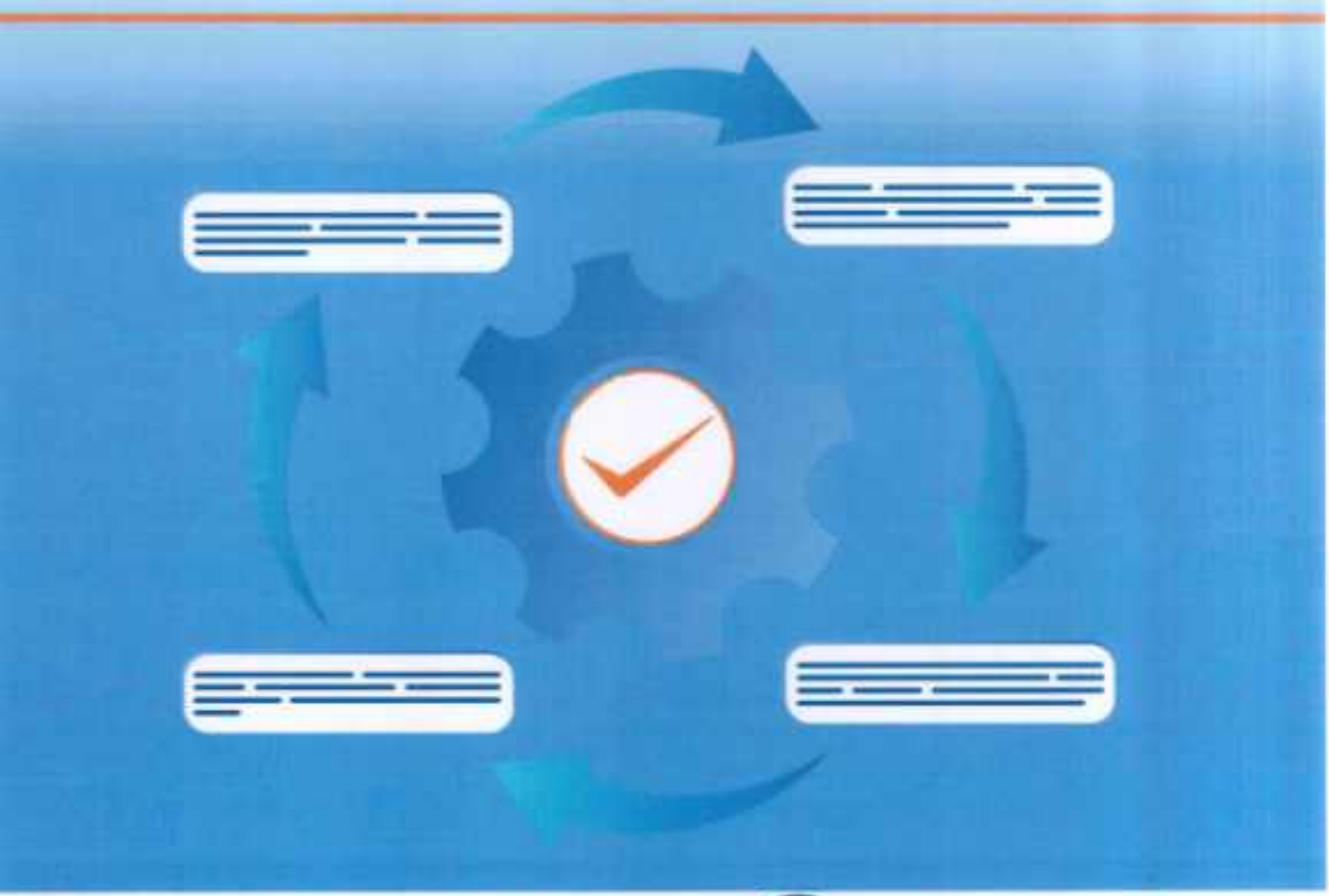
REPUBLIC OF KENYA

Locally - Led Climate Action Financing Program FLLoCA

THE COMMISSION ON ADMINISTRATIVE JUSTICE
(Office of the Ombudsman)
Hata Mnyonge ana Haki

COMPLAINT HANDLING MODEL POLICY FOR COUNTY GOVERNMENTS

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List of Abbreviations

ATI	Access to Information
ADR	Alternative Dispute Resolution
CAJ	Commission on Administrative Justice
CGAO	County Government Administrative Ombudsman
ICCPR	International Convention on Civil and Political Rights
ICESCR	International Convention on Economic, Social and Cultural Rights
UDHR	Universal Declaration on Human Rights

PREFACE

There has been a growing increase in the quest for the establishment of the Office of the County Administration Ombudsman. This has mainly been as a result of the growing need to democratize institutions and infuse transparency and accountability in public administration. An Ombudsman institution is an office established by Constitution or statute, headed by an independent high-level public official who receives complaints about injustice and maladministration from aggrieved persons against government agencies, officials and employees. The ombudsman may also act on his/her own initiative. The Ombudsman has powers to investigate, criticize, recommend corrective actions and generally publicize administrative actions. As parliamentary control bodies acting on a national, regional or local level, they form an integral part of constitutional reality and are a crucial element for the sustainable functioning of democracy. Ombudsman institutions contribute significantly to the implementation of the rule of law. They are an important mechanism to make actions of governments more transparent and their administration more accountable.

Ombudsman institutions, by upholding the principles of independence and impartiality, have been able to achieve their mandated roles of fostering democracy, accountability, transparency and the implementation of the rule of law. The institutions offer independent and objective consideration of complaints, aimed at correcting injustices caused as a result of maladministration. With their investigative work, they ensure that systemic failings are identified and aptly corrected. They provide redress in an independent and objective way and make recommendations to prevent any recurrence of maladministration of public resources and services.

The institution of the Ombudsman has proved to be highly flexible and adaptable to institutions with different political and administrative contexts. Taking into consideration the particular contexts of each institution, establishment under different circumstances and equally different reasons for establishment, various styles, designs and formulations of the ombudsman institution exist. This diversity ranges from the extent of mandates, the level of independence, the extent of powers and how they are exercised, and the level of public confidence and legitimacy that they enjoy.

