

THE COMMISSION ON ADMINISTRATIVE JUSTICE ANNUAL REPORT FY 2022/23

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Prepared and issued in accordance with Article 254(1) of the Constitution and Section 53(1) of the Commission on Administrative Justice Act No 23 of 2011 and Section 26(1) of the Access to information Act No. 31 of 2016.

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

Responsive, Independence, Fairness,
Transparency, Integrity

THE COMMISSION ON ADMINISTRATIVE JUSTICE

“Office of the Ombudsman”



**NATIONAL ASSEMBLY
PAPERS LAID**

DATE: *Hata Mnyonge ana 26 SEP 2024*

DAY: *Thursday*

TABLED BY: *Hono Owen Baya, MP
Deputy Leader of Opposition*

CLERK-AT-THE-TABLE: *A. Shituko*

ANNUAL REPORT FOR FY 2022/23

Prepared and issued in accordance with Article 254(1) of the Constitution and Section 53(1) of the Commission on Administrative Justice Act No 23 of 2011 and Section 26(1) of the Access to information Act No. 31 of 2016.

ABBREVIATIONS and ACRONYMS

AGPO	Access to Government Procurement
AOMA	African Ombudsman and Mediators Association
AORC	African Ombudsman Research Centre
ATI	Access to Information
CAJ	Commission on Administrative Justice
CSOs	Civil Society Organizations
CCIO	Constitutional Commissions and Independent Offices
CMIS	Complaint Management Information System
FES	Friedrich-Ebert-Stiftung Kenya
GIZ	German Agency for International Cooperation
IAO	Information Access Officers
ICIC	International Conference for Information Commission
ICOAF	International Conference of Ombuds Institution for the Armed Forces
ICT	
IDLO	Information, Communication and Technology International Development Law Organization
IDUATI	International Day for Universal Access to Information
IOI	International Ombudsman Institute
KDPS	Kenya Devolution Support Programme
KNADS	Kenya National Archives and Documentation Services
MCK	Media Council of Kenya
MDAs	Ministries, Departments, and Agencies
MDACs	Ministries, Departments, Agencies and Counties

NCAJ	National Council of the Administrative Justice
NGAAF	National Government Affirmative Action Fund
NG-CDF	National Government Constituency Development Fund
OAG	Office of the Attorney General
ODPP	Office of the Director of Public Prosecution
SDGs	Sustainable Development Goals
SCAC	State Corporations Advisory Committee
UNESCO	United Nations Educational, Scientific and Cultural Organization
WCPS	Widows and Children Pension Scheme
Wee	Women Economic Empowerment

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STATEMENT OF THE CHAIRPERSON

It is with great pleasure that I present the twelfth Annual Report of the Commission on Administrative Justice (CAJ). This report, prepared in accordance with Article 254(1) of the Constitution, Section 53(1) of the Commission on Administrative Justice Act No 23 of 2011, and Section 26(1) of the Access to Information Act No. 31 of 2016, fulfills our mandate to submit a comprehensive account of our activities and achievements to both Parliament and the President.

The past year has been a period of significant progress and impactful actions for the Commission. We have focused on enhancing administrative justice and promoting good governance, transparency, and accountability in public service. Two of the key highlights for the Commission this year were the 4th Huduma Ombudsman Award, held on 25th November 2023, where public officers and institutions excelling in public service delivery were honored, and the launch of the Report on the Status of Administrative Justice and Access to Information for the period 2012 to 2023.

During the period under review, the Commission handled a total of 6,823 complaints, of which 4,458 were resolved, marking a resolution rate of 65.3%. This notable achievement underscores our commitment to addressing the grievances of citizens and improving the quality of public service delivery. Moreover, the Commission issued advisories on critical emerging issues impacting democratic values and governance, conducted systematic investigations to address service delivery challenges, and processed 228 applications for review under the Access to Information Act.

Our efforts to strengthen complaints management in the public sector included training, monitoring service delivery standards, and providing technical support to various government agencies. We also placed a strong emphasis on public education and outreach to enhance awareness for our services. Strategic partnerships, both local and international, have been instrumental in promoting good governance

and facilitating cross-learning opportunities.

Despite facing several challenges, such as financial constraints, delayed budgetary allocations, low public awareness, and an insufficient legal framework, the Commission has made significant strides. We have worked tirelessly to overcome these obstacles through resource mobilization, digitization, capacity building, and the decentralization of Ombudsman services amongst others.

As we reflect on our accomplishments and challenges, we remain steadfast in our mission to uphold the principles of administrative justice and access to information. I extend my gratitude to the Commissioners and staff, for their unwavering dedication to promoting administrative justice and ensuring access to information for all Kenyans. Together, we will continue to advance our mandate and contribute to the realization of a just and accountable public service in Kenya.



HON. FLORENCE KAJUJU, MBS

CHAIRPERSON OF THE COMMISSION

FOREWORD

I am glad to present this annual report covering the period 1st July 2022 to 30th June 2023. The annual report is prepared in accordance with Article 254(1) of the Constitution of Kenya, Section 53(1) of the Commission on Administrative Justice Act, No. 23 of 2011 and Section 26(1) of the Access to Information Act, No. 31 of 2016. This is the 12th annual report of the Commission and it gives an account of the milestones, challenges and experiences in the implementation of the Commission's dual mandate.

Kenya's public service delivery landscape continued to improve in the period under review as a result of concerted efforts of the Commission and its stakeholders, including the government and development partners. This was demonstrated through the progress made under each of the Commission's four guiding strategic themes: resolution of public complaints, where the year on year complaints handled decreased as a result of improved MDA's capacity to resolve complaints; oversight and enforcement of access to information, where more applications for review were handled; public education, awareness and visibility through scaling up of outreach and awareness creation initiatives and institutional strengthening and capacity building through recruitment of additional human resource and formation of new external partnerships, linkages and networks.

Despite the above successes however, a number of challenges were also experienced. Notably, financial constraints, insufficient legal framework and public sector unresponsiveness hampered full achievement of the planned annual targets of activities and programs of the Commission. Their impact was however mitigated through innovative strategies, including forging partnerships and collaborations with donors and harnessing goodwill with our stakeholders.

I am happy to report that through the leadership of the Chairperson and the Commissioners and guided by the established corporate governance instruments, the Commission ensured accountability and transparency in the operations of the Secretariat in line with the tenets of good governance and financial stewardship. I wish to express my sincere gratitude to the Commissioners and the entire staff complement for their dedication, commitment and contribution towards fulfilling the Commission's mandates.



Mercy K. Wambua, OGW

COMMISSION SECRETARY / CEO

EXECUTIVE SUMMARY

This is the twelfth Annual Report of the Commission on Administrative Justice. The report is prepared according to Article 254(1) of the Constitution and Section 53(1) of the Commission on Administrative Justice Act No 23 of 2011 and Section 26(1) of the Access to information Act No. 31 of 2016 which obligates the Commission to prepare and submit an Annual Report to Parliament and President.

The report highlights among others: description of the activities undertaken by the Commission, recommendations on legal and administrative measures to address specific concerns identified and the audited financial statements. The Report is structured into eight chapters with each chapter addressing a specific thematic area. Chapter one gives background information on establishment and mandate, vision, mission and core values. The content of the subsequent chapters is highlighted below.

Promotion of Administrative Justice in the Public Sector through Resolution of Public Complaints (Chapter Two)

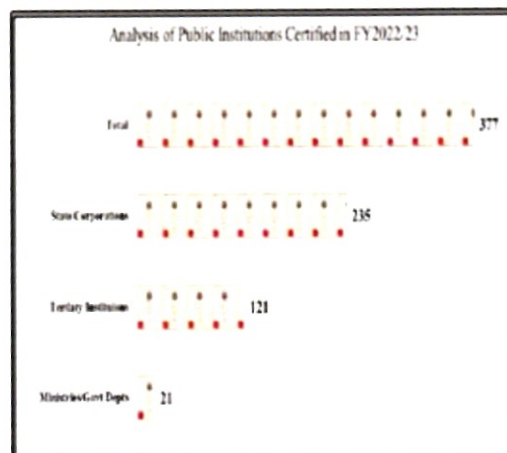
This chapter highlights the activities the Commission undertook in redressing maladministration in public sector.

During the period under review, **6,823** complaints were handled by the Commission. **4,458** complaints were resolved - representing a resolution rate of **65.3%**

The Commission also issued three advisories on key emerging issues that affected democratic values and principles of governance in public service. Equally, it conducted four specific investigations on issues affecting service delivery. Advisories and investigations provide an important avenue for the Commission to recommend preventive measures and remedial action to government agencies.

Strengthening Complaints Management in the Public Sector (Chapter Three)

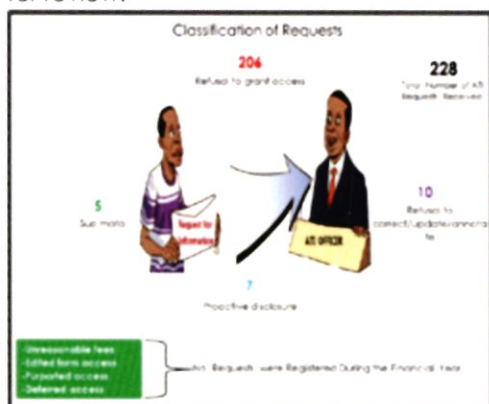
The Commission facilitates the setting up of, and strengthening of the complaint-handling infrastructure in the public sector. This is realised through training, monitoring of service delivery standard, provision of technical support and certification of MDAs in line with Performance Contracting requirements.



Access to Information (Chapter Four)

The Commission is the oversight and enforcement agency of the right to access information held by public authorities as provided for under the Access to Information Act.

During the period under review the Commission processed 228 applications for review.



Partnerships and linkages (Chapter Six)

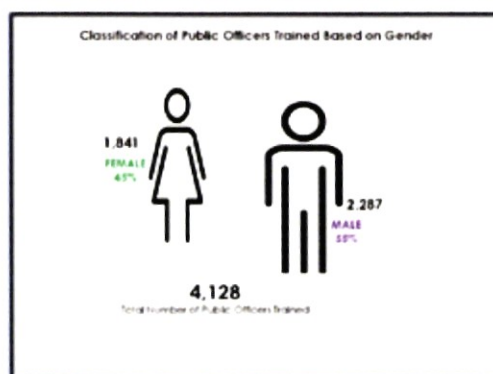
Partnerships and linkages provide the Commission with the necessary networks and opportunities for cross-learning and other associated benefits.

During the period under review, the Commission, enhanced its efforts in the promotion of good governance through strategic local and international partnerships and linkages. This entailed cooperation with other Ombudsman institutions, joint initiatives with players in the administration of justice and engagement with development partners.

Public Education and Outreach (Chapter Five)

Public education and awareness is a key focus area for the Commission towards promoting visibility and creation of demand for services.

During the reporting period the Commission enhanced public education, awareness creations and training activities to promote on administrative justice and access to information.



Governance, Human Resource Management and Finance (Chapter Seven)

This chapter covers governance, human resource management, financial management, ICT and general administration. During the period under review, The Commission strengthened its capacity to deliver on its mandate by sponsoring various staff members for various professional development courses and training programmes, decentralised Ombudsman Services and embraced information, communication technology (ICT), to improve on its operations.

Challenges (Chapter Eight)

The Commission faced a number of challenges in the period under review, which hindered achievement of some of the targets. These included but not limited to

- Financial Constraints attributed to Low budgetary ceilings and austerity measures implemented during the financial year that reduced the budgetary allocation.
- Delayed in disbursement of the quarterly budgetary allocations
- Low levels of public awareness of the Commission's mandate among citizens
- Insufficient legal framework
- The culture of secrecy, unresponsiveness and impunity in the public sector
- Manual records management systems in the public sector which curtailed quick retrieval and access to information.

Priorities Moving Forward

- End term review of the strategic plan (2019-2023).
- Development of the Commissions strategic plan (2024-2029).
- Strengthening policy, legal and regulatory framework.
- Deepen digitization and automation of systems and processes.
- Enhancement of resource mobilization and partnerships.
- Intensify capacity building and collaboration with MDACs to advance CAJ mandate.
- Intensify outreach, public education and awareness creation initiatives.
- Decentralization of Ombudsman services to enhance accessibility.
- Enhance complaints resolution rate from 65% to 80%.

CHAPTER ONE

1.0. ESTABLISHMENT AND MANDATE

1.1. Introduction

The Commission on Administrative Justice (CAJ) is established under Article 59(4), Chapter 15 of the Constitution and the Commission on Administrative Justice Act, 2011. The need for good governance was the impetus for establishment of the Commission, as envisaged in Kenya's vision 2030.

1.2. Mandate

The Commission derives its mandate from the Constitution, the Commission on Administrative Justice Act (CAJ Act) 2011 and the Access to Information (ATI) Act 2016. The constitutive Act mandates the Commission to deal with maladministration and redress grievances by citizens against public officers and institutions in National and County Governments. Further, the Fair Administrative Action Act 2015 empowers the Commission to review administrative action or decision affecting the public. The Commission is also mandated to enforce and oversee implementation of the right to Access information as guaranteed under Article 35 of the Constitution.

1.3. Composition

The Commission is composed of the Chairperson and two Commissioners as follows: -

- I. Hon. Florence Kajuju, MBS – Chairperson
- II. Mr. Washington Opiyo Sati, MBS – Vice Chairperson
- III. Mrs. Lucy Ndungu, EBS – Commissioner in charge of Access to Information

The Commission executes its mandate through a Secretariat headed by Ms. Mercy Kalondu Wambua, OGW, who is the Commission Secretary/ CEO.

COMMISSIONERS



Hon. Florence Kajuju, MBS

Chairperson



Mr. Washington O. Sati, MBS

Vice Chairperson



Mrs. Lucy Ndung'u, EBS, HSC

Access to Information Commissioner -
Designate

SENIOR MANAGEMENT



Daniel Karomo
Director, Corporate Services



Ms Mercy K. Wambua, OGW
Commission Secretary/CEO



Osman Mohamed
*Director, Public Education Advocacy
and Corporate Communication*



Geoffrey Obonyo
*Director, Strategy, Research
and Compliance*

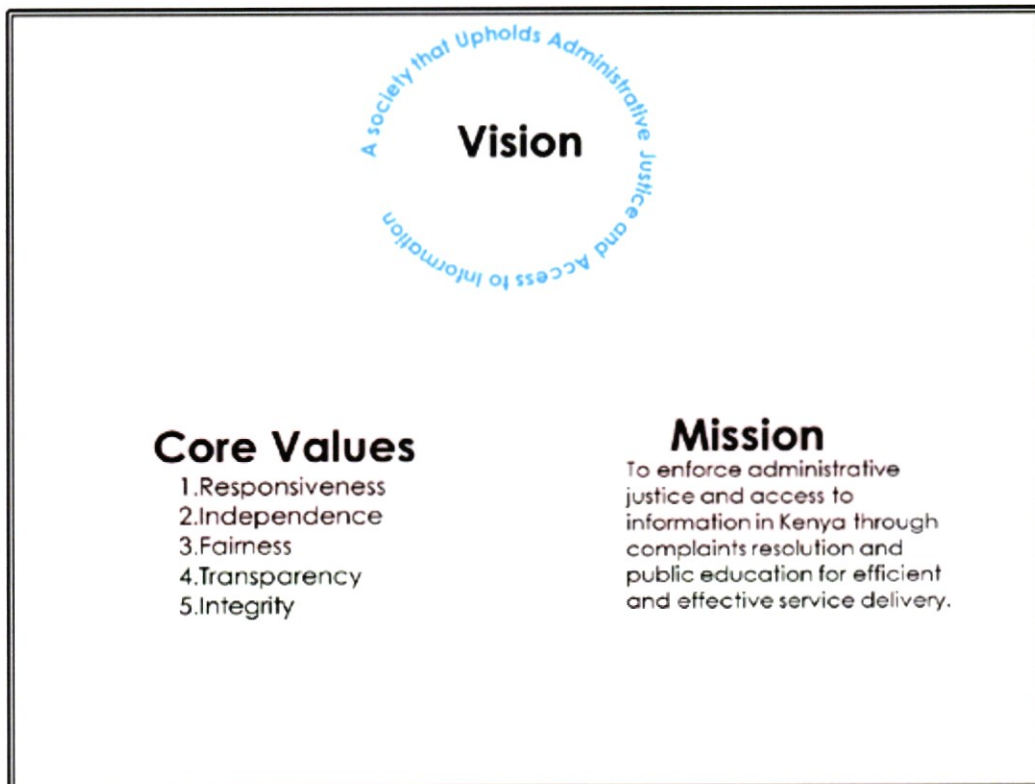


Viola Ochola
Director, Access to Information



Florence Mumbi
*Director, Complaints, Investigations
and Legal Services*

Vision, Mission and Core Values



1.4. Functions

The functions of the Commission are as follows: -

A. Section 8 of CAJ Act

- 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;
 - 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.

B. Section 21 of the ATI Act

- I. investigate violations of the provisions in the ATI Act;
- II. receive reports from public entities with respect to implementation of the Act and evaluating the use and disclosure of information;
- III. facilitate public awareness and develop programmes on the right to access information and the right to protection of personal data;
- IV. promote right of access to information in public entities;
- V. monitor state compliance with international obligations related to the right to access information and protection of personal data;
- VI. hear and determine complaints and review decisions arising from violations of the right to access information; and
- VII. perform such other functions as the commission may consider necessary for the promotion of access to information and promotion of data protection.

1.5. Powers

Pursuant to sections 26, 27 and 28 of the CAJ Act read together with the CAJ Regulations and sections 23 and 24 of ATI Act, the Commission has powers to:

- I. issue summons;
- II. require that statements be given under oath;
- III. compel production of documents;
- IV. conduct searches and seizures of documents with court orders;
- V. interview any person;
- VI. require the discovery and production of any information from any person;
- VII. adjudicate on matters relating to administrative justice and access to information;
- VIII. requisition any public record or copy thereof from any public officer.
- IX. order release of any information withheld unlawfully; and
- X. recommend for the payment of compensation.

Section 31 of the CAJ Act empowers the Commission to investigate an administrative action despite a provision in any written law to the effect that the action is final or cannot be appealed, challenged, reviewed, questioned or called in question.

1.6. Execution of the Mandate

The Commission executes its mandate through: -

- I. resolution of complaints by way of inquiries, investigations, and application of alternative dispute resolution mechanisms;
- II. public education, advocacy and awareness creation;
- III. capacity building of public officers and institutions on complaints management and promotion of access to information;
- IV. issuance of advisory opinions on matters affecting public administration;
- V. undertaking public interest litigation;
- VI. reviewing and determining Access to Information applications made to public and certain private institutions; and
- VII. promotion of public service delivery standards.

1.7. Key Result Areas



CHAPTER TWO

2.0 PROMOTION OF ADMINISTRATIVE JUSTICE IN THE PUBLIC SECTOR

This chapter highlights the performance of the Commission in redressing maladministration in the public sector. Maladministration is a hindrance to efficient public service delivery and manifests itself in various ways including unfair treatment, unresponsive official conduct, delay, discourtesy, misconduct, incompetence, improper conduct, and abuse of power among others.

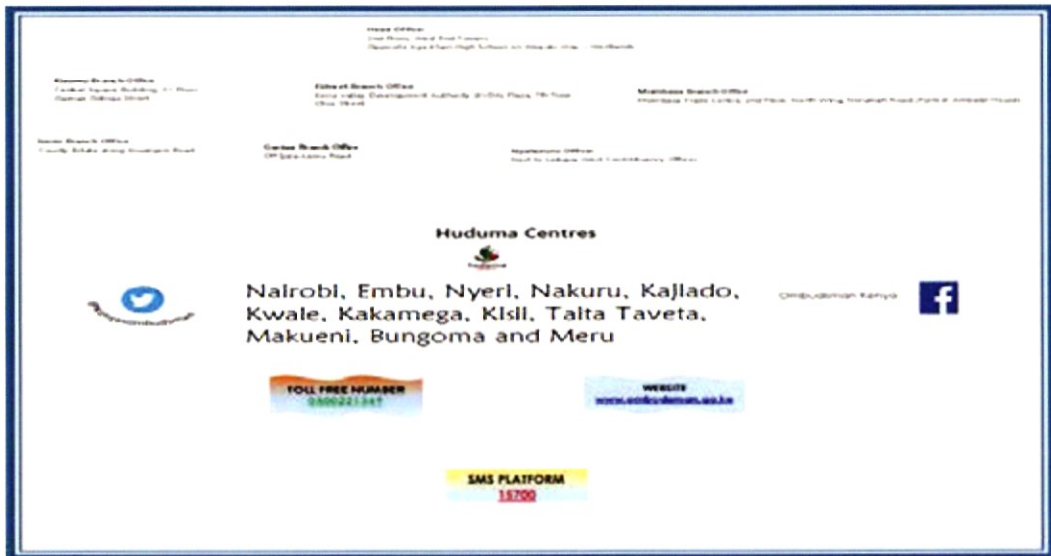
11.1. Complaints Management

This section details the complaints handling processes established at the Commission.

11.1.1. Lodging a Complaint

The Commission receives complaints against public institutions and officers on various administrative injustices. Such complaints may be lodged by an aggrieved person or by a person acting on their behalf. Complaints may also be instituted anonymously, and the Commission may take up a matter on its own initiative. Figure 1 presents various channels and service points of lodging complaints.

Figure 1: Channels and service points of lodging complaints



11.1.2. Complaints Handled

The Commission handled a total of 6,823 complaints during the reporting period. Out of which, 4,458 complaints were resolved - representing a resolution rate of 65.3% as presented in figure 2.

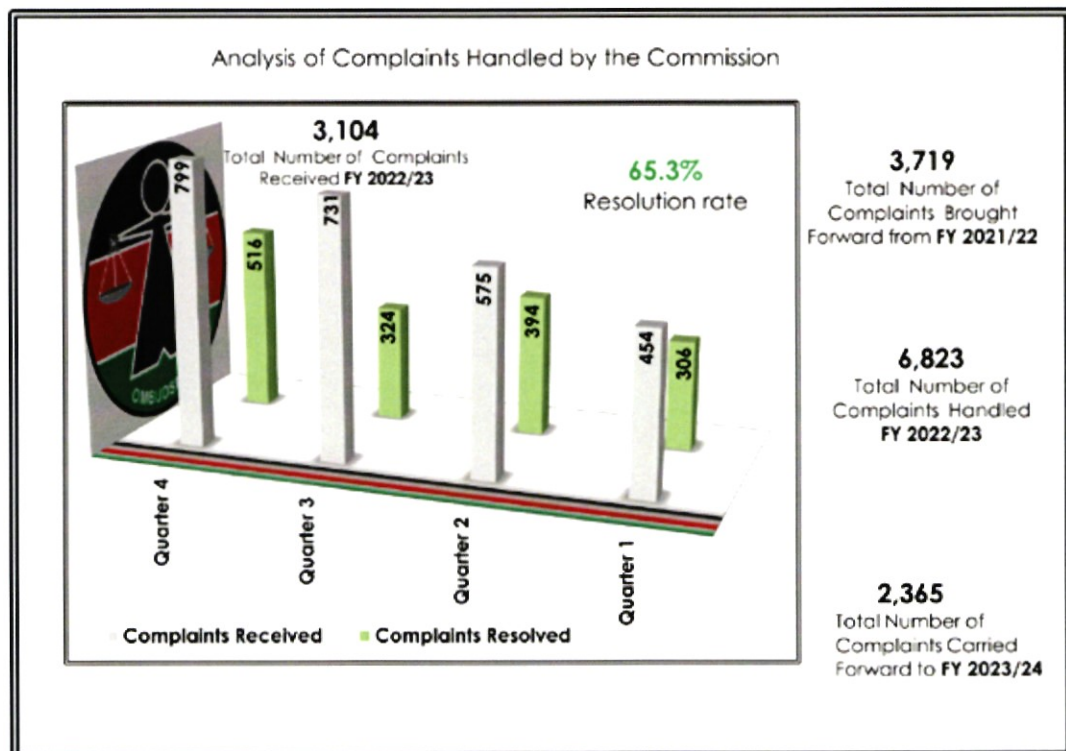
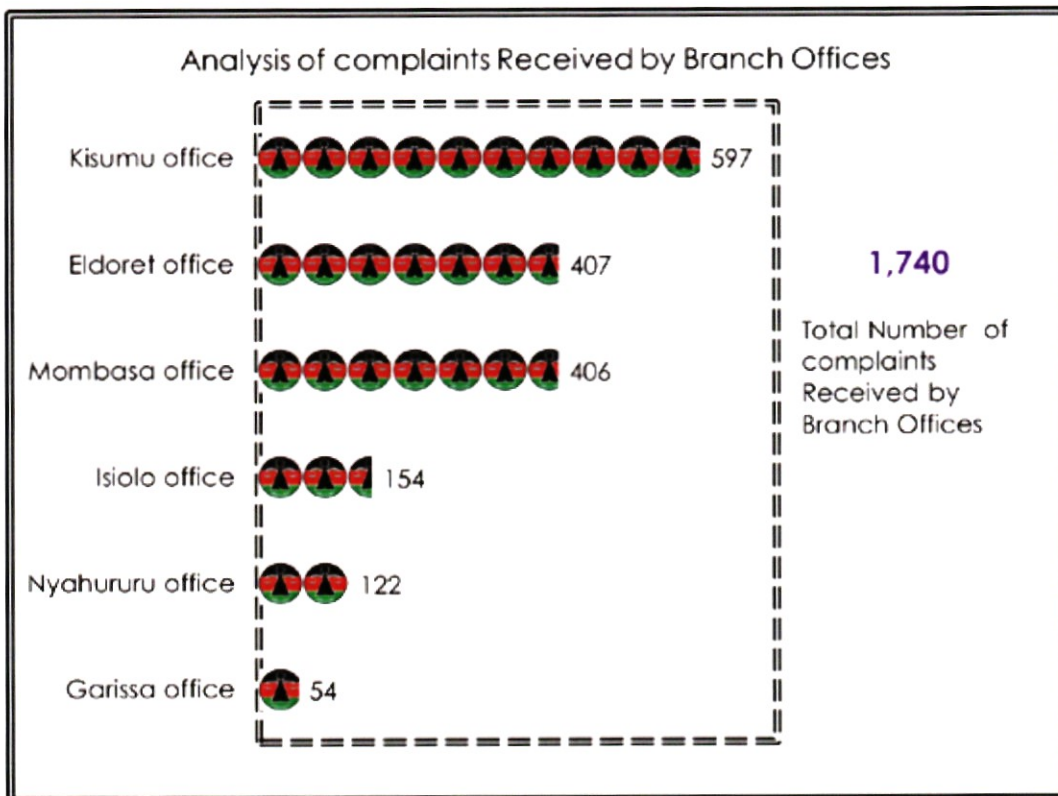


Figure 2: Complaints Handled by the Commission

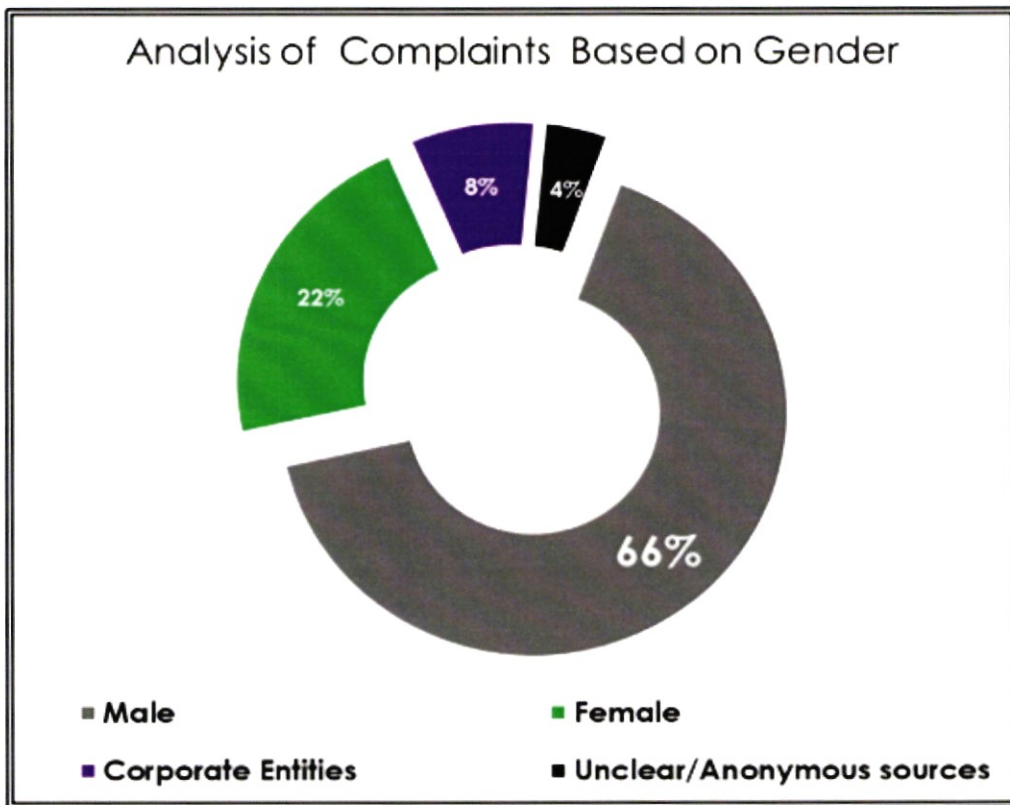
A total of 1,740 complaints were received at the Commissions branch offices. Kisumu office recorded the highest number of complaints at 34% followed by Eldoret and Mombasa at 23% as illustrated in figure 3.

