

# THE COMMISSION ON ADMINISTRATIVE JUSTICE

ANNUAL REPORT 2016

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# **The Office of the Ombudsman**

## **Hata Mnyonge ana Haki**

### **Vision**

To be an effective overseer of responsiveness and servant-hood in public offices at national and county levels.

### **Mission**

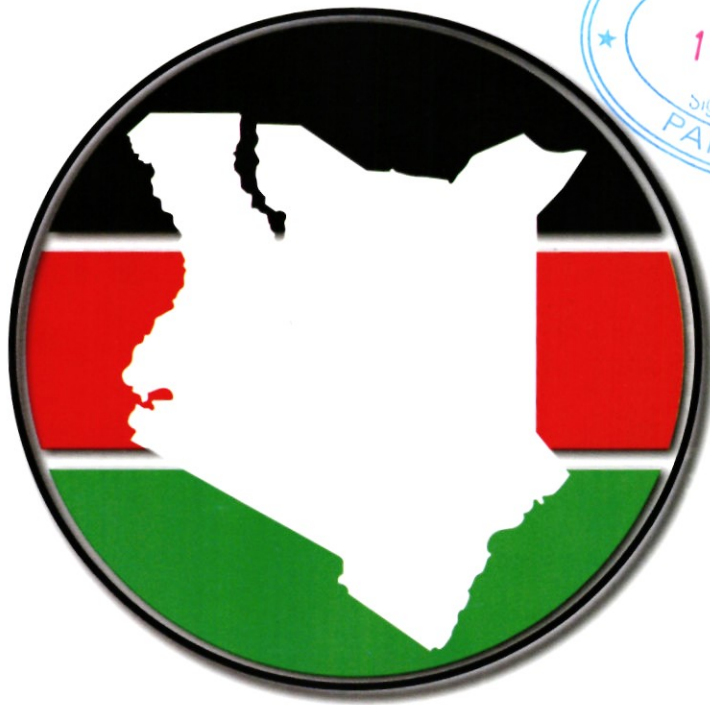
To enforce administrative justice and promote constitutional values by addressing maladministration through effective complaints handling and dispute resolution.

### **Core Values**

Fairness, Accountability and Diversity



# THE COMMISSION ON ADMINISTRATIVE JUSTICE ANNUAL REPORT 2016



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and Section 53(1) of the Commission on Administrative Justice Act, 2011*

## ABBREVIATIONS AND ACRONYM

<b>ADR</b>	Alternative Dispute Resolution
<b>AOMA</b>	African Ombudsman and Mediators Association
<b>AORC</b>	African Ombudsman Research Centre
<b>CAJ</b>	Commission on Administrative Justice
<b>GAA</b>	Government Advertising Agency
<b>GoK</b>	Government of Kenya
<b>ICT</b>	Information, Communication and Technology
<b>IEC</b>	Information, Education and Communication
<b>IFMIS</b>	Integrated Financial Management Information System
<b>IOI</b>	International Ombudsman Institute
<b>MDAs</b>	Government Ministries, Departments and Agencies
<b>NCAJ</b>	National Council on the Administration of Justice
<b>NHIF</b>	National Hospital Insurance Fund
<b>NSSF</b>	National Social Security Fund
<b>SLDP</b>	Senior Leadership Development Programme
<b>TSC</b>	Teachers Service Commission
<b>UNDP</b>	United Nations Development Programme



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## STATEMENT FROM THE Ag. CHAIRPERSON

It is with a sense of pride that I present the Annual Report of the Commission on Administrative Justice for 2016 in accordance with Article 254 of the Constitution and Section 53 of the Commission on Administrative Justice Act, 2011 (the Act). The report is our accountability statement to Kenyans on the progress by the Commission in enforcing administrative justice and promoting constitutional values in Kenya.

As you may be aware, the Commission plays a central role in Kenya's attainment of the objectives of the Kenya Vision 2030 and Sustainable Development Goals. This is primarily due to its role in the promotion of good governance and efficient delivery of public services in Kenya. Our role flows from the Constitution, the Act as well as the Public Service (Values and Principles) Act, 2015 all of which provide for lawful, efficient, timely, impartial and accountable leadership and delivery of public services. Accordingly, we have undertaken administrative reviews and investigations on public complaints, issued advisory opinions on matters of public administration, built the complaints handling capacity for public institutions, created awareness on administrative justice and undertaken litigation on matters of public interest among others.