A one-size-fits-all conceptualization of the ombudsman institution does not exist. It may well turn out to be that most ombudsman institutions are a mixture of a means of alternative dispute resolution, a mechanism of bureaucratic quality control and a human rights watchdog, albeit the ratio of the different functional strands may differ from one system to another and from one context to another. The challenge for the institution of the ombudsman is to ensure administrative justice in the shortest possible time and with the least possible expense and stress on the citizen that calls for the ombudsman's

intervention. This challenge disqualifies a uniform solution, hence the proliferation of different models of ombudsman institutions. Consequently, the need for this Model Grievance Redress Mechanism Policy intended to assist county governments establish an ombudsman institution tailored to their needs for enhanced service delivery through effective handling of complaints.

HON. FLORENCE KAJUJU, MBS
CHAIRPERSON, COMMISSION ON ADMINISTRATIVE JUSTICE

FOREWORD

The Constitution of Kenya, 2010 entitles all Kenyans to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair. Inclusion of these rights in the Constitution marked an important departure from a culture of ineffectiveness, unresponsiveness and entrenched corruption within the public service in the previous constitutional order. Therefore, the Constitution requires public officers to be responsive when serving the public. It expects that public officers shall be servant and not rulers, and that the members of the public are treated with decorum and respect. However, a number of public servants do not have a full understanding of what is expected of them by the Constitution and the Commission on Administrative Justice Act.

The Commission on Administrative Justice is mandated to investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector. It also inquiries into allegations of maladministration, delay, administrative injustice, discourtesy, incompetence, misbehavior, inefficiency or ineptitude within the public service. The Commission on Administrative Justice Act, 2011 also gives the Commission the mandate to facilitate the setting up of and build complaints handling capacity in the public sector. The Commission is the people's representative that ensures the government delivers on its services to the people. It has constitutional and legal mandate to fight impunity and inefficiency in the public sector institutions at national and county level.

The Commission has also the mandate of overseeing and enforcing the implementation of the Access to Information (ATI) Act, 2016. ATI Act provides a framework for citizens to access information, government to provide the same, and for the Commission to provide oversight. The ATI law also provides for oversight mechanisms by the Commission on Administrative Justice (CAJ). Implementation of access to information law will not only enhance individual rights, but will also enhance good governance through lawful disclosure of information.

Complaints handling mechanisms in some County Governments are comparatively weak as regards structured complaints management. The challenges facing most of the counties include: lack of laws or policies regulating complaints handling, lack of political leadership/goodwill to improve complaints mechanisms, inadequate or no budgetary allocations for complaints mechanisms, lack of capacity for complaints handling among county staff and low public awareness of the mechanisms, among other challenges, therefore missing out on the opportunity to influence systemic reforms in public service delivery as the long-term cure to recurring complaints.

The establishment of transparent and responsive end to end complaints handling mechanism within the County Governments will increase efficiency of complaint management that will result in expeditious resolution of public complaints and improved service delivery to citizens.

It is in recognition of the foregoing, the Commission sought and considered the views of Key Stakeholders in the development of this model, which is aimed at setting the tone from the top in the operationalization of effective complaints handling mechanisms by County Governments.

The Commission will continue to offer Technical Support in building complaints handling capacity in the Counties through, inter alia, domestication of this policy, institution-centred sensitization and training of County Governments, compliance audits on effectiveness of service delivery, use of ADR and technical training/skills transfer in setting up of complaints handling infrastructures in Counties.

DR. CHRIS KIPTOO, CBS
PRINCIPAL SECRETARY, NATIONAL TREASURY

ACKNOWLEDGEMENTS

The development of this Complaint Handling Model Policy for County Governments was an initiative of the Commission led by the Chairperson Hon. Florence Kajuju, MBS, the Vice Chairperson Mr. Washington Sati, MBS and Commissioner Mrs. Lucy Ndung'u, EBS. This initiative was initially supported by the GIZ program in 2020 that culminated in the development of the first draft Model Complaint Handling Policy for Counties.

In 2022, this process was further supported by the World Bank through their Financing Locally-Led Climate Action Program (FLLOCA). The program objective is to build local capacity to plan, budget, implement and monitor resilience investments in a way that promotes collaborative partnerships between communities, national and county governments. The Commission is indebted to the World Bank for their support in programs of the Commission aimed at building county-level capacity for planning, budgeting, reporting, and implementation of local climate actions in partnership with communities; and strengthening national-level capacity for coordination, monitoring and reporting.

In addition, the Commission appreciates the Secretariat teams from the Commission, the Bank and the National Treasury for their commitment in drafting, reviewing and refining this Model Policy with input from Commission's processes and experiences garnered from the engagements with County Governments in the processes undertaken in resolution of complaints at the Counties.

The Commission appreciates the team that worked tirelessly to produce this Model Policy on Complaints Handling at the Counties. Their individual and collective contributions were instrumental in the process of preparing and publishing the model. They are; Ms. Annette Omolo from the World Bank, Ms. Faith Pesa from the National Treasury, Directors; Florence Mumbi & Osman Mohamed, Assistant Directors; Dr. Mary Kimari, Sarah Muthiga & Amos Musundi, staff from different departments and units; Edith Imunde, Bob Munoko, Mohammed Adan, Sylvia Chelogoi, Wanjiru Kibaki, Hilda Ojiambo and Ruth Mukui who provided insights for consideration by the Commission in the background, situation analysis and proposed model frameworks on complaints handling.

The Commission is committed to improving complaints handling processes in public institutions at National and County Governments, and this Model policy will provide impetus to this mission of the CAJ.

MS. MERCY K. WAMBUA, OGW
COMMISSION SECRETARY/ CEO, COMMISSION ON ADMINISTRATIVE JUSTICE

Definition of Terms

The Commission on Administrative Justice "Office of the Ombudsman"

The Commission is a Constitutional Commission established under Article 59 (4) and Chapter Fifteen of the Constitution, and the Commission on Administrative Justice Act, 2011.