Figure 3 : Complaints Received by Branch Offices



The number of male complainants were more than that of the female complainants. Male complainants represented 66% while female complainants were 22%. The number of complaints received from corporate entities were at 8% while 4% of the complaints were either from unclear or anonymous sources. This is illustrated in figure 4.

Figure 4: Complaints Based on Gender



Complaints received were categorized per service issues. Delay was recorded as the leading service issues at 28.4% followed by unresponsive official conduct at 18.7%. Figure 5 presents the service issues handled by the Commission during the reporting period.

Figure: Service Issues Handled 5

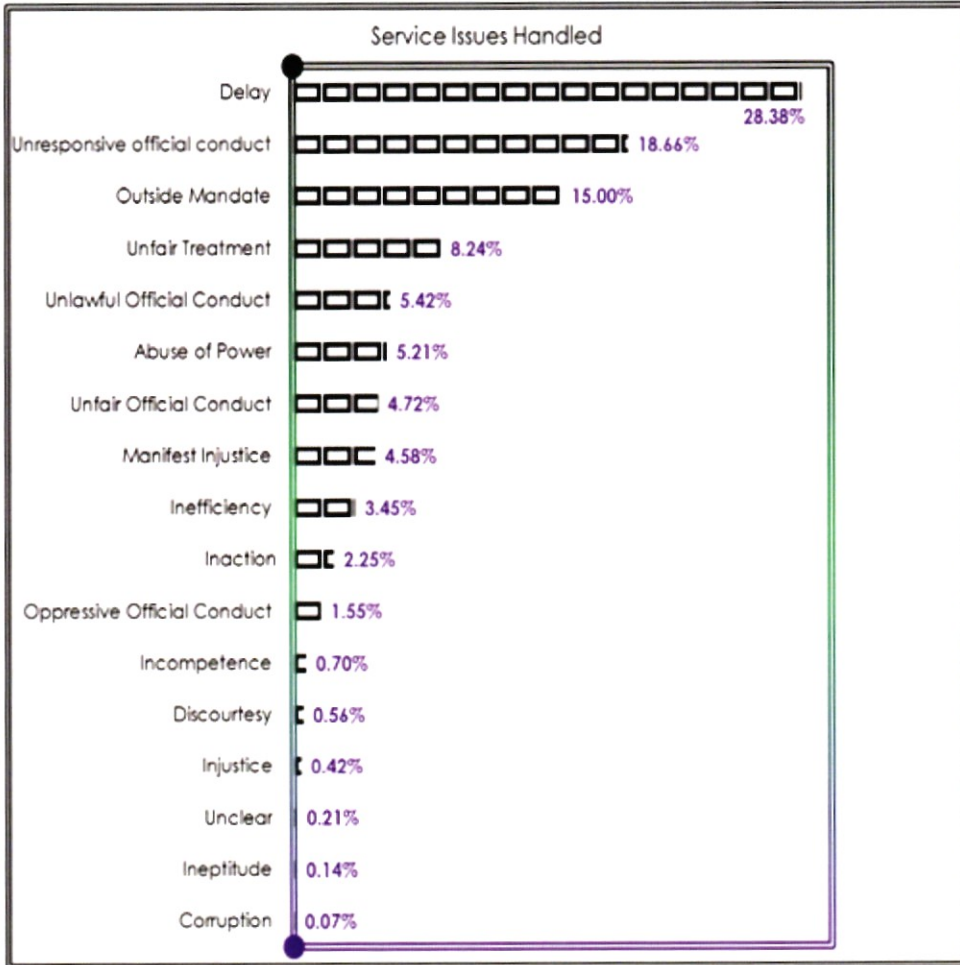


Figure 6 presents the top ten public institutions complained against. The complaints against the National Police Service led at 11.34%, the Judiciary at 10.34% while the complaints against Ministry of Interior and National Administration were at 8.7%.

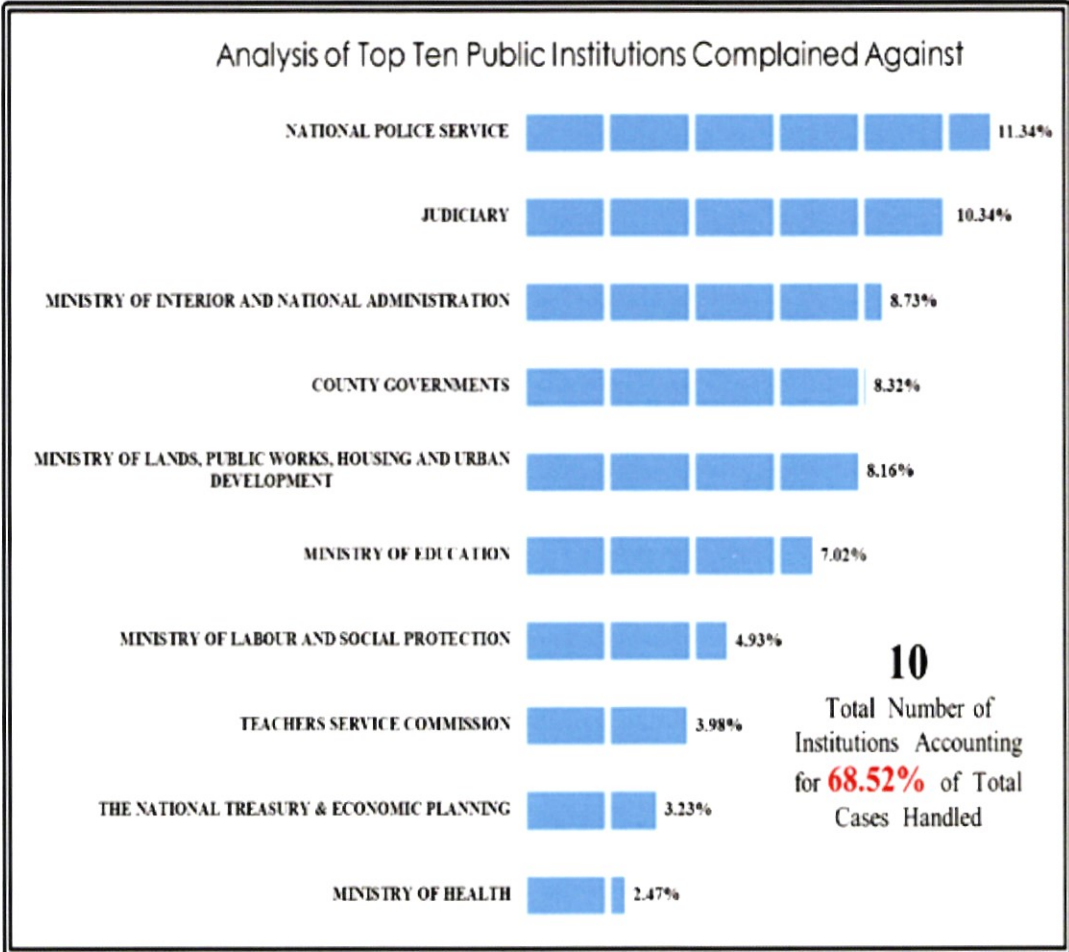


Figure 6: Top Ten Public Institutions Complaint Against

11.1.3. Success Stories FY 2022/2023

Former Student Gets Fee Refund Following Ombudsman Intervention - CAJ/M.EDU/013/2453/2023-EMN

A complaint was lodged with the Commission alleging delay by Egerton University to refund excess fees. The complainant, a student pursuing a bachelor's degree in Medicine and Surgery erroneously paid an excess fee of Kshs. 130,000 for his third trimester. Upon graduation, he made a formal request to the Finance Officer for a refund of the excess fees paid. However, the refund was not forthcoming which impelled him to seek the intervention of the Commission on 24th April 2023.

The Commission by way of inquiry took up the matter with the Vice Chancellor, leading to the processing and payment of the excess fees to his account. In an email to the Commission on 31st May 2023 the complainant confirmed receipt of the payment and thanked the Commission for the intervention.

Police Officer Reinstated after Interdiction, Salary Arrears Paid after - CAJ/KSM/POL/015/630/2021-WT

A complaint was lodged with the Commission alleging delay by the National Police Service (NPS) to lift the interdiction of an officer following his acquittal under Section 204 of the Penal Code. Following the intervention by the Commission, NPS lifted the interdiction and paid his withheld salary.

Accident Claim Settled a Decade Later - CAJ/KSM/M.AGR/014/16/2014-MA

A complaint was lodged with the Commission alleging delay by the Ministry of Agriculture, Livestock, Fisheries and Cooperatives to settle an accident claim following a judgment issued on 10th February 2012 by a Kisumu court.

Following the Commission's intervention, the Attorney General followed up on the matter with the Ministry and subsequently the accident claim of Ksh239, 879.60 was paid to the complainant in May 2022.

Inmate Gets Appeal Date - CAJ/KSM/JUD/001/455/21-WT

An inmate at the Kisumu Maximum Prison lodged a complaint alleging inordinate delay in the admission of his appeal at the Bungoma High Court following a conviction at Kimilili Senior Principal Magistrate's Court (SPMC) in 2018.

Following the Commission's intervention, the SPMC at Kimilili, through a letter dated 28th April 2022, confirmed forwarding the complainants file to the High Court.

The High Court, in a letter dated 11th May 2022, also confirmed to the Commission that the matter was proceeding with a hearing date which was set for 24th May 2022.

NHIF Redirects Erroneous Payment - CAJ/KSM/NHIF/012/63/2022-MA

A complainant lodged a complaint with the Commission alleging refusal by the NHIF to re-direct or otherwise reverse his NHIF contribution. The payment was intended to cater for the costs of chemotherapy and urgent treatment of his father. He had thus opted to use the mother's account because the father's account had no funds and could not be used until the beginning of the following fiscal year.

The Commission initiated an urgent inquiry with the NHIF on 16th June 2022 and on the 26th June 2022 the complainant reported to the Commission that his complaint was satisfactorily resolved since the money paid was re-directed to the correct account.

Inordinate Delay in Registration of Motor Vehicles Resolved - CAJ/ELD/M.TRA/004/14/2022

The Commission received a complaint alleging inordinate delay by the NTSA in registering seven Ex-Government of Kenya motor vehicles he had purchased through a public auction in 2021.

According to the complainant, he had initiated the process of transfer but NTSA had failed to act despite numerous follow ups. Upon intervention by the Commission, NTSA registered the vehicles and issued the logbooks.

Kenya Power Resolves a Complaint on Defective Electric Meter: CAJ/ELD/M.ENE/021/17/202

A trader in Turkana County can now enjoy electricity following the

intervention of the Commission in a case of unresponsiveness by the Kenya Power.

According to the complainant, the Kenya Power, Lodwar, Turkana County, had been unresponsive in addressing her complaint on a defective meter which could not load tokens.

Following the Commission's intervention, the issue was duly addressed and electricity supply restored.

Retirement Dues Processed - CAJ/ELD/CG/TRANSNZOIA/061/12/20

A retired county employee complained against the County Government of Trans Nzoia for delay in processing of his retirement dues.

The Commission's intervention led to the settlement of the pension claim.

Lands Registrar Rectifies Title Deed - HUD/NKR/M.LAN/022/49/22

A complaint was lodged at the Commission on delay by the Laikipia Lands Registrar to rectify an error on the proprietorship section in the title deed.

According to the complainant, the parcel of land had been jointly purchased. However, upon transfer and issuance of title deed, her name was missing in the proprietorship section.

Following the Commission's intervention, the error was rectified and her name included as a joint proprietor to the land parcel.

Discourteous Public Officer Apologizes - CAJ/ELD/GOK/048/5/2021-FL

A complainant sought the intervention of the Commission alleging that on 15th July 2021, he visited the DCI desk to apply for a certificate of good conduct and the officers manning the desk were not only discourteous to him but also refused to identify themselves.

The Commission took up the issue with the Centre Manager who upon investigations held a meeting with the complainant and DCI officers, and the matter was amicably resolved.

Citizenship Granted After Eight Years - CAJ/MSA/M.IMM/003/91/2019

The Commission received a complaint on delayed registration of citizenship of an eligible foreigner. The complainant alleged that she applied for Kenyan citizenship in September 2016 by virtue of being married to a Kenyan and submitted all the required documents. She made several follow-ups with the Department of Immigration Services for three years.

On January 24, 2019, the Commission initiated an inquiry with the Director

General of Immigration Services. The department did not respond to the inquiry, prompting the Commission to refer the matter to the Principal Secretary of Interior and Citizen Services. In a letter dated March 22, 2022, the Principal Secretary. The complainant through a phone call confirmed that she was granted the Kenyan citizenship.

Ex-Serviceman Accident Compensation Settled After Twenty-Three Years - HUD/NKR/DOD/062/11/2017-FL

The widow of a deceased ex-serviceman finally received the General Personal Accident (GPA) insurance dues owed to the estate of her late husband following the Commission's intervention in a case of inordinate delay.

According to her, the husband died in line of duty on 16th December 2000 through a road accident. He efforts to follow up compensation over the years were futile.

The Commission initiated an inquiry into the matter with the Principal Secretary, Ministry of Defence and the matter was resolved with the widow receiving her late husband's dues.

County Clinical Officer Reinstated - CAJ/CG/MERU/111/19/2020

The Commission received a complaint from a clinical officer alleging his suspension by the County Government of Meru. He complained that he was suspended for addressing a local television station highlighting the plight of clinical officers in his capacity as the Secretary General of the Kenya Union of Clinical Officers, Meru Branch. He highlighted that the county had failed to remit statutory deductions since March 2019 with loan remittance and pensions deductions being delayed for over three months leading to banks threatening to list some clinical officers with Credit Reference Bureaus (CRBs).

He was suspended by the county government for alleged gross misconduct and insubordination by addressing the media. However, he was not given an opportunity to defend himself before a disciplinary panel.

The Commission took up the matter with the county government and the complainant confirmed that the issues raised had been addressed by the relevant offices and that he had been reinstated and all benefits paid.

11.1.4. Sample Feedback from Complainants



Email: proprmp@caj.go.ke
Telephone: 0721204520
9th October 2022

The In-charge,
The Commission on Administrative
Justice
"Office of Ombudsman"
Mombasa

Dear Sir/Madam,

RE: GEDFREY N NGUGU DC 175653 LETTER OF APPRECIATION

I am writing to express my appreciation to Commission on Administrative Justice (CAJ) through your Mombasa branch for having helped me get my pension gratuity.

You patiently pushed my former employer, the Teachers Service Commission (TSC) to facilitate the same as from 2nd Sept 2019 when I retired as a teacher until when the Ministry of Finance Pension department obliged and eventually granted me the pension on 3rd August 2021.

Thank you so much

- loves faithfully
Geoffrey Ngugu



C&J Mombasa -mombasa@ombudsman.gov.ph

Complaint against KPLC

Andrea Sandoz -andsandoz@gmail.com
To: C&J Mombasa -mombasa@ombudsman.gov.ph

Fri, Sep 24, 2022 at 11:41 AM

Good Morning,

I thank you I have received the letter dated from Mr. Oliver of KPLC. I was made on Saturday. It was that letter contained by Oliver's statement. It was to request any other document to the Commission that will show if there is any irregularity with the KPLC. I was also notified. I was at the subject. All irregularities and irregularities were shown in my investigation report for the KPLC. I was also notified. I was at the subject. All irregularities and irregularities were shown in my investigation report for the KPLC. I was also notified. I was at the subject. All irregularities and irregularities were shown in my investigation report for the KPLC.

Anything at hand if you have additional, and I thank you for your assistance in this matter.

And regards,
Andrea Sandoz
(insert text here)



C&J Mombasa -mombasa@ombudsman.gov.ph

FOLLOW UP- MSA Admin Cause No. 186 of 2012

Fri, Sep 24, 2022 at 1:10 PM

Herdlita Maganga -herdlitamaganga@gmail.com
To: mombasa@ombudsman.gov.ph
Cc: gemaosca@gmail.com, herdlitamaganga01@gmail.com, Dazy Maganga -dazymaganga@yahoo.com

Good afternoon,

I hope this email finds you well.
We take this opportunity to thank your great office for all the efforts throughout this process.
We would like to inform you that it has finally come to a close.

Thank you again and may God bless you all.

Regards,
Herdlita Maganga
(insert text here)



COMMISSION ON
ADMINISTRATIVE
JUSTICE

CAJ MOMBASA <mombasa@ombudsman.go.ke>

**Re: ACKNOWLEDGEMENT LETTER. (MATAYO MWINDOI LEBWAU-ID/Nos.2272439
ALSO KNOWN AS: MATHEW MASHOMBO MHINDO.-N.S.SF. Nos.112574939.)**

Fulgence Musau <fulgencemusau@gmail.com>
To: CAJ MOMBASA <mombasa@ombudsman.go.ke>

Wed, Jul 20, 2022 at 7:51 PM

Dear Sir/Madam,

Kindly receive many greetings and thanks from Mr Matayo Mwindoi Lebwau, his family and I too.
The said complainant has confirmed to me the receipt of his N.S.S.F. benefits as of statement and letter dated July 19, 2022, as copied to me.
We do express our most sincere thanks towards successful intervention on the matter as of your initiative and being truly to your words as well to objective.
Its our prayer that more Kenyans in distress gets an assistance.
Mr Matayo is going to invest from these benefits.
Once more we continue congratulating, appreciating and thanking you
May you all be blessed alot
Yours Sincerely,
Fulgence Musau Mushihiri,
For Matayo Mwindoi Lebwau.
Cc: Matayo Mwindoi Lebwau

On Tue, 19 Jul 2022, 13:55 Fulgence Musau, <fulgencemusau@gmail.com> wrote
Good afternoon Sir/Madam. An email well received with thanks to your commitment to this complaint. Have communicated with complainant to check with his bank. I'll inform you sooner gets confirmation from complainant.
Blessed afternoon to you all
Yours Sincerely,
Fulgence Musau Mushihiri
For Matayo Mwindoi Lebwau

On Tue, 19 Jul 2022, 13:03 CAJ MOMBASA, <mombasa@ombudsman.go.ke> wrote
Good afternoon

Kindly find attached NSSF reply letter dated 19.7.22 for Mathew's attention. We await his confirmation on receipt of his benefits as indicated in the letter.

Regards

On Tue, Jul 12, 2022 at 8:53 PM Fulgence Musau <fulgencemusau@gmail.com> wrote:
Good evening Sir/Madam
I do kindly appreciate your attention to this matter
Be blessed.
Thanking you alot.

On Tue, 12 Jul 2022, 12:20 CAJ MOMBASA, <mombasa@ombudsman.go.ke> wrote
Find attached letter for Mathew's attention

On Tue, Jul 12, 2022 at 9:53 AM CAJ MOMBASA <mombasa@ombudsman.go.ke> wrote
Good morning Fulgence

Noted with thanks. We shall peruse through the documents and advise accordingly.

Regards

On Wed, Jul 6, 2022 at 10:31 PM Fulgence Musau <fulgencemusau@gmail.com> wrote
I refer to above named client.



012/2023

KARADHAN DUNDIRWA WANYAMA
P.O. BOX 44 NAKURU
EMAIL: karadhan@commissiononjustice.com
0706799884
14/07/2023

TO: THE COMMISSION ON ADMINISTRATIVE JUSTICE
OFFICE OF THE OMBUDSMAN
P.O. BOX 80979 80100 NAIROBI, KENYA

REF: COMPLAINT ON DELAYED PROCESSING OF DEATH CERTIFICATE JULIA MOLABA IIRE.

I hope these email finds you well!

I refer to above subject matter that, the issue was solved by Director, Ministry of Health, Pathologist and The County Registrar. I had raised these issue on date 14th Jan 2023 and I thank you for the help you offered on the issue.

I would like to notify you on the pending issue of land grabbing referring on the letter dated 27th July 2022 I will send detail on the regarding the matter for further assistance.

THANK YOU FOR YOUR TIME
Yours faithfully
Ramadhan Dunderwa Wanyama

admission/012/2023/2023

SHUKRANI

15/05/2023

MIMI PARIS SAKABU MUMBAZI MINGO PAMBA
MOTU SIUKRANI ZAMUO ZAMUO'S VISA HEISI HU
JUNSI I LVED SHOHU HUA TAYZ- LARYO KUVA HARAH
DU MIMAMUHU SAHA. DUTZ LARYO KUVA KAMUSU
MUMBAZI-PAMBA DE KUSSE, MUMBAZI ASHATI. DU
MUMBAZI MUMBAZI OZISHU.

[Handwritten signature]



062/2117

RAMADHAN OSUNDWA WANYAMA
P. O. BOX 44 MUMIAS,
EMAIL ramadhanwanyama@gmail.com
0706799983
16th JAN 2023

TO: THE COMMISSION ON ADMINISTRATIVE JUSTICE,
OFFICE OF THE OMBUDSMAN,
P. O. BOX 80979-80100 MOMBASA, KENYA.

REF: COMPLAINT ON DELAYED PROCESSING OF DEATH CERTIFICATE-JULIA MOLABA IFIRE.

I hope these email finds you well

I refer to above subject matter that, the issue was solved by Director Ministry of health, Pathologist and The County Registrar. I had raised these issue on date 10th Jan 2023 and I thank you for the help you offered on the issue

I would like to notify you on the pending issue of land grabbing referring on the letter dated 5th July 2022 i will send detail on the regarding the matter for further assistance.

THANK YOU FOR YOUR TIME
Yours faithfully
Ramadhan Osundwa Wanyama

11.2. Investigations

This section highlights the systemic and specific investigations that were undertaken by the Commission during the reporting period.

11.2.1. Systemic investigation

The plight of Kenyan migrant domestic workers in the Kingdom of Saudi Arabia (CAJ/IE/6/102/2021)

Following several media reports highlighting the mistreatment, injustice, and oppression of Kenyan domestic workers in the Kingdom of Saudi Arabia, the Commission conducted a systemic investigation to interrogate the shortfalls in the measures put in place by the Kenyan Government to protect Kenyan migrant workers. Particularly, the investigation sought to examine the existing labor policies, processes, and procedures relating to the recruitment and management of Kenyan migrant domestic workers in Saudi Arabia.

The Commission's investigations established that some Kenyan migrant domestic workers in Saudi Arabia experienced various forms of abuse and that the recruitment and management of Kenyan migrant workers was undertaken in a disjointed manner by the stakeholders who work in silos. The investigation also unearthed that there was no accurate data on migrant domestic workers in Saudi Arabia and that the existing legal framework is inadequate.