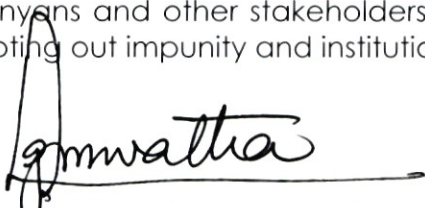
The year 2016 was a significant period for the Commission that witnessed the continued consolidation of the previous achievements and expansion of the mandate of the Commission through the enactment of the Access to Information Act, 2016. The milestones during the reporting period were made possible through visionary leadership, innovation, institutional strengthening and strategic partnerships. As an institution supporting good governance in Kenya, the Commission has adopted a holistic approach in the execution of its mandate. Notably, we have infused proactive measures in our work to not only create a strong foundation for good governance, but also inspire servant leadership and efficient delivery of services in the public sector.

I am pleased to report that the Commission made remarkable milestones in the above mentioned areas in the period under review. Of significance is the complaints handling function where we handled 118,543 complaints and resolved 100,720 which represented 85% resolution rate. This was made possible through the adoption of innovative measures in complaints handling and building the capacity of public institutions to handle public complaints. Further, we bolstered our complaints handling function through the escalation of

specific and systemic investigations on various matters that affect public administration. Other areas of notable milestones included training of 2,050 public officers, building the capacity of public institutions to handle complaints which enabled them to handle 106,733 complaints, inspections and audits on public institutions, awareness creation for various publics, and strategic partnerships with local and international stakeholders.

It is worthwhile to note that in spite of the above milestones, the Commission faced a number of challenges that affected the optimal attainment of its functions during the reporting period. Some of the challenges were unresponsiveness in the public sector, limited resources which inhibited expansion and implementation of programmes, frequent downtime of the Integrated Financial Management and Information System (IFMIS) and the increasing number of court cases against the Commission. In order to address the foregoing, we will seek to develop a new strategic plan to guide the Commission through the next phase, leverage on technology, fully operationalise the Access to Information Act through the development of regulations and awareness creation, and strengthen linkages and partnerships.

I am grateful to the commissioners and staff of the Commission who worked tirelessly and made it possible for the Commission to fulfill its responsibility to the public. In particular, I salute the former Chairperson, Dr. Amollo, for his exceptional stewardship from the time we assumed office in November 2011 to the time of his exit on 31<sup>st</sup> December 2016. Moving forward, we will continue to discharge our duties faithfully in accordance with our vision of 'an effective overseer of responsiveness and servanthood in public offices at national and county levels' in Kenya. I urge all Kenyans and other stakeholders to walk with us in this noble journey of rooting out impunity and institutionalising good governance in Kenya



**DR. REGINA MWATHA, MBS, Ph.D**  
**ACTING CHAIRPERSON**



## FOREWORD


The Commission has an obligation to submit a report to Parliament on its operations and appropriation of the financial allocation annually. I am, therefore, delighted to present the fifth annual report, covering the operations of the Commission in the year 2016. The report highlights our successes and challenges encountered in the period under review. It also contains recommendations and the way forward as we look into the future.

Since inception in 2011, the Commission has continued to influence good governance, and continuous improvement of service delivery in the public sector. As an oversight institution, the Ombudsman plays a central role in inculcating a culture of responsiveness in the public sector, which is a key ingredient for quality service delivery. To this end, the Commission continues to work closely with members of the public who are the consumers of services rendered by public institutions on the one side and government Ministries, Departments and Agencies (MDAs) on the other. It offers an important link between the consumers of public services and providers. As such, the complaints received against public institutions provide valuable feedback, which positively contributes towards improving service delivery, where necessary interventions are put in place.

The Commission appreciates the financial support from the government, which constitutes the largest share of its total budget. However, the ever increasing workload, increased service delivery points and the expanded mandate on enforcement of Access to Information Act call for increased budgetary allocation to enable the Commission strengthen its capacity in terms of human resource and the required infrastructure. In this regard, it is imperative to review its budgetary ceiling upwards in tandem with the Commission's mandate and workload.

In the period under review, the Commission utilised available resources prudently, amid financial constraints and the need to realise value for money. This was achieved by ensuring compliance with the relevant laws, policy guidelines, systems and procedures that enhance transparency and accountability in utilisation of public resources.

The Commission achieved numerous milestones as detailed in the report, and I wish to take this opportunity to thank the Commissioners and staff, for their commitment in promoting administrative justice, by providing the necessary support towards quality service delivery in the public sector.



**LEONARD NGALUMA, MBS**  
**COMMISSION SECRETARY/CEO**

## EXECUTIVE SUMMARY

This is the fifth Annual Report of the Commission on Administrative Justice. The report demonstrates the strides that the Commission has made in regard to the execution of its mandate in 2016.