The Commission has a mandate inter-alia, to investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct in public service delivery.

Complaint
Expression of dissatisfaction by a person, persons, organization, group or an institution about the standard of service offered, an act or omission, whether the action or service was provided by the person, the County Government itself or body acting on behalf of the County Government, where a response or resolution is expected.

Complainant
Person or persons, group, institution or organization lodging the complaint

Complaints handling committee
A department representative group of County Government officers appointed to oversee and enhance the process of complaints handling in the County Executive and Assembly

Complaints handling process

The steps a complaint goes through in the County Government from receipt to the day it is actually resolved.

Complaints handling system
All policies, procedures, practices, (guidelines) staff complaint handling structure i.e complaint officer, complaint management committee, ICT infrastructure equipment used in receiving, processing and resolving complaints.

Complaints handling policy
Overall intentions and directions of the County Government related to complaint handling as formally expressed.

Lodging
The process of making a complaint against a County Government or County officer.

Resolution
A situation in which a County Government has provided a remedy, sufficient information or solution to the satisfaction of the complainant or where even if the complainant is not

satisfied, the County Government has taken the complaint through the complaints handling process and provided a just decision.

Respondent
A County Government officer or County Government against which a complaint is made.

Systemic problem
The failure of a service, product, procedure or policy which contributes to a complaint or complaints, rather than a county officer's decision or error.

Responsiveness
Prompt service or taking of an action in accordance with the law

Grievance Redress Mechanism
Institutionalized processes designed to enable people to complain about a service/action and seek redress.

1.0. Introduction

In Kenya, the right to public services is enshrined in the Constitution and laws that require both the National and County Governments to provide services for the realization of certain rights such as education, health and social security. Similarly, responsive and efficient public service delivery is a constitutional obligation placed on the government. In this regard, complaint handling processes which are commonly known as grievance redress mechanisms in counties are an integral part of service delivery

The national values and principles of governance obligate state agencies, state officers and public officers to observe transparency and accountability in the formulation and implementation of public policy decisions. The Constitution mandates the Commission on Administrative Justice (CAJ) to investigate complaints of unresponsiveness and enforce access to information in public service delivery. The values and principles of the public service also bind public officers to be responsive, prompt, effective, impartial and equitable in the provision of public services.

CAJ is further mandated to facilitate the setting up and building of complaints handling capacities in the sectors of public service, public offices and state organs. Accordingly, the Commission has partnered with the Council of Governors, the National Treasury and County Governments to establish necessary Complaints handling processes in devolved governments for the benefit of citizens in line with Article 6 (2) of the Constitution. An effective complaint handling system serves as a quick and efficient means of resolving issues that arise in delivery of public services. It is also a useful indicator of shortcomings that exist in provision of services, thus ensuring responsiveness.

This policy provides key guidance on complaint handling processes within County Governments. It's intentionally focused to support and ensure the mainstreaming of complaints handling in the provision of County Government services.

The CAJ will offer continued capacity building and technical support to Counties to domesticate and implement this policy.

1.2. Situational Analysis

The Constitution of Kenya 2010 establishes two levels of government; the National and County Governments which are distinct and interdependent. The County Governments became operational in 2013 after the first election under the new Constitution. The functions of county governments are enumerated in the Fourth Schedule of the Constitution. These include agriculture, primary health care services, pre-primary education, environmental conservation and ensuring participation of communities in governance at local levels. Implicitly, execution of these functions requires robust complaint handling processes. Integration of complaints mechanisms in service delivery at the county level is key in promoting responsiveness and accountability.

Besides complaints emanating from devolved services, counties still have to grapple with inherited complaints from the local government structures. Former employees of the defunct local authorities have complained about the transition process and management of human resources. There are complaints of unpaid pensions and unfair service contract termination. Current employees of counties have also numerously faced grievances of delayed salaries and politically motivated termination of employment when new administrations assume office. County governments have also been cited for disregard of the principle of diversity as amplified by section 65 of the County Governments Act. The section requires county governments to reserve 30% of appointive positions in the county for ethnic minorities which has not been adhered to. These examples, including poor service delivery such as inaccessible roads, scarcity of water, unmaintained markets and inadequate street lighting, demonstrate various instances from which grievances arise, yet most counties have no structured mechanisms of redressing these grievances.

A few counties have set up complaints handling mechanisms in response to service delivery challenges they have witnessed. In Kiambu County, for example, a grievance redress mechanism has been set up in the Office of the County Secretary. Grievances are received at sub-county level through a number of avenues including telephone calls, personal visits to the nearest sub-county office, email, suggestion boxes, posted mail and social media. The County of Elgeyo Marakwet has established a Complaints and Compliments Steering Committee, whose mandate is to redress grievances. There is however no legal or regulatory framework on which the Committee is anchored. In Taita Taveta County, citizen service centres known as Citizen Complaints, Compliments and Information Centres were established in 2015. These centres receive and resolve public complaints as well as disseminate information from the County Government. The centres ensure seamless and coordinated resolution of complaints without the need for complainants to move from one agency to another.

As demonstrated above, some counties have taken initiatives to mainstream complaints handling in service delivery. These initiatives are fragmented and largely dependent on the goodwill of an incumbent as they are not always anchored in law. This model policy seeks to remedy this piecemeal approach and provide a framework for the standardization of complaint handling processes for County Governments. A uniform complaint-handling process for counties will aid cross-learning, experience sharing and ultimately improve the quality of redress mechanisms and service delivery.