In light of these findings, the Commission proposed a range of recommendations including the establishment of a multi-agency working platform for all the stakeholders and made proposal to be included in the draft Labor Migration Management Bill that is meant to provide a national framework for the recruitment and management of migrant workers in Kenya.

11.2.2. Specific Investigations

Alleged Manifest Injustice in The Issuance of Passports by The Department of Immigration (CAJ/IE/6/106/2022)

The Commission undertook investigations into allegations that the Department of Immigration was overcharging citizens for passports. The investigation was triggered by several complaints made online on social media via a Facebook page called “Wanderlust Diaries Ltd” against the Department of Immigration.

All nine complaints alleging overcharge of passport fees were found to be true while the allegation by the Department of Immigration that the complainants edited their application to a lower series was found to be false. Investigations revealed that the Department of Immigration lacks an internal policy or a procedure guiding and regulating issues that may arise out of passport processing such as editing and cancellation of applications and also lacks a mechanism to automatically refund excess payments. Delays in the processing of passports and the unavailability of a particular passport series on the e-citizen platform were found to be occasioned majorly by two factors; delays in the approval of the procurement of blank passport booklets, and, the continuous breakdown of printing machine. The e-citizen system was found to have eased and improved the efficiency of the passport application and payment processes.

In light of these findings, it was recommended *inter alia* that the Department of Immigration refunds all applicants with outstanding overpayment while formulating policy guidelines that will formalize and standardize the management of issues arising from the passport application processes.

An Investigation Report on Allegations of Administrative Injustice Against the Meru South Land's Registry and Adjudication Departments

The Commission received a complaint alleging that the Meru South Land Registry Officers and Land Adjudication and Settlement officers had denied the complainant his rightful ownership of parcel no. 160 Mariani Adjudication Section. Further, he alleged that the parcel had been the parcel had been unlawfully subdivided and wrongfully registered to a third party.

The investigation established that indeed the parcel in question had been the subject of a dispute between the complainant and the third party at the Environment and Land Court (ELC) and at the Lands Adjudication and Settlement Office. The final determination arising from an objection hearing at the Meru South Land Adjudication and Settlement office had awarded the parcel to complainant. However, at the time the determination was made, the parcel had been registered in the third party's name despite there being a court order preventing any dealings on the parcel. It was however established that the court order had not been communicated to the Lands Registry at the time of the registration. The investigation underscored that the Lands Registration Act, 2012 does not provide for rectification of a register on account of a determination from an objection hearing.

In light of the foregoing, the file was recommended for closure pursuant to section 30(g) of the CAJ Act since the administrative violation and the ownership dispute have other available legal remedies in court.

Investigation on Alleged Irregular Repossession and Transfer of Land By NSSF

The Commission received a complaint on 27th January 2023 alleging that NSSF had irregularly repossessed the complainant's parcel of land belonging to his deceased mother and subsequently sold to a third party. He further alleged that his efforts to seek assistance from NSSF to have the matter resolved were not successful.

The Commission undertook an investigation and confirmed that there were glaring procedural irregularities marring the sale of the land.

Consequently, the complainant filed a case in Milimani Commercial Magistrate Court on 30th January 2023 disputing ownership of the parcel of land in question. Thus, the Commission closed the matter in line with section 30(c) of the CAJ Act.

11.3. **Advisories**

This section highlights the advisory opinions that the Commission has issued during the reporting period.

Advisory Opinion to The National Cohesion & Integration Commission

The Commission's attention was drawn to a press statement issued by the National Cohesion and Integration Commission (NCIC) Commissioner Danvas Makori on 30th July 2022 titled "*Suspension of Social Media Platform*". The Commissioner stated that NCIC had written to Facebook and requested that Facebook complies with their guidelines failure to which NCIC would recommend Facebook services be suspended in Kenya.

The Commission opined that the NCIC statement, though referring to Article 33 of Constitution and Sec 13 of the National Cohesion and Integration Act, on hate speech, but needed to be balanced with the freedom of the media as provided for under Article 34.

Whereas Article 33 of the Constitution provides freedom of expression and enumerates instances of limitation, notably (2)c & d that this right does not extend to hate speech or advocacy of hatred that may constitute ethnic incitement, Article 34 provides for the freedom and independence of electronic, print and all other types of media which does not extend to any expression specified in Article 33(2). It emphasized that the rights are owed to the Kenyan citizenry individually and collectively with others. The Commission was concerned over the statistics used by NCIC in assessing the percentage of Facebook users as compared to the Kenyan population. It was prudent to point out that Article 35 of the Constitution provides that all Kenyans have the right to information for the exercise or protection of any right or fundamental freedom; right to vote included. The Commission observed that shutting down a social media platform with a huge number of users a few days to election was bound to attract counteractive outcomes which if unchecked would spiral to unprecedented uncontrollable levels, reducing the gains reported to date. The Commission reiterated

the dicta of free and fair elections to the extent that the voters must have access to information about candidates, any policy proposals and political formations. Kenya as a democracy has and continues to promote and uphold access to information. Therefore, the statement made on suspending an entire social media platform infringes on the citizens' freedom of expression and rights to information.

The Commission recommended that NCIC should:

- i. Refrain from publishing statements that would erode the democratic gains in Kenya and assure Kenyans that it has the capacity to deal with individual culprits and author institutions in line with Sec 13 of the National Cohesion and integration Act.
- ii. Forge a partnership framework with the social media platforms and other stakeholders to promote constitutionalism.
- iii. Take action against the perpetrators of hate speech and caution the public in line with Sec 26 of the National Cohesion and integration Act.

Advisory Opinion to The Independent Electoral & Boundaries Commission

The Commission issued an advisory following the standoff at the Independent Electoral & Boundaries Commission (IEBC) occasioned by the August 2022 general elections, affecting public service delivery.

The Commission advised that IEBC:

- i. In line with Article 159(2)c(252 1b) of the Constitution urgently employs Alternative Dispute Resolution mechanisms to resolve the dispute.
- ii. Refrain from making public utterances that would escalate the standoff.

Advisory Opinion to County Governments on Public Service Delivery

Cognizant of the obligation of the county governments to provide efficient and effective service delivery, the Commission issued an advisory on the need to uphold values and principles of public service as provided under Article 232 of the Constitution. Additionally, the

Commission pointed out some fundamental issues affecting effective public service delivery at the devolved Government level. It was attendant to the undisputed position that the core essence of devolution is to effectively and efficiently serve the public; bringing the services closer to the citizens. On which account the Commission underlined that suspension or non-performance or inordinate interruption of the devolved public services, defeats the purpose of devolution and must be addressed forthwith.

The Commission advised the County Governments on the following areas;

1. **Access to information.**

Operationalize Section 96(2) of the County Governments Act (CGA) by designating an office and appointing an access to information officer, whose name and contacts should be published; and Section 96(3) of CGA by enacting the County Access to Information Act by 31st January 2023. (***Model Law for Counties on Access to Information*** available on the Commission's website).

2. **Grievance Redress Mechanism**

Establish an effective County Grievance Redress Mechanism that would facilitate expeditious resolution of public complaints in line with Sec 8(e)(f) of the CAJ Act and Sec 15, 87(d), 88, 89 and 90 of the CGA.

3. **Rule of Law**

County governments should desist from interfering with county government public officers' appointments, disciplinary and termination processes and take cognizant of the powers of the county public service boards in line with Sec 62, 75 & 76 of the County Governments Act, 2012. Where for any legal reason the County would require to terminate the services of any employee it should ensure due process is followed.

CHAPTER THREE

3.0 ENHANCING PUBLIC SERVICE DELIVERY

13.1. Monitoring Public Service Delivery through Performance Contracting

Performance Contracting is part of the broader public sector reforms aimed at improving efficiency and effectiveness in the management of the Public Service. The Government continues to use Performance Contracting as a key accountability tool in its endeavor to improve service delivery. The Commission is one of the specialized Agencies under the performance contracting framework in Kenya whereby it oversees implementation of two indicators namely; '*Resolution of Public Complaints and Citizens' Service Delivery Charters*'.

To this end, the Commission facilitates setting up and building complaint handling capacity in the public sector to enhance efficient service delivery. This is realised through training, monitoring of service delivery standards and provision of technical support. Public institutions submit quarterly reports on complaints received and processed, Access to Information requests received and processed and report on implementation of citizen service delivery charters to the Commission for evaluation and certification.

1.1.1 Resolution of Public Complaints and Implementation of Citizen Service Delivery Charter Indicators

The Commission mainstreamed complaints management in the public sector through monitoring of the '*Resolution of Public Complaints*' and '*Implementation of Citizen Service Delivery Charter*' indicators under the performance contracting framework.

Under the Indicators, public institutions are required to establish mechanisms of addressing complaints and processing ATI requests and create awareness on citizen service delivery charters. During the period under review, the Commission developed the Eleventh Edition reporting guidelines for implementing the indicators.

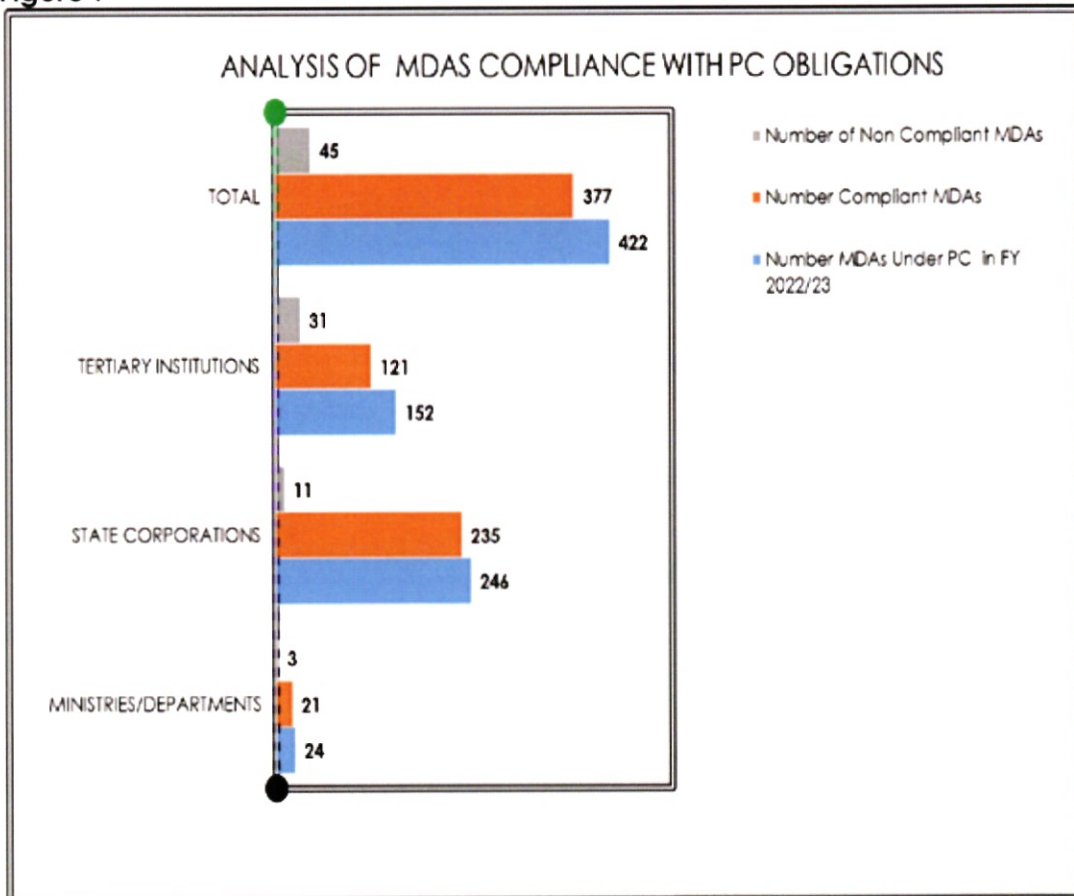
In assessing the level of compliance, the Commission considers the following parameters:

- i. resolution of all complaints received by MDACs;
- ii. processing of all ATI requests received;
- iii. awareness creation initiatives on complaints handling framework and citizen service delivery charters;

Compliant Public Institutions

A total of 419 MDAs were placed on Performance Contract during the year under review. This included 19 ministries, 246 state corporations and 152 tertiary institutions. The number of institutions that complied with the *Resolution of Public Complaints and Implementation of Citizen Service Delivery Charter Indicators* were 377 while the non-compliant were 45, which translated to 89% compliance. Figure 7 illustrates the compliance by MDAs.

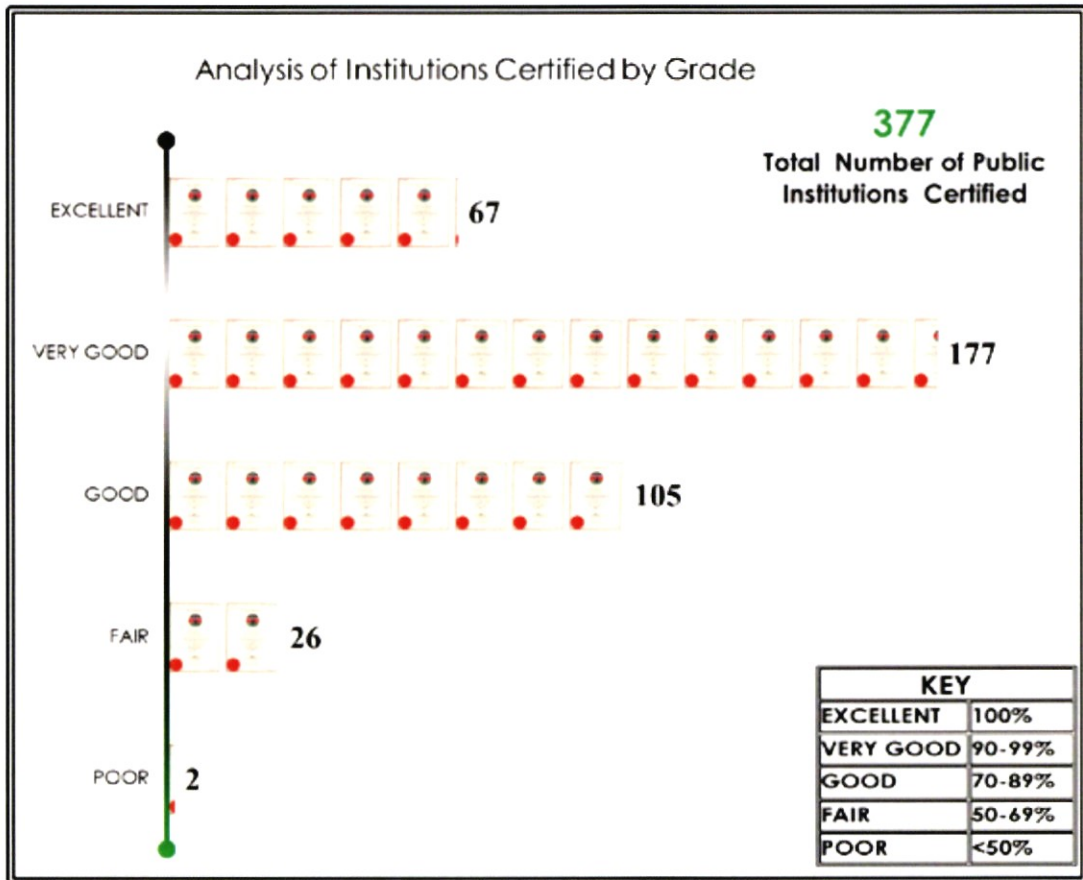
Figure 7



: Compliance by MDAs with Performance Contracting Indicators

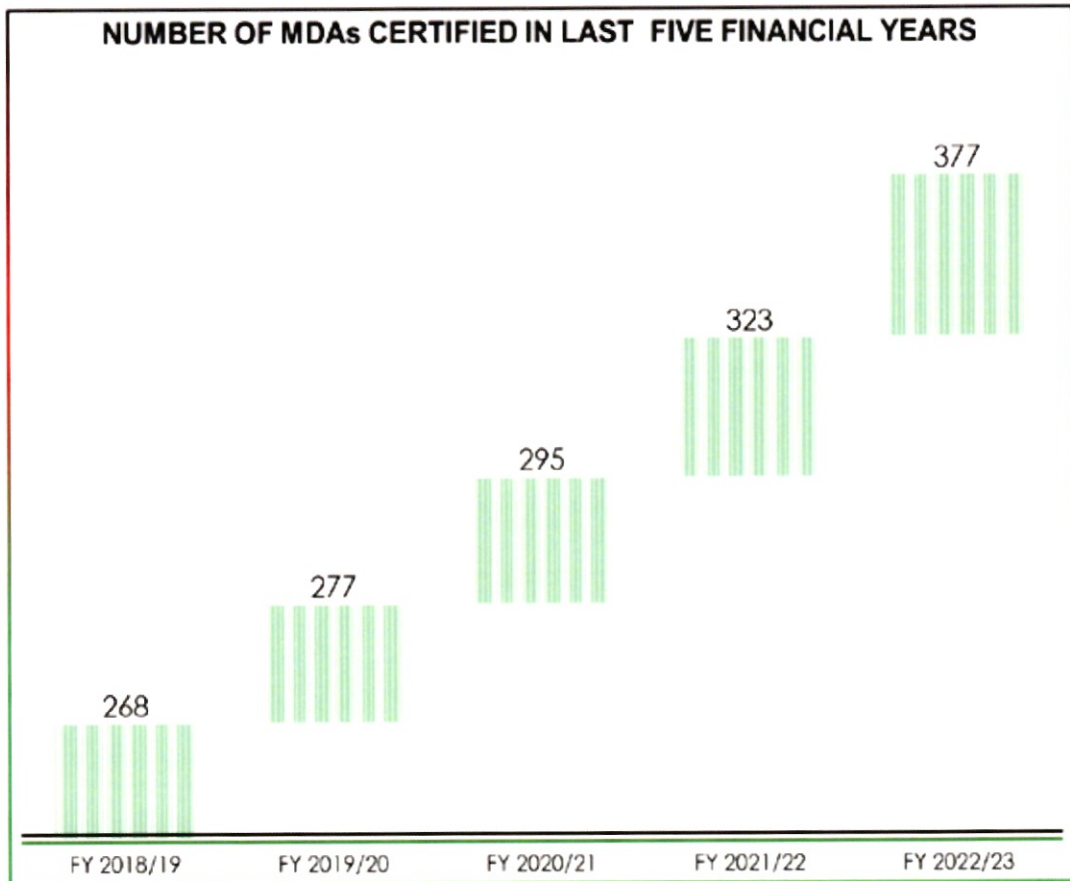
Out of the 419 institutions that signed the performance contracts, a total of 377 public institutions complied with requirements on the indicators and were certified by the Commission. Consequently, 47% of the MDAs attained a very good grade forming the majority while 2(0.5%) institutions attained poor grade as illustrated in figure 8.

Figure 8 : Analysis of Public Institutions Certified by Grade



The number of the institutions certified by the Commission have been increasing over the last five years. This can be attributed to the interventions by the Commission to strengthen the capacity of public institutions to manage complaints. Figure 9 depicts a comparative analysis of the number of public institutions certified over the last five financial years.

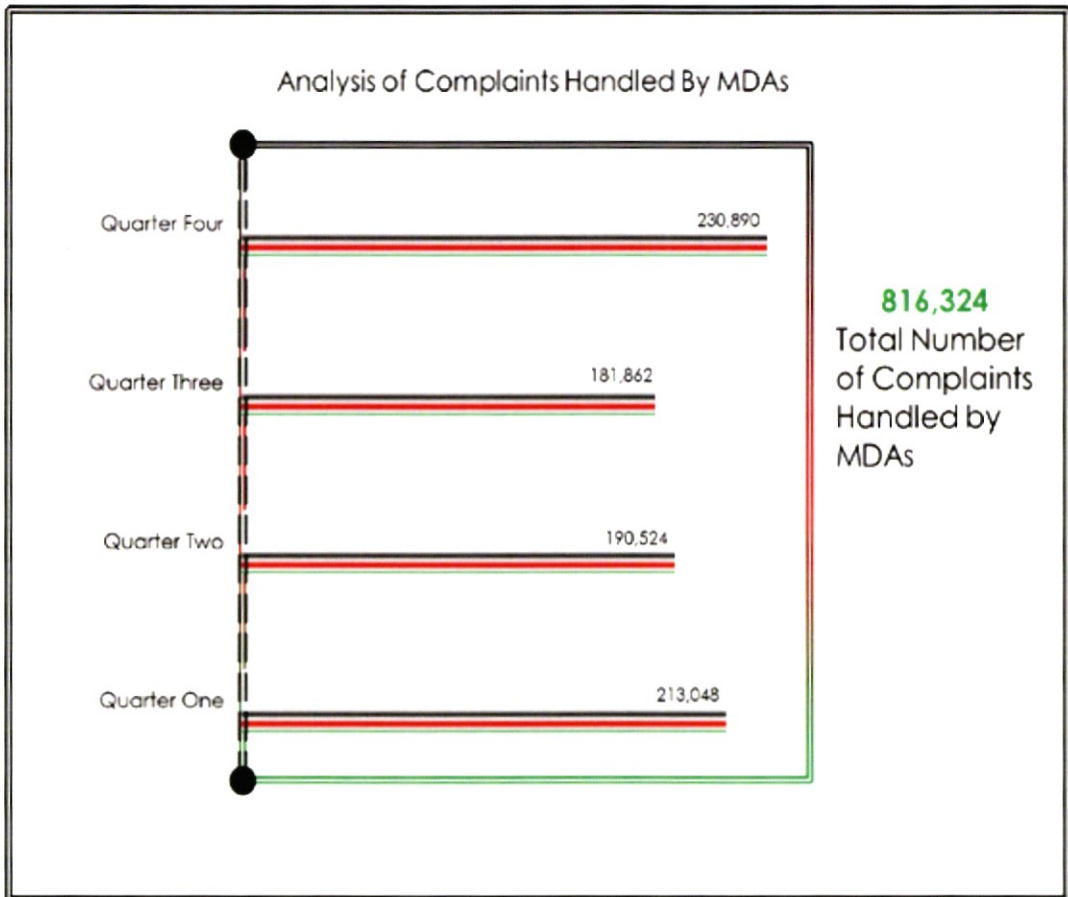
Figure : A comparative analysis of the number of public institutions certified 9



Complaints Managed by MDAs through the PC

During the reporting period, a total of 816,324 complaints were received by 419 public institutions out of which 761,003 complaints were reported to have been resolved, translating to 93% resolution rate. Figure 10 depicts total number of complaints received by institutions on a quarterly basis as reported by the public institution quarterly under the PC obligation.

Figure 10: Quarterly analysis of Complaints Received by Public Institutions



13.2. Access to Information Requests Processed by Public Institutions

Public institutions received a total of 29,137 requests for access to information during the reporting period. Based on the reports submitted to the Commission, a total of 27,854 requests for access to information were granted representing 96%. In addition, 1,017 requests were declined representing 3% while 1% of the requests were transferred. Figures 11 and 12 illustrates the requests for information processed.