The Report is segmented into eight chapters with each addressing a singular thematic area. The first chapter gives background information: establishment and mandate, vision, mission and core values. The content of the subsequent chapters is highlighted below.

### **Righting administrative injustices in the public sector**

The Commission has continued to address maladministration in the public sector through complaints handling and investigations. During the period under review, the Commission handled a total of 111,505 new cases out of which 100,720 cases were resolved resulting to a resolution rate of 85%. From the analysis of the cases received and dealt with, maladministration, delay, abuse of power and unfair treatment have been identified as the prevalent service issues.

### **Strengthening complaints handling capacity in the public sector**

The Commission continued to work closely with the public sector institutions with a view to help them set up their internal complaints handling and management processes. Further, the Commission played a critical role in developing the capacities of public officers, both national and county governments, through the implementation of its Indicator on *Resolution of Public Complaints*.

During the period under review, the Commission trained 2,055 officers drawn from 153 public institutions which resulted to an increase on their levels of compliance. Through this engagement, a total of 106,733 complaints were lodged directly with public agencies of which a total of 96,733 were resolved thus resulting to 91% resolution rate.

### **Communication, public education and advocacy**

The Commission implemented a number public awareness and advocacy activities aimed at creating publicity, information sharing and promoting administrative justice in Kenya. To this end, the Commission continued to advance its *Huduma Mashinani* programme (reaching out to residents of informal settlement in Nairobi). Further, it also participated in Agricultural Society of Kenya exhibitions to create



awareness on the Commission's mandate and provide a platform for the public to lodge complaints. In addition, the Commission produced and distributed various Information, Education and Communication (IEC) materials on diverse thematic areas to augment its awareness creation efforts. Also significant is the transcription of the institutional brochure and Alternative Dispute Resolution (ADR) Manual in Braille to cater for the visually impaired.

### **Promotion of good governance in the public sector**

During the period under review, the Commission implemented a number of strategies aimed at promoting constitutionalism and good governance in the public sector. This included the issuance of advisory opinions and recommendations, mediation and public interest litigation touching on matters of national importance. Specifically, the Commission issued advisories and recommendations on a number of matters such as the succession planning in state and public offices, the National Treasury Circular No. 13/2016 and County Government (Amendment Bill) No. 21 of 2015.

### **Partnerships and linkages**

The Commission cultivated partnerships with local and international institutions to promote administrative justice and good governance. Through this, the Commission participated in a number of international conferences, workshops and meetings. In addition, the Commission enhanced its participation in the activities of the International Ombudsman Institute and the African Ombudsman and Mediators Association.

### **Finance and Administration**

During the FY 2015/2016, the Commission was allocated KES. 480,710,920 through the exchequer. The amount was however revised downwards in the supplementary estimates by KES. 15,890,920 bringing the allocation to KES. 464, 820,000. Out of the allocated funds from GoK, the CAJ expended KES. 422,828,202 which represents 91% absorption rate. The reduced allocation curtailed the Commission from implementing some of the planned activities, key among them outreach and advocacy as well as decentralisation of Services

## Challenges

The Commission experienced a number of challenges during the reporting period. The main challenges included, low budgetary ceiling, frequent down time of the IFMIS, pooling of publicity and awareness budget to Government Advertising Agency (GAA), late disbursement of funds, unresponsiveness and increasing number of court cases against the Commission.

## Looking ahead: 2017 and beyond

The Commission will continue to execute its mandate as it seeks to promote good governance and also being an effective overseer of responsiveness and servanthood in the public sector. In the year 2017, the Commission seeks to among other things:

- i. Review and develop a new strategic framework to guide the Commission through the next phase.
- ii. Operationalise the access to information law through development of requisite guidelines, stakeholder engagements and awareness creation.
- iii. Enhance its infrastructure and human resource capacity.
- iv. Mobilisation of resources through strengthening of linkages and partnerships.
- v. Capacity building and strengthening linkages with public institutions to enhance good governance.

## CHAPTER ONE

### 1.0. ESTABLISHMENT AND MANDATE

#### 1.1. INTRODUCTION

The Commission is established by the Commission on Administrative Justice Act (CAJ Act), 2011, pursuant to Article 59(4) of the Constitution. The Commission is, therefore, a Constitutional body within the meaning of Chapter 15 of the Constitution. The Commission is composed of three commissioners and a Secretariat headed by the commission secretary. The Commission Headquarters is in Nairobi and has four branch offices in Mombasa, Kisumu, Eldoret and Bungoma.