1.3 Rationale

Complaints provide valuable feedback and insight from recipients of a service or consumers of a public good. For devolved governments, complaints handling process is an avenue for improvement of service delivery processes, helping to achieve the constitutional ends of devolution and better governance. Effective service delivery is

predicated on the legal architecture enshrined in the Constitution and statutes that recognize that executive power held and exercised at all levels of government is a public trust. This is buttressed by values and principles of good governance provided in Article 10 of the Constitution. This public trust should be fostered by adhering to the provisions of the requisite legislation on devolution, including the County Governments Act which amplifies the objects of devolution enshrined in Article 174 of the Constitution. In devolving governance, it was envisaged that county governments would achieve, among others, the following objects for mwananchi

a) Promotion of democratic and accountable exercise of power;
b) Giving powers of self-governance to the people and enhancement of participation of the people in the exercise of the powers of the State and in making decisions affecting them; and
c) Recognition of the right of communities to manage their own affairs and to further their development.

Under the County Governments Act, the foregoing objects are echoed by Sections 88 and 89, which promote accountable governance by empowering citizens to petition a county government on any matter under the responsibility of the government. Conversely, a county government faced with a petition has a duty to respond expeditiously and deliver services while observing the principles of equity, efficiency, accessibility, non-discrimination, transparency, accountability, sharing of data and information, and subsidiarity. An effective complaint handling process will assist county governments to achieve these objectives for better service delivery and citizen-centred outcomes.

When complaints arising from service delivery are supported by well-implemented complaint handling processes, the following key benefits will be realized:

a) Timely and cost-effective resolution of complaints which could forestall costly disputes;
b) Prudent use of public resources
c) Improved service delivery through information harnessed from complaints;
d) Improved cordial working relations between the County Government and her residents;
e) Improved reputation and public confidence of residents in the County Government
f) Enhanced good governance and citizen satisfaction.

Complaint handling processes are thus a crucial tool for institutional strengthening of County Governments to deliver on their mandates. To inculcate a culture of citizen-oriented, mission-driven and quality enhanced governance, it is imperative for County Governments to adopt and tailor this Complaint Handling Model Policy to their operations.

1.4 Goal of the Policy

The Commission is required under Section 8(e) of the CAJ Act, 2011 to facilitate the setting up of, and build complaint handling capacity in the sectors of public service, public offices and state organs. This policy has therefore been developed pursuant to the

above function, to provide a guiding framework for complaint handling processes in County Governments in order to ensure responsiveness in service delivery.

1.5 Objectives

The objectives of this policy are to:

i. Provide an integrated framework for resolution of complaints in the County Governments;
ii. Strengthen the legal and institutional structures for effective internal and external complaints handling;
iii. Ensure learning from complaints management for continuous improvement of the services rendered by County Governments;
iv. Promote an institutional culture that supports complaints as citizen feedback for improved service delivery.

1.6 Guiding Principles and Values

The complaint handling processes policy is based on the following basic values and principles:

Accessibility - complaints handling mechanisms and infrastructure should be provided within reach of all demographics of the county, including persons with disabilities.

Accountability - complaint handling processes should be clearly established and grievances monitored and reported.

Confidentiality- All complaints should be handled confidentially and processed information relating to the complaint not disclosed.

Efficiency - complaints should be handled in a timely manner that ensures complainants are not discouraged or frustrated by long drawn-out processes. The complaint should be resolved as soon as practically possible.

Fairness - A complaint handling process should be enforced impartially and justly in terms of how a complaint/grievance is received, processed and resolved. The complainant should be able to follow the complaint as it goes through various stages.

People focus - The complaint handling system should be people focused and have proactive approach to seeking and receiving feedback

Responsiveness - Complaints should be acknowledged promptly and addressed in accordance with the set service delivery standards.

Simplicity - The stages of the complaints handling process should be kept at a minimum and each stage clearly identified. In acknowledging the complaint, the various stages that the complaint will be processed through should be outlined to manage the expectations of the complainant.

Transparency - Information on how and where to lodge a complaint should be clear and widely publicized. This is through the service charters, website, physical signage at the points of service and public awareness activities.

1.7 Scope

This policy applies to complaints relating to all public services provided and action taken by County Governments and their officers.

1.8 Policy Statement

This policy applies to complaints relating to all public services provided by county governments as outlined in the Fourth Schedule of the Constitution, and actions taken by them and their officers. These include, but are not limited to, allegations of internal administrative injustices namely:

- Maladministration.
- Abuse of power.
- Service delivery delays.
- Inefficiencies in service delivery.
- Manifest injustice.
- Unfair treatment.
- Unresponsiveness.
- Incompetence.
- Unlawful official conduct.
- Discourtesy.
- Inaction.

However, the following exclusions shall apply under this policy:

- Complaints between the two levels of government.
- Complaints between county governments.
- Complaints against the County Governor.
- Complaints against Members of County Assemblies.
- Complaints of criminal nature.
- Complaints currently being handled by the Commission on Administrative Justice.
- Service delivery complaints that are currently under lawful review/ investigation by other competent bodies.
- Complaints on matters that are pending before Courts of Law or Tribunals.

Nothing limits or restricts the Commission from entertaining the above complaints, including the exclusions, under its original and concurrent jurisdiction on complaint handling and resolution.

2.0 Legal and Policy Framework

Effective complaints handling mechanism at the national and county level is underpinned by a number of legal frameworks, namely the Constitution, international and regional conventions, national legislation, policies and guidelines.
The Commission on Administrative Justice Act mandates the Commission to enhance administrative justice inversely creating the responsibility to address cases of maladministration. Section 8 (a) and (b) of the CAJ Act provides the enabling functions notably; to investigate any conduct in state affairs, or any act or omission in public administration by any State organ, State or public officer in National and County Governments that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice; and or complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector.

On this account the Commission provides a model founded on the legal framework aimed at ensuring that County Governments have legal basis for resolution of complaints. This will enable counties to strengthen their legal and institutional structures for effective internal and external complaints handling.

The table below provides the relevant legal and policy framework which will guide this policy.

