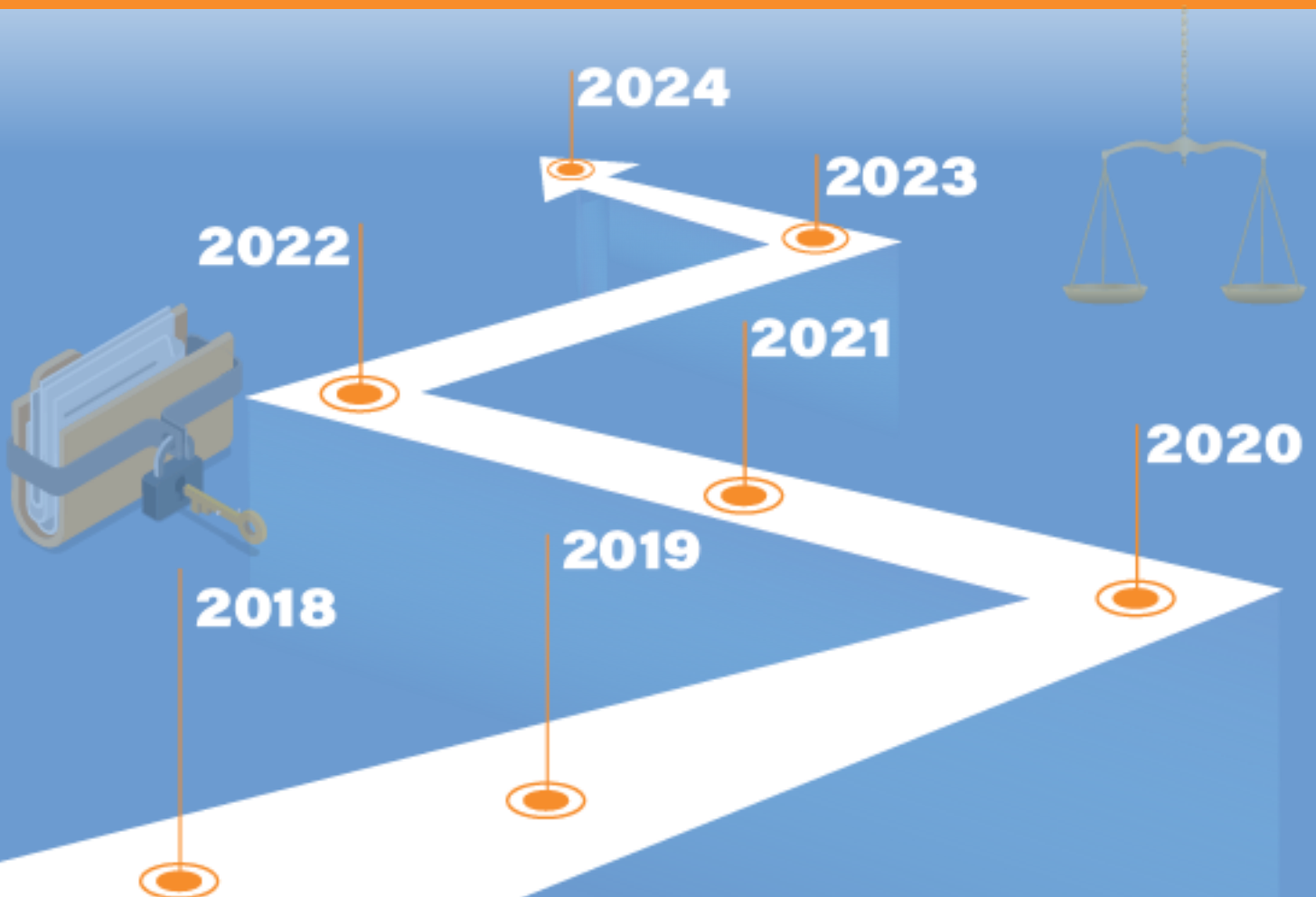


**THE COMMISSION ON  
ADMINISTRATIVE JUSTICE**  
*(Office of the Ombudsman)*  
**Hata Mnyonge ana Haki**

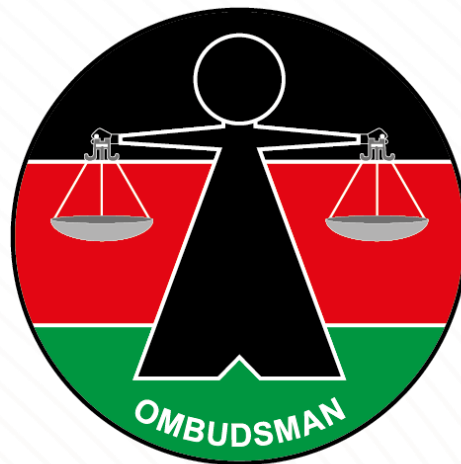
## DEEPENING ADMINISTRATIVE JUSTICE AND ACCESS TO INFORMATION IN KENYA

2018-2024



**Deepening Administrative Justice and Access to Information in Kenya: 2018-2024**

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



***Hata Mnyonge ana Haki***

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## Abbreviations

<b>CAJ:</b>	Commission On Administrative Justice
<b>KENHA:</b>	Kenya National Highways Authority
<b>MoU:</b>	Memorandum of Understanding
<b>KALRO:</b>	Kenya Agricultural and Livestock Research Organization
<b>KARI:</b>	Kenya Agricultural Research Institute
<b>TRFK:</b>	Tea Research Foundation of Kenya
<b>FLLoCA:</b>	Financing Locally Led on Climate Action Program
<b>CRF:</b>	Coffee Research Foundation
<b>KFS:</b>	Kenya Ferry Services
<b>KMA:</b>	Kenya Maritime Authority
<b>NMS:</b>	Nairobi Metropolitan Service
<b>CCTV:</b>	Closed-Circuit Television
<b>KUCCPS:</b>	Kenya Universities and Colleges Central Placement Service
<b>NCAJ:</b>	National Council on the Administration of Justice
<b>ATI:</b>	Access to Information
<b>GIZ:</b>	Deutsche Gesellschaft für Internationale Zusammenarbeit
<b>IAO:</b>	Information Access Officer
<b>MDAs:</b>	Ministries, Departments, and Agencies
<b>CLD:</b>	Center for Law and Democracy
<b>ICJ:</b>	International Commission of Jurist
<b>IATI:</b>	International Aid Transparency
<b>RTI:</b>	Right to Information
<b>UNCAC:</b>	United Nations Convention against Corruption
<b>IDUAI:</b>	International Day for Universal Access to Information
<b>CSOs:</b>	Civil Society Organisations
<b>OCDS:</b>	Open Contracting Data Standards
<b>UNESCO:</b>	United Nations Educational, Scientific and Cultural Organization
<b>KNADS:</b>	Kenya National Archives and Documentation Services

<b>IDLO:</b>	International Development Law Organization
<b>OGP:</b>	Open Government Partnership
<b>ANIC:</b>	African Network of Information Commissioners
<b>ICIC:</b>	International Conference of Information Commissioners
<b>CC&amp;IOs:</b>	Constitutional Commissions and Holders of Independent Offices
<b>NSAs:</b>	Non-State Actors
<b>PWDs:</b>	Persons with Disabilities
<b>LSK:</b>	Law Society of Kenya
<b>IEC:</b>	Information, Education and Communication
<b>ADR:</b>	Alternative Dispute Resolution
<b>NCWSC:</b>	Nairobi City Water and Sewerage Company
<b>NSSF:</b>	National Social Security Fund
<b>GMP:</b>	Guarantee Minimum Price
<b>HMIS:</b>	Hospital Management Information System
<b>IOI:</b>	International Ombudsman institution



## Statement of the Chairperson

It has been a privilege to serve as the Chairperson, Commission on Administrative Justice (Office of the Ombudsman); 2018-2024. The time to exit the Commission has come and I hereby take this opportunity to present our exit report. The Report extensively elaborates the Commission's activities undertaken, to promote administrative justice and the right to information for the last six years.

A reflection of the last six years, highlights considerable advancements and milestones achieved by the Commission in realisation of its vision. In 2018, under my leadership and that of my Commissioners, the Commission developed the 2<sup>nd</sup> strategic plan 2019-2024 that has been the Commission's blueprint. The plan steered, the Commission's focus to four strategic themes notably: (i) Resolution of public Complaints, (ii) Oversight and enforcement of Access to Information, (iii) Public education, awareness and visibility and (iv) Institutional strengthening and capacity building.

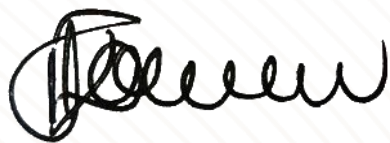
With reference to the end term strategic plan 2019/24 review, I am pleased to note that the Commission has performed exceedingly well on all four strategic themes. It is appreciable that over the past 6 years we have reported expansion of the Commissions' mandate from enhancing administrative justice, to promoting the right to access to information in operationalization of Article 35 of the Constitution, exponentially increasing resources (*58% staff establishment increase, 280% budgetary allocation increase among others*).The Commission has also enhanced public accessibility through digitization of the complaints management system and decentralized its services across 16 counties.

Notwithstanding the numerous achievements, the Commission has however, during the period, experienced institutional and operational challenges which included budgetary constraints that hindered implementation of some key programs, insufficient legal framework that fettered enforcement of the Commission's decisions and an entrenched culture of secrecy among public

offices and officers, ideally infringing on the citizens right to access information. Nonetheless, the Commission enhanced resource mobilization efforts coupled with robust strategic local and international engagements key among them NCAJ, COG, AOMA, IOI, GIZ, DCAF etc.; that concomitantly aided the remarkable gradual advancement towards our vision.

We conclude our term at the Commission with pride, having achieved significant milestones more so in enhancement of administrative justice and access to information and I thus extend my sincere commendation to the Commissioners, the Commission Secretary and all the Commission staff.

These achievements reflect our collective and unwavering commitment, to improve governance for all citizens. I am optimistic that as a team, you shall all maintain the momentum to serve. God bless you all!

A handwritten signature in black ink, appearing to read 'Florence Kajuju', with a stylized initial 'F'.

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

## Foreword

It is with great honour that I present this report to mark the end of the tenure of our commissioners; Chairperson, Hon. Florence Kajuju, Vice Chairperson, Washington Opiyo Sati, ATI Commissioner, Lucy Ndung'u, who have diligently served the Commission from 2018 to August 2024.

Throughout the term of this Commission, CAJ has been steadfast in its mission to enhance administrative justice, ensure the realisation of access to information, and promote good governance within Kenya's public sector. This report is structured to provide a comprehensive overview of our key initiatives, achievements, and the obstacles we have encountered within the 6-year tenure, significantly shaping the landscape of administrative justice in Kenya. The period under review saw the Commission handle 19,730 new cases of maladministration leading to improved service delivery in the public sector. Our efforts in investigations, research, and publications have been pivotal in identifying systemic gaps and enhancing good governance.

This report also highlights the achievements of the Commissioners in realising the right to access information, a crucial aspect guaranteed by Article 35 of the Constitution and operationalised by the Access to Information (ATI) Act, 2016. Over time, the Commission received 1,076 applications for review and made significant progress in creating awareness and developing guidance documents for the ATI Act.

The Commissioners supported numerous activities under the public education and advocacy department, which have been instrumental in raising awareness about the Commission's mandate and the right to information. Our outreach has significantly increased public knowledge, with awareness levels rising from 28% in 2018 to 59.3% in 2023. Through strategic partnerships, training sessions, and robust public campaigns, we have reached a vast audience, enhancing our visibility and impact.

During this tenure, the Commission benefited immensely by having invaluable networks and opportunities for cross-learning through strengthened strategic linkages, collaborations, and partnerships. The Commissioners initiated numerous opportunities for partnerships with local and international bodies which have been crucial in promoting good governance in Kenya and strengthening our institutional capacity.

As the Commission presents this exit report, we reflect on the milestones achieved and the lessons learned and we hope that the insights and recommendations contained herein will serve as a guiding framework for the incoming commissioners.

I extend my heartfelt gratitude to the outgoing commissioners, our dedicated staff, partners, and the Kenyan public for their unwavering support and collaboration. Together, we have made significant strides in fostering a just and transparent public administration system.



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

## Executive Summary

This report details the progress made during the tenure of the outgoing Commissioners. This is the second report to be prepared by the Commission since its establishment in 2011, following the end of the tenure of the exiting Commissioners who served the Commission from 2018 to August 2024.

The report highlights among other things: enhanced administrative justice in Kenya since 2018, realisation of the Access to Information in Kenya post-2016, enhanced good governance in the public sector, local and international strategic linkages and partnerships, and milestones and challenges within the reporting period. This report is structured into eight sections each addressing a specific thematic area. Chapter One gives background information on the Ombudsman concept and constitutional establishment of CAJ. The content of the subsequent chapters is highlighted below.

### Resolution of Public Complaints (Chapter Two)

The CAJ Act, 2011, mandates the commission to enhance administrative justice. The commission has made efforts to achieve this through handling public complaints, conducting investigations, researching administrative justice matters, and making publications.

During the period under review, the Commission recorded 19,730 new cases where delay of service delivery was the most common issue complained about. The resolution rate has grown from 31.8 % in 2018/19 to 65.6 % in 2023/24 with the average resolution rate over the six years being 40.2 %.

The commission conducted several investigations that sought to remedy the administrative injustices and identify gaps in processes and procedures that impede efficient service delivery.

The commission also undertook research activities to understand the status of administrative justice and access to information, the level of client satisfaction, milestones, and challenges encountered in implementing ATI Act. Insights obtained from these studies will be pivotal in strengthening the development of the Commission's strategies.

### Realisation of the Access to Information in Kenya (Chapter Three)

The Commission is mandated to oversee and enforce the implementation of the right of access to information as guaranteed by Article 35 of the Constitution and operationalized by the Access to Information (ATI) Act, 2016.

The Commission received a total of 1,076 applications for review. The Commission has taken initiatives to create awareness of the ATI Act and develop ATI guidance documents. The Commission has also played a critical role in ensuring increased proactive disclosure of information within the public sector aimed at improving transparency and reducing opportunities for corruption by enhancing openness and accessibility to public procurement information.

The Commission has, together with the Ministry of ICT and Digital Economy, spearheaded the development of the ATI (General) Regulations and the National Access to Information Policy which will support the operationalisation of the Access to Information law and ensure that it is streamlined with in the operations of public entities.

The Commission has created a framework to enable County Governments to have customised County access to information laws as a means of increasing active transparency on county services, development, and policies. The Commission in partnership with the Kenya School of Government and with the support of Article 19 Eastern Africa, Local Development Research Institute (LDRI) and the International Development Law Organization (IDLO) has developed an ATI Curriculum targeting public officers involved in processing

access to information requests in public entities to equip them with knowledge, skills and competencies to implement the legal framework on access to information.

#### Public Education and Advocacy (Chapter Four)

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

As per an Infotrack survey, awareness of the Commission's mandate has increased from 28% in 2018 to 59.3% in 2023 while awareness of the right to information by Kenyans stood at 64% in 2023.

To increase public awareness and visibility, the commission has employed a combination of different strategies: courtesy calls and dialogue sessions with County leadership, sensitization and training on complaints handling, outreach forums and legal aid clinics, and promoting strategic partnerships.

In the last six years, the Commission has trained over 17,991 public officers drawn from Ministries, Departments, Agencies, and Counties. In support of public outreach forums, the Commission has visited 45 out of 47 counties and carried out robust public education and awareness creation campaigns.

The Commission, with the support of GIZ, produced a documentary titled "**10 Years of Service to Citizens in Addressing Maladministration and Access to Information in Kenya**" highlighting the milestones, successes, and beneficiaries of Ombudsman services across the country,

Social media has enhanced the accessibility of the Commission with the audience size on Twitter growing from 17,200 followers to 29,126 while Facebook has grown from 10,000 followers to 18,531, representing a percentage growth of 65% and 81.6%, respectively. During the period under review, the Commission produced and disseminated over 100,000 assorted IEC materials to aid public education and awareness to bolster its brand and visibility.

## Enhancing Good Governance in the Public Sector (Chapter Five)

The Commission has since its inception, influenced good governance, and continuous improvement of service delivery in the public sector.

Within the period in review, the Commission issued 10 Advisories on different issues. Since assuming office, the Chairperson of the Commission received and determined 332 appeals of which eight (8) were deemed to not fall under the ambit of appeals. Over the six-year period, the level of compliance by public institutions increased by 59.07%. So far, the Commission has held four editions of the Huduma Ombudsman Award scheme to recognise and reward responsive and compliant public officers and institutions in the country.