##### 1.1.1. Vision

To be an effective overseer of responsiveness and servant-hood in public offices at national and county levels.

##### 1.1.2. Mission

To enforce administrative justice and promote constitutional values by addressing maladministration through effective complaints handling and dispute resolution.

##### 1.1.3. Core Values

Values are an integral part of an organisation's culture and create a sense of identity, belonging and purpose. The following are core values of the Commission:

- **Fairness:** Treating people equitably, reasonably impartiality and in a just manner.
- **Accountability:** Acting with integrity, accounting for actions and inactions, and taking responsibility.
- **Diversity:** Recognising and appreciating individual and group differences.



## 1.2. MANDATE

The mandate of the Commission is to enforce administrative justice in the public sector by addressing maladministration through effective complaints handling and alternative dispute resolution. In addition, the Commission has a constitutional responsibility to safeguard public interest by promoting constitutionalism, securing the observance of democratic values and principles, and protecting the sovereignty of the people of Kenya. Moreover, the Commission has additional mandate of overseeing and enforcing implementation of the Access to Information Act passed in 2016.

### FUNCTIONS

Below are the functions of the Commission under the CAJ Act.

- i. Investigate any conduct in state affairs, or any act or omission in public administration by any State organ, State or public officer in National and County Governments that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice;
- ii. Investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector;
- iii. Report to the National Assembly bi-annually on the complaints investigated under paragraphs (a) and (b), and the remedial action taken thereon;
- iv. Inquire into allegations of maladministration, delay, administrative injustice, discourtesy, incompetence, misbehavior, inefficiency or ineptitude within the public service;
- v. Facilitate the setting up of, and build complaint handling capacity in, the sectors of public service, public offices and state organs;
- vi. Work with different public institutions to promote alternative dispute resolution methods in the resolution of complaints relating to public administration;
- vii. Recommend compensation or other appropriate remedies against persons or bodies to which this Act applies;
- viii. Provide advisory opinions or proposals on improvement of public

administration, including CAJ Act, review of legislation, codes of conduct, processes and procedures;

- ix. Publish periodic reports on the status of administrative justice in Kenya;
- x. Promote public awareness of policies and administrative procedures on matters relating to administrative justice;
- xi. Take appropriate steps in conjunction with other State organs and Commissions responsible for the protection and promotion of human rights to facilitate promotion and protection of the fundamental rights and freedoms of the individual in public administration;

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

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

## CHAPTER TWO

### 2.0. RIGHTING ADMINISTRATIVE INJUSTICES IN THE PUBLIC SECTOR

The primary responsibility of the Commission is captured under Article 59(2) (h-k) of the Constitution and Section 8(a-d) of the CAJ Act which mandate the Commission to deal with maladministration in the public sector. The Commission is therefore, empowered to inquire and investigate instances of maladministration such as delay, administrative injustice, discourtesy, misconduct, incompetence, improper conduct, and abuse of power.

The overall goal of the Commission is to inculcate a culture of fairness, responsiveness, efficiency and accountability in the public service. The main redress mechanisms employed by the Commission in addressing maladministration is through inquiries and investigations procedures.

