

# **THE COMMISSION ON ADMINISTRATIVE JUSTICE** *(Office of the Ombudsman)*



*Hata Mnyonge ana Haki*

## **COMMISSION ON ADMINISTRATIVE JUSTICE** **CITATION FRAMEWORK** **2023**

## **Vision**

A society that upholds Administrative Justice and Access to Information.

## **Mission**

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

## **Core Values**

Values are an integral part of an organization's culture and create a sense of identity, belonging and purpose.

The following are core values of the Commission:

**Responsiveness**

**Independence**

**Fairness**

**Transparency**

**Integrity**

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## **ABBREVIATIONS AND ACRONYMS**

<b>CAJ</b>	Commission on Administrative Justice
<b>ATI , 2016</b>	Access to Information Act, 2016



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## DEFINITION OF TERMS

**Citation-:** The Commission process of determining and declaring a state or a public officer as unfit to hold a state or public office and an institution as unresponsive, and consequently reporting the state officer, public officer or institution to Parliament.

**Summon-:** An official order by the Commission to a state officer, public officer or institution to make an appearance on a date, time and venue as specified.

## INTRODUCTION

The Commission on Administrative Justice (Office of the Ombudsman) is established under Article 59(4) and Chapter 15 of the Constitution as well as the Commission on Administrative Justice Act, 2011 (CAJ Act). The Commission has a twin mandate; first is to enforce administrative justice in the public sector by addressing maladministration through complaints and alternative dispute resolution and secondly, to enforce and oversight the implementation of the Access to Information Act, 2016 (ATIA, 2016). Further, the Commission promotes the right to fair administrative action as espoused under Article 47 of the Constitution and the Fair Administrative Action Act of 2015.

The impact of unresponsive official conduct to public service delivery cannot be gainsaid. This is exacerbated by the monopolistic nature of many public services where there is no alternative service provider for the aggrieved. Shortcomings such as unresponsiveness have tainted the image of public administration and lowered confidence in the ability of public entities to meet the expectations of those they serve. Improving responsiveness is thus an integral part of improving public service delivery.

In the context of promoting responsiveness in public administration, the Commission on Administrative Justice seeks to heighten accountability of government officials through this Citation Framework. The Citation Framework is an institutional tool for strengthening responsiveness of public officials to the Commission's correspondences. It seeks to address and mitigate instances where public officers fail to respond to the Commission's inquiries; or fail to implement a determination at the conclusion of an inquiry; or otherwise fail to cooperate with the Commission in the course of investigations or summons to appear as provided for under the CAJ Regulations 17 and 18.

This Citation Framework draws from the mandate of the Commission to be an effective overseer of responsiveness in public service and seeks to sanction unresponsive official conduct.

## **PURPOSE**

To Provide for the procedure to be employed by the Commission in the citation process of an unresponsive public officer /institution.

## **OBJECTIVES**

The objectives of the Citation Framework are to:

- a) Give effect to Regulation 18(2)& 20(c ) of the CAJ Regulations;
- b) Promote public service delivery as espoused by the values and principles referred to in Articles 10 and 232 of the Constitution;
- c) Enforce administrative justice for efficient and effective service delivery;
- d) Enhance public officer accountability and transparency in the management of Public Affairs; and
- e) Enhance public confidence and trust in public service.

## **SCOPE**

The framework shall be applicable to all state/public officers/offices within the meaning of Article 260 of the Constitution and Section 2 of Public Officer Ethics Act 2003.

## **APPLICABLE LEGISLATION**

- ▶ The Constitution of Kenya
- ▶ The Commission on Administrative Justice Act, 2011
- ▶ The Commission on Administrative Justice Regulations, 2013
- ▶ Access to Information Act, 2016
- ▶ Leadership and Integrity Act, 2012



- ▶ Public Officers Ethics Act, 2003
- ▶ The Fair Administrative Action Act, 2015
- ▶ Public Service Values & Principles Act, 2015

## **GUIDING PRINCIPLES**

- i. Responsiveness
- ii. Accountability
- iii. Transparency
- iv. Efficiency and Effectiveness
- v. Reliability and predictability (legal certainty)

A public officer is required to demonstrate respect for the people; bring honor to the service and dignity to the office; and promote public confidence and integrity, as stipulated in Chapter Six of the Constitution of Kenya (2010).