## Strategic Linkages, Collaborations, and Partnerships (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 including partnerships with the International Ombuds Institute (IOI), African Ombudsman & Mediators Association (AOMA), Constitutional Commissions and Independent Offices (CCIOs), Financing Locally Led on Climate Action Program (FiloCA), and German Agency for International Cooperation (GIZ).



## 1.0 CHAPTER ONE: OMBUDSMAN CONCEPT

### 1.1. Origin and Adoption

Ombudsman is a Swedish term that means "representative," and ultimately derives from the Old Norse words *umboth* ("commission") and *mathr* ("man"). Sweden became the first country to appoint an independent official known as an ombudsman to investigate complaints against government officials and agencies in October 1713 through a decree issued by King Charles the XII. Since then, other countries (such as Finland, Denmark, South Africa, Kenya, and New Zealand), have appointed similar officials.

In Kenya, the concept of Ombudsman can be traced to 1971 when the Public Service Structure and Remuneration Commission, commonly known as the Ndegwa Commission, recommended that the office be established. Subsequently, the Public Complaints Standing Committee (PCSC) was established in 2007 as a semi-autonomous agency under the then ministry of Justice, National Cohesion and Constitutional Affairs. The Commission on Administrative Justice was thereafter established in 2011 as a successor Commission upon promulgation of the 2010 Constitution.

### 1.2. Philosophy of the Ombudsman

The Ombudsman plays a key role in the promotion of good governance by providing a platform for public participation in governance which leads to realization of civil liberties. The Ombudsman's redressing of grievances and carrying systemic audits help to democratize the administrative system thus engendering fairness, transparency and accountability in public administration. Moreover, the elements of good governance are brought to the fore in public administration through tackling of maladministration by way of scrutinizing operations of public entities. The Ombudsman brings a 'tonic effect' in public administration by making public officers to be cognizant that their decisions, actions or inactions may be examined. The Ombudsman's work is guided by six principles namely:

- i) Getting it right
- ii) being customer focused
- iii) being open and accountable
- iv) acting fairly and proportionately
- v) putting things right
- vi) seeking continuous improvement.

### **1.3. Commission on Administrative Justice (CAJ) Establishment and Mandate**

The Commission on Administrative Justice (CAJ) is one of the Constitutional commissions that were established upon promulgation of Kenya's current Constitution in 2010. The Commission was established vide the CAJ Act 2011, as a successor Commission to the Kenya National Human Rights and Equality Commission anchored under Article 59 of the Constitution, and the then Public Complaints Standing Committee. Under the Constitutive Act, the Commission executes the traditional mandate of an Ombudsman that deals with maladministration and addresses grievances by the citizens, against public institutions. The second mandate gives the Commission responsibility to oversee and enforce implementation of the right to access information, as per Article 35 of the Constitution and the Access to Information (ATI) Act, 2016.

### **1.4. Functions**

The functions of the Commission are provided in Section 8 of the CAJ Act, and they entail:

- a) 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;

- b) Investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector;
- c) Report to the National Assembly bi-annually on the complaints investigated under paragraphs (a) and (b), and the remedial action taken thereon;
- d) Inquire into allegations of maladministration, delay, administrative injustice, discourtesy, incompetence, misbehaviour, inefficiency or ineptitude within the public service;
- e) Facilitate the setting up of, and build complaint handling capacity in the sector of public service, public offices and state organs;
- f) Work with different public institutions to promote alternative dispute resolution methods in the resolution of complaints relating to public administration;
- g) Recommend compensation or other appropriate remedies against persons or bodies to which this Act applies;
- h) Provide advisory opinions or proposals on improvement of public administration, including review of legislation, codes of conduct, processes and procedures; and
- i) Promote public awareness of policies and administrative procedures on matters relating to administrative justice.

In addition, the Commission has the following functions under Access to Information Act, 2016;

- a) to investigate violations of the provisions of the provisions of the Act;
- b) to receive reports from public entities with respect to implementation of the Act and evaluating the use and disclosure of information;
- c) to facilitate public awareness and develop programs on the right to access information and the right to protection of personal data;
- d) to promote right of access to information in public entities;

- e) to monitor state compliance with international obligations related to the right to access information and protection of personal data;
- f) to hear and determine complaints and review decisions arising from violations of the right to access information;
- g) to promote protection of data; and
- h) to perform such other function as the commission may consider necessary for the promotion of access to information and promotion of data protection.

### **1.5. Powers**

The Commission derives its powers from the Constitution, the constitutive Act and the Access to Information Act. In the conduct of its functions, the Commission exercises the powers conferred in Article 252 of the Constitution and powers of a court of law. In this regard 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) Obtain relevant information from any person; and
- vii) Adjudicate on matters relating to administrative justice and access to information.

### **1.6. Composition of the Commission**

The Commission Comprises of three Commissioners, the Chairperson, Vice-chairperson and the Access to Information Commissioner. The Commission is assisted to execute its mandate by a Secretariat headed by the Commission Secretary/CEO.

## Commission



**Hon. Florence Kajuju, MBS**  
Chairperson



**Commissioner Washington Sati, MBS**  
Vice Chairperson



**Commissioner Lucy Ndung'u, EBS**  
Access to Information Commissioner



**Ms. Mercy Wambua, OGW**  
Commission Secretary/CEO

## **1.7. Appointment and Functions of the Commission Chairperson and Commissioners**

The functions and appointment of the Chairperson and two Members of the Commission is as provided for under Sections 8 and 11 of the CAJ Act. Appointment as a member of the Commission is for a six-year term on full-time basis which is non-renewable as per Section 14(1) and (2). The Commission is the Apex governance and policy and decision-making organ. In addition, the Chairperson Shall: -

- a) Preside over all meetings of the Commission
- b) Be the spokesperson of the Commission and
- c) Supervise and direct the work of the Commission.

This Commission assumed office on 8<sup>th</sup> of August, 2018 following their appointment by His Excellency the president on 2<sup>nd</sup> August, 2018 vide gazette notice number 92.

## **1.8. Organisational Structure**

The Secretariat Comprises of five Departments and four Units, headed by Directors and Assistant Directors respectively. The Organizational structure also provides for ten regional offices and in this regard, seven branch offices are operational, while operationalization of another one is at an advanced stage. The departments and units are as follows:

### **i) Complaints, Investigations, Legal Services and Regional Coordination**

The Department is responsible for handling complaints on maladministration, undertaking investigations on complaints and offering legal services to the Commission. It comprises of three Divisions namely: Complaints, Investigations, Legal Services and Regional Coordination.

## **ii) Strategy, Research and Compliance (SRC)**

The Department is responsible for planning, monitoring and evaluation performance. It plays a key role in the implementation of the Commission's Strategic Plan, annual work-plans and ensures compliance with the complaint resolution indicator by public institutions, under the National Government's performance contracting framework. The department has three Divisions i.e. Strategy, Research and Compliance.

## **iii) Access to Information (ATI)**

The Department is responsible for the promotion of the right to information under Article 35 of the Constitution, by providing oversight and enforcement of the Access to Information Act. It does this through review of decisions of public and relevant private entities on ATI, oversight of proactive disclosure of information and monitoring of the entities' compliance with the ATI Act.

## **iv) Public Education, Advocacy and Corporate Communications (PEACC)**

The Department is responsible for organising and executing the public education, training and awareness strategy. It also promotes advocacy and corporate communication. It is made up of two Divisions namely: Public Education and Advocacy; and Corporate Communications.

## **v) Corporate Services (CS)**

The Department is responsible for the provision of corporate support services, that entail management of human resource, finance, ICT, Records, Commission Assets, Transport, security and General administration. It comprises of three Divisions namely: Human Resource Management & Administration; Finance & Accounts and ICT.

#### **vi) Advisory Unit**

The Unit is responsible for the formulation of advisory opinions and proposals on improvement of public administration. It also handles appeals on administrative justice.

#### **vii) Internal Audit and Risk Management Unit**

The Internal Audit and Risk Unit offers independent assurance and consulting services to enhance the Commission's operations by systematically evaluating and improving risk management, control and governance processes.

#### **viii) Supplies Chain Management Unit**

The Unit is responsible for the execution of the procurement function and advising the Commission on procurement of goods, services, works, management of stores and disposal of assets.

#### **ix) Resource Mobilisation Unit**

The Unit is responsible for resource mobilization and management of partnerships and linkages.

A detailed organisational structure detailing the authorized staff establishment is provided in Annex I.

### **1.9. Commission Offices and Service Delivery Points**

The Commission has a total of nine offices including the Headquarters and eight branches, as indicated as follows: -



**Table 1: Commission's Offices**

S/No	County	Location	Year Established
1	Nairobi	West End Towers, Waiyaki Way - HQ	2011
2	Mombasa	4 <sup>th</sup> Floor Posta Pension Towers, Digo Road, Mombasa City	2013
3	Kisumu	2 <sup>nd</sup> Floor City Square Building, Kisumu City	2013
4	Uasin-Gishu	6 <sup>th</sup> Floor KVDA Plaza, Eldoret City	2016
5	Isiolo	Kiwanjani area in Isiolo Town	2017
6	Laikipia	Nyahururu Town, Adjacent to the County Commissioner's Office	2022
7	Garissa	Adjacent to the Garissa Law Courts	2023
8	Meru	Royal Palace Business Center, Meru Town	2024
9	Makueni	4 <sup>th</sup> Floor, Red Dot Plaza, Wote Town	2024

The Commission also has service-delivery points at 12 Huduma Centres in Makueni, Nairobi GPO, Kajjado, Embu, Nyeri, Meru, Nakuru, Bungoma, Kakamega, Kisii, Kwale, and Taita

#### **1.10. Execution of the Commission's Mandate**

The Commission implements its mandate in varied ways, including the following;

- i) Complaints handling which is carried out through inquiries, investigations, adjudication or alternative dispute resolution methods;

- ii) Review of applications for access to information, and issuing appropriate orders;
- iii) Public education and awareness;
- iv) Training and technical support on complaints management and access to information;
- v) Advisory opinions on matters affecting public administration and right of access to information;
- vi) Public interest litigation; and
- vii) Audits or spot checks on public offices to ascertain standards of service delivery.

### 2.1. Introduction

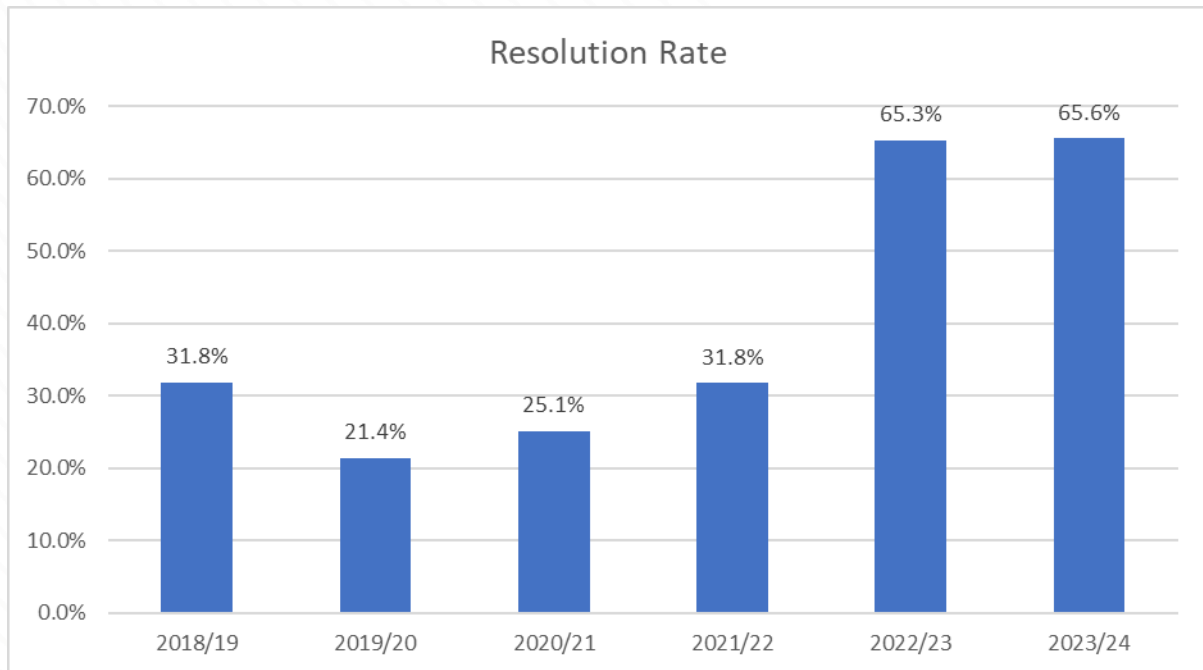
The Core mandate of the Commission is to promote administrative justice in the public sector. This is clearly stipulated under Article 59(2)(h-k) of the Constitution and section 8 of the constitutive Act both of which empower the Commission to enforce administrative justice. Accordingly, the Commission conducts administrative reviews in instances of unreasonable delay, administrative injustice, discourtesy, misconduct, incompetence, misbehavior, improper or prejudicial conduct, manifest injustice, abuse of power, unfair treatment, or unlawful, oppressive, or unresponsive official conduct.

The overarching objective of the Commission in this regard is to foster a public service that upholds fairness, responsiveness, accountability and efficiency. The primary redress mechanism employed by the Commission in addressing maladministration is through complaints handling. In discharging this function, the Commission provides oversight across the entire public sector, acting as a check on administrative action, processes, systems and procedures.

### 2.2. Resolution of Public Complaints

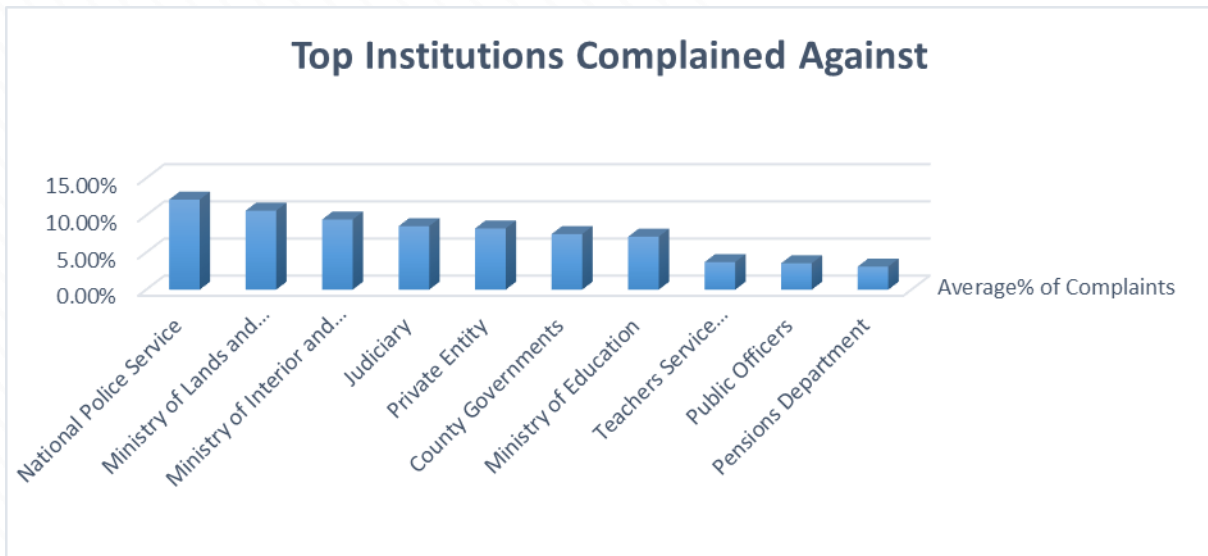
The Commission receives and resolve complaints against public officers and public institutions. The commission has put in place measures to increase the resolution rate such as carrying out rapid results initiatives (RRI). Since 2018, the Commission received a total of 19,730 new cases. The resolution rate for 2023/24 was 65.6 % while the average resolution rate across the six years was 40.2%. Figure 1 is a graphical representation of the resolution rate.

**Figure 1: Resolution Rate of Complaints Handled Since 2018**



Out of total complaints handled, most of them (12.12%), were against the National Police Service. Ministry of Lands and Physical Planning, Ministry of Interior and Coordination of National Government, and the Judiciary followed with 10.63%, 9.44%, and 8.55% respectively. The most common 10 institutions complained against accounted for 74% of total complaints received whilst the other institutions accounted for the remaining 26%.

**Figure 2 :Top Institutions Complained Against**



Delay was the most complained issue accounting for an average of 30.44% over the six years. Unresponsive conduct, and inaction were among the top issues within the reporting period.

