

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



*Hata Mnyonge ana Haki*

## ASSESSING THE RIGHT OF ACCESS TO INFORMATION IMPLEMENTATION IN KENYA



MAY 2025



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



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**Assessing the Right of Access to Information  
Implementation in Kenya**

May 2025

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## Foreword

The Commission on Administrative Justice (Office of the Ombudsman) is established under Article 59(4) of the Constitution and the Commission on Administrative Justice Act, 2011 to enforce administrative justice in the public sector by addressing all forms of maladministration. In addition, the Commission has the mandate of overseeing and enforcing the implementation of the right of access to information guaranteed under Article 35 of the Constitution and operationalized through the Access to Information Act, No. 31 of 2016 (ATI Act, 2016).

Access to information is widely recognized under international law as a fundamental human right that is pivotal to democracy and good governance. The United Nations 2030 Sustainable Development Goals (SDGs) indicator 16.10.2 advocates for access to information as a fundamental freedom and a key pillar in building inclusive and knowledgeable societies. This indicator calls for countries to adopt and implement constitutional, statutory and/or policy guarantees for public access to information. Similarly, Kenya's long term economic blueprint, the Kenya Vision 2030 calls for the adoption and implementation of policy, legal and institutional reforms necessary to promote transparency and accountability within the public sector by enabling access to information in order to advance the vision of information as a universal public good.

In response to this global and national call, Kenya has made significant strides in this regard. Under Article 35 of the Constitution, the right of access to information held by public institutions is to be enjoyed by every citizen. The Access to Information Act, 2016 requires that all public entities and relevant private bodies implement the Act by disclosing information to the public which is crucial for the promotion of fundamental rights and freedoms, democracy and good governance.

The Commission, having overseen the implementation of the ATI Act, 2016 for over eight years has noted remarkable progress in information disclosure though marked with some challenges at the Institutional levels. This Assessment Report thus enables the Country, the Government of Kenya, and implementing Institutions to be able to ascertain the progress made in implementing the right to information in Kenya and to put in place appropriate measures towards full realization of the right to information in Kenya. The Commission is therefore confident that this Assessment Report will be an invaluable resource to the Government and key actors in implementing the ATI Act, 2016.



**MR. CHARLES DULO**  
**COMMISSION CHAIRPERSON**

## Preface

Kenya enacted the Access to Information Act in 2016 with the aim of operationalizing Article 35 of the Constitution 2010, which gave every citizen the right of access to information held by the State and any other person. The Act requires the State to not only disclose information to citizens but to publish and publicizing important information affecting the nation. The right of citizens and the public to know is fundamental in any society that is governed by the rule of law and subscribes to international best practice, where Governments hold information in trust for its citizens.

The Access to Information Act, 2016 requires all public entities and relevant bodies to implement the Act through establishment of appropriate frameworks to enable access of information by all citizens. Successful implementation of ATI Act, 2016 is predicated on the active involvement and participation of a wide spectrum of stakeholders mainly the public sector, private sector, civil society, faith-based organizations, the media, academia and citizens, among others.

The Commission, in collaboration with other partner institutions conducted an assessment of the progress made in implementing the Access to Information Act, 2016 (ATI Act, 2016) in Kenya through a sampling of a few institutions. The assessment gives an objective view of how ATI Act, 2016 has been implemented by public entities and private bodies in Kenya, in order to enable informed decisions on areas requiring interventions. The assessment was guided by the comprehensive right to information assessment methodology developed by the Center for Law and Democracy (CLD). The CLD comprehensive methodology is a complementary response to Sustainable Development Goal (SDG) Indicator 16.10.2, a UN framework for measuring State's adoption and implementation of the right of access to information guarantee. As such, this assessment is evidence on the progress made in implementing the right of access to information in Kenya, in line with that framework. It is my hope that institutions will be able to benefit from this resource to advance information disclosure practices for inclusive governance and enhanced democracy in Kenya.



**DOROTHY JEMATOR**  
**VICE CHAIRPERSON AND ACCESS TO INFORMATION COMMISSIONER**

## Acknowledgements

The Commission acknowledges the invaluable efforts, time, resources, professional and intellectual assistance of all those involved in the development of this Assessment Report. First and foremost, deepest appreciation goes to the Commissioners led by the Chairperson, Mr. Charles Dulo, Vice-Chairperson and Access to Information Commissioner, Ms. Dorothy Jemator, and Commissioner in charge of Complaints and Investigations, Hon. Charles Njagua, for their visionary leadership and guidance.

We appreciate the Centre for Law and Democracy (CLD), a key partner of the Commission, for its generosity in providing the resources required for the development of this Report. Further, we acknowledge the role of the Canadian Government, in providing the necessary technical support. We thank ARTICLE 19 Eastern Africa, Katiba institute, Legal Advice Centre (Kituo Cha Sheria), International Commission of Jurists – Kenya Chapter (ICJ Kenya) and International Aid Transparency Initiative (IATI) for their endless support in the process of developing this Assessment Report. Much appreciation goes to the institutions that participated in the assessment for their instrumental role in providing the information that formed the report. The Commission acknowledges the role played by the Access to Information Department team led by the Director Access to Information, Viola Ochola and other Commission Officers who worked tirelessly to ensure that this report became a reality.

Last but not least, we acknowledge the entire CAJ Team and the many stakeholders for their continued support, input and partnership.



**MERCY K. WAMBUA, OGW**  
**COMMISSION SECRETARY/CEO**

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## Abbreviations and Acronyms

<b>ABBREVIATION</b>	<b>TERM</b>
ATI	Access to Information
BRS	Business Registration Services
CAJ / Commission	Commission on Administrative Justice
CEO	Chief Executive Officer
CLD	Center for Law and Democracy
COK / Constitution	Constitution of Kenya
CoG	Council of Governors
ERP	Enterprise Resource Planning
EDRMS	Electronic Documents Records Management Systems
GoK	Government of Kenya
IATI	International Aid Transparency Initiative
IAO	Information Access Officer
ICJ -Kenya	Kenyan Section of the International Commission of Jurists
ICT	Information Communication and Technology
IEC	Information Education and Communication
KMPDC	Kenya Medical Practitioners & Dentists Council
KNEC	Kenya National Examination Council
KRA	Kenya Revenue Authority
MDAs	Ministries, Departments and Agencies
NTSA	National Transport and Safety Authority
PWDs	Persons with Disabilities
SDG	Sustainable Development Goals
UN	United Nations
UNESCO	United Nations Education Scientific and Cultural Organization

## 1 Background Information

### 1.1 Introduction

The Commission on Administrative Justice (Office of the Ombudsman) (herein after CAJ or the Commission) is established under Article 59(4) of the Constitution, and its constitutive Act; the Commission on Administrative Justice Act, 2011 (CAJ Act) with the mandate to enforce administrative justice in the public sector by addressing all forms of maladministration. The Commission has a further mandate of oversight and enforcement of the right of access to information in Kenya as guaranteed by Article 35 of the Constitution, through the Access to Information Act, 2016 (ATI Act).

The Commission in collaboration with other partner institutions, which include ARTICLE 19 Eastern Africa, Katiba Institute, Legal Advice Centre (Kituo Cha Sheria), Kenyan Section of the International Commission of Jurists (ICJ Kenya) and International Aid Transparency Initiative (IATI), conducted an assessment of the progress made in implementing the Access to Information Act, 2016 (ATI Act, 2016) in Kenya. The assessment was intended to give an objective view of how the ATI Act, 2016 has been implemented by public entities and private bodies in Kenya, to enable informed decisions on areas requiring interventions.

This report contains the findings and recommendations of the assessment of the Right of Access to Information implementation in public entities and some private bodies.

### 1.2 Contextual Analysis

#### 1.2.1 The Right of Access to Information in Kenya

Access to information is a fundamental human right and constitutional requirement in Kenya. This is stipulated in Article 35 of the Constitutions of Kenya 2010, Article 19 of the Universal Declaration of Human Rights (1948), and Article 9 of the African Charter on Human and Peoples' Rights (1967) among other international instruments. Kenya enacted the Access to Information Act in the year 2016 intending to operationalize Article 35 of the Constitution, which gave every citizen the right of access to information held by the State and any other person if such information is required for the protection of a fundamental right or freedom. The Act substantively provides the manner and mechanisms upon which the right of access to information is to be realized.

One of the obligations that the implementing institutions are required to comply with by the Act is to proactively facilitate access to information for all citizens. At a minimum, the same should be facilitated through digital platforms. Further, the law requires institutions to provide information upon request and to ensure the

digitization of records and information management systems to enhance access to information by citizens.

### **1.2.2 Overview of the Access to Information Act, 2016**

The Access to Information Act was enacted in the year 2016. The object and purpose of the Act is to<sup>1</sup>:

- a) Give effect to the right of access to information by citizens as provided under Article 35 of the Constitution;
- b) Provide a framework for public entities and private bodies to proactively disclose information that they hold and to provide information on request in line with the constitutional principles;
- c) Provide a framework to facilitate access to information held by private bodies in compliance with any right protected by the Constitution and any other law;
- d) Promote routine and systematic information disclosure by public entities and private bodies on constitutional principles relating to accountability, transparency and public participation and access to information;
- e) Provide for the protection of persons who disclose information of public interest in good faith; and
- f) Provide a framework to facilitate public education on the right to access information under this Act.

The ATI Act gave the Commission on Administrative Justice the mandate to oversee and enforce the implementation of the right of access to information in Kenya. One of the key functions of the Commission under the Act stipulated in section 21(1)(e)] is to monitor State compliance with international treaty obligations relating to freedom of and right of access to information and protection of personal data.

### **1.2.3 The Center for Law and Democracy Comprehensive Methodology**

The Center for Law and Democracy (CLD) is an International Non-profit Organization whose mandate is to promote, protect and develop fundamental human rights, which serve as the foundation for or underpin democracy, including the rights to freedom of expression, to vote and participate in governance, to access information and to freedom of assembly and association.

The assessment was guided by the comprehensive right to information assessment methodology developed by the CLD. The methodology evaluates the progress of institutions based on specific tools applied for assessing the strength of national access to information implementation mechanisms. This is a complementary

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<sup>1</sup> Access to Information Act, 2016

<https://new.kenyalaw.org/akn/ke/act/2016/31/eng@2022-12-31>, section 3

response to Sustainable Development Goal (SDG) Indicator 16.10.2, a UN framework for measuring States' adoption and implementation of the right of access to information guarantee.

The United Nations Educational, Scientific and Cultural Organization (UNESCO) is the lead agency that monitors access to information implementation at the international level in accordance with the above SDG indicator. As such, this activity supports the assessment of the progress made in implementing the right of access to information in Kenya.

#### 1.2.4 Assessment of Access to Information Implementation

Kenya has implemented the Access to Information Act for over eight years. Therefore, it is important to assess its implementation to know the progress made in facilitating access to information and allow appropriate decisions on areas of improvement. Kenya is also supposed to report on the progress made in the implementation of the right of access to information through the UN SDG 16 framework. Hence, in August 2023, the Commission, in partnership with other key stakeholders, undertook an assessment to know the progress made in the implementation of the right of access to information by public and relevant private institutions in Kenya.

#### 1.2.5 Scope of the Assessment

The assessment targeted twenty-four (24) public institutions and two (2) private bodies that are relevant to the ATI Act. Section 2 of the ATI Act defines these institutions as follows:

1. **"Public entity"** means:
  - a) any public office, as defined in Article 260 of the Constitution; or
  - b) any entity performing a function within a commission, office, agency or other body established under the Constitution;
2. **"Private body"** this is any private body or non-state actor that:
  - a) receives public resources and benefits, utilizes public funds, engages in public functions, provides public services, has exclusive contracts to exploit natural resources (with regard to said funds, functions, services or resources); or
  - b) is in possession of information which is of significant public interest due to its relation to the protection of human rights, the environment or public health and safety, or to exposure of corruption or illegal actions or where the release of the information may assist in exercising or protecting any right.

### 1.3 Objectives of the Assessment

The overall objective of the assessment was to evaluate the strength of Kenya's access to information implementation mechanisms and the progress made in implementing the ATI law by institutions, to enable informed decisions on areas requiring interventions.

The specific objectives of the assessment were:

- i. To establish whether the oversight body is operating effectively in implementing the ATI Act;
- ii. To assess the measures undertaken by the institutions to mainstream and/or strengthen information disclosure frameworks (institutional measures);
- iii. To assess the measures taken to enable access to information without prompts (proactive disclosure);
- iv. To assess the measures put in place to enable the disclosure of information upon requests by citizens (reactive disclosure); and
- v. To document challenges faced in implementing ATI law and recommend best practices for improved implementation of the law.

## 2 ASSESSMENT APPROACH AND METHODOLOGY

According to the CLD Comprehensive methodology, the assessment used a participatory approach to evaluate progress made by both public entities and private bodies in Kenya in the following four measures:

- i. Measures taken to ensure that the oversight body (CAJ) is established, functional and operating in an effective way (Central measures);
- ii. Measures undertaken by the institutions to mainstream and/or strengthen information disclosure frameworks (Institutional measures);
- iii. Measures taken to enable access to information without prompts (Proactive disclosure); and
- iv. Measures put in place to enable disclosure of information upon requests by citizens (Reactive disclosure).

### 2.1 The Assessment Team

The Commission constituted a 14 Member Steering Committee to provide leadership in the assessment process. The membership of the Steering Committee was drawn from the Commission and lead ATI Civil Society Organizations. The Steering Committee membership excluded public entities and private bodies to avert conflict of interest, which would affect the actual findings of the implementation process. The Committee was chaired by the Access to Information Commissioner and its membership was as follows:

Table 1: The Steering Committee

NO.	NAME	INSTITUTION	Designation
1.	Commissioner Lucy Ndungu	CAJ	Chairperson
2.	Ms. Viola Ochola	CAJ	Member
3.	Mrs. Florence Mwikya	CAJ	Member
4.	Mr. Daniel Karomo	CAJ	Member
5.	Mr. Sammy Cheboi	CAJ	Member
6.	Mr. Simon Nzioka	CAJ	Member
7.	Ms. Sarah Wesonga	ARTICLE 19 EA	Member
8.	Mr. John Mwariri	Kituo cha Sheria	Member
9.	Ms. Winnie Kamau	IATI	Member
10.	Mr. Geoffrey Ochieng	ICJ - Kenya	Member
11.	Mr. Chris Kerkering	Katiba Institute	Member
12.	Mr. Peter Guantai	CAJ	Member
13.	Ms. Isolina Kawira	CAJ	Member
14.	Ms. Maryann Wanjiru	CAJ	Secretariat

The Committee's Terms of Reference were to:

1. Develop a plan of action on access to information assessment in Kenya;
2. Provide guidance and direction to the assessors and assessment process;
3. Receive and consider assessment reports; and
4. Submit a final report on the assessment of the right of access to information in Kenya to the Commission.

The Steering Committee developed a workplan with key assessment tasks comprising strategy and planning, data collection, report writing and report launch. The assessment was spread over three months commencing on 1st February 2024 with an expected completion date of 30th April 2024.

The Committee held several strategy and planning meetings to develop the assessment roadmap. Thereafter, a total of 26 institutions across the public and private sectors were mapped for the assessment process. The Committee also co-opted assessors drawn from different work practices and skills to enrich the process. All assessors were trained on the key requirements of the assessment process to ensure that they collected the required data and information representative of the actual status of implementation of the law.

### **2.1.1 Selection of Assessors**

The assessment was facilitated by a team of sixteen (16) assessors who were nominated by the Steering Committee. The assessors constituted a multi-stakeholder representation which included officers from the oversight body (The Commission), civil society, and the media. It has to be noted that due to limited resources, most of the members of the Steering Committee apart from the Chairperson doubled up as assessors. This strategy not only saved the required resources for the assessment but also ensured continuity of understanding of the activity objectives and expectations as well as guarded against the loss of critical information for the whole assessment exercise.

The assessors were organized into five (5) teams and each team was allocated several institutions within the different categories of institutions selected. The fifth team, comprising assessors from the Civil Society Organizations, was allocated the assessment of the Central Measures. The team was required to develop its own working modalities and procedures as well as work separately from the other assessors drawn from the Commission to ensure objectivity in assessing central measures.

The following is the list of assessors who facilitated the process:

**Table 2: Members of the Assessment Team**

TEAM	ASSESSOR'S NAME	INSTITUTION REPRESENTED	CATEGORY
Team 1	Sammy Cheboi	CAJ – Team Lead	Oversight Body
	Sylvia Chelogoi	CAJ	Oversight Body
	Isolina Kawira	CAJ	Oversight Body
	Winnie Kamau	IATI	NGO / Media
Team 2	Florence Mumbi	CAJ – Team Lead	Oversight Body
	Simon Nzioka	CAJ	Oversight Body
	Sarah Wesonga	ARTICLE 19	Civil Society
	Chris Kerkering	Katiba Institute	Civil Society
Team 3	Daniel Karomo	CAJ – Team Lead	Oversight Body
	Joyce Kihara	CAJ	Oversight Body
	Geoffrey Ochieng	ICJ	NGO
	Peter Guantai	CAJ	Oversight Body
Team 4	Viola Ochola	CAJ – Team Lead	Oversight Body
	Maryanne Wanjiru	CAJ	Oversight Body
	John Mwariri	Kituo Cha Sheria	Civil Society
	Bob Munoko	CAJ	Oversight Body
Team 5	Sarah Wesonga	ARTICLE 19 – Team Lead	Civil Society
	Geoffrey Ochieng	ICJ Kenya	Civil Society
	Chris Kerkering	Katiba Institute	Civil Society
	Winnie Kamau	IATI	Civil Society
	John Mwariri	Kituo cha Sheria	Civil Society

## 2.2 Selection of Institutions for Assessment

### 2.2.1 Mapping of Institutions for Assessment

The Steering Committee considered several factors in selecting the institutions for assessment, as outlined below:

#### 1. The categories of institutions in the public sector

The Kenya public sector is comprised of the following eight broad categories of institutions; Ministries; Departments; Agencies; the Legislature; the Judiciary; Boards & Authorities; Counties and Private Bodies;

#### 2. The total number of institutions

The number of institutions sampled for the assessment exercise was 26 institutions which comprised 24 public entities and two private bodies;

#### 3. The devolved system of governance

Out of the 24 public entities selected, 18 were under the National Government and six from County Governments;

#### 4. Frequency of requests

The selection of public entities was based on their likelihood to attract high-traffic requests, mid-traffic requests and low-traffic requests;

#### 5. Urban and Rural settings

Of the six institutions selected in the Counties, three were in the urban set-up and the other three were in the rural set-up; finally,

#### 6. Private bodies

The selection was based on their likelihood to attract high interest in information and low interest in the information held.