## **CITATION PARAMETERS**

- i. Failure to respond substantively to official requests or communications by the Commission without justifiable cause;
- ii. Failure to implement any decisions or Orders of the Commission without any reasonable cause;
- iii. Failure to honor summons issued by the Commission;
- iv. Public officers found to have misconducted themselves after due investigations by the Commission;



- v. Public officer found guilty of having committed an offence under Sections 52 and 44 of the CAJ Act;
- vi. Failure to issue reports in accordance with Sec 27 of the Access to Information Act , 2016; and or
- vii. Failure to adhere to proactive disclosure requirements under Sec 5 of the Access to Information Act, 2016.

## CITATION PROCEDURE

- I. The process of citation commences immediately when any of the factors/misdeeds with reference to the citation parameters is apparent or has been disclosed.
- II. The Director in charge of Complaints Management or Access to Information as the case may be shall propose to the Commission, through the Commission Secretary, that the Respondent should be cited as unresponsive and that his/her/its name should be entered in the Citation Register. The citation **may** include a recommendation that a State or Public Officer be declared unfit to serve in the public service.
- III. The Director shall keep a register(*Template 1*) of the reference file and names of Public/State Officers or Institutions forwarded to the Commission Secretary for purposes of citation. The Register shall indicate the date when the file was forwarded to the Commission Secretary, the justification for the proposed citation/declaration of a Public Officer/Institution as unresponsive/unfit to serve in the Public Service.

In the absence of the Director, the officer for the time being in charge of the Department, who makes the decision to forward a file and name(s) of Public/State Officer(s) or Institution(s) to the Commission Secretary for purposes of citation, shall enter the information in the Department Register.

- IV. The Commission Secretary/Chief Executive officer shall table the recommendation for discussion by the Commission in a Commission meeting in line with Sec 19 of the CAJ Act on procedures of the Commission.
- V. The decision to cite a Public Officer/Institution unfit to serve in the Public Service shall be a decision of the Commission.
- VI. Where the Commission decides that a Public/State Officer/Institution is unresponsive/unfit to serve in the Public Service, as the case may be, the Chairperson shall enter the name of the Public/State Officer/Institution in the Citation Register (*Template 2*) within Seven (7) days.
- VII. The Commission shall notify the public/state officer/institution within seven (7) days that they have been cited.
- VIII. The Commission shall prepare and submit reports of the cited officers to parliament in line with Sec 8(c) of the CAJ Act.
- IX. The Commission shall publish the names of the public/state officers and institutions prominently in the Commission's website and any other media as shall be determined by the Commission and annually publish the names of unresponsive Public/State Officers and Institutions as shall have been cited in the course of the year.

## **MONITORING & REVIEW**

Monitoring, Evaluation, Learning and Reporting (MELR) on implementation of this framework is intended to provide the Commission with valuable feedback that will inform the Commission on effective and intervention measures that may be required to address any feedback, gains and adjustments.

The Commission will monitor and evaluate the level of the desired change or outcome with regard to responsiveness and accountability standards in public administration, for efficiency and effectiveness in resolution of public complaints. Compliance surveys shall be conducted periodically to determine the level and status of compliance.

Pursuant to Articles 59(2)(j) and 254 of the Constitution, and Section 8 (c) of the Commission on Administrative Justice Act, 2011, the Commission shall report to Parliament all the public officers cited. The report will outline:

1. The date of citation with clear reference to the complaint file number.
2. The details of the matter and steps taken to accord a fair opportunity for defence
3. Summary of the findings and decisions.

*(The report bears the Signature & Seal of the Commission Chairperson)*

## **REMOVAL OF THE NAME OF THE PUBLIC OFFICER/INSTITUTION FROM THE CITATION REGISTER**

Upon an application by the public officer/institution whose name has been entered in the Citation Register to have their name removed from the Citation Register, the Commission shall review on merit and upon being satisfied with the reasons provided, remove the name of the public officer/institution from the Register.



## **FRAMEWORK REVIEW**

The citation framework shall be reviewed every Three (3) years or at such other time as may be recommended by the Commission.

## **ANNEXURE/SCHEDULE**

1. Template1 : Department citation submission register
2. Template2 : Citation Register



**TEMPLATE 1: DEPARTMENT CITATION SUBMISSION REGISTER**

<b>S/NO.</b>	<b>CAJ REF NO. &amp; NAME OF COMPLAINT HANDLING OFFICER</b>	<b>NAME OF OFFICER/INSTITUTION</b>	<b>SUMMARY of the Complaint</b>	<b>DATE FORWARDED</b>	<b>OUTCOME</b>	<b>SIGNATURE</b>

**TEMPLATE 2 : CITATION REGISTER**

<b>S/NO.</b>	<b>DATE</b>	<b>CAJ REF</b>	<b>NAME OF OFFICER/INSTITUTION</b>	<b>SUMMARY</b>	<b>SIGNATURE</b>