

OFFICE OF THE OMBUDSMAN(CAJ)-KENYA



Commission on Administrative Justice
(Office of the Ombudsman)
Hata Mnyonge Ana Haki

The Commission on Administrative Justice (CAJ), also known as the Office of the Ombudsman is an independent commission established by the Commission on Administrative Justice Act, 2011 pursuant to Article 59 (4) of the Constitution of Kenya.

The Commission on Administrative Justice Act also establishes the Office of the Ombudsman in Kenya.

The mandate of Office of the Ombudsman is two-fold, and extends to both national and county governments.

Firstly, the Commission has the mandate of tackling maladministration (improper administration) in the public sector. In this regard, the Commission is empowered to, among other things, investigate complaints of delay, abuse of power, unfair treatment, manifest injustice or discourtesy.

Secondly, the Commission has the mandate of overseeing and enforcing the implementation of the Access to Information Act, 2016.

The Commission is also a lead agency under the **Performance Contracting Framework in Kenya** whereby it oversees implementation of the '*Resolution of Public Complaints and Citizens' Service Delivery Charters* indicators. To this end, the Commission facilitates setting up of, and building complaint handling capacity in the public sector.

HISTORY THE COMMISSION ON ADMINISTRATIVE JUSTICE-OFFICE OF THE OMBUDSMAN

The Commission on Administrative Justice (CAJ) is a successor to the Kenya National Human Rights and Equality Commission (KNHREC) and the Public Complaints Standing Committee.

The first commissioners to be appointed assumed office in November 2011. They are Dr. Otiende Amollo (Chairperson), Dr. Regina G. Mwatha (Vice Chairperson) and Saadia Mohamed (Commissioner). Dr Amollo served for five years but retired early on December 31, 2016.

The establishment of the Office of the Ombudsman in Kenya can be traced back to 1971 when the Commission of Inquiry (Public Service Structure and Remuneration Commission), commonly known as the Ndegwa Commission, recommended that the office be established. This was primarily borne out of the need to address poor service delivery in the public sector occasioned by endemic institutional and systemic failures, and poor work ethic. In particular, service delivery in public institutions was characterized by undue delays, abuse of power, discourtesy, inefficiency, corruption, ineptitude, manifest injustice and misbehaviour among others. Although the intention was to improve service delivery by ensuring civil servants do not go against the law, the proposal was never implemented. The quality of service delivery in the public sector, therefore, continued to deteriorate thereby eroding public confidence and trust in public institutions and public servants.

Despite the foregoing, a number of national Policy Documents and Institutional Reports continued to provide for the need to establish the Office of the Ombudsman in Kenya. According to the various Annual Reports of the Kenya Anti-Corruption Commission (now Ethics and Anti-Corruption Commission), about 85 percent of the complaints received from the public were of administrative nature which could be effectively addressed by the Office of the Ombudsman. The Kenya Vision 2030 and the Economic Recovery Strategy also provided a basis for the establishment of such institution in Kenya to address poor governance in the public sector.

Consequently, the President established the Public Complaints Standing Committee (PCSC) in 2007 through Gazette Notice Number 5826 of June 2007 as a Department within the Ministry of Justice, National Cohesion and Constitutional Affairs. PCSC was mandated to enquire into allegations of misuse of office, corruption, and unethical conduct, breach of integrity, maladministration, delay, injustice, discourtesy, inattention, incompetence, misbehaviour, and inefficiency or ineptitude. It was also mandated to receive, register, sort, classify and document all complaints against public officers in Ministries, State Corporations, Statutory Bodies and other public institutions. However, this body lacked all the characteristics of the Office of Ombudsman due to the nature of its establishment and lack independence which affected its operations.

The quest for an independent Office of the Ombudsman was given impetus by the implementation of the Agenda Four of the Kenya National Dialogue and Reconciliation through the adoption of a New Constitution in August 2010 in which administrative matters are given prominence under Chapter Four. This culminated in the establishment of the Commission on Administrative Justice in September 2011 through the enactment of the Commission on Administrative Justice Act, 2011 in the restructuring of the Kenya National Human Rights and Equality Commission under Article 59(4) of the Constitution.

ROLE AND FUNCTIONS OF THE OFFICE OF THE OMBUDSMAN KENYA

The Commission draws its mandate from the Constitution, the Commission on Administrative Justice Act and Regulations among others. The mandate of the Commission – summarised below -extends to both national and county governments

1. Maladministration

Maladministration is the proper province of any Ombudsman. In the Kenyan context, it includes service failure, delay, inaction, inefficiency, ineptitude, discourtesy and unresponsiveness.