### 2.2.2 Institutions Selected for the Assessment

	List of Institutions	Category
1	Ministry of Education	Ministry
2	Ministry of Agriculture, Livestock, Fisheries and co-operatives	Ministry
3	Ministry of Defense	Ministry
4	Business Registration Service	Corporation
5	Attorney General (Registrar General-marriages)	Department
6	Department of Civil Registration	Department
7	Kenya Power & Lighting Company	Corporation
8	Kenya Revenue Authority	Corporation
9	Mathari National Teaching and Referral Mental Hospital	Corporation
10	Kenya National Examinations Council	Board / Authority
11	National Transport & Safety Authority	Board / Authority
12	Kenya Medical Practitioners and Dentists Council	Board / Authority
13	National Assembly	Legislature
14	Parliamentary Service Commission	Commission
15	Senate	Legislature
16	Judiciary Service Commission	Commission
17	Nakuru High Court	Judiciary
18	Narok Law Courts	Judiciary
19	Nakuru County Executive	County
20	County Assembly of Nakuru	County
21	Narok County Executive	County
22	County Assembly of Narok	County
23	Nakuru Water and Sanitation Services Company Limited	County
24	Narok Water & Sewerage Company	County
25	Safaricom Co. Ltd	Private Body
26	Moja Express Way Company	Private Body

### 2.3 Participants in the Assessment from the Institutions

According to the ATI Act, the Chief Executive Officer (CEO) of any public entity is the assigned Information Access Officer (IAO) for that entity. The CEO of that

public entity may delegate the performance of his or her duties as the Information Access Officer under the Act to any other officer.

In the Act, the CEO of a public entity or a private body has been defined as the Principal Secretary in the case of a public institution, the Managing Director in the case of a private body, or the person assigned the principal administrative responsibility in any body by whatever title.

Consequently, the officer(s) in charge of information access in the public entity or private body were the key participants targeted for the assessment.

The institutions were introduced to the assessment through a letter from the Commission and also advised to nominate the officer(s) in the institutions in charge of access to information and therefore suitable to participate in the assessment.

## **2.4 The Assessment Process**

The assessment was implemented through a series of the following steps:

- Step 1: Training of Trainers on the CLD methodology;
- Step 2: Appointment of the Steering Committee;
- Step 3: Nomination and sensitization of a team assessors by the Commission
- Step 4: Development of assessment tool by the technical team;
- Step 5: Training on the data collection tools;
- Step 6: Logistical planning for the assessment exercise;
- Step 7: Data collection by desk literature review and institutional visits;
- Step 8: Individual institution's data analysis and reporting; and
- Step 9: Preparation of consolidated assessment report for Kenya

To conduct the assessment of the targeted institutions, the assessors first submitted two information requests for request testing and awaited responses for 21 days as required by the ATI Act. The request testing was done before any other activity in the assessment process to allow obtaining of actual results on the provision of information upon request before implementing institutions would know that they were being assessed.

Data collection also entailed desk literature reviews of the institutions' websites and other online platforms for assessment of the proactive disclosure of information. This was undertaken throughout the assessment, and complemented by institutional visits that followed the expiry of the 21 days.

During the institutional visits, the lead assessor convened a meeting with the officer nominated by the institution and who was considered suitable and familiar with or discharging ATI duties at the institution, to participate in the assessment. At the meeting, the assessors used assessment tools that were developed to guide the

participants through a discussion and consensus-building process to determine the most realistic status of the implementation of the ATI law. Further, the assessors guided the ATI representatives to provide justifications for their responses. The assessors then keyed in the scores into a predesigned MS Excel spreadsheet and summarized the justification to represent the most appropriate implementation status.

## 2.5 The Assessment Tools

The assessment process under the CLD methodology involved collecting significant amounts of information using the seven assessment tools in relation to each of the four assessment areas, as shown below;

Table 3: The Assessment Tools

	<b>Assessment Area</b>	<b>Assessment Tools</b>
1	Central Measures,	<ul style="list-style-type: none"> <li>• Key informant interviews</li> <li>• A self-assessment by the public authority</li> <li>• A desk-based literature review</li> <li>• Desk-based review of actual decisions on complaints/appeals</li> </ul>
2	Institutional Measures	<ul style="list-style-type: none"> <li>• Institution visits</li> <li>• Key information interview</li> <li>• Observation guide*</li> <li>• Desk or literature review</li> </ul>
3	Proactive Disclosure;	<ul style="list-style-type: none"> <li>• Desk-based literature review (Website audits)</li> <li>• Institutional visits – observations guide</li> <li>• Key informant interview (offline disclosures)</li> </ul>
4	Reactive Disclosure.	<ul style="list-style-type: none"> <li>• Request testing</li> <li>• Institutional visits – walk-in</li> </ul>

\*Observation Guide - The composite tool used for KII on institutional measures incorporated components that were to be observed during the assessment alongside the interviews undertaken with the respondents. This was done as a step of verification.

## 2.6 The Measures of Assessment

### 2.6.1 Central Measures

#### 2.6.1.1 Substantive Issues

To establish whether the oversight body was operating effectively in implementing the ATI Act, two main assessment areas were relevant:

1. Have the necessary institutional steps been taken to ensure that the oversight body is established and functional?
2. Is the oversight body operating in an effective way (i.e. is it discharging its responsibilities properly)?

The following substantive issues were assessed:

Table 4: The substantive issues assessed for the central measures

<b>Structural</b>	<b>Performance</b>
<ul style="list-style-type: none"> <li>• Have independent, effective governing members of the oversight body (Commissioners) been appointed?</li> <li>• Has the body been provided with reasonably sufficient funding to enable it to carry out its tasks?</li> <li>• Does the body recruit its own expert staff (as opposed to staff being allocated from the civil service whose primary loyalties tend to lie with the civil service)?</li> <li>• Does it have a full complement of staff (i.e. compared to its organogram or official documents)?</li> <li>• Are they on long-term employment contracts? Is</li> </ul>	<ul style="list-style-type: none"> <li>• Does the oversight body process appeals appropriately and in accordance with the law?</li> <li>• Does the oversight body take active (<i>suo moto</i>) steps to ensure that public authorities are implementing the law properly?</li> <li>• Does the oversight body discharge its regulatory functions properly? This will depend on what the law requires/authorizes it to do in terms of regulation.</li> <li>• Does the oversight body take steps to raise public awareness about the RTI Law?</li> <li>• Has the oversight body supported the provision of training to IOs?</li> <li>• Does the oversight body publish an annual report on overall implementation?</li> </ul>

<p>the staff diverse, including in terms of gender?</p> <ul style="list-style-type: none"> <li>Does the oversight body make an effort to be geographically accessible to complainants?</li> </ul>	<ul style="list-style-type: none"> <li>Does the oversight body actively use whatever powers it has under the law to impose appropriate sanctions on individuals/entities who obstruct access?</li> <li>Has the oversight body commented on draft laws that affect RTI?</li> <li>Does the oversight body provide advice to public authorities which ask for it? What about members of the public?</li> <li>Has the oversight body taken any other steps to improve implementation?</li> </ul>
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**2.6.1.2 The Scoring of the Oversight Agency under Assessment**

Grading for the assessment of Central Measures was based on five yes-no questions and eight more qualitative questions. The five yes/no questions were:

Table 5: The Central Measures Assessment Indicators - Objective Evaluation

<b>Objective Evaluation</b>
1. Has sufficient funding been allocated?
2. Does the body recruit its own staff?
3. Are the body's appeals decisions available online?
4. Has the body produced and published an annual report for the last two years?
5. Has the body published a guide for requesters?

While there is some margin for non-binary (yes-no) answers here, the assessors allocated a simple Yes (1 point) or No (0 points) score. The eight more qualitative questions were:

Table 6: The Central Measures Assessment Indicators - Qualitative evaluation

<b>Qualitative Evaluation (Strongly = 1; Partially = 0.5; Weakly = 0)</b>
6. Have the members been appointed?
7. Are the members of the body independent and effective?
8. Is the funding provided to the body reasonably sufficient for it to discharge its functions?
9. Does the body decide on appeals in a timely fashion?
10. Are the due process rights of parties respected during appeals?
11. Has the body made reasonable efforts to raise public awareness?
12. Have effective measures been taken to provide training to officials?
13. Has the body made a reasonable effort to comment on draft laws which affect the right to information?

### 2.6.2 Institutional Measures

To establish the level of compliance by implementing institutions with requirements of the ATI Act (Institutional Measures), the following indicators were used:

Table 7: Institutional Assessment Indicators

<b>A. Objective Evaluation</b>
a) Does the institution have a designated Information Access Officer (IAO)?
b) Has the IAO been formally appointed?
c) Has the Information Access Officer been trained or sensitized on his roles?
d) Has the name and contact details for the IAO been published?
e) Has the name and contact details for the IAO been publicized?
f) Does the institution have guidelines and procedures on Implementation of ATI ( <i>Probe: implementation plan/access to information policy/ procedures manual/ request for information forms</i> )?
g) Do their procedures expressly advise on the appeal mechanism on ATI decision?
h) Is there a verifiable Access to Information register (physical or electronic)?
i) Is it possible to lodge requests electronically? Is it easy to obtain an ATI request form? Is it easy to find the contact details of the IAO? ( <i>Yes, is given for two or</i>

more positive answers, No for one or less)

j) Did the institution publish an annual report for the last two years?

k) Has the institution submitted an annual report on the implementation of ATI to CAJ?

l) Has the institution conducted ATI awareness-raising activities over the last one year?

m) Has the institution put in place any system or taken any action/measures to improve its record management?

### B. Qualitative Evaluation

n) Does the IAO have appropriate qualifications for the job and has he or she been allocated time to do the job?

o) Has the IAO come under pressures/influence/interference that make it difficult for him or her to do the job properly?

p) Overall, how strong are the guidelines and procedures or SOP for ATI implementation for this institution?

q) How extensive are the awareness-raising activities?

r) How effective are the measures taken to improve records management?

### 2.6.3 Proactive Measures

To establish the level of compliance by implementing institutions with requirements of section 5 of the ATI Act on proactive disclosure, compliance with proactively disclosing the following categories of information was assessed through observations during the institutional visits, and desktop review of the institutional websites and other online platforms.

Table 8: Proactive Assessment Indicators

S/No.	Broad Category	Information Required to be Proactively Disclosed
1	Who we are and what we do	Location and contact details ( <i>physical, postal and online</i> )
		Functions and Duties of the Organization
2	How we make decisions	Management Structures and Organogram
		Powers and duties of officers and employees
3	How we spend resources	Salaries of officers by grade
		Recurrent & development budgets and budget reports
		Financial and Audit Reports

S/No.	Broad Category	Information Required to be Proactively Disclosed
4	Our policies and procedures	Statutory laws, regulations, etc.
		Institutional Policies, manuals, Guides etc.
5	Lists and registers	Information Access Guides ( <i>Institutional databases, reports etc.</i> )
6	Public Procurement Information	Advertised tenders
		Goods acquired or rented; Services contracted; Scope of service and references; Contract sums; Names of service providers/contractors and period of contracts

The Steering Committee noted that the methodology utilizes two parts for the assessment of proactive disclosure where part one makes an assessment for online disclosure and part two comprises offline disclosure and other components. The Committee noted that part one was heavily weighted at 75% while part two, which includes offline disclosure, was weighted at 25%. Thus, the Committee's view was that the Kenyan law, which required proactive disclosure by institutions either online or offline without giving preference to any particular mode of disclosure needed customization of the methodology to the Kenyan context. This would eliminate or minimize cases of unfair assessment to institutions by placing unnecessary weight on components that the law did not require strict compliance with.

The Committee's approach was that, in the Kenyan context, if an institution had disclosed information either online or offline and such information was compliant with the required standards of proactively disclosed information in the specific category, then such institution would be considered to have met the requirement of proactive disclosure. In this case, the Committee based its assessment on online and offline disclosure where the information disclosed in either of the two platforms and met the required standards of proactive disclosure qualified for a score of 0.5 points.

Further, the Committee took the position that unique circumstances existing in the Kenyan jurisdiction in ATI implementation such as literacy levels, economic factors, internet penetration, technological know-how etc., meant that proactive disclosure application would be diverse depending on each institution's operating environment. Other factors such as available resources would also determine choices made by institutions in ensuring compliance with proactive disclosure obligations. As, such, the Committee customized the methodology to fit into the Kenyan context.

Customization of the CLD methodology in assessing proactive disclosure in the Kenyan context led to the conclusion that two important elements should be evaluated.

- i. Whether the information required by section 5 of the Act to be proactively disclosed is actually disclosed/available;
- ii. Whether such disclosed information is accessible to citizens.

In assessing the availability of information, the assessors took into consideration the following standards on disclosed information; actual availability of the information, completeness of the disclosed information and whether the information was up to date in each of the required categories. Further, in assessing the accessibility of available information, the assessors considered whether the information disclosed was easy to find, accessible to persons with disabilities and user-friendliness of disclosed information. The Committee decided that any information disclosed online or offline which met the required standards as indicated before qualified for a score of score of 0.5 points.

The following is an excerpt of the observation guide utilized in the assessment.

**Objective 2: To establish the level of compliance by public institutions with the requirements of the ATI Act on proactive disclosure** *(Observation and Desktop review)*

#### Proactive Disclosure of Information

S/No.	Broad Category	Initiative	Available Online	Available Offline	Missing Online/offline	Remarks
1	Who we are and what we do	Location and contact details (physical, postal and online)	✓	✓		Available on website <a href="https://kmpdc.go.ke/">https://kmpdc.go.ke/</a> -Website is quite interactive and fully equipped with many search options -Equipped with PWD accessibility tools e.g increase/decrease, grayscale, high contrast, readable font etc

#### 2.6.4 Reactive Measures

To establish the level of compliance by implementing institutions with requirements of the ATI Act on Reactive disclosure, the following measures were used from the information requests sent:

1. Whether or not the response to the information request sent to the institution was received by the requester;
2. Whether the response received was within the timeline of 21 days, in line with section 9 of the Act; and
3. Whether the response provided was consistent with legal requirements.

The Steering Committee omitted the aspect of '*fee charged appropriately and receipt*' since the Kenyan law makes it optional for institutions to charge fees for accessing requested information. However, the data collection tool had these aspects captured in applicable situations where such data was utilized in analyzing the findings of the assessment for the institutions.

For purposes of grading reactive disclosure, the Committee utilized the following criteria to grade institutions:

- i. In cases where an institution responded to the request, a score of 1 point was allocated to such an institution and zero where there was no response;
- ii. In cases where an institution responded to the request, and within 21 days, a score of 1 point was allocated to such an institution. Where the response was received after 21 days, the score would be 0 and where there was no response the score would be 0;
- iii. On the received results, the Committee utilized the requester's perspective on the level of satisfaction with the disclosed information. The foregoing was based on the understanding that citizens have been empowered to a level to know when a request for information has been sufficiently responded to and when an institution is evading to respond as required by the law, thus necessitating an appeal to CAJ. In cases where the requester was satisfied with the request, a score of 1 point was allocated to such institution, where the requester was partially satisfied, the score would be 0.5 and where the requester was not satisfied with the response the score would be 0.

Further, the information request tested various categories of information which included simple requests, complex and voluminous information, requests for borderline exempt information, information that requires consultation with third parties, information that required assistance e.g., PWDs, persons with low literacy levels, and finally information that requires translation to Swahili and local languages. The requests were made by individuals with traditionally identifiable male and female names to assess potential gender biases. Some were requested on behalf of notable government and non-governmental institutions and were lodged through online and offline mediums.

The offline information request was uniformly made to all institutions requesting complex budget information and submitted via letter, which was physically delivered to all institutions participating in the assessment. This information request also served as a control test request considering variations in other forms of requests.