Table 1: The Constitutional and Legal Foundations for Complaints Handling

SOURCE	PROVISIONS
CONSTITUTION	• Article 1 provides that all sovereign power belongs to the people and shall be exercised only in accordance with the Constitution. • Article 2 (1) provides that the Sovereign power of the people is exercised at both national and the county level. • Article 2 (5) Provides that the general rules of international law shall form part of the law of Kenya, and (6) any Treaty and Convention ratified by Kenya shall form part of the law of Kenya. • Article 10 provides the national values and principles of governance and it binds all State organs, State officers, public officers and all persons whenever any of them: applies or interprets the Constitution; enacts, applies or interprets any law; or makes or implements public policy decisions • Article 21 provides for the implementation of rights and fundamental freedoms and obligates state and state organs to observe, respect, protect, promote and fulfill the rights and fundamental freedoms in the Bill of Rights. • Article 35 provides that every citizen has the right of access to information. • Article 47 every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair • Article 73(2) guiding principles of leadership and integrity including: objectivity and impartiality in decision making and selfless service solely based on the public interest • Article 174 (c), outlines the objects of devolution. • Article 232 (1), highlights the values and principles of public service. • The Fourth Schedule of the Constitution outlines functions of County Governments.

SOURCE	PROVISIONS
INTERNATIONAL INSTRUMENTS	• The Universal Declaration of Human Rights. (UDHR) Art. 8 (Everyone has the right to an effective remedy for acts violating the fundamental rights granted to him by the constitution or by law. • UN Guiding Principles on Business and Human Rights. Resolution 17/4 of 16 June 2011. Part III. A 25 As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy. • International Convention on Civil and Political Rights. (ICCPR) 1976 (Underscores the freedom to seek, receive and impart information, Art. 19) • International Convention on Economic, Social and Cultural Rights (ICESCR 1966). • Sustainable Development Goals (SDG 16) that aims to promote peaceful and inclusive societies for sustainable development, promote access to justice for all and build effective, accountable and inclusive institutions at all levels.
REGIONAL INSTRUMENTS	• African Charter on Values and Principles of Public Service and Administration Art. 7 (Efficient and Quality Service) • African Union Agenda 2063 Aspiration No.3 envisions an Africa of Good Governance, Democracy, respect for Human Rights, Justice and Rule of Law. • African Charter on Human and Peoples' Rights (Art.9 Right to receive information and to express and disseminate information within the law; Art. 13 - Every citizen shall have the right to participate freely in the government of his country, either directly or through chosen representatives; Art. 13(2) - Every citizen shall have the right of equal access to services of his country)

SOURCE	PROVISIONS
NATIONAL LEGISLATION	• Commission on Administrative Justice Act 2011. Section 8 provides for the functions of the Commission. Sec. 8(e) specifically provides that the Commission shall facilitate the setting up of, and building of complaint handling capacity in the sectors of the public service, public offices and state organs. • Fair Administrative Action, Act, 2015. The Act implements article 47 of the Constitution. Section 5(2)(a) of the Act further empowers the public to challenge any administrative action or decision in accordance with the procedure set out under the CAJ Act 2011. • Access to Information Act, 2016. This Act gives effect to Art. 35 of the Constitution on access to information. Section 17 (2) of the Act provides for the management of accurate and authentic records in a manner that facilitates access to information. • The County Governments Act, 2012. Section 87 enables affected persons to seek redress for grievances. Section 88(1) empowers citizens to petition County Governments on matters under their responsibility. Section 89 further requires the County Government to expeditiously respond to petitions from the Citizens. Section 96 obligates County Governments to comply with Art.35 of the Constitution and enact legislation to ensure access to information. Section 116 provides that the County Governments shall deliver services with effectiveness, transparency and accountability. Section 117 requires County Governments to adhere to standards and norms for public service delivery. • Public Service (Values and Principles) Act (2015) Section 9 & 13 provide for the establishment of mechanisms to address complaints and the processes involved in complaint handling in the public service. • Leadership & Integrity Act, 2012 gives effect to, and establishes procedures and mechanism for the effective administration of Chapter Six of the Constitution of Kenya on Leadership and Integrity. • Environmental Management & Co-ordination Act, Cap 387, Section 31 (1) provides for the establishment of the Public Complaints Committee that is mandated to investigate environmental related complaints • CAJ Regulations, 2013 provide for the internal process of complaints handling.

SOURCE	PROVISIONS
	• Kenya Public Sector Complaint Handling Guide, 2016 that guides on grievance handling procedures in the public sector. • National Government Performance Contracting Guidelines that embed a performance indicator under the service delivery Performance Criteria. • CAJ Reporting Framework on Resolution of Complaints and implementation of Service Charters under the Public Service Performance contracting in Kenya • CAJ Complaints Handling Guide, 2016. • CAJ Alternative Dispute Resolution Manual, 2016 • CAJ Complaints Handling Manual, 2021 • Investigations Manual revised in 2021 • ISO 10002:2018 Quality Management- Customer Satisfaction (Guidelines for Complaint Handling in organizations.

3.0 Policy Implementation

3.1 Complaints Handling System

3.1.1 Institutional Framework

The county complaints handling function will be domiciled at the office of the County Government Administrative Ombudsman, who will coordinate the function across the County Executive and the Assembly arms. The County Government Administrative Ombudsman shall exercise and perform his or her powers and functions in consultation with the Commission on Administrative Justice (Office of the Ombudsman), who shall have original and concurrent jurisdiction in handling complaints emanating or against the county government.

Complaints against the county government and its staff will be resolved using the following structures:

3.1.1.1 The Commission on Administrative Justice (National Ombudsman)

The Commission is established pursuant to Article 59(4) of the Constitution and the Commission on Administrative Justice Act, 2011. It has a dual mandate of promoting administrative justice, and overseeing and enforcing the implementation of the Access to Information Act, 2016.

Among other functions, the Commission is tasked with investigating any conduct in state affairs, or any act or omission in public administration by any State organ, State or public officer in National and County Governments that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice. The Commission also inquires into allegations of maladministration, delay, administrative, injustice, discourtesy, incompetence, misbehavior, inefficiency or ineptitude within the public service. The Commission therefore provides a platform for receiving and resolution of complaints in the 1st instance(original jurisdiction) or as a second point of review where the county governments' complaint system fails to resolve the complaint successfully .