2. Administrative Injustices

The Commission is mandated to inquire into allegations of administrative injustice, which includes an act, or decision carried out in the Public Service or a failure to act when necessary. The constitutional requirement of fair administrative action includes expeditious, efficient, procedurally fair action, and an entitlement to written reasons for such action. The Commission steps in to ensure compliance by public officers.

3. Misconduct and Integrity Issues

The Commission investigates improper conduct, abuse of power and misbehavior in the public service. Thus, the Commission has a complimentary mandate to ensure compliance with the integrity requirements in the law by public Officers.

4. Advisory Opinions and Recommendations

The Commission provides advisory opinions or proposals on improvement of public administration and makes recommendations on legal, policy or administrative measures to address the specific concerns. This may be published or confidential, and covers offices and processes in National and County governments.

5. Capacity Development in Government

The Commission develops capacity of National and County government officials in Ministries, Institutions and Departments on effective methods of handling complaints in- house. Additionally, the Commission assists county and national governments, and independent state institutions to set up complaints handling facilities.

6. Performance Contracting

Resolution of public complaints is an indicator in performance contracting. Public institutions submit quarterly reports detailing complaints received and action taken. The Commission rates

institutions and issues certificates on compliance, which inform the overall national rating of the institution.

7. Alternative Dispute Resolution

The Commission works with different public institutions to promote alternative dispute resolution through alternative dispute resolution on matters affecting public administration.

8. Promotion of Special Rights

Apart from the complimentary duty to secure protection and promotion of human rights and freedoms in public administration, the Commission serves to promote compliance of minority and marginalised group rights in the context of public administration.

9. Promotion of Constitutionalism

The Commission serves to protect the sovereignty of the people of Kenya by ensuring all state organs observe the principles of democracy, constitutional values and respect the supremacy of the Constitution.

10. Access to Information (ATI)

The Access to Information Act 2016 gives effect to the right of access to information under Article 35 of the Constitution. The Act came into force on 21st September 2016 and it obligates public entities and certain private bodies to facilitate access to information held by them.

The Act confers oversight and enforcement functions on the Commission.

HOW TO COMPLAIN TO THE OMBUDSMAN KENYA

a) Complaints can be made through the following means:

- 1: Visiting any of the Commission's offices (Nairobi, Mombasa, Kisumu, Isiolo, and Eldoret) in person;
- 2: Calling toll free number, 0800221349 or 020 2270000;
- 3: Texting short code number, 15700 (Safaricom Subscribers);
- 4: Writing a letter through P. O. Box 20414, 00200, Nairobi;
- 5: Writing an email to complain@ombudsman.go.ke;
- 6: Visiting any of the following Huduma Centres: Kakamega, Bungoma, Nyeri, Embu, Kajiado, Nakuru, Kisii, Mombasa, Kisumu and Nairobi (Teleposta Towers), See more here
- 7: Filling an online complaint form on their website .

b) What is the cost of Ombudsman's services?

All the services offered by the Ombudsman are free of charge.

ISSUES PEOPLE COMPLAIN ABOUT TO THE OFFICE OF THE OMBUDSMAN

Whom can you complain about to the office of the Ombudsman?

You can complain about a **public office or public officer-**

- from which or whom you sought services that were not rendered or that were delayed, or
- the officer was unprofessional, rude or disrespectful to you or other members of the public.

The issues you can complain about include the following:

- Inaction against the police.
- Unfair dismissal from work.
- Delays in receiving national IDs or passports.
- Delays in receiving pensions.
- Abuse of office by public officers and state officers.
- Cases of unresponsiveness and delays, e.g. against the Ministry of Lands on issuing title deeds.
- Irregular allocation of land to private developers.
- Illegal transfer of land ownership without the consent of the owner.

What should result from a complaint?

When you complain, a wrong should be righted and administrative justice should be delivered. Complaints ensures that service delivery in public offices is timely, efficient and effective.

For more about the office of the Ombudsman, visit their website at the **ombudsman.go.ke**.

CURRENT MEMBERSHIP

The current membership of the Commission on Administrative Justice is as follows:

- Florence Kajuju (Chairperson)
- Washington Opiyo Sati and
- Lucy Ndungu

Contacts of Commission on Administrative Justice (Kenya)

Head Office:

2nd Floor, West End Towers

Opposite Aga Khan High School off Waiyaki Way – Westlands

P.O. Box 20414 – 00200

NAIROBI.