Online requests were submitted electronically through either the official email or any of the official social media platforms of the institution. The kind of request sent electronically to each institution varied by the different aspects as outlined in the table below:

Table 9: Criteria for Sending Electronic Requests

<b>Institution</b>	<b>Request Method</b>	<b>Requester</b>	<b>Request Category</b>
<b>Ministry of Education</b>	Email	Female	Complex/voluminous information
<b>Ministry of Agriculture, Livestock, Fisheries and co-operatives</b>	Social media	Male	Consultation with other departments or 3rd parties
<b>Ministry of Defense</b>	Email	Male	Borderline exempted information
<b>Business Registration Service</b>	Social media	Female	Information needing special assistance
<b>Attorney General (Registrar General-marriages)</b>	Email	Male	Complex/voluminous information
<b>Department of Civil Registration</b>	Social media	Female	Consultation with other departments or 3rd parties
<b>Kenya Power &amp; Lighting Company</b>	Email	Male	Borderline exempted information
<b>Kenya Revenue Authority</b>	Social media	Institution /Organization	Information needing special assistance
<b>Mathare National Teaching and Referral Mental Hospital</b>	Email	Male	Consultation with other departments or 3rd parties
<b>Kenya National Examinations Council</b>	Social media	Female	Complex/voluminous information
<b>National Transport &amp; Safety Authority</b>	Email	Institution /Organization	Information needing special assistance
<b>Kenya Medical Practitioners and Dentists Council</b>	Social media	Female	Consultation with other departments or 3rd parties

<b>National Assembly</b>	Email	Male	Complex/voluminous information
<b>Parliamentary Service Commission</b>	Social media	Female	Borderline exempted information
<b>Senate</b>	Email	Male	Information needing special assistance
<b>Judiciary Service Commission</b>	Social media	Female	Consultation with other departments or 3rd parties
<b>Nakuru High Court</b>	Email	Male	Complex/voluminous information
<b>Narok Law Courts</b>	Social media	Female	Consultation with other departments or 3rd parties
<b>Nakuru County Government</b>	Email	Male	Information needing special assistance
<b>Narok County Government</b>	Social media	Female	Borderline exempted information
<b>Nakuru Water &amp; Sanitation Company</b>	Email	Institution /Organization	Information needing special assistance
<b>Narok Water &amp; Sanitation Company</b>	Social media	Male	Complex/voluminous information
<b>Safaricom</b>	Email	Female	Consultation with other departments or 3rd parties
<b>Moja Express Way Company</b>	Social media	Male	Borderline exempted information

## 2.7 The Scoring of the Institutions under Assessment

The grading process involved generating different numerical scores and then converting them to a **red-yellow-green** colour grade based on a predetermined criterion highlighted below. This conversion was done to reflect the approximate status of the assessment process. The conversion was not intended to be a precise ranking exercise but rather, a means to give an approximate understanding of performance in terms of implementation of ATI obligations and areas of weakness.

The conversion of scores into colour grades in every instance was based on the following table:

Table 10: The Colour Grade

<b>Colour</b>	<b>Red</b>	<b>Yellow</b>	<b>Green</b>
Score Range	0 – 0.33	0.34 – 0.66	0.67 -1.0

## 2.7.1 Criterion for Scoring

Table 11: The Scoring Criterion

Colour Code	Description	Implementation Level
<b>Red Score</b>	Performance in the relevant area is significantly below what ATI Act, 2016 requires, suggesting a need for major improvements to be introduced in terms of frameworks, mechanisms and/or practice.	Weak
<b>Yellow Score</b>	Performance in the relevant area is fair pursuant to the ATI Act, 2016 but there remain important areas for improvement to be introduced to meet fully what the law requires.	Average
<b>Green Score</b>	Performance in the relevant area is strong and the requirements ATI Act, 2016 are largely being met. At the same time, depending on where exactly the performance lies in the green spectrum, there is still room for further improvement to enable the full realization of the right to information.	Effective

## 2.8 Final Grading

Different indicators were assessed in the different assessment areas outlined above (Central Measures, Institutional Measures, Proactive Disclosure and Reactive Disclosure). For each indicator, a score was awarded based on the assessment in that institution. The scoring under each assessment area was computed by summing all the scores under each sub-indicator and dividing them by the total number of indicators in that assessment area.

$$\textit{The score for each assessment area} = \frac{\textit{Sum of all scores under each sub\_indicator}}{\textit{Total number of indicators in that assessment area}}$$

Ultimately, a score was assigned in each of the three assessment areas and to each public institution in each assessment area.

Each public institution was eventually assigned three final scores; one for Institutional Measures, one for Proactive Disclosure and one for Reactive Disclosure. The overall grade for each institution was computed by taking **simple averages** of the three final scores from each assessment area to convert to a final grade.

To arrive at the jurisdiction overall, there were four final scores; one for Central Measures (i.e. the oversight body – CAJ), one for Institutional Measures, one for Proactive Disclosure and one for Reactive Disclosure. The overall final score was calculated by taking a second **simple average** of the four final scores from each assessment area. This was then converted to a final grade for the Jurisdiction.

## **2.9 Reporting on Assessment**

This assessment was concluded with the development of assessment reports at two levels.

1. Reports on the individual institutions assessed, resulting in 26 institutional reports; and
2. A summative jurisdiction report for the assessment of the right of access to information implementation in Kenya

The Steering Committee prepared assessment reports for all institutions that participated in the exercise to give an account of the assessment undertaken at the institutional level, with scoring and grading for each institution.

**The individual assessment reports provided a basis for preparing the jurisdictional (Kenya) report to give the score and grading for the Country in its implementation of the right to access information in Kenya. This report provides the summative grading report as required by the CLD Methodology.**

## ASSESSMENT RESULTS AND FINDINGS

### 2.10 Central Measures

#### 2.10.1 Results Summary

The table below gives the numerical value based on the scoring of the oversight agency under the different assessment areas.

ASSESSMENT AREA	Scoring
Average score	0.54

The Commission on Administrative Justice as the oversight body got an average score of 0.54 after assessing all the parameters under the central measures. The above score indicates that Kenya has put in place fair measures to ensure effective oversight and enforcement of the right of access to information. Further, the score highlights that the Commission has taken fair measures to enhance the facilitation of access to information by implementing institutions. The following table highlights the scores obtained under central measures during the assessment.

#### 2.10.2 Overview of the Indicators

Objective Evaluation (Yes (Y) = 1; No (N) = 0)		
1	Has funding been allocated?	0
2	Does the body recruit its own staff?	1
3	Are the body's appeals decisions available online?	0
4	Has the body produced and published an annual report for the last two years?	1
5	Has the body published a guide for requesters?	1
Qualitative Evaluation: Strongly (S) = 1; Partially (P) = .5; Weakly (W) = 0		
6	Have the members been appointed?	0.5
7	Are the members of the body independent and effective?	0.5
8	Is the funding provided to the body reasonably sufficient for it to discharge its functions?	0
9	Does the body decide appeals in a timely fashion?	0.5
10	Are the due process rights of parties respected during appeals?	0.5
11	Has the body made reasonable efforts to raise public awareness?	0.5
12	How effective are the measures taken to provide training to officials?	0.5

13	Has the body made a reasonable effort to comment on draft laws that affect the right to information?	1
<b>Average Score</b>		<b>0.53846</b>

### 2.10.3 Substantive Issues

#### 2.10.3.1 Structural Assessment

##### **a. Whether independent, effective governing members of the oversight body (Commissioners) have been appointed**

The Commission demonstrates relative independence in its operations, as staff appointments are conducted per the law. The Director overseeing the ATI is employed on a renewable four-year contract, while other staff members have permanent and pensionable positions.

While there have been no removals of members from the oversight body, the ATI Department, as outlined in the 2019–2023 Strategic Plan, is currently understaffed, with only five out of the planned eight positions filled. This limits the CAJ's capacity to manage ATI-related responsibilities effectively.

Diversity within the CAJ's membership aligns with legal requirements, as stipulated by the CAJ Act of 2011, with a representation of two female Commissioners and one male Commissioner who also lives with a disability. Proposals are in place to expand the membership from three to five commissioners, which could further strengthen the Commission's oversight capacity.

The CAJ has implemented several training and capacity-building initiatives to enhance its staff's competencies in managing Access to Information (ATI) issues and promoting good governance. These include an induction program at Kenya School of Government, done on the first month in the office. The program covers good governance, ombudsmanship and principles of public service. The CAJ also facilitated a 10-day learning program on the Right to Information undertaken in India in 2019 by the Centre for Human Rights Initiative as well as benchmarking the Access to Information Commission in Sweden on best practices on ATI.

##### **b. Whether reasonably sufficient funding has been provided to the oversight body**

The budget analysis of the Commission on Administrative Justice (CAJ) in the past three financial years (2022-2025) reveals notable trends and challenges in funding. The three main budget lines for the Commission include General Administration & Support Services,

Administrative Justice Services, and Access to Information Services as showcased below:

Table 12: Budget lines for the Commission for the Last 3 years

Sub-Programme	2022/23 Financial Year			2022/23 Financial Year			2022/23 Financial Year		
	Resource Requirement (KSh. Mns)	Actual Allocation (KSh. Mns)	Resource Gap (%)	Resource Requirement (KSh. Mns)	Actual Allocation (KSh. Mns)	Resource Gap (%)	Resource Requirement (KSh. Mns)	Actual Allocation (KSh. Mns)	Resource Gap (%)
General Administration & Support Services	833.66	395.56	53%	978.37	536.5	45%	1,042.86	555.19	47%
Administrative Justice Services	334.41	148.44	56%	316.63	158.5	50%	342.07	174.97	49%
Access to Information Services	236.23	33.81	86%	326.38	35.2	89%	360.78	42.19	88%
	<b>1,404.30</b>	<b>577.81</b>		<b>1,621.38</b>	<b>730.20</b>		<b>1,745.71</b>	<b>772.35</b>	

The budget breakdown above shows that the resource requirements for all three sub-programmes have increased substantially over the years. For instance, the resource requirements for the ATI sub-programme have increased substantially from KSh 236.23 million in the 2022-23 financial year to KSh 360.78 million in the 2024-25 financial year. Despite these increasing needs, the annual allocations have not kept pace proportionally, resulting in persistent resource gaps.

In the ATI sub-programme, the annual allocations improved only marginally, from KSh 33.81 million in the 2022-23 financial year to KSh 42.19 million in the 2024-25 financial year. This discrepancy in resource requirement vis à vis that actual allocation has led to the ATI sub-programme facing the largest resource gap among all sub-programmes, averaging 88%. In comparison, CAJ has an average resource gap of 48% for general administration and support services, and 52% for administrative justice services. These figures indicate that while all sub-programmes are underfunded, the ATI sub-programme is particularly disadvantaged, which severely impacts its ability to fulfil its mandate effectively.

Various respondents highlighted deep concerns about the funding gaps faced by the Commission noting that the substantial underfunding not only restricts the Commission's operational capacity but also compromises its ability to promote transparency and accountability, which are essential to its mandate. Another respondent pointed out that the inadequate financial support raises questions about the CAJ's independence. They argued that insufficient funding could make the Commission more vulnerable to external influences and less capable of acting autonomously, particularly when holding powerful entities accountable.

### **2.10.3.2 Performance Assessment**

#### ***c. whether the oversight body processes appeals appropriately and in accordance with the law***

The CAJ has established clear and fair procedures for handling appeals, which align with the requirements set forth by the ATI Act, 2016, and the ATI (General) Regulations 2023. These procedures include the right of the complainant to be heard, a fundamental due process right, and various procedural steps such as requesting further clarifications and representation by an advocate.

The CAJ's decisions are generally consistent with the ATI Act and uphold complainants' rights, reflecting a sound understanding of legal and procedural requirements. Remedies typically include directives for information disclosure, procedural corrections, and compliance recommendations, with mechanisms for follow-up and escalation in cases of non-compliance. However, systemic issues such as delays and capacity gaps within public bodies are not consistently addressed through remedies.

Additionally, while the CAJ monitors compliance, the enforcement of its recommendations remains a challenge, and the underutilisation of powers like reporting non-compliant officers to Parliament weakens accountability. The lack of published appeal decisions online also limits transparency and restricts the ability of stakeholders to evaluate the substantive quality of decisions comprehensively. Similarly, the absence of gender-disaggregated data on appeals raises concerns about the potential oversight of gender-related disparities in access to remedies.

The average time taken by CAJ to resolve appeals broken down by year for the years 2020,2021,2022 and 2023 is shown below:

Table 13: Average Resolution Time

	Year	Time taken
1	2020	6.6 months
2	2021	4.7 months
3	2022	3.4 months
4	2023	2.7 months

The average time taken to resolve appeals has notably improved over the years, indicating increased efficiency in the appeals processing system. This improvement is

supported by the oversight body's robust appeals management system. The system includes the ATI Reviews Manual and the Complaints Management Information System, both of which ensure that appeals are processed within set time limits and are managed effectively. The manual prioritizes appeals based on factors like imminent harm and public interest, while the Complaints Management Information System aids in tracking and managing the progress of individual appeals.

With regard to following up on its decisions, the Commission also respects and enforces its own decisions. It requires reports from entities on the implementation of decisions and provides a mechanism for applicants to enforce orders through the High Court if there is non-compliance. Additionally, the Commission has the authority to cite unresponsive public officers in its statutory reports to Parliament under the CAJ Act, 2011. Although this power is available under the ATI Act as well, it has not been utilized to date, as compliance is typically ensured through the judicial system.

However, while the oversight body adheres to legal provisions and manages appeals with increased efficiency, there are areas needing improvement. For example, decisions on appeals are not consistently posted online, though the body is reportedly working on publication guidelines to mitigate this. Additionally, gender disaggregated data on appeals which may be important for addressing potential gender disparities in the appeal process is not collected.

**d. Whether the oversight body has taken active (meaning on their own initiative and not in response to complaints, i.e. suo moto) steps to ensure that public authorities are implementing the law properly**

CAJ has actively undertaken Suo moto initiatives to ensure that public authorities properly implement the law. The Commission's proactive approach is guided by its mandate to conduct inquiries into matters of public interest, even without a formal complaint, as outlined in Clause 2.1.2 of the ATI Reviews Manual.

To further enhance the implementation of the law, the Commission has taken several additional steps. It has developed a County Model Law to assist counties in creating their own ATI legislation, fostering local ownership and compliance. The Commission also engages with County Governors and Speakers of County Assemblies to promote the adoption and integration of ATI practices within county

operations. This outreach goes beyond mere law development, seeking to embed ATI principles into the fabric of county governance.

Additionally, the Commission issues guidance and advisory materials to public authorities. This includes circulars such as ATI Circular Number 1/2019, which guides proactive disclosure requirements. The Commission also issues decisions and advisory opinions related to ATI matters, such as the disclosure of information during public protests, which are made available on its website and social media channels. Furthermore, the Commission advises institutions on integrating ATI principles within their performance contracting mechanisms.

In creating public awareness, the CAJ works to educate the public on their right to information and supports civil society organizations, community-based organizations, and other grassroots entities in becoming champions of ATI.

***e. Whether the oversight body discharges its regulatory functions properly***

According to Section 23 (1) of the ATI Act, the Commission has substantial regulatory powers, including issuing summonses, questioning individuals, and requiring the disclosure of information pertinent to investigations. Further, under Section 23 (2), it can order the release of unlawfully withheld information, recommend compensation, or provide other lawful remedies.

The Commission has conducted thorough investigations into ATI appeals, including demanding the production of documents, requiring witness appearances, and recording statements under oath. These actions reflect a rigorous approach to oversight and enforcement.

Furthermore, the Commission has effectively utilized its power to issue summonses, ensuring that public officers appear before it in relation to ATI applications. This power enhances the body's ability to gather essential information and hold individuals accountable for compliance.

Mediation has also been a key tool for the Commission, facilitating resolutions between parties involved in ATI applications and fostering better understanding and compliance with the law. This alternative dispute resolution mechanism underscores the Commission's commitment to finding amicable solutions and improving adherence to ATI requirements.

Additionally, the Commission receives annual reports from public entities on ATI implementation, which enables it to monitor progress and address any issues promptly. This reporting mechanism ensures ongoing accountability and supports the continuous improvement of ATI practices across institutions.

However, while the Commission generally performs its regulatory functions properly, it tends to respond to complaints or appeals rather than proactively

preventing non-compliance. While it does issue orders against institutions for failing to comply with ATI regulations, its actions are largely driven by individual cases brought to its attention, rather than systematic oversight or preventive measures.

**f. Whether the oversight body takes steps to raise public awareness about the ATI Law**

The Commission has taken substantial steps to raise public awareness about the ATI Law, effectively leveraging its strategic plan to enhance visibility and engagement with the public. These efforts are multi-faceted and aim to ensure widespread understanding and utilization of the right to access information. For instance:

1. The Commission rewards excellence in ATI implementation through the Ombudsman Huduma Awards, which highlight and incentivize best practices among institutions.
2. The Commission actively participates in a variety of public engagement activities such as Huduma Mashinani, legal aid clinics, awareness forums, and talk shows. These are complemented by roadshows, trade fairs, and events organized by constitutional commissions. Additionally, the Commission engages in radio and TV talk shows, local radio programs, and social media platforms like Twitter spaces. These diverse platforms facilitate broad and interactive outreach to different segments of the population.
3. To inform the public and institutional stakeholders, the Commission publishes a range of Information, Education, and Communication (IEC) materials. These include banners, Frequently Asked Questions pamphlets, and institutional brochures that help demystify the ATI Law and its applications.
4. The Commission has developed and disseminated comprehensive guidance documents such as the ATI General Regulations, the National Access to Information Policy, and various handbooks and curricula. These resources, available in English, Kiswahili, and Braille, cover aspects such as proactive disclosure, best practices in ATI implementation, and reporting guidelines for both public and private entities.
5. The Commission also participates in activities related to the International Day for Universal Access to Information (IDUAI), further emphasizing its commitment to global and local awareness efforts.

**g. Whether the oversight body has supported the provision of training to IAOs**

The CAJ has proactively engaged with institutional leadership to promote a deeper understanding and goodwill towards ATI, facilitating smoother implementation. Additionally, it has conducted specialized training programs for journalists, aimed at enhancing their awareness and utilization of ATI in their

reporting, which contributes to a more informed and transparent media landscape.

A substantial effort has been made to train public officers, with over 12,568 officials from both the National Government and County Governments receiving instruction on ATI. This broad-based training ensures that a significant number of public servants are well-versed in their obligations under the law. The CAJ has also provided targeted training to Information Access Officers from all 47 County Governments, including specific sessions in counties such as Machakos, Vihiga, Kisumu, Laikipia, Elgeyo Marakwet, Kitui, and Nairobi. These county-specific training sessions address local needs and challenges, enhancing the ability of regional officials to effectively manage ATI-related matters.

In addition to these initiatives, the CAJ organizes annual training for Records Managers and Archivists in collaboration with the Kenya Archives and Records Managers Association. This training focuses on best practices in records management, which is crucial for the successful implementation of ATI. Furthermore, the CAJ has partnered with the Kenya School of Government to train multiple cohorts using the ATI Curriculum, providing a structured and comprehensive educational framework on ATI issues.