3.1.1.2 The County Government Administrative Ombudsman (CGAO)

The County Government Administrative Ombudsman will be a county government officer at the level of Director or above, appointed by and responsible to the Governor. He or she will maintain the overall responsibility for resolution of all complaints lodged with the county government in the first instance. The CGAO shall resolve complaints through;

i. Resolution by self.
ii. The county complaints handling committee.
iii. Departmental frontline officers.

3.1.1.3 The County Complaints Handling Committee (CCHC)

This committee will be established to assist the CGO in resolution of complaints. It will be chaired by the CGAO and have a minimum membership of 10, drawn from the following county departments/ directorates/ offices:

i. County Government Ombudsman (Chair)
ii. County Assembly
iii. Department of Lands
iv. Department of Environment
v. Department of Health
vi. Department of Education
vii. Department of Public Works
viii. Finance Department
ix. Public Administration/ County Inspectorate Directorate
x. County Attorney's office
xi. Civic Education and Public Participation Directorate (Secretary)

The members of the committee will be nominated by their respective CECM's and appointed by the County Secretary. The CCHC will handle complaints that either cut across various departments, or are complex in nature determined by the CGAO.

For effective county-wide resolution of complaints, the CCHC can further be decentralized to the sub county, ward and village level.

complaint resolution mechanisms before approaching it unless the complaint handling process manifests maladministration or infringes on the right to access information.

3.1.3 Complaints handling stages

The complaints handling system should be located at the point of service delivery. There are six (6) key stages of a complaints handling system. These stages will guide complaints handling process at each tier of complaints handling.

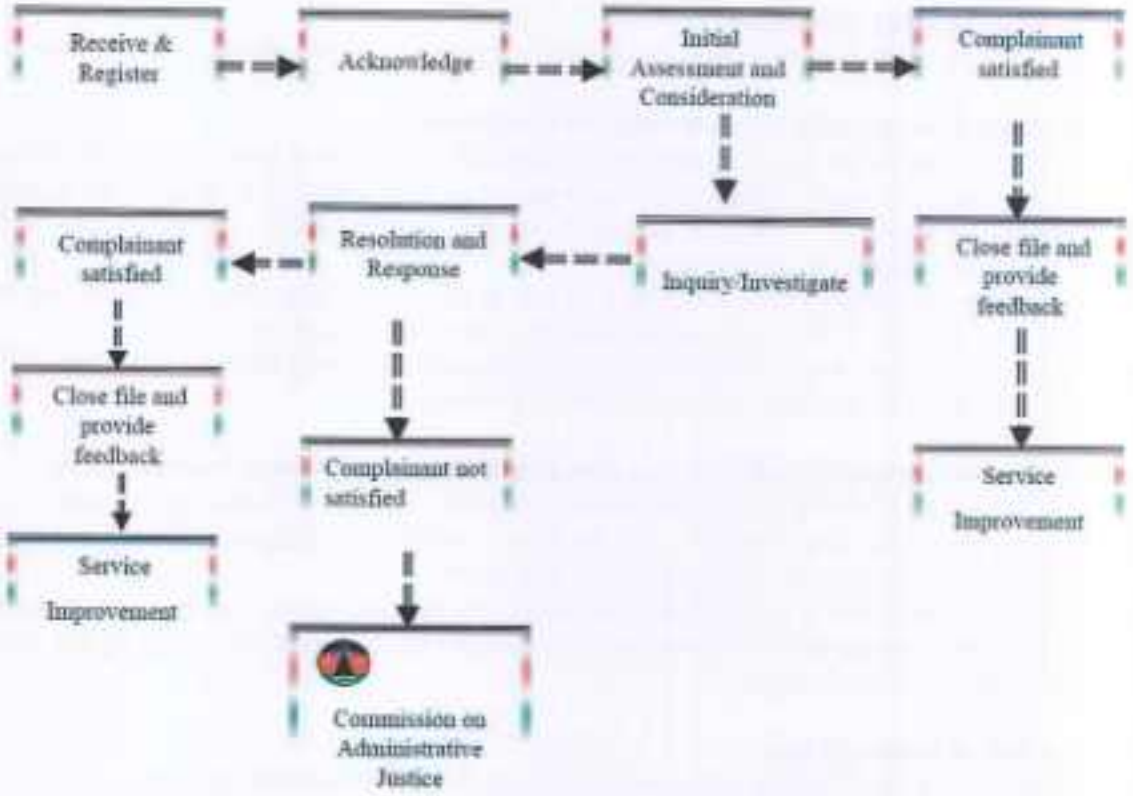


Figure 2. Complaints handling stages

Step 1: Receipt and Registration of complaints

This is the initial stage which involves recording of the complaint, the supporting information and assigning the complaint a unique identifier. The record of the complaint will document:

- Contact information of the person or group or organization making the complaint
- Issues raised by the complainant and their expectations
- Any other relevant information

The County Government shall maintain a register of all complaints received and continuously update the register on the remedial action taken.

The County Government shall adopt the necessary measures while dealing with complainants who request to maintain anonymity.

Step 2: Acknowledging complaints

- The County shall acknowledge receipt of the complaint in writing, within 48 hours.

Step 3: Initial assessment and consideration of complaints

- The complaint shall be assessed to confirm that it is within the mandate of the County Government. Where the complaint is not within the mandate of the County, the same shall be referred to the appropriate agency and the complainant notified subsequently.
- The officer processing the complaint may contact the complainant/aggrieved to verify the scope of the issues raised and the remedy expected.
- The complaint shall be referred to the appropriate County office to address the issues raised and a response issued within 14 days.

Step 4: Strategies for determination of the complaint [Inquiry, ADR and Investigation]

- An inquiry into the claims shall be made and the complaint resolved; and/or
- Explore the ADR mechanisms (Arbitration, Mediation, Adjudication, Med-Arb, Conciliation, Negotiation) to address complaints.
- Where a complaint is considered complex, an investigation may be conducted on the issue raised in the complaint. The investigation shall be conducted and concluded within 60 days.