Figure 11: Number of ATI requests processed by MDAS

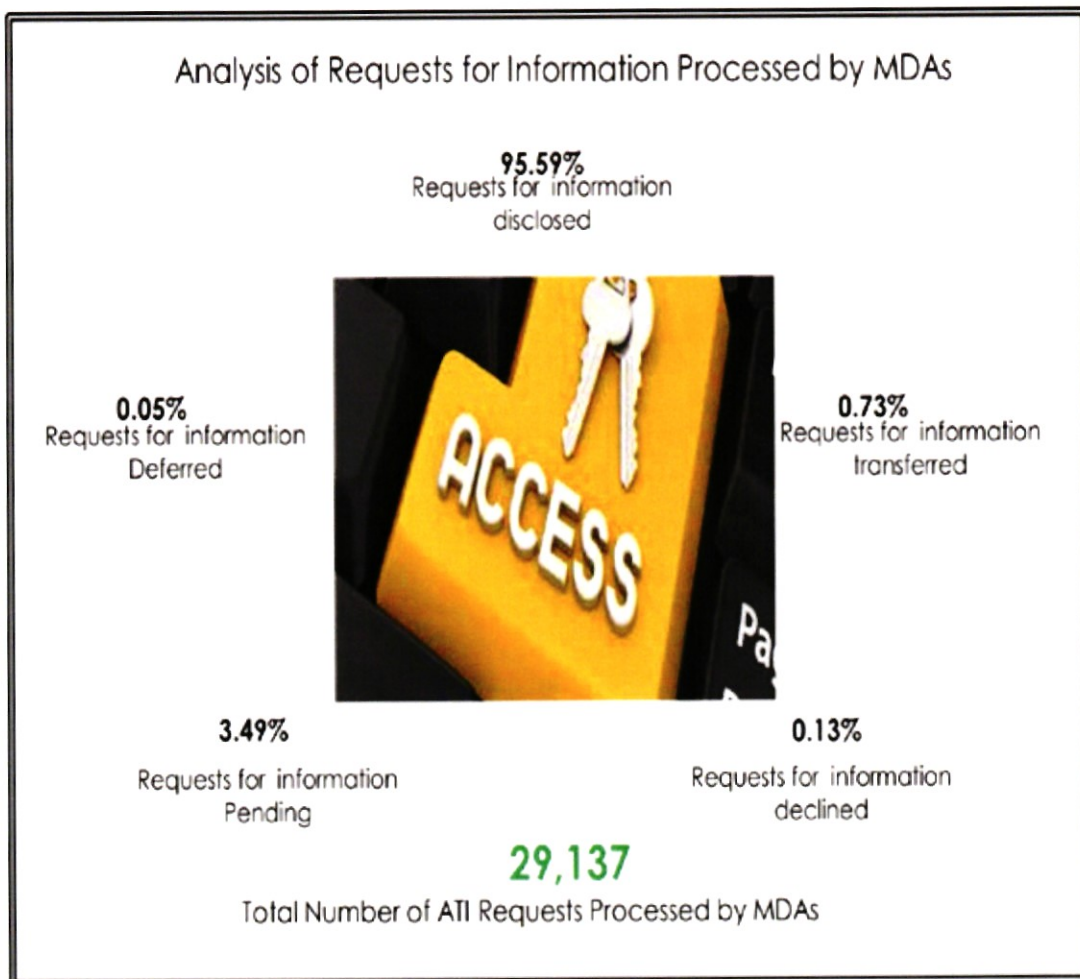
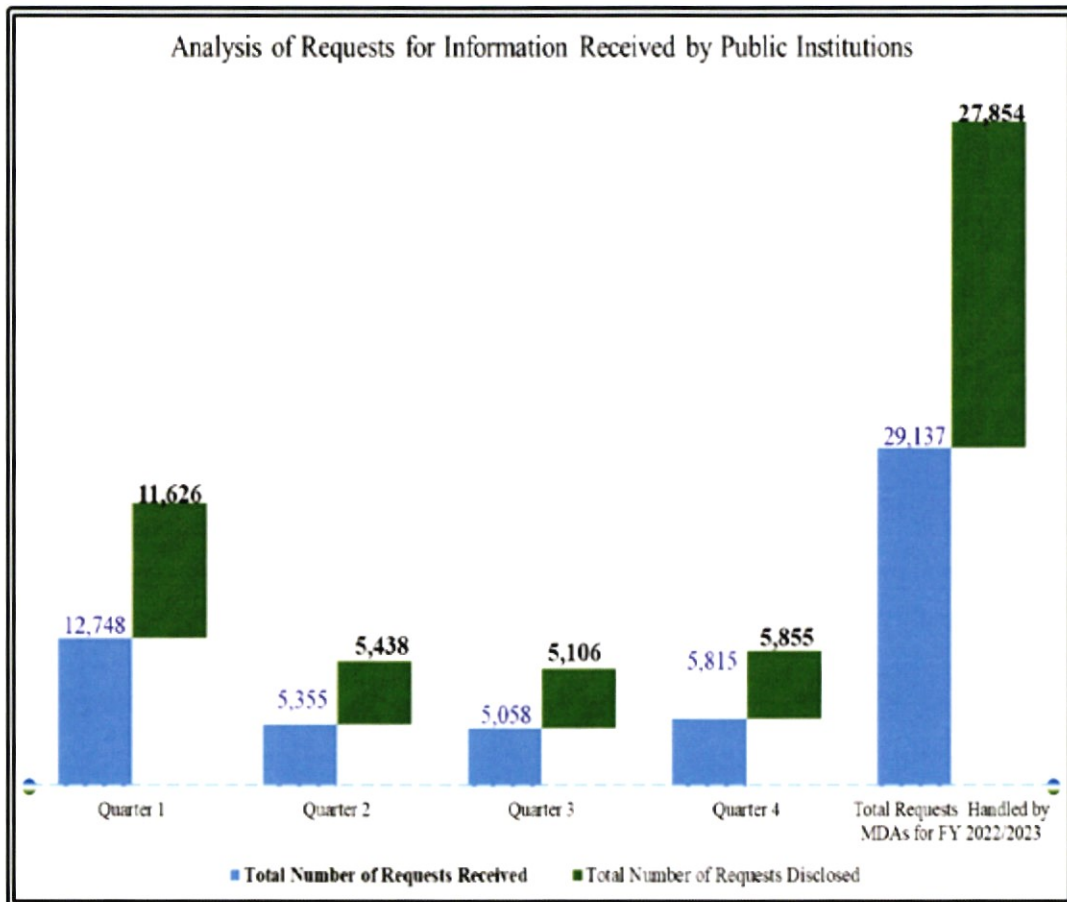


Figure 12: Analysis for Requests for Information Processed by public Institutions

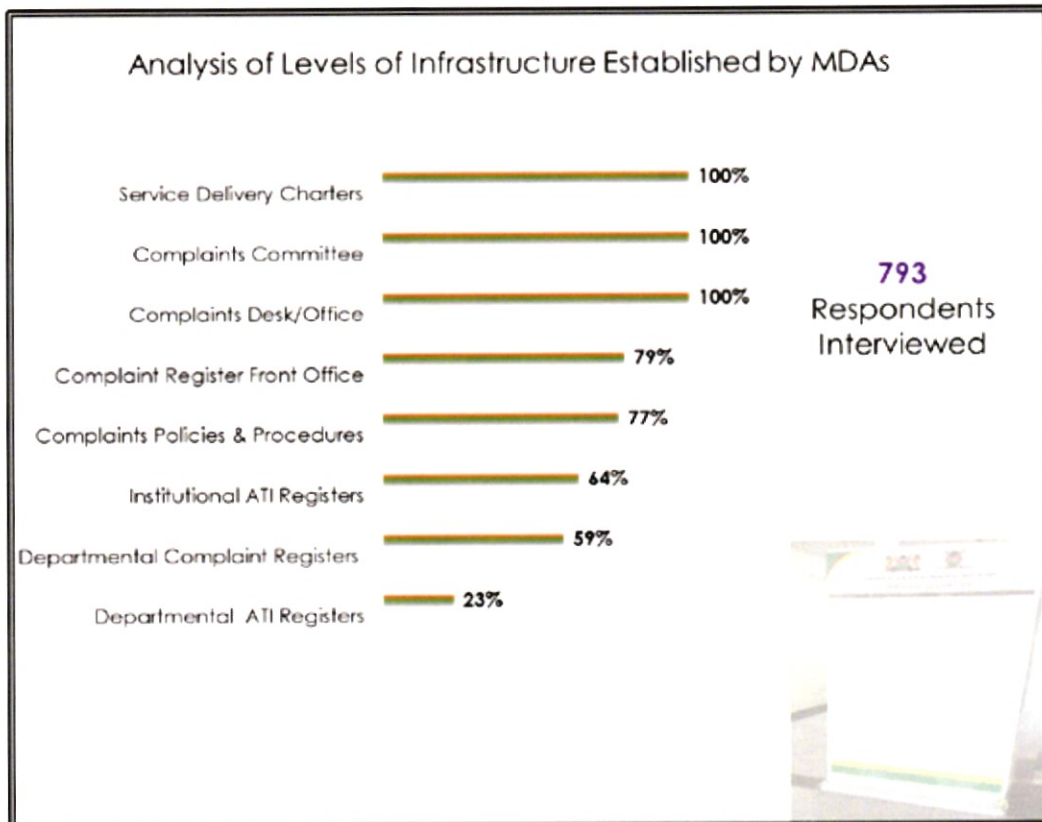


13.3. Monitoring of Public Service Delivery through Spot Checks and Audits

The Commission is empowered to apply relevant parameters that may include mystery shopping, spot checks, documentary analysis and audits to monitor service delivery. In this regard, the Commission conducted spot checks and audits in selected Ministries, Departments, Agencies and Counties (MDACs) to; ascertain the establishment of infrastructure for managing complaints and facilitating ATI access, establish the level of compliance by public institutions with requirements of the ATI Act on proactive disclosure, verify quarterly reports on resolution of public complaints and facilitation of ATI and assess service delivery standards through facilitation of ATI, resolution of public complaints and implementation of service delivery charters.

The findings indicated that a significant progress had been made by the public institutions on establishment of infrastructure to manage complaints and information requests. The institutions visited had made efforts to proactively disclose information through their websites, though none of them had fully complied with the disclosure requirements. The information on the particulars of the institutions, functions and duties, management infrastructure, financial audit reports, policy and operation manuals, administrative manuals and advertisement of open tenders had been proactively disclosed on the institutions websites. Over 80% of the institutions had not proactively disclosed information on how decisions are made; how resources are spent; policies and procedures; lists and registers; and public procurement information. In addition, the institutions had in place service delivery charters as prescribed.

Figure 13 : Complaints and ATI Infrastructure Establishment by the MDAs



From the findings, complaints management infrastructure was more established as compared to access to information for majority of the MDACs. The uptake of implementation of matters relating to the ATI act

especially on proactive disclosure is generally low. Counties ranked low on establishment of infrastructure to manage complaints and facilitate access to information. Majority had not complied with the reporting requirements as well as ATI obligations. The institutions were urged to enhance their complaints management infrastructure and access to information infrastructure. In addition, they should review their service charters in tandem with their current functions and publicize the revised charters and the ministries to collate all reports from its state departments for reporting to the Commission.

13.4. Research on Key Complaints and Common Information Requested

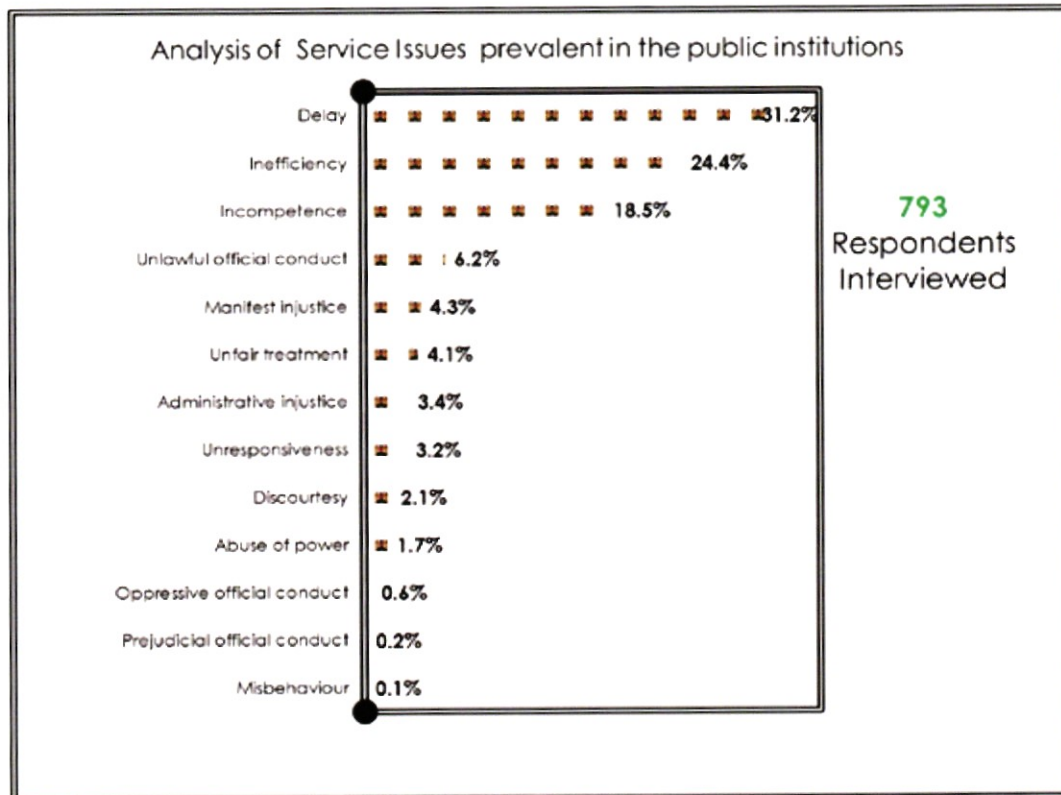
Data from 259 institutions was utilized to determine the prevalence of complaints in the public sector institutions. The specific objectives were to: establish the key complaints typologies, identify the preferred complaints channel and establish the root causes of complaints in the public sector institutions.

3.4.1 Key Complaints Lodged

Prevalence of complaints by typology

The most common complaints were delay (31.2%), inefficiency (24.4%), and incompetence (18.5%) as presented in figure 14. Cases of oppressive official conduct, misbehavior in public office and prejudicial official conduct were the least pronounced.

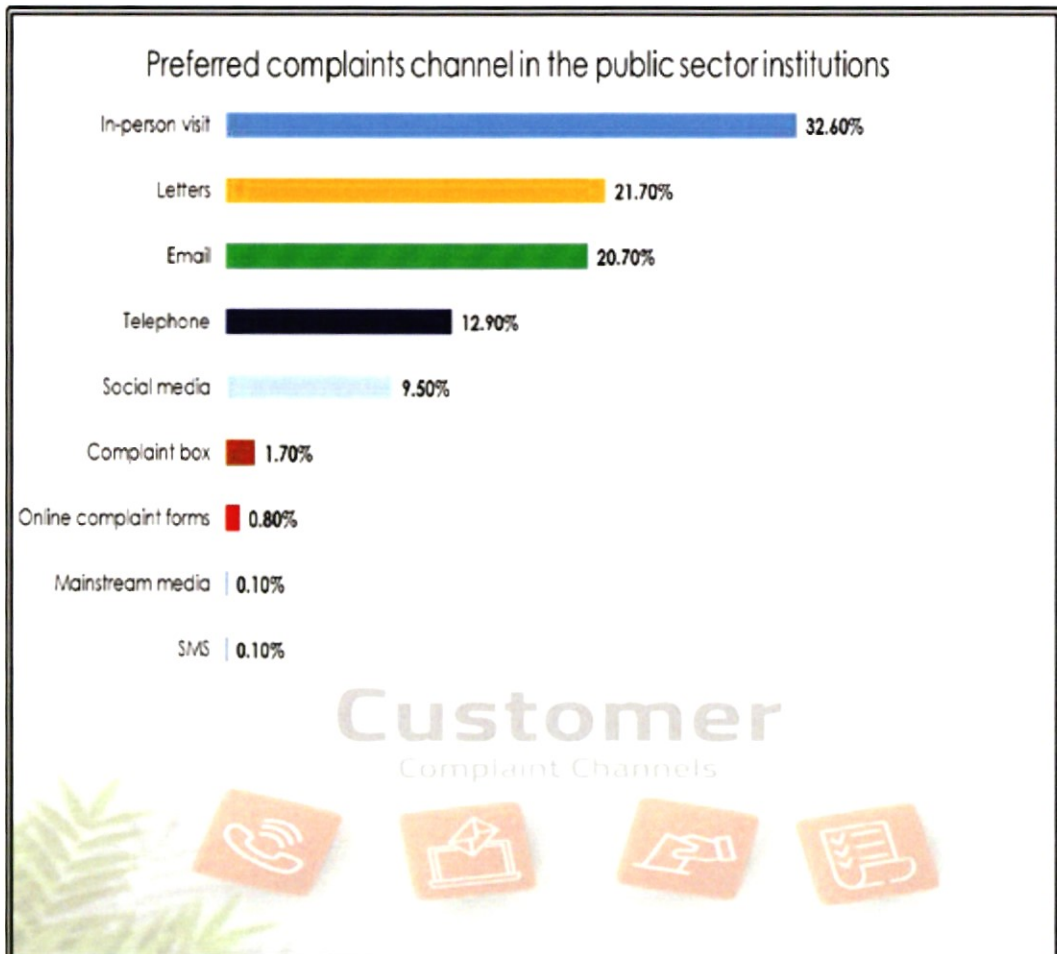
Figure 14: Complaints prevalence in the public sector institutions



Preferred complaints channel in the public sector institutions

The preferred complaints channel used by the members of the public when lodging a complaint were in-person visit (32.6%), letters (21.7%), email (20.7%) and telephone (12.9%) as in figure 15.

Figure 15 : Preferred channels for lodging complaints



Root cause of complaints in public sector institutions

Understanding the underlying causes of complaints was critical in addressing the gaps in the public sector. The desk research attributed complaints to inadequate information, inadequate resource, communication breakdown, non-adherence to rules and regulations and negligence by the public servants.

3.4.2 Common Information requested

Descriptive research design was employed in undertaking the study. Secondary data from the 366 public sector institutions was processed and analyzed thematically.

Type of information requested

The common information requested related to matters on: employment, courses, programme and admissions, classified, farm inputs, animal products and market information, medical, training, contacts, prices and payments. A significant portion of the requested information falls within proactive disclosure. Thus, the need for public entities to conform with the proactive obligation as stipulated in the ATI Act.

Adherence to statutory timelines

A significant number of requests for information were granted. Regarding the time taken to process requests, a majority of the institutions processed the information within the expected statutory timeline in accordance with the Act. Additionally, most of the information were provided freely.

CHAPTER FOUR

4.0 ACCESS TO INFORMATION

4.1 Introduction.

The Commission is mandated to oversee and enforce implementation of the right of Access to Information (ATI) enshrined in Article 35 of the Constitution which guarantees the right to access information held by public entities and certain private bodies. Article 232(1)(f) of the Constitution provides for the principles and values of public service which includes the provision of timely and accurate information. The Access to Information Act, 2016 was enacted pursuant to Article 35 of the Constitution to provide a framework for accessing information. The Act makes provision for proactive disclosure of information and provides processes through which citizens can make information requests. It also provides for an appeal process and mandates the Commission with oversight and enforcement functions.

The Commission is required to report annually to the President and Parliament in line with the Constitution and the Access to information Act. The annual report entails the general assessment of the Government's performance with regard to the realization of the right of access to information. In this regard, the Commission has developed several mechanisms for evaluating public entities' implementation of the right to access information. This focuses on mainstreaming of access to information in all public entities, reporting by public entities on implementation of access to information, review of appeals on access to information applications, capacity building and sensitization of public entities on the access to information law.

In the year under review, the Commission undertook the following activities to promote the right to access information.

4.2 Operationalization of the Act

Development of ATI General Regulations

The Commission developed the draft '*Access to Information (General) Regulations*' to provide an appropriate framework for the

operationalization of the Access to Information Act, 2016, in conjunction with other key stakeholders. These stakeholders included; Ministry of Information, Communication and Digital Economy, the National Communications Secretariat, Kenya Law Reform Commission, the National Council on Persons with Disabilities, the Office of the Attorney General, non-state actors among others.

A robust stakeholders' consultation and public participation was undertaken in accordance with Articles 10 and 232 of the Constitution. The Commission received feedback from a wide range of institutions such as County Governments, Constitutional Commissions, professional associations, MDAs, CSOs, Universities, private sector and members of the public.

The Commission had an engagement with the Cabinet Secretary, Ministry of Information, Communication and the Digital Economy on 16th December 2022 to apprise him of progress made in implementing the ATI Act 2016 and the status of developing the Access to Information (General) Regulations.

The Committee for the development of the Regulations finalized its work by submitting the final draft to the Cabinet Secretary, Ministry of Information, Communication and the Digital Economy for execution and transmission to Attorney General's office for publication.

The Access to Information (General) Regulations 2023 were published in the Kenya Gazette through Legal Notice No. 57 of 3rd May 2023. The published regulations were transmitted to Parliament on 10th May, 2023 for post-publication scrutiny and approval.

Development of a National Access to Information Policy

The enactment of Access to Information Act in 2016 was as a result of sustained and concerted efforts by some members of parliament and civil society actors. The effect of this is that the law was passed ahead of the national policy framework, which gap continued to hamper the seamless implementation of access to information. The lack of a national policy on access to information hampered the implementation process since there was no uniform Government approach, procedures and processes on information disclosures. Other challenges brought by lack of a national ATI policy include inconsistency and incoherency in government policies on information disclosures, inadequate resources, lack of enabling procedures and infrastructure on ATI.

Accordingly, the Ministry of Information, Communications and the Digital Economy on 4th January, 2023 constituted a Multi stakeholder Committee to develop a National Access to Information Policy for Kenya, co-chaired by the Communications Secretary within National Communications Secretariat (NCS) and the Commissioner in charge of Access to Information.

The Multi-Stakeholder Committee drew its membership from the Ministry of Information, Communication and the Digital Economy; National Communication Secretariat; Commission on Administrative Justice; Ministry of Foreign and Diaspora Affairs; Kenya Law Reforms Commission; Office of the Data Protection Commissioner and the Attorney General's Office. The Committee's Terms of Reference were to undertake a comprehensive audit of the existing legislation, regulations, policies, administrative procedures, sessional papers, Government guidelines and circulars on access to information in Kenya in a bid to develop the policy.

Following the inaugural meeting on 10th March, 2023, the Committee embarked on the task of developing the Policy and undertook the following key activities:

- i. Identification of thematic areas and development of strategy;
- ii. Constitution of sub-committees and undertaking relevant research work;
- iii. Reviewing and drafting the draft ATI policy and legislative proposals;
- iv. Development of stakeholders and public engagement plans.

By the end of the reporting period the committee had developed the 1st draft of the National ATI Policy and draft proposals to amend the ATI Act 2016.

Development of ATI Reporting Guidelines for Public Entities and Private Bodies

The Commission, by dint of Section 21 of the ATI Act, 2016 is conferred

with the function of receiving and considering reports from public entities and certain private bodies on the implementation of the Act. The Commission is further obligated to assess and act on these reports with a view of evaluating the use and disclosure of information. Section 23(6) of the ATI Act, 2016 obligates public entities and relevant private bodies to provide the Commission with reports on the implementation of the Act.

Section 27, ATI Act, 2016 places an obligation on public entities to submit annual reports to the Commission within various parameters indicating institutional measures put in place towards implementing the Act. In addition, section 23(7) confers on the Commission, the power to develop and publicize guidelines in consultation with the public detailing the reporting requirements including *the manner, means and timeframes* that apply to public entities and relevant private bodies.

It is against this background that the Commission developed Reporting Guidelines for Public Entities and Private Bodies under the Access to Information Act, 2016. The guidelines:

- i. Give effect to section 23(7) of the Access to Information Act, 2016;
- ii. Guide public entities and private bodies in compliance with the reporting obligation under section 23(6) and 27 the ATI Act, 2016;
- iii. Provide modalities of submitting annual reports to the Commission and sanctions to be meted by the Commission for non-compliance with the reporting obligation and
- iv. Provide feedback mechanisms by the Commission to public entities & relevant private bodies upon evaluation of the reports.

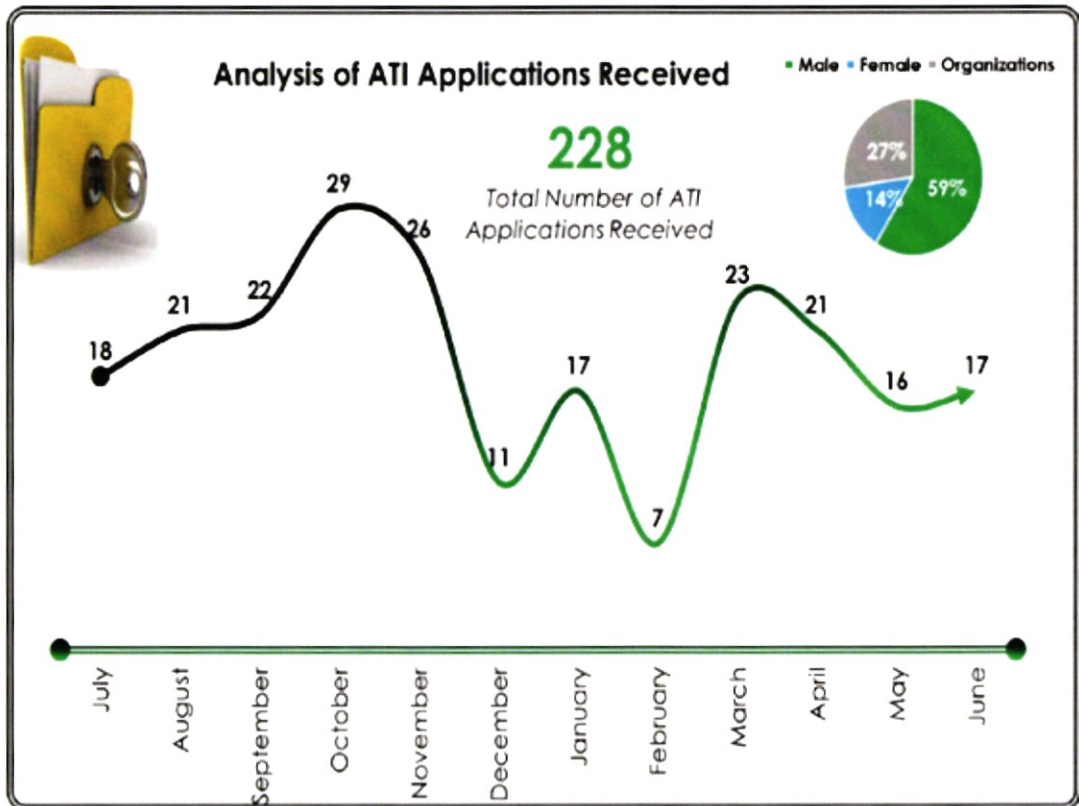
The draft guidelines were subjected to a stakeholder consultation pursuant to Articles 10 and 232 of the Constitution and the Statutory Instruments Act, 2013. These stakeholders included Ministries, Departments, Agencies, County Governments, State Corporations, private bodies and non-state actors. The commission also received written submissions, comments and memoranda from about 120 public entities and private bodies being representatives of different sectors. The Guidelines were thereafter validated in a workshop held on 15th June 2023 at Nairobi whereof 46 participants representing key institutions were engaged. The final ATI Reporting Guidelines are awaiting adoption.