#### ***h. Whether the oversight body publishes an annual report on overall implementation***

The Commission developed and published annual reports as required by the law which includes a section on Access to Information from the 2016/17 financial year to the 2022/23 Financial year. The Annual report for the 2023/2024 Financial year is being finalized. The reports are available on the Commission's website: [www.ombudsman.go.ke](http://www.ombudsman.go.ke). The Commission also published the Status of Administrative Justice and Access to Information Report in Kenya in May 2024.

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Based on the assessment of the implementation of the right to information by CAJ, we can conclude that there are elaborate mechanisms (independence, staffing, appeals, funding) to facilitate access to information.

#### **2.10.4 Factors Affecting Central Measures**

The following challenges were reported during the assessment of the implementation of the right to information by the CAJ:

1. Resource Constraints: The effectiveness of training programs and other initiatives is potentially being impacted by resource constraints. Adequate funding and resources are essential for the CAJ to maintain and expand its

training activities, public engagement efforts, and other support mechanisms.

2. **Limited Public Awareness and Engagement:** Despite extensive efforts to raise awareness about the ATI Law, gaps in public understanding and engagement are still emerging. Continued funding, outreach and education are necessary to ensure that all segments of society are being informed about their rights under the ATI Law and how to exercise them effectively.
3. **Staffing challenges:** This includes Insufficient staff and a need to strengthen the staff skills through training to improve the oversight body's ability to monitor information requests promptly and accurately, and deal with appeals on ATI. The staffing challenges can lead to delays, reduced responses, and an overall decrease in public trust in the institution.
4. **Culture of secrecy:** CAJ's mandate of awareness creation about ATI and the obligations by duty bearers in facilitating this right is strongly hampered by Kenya's ingrained culture of secrecy. Public officials habitually withhold information that should be accessible to the public which has limited knowledge of utilising the ATI Act to seek information, opting for other channels. The historical and systemic lack of transparency has made the uptake of CAJ's initiatives on ATI slow.
5. **Lack of Gender-Disaggregated Data:** The CAJ is not collecting gender-disaggregated data on appeals, which is limiting the ability to identify and address potential gender disparities within the appeals process.
6. **Limited Utilization of Reporting Powers:** The CAJ is not fully utilizing its power to cite unresponsive public officers in statutory reports to Parliament under the CAJ Act, 2011, despite having this authority. Compliance issues are generally being addressed through the judicial system rather than through reporting mechanisms, which is potentially limiting the effectiveness of oversight.

### **2.10.5 Recommendations**

Based on the assessment of the oversight body on the implementation of the right to information, the following measures are recommended:

1. **Increase Funding and Resources:** The Government of Kenya (GoK) should secure additional funding and resources to support the CAJ's training programs, public engagement efforts, and other initiatives. This will enhance the effectiveness of these activities and comprehensive and continuous public outreach.
2. **Enhance Public Awareness Campaigns:** Develop and implement more extensive outreach and education campaigns to raise public awareness about the ATI Law. The Commission should use diverse communication

channels to reach different segments of society, ensuring that all citizens are informed about their rights and how to exercise them effectively.

3. **Address Staffing Challenges:** Recruit additional staff and invest in comprehensive training programs to enhance the skills and capabilities of existing staff. This will improve the Commission's ability to process information requests promptly, handle appeals efficiently, and maintain public trust in the institution.
4. **Implement Gender-Disaggregated Data Collection:** Establish a systematic approach to collecting and analyzing gender-disaggregated data on appeals and other relevant processes. This will enable the CAJ to identify and address potential gender disparities, ensuring that all segments of the population are treated equitably and that the oversight body's actions are informed by comprehensive and accurate data.
5. **Utilize Reporting Powers Fully:** Make full use of the CAJ's power to cite unresponsive public officers in statutory reports to Parliament. Regularly report non-compliance issues to hold public officers accountable, thereby strengthening the oversight mechanism and ensuring better adherence to ATI laws.
6. **Publish Appeals Decisions Online:** the CAJ should consistently publish its decisions on appeals on time on a publicly accessible platform, such as its official website. This would allow stakeholders—particularly the public, civil society organizations, and government institutions—to track the outcomes of appeals, understand the reasoning behind decisions, and monitor the consistency of the CAJ's rulings over time.
7. **Monitor compliance:** Collect and analyse disaggregated data on appeals to track patterns, identify any gaps in access or outcomes, and improve its oversight functions. Data should be disaggregated by relevant factors such as gender, region, and sector to provide a nuanced understanding of the appeal process and its impact on different demographics. Findings from the data analysis should be published in periodic reports.
8. **Early Intervention and Preventative Measures:** The CAJ should strengthen its proactive monitoring and early intervention mechanisms to identify potential non-compliance before it escalates to formal appeals. They should conduct regular audits and assessments of public institutions' adherence to the ATI Act, to address issues at an early stage and encourage better practices. This could include providing guidance on improving information management practices or issuing advisory notes on areas of concern, helping to prevent disputes from arising and reducing the need for reactive enforcement.

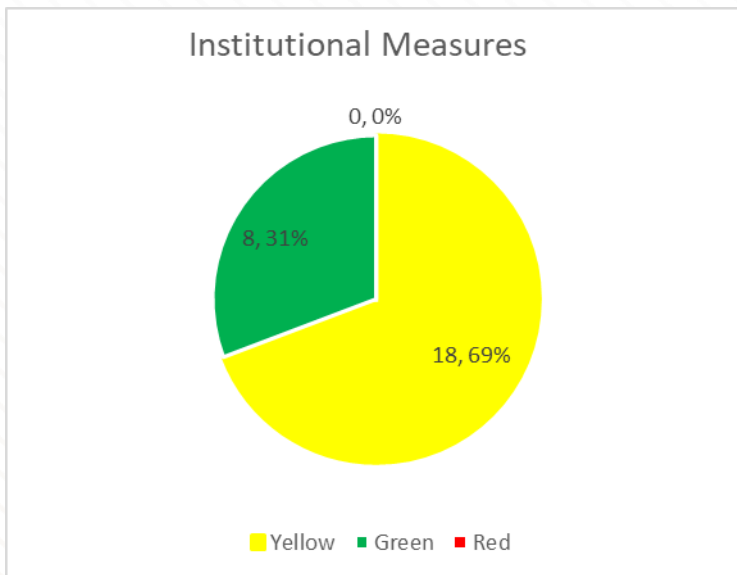
## 2.11 Institutional Measures

### 2.11.1 Results Summary

The table below gives the numerical value based on the scoring of the institutions under the different assessment areas.

ASSESSMENT AREA	Scoring
Average score on institutional measures	0.59

The above overall score of 0.59, amounting to a yellow score, indicates that a majority of institutions have taken some institutional measures to establish infrastructure and mechanisms that facilitate access to information.



Assessment results reveal that out of the 26 institutions assessed, 69% (18) of the institutions attained a yellow score. 31% (8) institutions attained a green score and no institution attained a red score.

These findings suggest that a majority of the institutions have put in place structures, frameworks and mechanisms that can support implementation of the ATI law.

### 2.11.2 Overview of the Indicators

The ATI Act has outlined various aspects of institutional measures that every public institution should implement to facilitate access to information by their clients. The assessment considered these factors in arriving at the assessment areas which have given the results summarized above. Every sub-indicator was scored based on the availability of the required institutional infrastructure with a value of 1 score given where measures have been taken and 0 score where there is no measure taken.

Table 14: Institutional Indicator-Wise Score Card

Sub-Indicator	No. of Institutions with Infrastructure in Place	Percentage
a) Does the institution have a designated Information Access Officer (IAO)?	24	92%
b) Has the IAO been formally appointed?	13	50%
c) Has the Information Access Officer been trained or sensitized on his roles?	7	27%
d) Has the name and contact details for the IAO been published?	9	35%
e) Has the name and contact details for the IAO been publicized?	11	42%
f) Does the institution have guidelines and procedures on Implementation of ATI	8	31%
g) Do your procedures expressly advise on the appeal mechanism on ATI decision?	7	27%
h) Is there a verifiable Access to Information register (physical or electronic)?	13	50%
i) Is it possible to lodge requests electronically? Is it easy to obtain an ATI request form? Is it easy to find the contact details of the IAO?	18	69%
j) Did your institution publish an annual report for the last two years?	20	77%
k) Has your institution submitted an annual report on implementation of ATI to CAJ?	8	31%
l) Has your institution conducted ATI awareness-raising activities over the last one year?	26	100%
m) Has the institution put in place any system or taken any action/measures to improve its record management?	25	96%
Qualitative Evaluation		
a) Does the IAO have appropriate qualifications for the job and has he or she been allocated time to do the job?	17.5	67%
b) Has the IAO come under pressures/influence/interference that make it difficult for him or her to do the job properly?	20.5	79%
c) Overall, how strong are the guidelines and procedures or SOP for ATI implementation for this institution?	12.5	48%

d) How extensive are the awareness-raising activities?	17.5	67%
e) How effective are the measures taken to improve records management?	19	73%

### 2.11.3 Overall Findings on the Sub-Indicators

#### 2.11.3.1 Information Access Officer

The assessment sought to establish if the public institutions have an assigned IAO. A majority of the institutions (24 of the 26 or 92%) confirmed they had an IAO. However, only 13 (50%) of the IAOs had been formally appointed by the respective institutions.

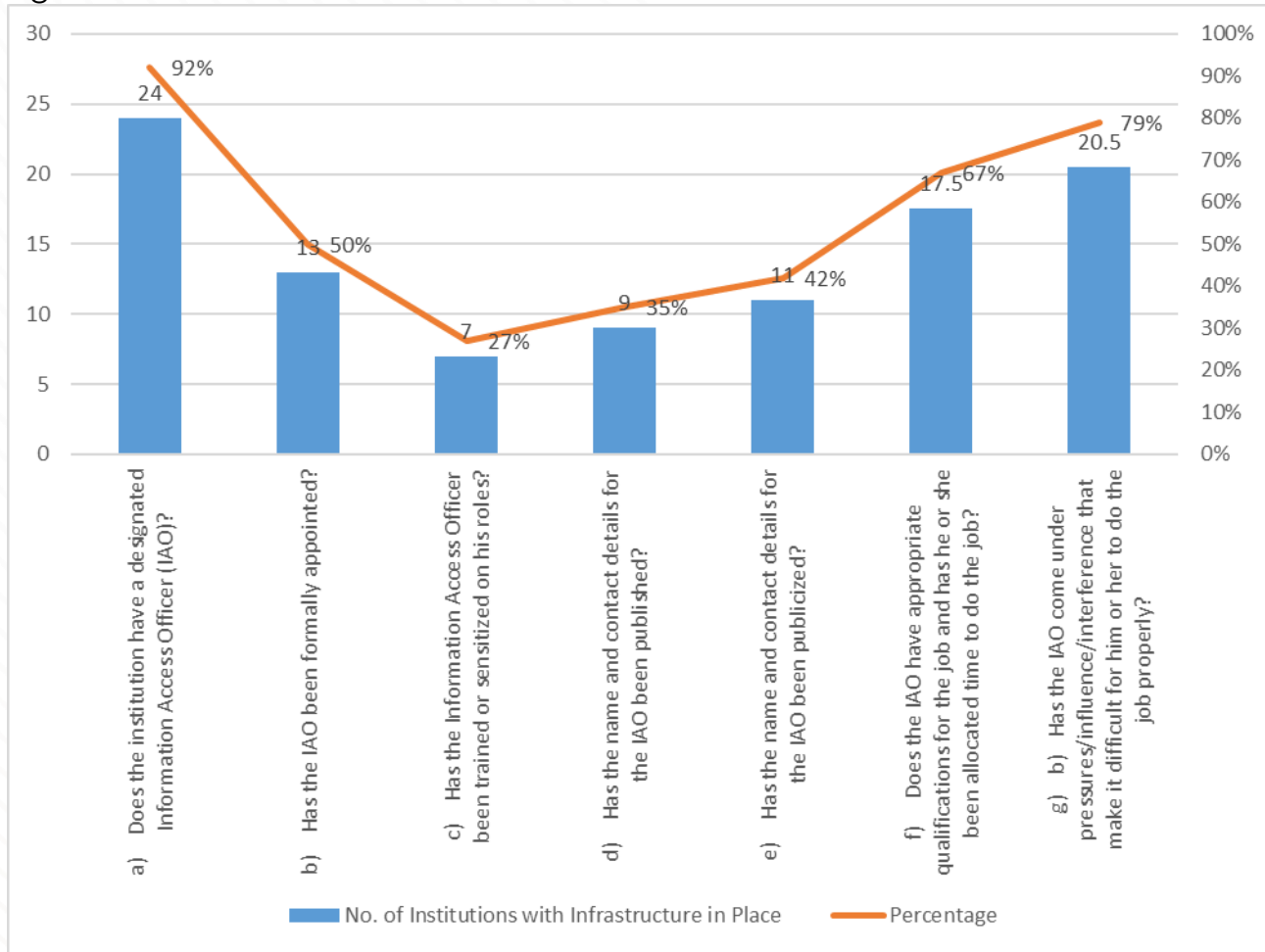
The assessment also sought to establish whether the person(s) serving in the capacity of IAO had been trained or sensitized on their roles in respect of the ATI Act. Based on the assessment, only seven (27%) of the institutions reported to have been sensitized.

The ATI Act also demands that the name and contact details of the IAO in a public institution be published and publicized to ensure that they are accessible to their clients. The assessment revealed that out of the 26 institutions, nine (35%) published and 11 (42%) publicized the name and contact details of the IAO.

Regulation 7(2) of the Access to Information (General) Regulation 2023 provides that IAO should be a suitable officer with the requisite authority to provide access to information. In line with this, the assessors evaluated the suitability of the IAO considering their interaction with the institutions during the exercise. A majority (17) of the IAOs in the different institutions assessed were considered to have the appropriate qualifications for the job and had been allocated time to do their job.

The table below gives the results of the assessment of the different sub-indicators on the IAO component.

Figure 2: Sub-Indicators on Information Access Officer



### 2.11.3.2 Existence of Guidelines and Procedures for Implementing ATI

The assessment sought to establish if the public institutions have guidelines and procedures for implementing ATI in their service delivery.

During the assessment, only eight (8) institutions reported to have guidelines and procedures for implementing ATI, which represented 31% of the institutions assessed.

The ATI Act has also prescribed that public institutions should expressly inform their requesters of the appeal mechanisms for ATI decisions in their procedures. The appeals should be made to the oversight agency—the Commission. Seven (7) institutions confirmed to have advised requesters on the appeal mechanisms in their procedures, representing 27% of the institutions assessed. This analysis suggests that a majority of institutions have not advised requesters on the appeal mechanisms.

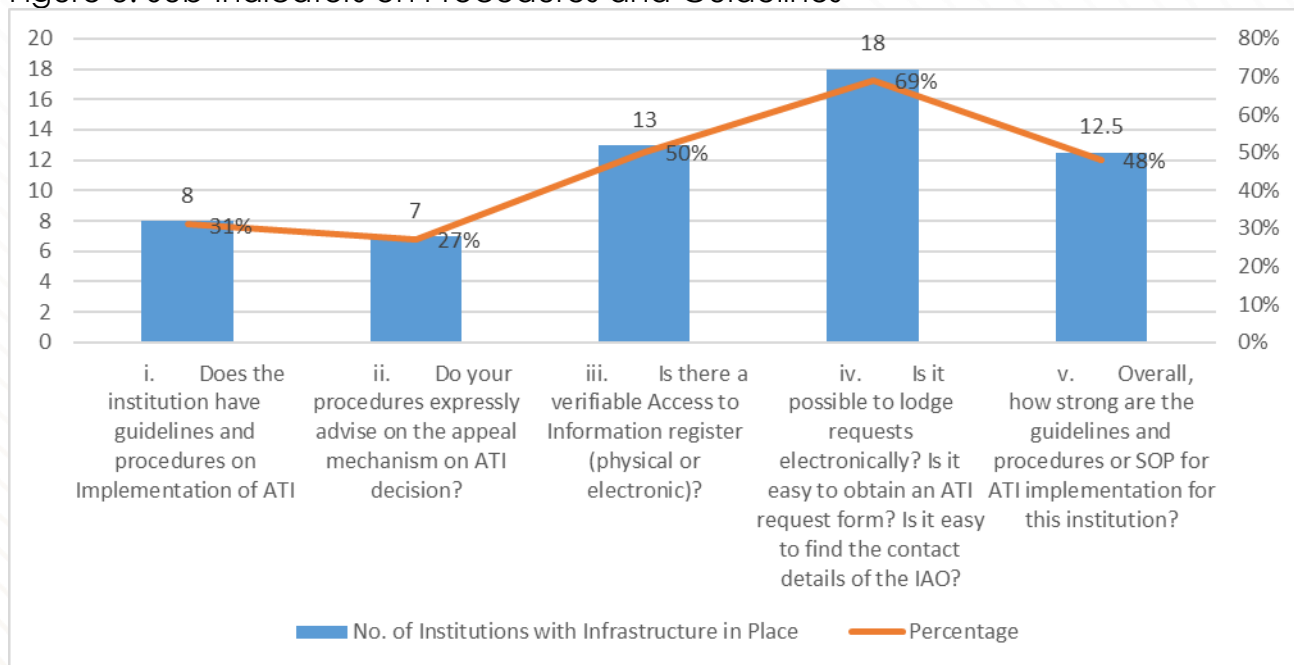
As part of the procedures for implementing ATI, institutions have been required under the ATI Act to have a register for documenting all information requests. The

findings of this assessment confirmed that 50% of the institutions (i.e. 13 of the 26 institutions) have either a verifiable physical or an electronic information register. However, institutions are at different stages of implementation towards a comprehensive register that captures all information requests. During the assessment, a majority of the institutions did not provide evidence of the ability to consolidate all information requests in their registers.

