@ombudsman.go.ke
- iii. **Late submission of reports:** Any report submitted beyond the due date shall attract a penalty of up to 15% of the total quarterly score. However, this is restricted to fifteen calendar days after the deadline, beyond which the report will not be admissible.
- iv. **Feedback:** The Commission shall provide feedback on the reports submitted within 30 days after the submission deadline.
- v. **Nil Returns:** In the event a public institution submits a report with nil returns on complaints handled directly, the Commission may apply other parameters and/or conduct an audit to verify validity of the report.
- vi. **Compliance Certificate:** The Commission shall issue a compliance certificate at the end of the financial year to a public institution, that has complied with the requirements stipulated in this Framework.
- vii. **Timelines for Resolution of Complaints:** MDAs are required to resolve complaints within thirty (30) days, from the date of receipt in line with the CAJ Regulations and applicable policy guidelines. Where a review is instituted, it shall be finalized within thirty (30) days from the date received.
- viii. **Timelines for Processing Information Requests:** Requests for information shall be processed within 21 days from the date of receipt or 48 hours where it concerns the life or liberty of a person. In the event the information requested is not within the custody of the public institution, the request shall be transferred to the relevant institution within five (5) days, from the date of receipt and the Applicant/Requester informed accordingly.

7. EVALUATION CRITERIA

Evaluation Criteria: Public institutions will be evaluated based on the following criteria:



- i. Resolution of all complaints received;
- ii. Processing of requests on access to information received (Reactive Disclosure) and
- iii. Awareness creation on the complaints handling framework and the citizens' service delivery charter.

Computation of scores: Scores shall be computed as follows;

SCORING FOR QUARTER ONE (1)		
S/No.	ITEM	SCORE
1.	A report on complaints received and processed (<i>See annexed Table IA & IB</i>)	60%
2.	A report on requests for information received and processed (<i>See annexed Table V</i>)	20%
3.	Annual plan on awareness creation initiatives (<i>See annexed Table III</i>)	20%
TOTAL		100%

SCORING FOR QUARTERS TWO (2), THREE (3) AND FOUR (4)		
S/No.	ITEM	SCORE
1.	A report on complaints received and processed (<i>See annexed Table IA & IB</i>)	60%
2.	A report on requests for information received and processed (<i>See annexed Table V</i>)	20%
3.	A report on awareness creation initiatives (<i>See annexed Table IV</i>)	20%
TOTAL		100%

Notes:

-  Public institutions are required to submit a report on awareness creation initiatives, on the complaints handling framework and service delivery charters (*See annexed Table IV*).
-  Public institutions are required to provide details for ongoing complaints, indicating challenges and actions taken.

8. PENALTIES

The Commission may institute sanctions against public institutions that do not comply with provisions of this Framework as follows: -

- (a) Deduct up to a maximum of fifteen (15) percent of a quarterly score on a pro-rata basis for late submission of reports.
- (b) Withhold compliance certificate at the end of the financial year if a public institution fails to;
 - i. Respond to CAJ enquires;
 - ii. Implement CAJ recommendations;
 - iii. Honour summons or notice to show cause from CAJ;
 - iv. Comply with the reporting guidelines;
 - v. Submission of false/misleading quarterly reports.
- (c) Report non responsive public institutions/officers to Parliament as per section 42 of the CAJ Act 2011.
- (d) Take legal action as provided for under section 52 of the CAJ Act and sections 18 and 28 of the Access to Information Act.

9. ANNEXES:

COMPLAINTS REPORTING TEMPLATES

Name of Institution:

Quarter Ending:

TABLE IA. COMPLAINTS AGAINST PUBLIC INSTITUTION LODGED WITH THE COMMISSION ON ADMINISTRATIVE JUSTICE

CAJ Ref. No.	Date Received	Complaint Channel	Name of Complainant	Complaint Issue	Action Taken	Root Cause	Corrective Action	Status		
								Resolved <i>(include Date resolved)</i>	On-going	New

TABLE IB. COMPLAINTS LODGED DIRECTLY WITH THE INSTITUTION

S/No.	Date Received	Complaint Channel	Name of Complainant	Complaint Issue	Action Taken	Root Cause	Corrective Action	Status			Pending from previous quarter	
								Resolved (include Date resolved)	On-going	New	Resolved	On-going