Step 5: Resolution and response

- A written response will be prepared to the complainant within 30 days.
- The County Government shall refer dissatisfied complainants to the Commission on Administrative Justice.

Step 6: Service improvement

- Recommendations made in the management of complaints should be notified to the County Secretary/Clerk of the County Assembly for implementation.
- All complaints should be analyzed to identify the root causes of specific and/or systemic issues and corrective actions established.

3.2. Responsibilities of Key Actors in Complaints Handling

3.1.1.4 Departmental frontline officers

The county should aim to resolve all complaints, wherever possible, at the first point of contact or service delivery. County officers across the various county departments, offices and agencies will be designated as county complaints officers. The frontline officers will only consider complaints that are simple and easy to resolve.

3.1.2 Tiers of Complaints Handling

The chart below illustrates the tiers of complaints handling.

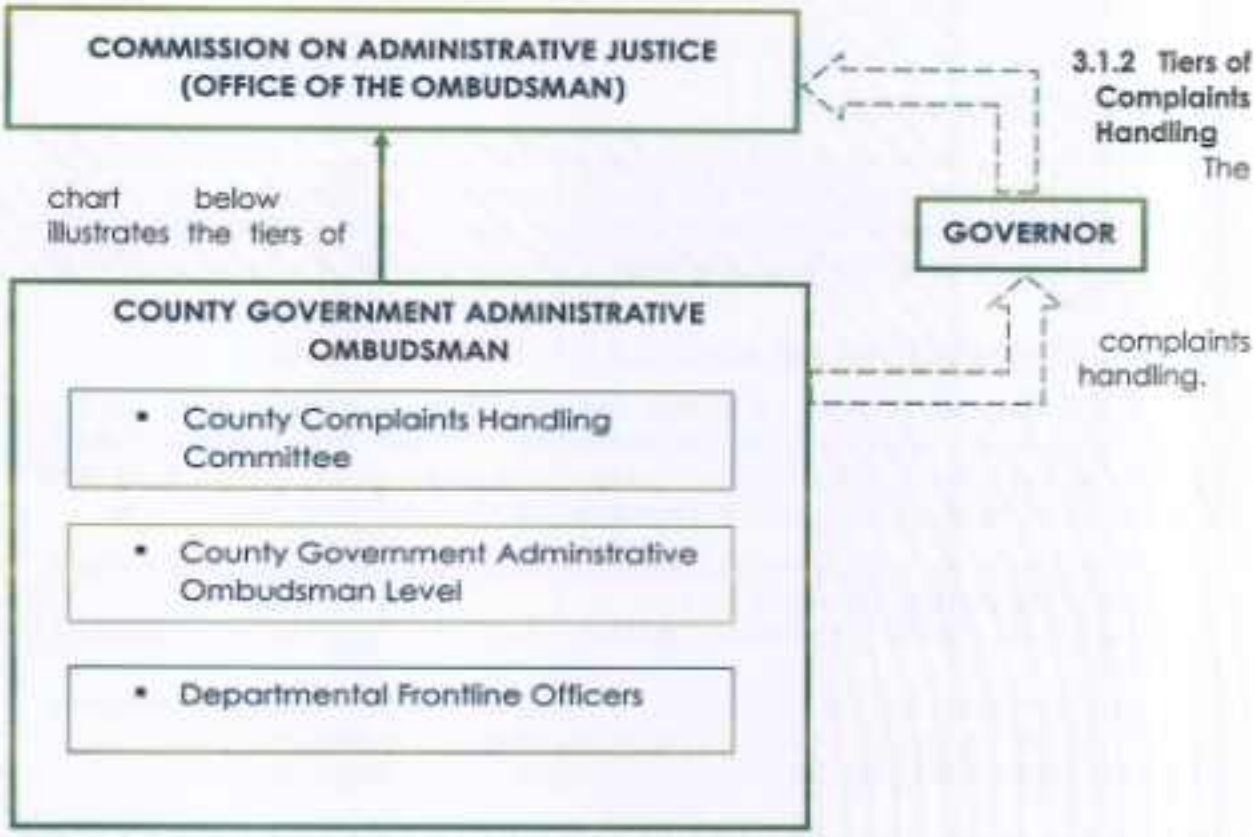


Figure1. Tiers of Complaints Handling

FIRST TIER: INTERNAL RESOLUTION LEVEL

As a devolved service delivery point, the County government should have responsive internal complaints handling structures.

Stage One: FRONTLINE LEVEL

This involves the front-line staff of County Departments and agencies authorized to resolve complaints at the first point of service or contact, on behalf of the County Government Administrative Ombudsman. The frontline officers will be adequately equipped to respond to complaints, including being given appropriate authority, training and supervision.

Stage Two : COUNTY GOVERNMENT ADMINSTRATIVE OMBUDSMAN LEVEL

Where it is either not possible to resolve the complaint at frontline level, or the complainant remains dissatisfied with the resolution provided, the complaint will be escalated to the County Administrative Government Ombudsman. At this level, the complaint will be resolved using any or a combination of the following mechanisms:

- An inquiry into the complaint and/or decision already made at the frontline stage;
- An investigation into the complaint.
- Alternative dispute resolution methods, including negotiation, mediation, conciliation.

The resolution process may be carried out by the County Government Administrative Ombudsman individually in his/her capacity as the officer responsible to receive, review and resolve complaints or through the County Complaint Handling Committee.

SECOND TIER: EXTERNAL RESOLUTION/ REVIEW LEVEL

In the event that the complaint cannot be resolved within the established county complaints handling structures, or the complainant remains dissatisfied with the resolution provided, he or she will be referred to the Commission on Administrative Justice(Office of the Ombudsman).

The Commission on Administrative Justice(Office of the Ombudsman)will also resolve complaints referred/escalated from the frontline level, or those lodged directly.