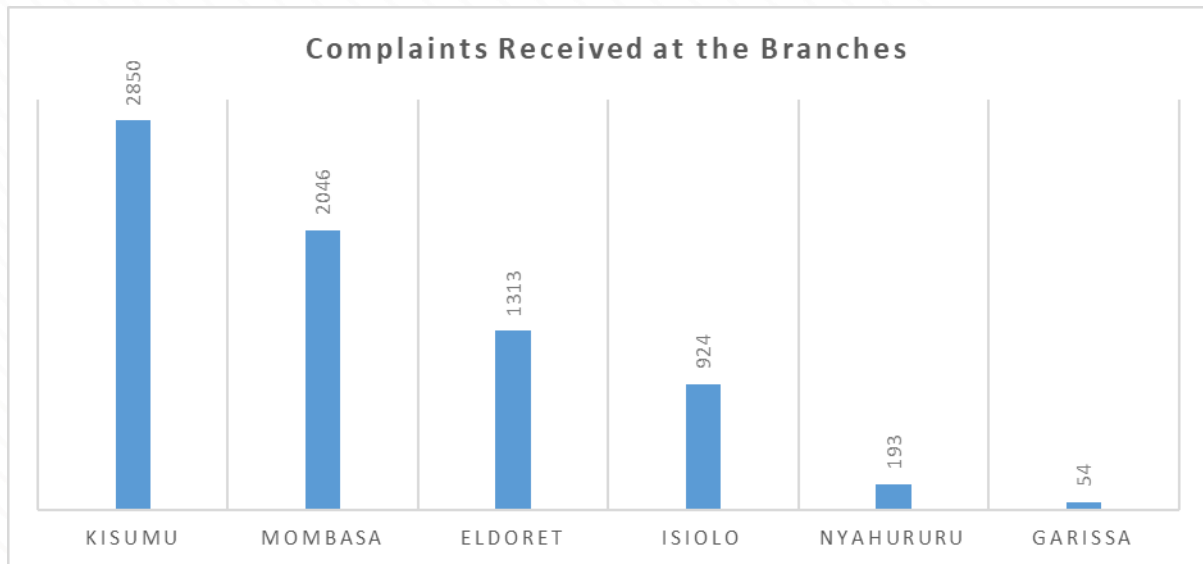
**Figure 3 :Top Complaint Issues**



Kisumu and Mombasa regional offices registered the highest number of cases received at the branch level with 2,850 and 2,046 complaints respectively.

Nyahururu office become operational in 2021/2022 while Garissa office has been operating for less than two years, thus explaining the low count of complaints received in these offices.

**Figure 4: Complaints Received at the Branches**



### 2.3. Innovations in Complaint Handling

The Commission enhanced efficiency in complaint handling through an online complaint management information system (CMIS). The Commission officially launched the public portal on 24th May 2022.



*The Chief Guest Hon. Njoki Ndung'u, and GIZ Representatives during the official launch of the CMIS public portal*

## 2.4. Investigations

The Commission undertook investigations on complaints of maladministration against public institutions and officers. The investigations sought to remedy the administrative injustices and identify gaps in processes and procedures that impede efficient service delivery.

Some of the investigations conducted during the reporting period include:

- i. An Investigation Report on the Systemic Issues Affecting Distribution of Water by Nairobi City Water and Sewerage Company;
- ii. An Investigation Report on the Alleged Delay in Salary Harmonization, Irregular Recruitment of Interns and Promotion of Staff on Tribal Basis at Kenya Agricultural and Livestock Research Organization (KALRO);
- iii. An Investigation Report on The Alleged Irregular Transfer of Two Plots (Thika Municipality/Block Xi/877 And Thika Municipality/Block Xi/878);
- iv. An Investigation into the 29th September 2019 Likoni Ferry Tragedy and Other Systemic Issues Affecting the Kenya Ferry Services;

- v. An Investigation Report on the 13th September 2020 Pumwani Maternity Hospital Incident;
- vi. A Report to Senate Regarding Dereliction of Duty by Police and Other Public Officers in The Case of Teri 'B' Group Ranch in Taita Taveta);
- vii. An Investigation Report into Allegations of Manifest Injustice on Ms. Milly Nafula by Kenya University and College Placement Services;
- viii. A Report on The Observation of The Recruitment of National Police Service Constables Held On 24th March 2022;
- ix. A Systemic Investigation into The Plight of Kenyan Migrant Domestic Workers in The Kingdom of Saudi Arabia; and
- x. Alleged Manifest Injustice in the Issuance of Passports by the Department of Immigration Recruitment and Management of Migrant Workers in Kenya.

## **2.5. Public Inquiries**

The Commission is mandated to conduct hearings in a bid to redress maladministration. One of the methods of conducting hearings is through engaging in public inquiries which entails a detailed and more engaging investigation into multiple systemic issues affecting the public. During the period, the Commission conducted a public inquiry on the Problems Encountered by Kenyan Citizens When Obtaining Legal Identity Documents in Boarder Counties; a case study of Wajir County between 19th- 22nd February, 2023 which report was released on 18th July, 2024. The report contains a raft of recommendations to several government institutions in a bid to improve service delivery.

## **2.6. Publications**

The Commission has been publishing annual reports during the tenure of the Commissioners. It has published six annual reports and twelve biannual



reports. Additionally, the Commission published the status of administrative Justice and access to information report.

## 2.7. Research and Development

The Commission established the research and development division under the Strategy Research and Compliance department to strengthen development and strategic planning of the Commission. The Commission has been able to undertake the following research related activities:

- i) research on the common information requested from the public institutions;
- ii) an analysis of the active Complaints that are older than one year;
- iii) the Customer Satisfaction Survey of 2023;
- iv) a Study on the Status of Administrative Justice and Access to information in Kenya;
- v) a Study on the Milestones and Challenges in the implementation of ATI Act in Kenya; and
- vi) Participated in Collaborative Research and Strategic Partnerships with Other Stakeholder Institutions.

## 2.8. Success Stories on Administrative Justice

### **i) Employment Secured Four Years Later**

A complaint was lodged to the Commission alleging unfair treatment and discrimination on account of disability by Kenya Ports Authority (KPA). The complainant was interviewed and issued with a letter of offer for the position of Artisan- Electrical Engineering- Grade HG3 Seg.3 in June 2016. However, he was never substantively appointed for the position. Upon intervention by the Commission, the complainant was issued with the letter of appointment by KPA.

## **ii) Court Judgement Delivered After Five Year-Wait**

A complaint was lodged alleging delay to deliver judgement in three consolidated land cases at a Kaloleni law court where the court had indicated that judgement would be delivered on 16th June 2016. However, this did not materialize despite the litigants following up on the matter individually and through their advocate on record. This impelled them to seek the intervention of the Commission in February 2021. The Commission took up the matter with the Judiciary and judgement was delivered on 14th September 2021.

## 3.0 CHAPTER THREE: REALISATION OF THE ACCESS TO INFORMATION IN KENYA POST 2016

### 3.1. Introduction

The Commission on Administrative Justice (CAJ) is mandated to oversee and enforce implementation of the right of Access to Information (ATI) guaranteed by Article 35 of the Constitution and operationalized by the Access to Information Act, 2016 (ATI Act, 2016). Article 35 of the Constitution guarantees access to information as a fundamental right by providing that:

***“(1) Every citizen has the right of access to—***

***(a) information held by the State; and***

***(b) information held by another person and required for the exercise or protection of any right or fundamental freedom.”***

The established Access to Information legal framework enables implementation of the right to information in Kenya thus enhancing progressive transition to open governance. These enabling legal measures include:

- i. The guarantee of the right in the Constitution which gives it maximum weight and impetus required to drive cultural change;
- ii. Clear and express legal provisions defining the right, scope and requisite obligations;
- iii. The law providing clarity on the status of Commission's ATI decisions as binding upon implementing institutions thus providing the force of law required for effective implementation;
- iv. Enactment of regulations to fully operationalize information disclosure; and
- v. Development of a national ATI policy to drive desired change and ensure uniform Government approach on information disclosures.

Access to accurate, adequate and relevant information allows citizens to make informed decisions and take effective actions. Such information enables citizens and institutions to identify opportunities, solve problems and make right choices. Further, information sharing allows citizens to participate policy decisions in matters affecting their lives thus improving good governance and inclusive growth. This also promotes transparency and accountability in the management public affairs and the fight against corruption.

## **3.2. Operationalisation of the Access to Information Act**

### **3.2.1. Strengthening Institutional ATI Infrastructure**

The Commission's Strategic Plan 2019-2023 embeds oversight & enforcement of Access to Information as one of its strategic themes. To this end, The Commission designated Commissioner Lucy Ndungu as the Commissioner in charge of Access to Information pursuant to section 20(3) of the ATI Act, 2016. Further, Access to Information Department was established in 2020 to enhance implementation of ATI, headed by a director with staffing levels both at the Headquarters and Regional Offices.

The Commission in collaboration with implementing institutions has further taken measures to ensure strengthening of institutional framework on Access to Information through: -

- i) Engagement with a wide breadth of institutional leadership to allow understanding and goodwill on ATI;
- ii) Mainstreaming ATI in public institution processes and procedures through the appointment of Information Access Officers (IAOs) to act as ATI champions and take lead on awareness creation and information disclosures. Additionally, Access to Information Committees have been set up in some public entities which serve to enhance acceptance and implementation of ATI and capacity building of institutional ATI focal points (IAOs and ATI Committees) to enable implementation; and

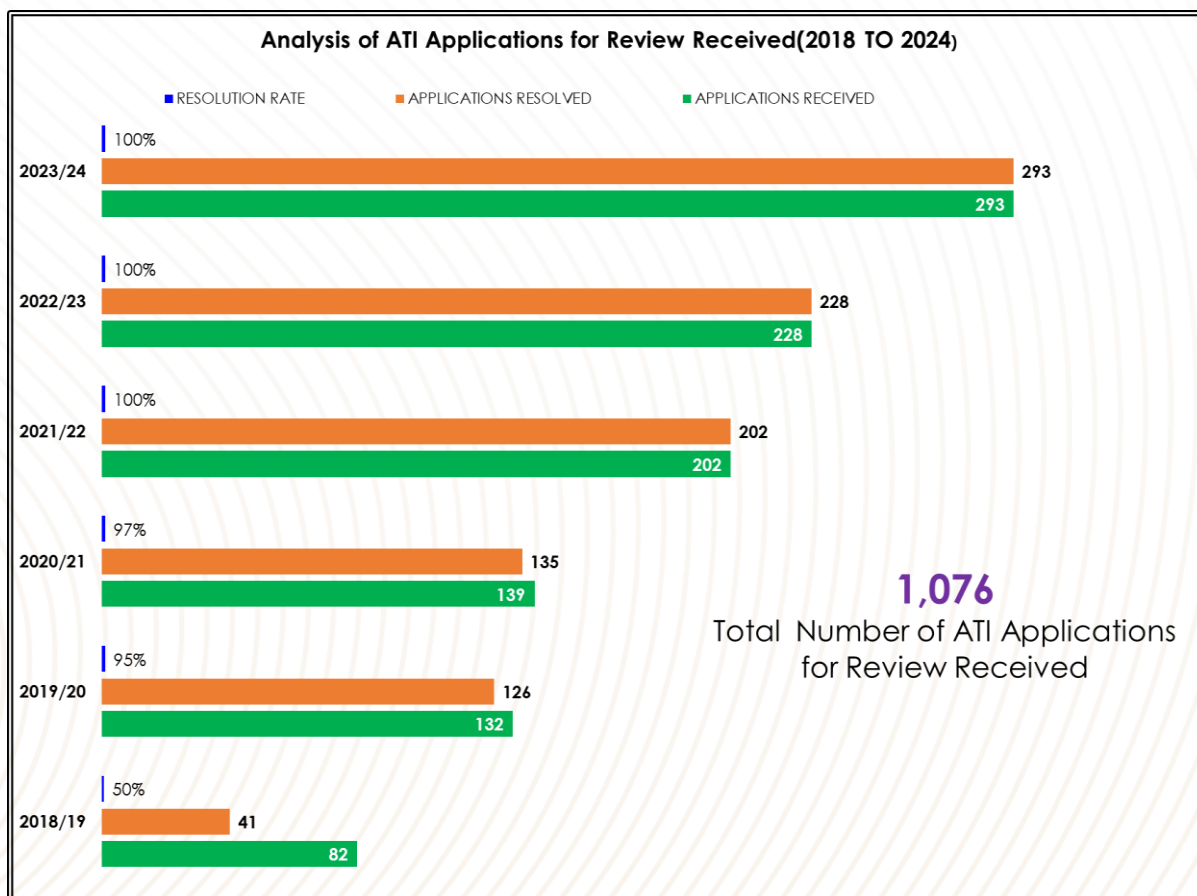
iii) Development of institutional policies on access to information, whistleblower protection and records management thus enabling discussion, embracing, implementation and sustainability of ATI.

### 3.2.2. Applications for Review Processed by the Commission

The ATI Act confers the Commission with review jurisdiction on decisions of public entities and relevant private bodies in relation to requests for access to information in various instances.

In the period under review, the Commission received a total of 1,076 applications for review of decisions by implementing institutions under the ATI Act. Figure 5 presents an analysis of ATI applications for review processed.

**Figure 5: Analysis of ATI Applications**



### 3.2.3. Sensitization and Awareness Creation on ATI Act

Stemming from an identified need for increased awareness creation on the right of Access to information, the Commission has over the years undertaken various activities aimed at increasing awareness on the right among members of the public. The initiatives taken by the Commission include:

- i) Awareness forums, talk-shows, one-on-one engagements, county visits, public forums, and participation in activities under the International Day for Universal Access to Information (IDUAI); and
- ii) Publishing and publication of various information, education, and communication materials on the right of access to information including banners, Frequent Asked Questions pamphlets and institutional brochures.

#### **3.2.4. Development of ATI Compliance Documents**

The Commission has developed, published, and publicised various key access to information guides and guidance documents which have deepened ATI appreciation, understanding and use thus catalysing transparency, accountability, and citizens' participation in governance. These include:

- i) A Journalist's Handbook on Access to Information in Kenya to increase awareness and use of ATI in journalism work;
- ii) Simplified Version of the Access to Information Act to enhance understanding of the law by citizens and catalyse public participation in governance;
- iii) A Guide on Proactive Disclosure for Public Entities to provide procedures and parameters guiding public agencies to comply with the requirements of proactive disclosure;
- iv) A Handbook on Best Practices on Implementation of Access to Information which serves as a source book for public officers in implementation of the law;

- v) Circulars on Proactive Disclosure of information to elaborate and guide public entities on the Proactive Disclosure obligation;
- vi) Training Curriculum on ATI to enable public officers implementing the law acquire knowledge, skills and tools for implementing ATI;
- vii) Reporting Guidelines for Public Entities and Private Bodies under the ATI Act to enable reporting of progress in implementation of the Act;
- viii) ATI Reviews Manual to support the review of institutions' decisions on ATI by the Commission; and
- ix) Administrative Justice and Access to Information Guide during the Electioneering Period: 2022.

### **3.2.5. Development of the Access to Information (General) Regulations, 2023**

The Commission developed the '*Access to Information (General) Regulations, 2023* to provide an appropriate framework for the operationalisation of the Access to Information Act, 2016, through public participation 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.

The Access to Information (General) Regulations 2023 were published in the Kenya Gazette Supplement No. 197 (Legislative Supplement 69) vide Legal Notice No. 161 of 19<sup>th</sup> October, 2023 and were approved by Parliament on 23<sup>rd</sup> November 2023.

### **3.2.6. Capacity Development and Technical Support to Institutions on ATI implementation**

To ensure obligations under the Act are well understood and thus enhance compliance, the Commission has undertaken sensitisation and training forums of various public entities. To this end:

- i) By the end of 2023/2024 financial year, a total number of 17,991 public officers from National Government and Counties had been trained on ATI;
- ii) Engagements with County leadership leading to the appointment of Information Access Officers at 47 County Executives and 38 County Assemblies;
- iii) The Commission trained Information Access Officers drawn from all the 47 County Governments in Kenya;
- iv) As a follow-up to the County Governments' training, several County Governments have formed Access to Information Committees comprising of strategic officers within their County Governments;
- v) Development of policies on access to information and establishment of access to information infrastructure to enable adoption of a citizen friendly service approach; and
- vi) Training officers, technical support, and guidance to institutions in building their capacities on resolution of information requests, constitution of Access to Information Committees, records management as well as protection of public interest disclosures.