NOTE: Provide a brief narrative on any action taken for all on-going complaints

TABLE II: QUARTERLY STATISTICAL SUMMARY

DETAILS	COMPLAINTS DATA (TOTALS)				Deviations from Previous Quarter			
	Total Number Resolved	Total Number On-going	Total Number New	Total Received	Total Number Resolved	Total Number On-going	Total Number New	Total Received
Complaints Received from the Commission (CAJ)								
Complaints Lodged Directly with the Institution								

TABLE III: Annual Plan on Awareness Creation Reporting Template

Details	Awareness on Citizens' Service Delivery Charter			Awareness on Complaints Handling Framework		
	Quarter 2	Quarter 3	Quarter 4	Quarter 2	Quarter 3	Quarter 4
	Social Media	Institutional Website	Meetings/ Forums/Workshops	Social Media	Institutional Website	Meetings/ Forums/Workshops
Internal Customer	<i>(Insert planned activities)</i>	<i>(Insert planned activities)</i>	<i>(Insert planned activities)</i>	<i>(Insert planned activities)</i>	<i>(Insert planned activities)</i>	<i>(Insert planned activities)</i>
External Customer						

TABLE IV: Awareness Creation Initiatives on Complaints Handling Framework and Citizens' Service Delivery Charter Reporting Template

	Date undertaken	Complaints Handling Framework (List at least one activity/initiative)	Citizens' Service Delivery Charter (List at least one activity/initiative)	Attach evidence
Internal Customer				
External Customer				

TABLE V: REQUESTS FOR INFORMATION REPORTING TEMPLATE

NAME OF THE INSTITUTION: _____

FINANCIAL YEAR: _____ QUARTER _____

TABLE V: REACTIVE DISCLOSURE OF INFORMATION TEMPLATE										
S/No.	Date Received	Name Of Applicant	Gender Of the Applicant	Requisition Channel	Type Of Information Requested	*Decision (Action Taken)	Reason For Decision	Date Of Communicating Decision	Number Of Days Taken to Process the Request	Fees Imposed (If Any) (Ksh.)

***Decision** on request for information may fall under the following categories:

- I. **Granted request:** refers to a request processed and information provided.
- II. **Transferred request:** refers to a request that has been referred to another public institution that is the custodian of the requested information (to be transferred within five (5) days from the date of receipt).
- III. **Declined request:** refers to request not granted on account of Section 6 of the ATI Act on exemptions.
- IV. **Pending request:** refers to request for access to information which is still in process.
- V. **Deferred request:** refers to a request for access to information has been kept in abeyance on account of the Applicant/Requester failing to meet their obligations under the Act or further action is required from the applicant.

TABLE VI: QUARTERLY STATISTICAL SUMMARY OF REQUESTS FOR INFORMATION

NAME OF THE INSTITUTION: _____

FINANCIAL YEAR: _____ QUARTER: _____

TABLE VI: SUMMARY OF REQUESTS FOR INFORMATION

Number Of Requests Granted	Number Of Requests Transferred	Number Of Requests Declined	Number Of Pending Requests	Number Of Requests Deferred	Total Number of Requests Received	Average Number of Days Taken to Process the Requests	Total Amount of Fees Collected from Requests (Ksh)	Total Number of Full-Time Staff Devoted to Processing Requests	Total Cost for Processing Requests (Ksh)

- Notes:**
1. The Requester should be advised on the right to appeal to the Commission if dissatisfied with the decision of the public institution.
 2. Fees charged is only to defray the cost of providing the information (i.e., photocopying, printing, translation, ...)

DETAILS OF OFFICER PREPARING THE REPORT AND PUBLIC INSTITUTION

DETAILS OF THE PUBLIC INSTITUTION	
Name	
Email address	
Telephone number	
Postal address	
DETAILS OF OFFICER	
Name	
Designation	
Email Address	
Signature	
Date	

POSTAL ADDRESS

COMMISSION ON ADMINISTRATIVE JUSTICE
WEST END TOWERS, 2ND FLOOR,
WAIYAKI WAY WESTLANDS,
P.O. BOX 20414 – 00200 NAIROBI

OTHER COMMUNICATION CHANNELS

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TOLL FREE NUMBER	0800221349
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WEBSITE	www.ombudsman.go.ke

Approved by:

Mercy K. Wambua, OGW.
COMMISSION SECRETARY/CEO

Signature 

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