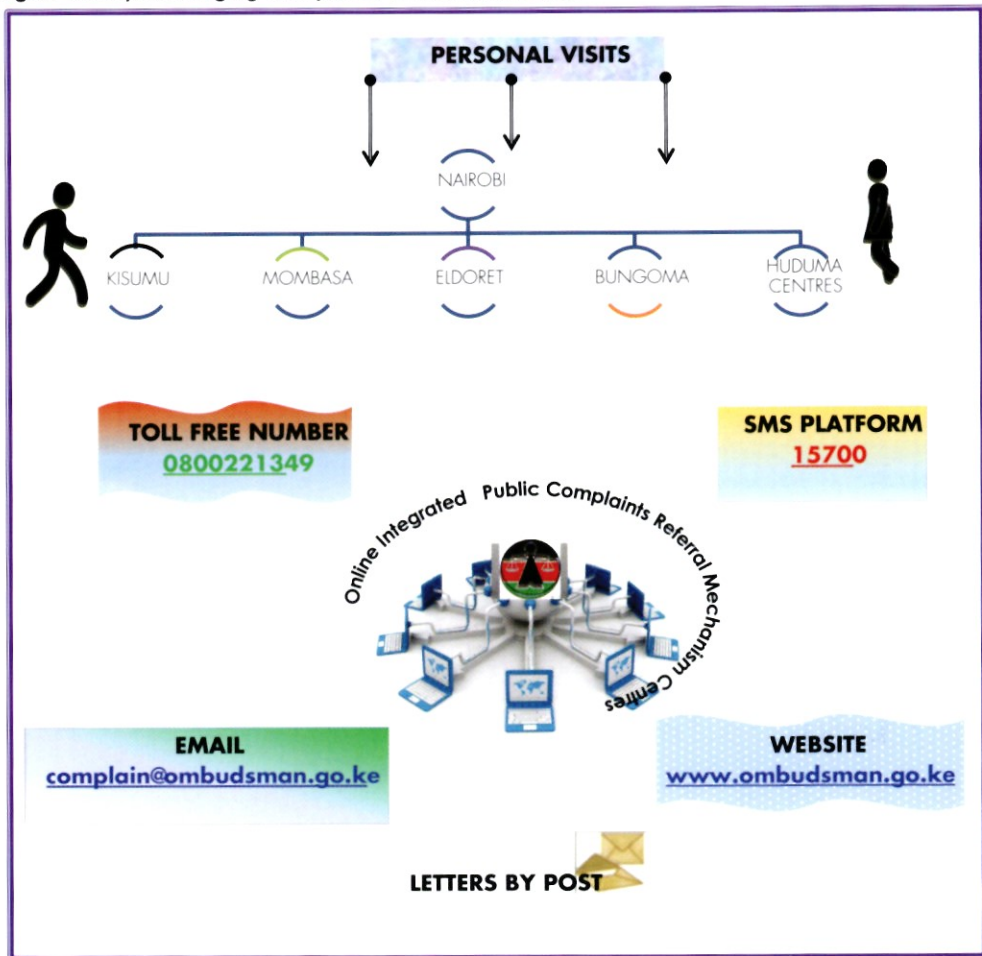
### 2.1. COMPLAINTS HANDLING

#### 2.1.1. Lodging a Complaint

A complaint may be lodged by an aggrieved person or by a person acting on their behalf at the Commission's offices or at such place as the Commission may from time to time designate. Complaints may also be instituted anonymously or on the Commission's own initiative and may be made orally or in writing. It is worth noting that the Commission does not charge any fee for its services. Figure 1 depicts various ways of lodging complaints.



Figure 1: Ways of Lodging Complaints to the Commission



## 2.2. CASES HANDLED

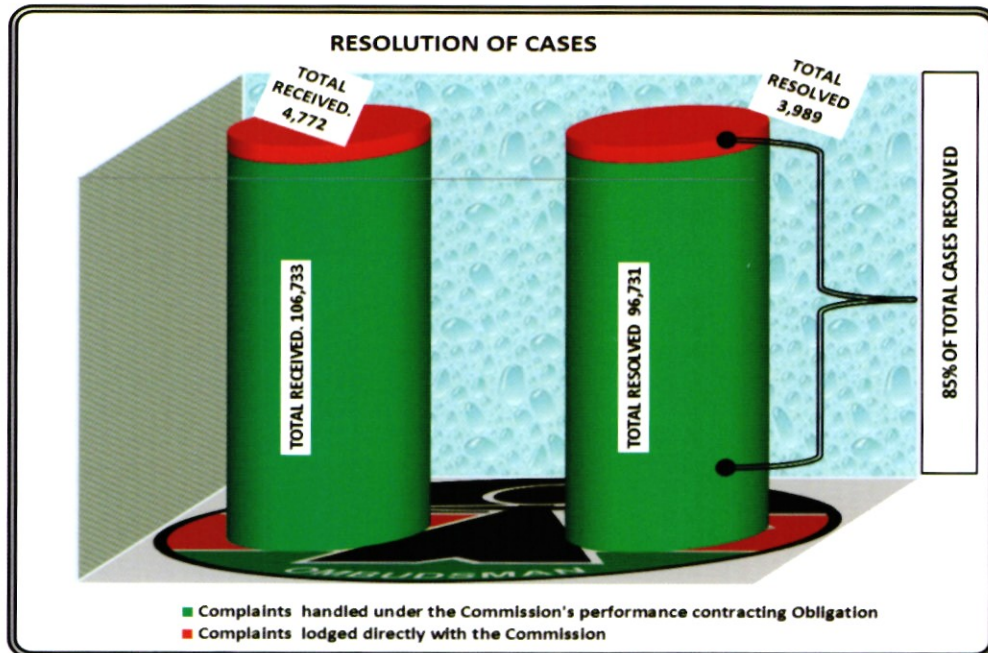
During the period under review the Commission handled a total of 118,543 complaints of which 111,505 were new cases and 7,038 complaints carried forward from the previous year. The breakdown is presented in Table 1.