An evaluation was done on the ease of lodging information requests at the institutions based on the available procedures. Consequently, 18 of the 26 institutions assessed (69%) confirmed that it was possible to lodge information requests using at least two of the following methods; electronic procedures, filling out the ATI forms or contacting the IAO.

The table below gives the results of the assessment of the different sub-indicators on the guidelines and procedures component.

Figure 3: Sub-Indicators on Procedures and Guidelines



The assessment was done to determine the efficacy of the available guidelines and procedures, and other standard operating procedures for facilitating access to information. An assessment by the teams established that 48% of the institutional procedures and guidelines are effective in complementing the implementation of the ATI Act. Conversely, 52% of the procedures and guidelines were found to be ineffective. This analysis suggests that intervening efforts will be of the essence to ensure there is effectiveness of the established procedures and guidelines.

### 2.11.3.3 Reporting by the Public Institutions to Facilitate ATI

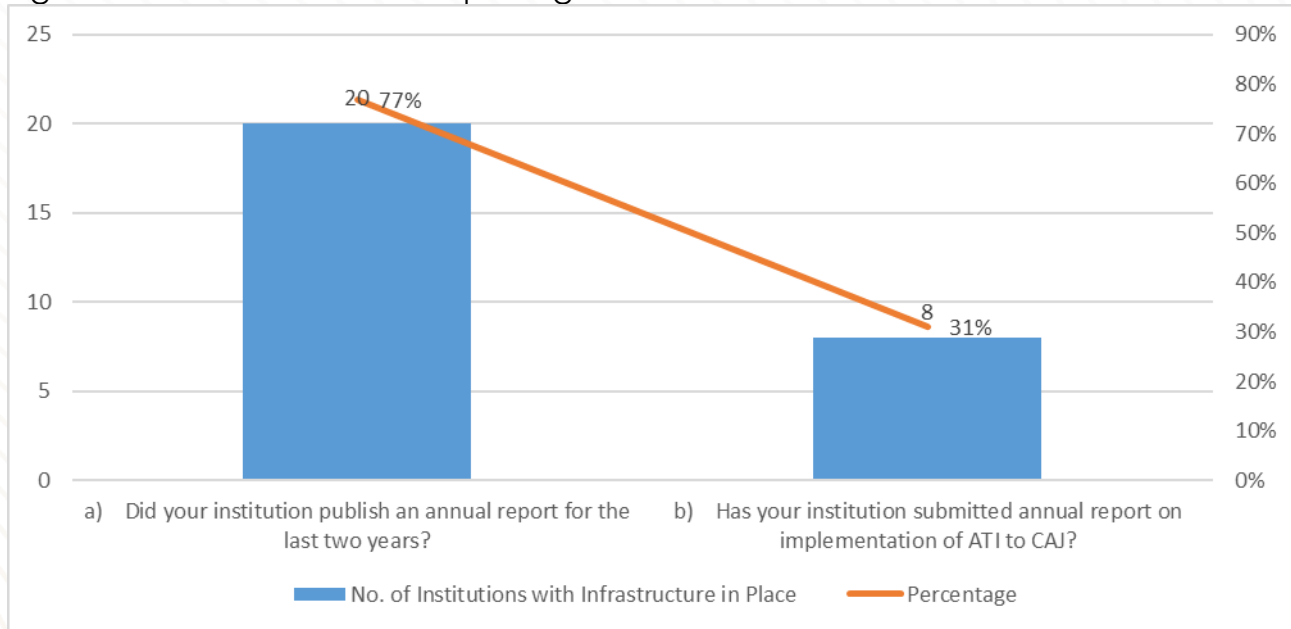
The assessment sought to establish compliance by public institutions with reporting guidelines on the following two requirements; submission of an annual report on the implementation of ATI to the CAJ and publishing an annual report for the last two years.

The results of the assessment showed that a majority of the institutions (20 out of the 26 institutions) had published their annual reports in the last two years as required by Section 5 of the ATI Act.

Section 27 of the ATI Act, also obligates all public entities to report annually to CAJ on measures they have taken to implement ATI. The assessment established that only eight (31%) of the 26 institutions had submitted their annual reports on the implementation of ATI to CAJ.

The table below gives the results of the assessment of the different sub-indicators on the reporting aspects assessed.

Figure 4: Sub-Indicators on Reporting



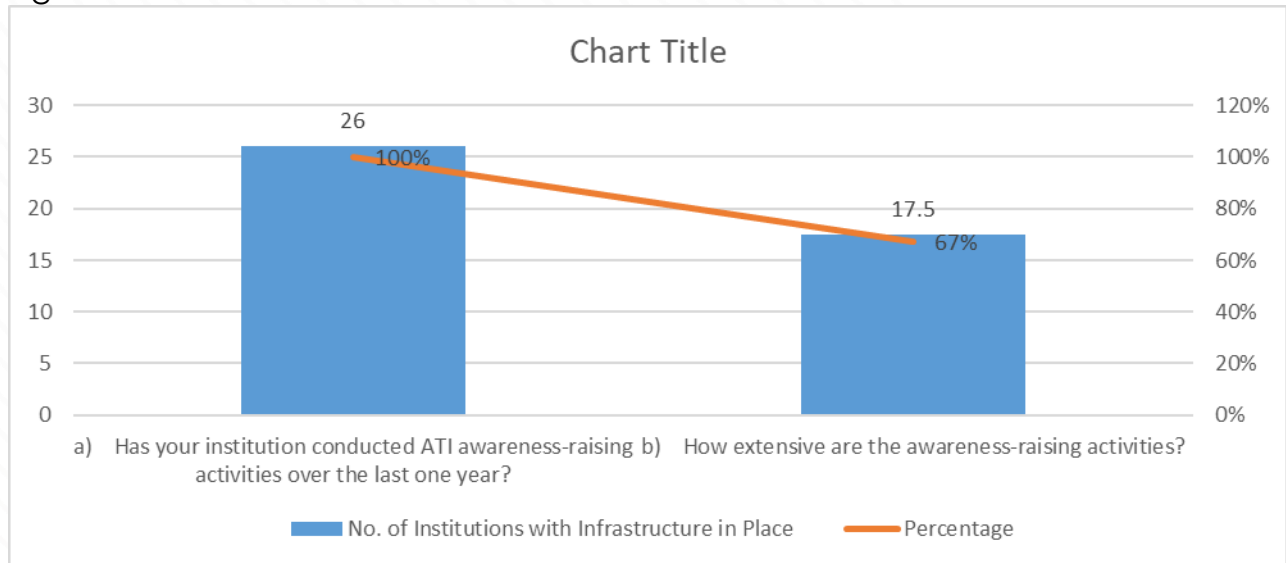
### 2.11.3.4 Awareness Creation on ATI

The assessment also sought to determine whether public institutions are undertaking awareness-raising activities to enhance public knowledge of ATI. When asked this question, all public institutions confirmed to undertake awareness creation within their activities bearing a component of ATI. Based on the findings of

the assessment, 17 institutions (67%) were considered to have extensive awareness creation activities on ATI to the public.

The table below gives the results of the assessment of the different sub-indicators on the awareness creation component.

Figure 5: Sub-Indicators on Awareness Creation



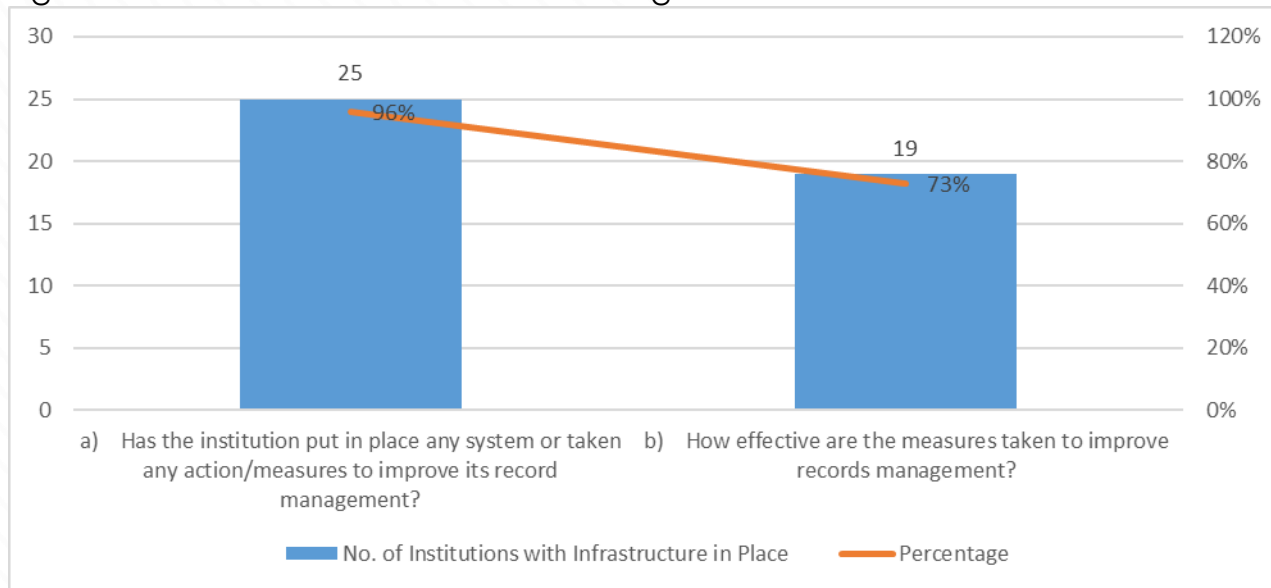
### 2.11.3.5 Records Management to facilitate ATI

The assessment sought to establish the measures taken by public institutions to improve their records management systems.

Section 17 of the ATI Act requires all institutions to manage their records in a manner that facilitates access to information. This includes creating and preserving records, digitization of records and automation of information management systems. Additionally, all public institutions were required to computerize their records and information management systems within three years of enactment of the ATI Act, which period lapsed in September 2019.

The table below gives the results of the assessment of the different sub-indicators of records management.

Figure 6: Sub-Indicators on Records Management



The assessment established that a majority of the institutions have systems to improve their records management in a manner that facilitates access to information. Further, the measures taken by institutions were established to be effective in improving records management in 19 of the 26 (73%) public institutions that were assessed.

Most of the institutions have systems for records management such as Enterprise Resource Planning (ERP) Systems and Electronic Documents Records Management Systems (EDRMS), which have enhanced access to information and the provision of services. Additionally, the Government policy directive on digitalization of Government services has enhanced records management and access to information.

#### 2.11.4 Institutional Scores

The assessment sought to establish the performance of individual institutions on institutional measures in the different sectors of public service.

According to this assessment, seven institutions showed strong performance in the assessment areas by attaining a green score while the other 19 institutions recorded average performance by attaining a yellow score. This indicates that a majority of the institutions have an average level of infrastructure and mechanisms to facilitate access to information. However, this is only effective in seven of the institutions assessed. This also suggests there is a need to engage in interventions at the institutional level to build adequate infrastructure and mechanisms that will enable the full realization of what the ATI law anticipates.

The table below shows the performance of all institutions assessed on institutional measures in the different sectors of public service.

Table 15: Institutional Performance on Institutional Measures

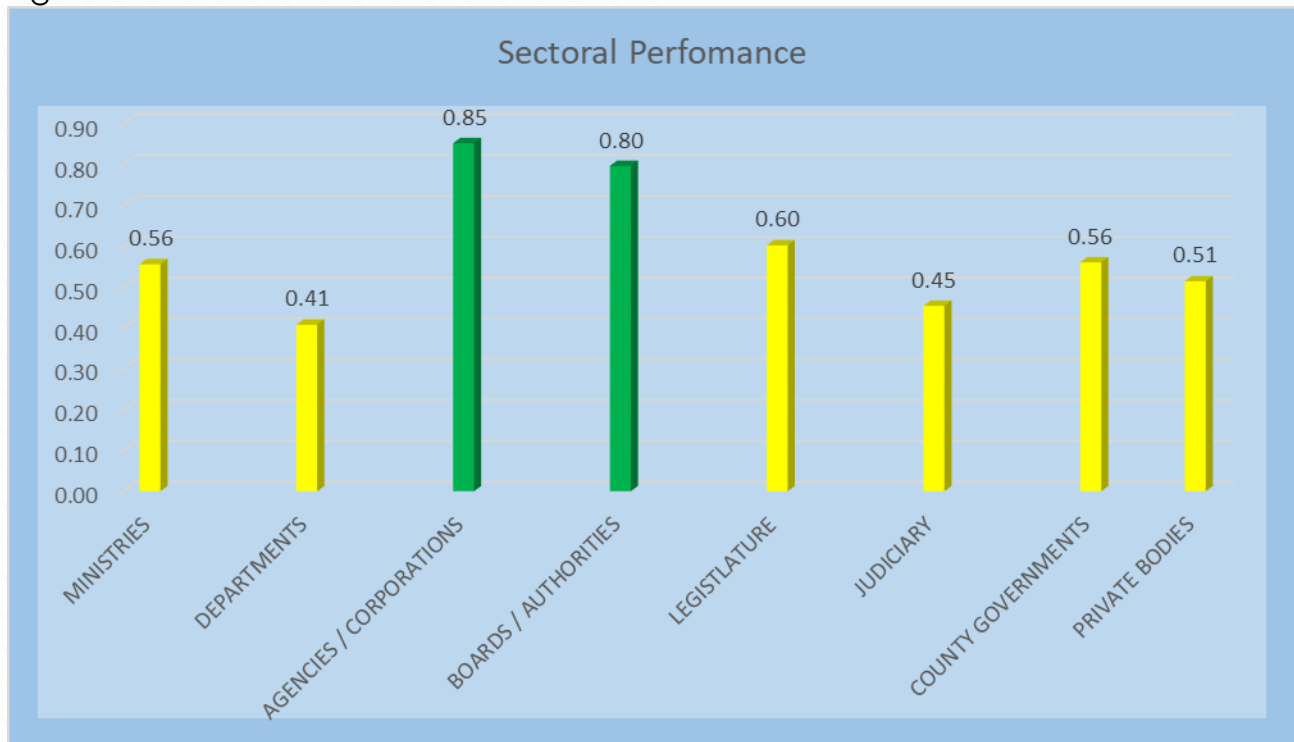
SECTORS	INSTITUTIONS	SCORES
<b>MINISTRIES</b>	Ministry of Defense	0.64
	State Department of Agriculture	0.67
	Ministry of Education - Basic Education	0.36
<b>DEPARTMENTS</b>	Business Registration Service	0.94
	Civil Registration Services	0.47
	Registrar of Marriage	0.36
<b>AGENCIES CORPORATIONS</b> /	Kenya Power and Lighting Company	0.72
	Kenya Revenue Authority	0.89
	Mathare Teaching Referral Hosp	0.39
<b>BOARDS AUTHORITIES</b> /	Kenya National Examination Council	0.61
	National Transport and Safety Authority	0.78
	Kenya Medical Practitioners & Dentists Board	1.00
<b>LEGISLATURE</b>	National Assembly	0.72
	Parliamentary Service Commission	0.50
	Senate	0.58
<b>JUDICIARY</b>	Judicial Service Commission	0.50
	Nakuru Law Courts	0.36
	Narok Law Courts	0.50
<b>COUNTY GOVERNMENTS</b>	County Executive of Nakuru	0.75
	County Assembly of Nakuru	0.50
	County Executive of Narok	0.56
	County Assembly of Narok	0.47
	Nakuru Water & Sewerage Company Ltd	0.50
	Narok Water & Sewerage Company Ltd	0.58
<b>PRIVATE BODIES</b>	SAFARICOM	0.58
	Moja Expressway	0.44
<b>JURISDICTION SCORE</b>		<b>0.59</b>

A review of the table above shows that KMPDC, BRS, KRA, NTSA, County Executive of Nakuru, KPLC, and the National Assembly are some of the public institutions with effective ATI institutional measures amongst the institutions assessed.

### 2.11.5 Sectoral Performance Scores

A further analysis of the scores during the assessment established that Government agencies and State Boards / Authorities have implemented better ATI institutional measures as compared to Ministries and Departments. This is shown in the table below:

Figure 7: Institutional Performance on Institutional Measures



### 2.11.6 Challenges in Implementing Institutional Measures Requirements

Some of the challenges reported during the assessment of the implementation of the right to information include:

- i. Limited awareness of the requirements of the ATI Act: In a majority of institutions, the officers interviewed had limited familiarity with the ATI Act and what the law requires, yet they are the access to information implementors;
- ii. Inadequate policies and procedures: A majority of institutions were observed not to have specific policies and procedures to guide the implementation of access to information. This could be attributed to their lack of awareness of the requirements of ATI law;
- iii. Reliance on traditional structures: Without dedicated policies on ATI, institutions are relying on their traditionally established structures for customer service leading to inconsistencies in information handling and dissemination;
- iv. Lack of sensitization and training to the IAOs: The individuals appointed in the capacity of access to information officers in public institutions seem not to have adequate training to help realize the implementation of the right of access to information; and
- v. Failure to delegate the role of IAOs – Whereas the law has provided that the CEO, as the assigned IAO of an entity, may delegate his duties to another qualified officer, this has not been done in some institutions posing a

challenge to the accessibility of the CEO and therefore limiting access to information.

### 2.11.7 Recommendations

Drawing from the assessment of the implementation of the right to information, the following recommendations have been made:

- i. Institutional strengthening on ATI Policy Frameworks: Institutions are recommended to develop, strengthen and implement specific ATI policies and guidelines to provide a more structured and consistent approach to information disclosure;
- ii. Capacity building for IAOs: Sensitization and training sessions for the officers serving as the IAO are imperative to help in the realization of the implementation process and to ensure a comprehensive understanding of the Act's requirements. This will also improve the overall management of information requests;
- iii. Delegation of the role of IAO: Institutions should prioritize the appointment of a competent and suitable IAO to ensure that there is an accessible and functional infrastructure facilitating access to information; and
- iv. Technical support on ATI implementation: Institutions are encouraged to pursue opportunities for capacity building, technical support and guidance available at the Commission and other key actors in the development of policies and guidelines, and sensitization and training of their officers.