Tel: +254-20-2270000/2303000/2603765/2409574/0777 125818 / 0800221349 (Toll free)

Email : info@ombudsman.go.ke

THE COMMISSION ON ADMINISTRATIVE JUSTICE (OMBUDSMAN)

SLOGAN

Hata Mnyonge ana Haki

VISION

A society that upholds administrative justice and access to information.

MISSION

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

CORE VALUES

- Responsiveness
- Independence
- Fairness
- Transparency
- Integrity

FUNCTIONS

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

- i) Investigate any conduct in state affairs, or any act or omission in public administration by any State organ, State or public officer in National and County Governments that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice;
- ii) Investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector;
- iii) Report to the National Assembly bi-annually on the complaints investigated under paragraphs (a) and (b), and the remedial action taken thereon;

- iv) Inquire into allegations of maladministration, delay, administrative injustice, discourtesy, incompetence, misbehaviour, inefficiency or ineptitude within the public service;
- v) Facilitate the setting up of, and build complaint handling capacity in the sector of public service, public offices and state organs;
- vi) Work with different public institutions to promote alternative dispute resolution methods in the resolution of complaints relating to public administration;
- vii) Recommend compensation or other appropriate remedies against persons or bodies to which this Act applies;
- viii) Provide advisory opinions or proposals on improvement of public administration, including review of legislation, codes of conduct, processes and procedures; and
- ix) Promote public awareness of policies and administrative procedures on matters relating to administrative justice.

In addition, the Commission has the following functions under Access to Information Act; i) to investigate violations of the provisions of the Act;

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

ROLE OF THE COMMISSION IN PERFORMANCE CONTRACTING

The Commission is a lead agency under the **Performance Contracting Framework in Kenya** whereby it oversees implementation of the '*Resolution of Public Complaints and Citizens*'

Service Delivery Charters indicators. To this end, the Commission facilitates setting up of, and building complaint handling capacity in the public sector.

The Commission also provides reporting framework on Resolution of Public Complaints Indicator under Performance Contracting in Kenya every financial year.

This Framework is meant to guide public institutions in compliance with the Commission's obligation under performance contracting and it applies to all public institutions at both national and county governments.

CAJ has guide lines on the implementation of the indicator which are reviewed on annual basis. The guidelines require public institution to resolve all complaints received in accordance to their service charters and report the same to the commission within the time lines provided in the performance contracting framework. Further public institutions are required to:

- a) Establish complaint handling and management infrastructure
- b) Develop internal complaints handling procedures
- c) Develop and implement a Citizen's Service Delivery Charter
- d) Maintain a complaint register
- e) Create awareness on complaint handling system., access to information and Citizen's Service Delivery Charter and
- f) Build capacity for complaint handling officers and staff.

Monitoring, Evaluation and Reporting

The commission monitors the implementation of the indicator based on quarterly submissions in line with the provisions spelt out in the guidelines. Public agencies are assessed at the end of every financial year to establish compliance and certificates issued. Public institutions are also required to submit the status report on the implementation of CAJ recommendations (if any).

ESTABLISHMENT AND ROLE OF OMBUDSMAN OFFICE IN KNP

The ombudsman office in KNP was established in the year 2010 to conform with the CAJ requirement that all government institutions have a public complaint handling mechanism to carry out its mandate. The office receives and considers complaints as per our policy in line with the following principles

- Openness and Transparency
- Integrity
- Neutrality and impartiality
- Confidentiality
- informality

Who can lodge a complaint with us?

Any individual dissatisfied with our service any service point can lodge a complaint on her /his own behalf or on behalf of another person. The individual can be from within KNP or any other stakeholder.

How can a person lodge a complaint?

1. Personal Visit: Visiting public complaint office in person located near main gate at **customer care centre;**

2: Calling mobile number, **0726512638;**

3: Texting to the above mobile number;

4: Writing a letter through **P. O. Box 222, 40200, Kisii;**

5: Writing an email to *publiccomplaints@kisiipoly.ac.ke;*

7: Filling an online complaint form on our website

What information should a complainant give while lodging a complaint?

1. His /Her particulars: Full names, ID. No., and contact
2. Details of public office/officer complained against
3. A clear factual and conscience brief of the complaint issue.
4. Availing any supporting document required
5. The remedy being sought

What should a complainant expect from ombudsman office?

- High degree of confidentiality
- Prompt resolution of complaint and feedback as per our service charter and policy

COMPLAINT FORM

DATE.....

COMPLAINANT'S PARTICULARS

NAME.....

ID. No.....

MOBILE NO.....

ADRESS.....

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COMPLAINT ISSUE

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For official use only

Received by..... Reviewed by.....

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Action taken