**TABLE 1: SUMMARY OF CASES RECEIVED**

DESCRIPTION	NUMBER
Complaints lodged directly with the Commission	4,772
Complaints handled under the Commission's performance contracting obligation	106,733
Sub-total for new cases in 2016	111,505
Complaints from previous reporting period	7038
Total cases handled	118,543
Total cases resolved	<b>100,720</b>
Total cases carried forward to the next reporting period (ongoing cases)	17,823

### 2.2.1. RESOLUTION RATE

Figure 2: Status of Complaints Handled



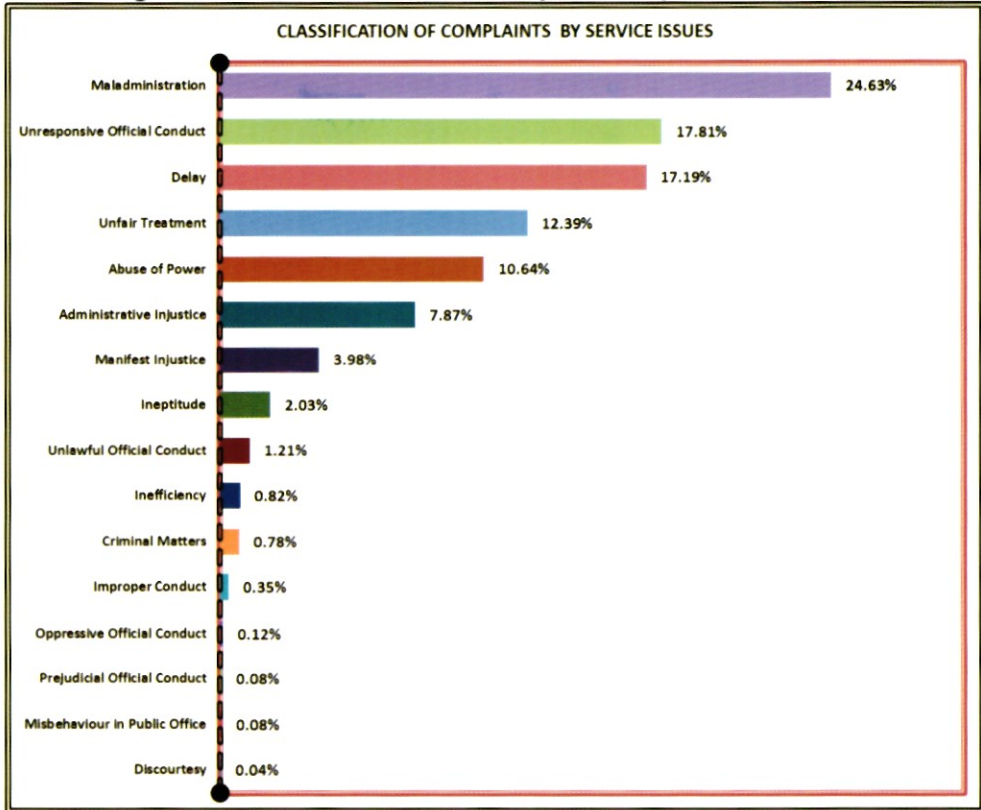
## 2.2.2. ANALYSIS OF CASES BASED ON SERVICE ISSUES, GENDER AND RESPONDENTS

This section represents an analysis of complaints handled based on service issues, gender and respondents.

### 2.2.2.1. SERVICE ISSUES

The analysis presented in Figure 3 demonstrates that maladministration, delay, abuse of power and unfair treatment are prevalent in the public sector thereby impeding service delivery.

Figure 3: Classification of Complaints by Service Issues





### 2.2.2.2. GENDER

More male complainants than female lodged complaints in 2016. A number of institutions also lodged 406 complaints, but the data was not segregated based on gender.