## 2.12 Proactive Measures

During the assessment, proactive disclosure by public institutions was examined based on the requirements under section 5 of the ATI Act which prescribes the different categories of information that institutions should prioritize in proactively making disclosures most effectively.

To facilitate access to information under proactive disclosure, the government requires all public institutions to develop a website to provide a platform for online access to information. Further, the ATI Act requires institutions to make necessary disclosures through their websites as part of the channels widely accessed by their customers. Institutions are also expected to leverage technology through social media platforms like Facebook, Instagram, X, TikTok, etc., to increase the options for access to information on proactive disclosure. This also encompasses media forums available for public institutions like radio programs and public forums activated by the institutions.

Further, institutions are expected to make use of other offline mechanisms to provide information to the public, which include print media, audio visual IEC materials, publications like newsletters, etc.

Sections 94 and 95 of the County Government Act also provide that Counties should use media to create awareness of devolution and governance, amongst other responsibilities. County governments are required to establish mechanisms to facilitate public communication and access to information in the form of media with the widest public reach in the county. This may include television stations, ICT centers, websites, community radio stations, public meetings, and traditional media.

This assessment therefore evaluated the level of compliance by public institutions with requirements of the ATI Act on proactive disclosure on both online and offline platforms through observation during the institutional visits and desktop review on the websites and other online platforms.

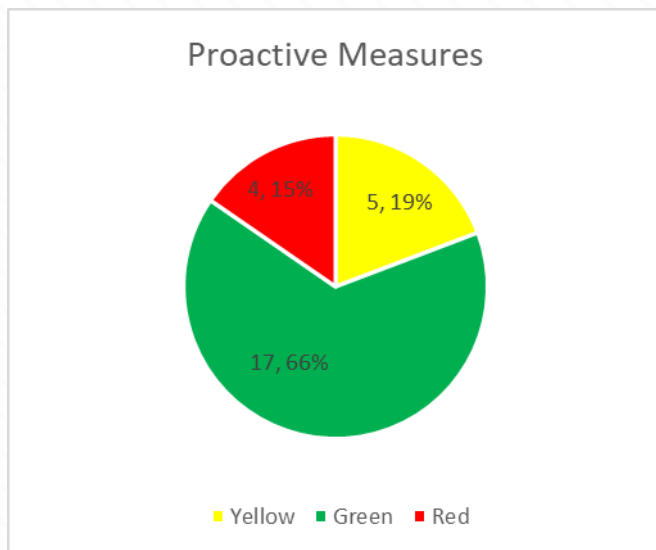
### 2.12.1 Results Summary

The table below gives the numerical value based on the scoring of the institution under the different assessment areas.

ASSESSMENT AREA	Scoring
Average score on proactive measures	0.64

The above score indicates that on average the public institutions assessed have a fairly average compliance with the measure of proactive disclosure of public

information. The score averaged 0.64 (Yellow) although a majority of the institutions (17 out of 26) scored a green score. This is because, although most of the assessed institutions made disclosures on general information relating to their contact details and location, they failed to provide information relating to salary scales and budget information. The information access guides were also available offline, not online as required under the Act.



As shown in the figure, the results of the assessment indicate that 17 institutions attained a Green score representing 66% of the total institutions assessed. Five (5) institutions attained a yellow score and four (4) institutions attained a red score. The average score under the proactive measure was attained at 0.64. This indicates that despite a majority of the institutions having a green score, the overall Country score is impacted by the nine (9) institutions with yellow and red scores.

### 2.12.2 Indicator-Wise Score Card

The following table provides an indicator-wise proactive disclosure score of information by the selected public and private bodies. Under this assessment, a sub-indicator can achieve a maximum score of 26 points, whereby online disclosure attained 0.5 and offline disclosure attained 0.5 score. This means that where the sub-indicator has 26 points, it corresponds to proactive disclosure on online and offline platforms of all the 26 selected institutions. A zero score for a sub-indicator means that none of the institutions selected has complied with the proactive disclosure of information requirement on either online or offline platforms.

**Table 16: Sub-Indicators on Proactive Disclosure of Information**

	<b>Sub-Indicators</b>	<b>Online</b>	<b>Offline</b>	<b>Total</b>	<b>Neither Online / Offline</b>
Who we are and what we do	Location and contact details ( <i>physical, postal and online</i> )	23	17	21	5
	Functions and Duties of the Organization	22	13	16	10
How we make	Management Structures and	18	9	13	13

decisions	Organogram				
	Powers and duties of officers and employees	10	9	8	18
How we spend resources	Salaries of officers by grade	2	6	5	21
	Recurrent & development budgets and budget reports	8	9	12	14
	Financial and Audit Reports	10	7	13	13
Our policies and procedures	Statutory laws, regulations, etc.	18	9	14	12
	Institutional Policies, manuals, Guides etc.	13	10	10	16
Lists and registers	Information Access Guides ( <i>Institutional databases, reports etc.</i> )	7	6	6	20
Public Procurement Information	Advertised tenders	18	9	18	8
	Goods acquired or rented; Services contracted; Scope of service and references; Contract sums; Names of service providers/contractors and period of contracts	1	8	9	17

### 2.12.3 Overall Indicator-Wise Findings

The assessment of the proactive disclosure of information by the selected institutions was conducted considering the six (6) different categories of information that are supposed to be proactively disclosed by the public institutions:

#### **a) Information about the Institution and its Mandate (Who we are and what we do)**

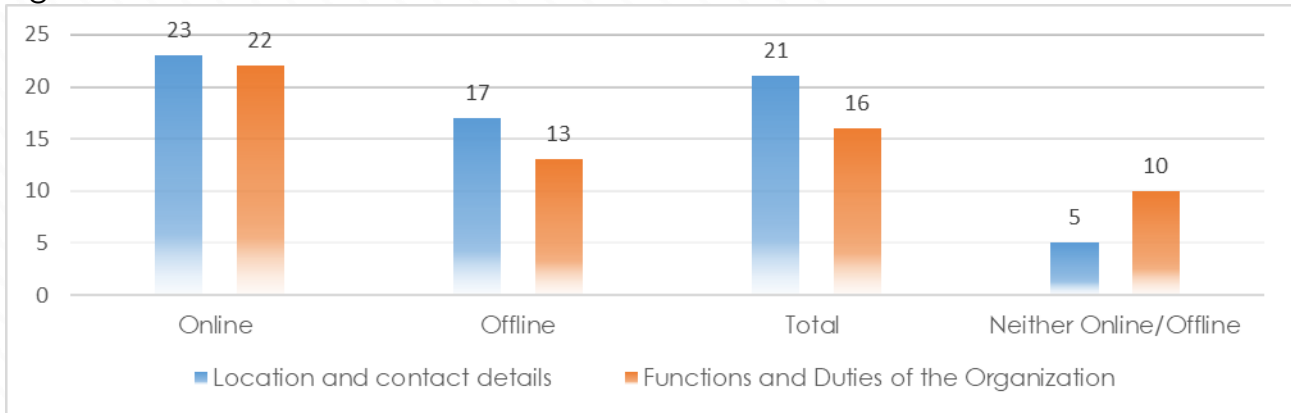
The assessment sought to establish how institutions disclosed information about their locations, contacts and functions. The findings of the assessment established that a majority of the institutions had provided the information in both online and offline mediums.

The majority (23 out of 25) of the institutions assessed had an online presence and information about their location and contacts was available online, especially on their websites and social media pages like Facebook. This information has been prioritized on the homepage and is therefore easily accessible by online customers. In some institutions, the location of the institution has been improved by the provision of a Geo Maps PIN Locations of the institutions.

Notably, in some cases, the online contact information was not updated or could be out of service. Some of the contact numbers provided online were obsolete and therefore not reachable.

Similarly, a majority (22 out of 25) of public institutions assessed had utilized their offline mediums like print media, IEC materials, and signages, among others, to provide information on their contacts and location.

Figure 8: Information about what the institution does, its location and functions

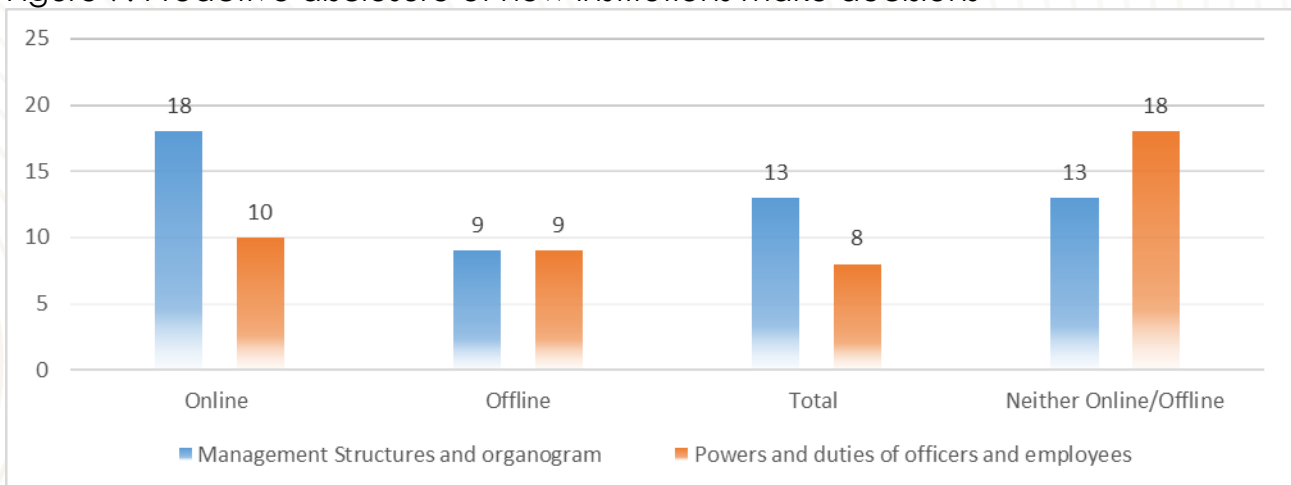


Information on the functions and duties of the institution had been disclosed relatively more through online mediums as opposed to offline mediums. The assessment established that information on functions and duties could be found in online platforms in 22 of the institutions assessed compared to 13 institutions that had this information on their offline platforms. This shows that even institutions in the public sector have largely embraced technology in this aspect.

### b) How Institutions Make Decisions

The assessment also sought to establish how institutions disclose information about their decision making process, considering their management structures/organogram and the powers and duties of their employees.

Figure 9: Proactive disclosure of how institutions make decisions



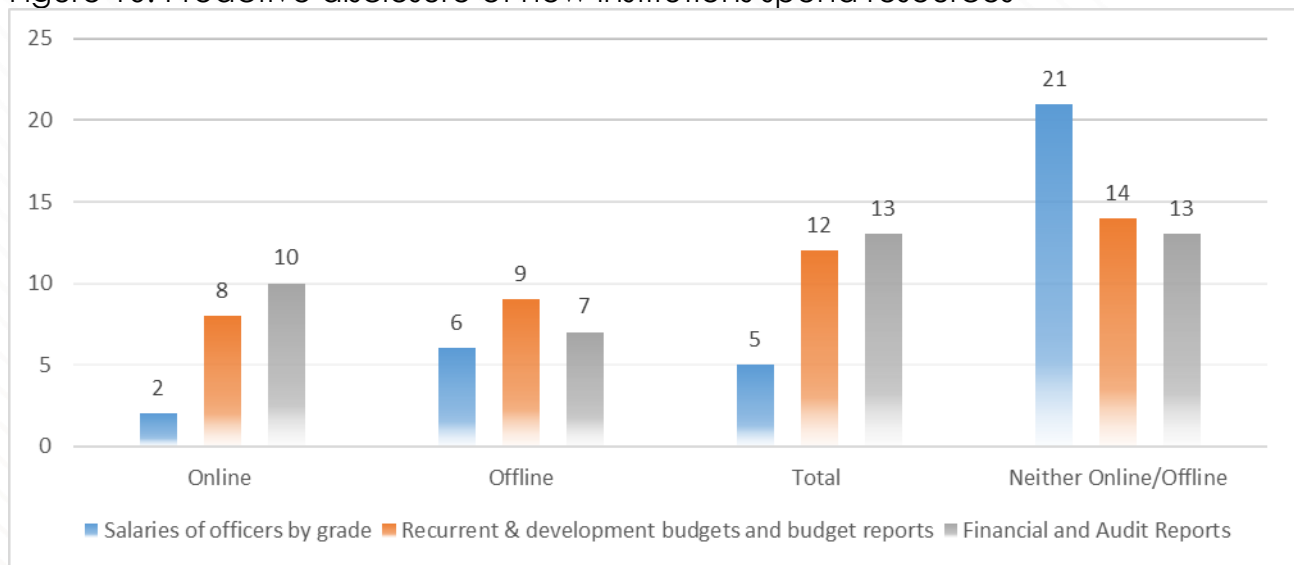
Analysis of the data assessed reveals that information on management structures is provided more through online platforms as was the case in 18 institutions assessed

compared to nine (9) institutions that had given information offline. Information on the powers and duties of the employees is available in nine (9) of the 26 selected institutions.

### c) Use of Resources in Institutions

A further assessment was done on how institutions disclose information about their use of resources, looking at information on salaries of officers by grade, budget reports, and financial and audit reports.

Figure 10: Proactive disclosure of how institutions spend resources



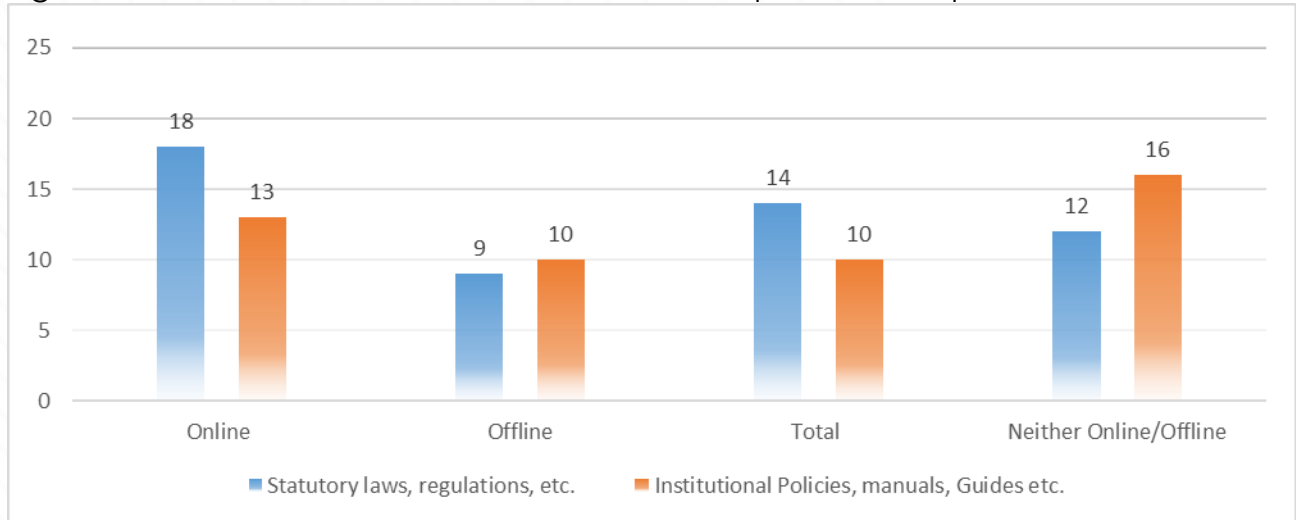
The assessment established that this information is not largely disclosed by institutions, particularly on the salaries of officers. Only two (2) institutions had given this information on their online platforms and six (6) institutions on offline mediums. Despite this information being prescribed in the ATI Act to be disclosed as part of prioritized proactive disclosure, institutions alleged that this information encourages profiling of their employees and therefore are not comfortable putting it out to the public. However, institutions indicated that they always give this information alongside other information in the advertisements for vacant positions.

Of the 26 institutions assessed, information on budgets and financial and audit reports was seen in online platforms in eight (8) and 10 institutions respectively. Regarding offline platforms, information on budgets and financial and audit reports was seen in nine (9) and seven (7) institutions respectively. This analysis means that a majority of the institutions had not made sufficient disclosures of information on their budget reports as well as financial and audit reports, an area that requires interventions going forward.

#### d) Information on Policies and Procedures

The assessment also considered proactive disclosure of information on policies and procedures looking at statutory laws and regulations as well as institutional policies, manuals and guides.

Figure 11: Proactive disclosure of information on policies and procedures

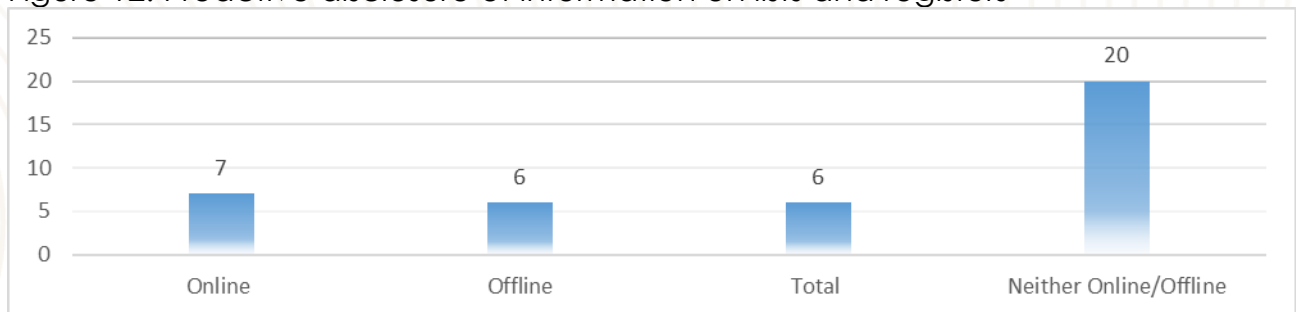


The audit of the websites of the institutions considered in the assessment showed that information on policies and procedures is largely online (on the website) compared to offline (print medium). Websites of 18 institutions had their constituent statutory laws and regulations and 13 had their institutional policies, manuals and/or guides.