4.3 ATI Applications

Review of ATI decisions

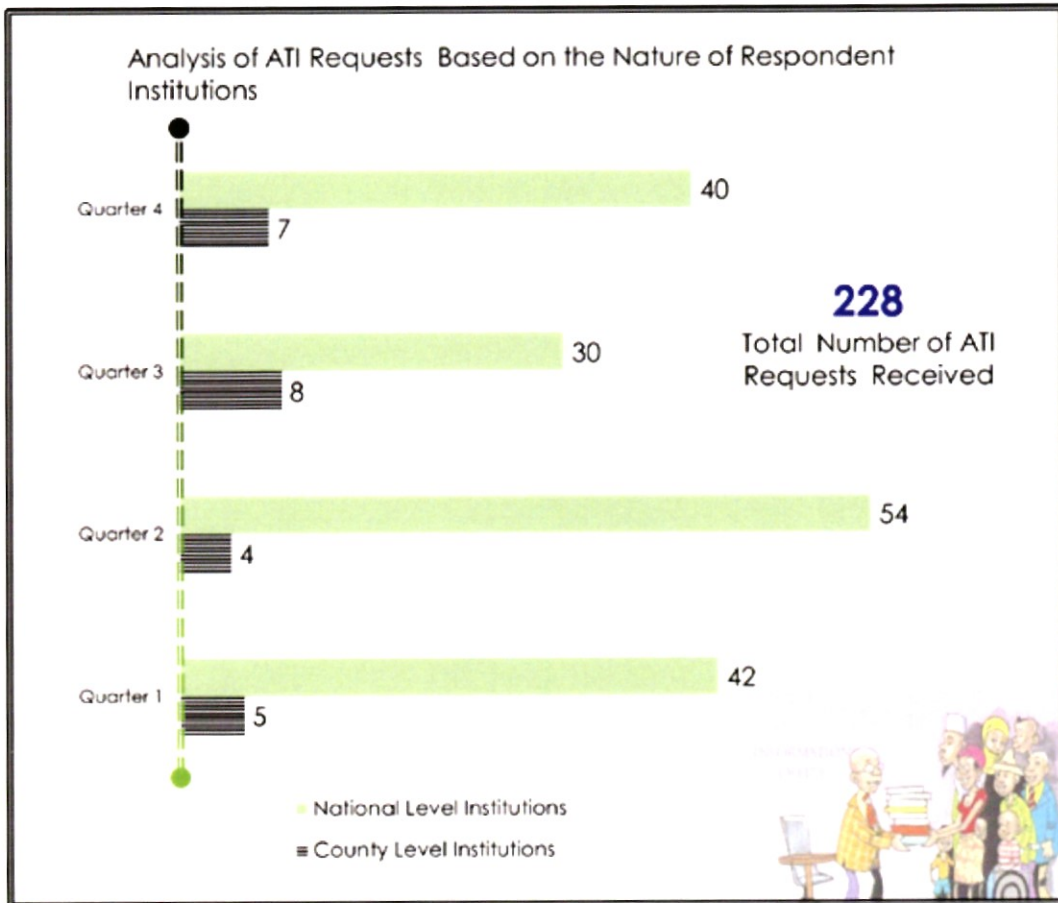
The Commission received 228 applications for review during the financial year which are disaggregated as per figure 16:

Figure 16: Applications Received



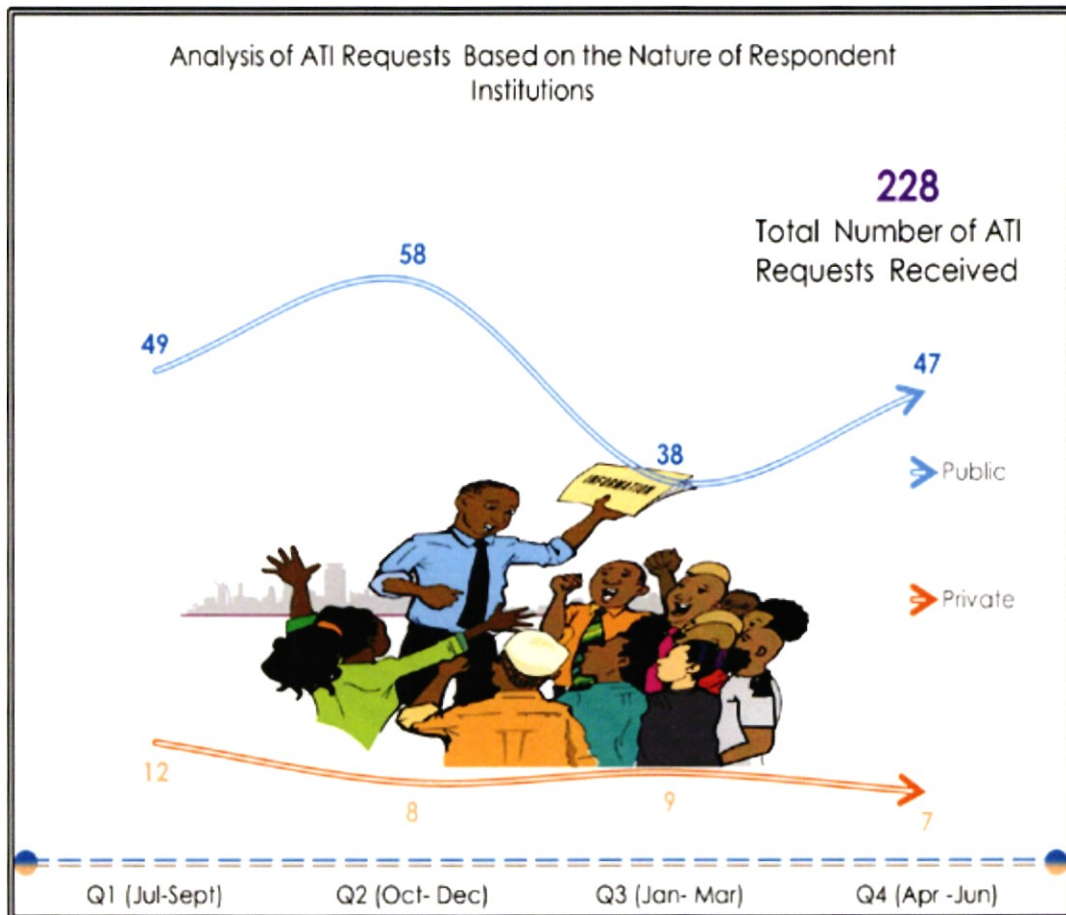
A total of 166 ATI requests representing 73% were to be responded by the national level of government while 27% were to be responded by the county governments. A quarterly analysis on the nature of respondent institutions is illustrated in figure 17.

Figure 17: Nature of Respondent Institutions



The Commission received a total of 228 applications for review of decisions by entities under the Access to Information Act. The majority (90.3%) of the applications for review received by the Commission were classified as a decision refusing to grant access to information under section 14(1)(a) of the Act. These were characterized by general lack of a response from the requested institutions. The Commission received ten (10) representing 4.3% applications for reviews on Refusal to correct/update/annotate records of personal information [Section. 14 (1) (h)]. There were seven (7) applications representing 3.1% addressing the issue of public entities' obligations on proactive disclosure as provided for by sections 5 and 14(3) of the Act.

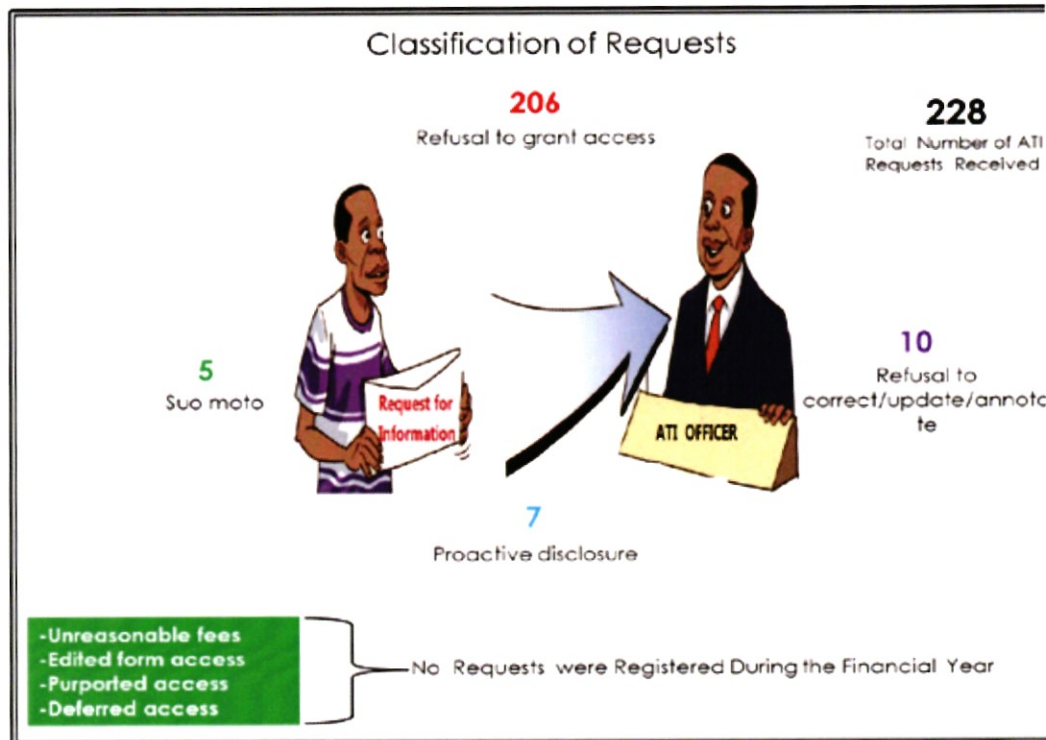
Figure 18: ATI Requests based on the Nature of Respondent Institutions



Classification of Requests

The applications received are classified into the following categories of Access to Information requests during the reporting period:

Figure 19: Classification of Requests



4.4 Success Stories

Personal Information Corrected on Academic Certificates - CAJ/ELD/M. EDU/013/98/2022-FL

A former student of Rift Valley Technical Institute can finally apply for job opportunities after the Kenya National Examination Council (KNEC) corrected his name on a diploma certificate following the intervention of the Commission under the access to information law.

The applicant had pursued a Diploma in Information Technology at the Rift Valley Technical Training Institute. However, upon completion of his course he received transcripts that had erroneous entries on his names. Efforts to correct have the errors corrected by KNEC were futile. The Commission intervened leading to the correction of the details in the results slip and subsequent issuance of the Diploma certificate.

Eldoret Law Courts Grants Access to Information - CAJ/ELD/ATI/JUD/001/151/2022-EK

An application for review was made under Section 14 (1)(a) of the Access to Information Act following the decision of the court to deny the applicant access to information. According to the applicant, the Eldoret Magistrates Law Court failed to furnish him with the court proceedings. The applicant asserted the proceedings were required by the Advocates Complaints Commission to enable them address a complaint against his advocate.

The Commission reviewed the appeal and issued an order leading to the release of the court proceedings.

Applicant Versus Teachers Service Commission (TSC) -ATI/TSC/013/53/22-MW

The Commission received a complaint against the Teachers Service Commission (TSC) for blocking her twitter handle from the official twitter handle of @TSC_KE hindering access to official public information. The Commission took up the matter with the TSC and consequently, the twitter handle was unblocked.

Correction of Personal Information on the Birth Certificate of a Minor - ATI/ROB/001/26/22-MW

A complaint for failure to rectify details on a minor's birth certificate by the Registrar of Births and Deaths was received by the Commission.

The Commission took up the matter with the Director Civil Registration Service ordering changes be effected in accordance with section 13 of ATI Act and the details were rectified.

4.5 Enforcement of ATI Orders

In many of the reviews processed by the Commission, most respondents released information withheld by them upon receiving a letter of inquiry from the Commission. This meant that most applications for review were closed at the point such information was provided. Many of the correspondences by the Commission form 'decisions on release of information' especially after both parties have given their perspectives in relation to the request. In some instances, the Commission utilized its powers granted by ATI Act 2016 as well as the CAJ Act such as Summonses

to elicit response from some of the respondents. These measures were utilized in several instances under the access to information framework and the results were that the respondents complied by releasing information withheld.

Section 23(2) of the ATI Act gives the Commission the powers to issue orders where it is satisfied that there has been an infringement of the provisions of the Act. During the period under review, the Commission issued a total of 37 orders some of which have been enforced as decrees of the High Court in accordance with Section 23 (4) of the Act. Table 1 presents some of the orders that have been enforced;

Table 1: Sample of ATI orders enforced

No	Court Case number	Key issues	Summary of Facts	Court's decision
1	D a v i d M u g a s i a Inyang'u Vs Joshua O i g a r a , K e n y a C o m m e r c i a l b a n k & 2 o t h e r s	-Adoption of an order of CAJ -Whether a party whom is dissatisfied by an order of CAJ who fails to appeal within 21 days under section 23(3) ATI Act can be allowed to oppose a d o p t i o n proceedings	The Applicant requested for information from KCB who failed to respond to his request and thus moved CAJ for a review of KCB's decision. The Commission issued an order directing KCB to facilitate access to the information. The applicant moved to court to enforce the order.	The Court held that: - -Section 23(3) ATI Act allows an appeal against an order of the Commission and a party failing to appeal cannot raise any issue in adoption proceedings -Order of the Commission dated 5 th May 2022 adopted and KCB Bank ordered to supply information within 7 days. - Enforcement proceedings under section 23(5) ATI Act are ex parte proceedings

No	Court Case number	Key issues	Summary of Facts	Court's decision
2	Paragon Electronics Limited Vs Njeri Kariuki Nairobi Constitutional and Human Rights Division Misc. Application No. E021 of 2022	-whether the Commission had jurisdiction to determine an ATI review application against the Respondent as a private body -whether CAJ orders could be adopted and enforced by the Court	The applicant requested for release of time sheets and ETR records in the possession of the Respondent as a sole arbitrator in a dispute involving the Applicant and other body. The respondent did not comply with the request nor the inquiry from the Commission prompting and Order to be issues against the Respondent which was being enforced through the court process.	The court held that the Commission had jurisdiction over private bodies as provided in the ATI Act and thus proceeded to adopt the Order issued on 11 th January 2022 by the Commission as an order of the Court.
3	Paragon Electronics Limited Vs Chief Land Registrar Nairobi Constitutional and Human Rights Division Misc. Application No. E0429 of 2022	-Adoption of an order of CAJ -Factors to consider before CAJ decision on ATI is adopted	The applicant had requested for information from the Respondent pursuant to Article 35 and provisions of the Access to Information Act, 2016. When the same was not forthcoming, the applicant sought for a review from the Commission who initiated an inquiry vide a letter dated 4 th July 2022 requesting the respondent to respond to the applicant. Failure by the respondent to respond to the letter, The Commission issued an Order pursuant to section 23(3) (a) of ATI Act, 2016 The Applicant filed application dated seeking to enforce the decision of the Commission.	The Commission's order dated 4 th October 2022 was adopted as an Order by the court and the respondent ordered to ensure its compliance.

No	Court Case number	Key issues	Summary of Facts	Court's decision
4	Khalifa & another v Principal Secretary, Ministry of Transport & others	<p>-Adoption of an order of CAJ</p> <p>-Whether a party whom is dissatisfied by an order of CAJ who fails to appeal within 21 days under section 23(3) ATI Act can be allowed to oppose adoption proceedings</p>	<p>The respondents requested the agreements, contracts, and memorandum of understanding in relation to the SGR project. The petitioners were aggrieved that the Respondents had not complied with the request and thus moved to Court.</p> <p>The respondents opposed the petition on among other grounds that the petitioners had not exhausted the available dispute resolution mechanisms and that the petition was res judicata. The respondents averred; that the agreements had non-disclosure clauses; that if granted the orders would endanger national security; that the information was protected under section 3(6) (7) of the State Secrets Act.</p>	<p>The burden of establishing that the refusal of access to information was justified rested on the State or any other party refusing access.</p> <p>-Any restriction on information that a government sought to justify on grounds of national security had to have genuine purpose and demonstrable effect of protecting a legitimate national security interest. To establish that a restriction on access to information was necessary to protect a legitimate national security interest, a government had to demonstrate that:</p> <ol style="list-style-type: none"> 1. The expression or information at issue posed a serious threat to a legitimate national security interest; 2. The restriction imposed was the least restrictive means possible for protecting that interest; and 3. The restriction was compatible with democratic principles. <p>-A declaration of violation of petitioners right of access to information through respondents' failure to supply information or publicizing it was made with further order that the information requested be supplied.</p>

4.6 Suo Moto Investigations under Access to Information

Section 21 (1a) of the ATI Act provides that one of the functions of the Commission shall be to investigate, on its own initiative or upon a complaint made by any person or group of persons, violation of the provisions of the Act. This gives the Commission wide ranging powers, as part of its oversight function over ATI to initiate inquiry into any issue related to the Act without waiting for an express complaint to be lodged with it.

Proactive Disclosure of information in power bills by Kenya Power

The Commission's attention was drawn to a media report titled "*Kenya Power Conceals Breakdown of Power Bills as Prices Surge by 10pc*" contained in the Daily Nation, Tuesday 14th March 2023 which alleged that Kenya Power would no longer give detailed breakdown of 'passthrough costs' in power bills but citizens would have to dial a short code to access those details.

The Commission undertook a preliminary investigation into the matter whereof the message of the purchased tokens from your Kenya Power did not give a breakdown of the respective costs thereof but required the purchaser to dial *977# for details. Upon dialling the code *977# from a Safaricom line, the Commission noted that there was a cost element of Kshs 1.00 charged on the service and that the service through this code was not accessible on other mobile service providers. Further, the information obtained at the end of the procedure gave Mpesa references instead of a detailed breakdown on the respective costs thus falling short of the expected standards on adequacy, accuracy and relevance.

The Commission on its own motion communicated to Kenya Power its obligation to proactively disclose information which is relevant to members of the public or which is likely to affect or give effect to the realization of citizens' fundamental rights and freedoms. The Commission noted that the Kenya Power's action would subject citizens to additional costs and procedures in accessing vital information on power bills as well as denying access to citizens using other mobile service providers.

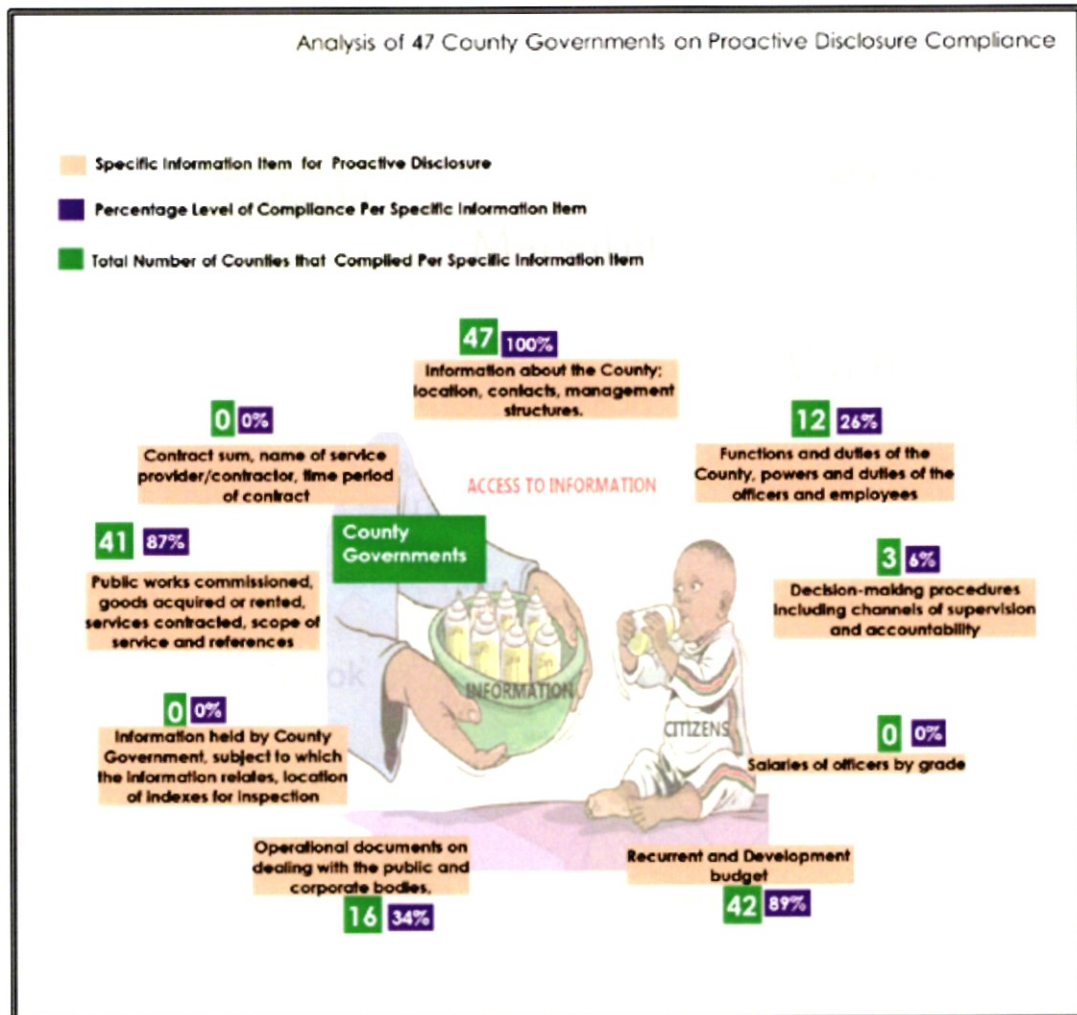
4.7 Implementation of ATI Act by Entities

4.7.1 Proactive Disclosure

Proactive disclosure is the action of continually making information available without waiting for public requests and is also referred to as active transparency. All public entities are required to administratively and as a matter of course and law (Access to Information Act) release information to the public, without the necessity of formal applications. The affirmative disclosure obligation not only requires public entities to proactively disclose information but also to update that information periodically in January of every year after it was first disclosed. This provides an excellent opportunity to satisfy the public demand for routine information while reducing the administrative burden associated with processing information requests. Additionally, proactive disclosure increases transparency hence public confidence in public entities. The Act provides that public entities are not obligated to supply information that is reasonably accessible by other means. Therefore, information already proactively disclosed should not be the subject of information requests. In essence the Act envisages a complementary relationship between active and passive disclosure.

During the Financial Year 2022-2023, the Commission conducted a desktop survey in all the 47 counties to establish levels of compliance with proactive disclosure towards informing requisite oversight intervention. This was guided by Section 5 of the ATI Act 2016 which enumerates the sets of information that should be proactively disclosed by all public entities.

Figure 20: County Government Compliance with Proactive Disclosure



The survey found that 63% of the County Governments disclosed information about them and their functions. On this parameter, all counties disclosed information on location, contacts and management structures at 100% but disclosed little information on functions, duties and powers of county officers thus making disclosure on the parameter to stand at 63%.

On the aspect of how the counties utilized their resources the compliance level stood at 44.5%. It was established that 42 counties (89%) disclosed information about recurrent and development budgets on their websites but none of the counties disclosed any information on salary scale of officers by grade. On the parameter of public procurement information, most counties disclosed information on advertised tenders on their website at 87% but failed to provide information required by

section 5 of the ATI Act after signing of the contracts including the contract sum, name of service provider/contractor, scope and time period of contract thus reducing the score to 43.5%.

The counties performed dismally in disclosing information on County policies and procedures with compliance level of 34%, decision making processes at 6% and no disclosure at all on County information registers/guides. The survey established that the overall compliance of County Governments with proactive disclosure obligation stood at 31.8%. The survey also found that some of the information disclosed by Counties on their websites had not been updated regularly as required by the law.

From the findings of the survey, the Commission notified the non-compliant counties on areas of improvement and intended to build capacity of county governments both at executive and assembly level on the instrumentality of ATI and their obligations under the Act. In addition, the Commission would also lobby the county governments to domesticate the model ATI law for county governments in order to provide a clear framework to implement ATI law as well as comply with section 96(3) of the CGA Act.

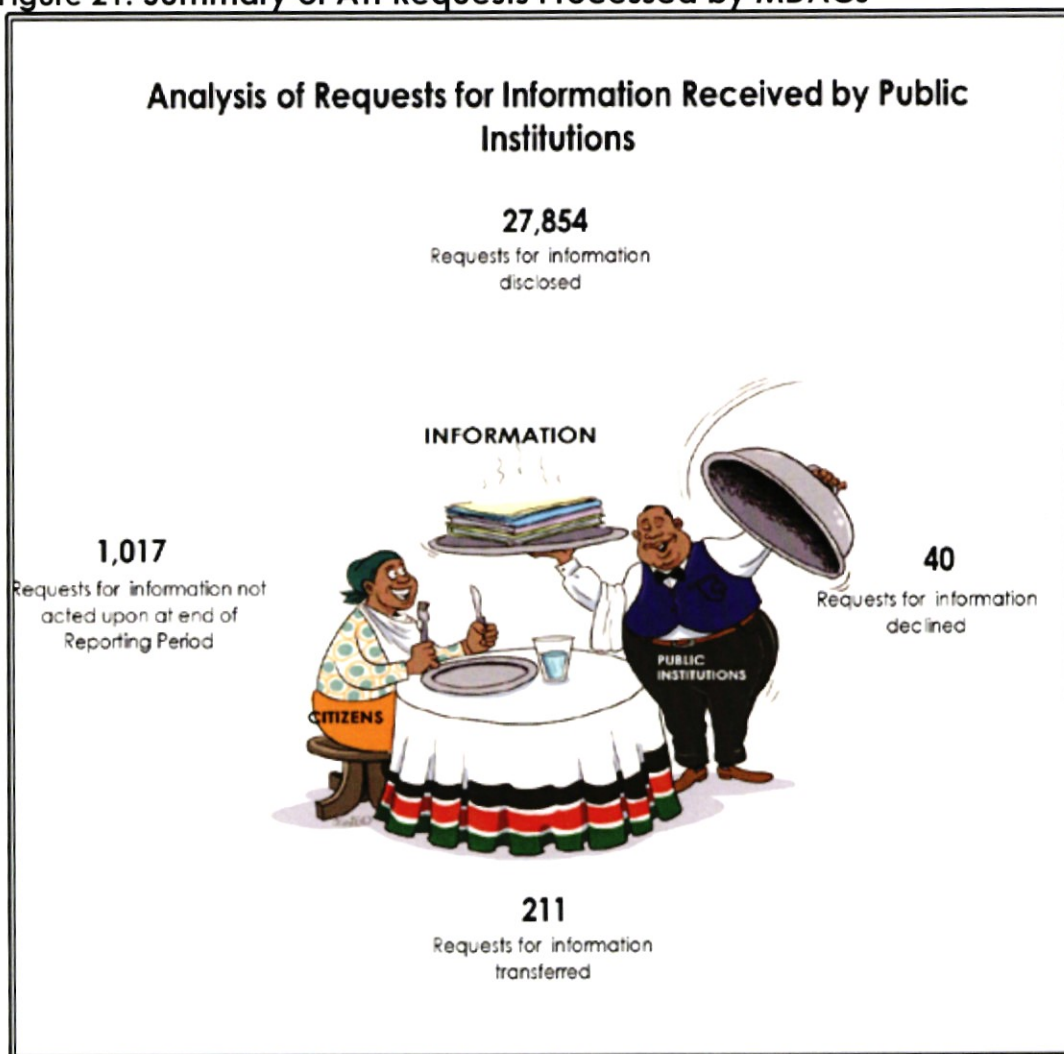
4.7.2 Reactive Disclosure

Reactive Disclosure means making information available in response to a request for that information by a requester. One of the objects and purposes of the ATI Act 2016 is to provide a framework for public entities and private bodies to, inter alia provide information on request in line with the Constitutional principles. The Act further provides timelines within which the requested information should be provided, being 21 days for general public information and 48 hours, where the information sought concerns the life or liberty of a person.