### **3.2.7. Proactive Disclosure of Information by Public Entities**

The Commission has played a critical role in ensuring increased proactive disclosure of information within the public sector aimed at improving transparency and reducing opportunities for corruption by enhancing openness and accessibility to public procurement Information.

In 2019, the Commission undertook a survey on the status of proactive disclosure within public entities on proactive disclosure of public procurement



information by public entities. The survey found that institutions disclosed most information on *'who we are and what we do'* which ranked highest.

The Commission has further undertaken a raft of measures to enhance proactive disclosure implementation including issuance of circulars on the required standards; advisory opinions on disclosure of information; and training and capacity building.

### **3.2.8. Enabling County Level Information Disclosure**

The Commission has created a framework to enable County Governments to have customized County access to information laws as a means of increasing active transparency on county services, development and policies. This is premised on section 96 (3) of the County Government Act which requires county governments to enact legislation on access to information. Thus, the Commission developed a *'Model Law on Access to Information for County Governments'* to support County Governments in legislating County ATI Laws. The model law acts as a guide on minimum ingredients for County Governments' ATI Laws and thus ensures the spirit of the national law is maintained. A number of counties like Kwale and Embu have already enacted their own access to information laws.

### **3.2.9. Monitoring of Compliance with International Treaty Obligations.**

The ATI Act requires the Commission to monitor and report on Kenya's compliance with international treaty obligations relating to the right to information. At the international level, UNESCO monitors implementation of the right to information as part of realization of the Sustainable Development Goal 16.10.2 which requires States commitments on access to information. The Commission submits annual reports to UNESCO on Kenya's compliance with international treaty obligations on ATI.

The Commission has so far submitted four reports to UNESCO on Kenya's compliance with international treaty obligations relating to freedom of and right of access to information for the years 2021, 2022, 2023, and 2024.

Additionally, The Centre for Law and Democracy (CLD), a non-profit organisation that works to promote, protect and develop human rights in the World developed a leading, and accepted global tool for assessing the strength of national access to information implementation mechanisms. According to CLD assessment, Kenya's legal framework is rated highly based on seven parameters representing the strength of ATI legal framework as shown below.

**Table 2: Kenya's ATI Rating Vis-a-Vis Some African Countries Based on the Global Standards**

N O	Categories	Index	South Africa	Liberia	Kenya
1.	Right of access	6	6	5	4
2.	Scope	30	22	30	29
3.	Requests	30	21	19	19
4.	Exceptions	30	23	27	19
5.	Appeals	30	29	20	24
6.	Sanctions	8	6	7	6
7.	Promotional measures	16	12	16	12
	<b>Total</b>	<b>150</b>	<b>119</b>	<b>124</b>	<b>113</b>

### 3.2.10. Digitisation of Government Records

The ATI Act requires public entities to computerise their records and automate information management systems within three years from September 2016. As a starting point, the Commission supports institutions to

understand and appreciate the place of digitisation of records and automation of information management systems through sensitization and training. Further, the Commission partnered with the Ministry of Information, Communication and Digital Economy through ICT Authority (ICTA) where it sits at the steering and technical Committees for Digitisation of Public Records. The work of the Committee is centered on development of standards for digitisation to guide institutions on how to undertake the process.

### 3.2.11. Disposal of Public Records

The obligation on proper records management under the ATI Act encompasses the disposal of public records in a manner that enhances future access to information. Consequently, the Public Archives and Documentation Services Act was amended by the ATI Act to enable consultations between Kenya National Archives and Documentation Services (KNADS) and the Commission before authority for destruction of public records is given. Through a partnership between the Commission and KNADS, the Commission, in the period under review, granted concurrence to dispose 8,975,936 records and withheld its concurrence to disposal of 338,585 public records as illustrated below:

**Table 3: Concurrences Granted by the Commission for Disposal of Records**

Details	2018/ 19	2019/ 20	2020/ 21	2021/ 22	2022/23	2023/24	Total
<b>Number of requests</b>	86	88	77	74	58	69	<b>452</b>
<b>Totals Number of Records</b>	131,197	943,018	929,617	5,363,399	439,931	1,507,359	<b>9,314,521</b>
<b>Number of records where</b>	131,197	620,118	919,211	5,363,378	434,673	1,507,359	<b>8,975,936</b>

<b>concurrency was granted</b>							
<b>Number of records where concurrency was not granted</b>	0	322,900	10,406	21	5,258	0	<b>338,585</b>

### 3.2.12. Development of a National Access to Information Policy

The Access to Information Act was enacted ahead of the National Policy Framework which gap has continued to hamper the seamless implementation of access to information. Accordingly, the Ministry of Information, Communications and the Digital Economy in January 2023 constituted a Multistakeholder Committee to develop an Access to Information Policy for Kenya, co-chaired by the Communications Secretary within the National Communication Secretariat, and the Commissioner in charge of Access to Information.

The Committee finalised its work and submitted the final draft of the National ATI Policy 2023 to the Ministry of Information, Communication and Digital Economy which has since been adopted by the Commission.

### 3.2.13. Development of ATI Curriculum

The Commission in partnership with the Kenya School of Government and the support of International Development Law Organisation (IDLO), Article 19 EA and Local Development Research Institute (LDRI) developed an ATI Curriculum. It targets public officers involved in processing access to information requests in public entities to equip them with knowledge, skills and competencies to implement the legal framework on access to information. A pool of trainers from the Commission and Kenya School of Government were trained.

### 3.2.14. Development of an Online Monitoring Tool on Proactive Disclosure

The Commission, with the support of HIVOS East Africa, acquired a Monitoring Tool (Fichua Monitoring tool) to assist it in the oversight of proactive disclosure by public and relevant private entities pursuant to the ATI Act.

### **3.2.15. Development of Ministries, Departments and Agencies (MDA) Portal**

Over the years, the Commission has developed the capacity of MDAs in setting up their own access to information mechanisms with a view to supporting the receipt and timely resolution of access to information matters for continued service delivery. The Commission is in the process of revamping its internal ICT systems through development of an MDA portal aimed at creating a linkage between institutional ATI digital frameworks and the Commission's oversight digital platform to enhance efficiency in ATI oversight, enforcement and reporting.

### **3.3. Strategic Partnerships aimed at Establishing and Building Resilience in Access to Information**

To allow concerted efforts towards implementing the Access to Information Act, the Commission created strategic partnerships with relevant stakeholders. Subsequently, the Commission has consistently engaged with these partners with a view to creating awareness on the law, increasing the level of compliance in order to allow for accurate and timely reporting and sharing of information. The engagements also increase the capacity of entities in handling Access to Information matters. Some of the partnerships include:

- i) Partnership with Ministry of Information, Communication and Digital Economy to enable policy coordination on access to information including automation of information management systems and digitisation of government records to enhance ease of access to information;
- ii) Partnership with the Council of Governors to allow Counties engagement on Access to Information and improvement of service delivery at the county level;

- iii) Partnership with Kenya School of Government on development of Access to Information Curriculum for training of public officers on ATI;
- iv) Partnership with the Media Council of Kenya on capacity development of journalists to be able to use ATI in their work;
- v) Partnership with the Kenya National Archives & Documentation Service on records management including digitization and disposal of records.
- vi) Open Government Partnership (OGP) to support the government in being more inclusive, responsive and accountable through the Access to Information Commitment in the National Action Plan;
- vii) Partnership with Kenya Association of Records Managers and Archivists (KARMA) geared towards creating awareness and sensitizing records officers on appropriate records management; and
- viii) Partnerships with key Civil Society Organisations like Article 19 Eastern Africa, National Democratic Institute, Katiba Institute, International Development Law Organisation (IDLO), International Commission of Jurists, Transparency International among others to enable awareness creations on ATI.

### 3.4. Litigation on Access to Information Issues

Since the enactment of the ATI Act, the courts have been very active in pronouncing themselves on the right to Access Information and the Commission has been enjoined in some of the matters in various capacities. The table below illustrates the key outcomes from some of the court matters.

**Table 4: Key Access to Information Case Law**

Case	Key Issues	Brief facts	Final Decision
<b>David Mugasia</b>	-Adoption of an order of CAJ	The Applicant requested	The Court held that: - -Section 23(3) ATI Act

Case	Key Issues	Brief facts	Final Decision
<b>Inyangu Vs. Joshua Oigara &amp; 3 others [2023] eKLR</b>	-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	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.	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 adopted and KCB Bank ordered to supply information within 7 days. -Enforcement proceedings under section 23(5) ATI Act are ex parte proceedings
<b>Khalifa &amp; another v Principal Secretary, Ministry of Transport &amp; 4 others [2022]eKLR</b>	-Circumstances in which the right to information could be limited; -Factors to be demonstrated when establishing that a restriction on access to	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.	-The burden of establishing that the refusal of access to information was justified rested on the State or any other party refusing access. -Any restriction on information that a government sought to justify on grounds of national security had

Case	Key Issues	Brief facts	Final Decision
	<p>information was necessary to protect a legitimate national security interest; -who bore the burden of establishing that the refusal of access to information was justified</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>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"> <li>1. The expression or information at issue posed a serious threat to a legitimate national security interest;</li> <li>2. The restriction imposed was the least restrictive means possible for protecting that interest; and</li> <li>3. The restriction was compatible with democratic principles.</li> </ol> <p>-A restriction sought to be justified on the</p>



Case	Key Issues	Brief facts	Final Decision
			<p>ground of national security was not legitimate if its genuine purpose or demonstrable effect was to protect interests unrelated to national security, including, for example, to protect a government from embarrassment or exposure of wrongdoing, or to conceal information about the functioning of its public institutions, or to entrench a particular ideology, or to suppress industrial unrest.</p> <p>- A restriction sought to be justified on the ground of national security was not legitimate unless its genuine purpose and the demonstrable effect was to protect a country's existence</p>

Case	Key Issues	Brief facts	Final Decision
			<p>or its territorial integrity against the use or threat of force, or its capacity to respond to the use or threat of force, whether from an external source, such as a military threat, or an internal source, such as incitement to violent overthrow of the government.</p> <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>
<b>Legal Advice Centre Kituo Sheria &amp; others v Cabinet</b>	-Conditions to be met before a right or fundamental freedom could be	Petitioners filed a petition seeking respondents (IPOA & CAJ) to furnish them with the reports that they held touching on	-The court took judicial notice of the fact that the threat of terrorism across the world and in Kenya, in particular, was very real. Due to

Case	Key Issues	Brief facts	Final Decision
<b>Secretary, Ministry of Education &amp; Sports v. Attorney General &amp; others [2021]eKLR</b>	<p>limited;</p> <p>-The test for determining whether a restriction was appropriate;</p> <p>-Whether disclosure of information contained in reports by security agencies concerning terrorist attacks was in the public interest</p>	<p>the Garissa University terrorist attack case.</p> <p>Petitioners, argued the right to information was a constitutionally guaranteed right, and access to the information and reports regarding the Garissa University terrorist attack would enhance accountability by State officers and boost confidence in the Government. The petitioners contended that the ability of the petitioners to demand their rights and seek their protection would be enhanced by accessing the requested information in order to prove complacency and laxity by State and other office bearers in the Garissa University terrorist attack.</p>	<p>that threat, and being mindful that Kenya had been a target on several occasions, the release of the reports would pose a threat to national security and prejudice public interest.</p> <p>Directing IPOA &amp; CAJ to release reports which contained the strategies employed by the security agencies in combating the threat to terrorism was likely to put Kenya and the lives of its citizens, in jeopardy.</p> <p>-On a balance of probabilities, the substantial harm to the overall public interest far outweighed the right of the petitioners to access the information sought. The petitioners had already been supplied</p>

Case	Key Issues	Brief facts	Final Decision
		The petitioners further argued that the withholding of information by the respondents did not outweigh the public interest in accountability by the State and the right to information and fair hearing.	with the abridged version of the report for their purposes. Accordingly, the application and threshold for limitation of disclosure of the subject reports had been demonstrated and met by IPOA & CAJ.
<b>Philip Njoroge Kimani v Liberty Africa Technologies Limited &amp; another [2021] eKLR</b>	-Whether the applicant was entitled to information held by Safaricom Ltd on skiza tune	The applicant sought information from Safaricom Ltd on the month downloads for his skiza tunes and moved to court to enforce such right of access after what he termed as unsatisfactory disclosure by Safaricom	Court held that for a person (private body) other than the state to be obligated to provide information to an applicant, the Applicant ought to show, firstly, that the information is held by that person. It is not enough for a party to speculate who has the information.  Court further held that the information sought by the petitioner was subject to limitation under Section 6(1) of Access to Information

Case	Key Issues	Brief facts	Final Decision
			Act 2016 thus could not be released.
<b>Commission for Human Rights and Justice v Khandwalla &amp; 3 others [2021] eKLR</b>	-Whether an applicant can be allowed to move to court to enforce right to information without approaching CAJ	The applicant applied to Cost General Hospital for information on closure of its entrance based on alleged prevention of COVID 19 measures which information was not supplied and thus moved to court.	-Petitioner failed to follow the laid down procedure as stipulated in the Access to Information Act No. 31 of 2016, and therefore the Court held that it had no Jurisdiction to determine the application before it
<b>Christine Nzula vs. CEO Nairobi Womens Hospital &amp; Anor [2021]eKLR</b>	-Adoption of CAJ order -Whether CAJ had jurisdiction of issuing orders capable of being enforced by the Court	The Applicant requested for information relating to her treatment at Nairobi Womens Hospital but there was no response. The Commission after inquiry issued an order to have the applicant supplied with the information which was not complied with prompting the adoption proceedings.	-Any person denied information must exhaust or satisfy the laid down mechanism in law by approaching CAJ first before going to court -Section 23 established the High Court as an appeal mechanism on issues of ATI - The consequence of failing to appeal allowed the applicant under Section 23(5) of the Act to apply for leave to enforce CAJ

Case	Key Issues	Brief facts	Final Decision
			<p>order as decree.</p> <p>-CAJ has jurisdiction to issue orders on ATI</p> <p>-The right to access information is a sacrosanct right which applies to actions by both public and private bodies</p> <p>-The respondent was not ordered to supply the information since the court noted from the affidavit that respondent said information was missing and thus ordered compensation of kshs 1,000,000/=</p>
<p><b>Savraj Singh Chana v Diamond Trust Bank (Kenya) Limited &amp; another</b> [2020]eKLR</p>	<p>-The Commission as the first forum on ATI disputes.</p>	<p>The Petitioner, Savraj Singh Chana, sought to enforce the right of access to information under Article 35 of the Constitution to seek certain information from the 1st Respondent, Diamond Trust Bank (Kenya) Limited and the</p>	<p>The Court by interpreting ATI Act recognized CAJ as the first forum for resolution of ATI disputes.</p>

Case	Key Issues	Brief facts	Final Decision
		<p>2nd Respondent, Airtel Network (Kenya) Limited. The Petitioner alleged that he held two bank accounts with the 1st Respondent and had a mobile telephone number with the 2nd Respondent which he used to operate a Mobile Banking Facility known as “DTB Mobile Banking” with the 1st Respondent. The Petitioner wanted to access information on certain irregular, illegal and unauthorized transactions which had been made vide the Mobile Banking Facility resulting in loss of Kshs. 592,864/- from his account.</p>	
<p><b>Mercy Nyawade v Banking Fraud Investigations</b></p>	<p>Limitation of access to information</p>	<p>The Petitioner requested for investigations report from Banking Fraud Investigations Department</p>	<p>-The burden of establishing that the refusal of access to information is justified rests on the state or</p>

Case	Key Issues	Brief facts	Final Decision
<b>Department &amp; 2 others [2017] eKLR</b>		concerning suspicious transactions they were investigating in relation to transfers of monies within Standard Chartered Bank to a body in Singapore.	any other party refusing access. -Although the right of access to information is not absolute, to satisfy the requirements set out under article 24 of the Constitution, the respondents must demonstrate that the limitation imposed on the constitutional right is "fair, reasonable, necessary and justifiable in a democratic society based on openness, justice, human dignity, equality and freedom and that it falls within the exceptions provided in section 6 of the Act." -Court ordered disclosure of information to the petitioner
<b>Zebedeo John Opore</b>	-Whether the Respondent	The Petitioner requested from IEBC information	The court held that the refusal to grant access



Case	Key Issues	Brief facts	Final Decision
<b>V IEBC [2017] EKL</b>	had established that refusal to grant access to information is justified within Section 6 of the Access to Information Act.	and records pertaining to elections of Bonchari MP seat held on 8 <sup>th</sup> August 2017 including number of voters identified by the electronic voter identification devices at every polling station; Copies of Forms 32A (Voter Identification & Verification Forms) at every polling station; Polling Station Diaries as prepared and submitted by the respective presiding officers at every polling station for the purposes of filing an election petition.	must be reasonable and justifiable. The court found that the respondent had violated the right of access to information and ordered that the petitioner be granted access into the requested forms.
<b>Katiba Institute v. President Delivery Unit &amp; 3 others [2017] EKL</b>	-Whether a juristic person (Company or body) has a right to access information	Katiba Institute wrote to President Delivery Unit seeking information on number of advertisements published, the total cost incurred as well as the government agency that met the cost.	The learned judge considered that the Access to Information Act under Section 2 considers a citizen to include a juristic person whose director(s) is a citizen. The court ordered that

Case	Key Issues	Brief facts	Final Decision
			the information be availed to the petitioner.
<b>John Harun Mwau v Linus Gitahi &amp; 13 others [2016] eKLR</b>	-Access to information held by private body -Information required for protection of fundamental right	Harun Mwau was accused in a report published by the Nation Media Group of owning a container full of 1.1 tonnes of cocaine impounded in Malindi. Subsequently, the US imposed sanctions against Mwau. Mwau moved to Court seeking information from those who had implicated him. He argued that the information he sought was necessary to protect his rights to human dignity, privacy and life. The Court was invited to determine if Mwau was entitled to information on the location of the depot where the container was being held, the actual person who impounded it, the serial	The Court ruled that all the information held had to be disclosed as it was needed to protect another right.