#### e) Information on Lists and Registers

To facilitate access to public information, institutions are required by the law to give members of the public a catalogue of lists and registers of their information. This will include the organization of their Institutional databases, reports, information guides, catalogues and so on.

Figure 12: Proactive disclosure of information on lists and registers

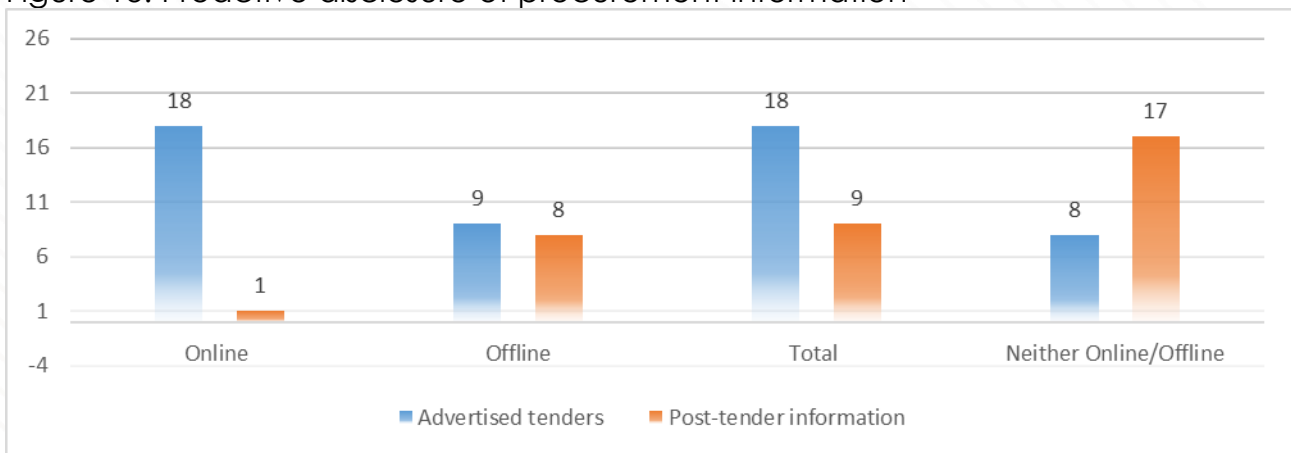


The assessment established that information access guides are evident on the websites of seven (7) institutions while six (6) institutions had information access guides available on their offline platforms.

**f) Public Procurement Information**

Lastly, on proactive disclosure, institutions selected were assessed on disclosure of their procurement information as a key requirement for proactive disclosure by the ATI Act. This assessment considered information provided during the tendering process (advertisements of institutional tenders) and also post-tender information which includes, information on the goods acquired or rented; services contracted; scope of service and references; contract sums; names of service providers/contractors and period of the contracts.

Figure 13: Proactive disclosure of procurement information



On advertised tenders, institutions are largely compliant with proactive disclosure of public procurement information. Information on advertised tenders was seen in the online platforms of 18 of the 26 selected institutions. However, post-advertisement information is not disclosed as much, as it was evident in only one (1) of all institutions assessed. Institutions claimed that this information is available offline upon request. Further, nine (9) and eight (8) institutions assessed provided evidence of records in the respective categories of procurement information to be available in their offices (offline) and accessible to the members of the public.

**2.12.4 Challenges in Implementing Proactive Disclosure of Information**

Some of the factors that were found to pose challenges in the proactive disclosure of public information were:

- i. Technological Barriers and Online Platform Management: Limited and unreliable internet connectivity restricts access to online information platforms, especially in rural and underserved areas. Also, poorly maintained or outdated government and institutional websites hinder real-time updates and accessibility of crucial public information.

- ii. **Inadequate Infrastructure and Financial Constraints:** Insufficient investment in digital and physical infrastructure (such as secure databases, cloud storage, and user-friendly websites) limits public institution's ability to disclose information systematically. Budgetary constraints force institutions to prioritize other operational areas over improving information management systems, leading to delays and inefficiencies in information dissemination.
- iii. **Limited Awareness of the ATI Act on Proactive Disclosure by Public Institutions and Private Entities:** Many government agencies and private bodies lack sufficient training and guidance on their legal obligations for proactive disclosure. Institutional resistance to change and bureaucratic inertia result in weak implementation of disclosure policies.
- iv. **Legal and Policy Conflicts Between the ATI Act and the Data Protection Act:** There is an unclear guideline on balancing proactive disclosure with data privacy protections. This has created uncertainty among public officials, leading to reluctance to share information. Fear of legal repercussions due to potential breaches of the Data Protection Act results in excessive redactions or outright withholding of critical public information.
- v. **Low Public Awareness and Engagement on the Right to Access Information:** Many citizens, particularly in marginalized communities, are unaware of their rights under the ATI Act and how to request information from institutions. Also, the lack of simplified, accessible, and multilingual information on how to access public records discourages public participation in governance and accountability efforts.

#### **2.12.5 Recommendations to Enhance Proactive Disclosure of Information**

Based on the assessment, the following recommendations have been made to enhance proactive disclosure of information:

- i. There is a need for capacity building and training for institutional officers through comprehensive and periodic training programs for public officials and relevant stakeholders to enhance their understanding of proactive disclosure obligations under the ATI Act. A consideration to integrate compliance with proactive disclosure requirements into institutional performance assessments to encourage adherence.
- ii. Institutions should allocate sufficient financial and technical resources to upgrade ICT systems, including databases, secure cloud storage, and website management tools, to support timely and efficient information disclosure. There is also a need to develop user-friendly, accessible, and interactive platforms for proactive disclosure, ensuring they are regularly updated and maintained.
- iii. There is a need to expand disclosure mechanisms to reach marginalized and special interest groups, including PWDs, rural communities, and non-

- English speakers, through multilingual and alternative format options (e.g., braille, audio, and simplified summaries).
- iv. Strengthen community engagement and awareness initiatives to ensure diverse populations can access and utilize public information effectively. Leverage multiple communication channels, including traditional media (radio, newspapers), social media, and community outreach programs, to increase reach and accessibility.
- v. The Commission should develop standardized guidelines for institutions on proactive disclosure, ensuring consistency in implementation. Establish monitoring and reporting mechanisms to track compliance, provide technical support, and address challenges faced by institutions.

### 2.13 Reactive Measures

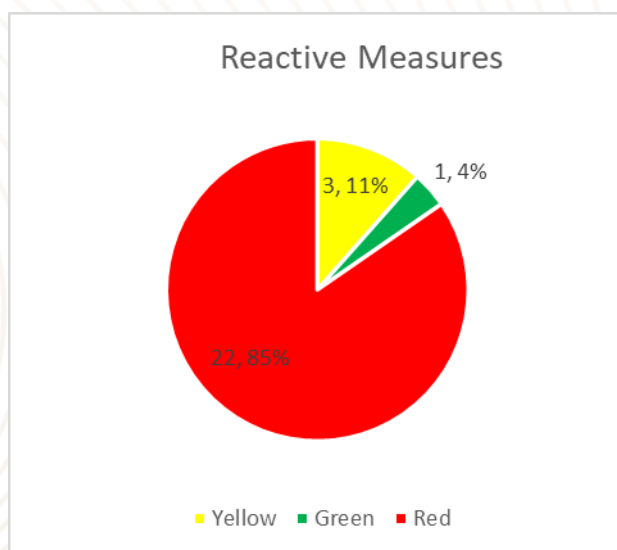
The assessment sought to establish the level of compliance by public institutions with requirements of the ATI Act on Reactive disclosure using the following measures on the information requests sent:

1. Whether or not the response to the information request sent to the institution was received by the requester;
2. Whether the response received was within the timeline of 21 days, in line with the Act; and
3. Whether the requester was satisfied with the response

#### 2.13.1 Results Summary

The table below gives the numerical value based on the scoring of the institution under the different assessment areas.

ASSESSMENT AREA	Scoring
Average score on Reactive measures	0.13



The institutions assessed performed dismally on the reactive measures. The reactive component was broadly not responded to, with 22 (85%) of the institutions getting a red score indicating that the performance of the institutions on the reactive measure is significantly below what the ATI Act requires. Out of all the institutions assessed, only one institution (i.e. KNEC) attained a green score and only three institutions (PSC, Senate and Moja Express) attained a yellow score. Overall, this analysis

suggests that institutions need to introduce major interventions to improve on reactive disclosure of information to meet the requirements of the ATI Act.

### 2.13.2 Indicator-Wise Score Card

Under this assessment, a sub-indicator can achieve a maximum score of 26 points, whereby for every information request a score of 1 point for budget information was issued and another 1 point for an electronic request. This means that where the sub-indicator has 26 points, it corresponds to 100% performance on reactive disclosure on budget information requests and 100% performance on electronic requests of all the 26 selected institutions. A zero score for a sub-indicator means that of the 26 assessed, none of the institutions had complied with the reactive disclosure of information on either budget or electronic information requests.

The following table provides details of indicator-wise scoring of the reactive disclosure of information by the selected public and private bodies.

Table 17: Sub-Indicators on Reactive Disclosure of Information

Sub-Indicator	Type of Request	Cumulative	
		Score	Percentage
Response Received	Budget Request	4	15.3%
	Online request	6	23.1%
Response within time - 21 days	Budget Request	3	12.1%
	Online request	5	19.2%
Satisfied with the Response	Budget Request	2	8.0%
	Online request	2	8.0%

### 2.13.3 Overall Indicator-Wise Findings

#### 2.13.3.1 Receipt of Responses by the Requester

An assessment was done on whether there was a response to the information request sent to the institution.

An analysis of the mailed budget information request forwarded to all assessed institutions shows that only four (4) institutions, representing 15.3% of the institutions assessed, responded to the information request. The performance of institutions attained a mean score of 0.153 of the possible 1-point score giving it a red-score. It should be noted that the budget information requests on this aspect were all mailed uniformly to the institutions under assessment. This was done deliberately, as a control exercise, as opposed to the other set of information requests that were forwarded electronically and with varied assessment criteria. The findings of

this assessment under budget information request were a reflection of the high non-responsive status to information requests by institutions.

An analysis of the information requests sent electronically through online mediums (via email or social media platforms) shows that only six (6) of the institutions responded to the information requests, representing 23.1% of the institutions assessed. The results of responding to the information request obtained under this method are consistent with results under the mailing of information. This confirms the high non-responsive status of institutions to information requests by citizens.

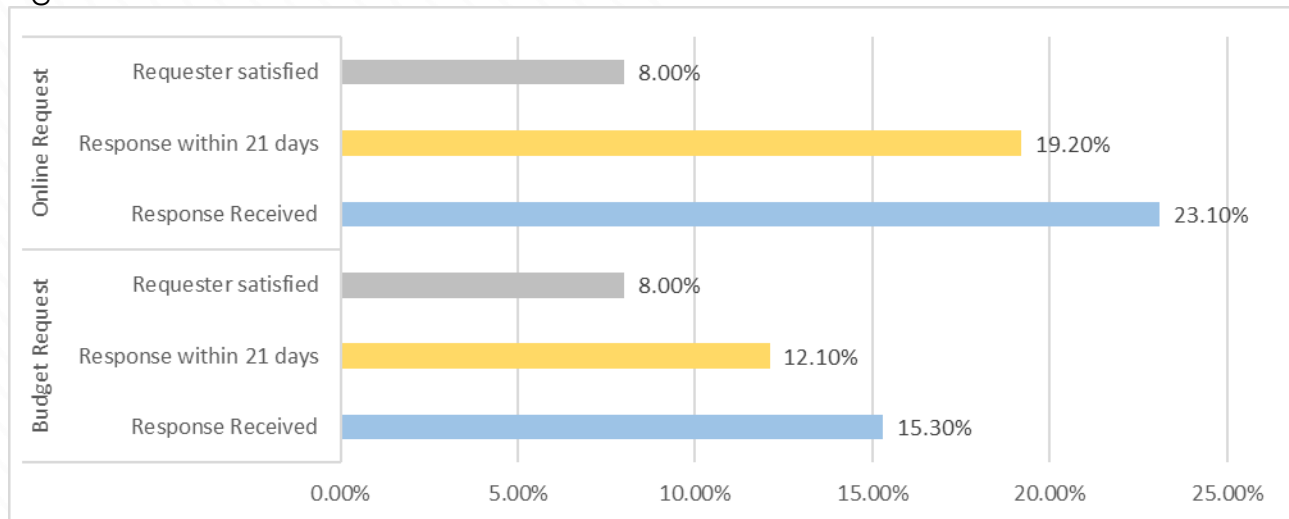
Further analysis of the information requests established that the reaction of institutions to information requests does not correspond with the findings under institutional measures. Whereas a majority of institutions reported having fairly well-established infrastructure to facilitate access to information (see 3.2.1 - summary results), most of them did not respond to the posed information request during the assessment. This demonstrates the implementation gap between the existing institutional structures and their effectiveness in facilitating Access to Information on requests.

#### **2.13.3.2 Response within Required Timelines**

Section 9 of the ATI Act requires implementing institutions to disclose information upon request within the statutory timelines of 21 days for general requests and 48 hours for information that affects the life and liberty of a person. An assessment was done to establish whether the responses received were within 21 days, in line with the Act.

The table below gives the results of the assessment of the different sub-indicators under the reactive disclosure of information.

Figure 14: Sub-Indicators on Reactive Disclosure of Information



The findings of this assessment reveal that only 3 of the 26 institutions responded to the budget information requests forwarded to the institutions, representing 12% of the institutions assessed. An analysis of the electronic requests established that five (5) institutions (19.2%) responded within the timelines stipulated under the ATI Act, out of all institutions assessed. The findings on the responses given within the statutory timelines are reflective of the non-responsive nature of institutions to access to information requests.

Further analysis indicates that three (3) of the four (4) (75%) institutions that responded to the information requests responded to the requester within the timeline requirement of the ATI Act. Similarly, five (5) of the six (6) institutions (83%) that confirmed to have received the electronic request responded within the timelines stipulated. These findings indicate that if institutions were more active in responding to information requests, they would likely meet the legally prescribed timelines for disclosure.

### 2.13.3.3 Requester Satisfaction with the Response

This assessment went further to establish if the requester was satisfied by the response given. The findings revealed that assessors were satisfied with both categories of information requested in only two (2) cases. These cases accounted for just 8% of the institutions assessed, highlighting a significantly poor performance.

### 2.13.4 Challenges in Implementing Reactive Disclosure of Information

The following challenges were reported during the assessment of the implementation of reactive disclosure of information by the institutions assessed:

- i. Lack of adequate procedures and guidelines on disclosure of information: A majority of institutions reported not having adequate policies and procedures, or a framework to facilitate the disclosure of information;

- ii. Limitations on disclosure of information: In some cases, there is a lack of understanding of the nexus between access to information and data protection.
- iii. Limited awareness of the ATI law: In a majority of institutions, the officers implementing access to information had limited knowledge of the requirements of the ATI law on limitations, granting information, review of decisions, timelines to process information, and so on; and
- iv. Anonymous requests: Dealing with anonymous requesters is a big challenge based on the requirement of disclosure only to citizens.

### 2.13.5 Recommendations to Enhance Reactive Disclosure of Information

Based on the assessment of the implementation of reactive disclosure obligations, the following recommendations are made:

- i. Capacity Building: Sensitization and training of the state and public officers on the provisions of ATI laws to help with the implementation process is a major step that must be upscaled to help facilitate access to public information;
- ii. Standard Policies and Guidelines: Institutions should have standard guidelines in place to comply with their obligation under ATI law with respect to their functions and duties; and
- iii. Data protection and disclosure of information: Institutions should create a balance between their data protection obligations and the ATI requirements to ensure both aspects are adequately addressed without infringements on any part of information disclosure.

The following tables 18 and 19 show the analysis of the reactive disclosure of information discussed above.