The Commission mainstreamed access to information through the existing Performance Contracting framework where public entities report to the Commission on resolution of public complaints. Based on the foregoing and coupled by extensive sensitization, awareness creation and training of public officers on access to information, the Commission was able to receive annual reports from MDAs in the year under review. From the reports received by the Commission, it was noted that MDAs were actively involved in the implementation process of the Access to Information Act whereof a total of 29,130 requests for information were received and processed by various MDAs. A total of 27,847 requests were handled and information requested thereof supplied, 211 requests were processed and transferred to institutions

holding the information in line with section 10 of the Act and 40 requests for information were processed and the information requested declined. A total of 1017 requests for information were still ongoing as at the end of the financial year with 15 requests having been deferred. Figure 21 presents the summary of the requests.

Figure 21: Summary of ATI Requests Processed by MDACs



1.1.3 Institutionalization of ATI by Counties

While the Access to Information Act applies to both the National and County Governments, the County Governments Act places specific obligations on county governments in regard to right of access to information. Section 96 of the County Governments Act exclusively addresses itself to access to information held by county governments, units or departments of the county and requires county governments to pass legislation to guarantee access to information. These counties look upon the Commission for support and technical guidance in the development and implementation of their County specific laws on access to information.

The Commission developed a '*Model Law on Access to Information for County Governments*' to support them in legislating County ATI Laws as a means of increasing access of information at local settings. This model law acts as a guide on the minimum ingredients for County Governments Access to Information Laws and thus ensuring uniformity and that the spirit of the National Law is maintained.

Two Counties, Kwale and Embu have enacted access to information laws with several others namely; Kisumu, Makueni, Laikipia and Vihiga being at an advanced stage of their legislating County ATI legislation. It is expected that other counties will follow suit and model the overarching access to information law presently available.

1.1.4 Capacity Building of Public Officers

The emerging trend in good governance the world over is that of adopting an open governance approach which allows members of the public to consult in an open setting based on what is planned by the government. Apart from enlightening citizens with information, open governance provides room for public participation which is crucial in the acceptance of government policies by the citizenry. As such, to ensure full understanding of the obligations created by the Act as well as to ensure corresponding positive responsive actions by public officers, it is important to ensure that public officers are properly trained.

To ensure obligations under the Act are well understood and thus increase compliance, the Commission has undertaken sensitization and training forums of various public officers. To this end, the Commission undertook trainings and capacity building initiatives of public officers whereby a total of 594 officers were trained.

4.8 Records Management

The Access to Information Act sets out specific obligations for public entities in relation to the management of records. Specifically, public entities are required to keep and maintain records that are accurate, authentic, usable have integrity and to ensure that the records facilitate the right of access to information. In addition, the Act lays minimum standards that public entities must adhere to meet the specified obligation.

4.8.1 Digitization of Public Records

Digitization of records is very critical in the implementation of access to Information and record keeping. In order to respond to requests, an adequate information management system must be designed and established. Specifically, the Access to Information Act requires all public entities to computerize their records within 3 years of coming into force.

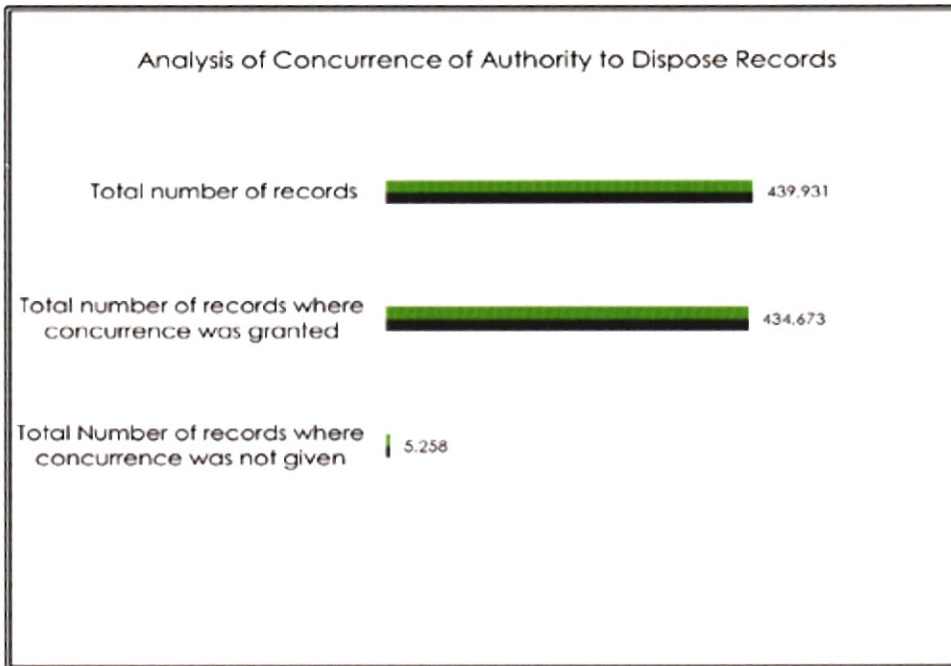
To this end, the Commission partnered with the Ministry of Information, Communication and the Digital Economy through the ICT Authority (ICTA) where it sits on the Steering Committee of the Taskforce on the digitization of public records. A Technical Committee was established where all public institutions are represented on digitization of records. The work of the Committee is still at a nascent stage but discussions so far center around the development of standards of digitization which will guide public entities on how to undertake the digitization process.

4.8.2. Disposal of Public Records

The ATI Act requires Kenya National Archives and Documentation Service (KNADS) to consult the Commission before granting any approval for disposal of public record. The consultative approach enables scrutiny of documents proposed for disposal based on the following parameters; (i) applicable law; (ii) appraisal reports by KNADS; (iii) nature of public records in issue; (iv) need for preservation of information/data and (v) need for protection of personal data.

During the reporting period, the Commission reviewed and concurred to dispose 434,673 records and declined disposal of 5,258 public records as shown in figure 22.

Figure 22: Concurrence of Authority to Dispose Records in FY 2022-2023



4.9 Compliance with the International Treaty Obligations

The Access to Information Act, 2016 requires CAJ to monitor and report on Kenya's compliance with its international treaty obligations relating to freedom of and right of access to information. At the international level, UNESCO monitors the implementation of the Right to Information (RTI) as part of the realization of Sustainable Development Goals (SDGs). Particularly, it monitors SDG 16.10.2 which ensures public access to information and protection of fundamental freedoms in accordance with national legislation and International Agreements. The reporting mechanism requires both quantitative and qualitative computation of data generated from a national perspective on the implementation process of the right to information. The report should establish the constitutional, statutory and or policy guarantees for public information and the extent to which such national guarantees reflect international agreements.

During the reporting period, the Commission applied the UNESCO survey tool which focuses on both quantitative and qualitative computation

of data generated from a global review of existing surveys.

The Commission submitted its fourth report to UNESCO on Kenya's compliance with its international treaty obligations relating to freedom of and right of access to information in April 2023. The survey sought to establish whether Kenya had Constitutional, statutory and or policy guarantees for public right to information and the extent to which such national guarantees reflect International agreements. It also looked at the implementation mechanisms in place for such guarantees. The survey sought to establish whether Kenya has put in place measures to publicly promote the right to information, citizens' awareness on the right to information, their ability to use it and the capacity of public bodies to provide information upon request by the public. The parameters the Commission reported on include: binding national access to information legislation; presence of a national policy on access to information; action plans, standard operating procedures and protocols on ATI implementation; open government strategy or policy; mechanisms for monitoring SDG 16.10.2 in Kenya; institutional mechanisms existing on ATI implementation; oversight system effectiveness and efficacy of records management as well as challenges experienced on ATI implementation and its future plans.

CHAPTER FIVE

5.0 PUBLIC EDUCATION AND OUTREACH

Introduction

According to Commission's Strategic Plan (2019-2023), public Education to create Awareness, and enhancing Visibility with enhancing awareness is a strategic theme. This is meant to address insufficient public awareness of the Commission.

Therefore, the Commission carried robust programs to enhance awareness creation on commission mandate and capacity building of public officers through public education, advocacy, training and outreach activities conducted throughout the year. These activities were aimed at empowering citizens on their rights, as well as training of public officers on complaints handling and access to information mechanisms to promote good governance.

During the year under review, the Commission used various strategies to undertake robust public education, advocacy and training programs. Some of the approaches used by the Commission included: -

- (i) Training public officers from Ministries, Departments, agencies and counties
- (ii) Courtesy calls by the commissioners on top leadership of National and County Government institutions
- (iii) Public education/outreach fora
- (iv) County visits
- (v) Carried ombudsman mashinani in informal settlements
- (vi) Media engagements
- (vii) Collaboration with state and none state actors
- (viii) Public education and training webinars
- (ix) Participation in ASK shows

5.1 Capacity Building in the Public Sector

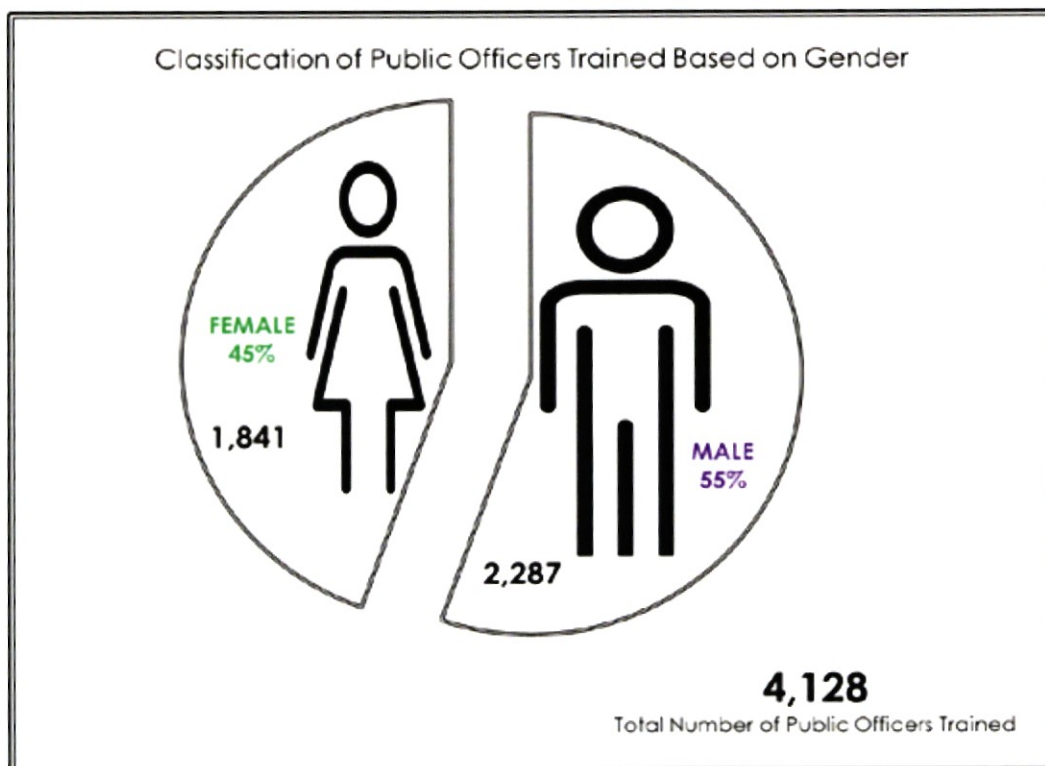
The Commission continued to build the capacity of public officers and institutions on effective complaints handling and access to information to enhance responsiveness and accountability in the public sector. This was also undertaken in line with performance contracting framework.

The objectives of these trainings included: -

- (a) To strengthen and enhance effectiveness of complaints handling and access to information mechanism in the public sector,
- (b) To enlighten on CAJ functions and mandates relating to resolution of public complaints and implementation of Access to information Act
- (c) To ensure compliance with CAJ Performance contracting requirements
- (d) To enhance responsiveness and accountability in the public sector
- (e) To enhance knowledge and skills of public officers on effective and people centered service delivery.

During the year under review, the Commission trained a total of 4,128 public officers drawn from 133 MDACs as shown in table 2. This included 2,287 male officers & 1846 females representing 55.3% men and 44.6% women respectively as illustrated in figure 23.

Figure 23: Classification of Officers Trained by Gender



Further, the Commission supported ministries, departments, agencies and counties to undertake review and development of their complaints

and access to information policies, and citizen service delivery charters. The Commission employed a blended approach in training of public officers, both physical and virtual.

Table 2: Number of officers trained in the financial year 2022/23

S/No.	INSTITUTION	NO. OF MALES	NO. OF FEMALES
	Kenya National Shipping Line	6	1
	State department for Correctional Services	8	3
	IEBC Exhibition	60	40
	Ewaso Ngiro South Development Authority	5	2
	KEMRI	23	21
	EPRA	25	35
	Consultative workshop for County Executives and Assemblies	21	7
	Retirement Benefits Association	4	3
	National Council for persons with Disability	5	5
	Garissa Office Launch	85	35
	Consolidated Bank	17	28
	Induction of Governors	40	7
	Induction of Kiambu County Assembly	22	13
	Induction of Kisii County Assembly	13	12
	Induction of Kakamega County Assembly	24	11
	CSOs Engagement in Bungoma	14	14
	GIZ Programs in Kisumu	28	16
	International Day on Universal Access to Information	58	29
	Bungoma Assembly	37	22
	Kisumu Assembly	30	20
	Kenya Veterinary Vaccines Production Institute	29	9
	Kenya School of Law	15	16
	Citam Church	9	12

S/No.	INSTITUTION	NO. OF MALES	NO. OF FEMALES
	Kenya National Library Services	7	9
	State Department for Co-operatives	10	4
	Kibabii University	25	20
	Access To Information Webinar	91	103
	Kenya Dairy Board	27	19
	Ol'Lessos Technical Training Institute	26	12
	Lake Victoria North Water Works Development Authority	3	3
	Complaints Management Information System Webinar	262	206
	Retirement Benefits Authority	30	30
	Ministry of interior and National Administration	162	94
	Kenya Veterinary Vaccines Production Institute	30	26
	Biosafety Appeals Board	8	3
	Kenya Rural Roads Authority	31	33
	Kenya National Library Services	28	34
	State Department for Wildlife	5	6
	LAPFUND	4	5
	National Construction Authority	22	9
	Warehouse Receipt System Council	7	12
	Media Council of Kenya	2	5
	Tourism Fund	4	9
	Kenya Forest and Research Institute	126	109
	State Department for Foreign Affairs	3	4
	Technical university of Mombasa	30	35
	County Government of Nakuru	2	1
	Ewaso Ngiro North Development Authority	19	9
	Tea Board of Kenya	13	13
	Kenya Institute for Public Policy Research and Analysis	3	4

S/No.	INSTITUTION	NO. OF MALES	NO. OF FEMALES
	Coast Development Authority	8	7
	Kenya Electricity Generating Company	18	10
	Kenya Trade Network Agency	15	15
	Nyandarua County Government	38	22
	Office of the Deputy President	4	1
	Kenya Water Institute	7	4
	Kenya National Highways Authority	36	34
	Agricultural Finance Corporation	10	14
	Chuka University	54	58
	Executive Office of the Deputy President	4	5
	Garissa University	41	29
	ICT Authority	18	14
	Jaramogi Oginga Odinga University of Science and Technology	32	38
	Kenya Deposit Insurance Corporation	7	5
	Ministry of Defense	8	7
	Kenya National Highway Authority	6	4
	Kenya Maritime Authority	5	13
	Kenya National Shipping Line	4	4
	Kenya National Trading Corporation	3	7
	Kenya Pipeline Company Ltd	11	9
	Kenya Roads Board	26	23
	Kenya Export Promotion and Branding Agency	5	6
	Kenyatta International Convention Centre	4	5
	Kenya Institute of Special Education	32	28
	Kenya Medical Training College	50	27

S/No.	INSTITUTION	NO. OF MALES	NO. OF FEMALES
	Meru University of Science & Technology	2	3
	State Department for Maritime and Shipping Affairs	5	6
	National Anti-Corruption Steering Committee	27	16
	National Industrial Training Authority	9	16
	Privatization Commission	3	5
	Sacco Societies Regulatory Authority	8	8
	Witness Protection Agency	12	15
	Micro and Small Enterprise Authority	48	52
	Retirement Benefits Authority	13	17
	Kenya Institute of Curriculum Development	34	23
	Media Council of Kenya	7	8
	Huduma Kenya Secretariat	102	93
	Office of the Attorney General & Department of Justice	14	12
		2,287	1,841

5.2 Public Education and Awareness Creation

In line with its function of promoting public awareness on policies and administrative procedures on matters relating to administrative justice and access to information, the Commission employed various strategies as follows;

5.2.1 Ombudsman Mashinani

The ombudsman machining (service at the grassroots level) is an initiative the commission has adopted to undertake public education and outreach activities in the informal settlements. It was inspired by the need to reach all citizens especially those who cannot afford legal representation and whose only hope is to get redress through the commission. The initiative employs existing community structures and CSOs to undertake public education and provide legal aid clinic.

The Commission held an open day in Riruta, Dagoretti Sub County, Nairobi County where 350 people were sensitized and 2 complaints received.



5.2.2 People Dialogue Forum

The Commission participated in the fifth People Dialogue Festival (PDF) organised by Centre for Multiparty Democracy (CMD). The PDF is an annual multi-stakeholders' platform designed as a vibrant and safe space for respectful, meaningful engagement between citizens and various actors in the social, political, and civic spheres. Through this forum the Commission reached out to over 500 members of the public where Information Education and Communication Materials were distributed.



5.2.3 Engagement under the FLLoCA Programme

Financing Locally Led Climate Action (FLLoCA) is a program of the Government of Kenya funded by the World bank whose objective is to deliver locally-led climate resilience actions and strengthen County and National Governments' capacities to manage climate risks. The program focuses on building county level capacity for planning, budgeting, reporting and implementation of local climate actions in partnership with communities, and strengthening of national level capacity for coordination, monitoring and reporting. The Commission is a key partner in the program based on its integral role in promoting administrative justice and access to information in the public sector. The Commission under the program built the capacities of county governments in complaint handling and proactive disclosure of information for effective implementation of the FLLoCa Program.

In this regard, the Commission developed County Complaints Policy to facilitate the setting up of complaints handling mechanisms in the Counties. The policy provides key guidance on complaint-handling processes and is focused on supporting and ensuring the mainstreaming of complaints handling in the provision of services by counties to promote

responsiveness and accountability.

The Commission also offers continued capacity building and technical support to counties to domesticate and implement the policy which sought to; Remedy the piecemeal approach to complaint handling in the counties; and provide a framework for the standardization of complaint-handling processes for county Governments.

The FLLoCA program envisions inclusivity and participation as key tenet to the success of locally led climate action. Access to Information is a catalyst for public participation and inclusion, hence, the Commission in accordance with Section 96 of the County Governments Act, 2012 developed a 'Model Law on Access to Information for County Governments'. This model law acts as a guide on the minimum standards for the county access to information laws. The Commission, through the program, provided technical support to the Counties in the development and implementation of their ATI laws. This was envisioned to ensure proactive disclosure in the FLLoCA program.

During the year under review, the Commission carried out four-day sensitization workshops in four regions that brought together the representation from at least six counties in each region based on the proximity to the selected focal county. The workshops were held in Embu, Makueni, Nakuru, and Garissa and targeted 28 counties in total namely: Embu, Kirinyaga, Meru, Isiolo, Nyeri, Muranga, and Tharaka Nithi, Makueni, Machakos, Nairobi, Kitui, Kajiado, Kiambu, Taita Taveta, Nakuru, Nyandarua, Laikipia, Baringo, Narok, Bomet, Kericho, Samburu, Uasin Gishu, Nandi, Garissa, Wajir, Mandera and Tana River. The phased-out workshops were attended by a total of 200 officers from the Climate Change Units; mainly the directors, social safeguard officers, foresters, and environmental officers among others. Also in attendance were the County Attorneys, Legal Counsels from the County Assemblies, and the officers in charge of communication in both the executive and the legislature. Notably, officers were also drawn from other sectoral directorates such as land, water, environment and urban planning. The aim of the workshops was to support County governments in the setup and improvement of their complaint-handling mechanisms and to guide the establishment of mechanisms that enable proactive disclosure of information to the public they serve.

The Commission, through FLLoCA program, conducted public awareness, legal aid clinics and public education in Wote, Makueni County, Kianjokoma, Embu County, Garissa Town and in Nakuru County. The exercise which reached estimated 5000 people provided linkages and emphasis to the avenues available to citizens to report on complaints and access to specific information on matters affecting climate change, including proactive disclosure of information relevant to environmental factors in the Counties. In addition, the Commission trained county officers on Grievance Redress Mechanism and Access to Information and through engagement of the leadership of both the county assemblies and county executive. Further, the Commission provided technical support to the Counties in the development and implementation of their ATI laws. This is envisioned to ensure proactive disclosure in the FLLoCA program.

Further, the Commission also held courtesy calls and dialogue forums with the County Leadership both from the Executive and Assembly arms of Government, to lobby for the domestication of the County Complaints Handling Policy and the model Access to Information Law.



5.2.4 Other Public Awareness and Education Activities Included

During the year under review, the Commission leverage on partnerships with state and non-state actors to create awareness on its mandate and empower citizens on good governance.

Some of the key public education engagements included: -

- Engagements with county governments during induction programmes in partnership with COG e.g induction of governors and deputy governors (96 officers), induction of speakers of county Assemblies (47 officers).
- Conducted public education and outreach during official opening of Commission's Garissa office on 22nd September, 2022.
- Site visits by the Commission to Mau Forest in Nakuru County in collaboration with Ogiek People's Development programme to ascertain where Ogiek reside.
- Legal aid clinic/outreach was also conducted during the International Day on access to information celebrations held in Bungoma county on 28th September, 2022.
- In partnership with GIZ, implemented technical support to six counties namely Kisumu, Siaya, Vihiga, Bungoma, Kakamega, Elgeyo Marakwet.
- conducted webinar for Huduma secretariat and cyber managers, which sensitized 300 officers.
- Come Together Widows and Orphans Organisation (CTWOO) and Dreams CBOs forum at PEFA church in Mariakani, Kilifi County.
- Annual Global Campaign dubbed 16 days of Activism Against Gender Based Violence in Kilifi County
- Widows Economic Empowerment Seminar was held in Mnamu sub location in Mwatate sub-county, Taita Taveta County.
- Citam Buruburu Public education and legal aid clinic.
- The legal awareness week organized by the Law Society of Kenya (LSK) in the following regional offices- Mombasa, Kisumu, Nairobi and Eldoret.
- Kenya National Commission on Human Rights Commemoration of the 75th Anniversary of the UN declaration of human rights and the International Human Rights Day in Nairobi.
- Non-state actors in Bungoma during the International Day on

- Universal Access to Information celebrations
- Sensitisation during National Elections Conference held at KICC IEBC Exhibition
 - Leveraged on the Law Society of Kenya (LSK) legal awareness forum in four regions namely Nairobi, Kisumu, Eldoret and Mombasa

5.3 Media Engagements

5.3.1 Mass Media

Mass media plays a crucial role in public education by facilitating communication, disseminating information, and promoting awareness across large audiences. To this end, the Commission received a total of 83 coverage by the print and electronic media boosting creation of awareness initiatives on the commission mandate. Based on media engagement and other public education and outreach programs an estimated reach more than 15 million Kenyans was received by the Commission during the year under review. Some of the media stations that covered Commission events included: Local Fm radio stations, K24, NTV, Radio 47, KBC, and Citizen TV and print media such as Nation, Standard and Star newspapers.

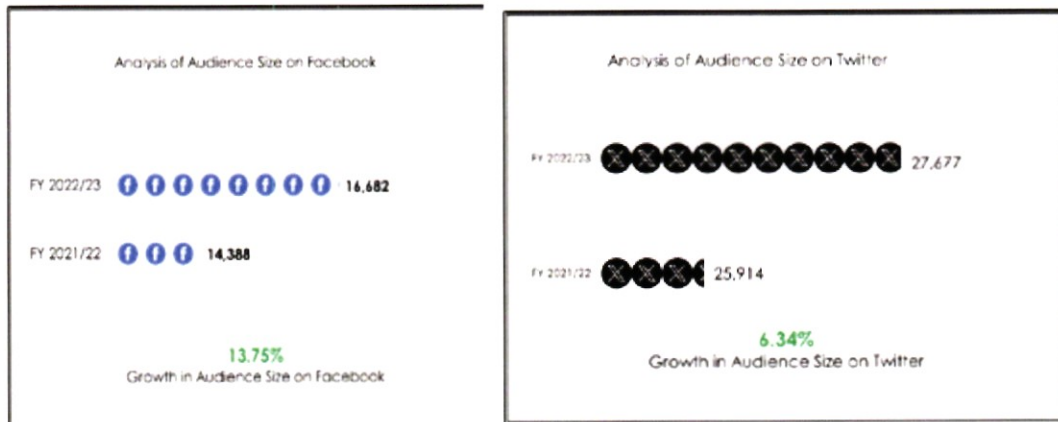


5.3.2 Social Media

The Commission also engaged the public on its own social media platforms including Facebook, Twitter, You Tube and the website. The interactive nature of social media continued to enable citizens to demand accountability. Kenyans continued to make inquiries, reported cases and made follow ups through the Commission's Facebook platform - Ombudsman Kenya and Twitter handle @KenyasOmbudsman.