Case	Key Issues	Brief facts	Final Decision
		number and shipping line and the consignee under Article 35.	
<b>Kahindi Lekhaile &amp; 4 others v Inspector General National Police Service &amp; 3 others [2013] eKLR</b>	<p>-Information must first be requested from the public entity holding it</p> <p>-Whether the Court was the appropriate place of first instance to seek the information.</p>	<p>Kahindi Lekhaile and others sought to have an audit of the ivory stock in the country that is that held by the Kenya Wildlife Service and other private establishments pursuant to reports that such ivory may have found its way to the illegal market. Kahindi and others moved to Court requesting for this information. KEMSA raised a preliminary objection that the Petitioner was not entitled to seek enforcement of Article 35 on the ground that it was a foreign company incorporated in India.</p>	<p>While ruling that a person seeking information must first do so to the public entity holding the information and be denied, the Court noted that the right of access to information was not self-propelling and a person must request for information to exercise the right.</p>

### 3.5. Success Stories on Access to Information

**i) 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.

**ii) 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 affected in accordance with section 13 of ATI Act and the details were rectified.

## 4.0 CHAPTER FOUR: PUBLIC EDUCATION AND ADVOCACY

### 4.1. Introduction

The Commission employed several strategies to increase public awareness and visibility;

- i) Held courtesy call and dialogue sessions with County leadership: Governors and Speakers to advocate for establishment of effective complaints handling and ATI mechanisms in counties.
- ii) Conducted sensitization and training on complaints handling and ATI for MDA'S and County governments including offering technical support.
- iii) Held outreach forums and legal aid clinic sessions by leveraging on among others Devolution conferences, Ombudsman mashinani, County visits and Agricultural Society of Kenya Shows.
- iv) Held Customer Service Week at the HQ and 4 regional offices to appreciate Commission clients.
- v) Promoted partnerships and leverage on platforms by partner organisations to conduct public education sessions.

According to a survey by InfoTrack, awareness of the Commission and its mandate increased from 28% in 2018 to 44% in 2020. Further, a 2023 survey indicated that awareness grew to 59.3% and Kenyans' awareness of their right to information stood at 64%. These results demonstrate the impact of the Commission's public outreach and awareness initiatives.

### 4.2. Capacity Building of Public Officers

Section 8 of the CAJ Act mandates the Commission to help set up and enhance complaint handling capacity in public service sectors. This has been achieved through training public officers and providing technical support to MDACs, enabling institutions to establish effective complaint handling and Access to Information systems.

The Commission has leveraged on both in-person and virtual training for public officers, targeting Senior management, frontline officers, members of complaints handling committees, and officers in charge of ATI in public institutions.

The training and capacity building of public officers aims to achieve specific objectives, including:

- i) To strengthen and enhance the effectiveness of complaints handling and access to information capacity in the public sector;
- ii) To enhance responsiveness and accountability in the public sector;
- iii) To build the capacity of public officers on citizen-focused service delivery;
- iv) To improve compliance with performance contracting requirements;
- v) To develop appropriate skills of public officers to help them resolve public complaints amicably; and
- vi) To enlighten public officers on CAJ functions and mandates relating to resolution of public complaints and implementation of citizens' service delivery charters.

In the last six years, the Commission has trained over **17,991** public officers drawn from Ministries, Departments, Agencies and Counties. The Commission continued to support Public Institutions under the Government Performance Contracting Cycle in the promotion of Administrative Justice and Access to Information in furtherance to the performance measures under its PC indicator.

**Table 5: Table Summary of Officers Trained by the Commission**

Financial Year	Number of Officers Trained	Number of MCDAs.
FY 2018/19	2,136	218
FY 2019/20	1,201	37
FY 2020/21	1,652	80

Financial Year	Number of Officers Trained	Number of MCDAs.
FY 2021/22	2,482	164
FY 2022/23	4,137	89
FY 2023/24	6383	153
<b>TOTAL</b>	<b>17,991</b>	<b>741</b>

### 4.3. Training of Journalists

The Commission, in collaboration with the Media Council of Kenya, with the support of GIZ has over the past six years trained over **250** media stakeholders including journalists, correspondents, reporters, content producers, station managers, media owners, community FM stations, and editors on Access to Information.

The trainings were aimed at developing the capacity of media stakeholders to promote the right to information, increase their knowledge and understanding on Access to Information and how to use the same as a tool for investigative journalism.

### 4.4. Public Outreach Forums/Legal Aid Clinics

As per the Commission's strategic plan, one of the key strategic objectives is to enhance awareness and understanding of the Commission's mandate. The attainment of this objective was made possible through robust outreach forums, media engagements and partnerships to enhance public awareness on the mandate of the Commission, policies and procedures.

Some of the public education approaches employed by the Commission are discussed below:

### 4.5. County Outreach Forums

The County visits programme was designed by the Commission to primarily conduct public awareness and give technical support to County

Governments on establishment of effective complaints handling and Access to information infrastructure. It also provides a platform to receive complaints on maladministration and access to information from citizens and create linkages with County Governments and Non-state actors at the county level to promote good governance through effective complaints handling and access to information frameworks. During the six-year period, the Commission visited **45** counties and carried out robust public education and awareness creation campaigns as well as engagements with national Government and County Government leadership through courtesy calls.

#### **4.6. Development of Effective Complaints Handling Policy for Counties in partnership with FLoCA**

FLoCA is a programme 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.

Under the program, the Commission was tasked to build the capacities of county governments in complaints handling and proactive disclosure of information for effective implementation of the FLoCA Program.

In this regard, the Commission developed Model 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.



#### 4.6.1. Ombudsman Mashinani

Ombudsman Mashinani (service at the grassroots) is an initiative the Commission adopted to facilitate outreach in informal settlements through existing community structures. It was inspired by the need to reach to poor populations who cannot afford legal representation and whose only hope to getting re-dress is the Ombudsman because of free services. The initiative deploys existing community structures for public education and opportunities to render advisory services. This is done in collaboration with opinion leaders who provide logistical support in organizing meetings and channeling complaints to the Commission as well as feedback to their constituents.

The objectives of Ombudsman Mashinani are to:

- i. Create awareness on the mandate of the Commission (traditional mandate and access to information) to residents of informal settlements;
- ii. Mobilise community members to champion for accountability in public institutions and promote public participation on matters of administrative justice and access to information; and
- iii. Receive complaints in line with the mandate of the Commission.

Through this initiative, the Commission in partnership with the Ombudsman Committee members and with the support of IOI undertook the Ombudsman Mashinani Programme by conducting outreach forums in informal settlement areas of Kangemi, Kawangware, Kiambiu, Korogocho and Riruta in Nairobi County. Details are captured in the table below.

**Table 6: Ombudsman Mashinani Initiatives**

Activity Location	Number of People Reached
Riruta, Dagoretti	140
Kangemi- Kangemi Social Hall	120
Kawangware- Dagoretti Youth Centre	100

Kiambiu	110
Korogocho	103
<b>Total</b>	<b>573</b>



*Participants during a community forum in Dagoretti North Sub County*

#### 4.6.2. Agricultural Society of Kenya Shows

The Commission participated in Agricultural Society of Kenya (ASK) shows as a strategy for public education and outreach.

In the six-year period, the Commission set up booths during the following ASK shows:

ASK Show/Exhibition	Estimated Number of People Reached
Embu Youth in Agri- Business Summit and Expo	3,000
South Eastern Regional ASK Machakos Show	1,500
Meru ASK National Show	1,100



*The Commission's Chairperson, Hon. Florence Kajuju, responding to questions from participants at the Embu Show.*



*Officers of the Commission attend to members of the public during Machakos ASK Show.*

### 4.6.3. Devolution Conference

One of the strategies employed by the Commission in undertaking public education, awareness and visibility is participating in the devolution conferences organised by the Council of Governors.

The Commission has participated in a number of Devolution conferences as listed;

Event	Venue	Total Estimated Reach
Devolution Sensitisation Week	Makadara	<b>431</b>
Devolution Conference	Kirinyaga	<b>2,000</b>
1st Biennial Devolution Conference	Uasin Gishu	<b>10,000</b>

The conferences provide an effective platform for educating the public on the mandate of the Commission and showcasing the achievements of the Commission. These conferences also accorded the Commission opportunities to conduct outreach and legal aid in the open spaces and markets during the events.

### 4.6.4. Annual conference of the Constitutional Commissions and Independent Offices (CC&IOs)

The Commission attended the Annual Conferences of CC&IOs which were held in Nairobi, Meru and Kericho. These fora provided an opportunity for the Commissions to raise awareness among the public about the roles and responsibilities of the various Commissions. The conferences brought together chairpersons, commissioners, staff, government institutions, development partners, and the public.



*Commission Chairperson and Vice Chairperson pose for a photo with staff alongside first Ombudsman, Hon. Otiende Amolo, at the Commission's booth.*

#### **4.6.5. Leveraging on Partners' Platforms**

The Commission capitalised on partnerships with Non-State Actors (NSAs) to achieve its objective to create awareness. A notable partnership was with organisations such as the National Consumer Registration Drive and the Kawangware Youth Paralegal Trust (KAYPAT), supported by GIZ's Good Governance Programme.



*Commission Vice Chairperson and Commissioner Access to Information address the media after an interaction with Civil Society Organisations during International day for Universal Access to Information in Bungoma*

Some of the key public education activities carried out by the Commission in partnership with state and non-state actors included:

- i) Come Together Widows and Orphans Organisation (CTWOO) and Dreams CBOs forum at PEFA church in Mariakani, Kilifi County.
- ii) Annual Global Campaign dubbed 16 days of Activism Against Gender Based Violence in Kilifi County.
- iii) Widows Economic Empowerment Seminar was held in Mnamu sub location in Mwatate sub-county, Taita Taveta County.
- iv) Citam Buruburu Public education and legal aid clinic.
- v) The legal awareness week organized by the Law Society of Kenya (LSK) in the following regional offices- Mombasa, Kisumu, Nairobi and Eldoret.
- vi) 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.
- vii) Non-state actors in Bungoma during the International Day on Universal Access to Information celebrations
- viii) Sensitisation during National Elections Conference held at KICC IEBC Exhibition
- ix) Leveraged on the Law Society of Kenya (LSK) legal awareness forum in four regions namely Nairobi, Kisumu, Eldoret and Mombasa
- x) Awareness creation during the National Consumer Registration Drive in Rongai, Kajiado County held on 4<sup>th</sup> October 2019.
- xi) Awareness creation during a community forum held in Kabiro Ward in Dagoretti North Sub-County on 11<sup>th</sup> October 2019.
- xii) Awareness creation during a community forum held in Satelite Ward in Dagoretti South Sub-County on 22<sup>nd</sup> November 2019.
- xiii) Awareness creation during a community forum held in Riruta Satelite Ward in Dagoretti South Sub-County on 28<sup>th</sup> November 2019.
- xiv) Awareness creation during a Legal Aid Clinic organised by the Catholic Justice and Peace Commission in Rongai, Kajiado County held on 17<sup>th</sup> August 2019.

- xv) Awareness creation during a community forum held in Kawangware, Gatina Ward in Dagoretti Sub-County on 27<sup>th</sup> September 2019.
- xvi) Awareness creation during community forums held at the Sanctuary of Worship Ministries Church in Kawangware Ward on 31 January 2020; and Gates of Holiness Church in Ng'ando Ward on 13<sup>th</sup> March 2020, both in Dagoretti South Sub-County, Nairobi County.
- xvii) The Commission conducted legal aid clinics in Rarieda Sub-county, Kisii town, Mombasa, Kwale (Tiwi, Taru and Samburu Wards), Kisumu City, Kakamega Women Prison, Kibos Maximum Prison, Kodiaga Women Prison, Kakamega Main Prison, Vihiga GK Prison and Kwale Women Prison.
- xviii) The Commission's Mombasa Regional Office also partnered with the National Council for Persons with Disability (NCPWD) to undertake a legal aid on 16<sup>th</sup> to 18<sup>th</sup> November 2021 at Tononoka grounds and Bombolulu workshop in Mombasa County. The legal aid targeted persons with disabilities with the aim of enhancing legal literacy and awareness on issues of maladministration and access to information.
- xix) Persons living with Disability Conference in Isiolo County



*Vice Chairperson, Mr. Washington Sati, is joined by other guests during the flagging off of the 10th Edition of the Desert Wheel Race.*

#### **4.7. Publicity and Media Engagement**

Media plays an important role in disseminating information to a wider audience as well as promoting trust and credibility with the public by demonstrating commitment to openness and transparency.

The Commission partnered with the Media Council of Kenya and various media houses to provide coverage of its events and activities. Through electronic and print media, the Commission actively disseminated information about maladministration and access to information.

Some of the Media Stations that supported the Commission included K24, NTV, Radio 47, KBC, Citizen TV, Radio Nam Lolwe, KTN News, Citizen Radio, Upendo Fm, Spice FM, STN Somali TV, Mwangaza TV, Ghetto Radio, Koch FM, Pwani 94.5 FM, Radio Sahara 94.3 FM, Radio Ramogi, Kitwek FM, among many others.



#### 4.7.1. CAJ Documentary

The Commission with the support of GIZ produced a documentary titled "**10 Years of Service to Citizens in Addressing Maladministration and Access to Information in Kenya**". The documentary highlighted the milestones, successes, and beneficiaries of Ombudsman services across the country, as well as how their lives changed as a result of the Commission's intervention, as well as the challenges and journey ahead.

The documentary was aired on two national television stations i.e. KTN Home and Citizen TV, where an estimated reach of nine million people was achieved.



#### 4.8. Commission's social media platforms

The Commission also engaged the public on its own media including Facebook, Twitter, Twitter Space, YouTube, LinkedIn, Instagram and the website. The interactive nature of social media continues to enable the citizens to demand accountability. Kenyans continue to make inquiries, report cases and even make follow ups through the Commission's Facebook,

Ombudsman Kenya and Twitter page @KenyasOmbudsman and website ([www.ombudsman.go.ke](http://www.ombudsman.go.ke)).

As such, social media has enhanced the accessibility of the Commission with the audience size on Twitter growing from 17,200 followers to 28,536 while Facebook audience grew from 10,000 followers to 18,161, representing a percentage growth of 65% and 81.6%, respectively.

#### 4.9. Development and Dissemination of thematic IEC Materials & Newsletters

The use of IEC materials is important in public education and awareness creation. The Commission developed and disseminated over 100,000 assorted IEC materials.



### 5.1. Introduction

The Commission plays a central role in promoting a culture of responsiveness, transparency and accountability which are key tenets of good governance and quality service delivery. In this regard, the Commission continues to work with consumers of public services on one part and duty bearers on the other. As such, the complaints received against public institutions provide valuable feedback, which positively contributes towards improving service delivery.