Table 18: Analysis of the budget requests

Institution	Request Method	Request Category	Request Received	Response Received Within 21 days	Requester is Satisfied
Ministry of Education	Physical Delivery	Budget Request	No	No	No
Ministry of Agriculture, Livestock, Fisheries and co-operatives	Physical Delivery	Budget Request	No	No	No
Ministry of Defense	Physical Delivery	Budget Request	No	No	No
Business Registration Service	Physical Delivery	Budget Request	No	No	No
Attorney General (Registrar General-marriages)	Physical Delivery	Budget Request	No	No	No
Department of Civil Registration	Physical Delivery	Budget Request	No	No	No
Kenya Power & Lighting Company	Physical Delivery	Budget Request	No	No	No
Kenya Revenue Authority	Physical Delivery	Budget Request	Yes	Yes	No
Mathari National Teaching and Referral Mental Hospital	Physical Delivery	Budget Request	No	No	No
Kenya National Examinations Council	Physical Delivery	Budget Request	Yes	Yes	Yes
National Transport & Safety Authority	Physical Delivery	Budget Request	No	No	No
Kenya Medical Practitioners and Dentists Council	Physical Delivery	Budget Request	No	No	No
National Assembly	Physical	Budget	No	No	No

	Delivery	Request			
Parliamentary Service Commission	Physical Delivery	Budget Request	Yes	Yes	Yes
Senate	Physical Delivery	Budget Request	No	No	No
Judiciary Service Commission	Physical Delivery	Budget Request	No	No	No
Nakuru High Court	Physical Delivery	Budget Request	No	No	No
Narok Law Courts	Physical Delivery	Budget Request	No	No	No
Nakuru County Government	Physical Delivery	Budget Request	No	No	No
Narok County Government	Physical Delivery	Budget Request	Yes	No	No
Nakuru Water & Sanitation Company	Physical Delivery	Budget Request	No	No	No
Narok Water & Sanitation Company	Physical Delivery	Budget Request	No	No	No
Safaricom	Physical Delivery	Budget Request	No	No	No
Moja Express Way Company	Physical Delivery	Budget Request	No	No	No

Table 19: Analysis of the Electronic Requests

Institution	Request Method	Requester	Request Category	Results Received	Response Received Within 21 days	Requester is Satisfied
Ministry of Education	Email	Female	Complex/voluminous information	No	No	No
Ministry of Agriculture, Livestock, Fisheries and co-operatives	Social media	Male	Consultation with other departments or 3rd parties	No	No	No
Ministry of Defense	Email	Male	Borderline exempted information	No	No	No
Business Registration Service	Social media	Female	Information needing special assistance	No	No	No
Attorney General (Registrar General-marriages)	Email	Male	Complex/voluminous information	No	No	No
Department of Civil Registration	Social media	Female	Consultation with other departments or 3rd parties	No	No	No
Kenya Power & Lighting Company	Email	Male	Borderline exempted information	No	No	No
Kenya Revenue Authority	Social media	Institution /Organization	Information needing special assistance	Yes	Yes	No
Mathari National Teaching and Referral Mental Hospital	Email	Male	Consultation with other departments or 3rd parties	No	No	No
Kenya National Examinations Council	Social media	Female	Complex/voluminous information	No	No	No

Institution	Request Method	Requester	Request Category	Results Received	Response Received Within 21 days	Requester is Satisfied
National Transport & Safety Authority	Email	Institution /Organization	Information needing special assistance	No	No	No
Kenya Medical Practitioners and Dentists Council	Social media	Female	Consultation with other departments or 3rd parties	No	No	No
National Assembly	Email	Male	Complex/voluminous information	No	No	No
Parliamentary Service Commission	Social media	Female	Borderline exempted information	No	No	No
Senate	Email	Male	Information needing special assistance	Yes	Yes	Yes
Judiciary Service Commission	Social media	Female	Consultation with other departments or 3rd parties	No	No	No
Nakuru High Court	Email	Male	Complex/voluminous information	Yes	Yes	No
Narok Law Courts	Social media	Female	Consultation with other departments or 3rd parties	Yes	No	No
Nakuru County Government	Email	Male	Information needing special assistance	No	No	No
Narok County Government	Social media	Female	Borderline exempted information	No	No	No
Nakuru Water & Sanitation Company	Email	Institution /Organization	Information needing special assistance	No	No	No

Institution	Request Method	Requester	Request Category	Results Received	Response Received Within 21 days	Requester is Satisfied
Narok Water & Sanitation Company	Social media	Male	Complex/voluminous information	No	No	No
Safaricom	Email	Female	Consultation with other departments or 3rd parties	0.5	0.5	0.5
Moja Express Way Company	Social media	Male	Borderline exempted information	Yes	Yes	0.5

## 2.14 Overall Jurisdiction Results

### 2.14.1 Results Summary

The table below gives the numerical values based on the scoring of the institutions under the different assessment measures.

Table 20: Summary Results on All Assessment Measures

	ASSESSMENT MEASURES	Scoring	Implementation Level
1	Central Measures	0.54	Average
2	Institutional Measures	0.59	Average
3	Proactive Measures	0.64	Average
4	Reactive Measures	0.13	Weak
	<b>Jurisdiction Score</b>	0.475	Average

### 2.14.2 General Analysis

Overall, the implementation of the right to access information in Kenya based on the four measures outlined above was determined at an overall score of 0.475. Therefore, the implementation of the ATI Act in Kenya is at an AVERAGE level, indicating a fair performance.

The average score signifies that while there are steps that have been taken towards implementation of the law in the country, there are still significant areas for improvement to fully meet the requirements of the law.

#### Overview of the assessment under the four measures

##### 1. Central Measures Score 0.54 - Average

The performance of the oversight body (Commission on Administrative Justice) under this measure based on the qualitative and quantitative institutional sub indicators is assessed at FAIR per the requirements of the ATI Act, 2016. **The upshot of this Fair assessment is that while there is significant implementation of the law, there remain important areas for improvement to be in full compliance.** Based on this assessment, The Commission on Administrative Justice is considered to be at an AVERAGE level of implementation.

##### 2. Institutional Measures Score 0.59 - Average

The performance of the assessed institutions under this measure is assessed to be FAIR per the requirements of the ATI Act, 2016. **The Fair assessment indicates that a majority of the institutions have in place some structures to support the implementation of the ATI law** but there remain key areas for improvement to fully comply with the law. Based on this assessment, the institutions selected are hereby considered to be at an AVERAGE level of implementation.

##### 3. Proactive Disclosure Measure - Score 0.64 - Average

The performance under the proactive disclosure measure is also assessed to be FAIR per the requirements of the ATI Act, 2016. **The Fair assessment reveals that although most of the assessed institutions made disclosures on some priority information as required under proactive disclosure, some of them failed to divulge some key sets of information therefore failing to** fully meet the requirements of the law.

Based on this assessment, the institutions assessed are hereby considered to be at an AVERAGE level of implementation.

#### **4. Reactive Disclosure Measure - Score 0.13 - Weak**

The performance under the reactive disclosure measure is significantly below what the ATI Act, 2016 requires, suggesting a need for major improvements in terms of frameworks, mechanisms and/or practice by the assessed institutions. Based on this assessment, the institutions selected are hereby considered to be at a WEAK level of implementation.

### 3 CONCLUSION

The assessment of implementation of the right to access information in Kenya was undertaken in the year 2024 and this report has been prepared according to the guidelines given under CLD methodology. This assessment was undertaken to evaluate progress made by both public institutions and private bodies under the purview of the ATI law in the four key areas:

1. Central measures - Measures taken to ensure that the oversight body is established, functional and operating effectively;
2. Institutional measures - Measures undertaken by the assessed institutions to mainstream and/or strengthen information disclosure frameworks;
3. Proactive disclosure - Measures taken to enable access to information without prompts; and
4. Reactive disclosure - Measures put in place to enable disclosure of information upon requests by citizens.

Different indicators for each institution were assessed in the different assessment areas outlined above and for each, a score was awarded based on the actual assessment.

#### 3.1 General Recommendations

- 1 Increase Funding and Resources to Public Institutions: Public institutions should be adequately and sustainably funded to support capacity building training programs, public engagement efforts, technological infrastructure and other initiatives like proactive and reactive disclosure that promote and facilitate Access to Information.
- 2 Dedication of resources to build requisite infrastructure to address the existing technological inadequacies: The platforms for proactive disclosure in public institutions should also be expanded to make them more inclusive taking into account the marginalized and special interest groups;
- 3 Enhanced Public Awareness Campaigns: There is a need to develop and implement more extensive outreach and education campaigns to raise public awareness about the ATI Law. The Commission should ensure that citizens are adequately empowered to request information.
- 4 Capacity building – Sensitization and training of state and public officers on the provisions of ATI laws to help with the implementation process is a key step towards effective implementation of Access to Information;
- 5 Mainstreaming ATI in public institutions through the development of standard policies and guidelines to provide a more structured and consistent approach to the implementation of the ATI Law.

- 6 Technical support from CAJ: Institutions should pursue opportunities for capacity building from the Commission according to its oversight role in the development of policies and guidelines, sensitization and training of their officers.
- 7 Partnerships between institutions, development partners, civil society and other stakeholders in the implementation of the ATI law to leverage the available networks and optimize the use of resources.

## Annex I: List of Documents Reviewed

1. Access to Information Act, 2016
2. Constitution of Kenya, 2010
3. CLD Methodology Grading Guide
4. CLD Methodology Handbook Assessment
5. County Government Act, 2012
6. Report on Assessing the Right of Access to Information Implementation at the Ministry of Education
7. Report on Assessing the Right of Access to Information Implementation at the Ministry of Agriculture, Livestock, Fisheries and Co-operatives
8. Report on Assessing the Right of Access to Information Implementation at the Ministry of Defense
9. Report on Assessing the Right of Access to Information Implementation at the Business Registration Service
10. Report on Assessing the Right of Access to Information Implementation at the Attorney General (Registrar General-marriages)
11. Report on Assessing the Right of Access to Information Implementation at the Department of Civil Registration
12. Report on Assessing the Right of Access to Information Implementation at the Kenya Power & Lighting Company
13. Report on Assessing the Right of Access to Information Implementation at the Kenya Revenue Authority
14. Report on Assessing the Right of Access to Information Implementation at the Mathari National Teaching and Referral Mental Hospital
15. Report on Assessing the Right of Access to Information Implementation at the Kenya National Examinations Council
16. Report on Assessing the Right of Access to Information Implementation at the National Transport & Safety Authority
17. Report on Assessing the Right of Access to Information Implementation at the Kenya Medical Practitioners and Dentists Council
18. Report on Assessing the Right of Access to Information Implementation at the National Assembly
19. Report on Assessing the Right of Access to Information Implementation at the Parliamentary Service Commission
20. Report on Assessing the Right of Access to Information Implementation at the Senate
21. Report on Assessing the Right of Access to Information Implementation at the Judiciary Service Commission
22. Report on Assessing the Right of Access to Information Implementation at the Nakuru High Court

23. Report on Assessing the Right of Access to Information Implementation at the Narok Law Courts
24. Report on Assessing the Right of Access to Information Implementation at the Nakuru County Executive
25. Report on Assessing the Right of Access to Information Implementation at the County Assembly of Nakuru
26. Report on Assessing the Right of Access to Information Implementation at the Narok County Executive
27. Report on Assessing the Right of Access to Information Implementation at the County Assembly of Narok
28. Report on Assessing the Right of Access to Information Implementation at the Nakuru Water and Sanitation Services Company Limited
29. Report on Assessing the Right of Access to Information Implementation at the Narok Water & Sewerage Company
30. Report on Assessing the Right of Access to Information Implementation at Safaricom Co. Ltd
31. Report on Assessing the Right of Access to Information Implementation at Moja Express Way Company

## Annex II: Institutional Assessment Data Collection Tool

### Assessing the Access to Information Implementation in Kenya Using the CLD Comprehensive Methodology

#### DATA COLLECTION TOOL

Name of the Institution: \_\_\_\_\_

Date: \_\_\_\_\_

Institution Category: \_\_\_\_\_

#### Objective 1: To establish the level of compliance by public institutions with the requirements of the ATI Act (Institutional Measures)

Objective Evaluation (Tick Yes or No)	Yes	No	Remarks/evidence
1. Does the institution have a designated Information Access Officer (IAO)?			
2. Has the IAO been formally appointed?			
3. Has the Information Access Officer been trained or sensitized on his roles?			
4. Has the name and contact details for the IAO been published?			
5. Has the name and contact details for the IAO been publicized?			
6. Does the institution have guidelines and procedures on Implementation of ATI ( <i>Probe: implementation plan/access to information policy/ procedures manual/request for information forms</i> )?			

7. Do your procedures expressly advise on the appeal mechanism on ATI decision?			
8. Is there a verifiable Access to Information register (physical or electronic)?			
9. Is it possible to lodge requests electronically? Is it easy to obtain an ATI request form? Is it easy to find the contact details of the IAO? (Yes, is given for two or more positive answers, No for one or less)			
10. Did your institution publish an annual report for the last two years?			
11. Has your institution submitted annual report on implementation of ATI to CAJ?			
12. Has your institution conducted ATI awareness-raising activities over the last one year?			
13. Has the institution put in place any system or taken any action/measures to improve its record management?			

Qualitative Evaluation (Tick Yes or No)	Strongly	Partially	Weakly	Remarks/evidence
14. Does the IAO have appropriate qualifications for the job and has he or she been allocated time to do the job?				
15. Has the IAO come under pressures/influence/interference that make it difficult for him or her to do the job properly?				
16. Overall, how strong are the guidelines and procedures or SOP for ATI implementation for this institution?				

<b>17.</b> How extensive are the awareness-raising activities?				
<b>18.</b> How effective are the measures taken to improve records management?				

**Objective 2: To establish the level of compliance by public institutions with the requirements of the ATI Act on proactive disclosure (Observation or Desktop review)**

**Proactive Disclosure of Information**

S/No.	Broad Category	Initiative	Available Online	Available Offline	Missing Online/offline	Remarks
1	Who we are and what we do	Location and contact details ( <i>physical, postal and online</i> )				
		Functions and Duties of the Organization				
2	How we make decisions	Management Structures and Organogram				
		Powers and duties of officers and employees				
3	How we spend resources	Salaries of officers by grade				
		Recurrent & development budgets and budget reports				
		Financial and Audit Reports				
4	Our policies and procedures	Statutory laws, regulations, etc.				
		Institutional Policies, manuals, Guides etc.				
5	Lists and registers	Information Access Guides ( <i>Institutional databases, reports etc</i> ).				

S/No.	Broad Category	Initiative	Available Online	Available Offline	Missing Online/offline	Remarks
6	Public Procurement Information	Advertised tenders				
		Goods acquired or rented; Services contracted; Scope of service and references; Contract sums; Names of service providers/contractors and period of contracts				

a) What mechanisms has the institution established to ensure there is proactive disclosure of information to other special interest groups (For instance, *PWDs, illiterate, elderly, etc*)

a. ..

b. ..

b) Any challenges in implementation of ATI proactive disclosure?

a. ..

b. ..

c) Any recommendations in implementation of ATI Proactive Disclosure?

a. ..

b. ..

**Objective 3: To establish the level of compliance by public institutions with requirements of the ATI Act on Reactive disclosure** *(From the requests sent)*

No	Requester Name	Gender (M/F)	Disability	Date request was received by Institution	How request was filed (walk-in, email, social media)	Type of Infor. Requested	Request Simple/Complex	Request on limitation (Yes/No)	Response received (Yes/No)	Date of Response	Response within time - 21 days (Yes/No)	Satisfied (Yes Partially No)	Advise on fee if applicable (Yes/No)
1													
2													

a) What mechanisms has the institution established focused to other special interest groups (For instance, *PWDs, illiterate, elderly, etc*) on reactive disclosure of information

a. ..

b. ..

b) Any challenges in implementation of ATI Reactive Disclosure?

a. ..

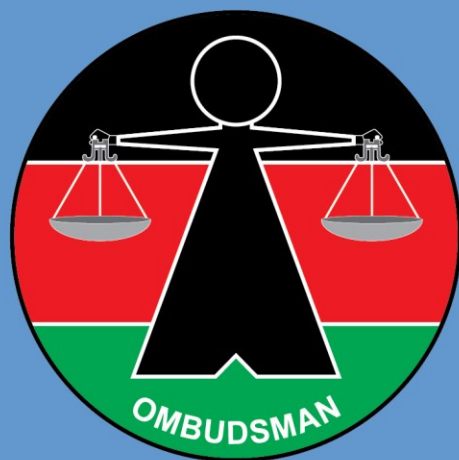
b. ..

c) Any recommendations in implementation of ATI Reactive Disclosure?

a. ..

b. ..





## *Hata Mnyonge ana Haki*

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[complain@ombudsman.go.ke](mailto:complain@ombudsman.go.ke) (for complaints)

### Kisumu Regional Office

Central square Building, 2<sup>nd</sup> Floor  
Oginga Odinga Street  
P.O. Box 1967 - 40100, Kisumu.  
Tel: 0572022810 / 0731248906  
Email: [kisumu@ombudsman.go.ke](mailto:kisumu@ombudsman.go.ke)

### Mombasa Regional Office

Posta Pension Towers (GPO), 4<sup>th</sup> Floor,  
Digo Road - Mombasa City  
P.O. Box 80979 – 80100, Mombasa.  
Tel: 041 2315411/0731 011116  
Email: [mombasa@ombudsman.go.ke](mailto:mombasa@ombudsman.go.ke)

### Eldoret Regional Office

Kerio Valley Development Authority (KVDA)  
Plaza, 7<sup>th</sup> Floor Oloo Street  
P.O. Box 10326 - 30100, Eldoret.  
Tel: 020-8106515  
Email: [eldoret@ombudsman.go.ke](mailto:eldoret@ombudsman.go.ke)

### Nyahururu Regional Office

Laikipia County  
Next to Laikipia West Constituency Offices  
Opposite Nyahururu Referral Hospital  
P.O. BOX 866 - 20300, Nyahururu.  
Tel: 020 2210657  
Email: [nyahururu@ombudsman.go.ke](mailto:nyahururu@ombudsman.go.ke)

### Isiolo Regional Office

County area, along kiwandani road,  
Near KRA office  
P.O. Box 860 - 60300, Isiolo.  
Tel: 020 2007671  
Email: [isiolo@ombudsman.go.ke](mailto:isiolo@ombudsman.go.ke)

### Garissa Regional Office

Hosted by National Gender  
and Equality Commission  
KRA Route, Off Ijara-Lamu Road  
P O Box 485 - 70100, Garissa  
Tel: 020 7868338  
Email: [garissa@ombudsman.go.ke](mailto:garissa@ombudsman.go.ke)

### Meru Regional Office

Meru Town  
Royal Business Park, 6<sup>th</sup> Floor  
Njuri Ncheke Street  
Email: [meru@ombudsman.go.ke](mailto:meru@ombudsman.go.ke)

### Huduma Centres

Wundanyi, Makueni and Meru.  
Nairobi(GPO), Embu, Nyeri, Nakuru,  
Kajiado, Kakamega, Kisii,  
Bungoma, Kwale,