During the reporting period, social media has enhanced the accessibility of the Commission with the audience size on Twitter increasing from **25,914** to **27,677** and from **14,388** to **16,682** on Facebook representing a percentage growth of **6.34%** and **16%** respectively. Moreover, the Commission shared 324 posts on Facebook and 900 tweets on twitter and thus interaction rate increased by 70 percent an indication that social media continues to be an interactive platform for engagement with the public as shown in figure 24.

Figure 24: Analysis Of Social Media Audience

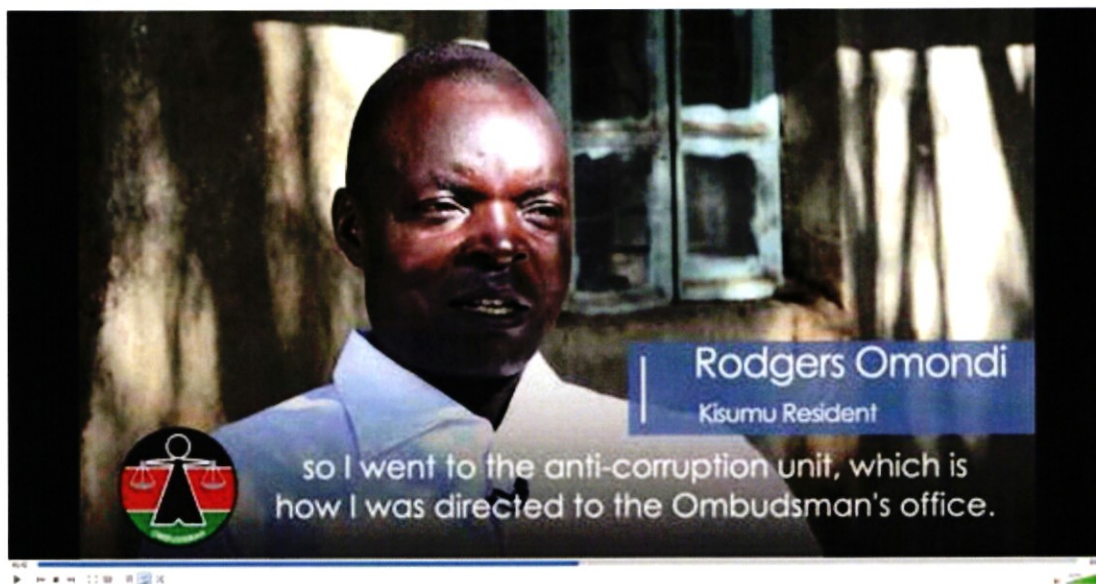


5.3.3 Airing of CAJ Documentary

The Commission with the support of GIZ produced and aired a 24-minute documentary titled **“10 Years of Service to Citizens in Addressing Maladministration and Access to Information in Kenya”** on two leading television stations. The documentary highlighted the positive impact of Ombudsman services across the country illuminating the change in people's lives.

The documentaries had an estimated reach of 8,274,410 people for

citizen TV and 984,000 for KTN according to IPSOS Kenya Audience Survey –IKAT Q1 2023 and KTN reports.



5.3.4 Production and Dissemination of IEC and Branded Materials

During the reporting period, the Commission produced and disseminated various Information, Education and Communications (IEC) and branding materials to aid public awareness and education on the mandate and enhance the brand visibility of the Commission.



Production and Dissemination of Newsletters

The Commission produced and disseminated *Ombudsman Newsletters* quarterly. The newsletters highlighted some of the significant developments, achievements, and important updates from the Commission. The *Ombudsman Newsletters* are available on the Commission's website: www.ombudsman.go.ke. Soft copies of the newsletters were disseminated to the MDACs via email.



CHAPTER SIX

6.0 PARTNERSHIPS, NETWORKS AND LINKAGES

During the reporting period, the Commission continued its efforts to be more visible, active and engaged in local and international partnerships and linkages. The Commission's activities in this area included hosting visiting international delegations, delivering presentations in conferences and meetings, and participating in activities of ombudsman networks such as the International Ombudsman Institute (IOI) and the African Ombudsman and Mediators Association (AOMA). The Commission forged several partnerships and collaborations with a view to strengthen its capacity to effectively deliver on its mandate.

1.1 Delegations

The Commission played host to Ombudspersons from the Republic of Ghana and Botswana.

1.2 Presentations

The Commission was invited to various conferences and international meetings in which presentations were made, including the following:

- Devolution conference: 10 Years of Devolution: The Present and the Future held at Uasin Gishu between 15th to 19th August 2023.
- Virtual meeting held on 31.10.2023 regarding the topic's selection for the IOI World Conference.
- Management of the nominations and election procedures of new IOI Regional Directors.
- Moderation of a session on the theme "Global Challenges for ombudsman and Human Rights institutions" during the commemoration of the 10th Anniversary of establishment of the Office of the Ombudsman in Mozambique.
- Key remarks during an International Commission of Jurists conference on the theme 'Towards Advancing Transparency and Accountability in Public Contracting through Open Contracting and Proactive Disclosure of Information'.
- A presentation on International Collaboration among Ombuds Institutions during the SDG 16 Workshop in Oslo, Norway.

1.3 Networks

The Commission is a member of IOI and AOMA - the respective global and continent membership bodies for cooperation of ombudsman institutions. The Commission's participation in these bodies cannot be gainsaid as such forums provide the opportunity for cross-learning and the psychological benefit of not being alone in the difficult task of holding wielders of public power accountable. Under the aegis of these networks, the Commission was involved in the following activities in the reporting period:

a) **International Ombudsman Institute (IOI)**

The Commission participated in the following activities;

- The Chairperson (CAJ) in her capacity as the Regional President for IOI lobbied for the Ombudsman Institutions to be recognized internationally and be granted observer status at the United Nations General Assembly.
To this end, assurances have been recorded from some countries including Libya, Morocco, South Africa, Namibia, Kenya and Burundi committed to support the application.
- The Commission chairperson, who is also the IOI president African region, during the 67th Session of the Commission on the Status of Women (CSW 2023) in New York, engaged United Nations Institute for Training and Research (UNITAR) New York Office on 14th March 2023. Key matters discussed included:
 - ❖ Africa region's struggles with realization of the Sustainable Development Goal (SDG16); peace, justice, and strong institutions evidenced by the various challenges faced by African Ombuds Institutions.
 - ❖ Partnership frameworks with UNITAR on trainings based on the challenges faced by the Ombuds Institutions.
 - ❖ Collaborations on awareness campaigns and training within the UN to sensitize UN bodies in line with the thematic area (c) under the IOI-UNITAR MOU.
 - ❖ Promotion and protection of human rights and good governance as key to curbing corruption and achieving sustainable development and human well-being.

- Spearheaded the review of the By-laws for African Regional Ombuds Institutions.
- Participated in the commemoration of the Ombuds Day 2022 where the Chairperson presented a paper on the theme “UN Resolution on Ombudsman and Mediators, The Venice Principles and the OR Tambo Declaration on Minimum Standards for an Effective Ombudsman Institution”.
- Presented a paper on the theme: “The Role of the Ombudsman in the Oversight within the Civil Military Architecture: Threats, Resilience, Responsiveness and Future Implications” in the annual symposium of the South African Military Ombudsman in November 2022, which marked the 10th Year Anniversary since its establishment.
- Attended a workshop organized by the Geneva Centre for Security Sector Governance (DCAF) as part of a project linking security sector governance to SDG 16, with support from the Ministry of Foreign Affairs of the Netherlands that brought together representatives of ombuds institutes – including national human rights institutions and parliamentary commissioners – from several African countries.
- Developed of best practice paper on “Whistle-blower protection”.
- Renewed linkages with IOI regarding regional subsidy program.

b) African Ombudsman and Mediators Association

The Chairperson of the Commission serves as the Secretary General of the African Ombudsman and Mediators Association (AOMA). During the reporting period, the Chairperson:

- presided over over three executive committee (EXCO) meetings on various dates between within the financial year. She also presided over the General Assembly held in Kigali, Rwanda on 27th to 30th November which was an elective assembly.
- Sourced for funding from IOI to support African Ombudsman Institutions especially the **Huduma Mashinani** programmes and support AORC in their webinars.
- Hosted other Ombuds Institutions from Africa to observe the 2022 general election observation in Kenya with a view of improving

- standards of public administration and adherence to the rule of law in electoral governance.
- Participated in the inquiry on the suspension of the former Public Protector of South Africa from office. The activity was in line with AOMA's Constitutional mandate to promote the concept of the Ombudsman and advocate for robust, independent, and accountable institutions.
- Spearheaded the development of the following key instruments:
 - i. AOMA Election Observer Guidelines
 - ii. Guidelines on Individual Memberships
 - iii. Guidelines on Exemption from payment of subscription fees

1.4 Partnerships

6.4.1 Centre for Law and Democracy

The Centre for Law and Democracy (CLD) is a non-profit Organization that works to promote, protect and develop human rights as a foundation for democracy in the World. CLD developed a leading global tool for assessing the strength of national access to information implementation mechanisms. The organization build the capacity of CAJ officers on the developed methodology to enhance Commission's oversight capacity on ATI. A total of 17 officers comprising 12 from the Commission and 5 from non-state actors were trained on undertaking the assessment of Access to Information implementation in Kenya. The non state actors were; Katiba Institute, Kituo cha Sheria, International Commission of Jurists Kenya Chapter, and Article 19 Eastern Africa.

6.4.2 The African Network of Information Commissioners

The African Network of Information Commissioners (ANIC) is a regional network of African Countries that have enacted the right to information laws with a view of providing a platform for information sharing to strengthen regional cooperation in implementing the right. The network advocates for African countries to enact access to information laws.



Members of African Network of Information Commissioners with UNESCO Leadership during the inaugural Elections held in June 2022

During the year under review, the Commissioner in charge of ATI was elected as a member of Executive Committee during the inaugural Elections held in June 2022.

ANIC, through the support of UNESCO, launched its first strategic plan in June 2023. The meeting also examined the status of ATI in Africa and gave proposals on expansion of the network.

6.4.3 The National Democratic Institute

The National Democratic Institute (NDI) is a non-profit, non-partisan, non-governmental organization that works in partnership around the world to strengthen and safeguard democratic institutions, processes, norms and values to secure a better quality of life for all.

The Commission partnered with NDI in several activities within the reporting period. The activities included forums which brought together beneficiaries under the '*Financial Transparency and Accountability Program*' in Kitui, Busia and Kisumu Counties namely; Community

Empowerment and Development Centre (CEDEC), Youth Alive Kenya, Caritas Kitui Catholic Diocese, and Transform Empowerment for Action Initiative (TEAMS).

The main objectives of the program were to improve the ability of citizens, civic group and political actors to advocate for and operationalize greater financial accountability in the counties. The Commission leveraged on the opportunity and sensitized the participants on Access to Information and its mandate as a tool for enhancing financial transparency and accountability.

6.4.4 Promotion of Access to Information During Electioneering Period

Access to information is paramount in fostering democratic participation by the citizenry and this is especially relevant in the electoral period where the citizens exercise their civic duty of choosing their leaders. The Commission undertook a number of activities in the run-up to the general elections.

In partnership with Article 19 Eastern Africa the Commission conducted a multi-stakeholder sensitization on the requirements of access to information during the electioneering period under national and regional legal frameworks.

The sensitization of the electoral process stakeholders targeted the media, election management bodies, law enforcement & regulatory bodies. It focused on ATI law both at the National and Regional levels with a bias to the Access to Information Act (2016), revised *Declaration of Principles on Freedom of Expression and Access to Information in Africa*, and the *2017 Guidelines on Access to Information and Elections in Africa*, which provide direction on access to information in the electoral process as a means of strengthening democratic governance in Africa.

2

The stakeholders were also sensitized on the Commission's Guide titled; '**Administrative Justice and Access to Information Guide during the Electioneering Period: 2022**'. This Guide was developed to act as a reference point to all electoral stakeholders on how to process and manage information held in public interest in order to foster accountability, transparency and integrity in the electoral process.

The sensitization forums were held in 4 regions, namely; Nairobi, Kisumu, Eldoret and Mombasa in the month of June and July 2022 drawing the participation of **92** participants.

6.4.5 Commemoration of the International Day for Universal Access to Information (IDUAI)



The Commission spearheaded the celebrations to mark the International Day for Universal Access to Information (IDUAI). The day is observed annually on 28th September to create awareness on the importance of the right to information and its implementation worldwide as well as accelerate realization of SDG 16.

The Commissioner in charge of ATI making a presentation during IDUAI day 2022 in Bungoma 2022 to Members of Public and Government Officials

During the reporting period, activities to commemorate the day were held in Bungoma and Mombasa Counties. The Commission carried out activities including sensitization forums, legal aid clinics, media engagements and awareness campaigns in the two counties. A total of 110 representatives from different institutions including public entities, county government departments, Civil Society Organizations (CSOs), Community Based Organizations (CBOs), Special Interests Groups (SIGs)

and the media were sensitized on the right of access to information.

6.4.6 Participation in Open Government Week Media Round Table Meeting

Open Government Partnership (OGP) is a multilateral initiative that aims to secure concrete commitments from national and sub-national governments to promote open government, empower citizens, fight corruption and harness new technologies to strengthen governance. The successful implementation of ambitious open government reforms, including commitments under the OGP framework requires concerted efforts from broad coalitions and inclusivity from the citizenry. Therefore, engagement of media actors throughout the co-creation process is important.

The Commission participated in a Round Table Breakfast meeting organized by Mzalendo Trust in partnership with the OGP Support Unit and African Freelance Journalists aimed at sensitizing the media on the OGP process and identifying opportunities for the 5th Action Plan. During the meeting, media actors were challenged to ensure countries are making commitments on freedom of expression during the co-creation process, tell stories on commitments and report on the cycle of the National Action Plans (NAPs).

Table 3: Local Partnerships

No	Institution	Nature of Engagement
	Parliament	Engagement with various departmental committees of parliament including JLAC delegated legislation. ICT, Security, CIC
	Judiciary	The Commission participated in the Review and validation of the four sets of rules under the Children Act ,2022.
	Ministry of Labour	Round Table engagements on prosecution of employment disputes - 18 th October 2023 setting a follow up framework.
	NCAJ	Has consistently contributed to the legislative reviews i.e. the Prisons Act Cap 90, while participating in various court user's stakeholder engagements.

No	Institution	Nature of Engagement
	AG	Periodical meetings to fast-track on the whistle-blower protection Bill among other agendas aimed at enhancing administrative justice.
	Council of Governors National Treasury	COP 28 moderation by the Chairperson, that is currently in collaboration with FLOCCA National Treasury with the objective strengthening mitigation and adaptation measures through institutionalizing effective grievance redress mechanism within the 47 County Governments in Kenya.
	KNHRC NGEC IPOA	Strategic interventions towards establishing a comprehensive framework for the promotion and protection of human rights in Kenya towards fostering a human right- oriented state, while enhancing inter agency referral mechanisms.
	NLC	The Commission Participated in the National Land Policy review process to cure the prevalent ineffective service delivery gaps.
	KHRC LSK	The Commissions' engagement has contributed to the Correctional Reforms in raising awareness about the challenges faced by inmates in overcrowded prisons and provision of practical legal aid while promoting alternative sentencing options.
	NCIC	The Commission on the basis promoting adherence to the provisions of the Fair Administrative Action Act, 2013 has been instrumental in the review process of the Report in Ethnic and Diversity Audit of County Governments 2023.
	TI	Engagements premised by the common vision of a corruption free world. CAJ contributed to the development of strategies to respond to regionally distinct patterns of corruption. The outcome; A case digest on the law practice and jurisprudence around chapter Six and qualifications of officers in Kenya. This was aimed at creating an understanding of judicial interpretation and handling of Chapter Six in public office, both elective and appointive.

No	Institution	Nature of Engagement
	Council of Legal Education	The Commission forged a partnership with the CLE inclusion of Administrative Justice and Access to Information as part of the Advocates Training Curriculum. A strategic approach envisioned to create awareness of CAJ mandates, powers, functions and limitations generally while creating Administrative Justice and Access to Information ambassadors.

CHAPTER SEVEN

7.0 Governance, Human Resource Management, Finance and General Administration

7.1 Governance

The Commission endeavors to uphold the tenets of good governance, to promote accountability and ensure compliance with the best practice. In this regard, the Commission has developed governance instruments among them, the Audit Charter, Risk Management Policy, Procurement Manual, Sexual Harassment Policy and the Code of Ethics for state officers and staff of the Commission. Further, the Commission has continuously ensured that there is accountability and transparency in its operations, by playing its oversight role over the Secretariat through the Commission's Audit Committee.

7.2 Corporate Affairs

The Commission is alive to the challenges posed by climate change and the efforts being made to reverse the adverse effect attributed to global warming. To this end, the Commission has been on the fore-front, in building climate resilience actions and strengthening the capacities of County and National governments, to manage climate risks, under the auspices of Financing Locally-Led Climate Action (FLLoCA) Programme. Towards this goal, the Commission has been working closely in select counties among them Embu, Kirinyaga, Meru, Isiolo, Nyeri, Muranga, and Tharaka Nithi, Makueni, Machakos, Nairobi, Kitui, Kajiado, Kiambu, Taita Taveta, Nakuru, Nyandarua, Laikipia, Baringo, Narok, Bomet, Kericho, Samburu, Uasin Gishu, Nandi, Garissa, Wajir, Mandera and Tana River where it assisted the counties to develop complaint redress and access to information mechanisms.

The Commission further engaged the State Departments for ICT and Public service, in developing a platform aimed and enhancing information sharing and addressing public complaints against public officers and institutions, with regard to public service delivery found wanting. This initiative will be a game-changer in the delivery of services in the public sector, both at the national and county levels.

7.3 Milestones Achieved

7.3.1 Strengthening Human Resource Capacity:

Since inception, the Commission has endeavored to continuously strengthen its human resource capacity, to enable it respond to the ever-rising demand for its services by the public. The efforts have continued to bear fruit, albeit slower than expected, owing to financial constraints. From a staff of 29 to the

current 113, the Commission has fortified its human resource capacity through recruitment of additional staff. It is encouraging to note that in the period under review, the 16 additional members of staff were recruited in various departments and cadres. However, the optimal number of staff as per the approved staff establishment is 292 hence, more resources will be required to enable the Commission recruit additional human resource.

7.3.2 Skills Development

The Commission recognizes the important role played by the human resource towards realizing its mandate hence, it invests in the development of skills for its work-force through training. To this end, employees were sponsored for various professional development courses and training programmes, as indicated in the figure 25.

Figure 25: CAJ Officers Trained



7.3.3 Staff Welfare

The Commission appreciates the need to provide a conducive work environment, in order to ensure the wellbeing of its human resource. In this regard, the Commission provided drinking water and refreshments for staff, whose nature of work entails attending to members of the public, majority who seek our services through personal visits to our offices. Further, the Commission provided psycho-socio support for staff, who were bereaved in the period under review. The support was provided through facilitation of staff to attend funeral services and condole with colleagues and families who had lost their loved ones as per the applicable policy guidelines of the Commission. Further, counseling

services were offered through a partnership with the State Department for Public Service, which offers the services to public servants.

7.3.4 Decentralization of Ombudsman Services

The Commission has made notable strides, towards decentralization of its services to the Counties, in line with the Constitution of Kenya, which birthed a devolved system of government. This system of governance transferred delivery of most services to the Counties hence, the need for enhanced oversight role by the Constitutional Commissions and Independent Offices, including the CAJ. It is with this in mind that the Commission embarked in establishing branch offices, to serve the public at the county level. So far, the Commission has established a total of six branches spread in Mombasa, Kisumu, Uasin-Gishu, Laikipia, Garissa and Isiolo Counties. In addition, the Commission has partnered with the Huduma Centers Secretariat and established service-delivery points in twelve Huduma Centers in Nairobi, Kajiado, Nyeri, Nakuru, Meru, Kwale, Taita-Taveta, Bungoma, Kakamega, Makueni, Embu and Kisii. Decentralization of the Ombudsman services has strengthened oversight on service delivery in the Counties, which has enhanced responsiveness, transparency and access to information. However, resource constraints have inhibited establishment of more offices in more counties, as envisaged in the current Strategic Plan for the period covering 2019-2023. The Commission had planned to establish two branch offices every financial year, translating to ten offices for the period.

7.3.5 Embracing Technology

The Commission appreciates the role played by technology in enhancing efficiency and information sharing. It is with this mind that the Commission has embraced information, communication technology (ICT), to improve on its operations. In the period under review, the Commission partnered with the Ministry of ICT, Konza Technopolis and the ICT Authority of Kenya, to establish the necessary ICT infrastructure, towards digitization of its services, in line with the Government's Bottom-up Economic Transformation Plan. The Commission officially launched a Complaints Management Information System (CMIS).

Towards this objective, the Commission embarked on a phased initiative to modernize its ICT infrastructure, to enable it leverage on the numerous

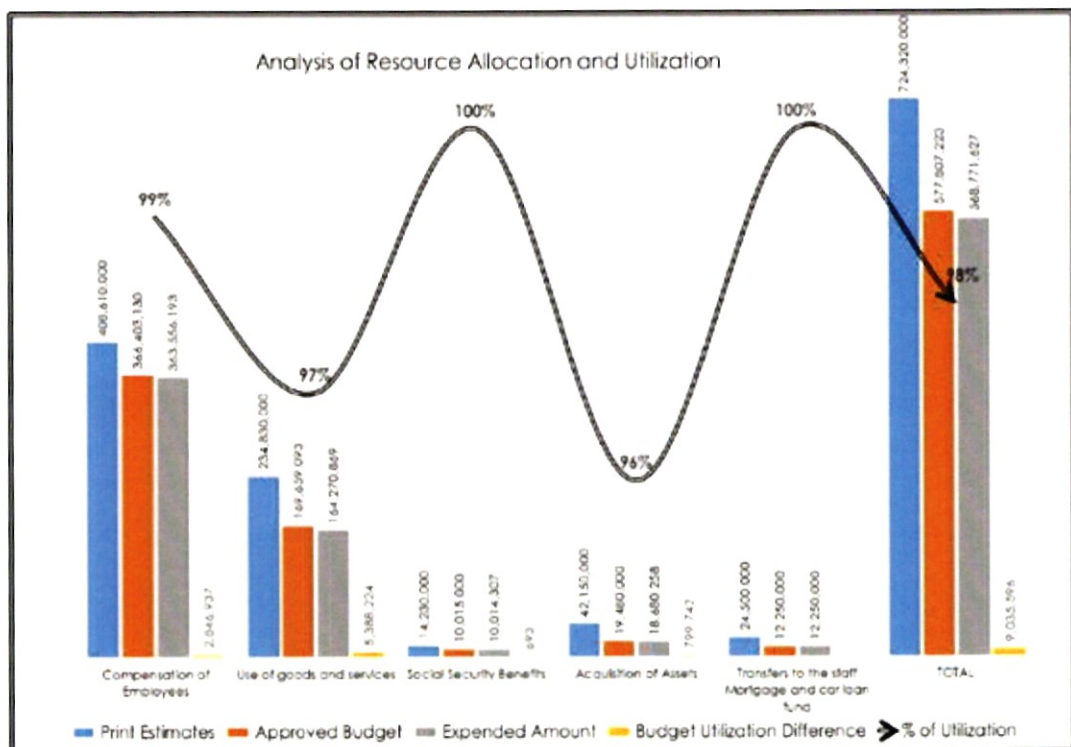
opportunities presented by the digital economy. In the period under review, the Commission managed to replace part of its hardware including legacy personal computers, in readiness for rolling out its Complaints Management Information System (CMIS) and digitization of its records management.