### 5.2. Advisory Opinions

The Commission issued several advisories on matters of national interest to enhance administrative justice and access to information in the Country. Some of the examples include:

i) **Advisory opinion on enhancing Road Safety measures**

The Commission issued an advisory in response to a troubling rise in accidents along a particularly foggy stretch of the Nairobi-Nakuru Highway, between Ngarariga, Lari, Kimende, and Kinungi. The advisory emphasizes the urgent need for enhanced road safety measures.

ii) **Advisory Opinion to the National Cohesion & Integration Commission**

The Commission issued an advisory opinion on the intention to suspend social media by NCIC. Acknowledging freedom of speech, the Commission highlighted the legal ambiguity surrounding media freedom (Article 34). The Commission advised that the NCIC retains the authority to name those spreading hate speech, but content control rests with Facebook.

iii) **An Advisory Opinion on Public Service Delivery at the County**

**Government:** This advisory identified critical issues impacting service delivery, including the restriction of public information access, the

ineffectiveness of grievance redress mechanisms, and irregularities in the termination of employment service contracts.

**iv) An advisory Opinion on the Misuse of Public Resources for Political Gain:**

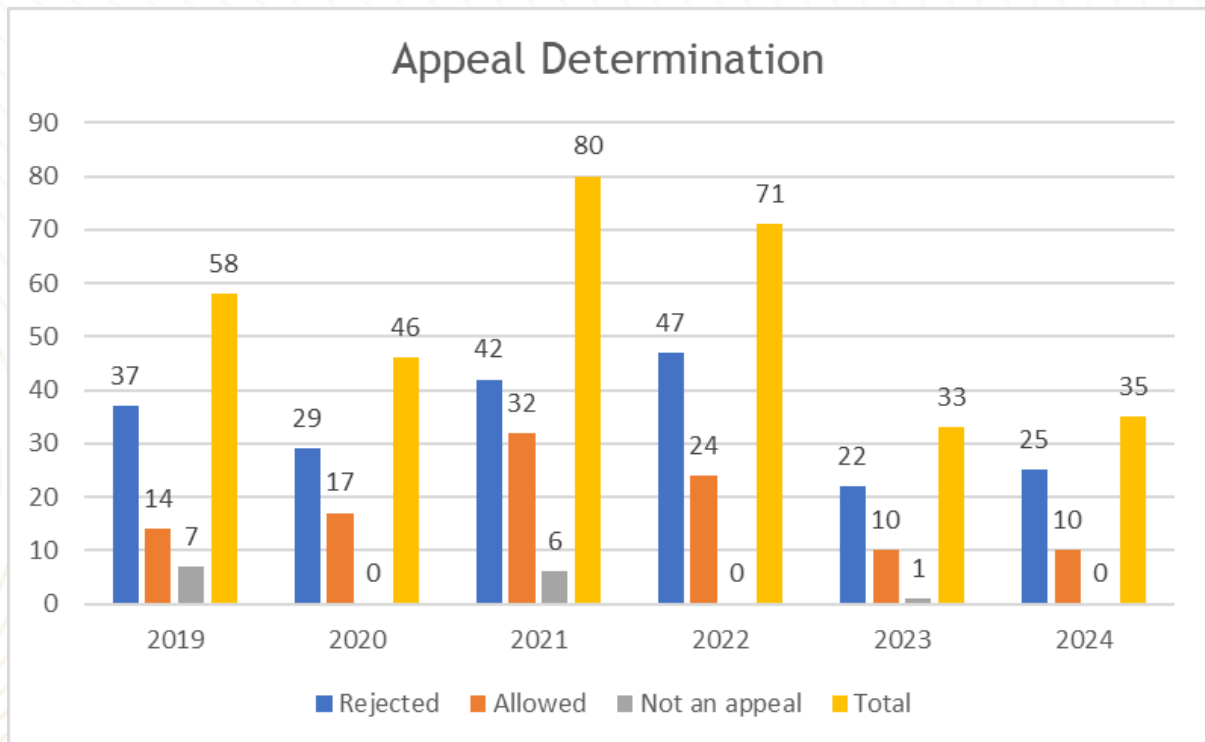
The Commission issued an advisory opinion on the misuse of public resources during the 2022 electioneering period, pursuant to the media statements on the reckless misuse of government vehicles by persons who had access to the public resources.

**5.3. Appeals**

Where a complaint has been discontinued, a complainant may appeal to the chairperson of the Commission against the discontinuation. The Commission received and determined **332** appeals from the complainants who were dissatisfied with the closure of the complaint files.

Here's a table summarising the appeals received:

**Table 7: Summary of Appeals Received**



#### 5.4. 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 endeavour to improve service delivery.

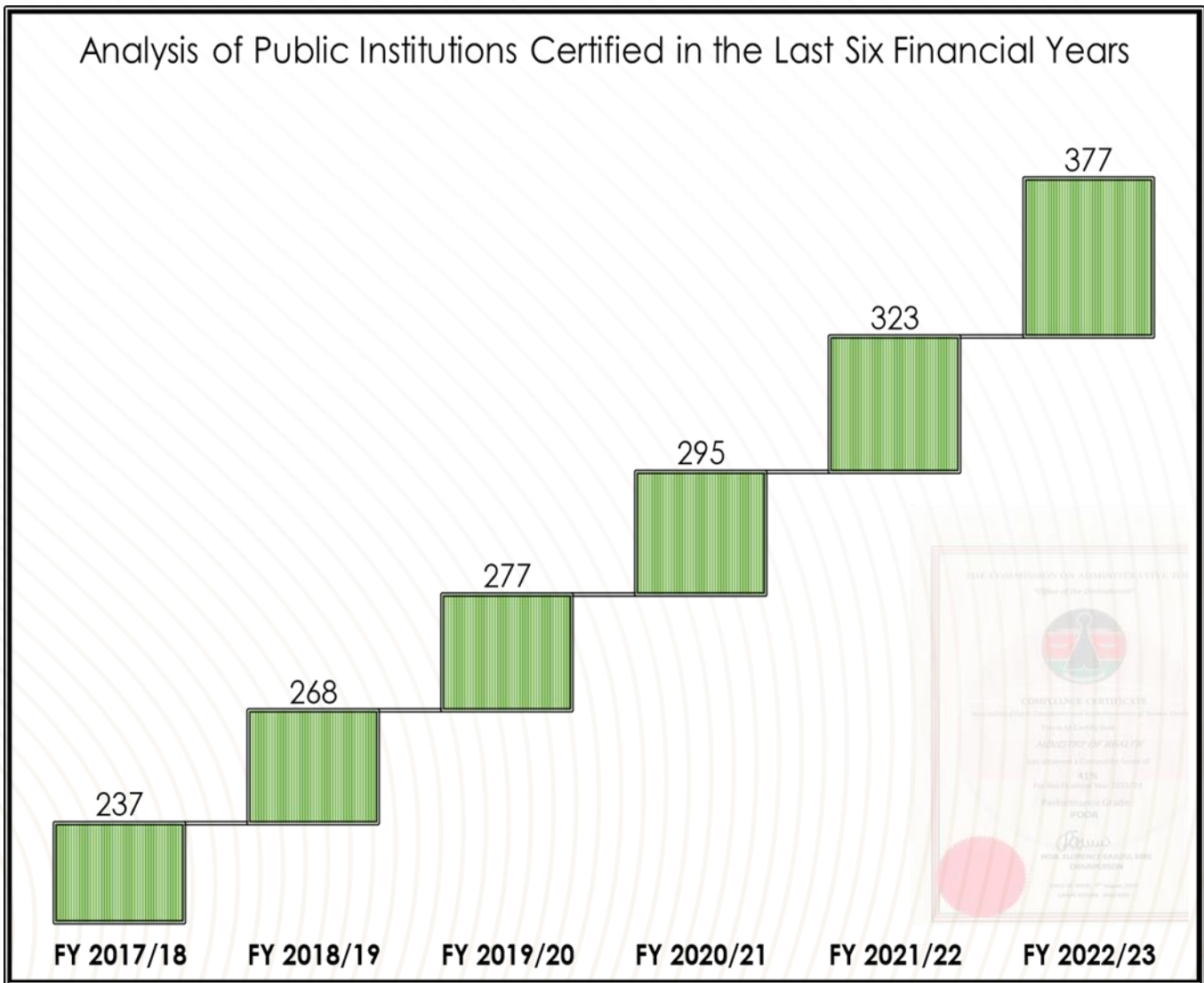
The Commission is one of the specialised agencies under the performance contracting framework in Kenya whereby it oversees implementation of two indicators, namely; Resolution of Public Complaints and Implementation of Citizens' Service Delivery Charters.

To this end, the Commission mainstreamed complaints management in the public sector through inclusion of 'Resolution of Public Complaints' and implementation of citizen service delivery charter indicators in the performance contracting framework. Under the Indicators, public institutions were required to establish a mechanism of addressing complaints and create awareness on service delivery charter and complain handling mechanisms. The institutions were required to report to the Commission on quarterly basis. The Commission analysed the reports and certified the Ministries, Departments, Agencies and Counties (MDACs) based on the established assessment criteria to ensure compliance. During the period under review, the Commission developed reporting guidelines for implementing the indicators. This section does not have data for 2023/24 financial year since the evaluation of MDCs is ongoing.

### 5.4.1. Certification

Over the six-year period, the level of compliance by public institutions increased by **59.07%**. This is attributed to the Commission's sustained technical support to public institutions in setting up of complaints and access to information management infrastructure as well as building capacity of public officers.

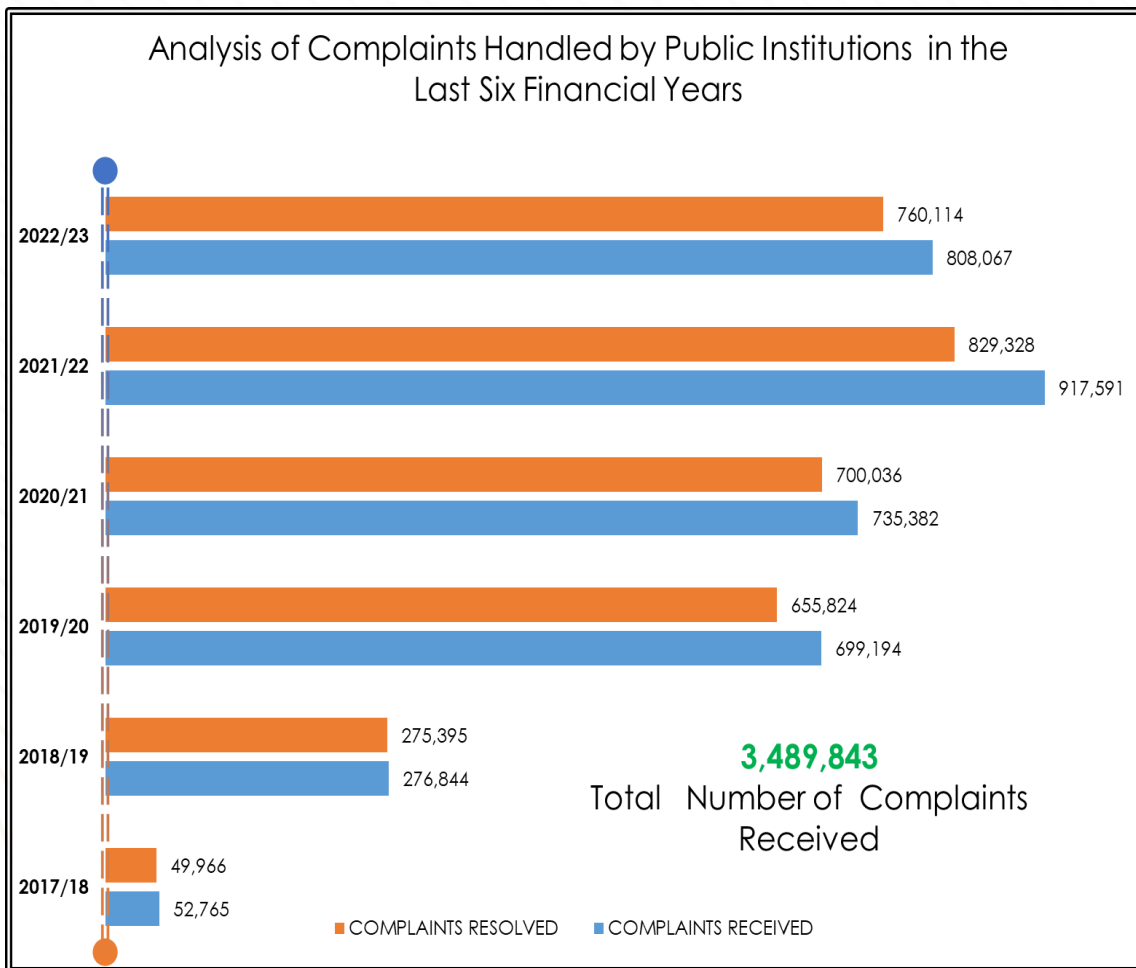
**Figure 6: Analysis of Public Institutions Certified**



### 5.4.2. Complaints Handled by Public Institutions

During the reporting period, a total of **3,489,843** complaints were received by public institutions out of which **3,270,663** complaints were reported by the MDACs through PC obligation to be resolved, translating to **93.72%** resolution rate by the MDACs. Figure 7 depicts analysis of complaints received by institutions.

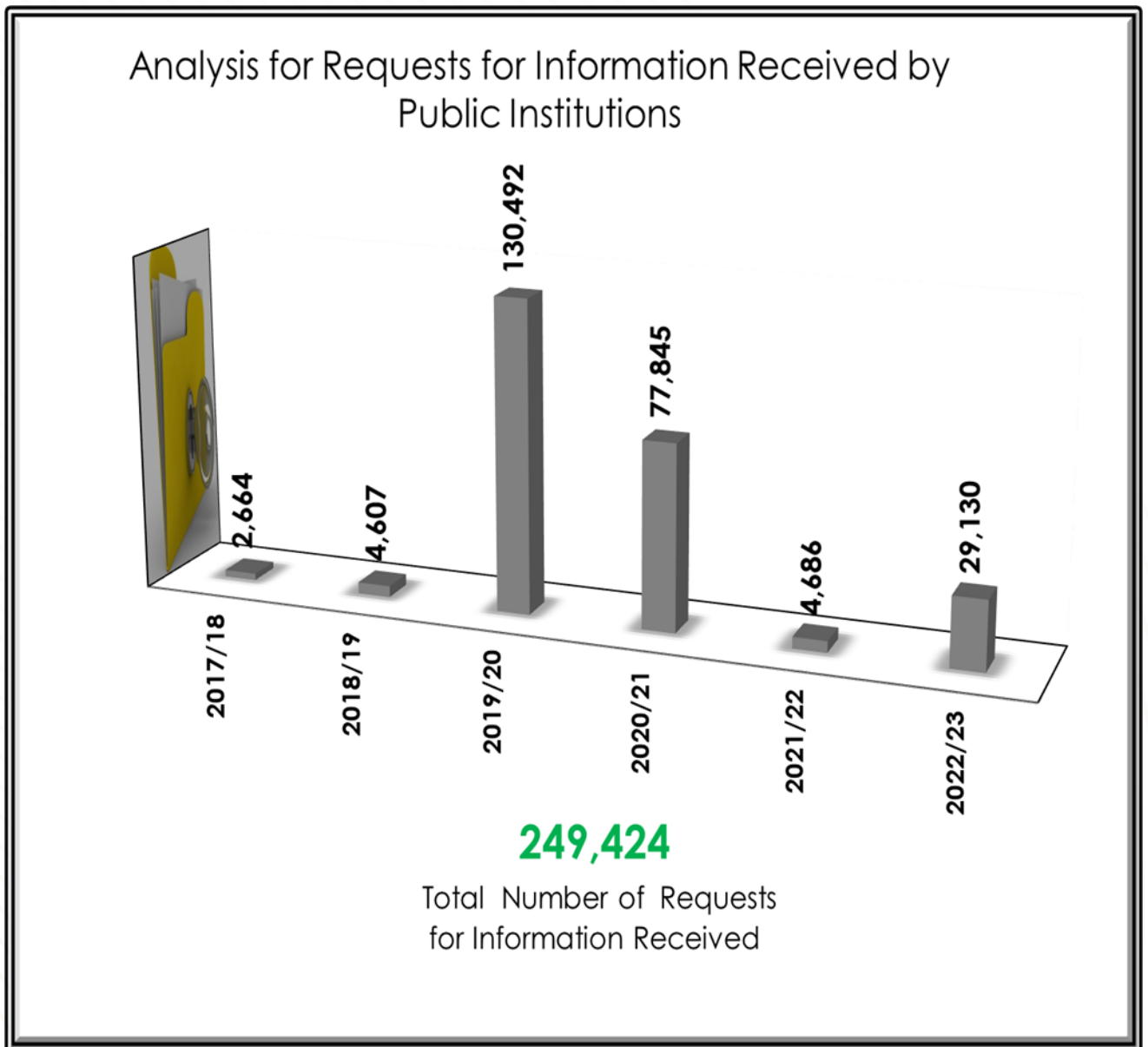
**Figure 7: Analysis of Complaints Handled by Public Institutions**



### 5.4.3. Requests for Information processed by Institutions

During the period under review public institutions received a total of 249,424 requests for access to information. Based on the reports submitted to the Commission through PC obligation, **99%** of total requests for information were processed. Figure 8 represents requests for information processed.