Complainants are at liberty to file complaints directly with the Commission at any particular point. The Commission on Administrative Justice(Office of the Ombudsman)though encourages complainants to engage and exhaust the internal

This table outlines the roles of key actors in complaints handling in County Governments:

	Who	Role	How
1.	Council of Governors	Promote a culture among County Governments that values complaints and their effective resolution	Provide adequate support to County Governments in complaints handling.
			Enhance knowledge management and knowledge sharing platforms on complaints handling among counties.
2.	Governor	Promote a culture within the County Government that values complaints and their effective resolution	Establish the Office of the County Government Administrative Ombudsman in consultation with the Commission on Administrative Justice.
			Ensure an effective complaints handling system is in place.
			Issue public statements/ reports on complaints handling.
			Provide adequate resources for the complaints handling system.
			Implement recommendations for service improvements resulting from analyzed complaints data.
3.	County Secretary/Clerk of the County Assembly	Establish and oversee the County Government complaints handling system	Provide adequate support and direction to County staff on complaints handling in line with the County Governments policies.
			Ensure development and implementation of County complaint handling policy.
			Ensure County-wide perspective in complaints handling and learning.
			Sensitize all County Government staff on complaints handling.
			Provide regular reports to the County Governor/Speaker on issues arising from complaints handling.
			Ensure recommendations arising out of complaints handling are discussed in the County Executive Committee/County Assembly Service Board and action taken.

			Implement a recognition and reward scheme for good complaints handling staff in the County Government.
			Ensure recruitment and training of County complaints handling staff.
			Ensure submission of Quarterly reports on complaints handling to the CAJ.
	County Government Administrative Ombudsman	Receive, review, resolve and report on complaints handling	Inquire, investigate and or implement alternative Dispute Resolution Methods.
			Resolve the complaints by self, or through the frontline officers or the county complaints handling committee.
			Liaise with the Commission on Administrative Justice(Office of the Ombudsman) national ombudsman office, where necessary, on mediation, systemic investigations, advisories to the county government and when training is required at the County level.
			Submit quarterly reports on complaints handling to the CAJ.
4.	County Complaints Handling Committee	Oversee the process of complaints handling in the County Executive and Assembly	Establish processes for recording and reporting of complaints.
			Coordinate resolution of complaints across the County Government departments.
			Conduct analysis of complaints handling data, identify trends and systemic issues.
			Report to the County Secretary/County Clerk on the complaints handling process and recommendations for improvement
			Maintain up to date and proper records on complaints.
5.	Complaints handling staff	Ensure complaints are effectively addressed in line with the County Government	Assist persons who want to make complaints, including reducing oral complaints into writing
			Adhere to the County Government complaints handling policies and procedures

		policies and procedures	Provide feedback to the County Complaints Handling Committee.
			Keep accurate and proper records on complaints handling
6.	All County Government Staff	Understand and uphold the County Government complaints handling processes and render County Government Services.	Assist complainants who may wish to make complaints
			Provide feedback on the complaints handling system
			Implement learnings arising from complaints and the analysis of complaints handling data
7.	Commission on Administrative Justice (National Ombudsman)	Enhance Administrative Justice and Access to Information within the County Governments.	Facilitate the setting up of, and build complaint handling capacity in, the sectors of public service, public offices and state organs.
			Receive quarterly reports.
			Submit a report annually to parliament and the President in accordance to Article 254(1) of the Constitution and Sec 53(1) of the Commission on administrative Justice Act and Sec 26(1) of the Access to Information Act.

3.3 Resourcing and Budgeting

The County Government shall allocate adequate resources to mainstream complaints management/grievance redress mechanisms.

3.4 Monitoring and Review

3.4.1 Analysis and evaluation of complaints

The County Government Administrative Ombudsman shall provide Quarterly complaints handling reports to the County Governor and County Speaker. The report will outline the complaints handling process in a given quarter and will include:

- Number of complaints received and the channel through which each complaint was received
- The issue (s) raised in each complaint
- Action taken on each complaint
- Number of complaints resolved
- The root causes of the complaints
- Corrective action taken to address systemic issues

The Quarterly reports will be analyzed bi-annually to identify trends in complaints data, to measure the quality of services and to make recommendations on improvement of services. The Quarterly reports shall be submitted to CAJ.

3.4.2 Monitoring of the Complaints Handling System

The Office of the County Government Administrative Ombudsman will review the complaints handling system annually to ensure its efficiency and to recommend corrective measures to address any systemic deficiencies identified.

3.4.3 Evaluation of the Complaints Handling System

The Commission on Administrative Justice shall periodically evaluate the complaints handling system on the standard ratings levels of efficient and quality public service. This may be done through spot checks, system audits, citizen satisfaction surveys, and system alerts.

4.0 Policy Review

The County Government Complaint Handling Policy shall be reviewed every three years or at such other time as may be recommended by the County Government. The review shall be carried out in consultation with the Commission on Administrative Justice(Office of the Ombudsman).

Appendices

Appendix A: Relevant Legislation, Policy, Guidelines and Reference Documents

International Instruments

Universal Declaration of Human Rights
UN Guiding Principles on Business and Human Rights
International Convention on Economic, Social and Cultural Rights
International Convention on Civil and Political Rights
Sustainable Development Goals

Regional Instruments

African Charter on values and Principles of Public Service and Administration
African Union Agenda 2063
African Charter on Human and People's Rights, Justice and Rule of Law

Constitution of Kenya, 2010

National Legislation

Commission on Administrative Justice Act, 2011
Fair Administrative Action Act, 2015
Access to Information, 2016
County Governments Act, 2012
Commission on Administrative Justice Regulations
Public Service (Values and Principles) Act, 2015
Leadership and Integrity Act, 2012
Environmental Management & Co-ordination Act, Cap 387

Relevant Guidelines

Commission on Administrative Justice Complaints Handling Guide
National Government Performance Contracting Guidelines
Kenya Public Sector Complaint Handling Guide

Reference Documents

CAJ Strategic Plan 2019-2023
CAJ Reporting Framework on Resolution of Public Complaints Indicator and Access to Information 2017/2018, 2018/2019 and 2019/2020
CAJ Complaint Handling Manual
CAJ Alternative Dispute Resolution Manual

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Wundanyi, Makueni and Meru

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