**Figure 4: Classification of Complaints by Gender**

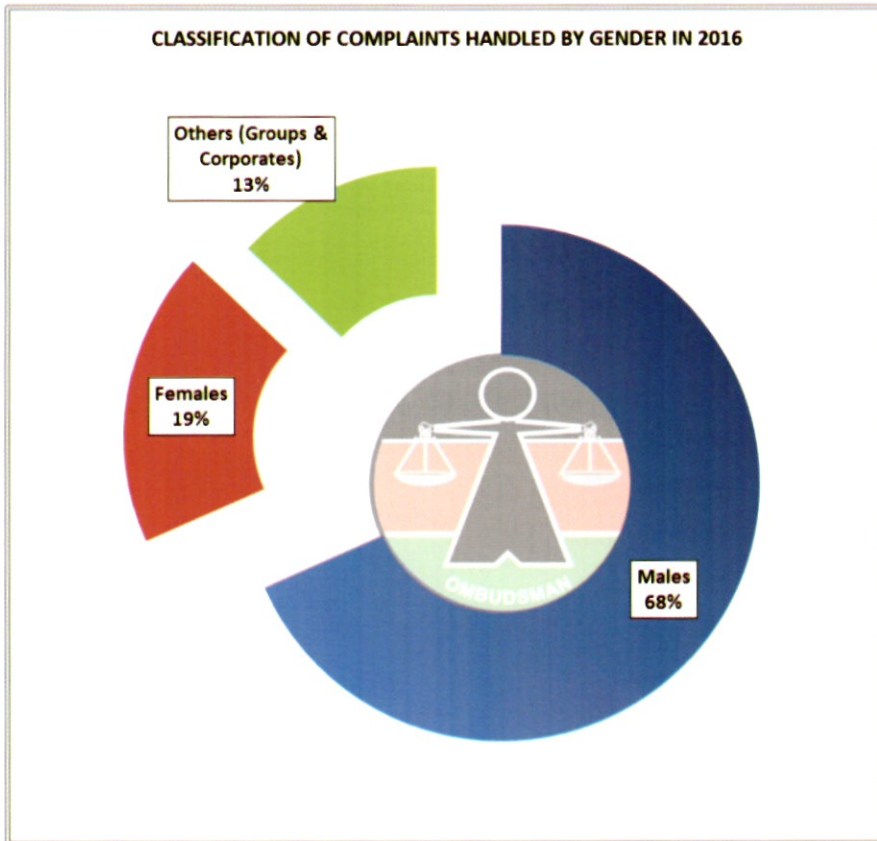
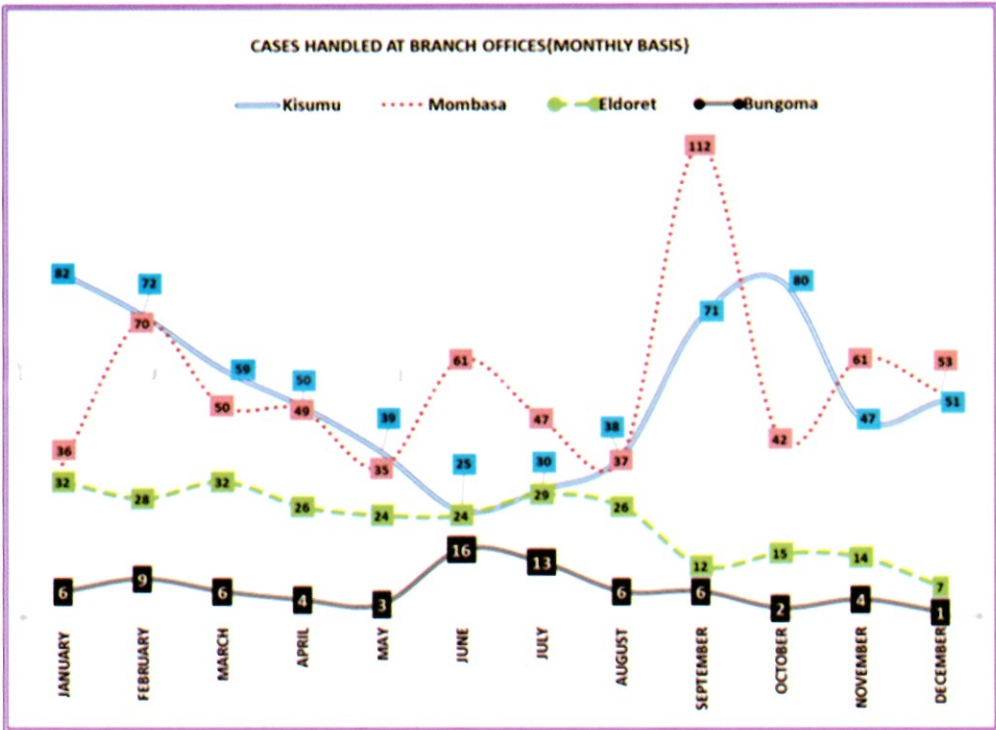