Figure 8: Analysis of Requests for Information Received by Institution





## **5.5. Spot Checks on Service Delivery Standards**

The Commission carried spot checks to Ministries, Departments, Agencies and counties (MDACs) to ascertain the service delivery standards. The Commission employs a number of approaches which include mystery shopping, spot checks, documentary analysis and audits in order to ascertain the validity of reports submitted by MDACs. The Commissioners provided leadership in this activity by being team leaders particularly during Spot Check assignments especially to county governments where they helped foster good working relationships.

## **5.6. Election Monitoring**

The Commission monitored the last general election that was held in August 2022 and developed a report entitled 'Enhancing Administrative Justice & Access to Information during an electoral period: Election Observation & Monitoring Report 2022'. The monitoring covered events prior, during and after the election. The Commission collaborated with the AOMA observer mission which also participated in election observation.

## **5.7. Huduma Ombudsman Award**

Huduma Ombudsman Award is one of the approaches the Commission has adopted to enhance accountability and responsiveness in the public service as well as promote compliance with administrative justice and access to information. So far, the Commission has held four editions of the Award Scheme to recognise and reward responsive and compliant public officers and institutions in the country.

In the fourth edition, the Commission recognized sixteen exemplary public officers and five institutions in the Public Service Delivery Category, while three institutions stood out in the Access to Information Category. The award also recognised the outstanding leadership of devolved units' where four

governors where four governors were recognized and awarded the Ugatuzi Award.

The ceremony was presided over by the then Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management, Hon. Moses Kuria who represented the Chief Guest, His Excellency, Dr. William Samoei Ruto, C.G.H., President of the Republic of Kenya.



*Commissioners and awardees during the fourth huduma ombudsman awards ceremony*

*Table 8: Public Service Delivery Category: Individual Category*

Position	Name	Designation
1.	Ms. Precious Dama Randu	Assistant County Commissioner Matsangoni Division, Kilifi North Sub-County, Kilifi County
2.	Ms. Joyce Khanali Khamala	Senior Head Teacher, Kimilili FYM and Junior School in Kimilili Sub- County, Bungoma County
3.	Dr. Andrew Gitau Kimani	CEO, Transport Licensing Appeals Board

Position	Name	Designation
4.	Mr. Okongo Kimari Orlale	Research and Innovation Office, Kenya Revenue Authority
5.	Ms. Joyce Thairu	Lecturer, Department of Physics, Faculty of Science & Technology of Multimedia University of Kenya
6.	Mr. Bernard Omolo Oloo	Administrator/Chief, Maweni Location, Mombasa County
7.	Mr. Ahmed Hassan Surow	Clerk, Mandera County Assembly
8.	Mr. Edward Inzofu Indimuli,	Advisor/ Ombudsman, County Government of Kakamega
9.	Ms. Ninah Musanga Sitti	Lawyer, Capital Markets Authority
10.	Ms. Eldah Aketch Odongo	Head of Corporate Affairs and Communication Company: Kisumu Water and Sanitation Company Ltd (KIWASCO)
11.	Ms. Rose Muthee	Senior Assistant County Commissioner, Centre Manager- Huduma Centre Migori
12.	Mr. Geoffrey M. Mwachofi	Assistant County Commissioner, Kasameni Division, Kwale County
13.	Ms. Ruth Wanjiru Wachera	Assistant County Commissioner, Kapenguria Division, Sub County
14.	Mr. Abdifatah Galgallo Godana,	Marsabit County Convener
15.	Mr. Elvis Wafula Makokha, Huduma	Assistant County Commissioner, Centre Manager, West Pokot
16.	Mr. Josephat Ngugi Ngama,	County Coordinator, Civil Registration Departments, Ministry of Interior and Coordination

### Public Service Delivery Category: Institutional Category

No	Name of Institution
1.	National Council for Law Reporting
2.	Huduma Kenya
3.	Kenya Revenue Authority
4.	Kisumu Water and Sanitation Company Limited
5.	Agricultural Finance Corporation

### Access to Information Category: Institutional Category

No	Name of Institution
1.	Kenya Revenue Authority
2.	National Cancer Institute
3.	Kenya Yearbook Editorial Board

### Ugatuza Award Winners, 2023

	Governor	Awarded for
1	H.E. Gladys Wanga, Governor, County Government of Homabay	Advocating for climate change and open governance
2	H.E. Cecily Mbarire, Governor, County Government of Embu	Promoting access to information for enhanced public service delivery.
3	H.E. Mutula Kilonzo Junior, Governor, County Government of Makueni	Leveraging technology and innovation for enhanced transparency and social accountability.

	Governor	Awarded for
4	H.E. Dr. Francis Irungu Kang'ata, Governor, County Government of Murang'a	Digitisation of county government services for improved transparency and efficiency.

### 5.8. Governance of the Commission

Governance at the Commission was exercised through meetings where decisions are made. Section 19, 1 (2) of the constitutive act provides that **the Commission shall have at least four meetings in every financial year and not more than four months shall elapse between one meeting and the next Meeting**. Pursuant to this provision, the Commission held thirty-four (34) meetings during the tenure of the outgoing Commissioners in compliance with the act. The meetings provided leadership, guidance and direction to the Commission through passing of resolutions and policies that guide the operations of the commission.

## **8.0 CHAPTER SIX: STRATEGIC LINKAGES, COLLABORATIONS AND PARTNERSHIPS**

The Commission appreciates that to execute its mandate effectively, there was need for collaboration with other stakeholders. Conscious of this, the Commission made great efforts with international and local partners.

### **8.1. International**

#### **8.1.1. International Ombuds Institute**

International Ombuds Institute (IOI) is a global organization for the cooperation of independent Ombudsman institutions operating on a local, regional and national level. The outgoing Chairperson of the Commission Served as the President of the IOI African Region from the year 2022 to the end of her term.

#### **8.1.2. African Ombudsman & Mediators Association**

The African Ombudsman and Mediators Association (AOMA) is a regional organization for ombudsman and mediators in Africa. The Commission is a member of AOMA where the Chairperson served as the Secretary General for a period of 6 years since 2018. The network enhances information sharing, supports training and development of ombudsman offices and staff, which has promoted good governance, independence and autonomy of ombudsman offices and maintained liaison between ombudsman offices and other relevant institutions and organisations.

#### **8.1.3. African Network of Information Commissioners**

The African Network of Information Commissioners (ANIC) is a multilateral forum made up of Information Commissioners, Ombudspersons and any other regulatory authorities, including transparency councils or boards that are responsible for protecting, promoting and ensuring the respect of access to information legislation within their respective jurisdictions and are interested in contributing to the development of a culture of transparency. The

Commission participates both as a member and as part of the Executive Committee.

#### **8.1.4. Geneva Centre for Security Governance**

The Commission has a Memorandum of Understanding with Geneva Centre for Security Governance (DCAF) through which a number of activities have been implemented in the financial year 2023/2024 and 2024/2025. These include:

- i) public education and outreach activities in Meru, Isiolo, and Marsabit;
- ii) training of the management and the planning unit on how to integrate SSG/R and SDG16 considerations into strategic plans and strategies;
- iii) a public inquiry on legal identity in the county of Wajir and subsequently supported the launch of the ensuing report; and
- iv) DCAF also supported design and publication 400 reflector jackets used during the field outreaches as well as 4 banners and 2 tear drop banners

Other notable partnerships include:

- i) The Open Government Partnership (OGP);
- ii) International Conference of Information Commissioners (ICIC);  
and
- iii) Africa-Asia AI Policymaker Network where in April 2022, the first Africa-Asia AI Policy Maker Network (AAPoMaNet) consisting of policymakers from Ghana, India, Uganda, Kenya, Rwanda and South Africa was formed, under the auspices of the Giz Fair Forward Program. The purpose of the Network is to serve as a forum for extended policy exchange on responsible AI, joint project development and continuous peer-learning on Artificial Intelligence.
- iv) International Development Law Organisation (IDLO)
- v) Uraia Trust

### **8.1.5. Open Government Partnership**

The Open Government Partnership (OGP) is an initiative that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive and accountable. In the spirit of multi-stakeholder collaboration, OGP is overseen by a Steering Committee including representatives of governments and civil society organisations..

The Commission, being the institution mandated by statute to provide oversight on Access to Information, has membership both at the steering and technical committee level of the OGP to provide and receive the support needed for success in the implementation of the commitments.

The entrenchment of access to information as one of the Commitments has enhanced the opening up of information by the Government which has empowered the public to judge the performance of government from an informed point.

The OGP has finalised on National Action Plan V for the year 2024-2028 which has retained Access to Information as one of the commitments.

### **8.1.6. Africa-Asia Artificial Intelligence Policymaker Network**

The first Africa-Asia AI Policy Maker Network (AAPoMaNet) was formed in 2022 consisting of policymakers from Ghana, India, Uganda, Kenya, Rwanda and South Africa, under the auspices of the Giz Fair Forward Program. The purpose of the Network is to serve as a forum for extended policy exchange on responsible AI, joint project development and continuous peer-learning on AI. The formation of the policy network also laid the foundation for the development of national and regional strategies on responsible AI



The Commission, pursuant to its mandate under the Access to Information Act, the Data Protection Commissioner's office and the Ministry of ICT and Digital Economy are represented in the policy makers network.

#### **8.1.7. The International Conference of Information Commissioners**

The International Conference of Information Commissioners (ICIC) is a conglomeration of Information Commissioners from across the world which connects Information Commissioners, Ombudspersons and other bodies charged with overseeing the Implementation of Public Information Legislation. Its main purpose is to foster the protection and the promotion of access to Information as a fundamental pillar to social, economic and democratic governance. The Commission participates in ICIC both as a member and part of the Executive Committee.

### **8.2. Local Partnerships and Linkages**

#### **8.2.1. Constitutional Commissions and Independent Offices**

The promulgation of Kenya's Constitution 2010 saw the establishment of various constitutional Commissions and Independent Offices (CCIOs). These institutions were established under Article 249 of the Constitution to realize the objectives of protecting the sovereignty of the people of Kenya; promote constitutionalism and secure the observance by all state organs of democratic values and principles. Through partnership with these institutions, the oversight role has been strengthened, to foster good governance and enhanced quality service delivery in the public sector. The Commission's Chairperson has been serving as the Vice Chairperson of the Forum.

#### **8.2.2. National Council on the Administration of Justice**

The National Council on the Administration of Justice (NCAJ) is a multi-agency co-operation platform established under the Judicial Service Act, with the responsibility of overseeing and promoting sector-wide partnership for effective administration of justice, through policy formulation and resource mobilization for effective administration of justice. The membership includes

the Judiciary, Office of the Attorney General, Office of the Director of Public Prosecutions, Witness Protection Agency, Office of the Inspector General of Police, the Law Society of Kenya, Kenya Prison Service, the Independent Electoral and Boundaries Commission, the Ethics and Anti-Corruption Commission and the Kenya Law Reform Commission among others.

The Commission is actively engaged in *ad hoc* committees and task forces in the administrative of justice and has been instrumental in peer review and validation of nine policy documents and guidelines.

### **8.2.3. Financing Locally Led Climate Action Programme**

Financing Locally-Led Climate Action (FllCA) programme is the follow-up programme, built on the pilot County Climate Change Funds and the World Bank technical assistance to devolution. It is a government initiative that seeks to deliver locally-led climate resilience actions and strengthen the county and national governments' capacity, to manage climate risks. Under the programme the Commission has done a lot towards strengthening the capacities of the County Governments on Complaints Handling and Access to Information.

### **8.2.4. German Agency for International Cooperation**

The Commission, has had a long relationship and collaboration with Germany Agency for International Cooperation (GIZ) under the Good Governance Programme. Through this partnership which focuses on promotion of good governance, the Commission has made great strides by supporting the identified public sector institutions.

### 8.3. Memorandum of Understanding Executed between: 2019-2024

**Table 9: Memorandum of Understanding (MoUs) Executed**

No	Institution	Year
1.	Memorandum of Understanding with the Media Council of Kenya	2020
2.	Memorandum of Understanding with Council of Governors (COG)	2021
3.	Memorandum of Understanding with Kituo Cha Sheria	2022
4.	Memorandum of Understanding with Independent Electoral Boundaries Commission IEBC	2022
5.	Memorandum of Understanding the African Institute for Development Policy (AFIDEP)	2023
6.	Memorandum of Understanding with URAIA Trust	2023
7.	Memorandum of Understanding with NGAAAF	2024
8.	Memorandum of Understanding with IDinsight Kenya Limited	2024

## 9.0 CHAPTER SEVEN: INSTITUTIONAL STRENGTHENING

### 9.1. Introduction

Institutional Strengthening is one of the key result areas that the Commission committed to deliver so as to enhance the capacity to serve Kenyans better. A number of initiatives have been undertaken as outlined in the subsequent sections.

### 9.2. Commission Offices and Service Delivery Points

The Commission's presence has been expanding across the Country. Currently, the Commission has a total of nine offices including the Head-Office and eight regional offices. The outgoing Commissioners helped establish four new regional offices. These Offices are Nyahururu, Garrisa, Meru and Makueni.

The Commission also has service-delivery points at twelve Huduma Centers in Makueni, Nairobi GPO, Kajiado, Embu, Nyeri, Meru, Nakuru, Bungoma, Kakamega, Kisii, Kwale and Taita.

### 9.3. Staff Establishment

Upon assumption into office, this Commission inherited sixty-two staff members in the Secretariat, against the then approved establishment of three hundred and thirty-six (336). The Commission embarked on development of the second strategic plan, which among other strategies, revised the organisational structure and staff establishment to two hundred and ninety-two (292). Taking cognisance of the human resource gap and the need to strengthen its human resource capacity, the Commission prioritised recruitment of additional human resource, a phased plan due to resource constraints. The Commission has made good progress towards actualising the optimal staffing levels, where a total of seventy-two (72) additional staff were recruited during their tenure. This signifies 116% growth rate.

However, the need to fortify the human resource capacity still stands, given that the current staff establishment is 121, against the approved number of 292. All the staff are on pensionable terms, except the Commission Secretary and five Directors, who are on contract as per the terms of employment for Commission. A summary of the filled positions is as indicated in table 14.

**Table 10: Summary of filled positions**

Authorised Establishment	Staffing Levels	In post	Variance
<b>Head Office</b>	157	103	53
<b>Regional Offices</b>	135	18	117
<b>TOTAL</b>	<b>292</b>	<b>121</b>	<b>170</b>

#### 9.4. Assets and Liabilities

##### 9.4.1. Financial Assets

Financial assets consist of cash on hand and bank balances held by the Commission in various bank accounts. The balances as at 30th June 2024 are as tabulated below:

**Table 11: Bank Balances held by the Commission**

No	Bank	Account name	Account Number	Amount (KSh.)
1.	Central Bank	Commission on Administrative Justice – <b>Recurrent</b>	1000181524	93,780,672.40
2.	Central Bank	Commission on Administrative Justice – <b>Deposit</b>	1000182377	1,131,295.40
3.	Central Bank	Commission on Administrative Justice –	1000182644	NIL

		CBK165		
4.	NCBA	Commission on Administrative Justice	1000020083	2,582.63
5.	Coop Bank	CAJ Staff Mortgage & Car loan Fund	01141588083600	107,948,569.97

#### 9.4.2. Non-Financial Assets

The Commission is endowed with non-financial assets, which are made up of motor vehicles, computers, printers, furniture, other office equipment and stores with an estimated value of KES. 227,000,000.

The Commission has a fleet of 18 vehicles, out of which eight were acquired during the ended tenure.

**Table 12: List of Non-Financial Assets**

S/NO.	Vehicle Description	Number
1.	4WD Vehicles	10
2.	Double Cabin	2
3.	Sedan	4
5.	Van/Minibus	2
	<b>TOTAL</b>	<b>18</b>

Details of the assets are provided separately in the Assets Register, Motor-Vehicle and Stores Inventories.

#### 9.4.3. Liabilities

As at 30<sup>th</sup> June 2024, the Commission had pending bills amounting to Kshs 3,171,769.38 owed to suppliers for services rendered. Some court cases that are on-going, and the impending liabilities will only be determined depending on the verdict of the court.