7.4 Financial Management:

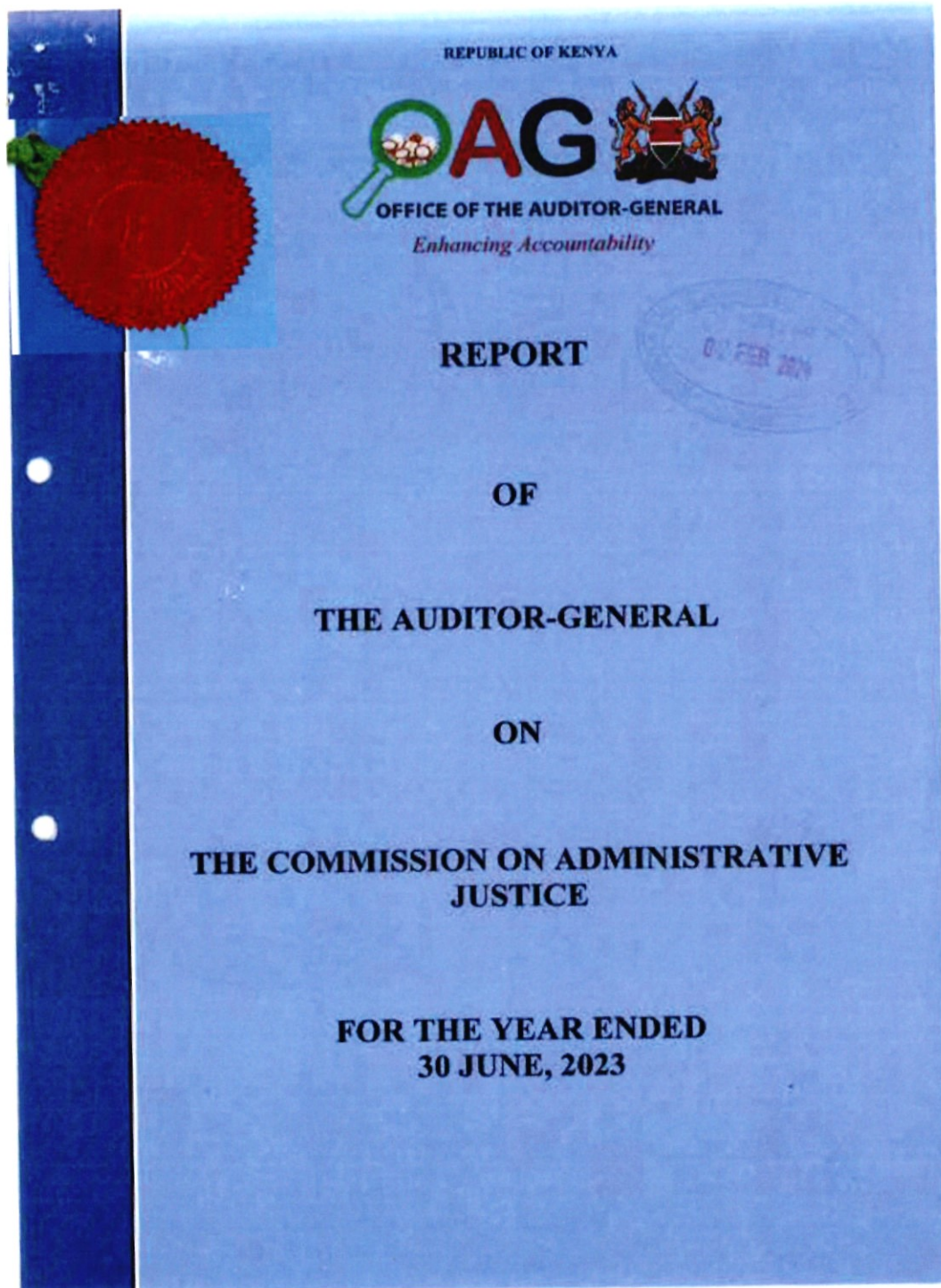
7.4.1 Resource Allocation and Utilization:

In the year under review, the Commission was allocated KES 577,807,223 and expended KES 568,771,627, representing an absorption rate of 98 per cent. The audited accounts are as presented in figure 25.

Figure 26: Summary of Expenditure by Economic Classification



7.4.2 Financial Statements





7 JUL 2023

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



Nata Mnyange ana Haki

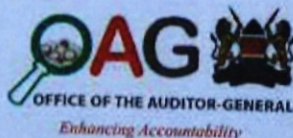
**THE COMMISSION ON ADMINISTRATIVE JUSTICE
ANNUAL REPORT AND FINANCIAL STATEMENTS**

**FOR THE FINANCIAL YEAR ENDED
JUNE 30, 2023**

Prepared in accordance with the Cash Basis of Accounting Method under the International Public Sector
Accounting Standards (IPSAS)

REPUBLIC OF KENYA

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REPORT OF THE AUDITOR-GENERAL ON THE COMMISSION ON ADMINISTRATIVE JUSTICE FOR THE YEAR ENDED 30 JUNE, 2023

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of The Commission on Administrative Justice set out on pages 1 to 21, which comprise of the statement of

Report of the Auditor-General on Commission on Administrative Justice for the year ended 30 June, 2023

financial assets and financial liabilities as at 30 June, 2023, and the statement of receipts and payments, statement of cash flows, statement of comparison of budget and actual amounts and summary statement of appropriation-recurrent for the year then ended and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of The Commission on Administrative Justice as at 30 June, 2023 and of its financial performance and its cash flows for the year then ended, in accordance with the International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and the Commission on Administrative Justice Act, 2011.

Basis for Qualified Opinion

1. Presentation and Disclosures in the Financial Statements

Review of the financial statements presented for audit revealed that signatures of the Chairperson of the Commission, the Commission Secretary/Accounting Officer, and the Director of Corporate Services were electronically inserted on the Annual Reports and Financial Statements.

In the circumstances, the Annual Report and the Financial Statements presented for audit do not conform to the format prescribed by the Public Sector Accounting Standards Board.

2. Unsupported Expenditure Under Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.164,270,869. However, the following anomalies were noted:

2.1. Unsupported Expenditure on Domestic Travel and Subsistence

As disclosed in Note 3 to the financial statements, the balance includes domestic travel and subsistence of Kshs.25,191,668 out of which an amount of Kshs.8,572,707 was not supported by invitation letters, attendance schedules, back to office reports and work programs. Further, the expenditure schedule provided did not indicate purpose and destination of travel.

In addition, the domestic travel and subsistence amount includes Kshs.278,795 on mileage allowances which was not supported with a report from transport section indicating the non-availability of official transport to warrant use of personal vehicle.

2.2. Unsupported Expenditure on Foreign Travel

Included in use of goods and services expenditure amount was foreign travel and subsistence expense of Kshs.10,199,942 out of which Kshs.7,766,160 was not supported with copies of passports, attendance schedules, reports on the benefits accruing from the

trip, events programs or timetable and boarding passes. Further, the expenditure schedule provided did not indicate the purpose and destination of travel.

2.3. Unsupported Lunch Expenses

Included in the use of goods and services were cash purchases amounting to Kshs.10,036,856 which included lunch expenses of Kshs.566,984 that were not supported with acknowledgement receipts.

In the circumstances, the accuracy and regularity of expenditure totalling Kshs.16,905,851 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of The Commission on Administrative Justice Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of Matter

Pending Bills

Note 15.1 and Annex 1 to the financial statements reflects pending accounts payable totalling to Kshs.6,694,879 in respect of supply of goods and services as at 30 June, 2023 that were not settled during the year but were instead carried forward to financial year 2023/2024.

Failure to settle bills during the year to which they relate adversely affects the budget provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, and based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

no documentation was provided to confirm that the cash purchases were done to special groups. In addition, the expenditure schedules provided did not give description of the items procured contrary to Regulation 40(1) of the Public Procurement and Asset Disposal Regulations, 2020.

1.4 Non-Compliance with Preferences and Reservations

The Commission awarded contracts worth Kshs.20,017,009(11%) to Access to Government Procurement Opportunities (AGPO) out of total procurement expenditure of Kshs.189,186,609 as per procurement data reviewed, contrary to Section 53(6) of the Public Procurement and Asset Disposal Act, 2015 which requires that thirty percent (30%) of the contracts awarded should be for special groups.

In the circumstances, regularity of expenditure incurred on procurement of goods and services by the Commission could not be confirmed and Management was in breach of the law.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on effectiveness of internal controls, risk management and governance section of my report I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Lack of Transport Policy

The Commission does not have a transport policy in place contrary to the provisions of Paragraph H.2 (1) of CAJ human resources Policy manual and procedures 2016 which provides that the Commissions' transport is regulated through its transport policy.

In the circumstances, Management is able to manage its transport equipment effectively and efficiently.

2. Lack of Risk Management Policy and Disaster Management Policy

The Commission does not have a risk management policy and disaster management policy/recovery plan in place contrary to the provisions of Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the

accounting officer shall ensure that the national entity develops risk management strategy strategies which include fraud prevention mechanism.

In the circumstances, Management is not in a position to identify risk occurrence and appropriate control measures in the event an emergency or disaster occurs.

3. Grounded Vehicles

Annexure 2 to the financial statements on summary of fixed assets register reflects transport equipment of Kshs.102,868,934 which includes GK A 788Q Toyota Prado purchased in 2008 which stalled in Isiolo while on official duties on 9 September, 2019 and was towed to Nairobi. However, the vehicle is still grounded to date. The vehicle had various conflicting vehicle inspection reports from public works as tabulated below;

- i. A mechanical inspection report ref :MOTIHUD/WSP/13B/R&L/VOL.I/(1364) dated 23 January, 2020 issued by Ministry of public works state department of infrastructure and gave an economical repair cost of Kshs.450,000;
- ii. Second Inspection report dated 1 July, 2020 ref: MOTIHUD/WSP/13B/R&I/REG/VOL.(924) issued by public works gave an economical repair cost of Kshs.850,000;
- iii. On 15 September, 2020 the Commission Secretary/CEO wrote to public works to value the vehicle and give a reserve price with a view of disposing it. A valuation and inspection report dated 4 November, 2020 Ref: MOTIHUD/1/MTD/WSP/12VOL.1/1383 valued the vehicle at estimated reserve price of Kshs.700,000; and
- iv. On 11 May, 2022 the Commission requested for another vehicle valuation for the purpose of disposing off the vehicle, which was done on 30/5/2022 Ref: MOTIHUD/1/MTD/WSP/12VOL.1(3089) by public works at estimated the reserve prices at Kshs.680,000 and an economical repair cost at Kshs.300,000.

Despite the vehicle being serviceable, it has been grounded for more than 4 years and the value continues to reduce due to wear and tear. This is contrary to Regulation 139(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer of a national government entity shall take full responsibility and ensure that proper control systems exist for assets and that —(a) Preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse; (b) Movement and conditions of assets can be tracked, (2) The Accounting Officer shall ensure that processes and procedures both electronic and manual are in place for the effective, efficient, economical and transparent use of the government entity's assets.

In the circumstances, effectiveness of controls of the management and safeguarding of for vehicles of the Commission could not be confirmed.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether processes

and systems of internal controls, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and the Commissioners

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Commission's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Commission or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, the Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

The Commissioners are responsible for overseeing the Commission's financial reporting process, reviewing the effectiveness of how the Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal controls in order to give an assurance on the effectiveness of internal controls, risk management and overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal controls would not necessarily disclose all matters in the internal controls that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal controls may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.


As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Commission to cease to continue to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Commission to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide the Management with a statement that I have complied with relevant ethical requirements regarding independence and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.


FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

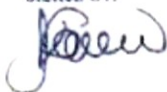
26 January, 2024

The Commission on Administrative Justice
Annual Report and Financial Statements for the year ended 30th June 2023

11. Statement of Receipts and Payments for the Year ended 30th June 2023

Description	Note	2022-2023	2021-2022
		Kshs	Kshs
Receipts			
Exchequer Releases	1	577,434,807	610,634,094
Other Receipts		-	-
Total Receipts		577,434,807	610,634,094
Payments			
Compensation Of Employees	2	363,556,193	331,845,293
Use Of Goods and Services	3	164,270,869	177,376,329
Social Security Benefits	4	10,014,307	11,970,014
Transfers to the staff Mortgage and car loan fund	5	12,250,000	32,000,000
Acquisition of Assets	6	18,680,258	39,478,576
Total Payments		568,771,627	592,670,212
Surplus		8,663,180	17,963,882

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 15/12/2023 and signed by:



Hon Florence Kajuku, MBS
Chairperson of the Commission



Mercy K Wambua, OGW
Commission Secretary /CEO



Daniel M. Karomo
Director of Corporates Services



Bernard Nyariki
Assistant Director -F & A
ICPAK M/No 9143


12. Statement Of Financial Assets And Financial Liabilities As At 30th June 2023

Description	Note	2022-2023 Kshs	2021-2022 Kshs
Financial assets			
Cash and cash equivalents			
Bank balances	7A	10,021,925	19,127,911
Cash balances	7B	100,817	423,335
Total cash and cash equivalent		10,122,742	19,551,246
Imprests and advances	8	86,158	-
Total financial assets		10,208,900	-
Financial liabilities			
Third party deposits and retention	9	(1,122,385)	(1,403,707)
Net financial assets		9,086,515	18,147,539
Represented by			
Fund balance b/fwd.	10	18,147,539	6,786,464
Prior year adjustment	11	(17,724,204)	(6,602,807)
Surplus for the year		8,663,180	17,963,882
Net financial position		9,086,515	18,147,539

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 15th December 2023 and signed by:


.....
Hon Florence Kajuju, MBS
Chairperson of the Commission


.....
Daniel M. Karomo
Director of Corporates Services


.....
Mercy K Wambua, OGW
Commission Secretary /CEO


.....
Benard Nyariki, (ICPAK M/No 9143)
Assistant Director -F & A

The Commission on Administrative Justice
Annual Report and Financial Statements for the year ended 30th June 2023

13. Statement of Cash Flows For The Year Ended 30th June 2023

Description	Notes	2022-2023 Kshs	2021 -2022 Kshs
Receipts for Operating Income			
Exchequer releases	1	577,434,807	610,634,094
Other receipts		-	-
Payments For Operating Expenses			
Compensation of employees	2	363,556,193	331,843,293
Use of goods and services	3	164,270,869	177,376,329
Social security benefits	4	10,014,307	11,970,014
Adjusted For:			
Adjustments during the year			
Decrease/(Increase) in accounts receivable	12	(86,158)	-
Increase/(Decrease) in deposits and retention	13	(281,322)	207,962
Prior year adjustments	11	(117,724,204)	(6,602,807)
Net Cash Flow from Operating Activities		21,501,754	83,047,613
Cash flow From Investing Activities			
Transfers to staff Mortgage and car loan fund	5	(12,250,000)	(32,000,000)
Acquisition of assets	6	(18,680,258)	(39,478,576)
Net Cash Flows from Investing Activities		(30,930,258)	(71,478,576)
Net increase in cash and cash equivalents		(9,428,504)	11,569,037
Cash & Cash Equivalent at Start of The Year	7	19,551,246	7,982,209
Cash & Cash Equivalent at End of The Year	7	10,122,742	19,551,246

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 15th June 2023 and signed


.....

Hon Florence Kajuru, MBS
Chairperson of the Commission


.....

Daniel M. Karomo
Director of Corporate Services


.....

Mercy K Wambua, OGW
Commission Secretary /CEO


.....

Benard Nyariki, (ICPAK M/No 9143)
Assistant Director -F & A

7.4.3 Pending Bills

The Commission endeavors to settle bills within the financial year when they fall due. However, due to various factors beyond its control, pending bills amounting to Kshs. 6,694,879 were carried forward to 2023/24 Financial Year. The bills are indicated in table 4.

Table 4: List of the Commission's pending bills

Vote (Recurrent)	Service/Goods Procured	Outstanding amount as at 30th June 2023
Postal Corporation of Kenya	Courier services	583,484.00
Wamera Auto & Mechanical Engineering Works	Motor vehicle repairs	45,572.00
Conference Facilities		
Young Works Youth Group	Hired seats and tents	104,380.00
Kenya School of Government	Conference facilities and Tuition fees	1,012,564.00
College of Insurance	Conference facilities	73,500.00
NITA	Conference facilities	45,000.00
Sarova Panafric	Catering services	368,300.00
Juska General Supplies	Supply of newspapers	204,500.00
Safetec Solutions Ltd	OSH Audits	52,900.00
Andavids Supplies Ltd	Drinking water	78,242.00
Posh IT Ltd	Networking	48,316.00
Destiny World Travel	Air-tickets	501,995.00
Tripstart	Air-tickets	62,181.00
longrock Tours & Travel	Air-tickets	56,410.00
Angani Tours & Travel	Air-tickets	108,015.00
Premier Safaris	Air-tickets	71,660.00
ATS Travel	Air-tickets	210,125.00
Fly Beyond Africa Ltd	Air-tickets	32,000.00
Johnbow Tours & Travel	Air-tickets	199,040.00
Bigman Travel & Holiday	Air-tickets	641,500.00

Angani Tours & Travel	Air-tickets	477,925.00
Fly Beyond Africa Ltd	Air-tickets	455,580.00
Longrock Tours & Travel	Air-tickets	1,261,690.00
TOTAL		6,694,879.00

CHAPTER EIGHT

8.0 CHALLENGES AND RECOMMENDATIONS

8.1 Challenges

The Commission faced a number of challenges in the period under review, which hindered achievement of some of the targets as follows: -

- 1) Financial challenges that include;
 - i. Delayed release of the quarterly allocations and especially the fourth quarter hindered timely implementation of planned activities and contributed to pending bills.
 - ii. Budgetary cuts which affected critical areas such as communication, at a time when the Commission was required to leverage on ICT.
 - a) The Commission partially rolled out the Complaints Management Information System (CMIS), as the funds meant for the acquisition of the necessary infrastructure in terms of hard and software were substantially reduced.
 - b) The Commission carried over bills for services that were already procured under running contracts, but could not be settled by the closure of the financial year.
 - c) Low public awareness levels of the Commission's mandate among citizens

Financial Constraints attributed to:

- a. Low budgetary allocation;
 - b. Austerity measures implemented during the financial year that reduced the budgetary allocation;
- 1) Insufficient legal framework which inhibited enforcement of the decisions and recommendations of the Commission;
 - 2) Manual records management systems in the public sector which curtailed quick retrieval and access to information. Digitization of the records of Government has not been done as per the Act which required under Section 17 that by September 2019 all public entities should have digitized its records; and

- 3) The culture of secrecy, unresponsiveness and impunity in the public sector which has led to continued resistance by duty bearers being public entities and relevant private bodies, from complying with their obligations under the Act.

8.2 Recommendations

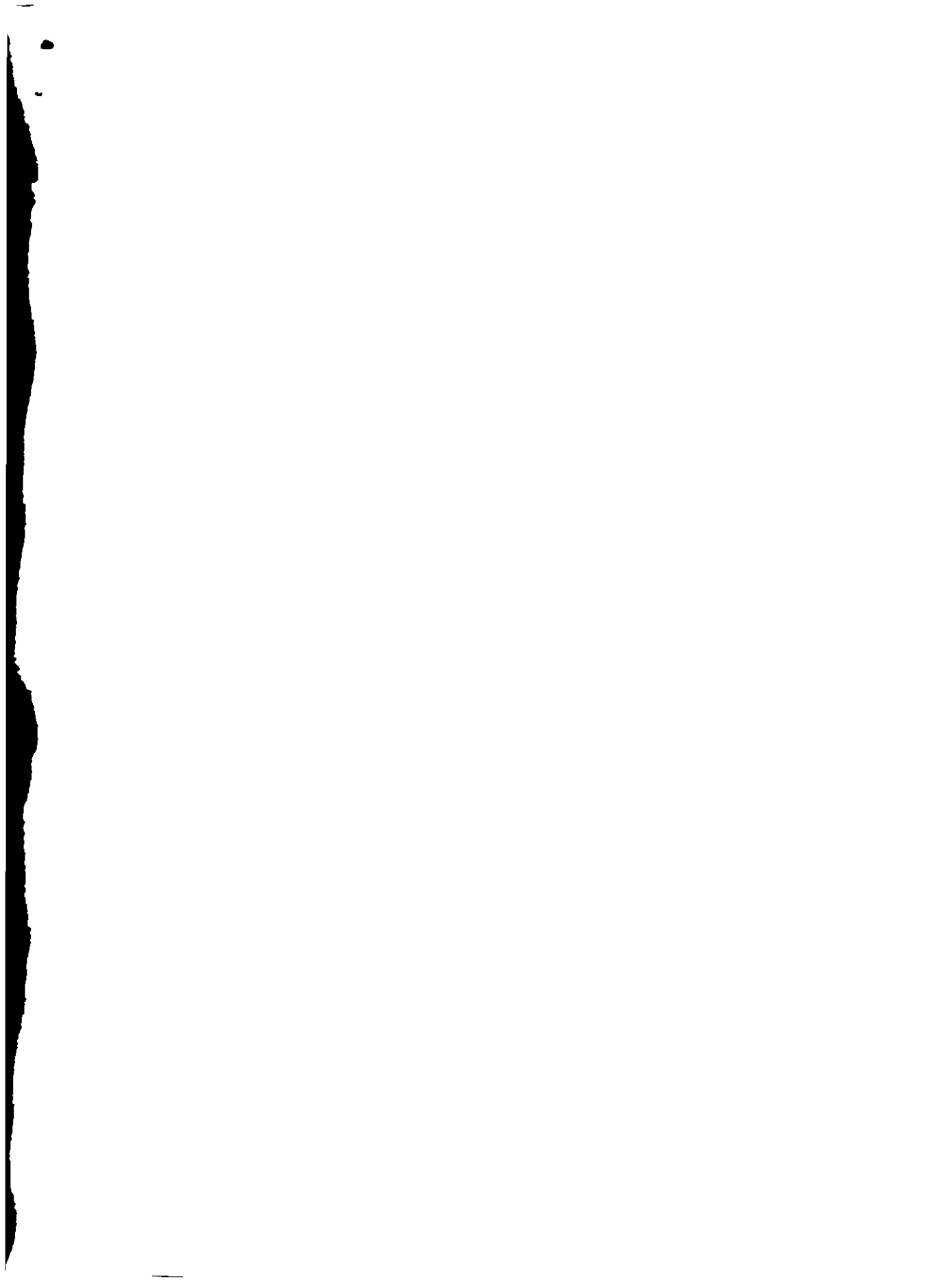
- 1) There is need to appreciate and consider the uniqueness of MDAs functions and the services that they render, when instituting austerity measures, to avoid paralyzing the core mandates of these institutions, caused by "one-size-fits-all" approach. For instance, the Commission being an oversight agency is required to provide services to both national and county governments hence the need for domestic travels.
- 2) Increased budgetary allocation to the Commission to allow for better enforcement and oversight by the Commission of its mandate;
- 3) Timely release of the budgetary allocation and less IFMIS down time would improve on implementation of planned activities and absorption of funds.
- 4) Intensify public education and awareness creation campaigns as well as decentralize ombudsman services;
- 5) Strengthen legal framework to ensure that the decisions and recommendations of the Commission are binding to curb impunity;
- 6) Digitization of the records of Government be done as per the ATI Act which required under Section 17 that by September 2019, all public entities should have digitized their records; and
- 7) Inclusion of access to information as one of the key performance Indicators in the performance contracting requirements by public entities.

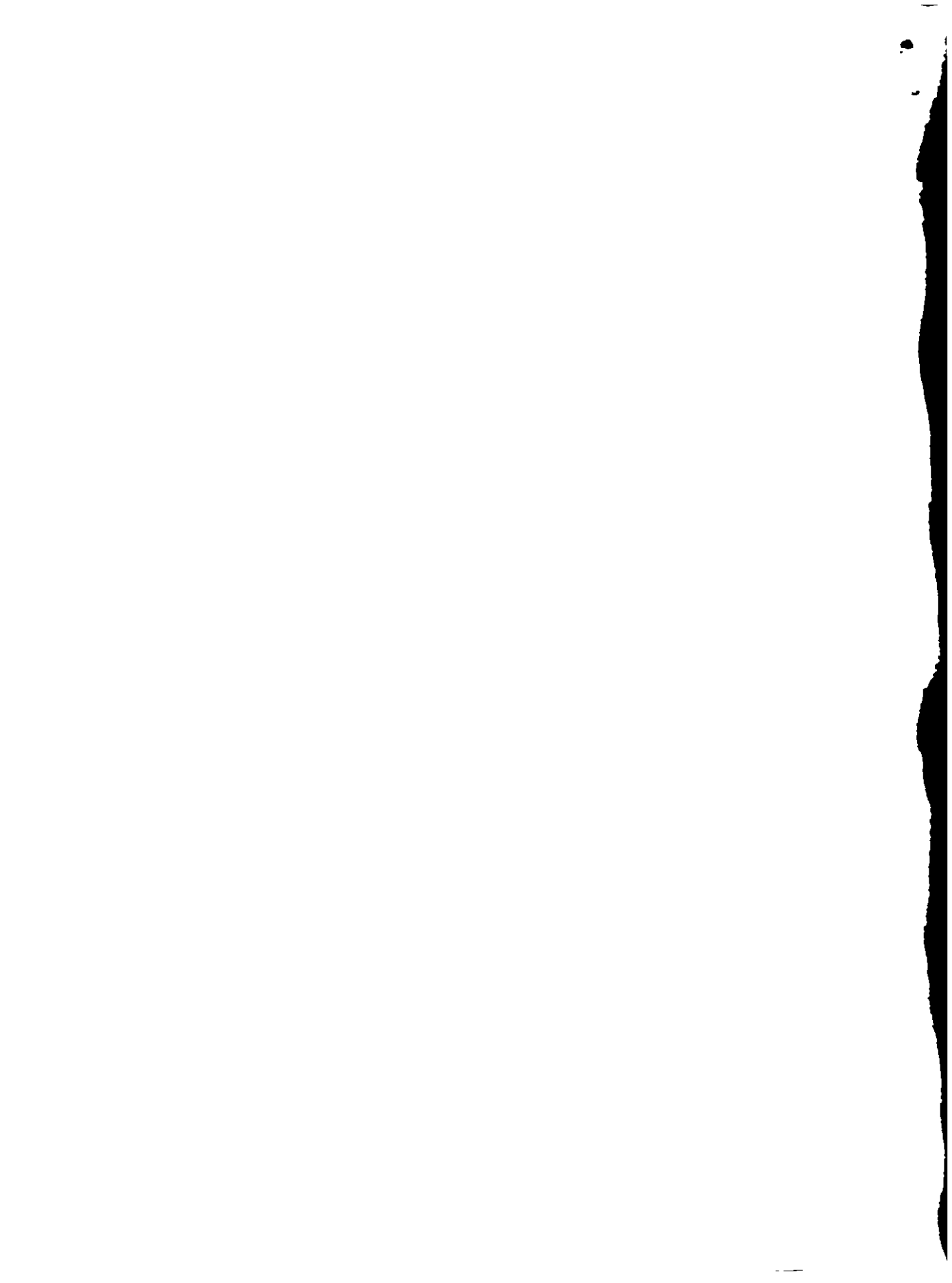
8.3 Priorities – FY 2023/24

Some of the key issues that the Commission will focus on moving forward include:

- I. End term review of the strategic plan (2019-2023).

- II. Development of the Commissions strategic plan (2024-2029).
- III. Strengthening policy, legal and regulatory framework.
- IV. Deepen digitization and automation of systems and processes.
- V. Enhancement of resource mobilization and partnerships.
- VI. Intensify capacity building and collaboration with MDACs to advance CAJ mandate.
- VII. Intensify outreach, public education and awareness creation initiatives.
- VIII. Decentralization of Ombudsman services to enhance accessibility.
- IX. Enhance complaints resolution rate from 65% to 80%.







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