**Table 13: Status of Pending Bills**

S/No.	Goods and Services Rendered	Amount Outstanding in KES
1.	Legal Fees	315,000.00
2.	Supply of office furniture	49,400.00
3.	Leased Communication Line	320,000.00
4.	Legal Fee	26,000.00
5.	Supply of milk	3,960.00
6.	E-mail Licenses	359,883.23
7.	Supply of Air tickets	36,200.00
8.	Maintenance of Office equipment	31,320.00
9.	Supply of Fuel	901,706.15
10.	Conference facilities	621,000.00
11.	Conference facilities	368,300.00
12.	Hire of transport	139,000.00
	<b>TOTAL</b>	<b>3,171,769.38</b>

### 9.5. Achievements

The Commission has made tremendous progress, towards strengthening its capacity, in terms of human resources, financial resources and physical infrastructure. In this regard, the Commission has specifically leaped in the following areas: -

- a) **Development and implementation of the 2<sup>nd</sup> Strategic Plan:** A strategic plan is a route map towards achieving the Vision, Mission and Mandate. The Commissioners came in at a time when the 1<sup>st</sup> Strategic Plan had lapsed hence, they prioritised the development of the 2<sup>nd</sup> Strategic Plan for the Commission covering the 2019-2023 period.
- b) **Strengthening of Human Resource Capacity:** The Commission took cognisance of the gross under-staffing that the Commission was facing

upon their assumption to office. The Commissioners spearheaded the recruitment of 72 new staff bringing the staff establishment at the Commission to 121.

**c) Financial Resources:**

**Upon assuming office, the Commission embarked on spirited efforts, to enhance the budgetary allocation.** In this respect, the Commission forged close relationships with the National Assembly's Departmental Committees among them the Justice and Legal Affairs (JLAC) and the Budget Committee. This was necessary, given the key role these Committees and the Parliament play in the budget-making process. These efforts were fruitful as witnessed with the exponential growth of the budget of the Commission from KES. 216,241,303 in 2012/2013 FY to KES. 730,194,424 in the 2023/24 FY, signifying 284% growth.

In addition, to enhance the financial allocation from the Exchequer, the Commission established a Resource Mobilization Unit, in order to broaden the resource base for the Commission. The Unit has been responsible for tapping resources from Development Partners to supplement the GOK funding, which has pivotal in raising the support under the various programmatic Commission activities over the period.

**d) Enhancement of Technology:** The use of technology to enhance efficiency and effectiveness in service delivery is critical. It is with this in mind that the Commission developed a robust Complaints Management Information System (CMIS). The system enables the public to lodge complaints at their convenience. It also provides a platform for the public institutions to address complaints from their consumers and report to the Commission in line with the requirements under the performance contracting indicator on public complaints resolution. Further, the Commission is partnering with the State



Department for Public Service, to enhance the system by creating a platform dubbed *Pasha* Ombudsman. Once fully rolled out, the system will enhance responsiveness to the public demand for quality services from public institutions.

**e) Development of Various Policy Guidelines and Manuals:** A number of policy guidelines, procedures and manuals were developed to strengthen the governance of the Commission. Key among them are:

- i) Human Resource Policies and Procedures Manual;
- ii) Gender Mainstreaming Policy;
- iii) Complaint Handling Manual;
- iv) Research and Investigations Manual;
- v) Staff wellness Policy;
- vi) Guidelines on Development & Review of Polices and manuals
- vii) Access to Information Reviews manual
- viii) Reporting guidelines for Public Entities and Private Bodies under the Access to Information Act, 2016
- ix) Resource Mobilisation Guide
- x) Internship policy
- xi) Partnership Policy
- xii) Citation framework
- xiii) Risk Management Policy
- xiv) Risk Management Procedure manual
- xv) Social Media Guide
- xvi) Communication Policy
- xvii) Corporate Social Responsibility Policy
- xviii) Brand Guidelines
- xix) Service Charter
- xx) Sexual Harassment and Gender Based Violence Policy
- xxi) ICT Policies and Procedure manuals
- xxii) Procurement and Asset Disposal Policies and Procedure Manual

- xxiii) Complaints Handling policy for County Governments
- xxiv) Career Progression guidelines
- xxv) Audit Policies and Procedure manuals
- xxvi) Investigations Procedure manual
- xxvii) Internal Audit Charter
- xxviii) Terms of reference for Audit & Risk Committee.

**f) Development of the service charter:** The Commissioners provided leadership in the development of the service charter which is guiding service delivery at the Commission.

**g) Strategic Plan Implementation and End Term Review of 2019 – 2023 strategic plan:** The Commissioners provided leadership and oversight in the implementation of the 2019 – 2023 strategic plan. End Term Review results of the 2019-2023 strategic plan indicates that the Commission performed very good with an overall score of 82%. The results are summarised below.

Thematic Area	Strategic Objective	Mtr Achievement	2021/22	2022/23	2023/24	Overall Implementation
Resolution Of Public Complaints	1.1.1 To Strengthen Public Service Systems, Processes, Procedures and Practices.	44%	87%	84%	97%	76%
	1.2.1 To Strengthen Complaints Handling Capacity in The Public Sector.	84%	100%	101%	100%	96%
	<b>Overall Score</b>					<b>86%</b>
Oversight And Enforcement of Access to	2.1.1 To Promote Disclosure of Information Within Public and Private Sectors.	84%	89%	104%	93%	92%

Thematic Area	Strategic Objective	Mtr Achievement	2021/22	2022/23	2023/24	Overall Implementation
<b>Information.</b>	2.2.1 To Strengthen the Framework on Access to Information.	54%	50%	96%	96%	74%
	<b>Overall Score</b>					<b>85%</b>
<b>Public Education, Awareness and Visibility.</b>	3.1.1 To Enhance Awareness and Understanding of The Commission's Mandate.	63%	94%	80%	75%	78%
	<b>Overall Score</b>					<b>78%</b>
<b>Institutional Strengthening and Capacity Building.</b>	4.1.1 To Strengthen the Capacity of The Commission to Deliver on Its Mandate Effectively.	54%	69%	72%	82%	69%
	4.2.1 To Mobilize Adequate Resources	63%	100%	82%	89%	83%
	<b>Overall Score</b>					<b>78%</b>
<b>Overall Implementation Achievement (%)</b>		<b>63%</b>	<b>87%</b>	<b>87%</b>	<b>86%</b>	<b>82%</b>

**h) Awards to the Commission:** During the tenure of this Commission, CAJ received several awards against their performance in the implementation of the mandate in different areas of public service. Some of the awards to the Commission over the period are listed in the table 18 below:

**Table 14: Awards Received by the Commission**

No.	Description	Award
1	Most Outstanding Commission in Investigations of Complaints Across Africa, 2024	Winner
2	All Kenyan MOOT Court Competition (11 <sup>th</sup> Edition) – Kenyatta University School of Law, 2023	Participating Judge
3	The National Diversity and Inclusion Awards & Recognition (4 <sup>th</sup> Edition) – Certificate of Recognition	2 <sup>nd</sup> Runner Up
4	Best Constitution Commissions and Independent Office on DEIB - DIAR Awards (5 <sup>th</sup> Edition)	Overall, Winner
5	CI0100 – Annual Symposium and Awards – Certificate of Recognition	Bronze Mark
6	Most Inclusive Commissions – DIAR Awards, 2020	Winner
7	Inclusive Government Award	Winner
8	Outstanding Exhibitor, First International Ombuds Expo, 2019	Outstanding Exhibitor
9	Public Sector Legal Department of the Year Awards – Law Society of Kenya	1 <sup>st</sup> Runners Up
10	DIAR Award for the Best Constitutional Commissions and Independent Offices on DEIB and Sustainability	Winner



*Commission Vice Chairperson, Mr. Washington Sati, receiving an award during the African Public Service Optimum (APSO) Awards ceremony in Accra Ghana. The Commission emerged winner in the most outstanding Commission in Investigation of Complaints Across Africa category.*

## **9.6. Resource Mobilisation**

The establishment of the Resource Mobilisation Unit (RMU) was as a result of the implementation of the lessons from the review of the 2013-2016 strategic plan. The Commission was alive to the financial constraints that inhibited effective execution of its mandate. It was against this background that the Commission saw the need to broaden its revenue base, in accordance to Section 45(C) of the Constitutive Act. This was aimed at reducing overreliance on the Exchequer, the funding which was not commensurate with the resource requirements of the Commission. The RMU was then established in 2022 with the recruitment of a senior resource mobilisation officer. The overall aim of the RMU entails forging strategic partnerships to tap additional resources, for sustainability of program implementation.

## 10.0 CHAPTER EIGHT: CHALLENGES AND RECOMMENDATIONS

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

- i. **Financial Constraints:** This remains a big challenge and an impediment to service delivery and the endeavour to strengthen the capacity of the Commission, in terms of human resource recruitment and skills development, physical infrastructure and application of technology. It also inhibits improvement of the work environment, to enhance occupational health and safety. The challenge is often compounded by the austerity measures instituted by the Government, that result in reduction of the allocated funds to the detriment of contracted services, resulting to pending bills. Owing to this challenge, the Commission made a lot of effort in lobbying Parliament and the National Treasury to enhance the budgetary ceiling for the Commission and also leveraged on strategies of resource mobilisation from other sources apart from the Exchequer.
- ii. **Inadequate Legal Framework:** The Commission's legal framework, particularly on the traditional mandate, is inhibitive as it does not provide the mechanism to enforce its recommendations. There is need to fast-track amendment of the constitutive Act and other relevant legislation to strengthen the legal framework.
- iii. **Unresponsive Public Agencies:** Non-responsiveness and/or delay by the responsible officers in public institutions in responding to inquiries made by the Commission with regard to complaints raised against them has continued to be an impediment towards timely resolution of complaints.

- iv. **Low Public Awareness:** Although the Commission has done its best to create awareness on its mandate and promotion of administrative justice, the awareness level is still relatively low. This is largely due to the limited financial resources allocated to the Commission to support its initiatives in this regard. There is need for continued lobbying for enhanced budgetary allocation to further support to public education and awareness, as well as scaling-up awareness programmes that embrace innovation and creativity.
- v. **Constitution of the Commission:** The Commission is comprised of three Commissioners, which affects governance as the small number inhibits establishment of various Committees which would otherwise oversee the operations of the Secretariat.

Other challenges include;

- i. 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.
- ii. Manual records management systems in the public sector has continued to curtail quick retrieval of public records thereby limiting access to information. Digitisation of the records of Government has not been effectively done as provided under the ATI Act, Section 17, which required that by September 2019, all public entities should have digitised their records; and
- iii. 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 ATI Act.

### 9.1 Conclusion and way forward

Our tour of duty has been fulfilling indeed as it was also challenging. We presided over the Commission at a time when the country faced unprecedented challenges such as the Covid 19 Pandemic, prolonged drought which was followed by heavy and excessive rainfall that resulted in flooding. Nevertheless, our performance was impressive as enumerated in this report.

As we exit the Commission, we are confident that our tenure has contributed immensely to the improvement in the state of administrative justice and promotion of the right to information in Kenya. We have also strengthened the capacity of the Commission to enable it discharge its mandate effectively, a baton that we are proudly handing over to the incoming Commission. We would, therefore, like to give our best wishes to the Commissioners that will be appointed to spearhead the Commission and also to the able Secretariat. We rest assured that the Commission has been left in very good form to forge forward under the leadership of the Commission Secretary.

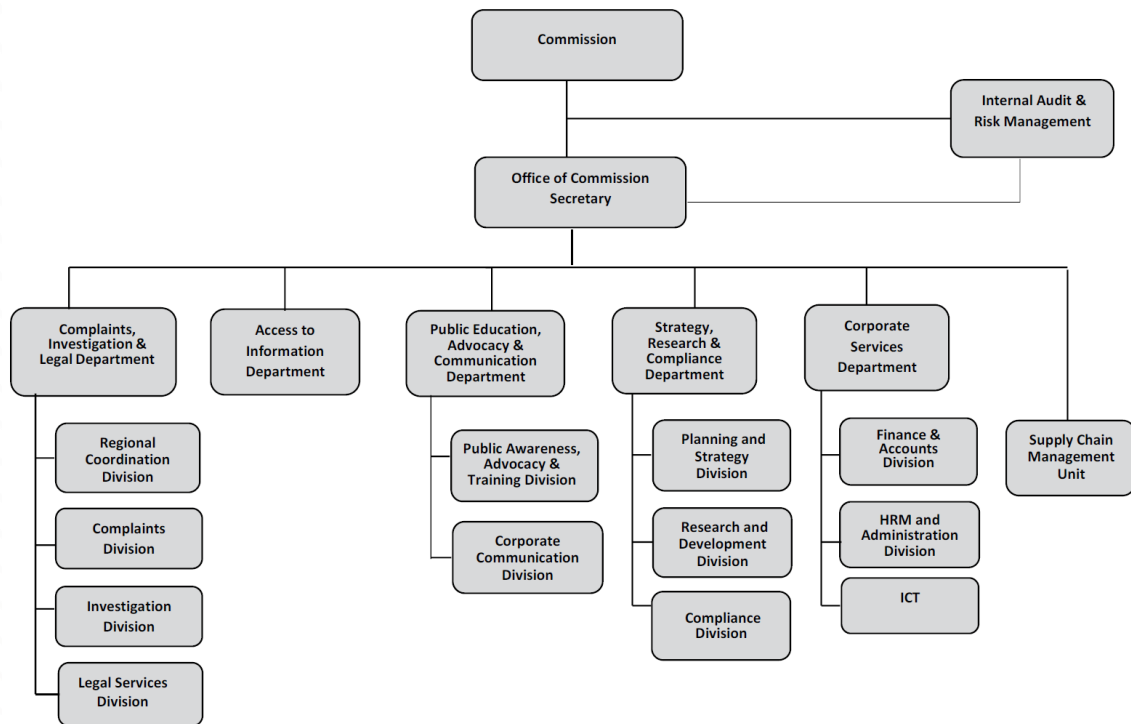
### 9.2 Items for Handing Over:

- i. Constitution of Kenya, 2010
- ii. CAJ Act 2011 and ATI Act 2016
- iii. CAJ Regulation 2013
- iv. ATI regulation 2016
- v. Draft ATI National Policy
- vi. 2<sup>nd</sup> Strategic plan of the Commission
- vii. Commission Minutes Book
- viii. Citation Register
- ix. Policy documents /Manuals
- x. Approved Organisational Structure and Staff Establishment



- xi. Official Motor Vehicles for the Chairperson, Vice-Chairperson and ATI Commissioner
- xii. Office equipment
- xiii. Current Financial Report

## Annex I: Organisational Structure

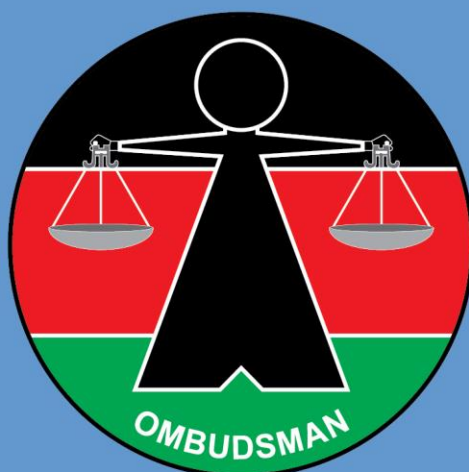


Report signed and submitted by the Commissioners on **13<sup>th</sup> August 2024**.

Name and Position	Signature
<b>Hon. Florence Kajuju, MBS</b>  <b>Chairperson</b>	.....
<b>Commissioner Washington Sati, MBS</b>  <b>Vice Chairperson</b>	.....
<b>Commissioner Lucy Ndung'u, EBS</b>  <b>Access to Information Commissioner</b>	.....







## *Hata Mnyonge ana Haki*

### **Head Office**

West End Towers, 2<sup>nd</sup> Floor, Waiyaki way  
P.O. Box 20414- 00200, Nairobi  
Tel: 0202270000 / 0800221349 (Toll Free)  
Email: info@ombudsman.go.ke (for general inquiries)  
complain@ombudsman.go.ke (for complaints)

### **Kisumu Regional Office**

Central square Building, 2<sup>nd</sup> Floor  
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P.O. Box 1967 - 40100, Kisumu.  
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### **Mombasa Regional Office**

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

### **Eldoret Regional Office**

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

### **Nyahururu Regional Office**

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

### **Isiolo Regional Office**

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

### **Garissa Regional Office**

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

### **Meru Regional Office**

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

### **Huduma Centres**

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