Figure 5: Analysis of Complaints from Branch Offices

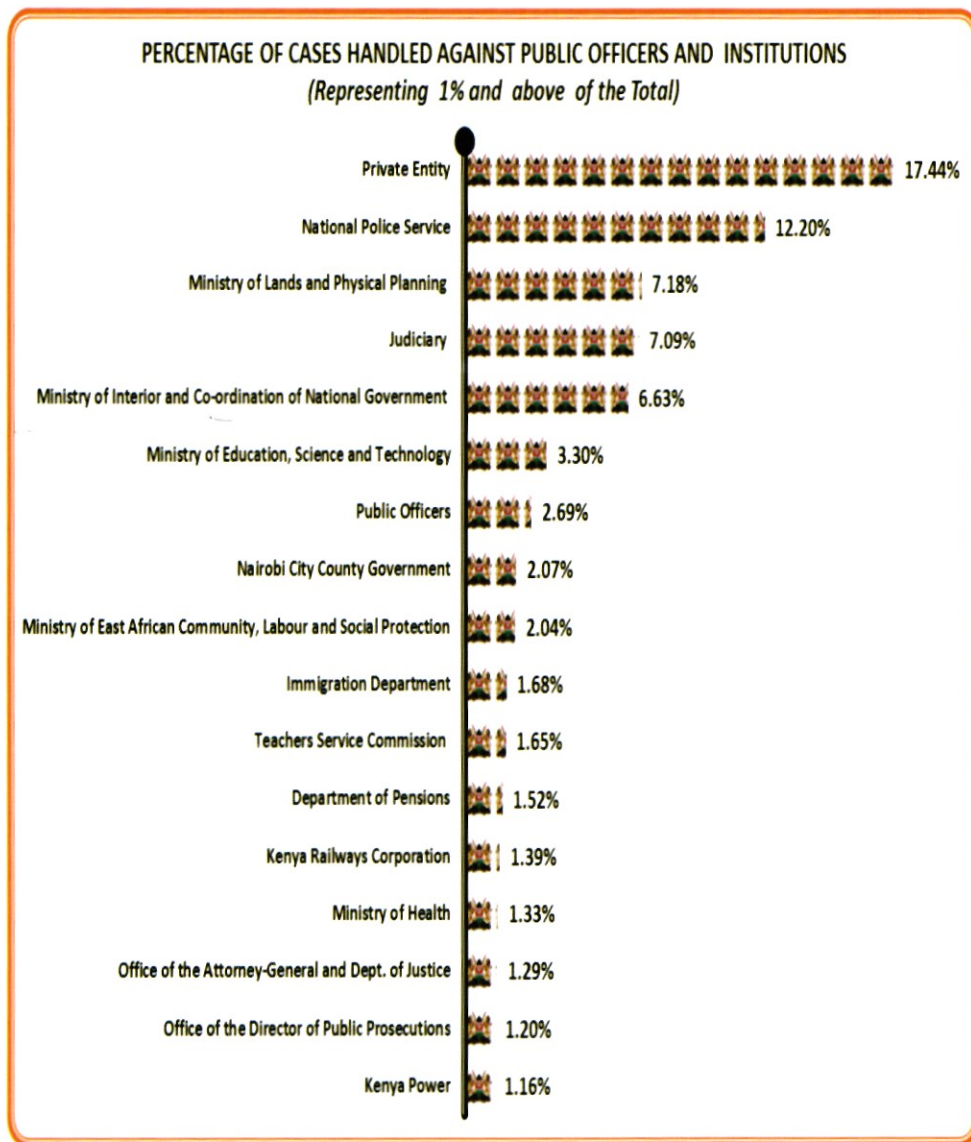


### 2.2.2.3. ANALYSIS OF CASES BASED ON RESPONDENTS

The Commission received a wide range of complaints against public institutions. Figure 6 presents a synopsis of the number of complaints lodged against public institutions and officers that constituted one percent and above.



**Figure 6: Percentage of Cases Handled against Public Institutions and Officers**



## 2.3. SUCCESS STORIES AND SAMPLE CASES

### 2.3.1. SUCCESS STORIES

#### Promoting fair treatment to complainants

The Commission successfully handled a complaint from 522 employees of the Metrological Department regarding the non-implementation of a circular of 9th January 1995 and a subsequent court order in Nairobi High Court Civil Case No. 709 of 2003 in relation to the matter. The Circular was issued by the Head of Public Service for an upgrade of certificate and diploma holders in the civil service with effect from 1st January 1995. Following the failure by the then Ministry of Environment and Natural Resources to implement the Circular and the subsequent court order issued in April 2004, the complainants lodged a complaint at the Commission in 2012. Upon receiving the complaint, the Commission made an inquiry which prompted the Ministry to rationalise and upgrade the affected employees. As a result the Ministry paid arrears amounting to over KES115 million to the complainants. The upgrading had a positive effect on the affected employees who had retired by significantly raising their pension by between KES 2,000 and KES 6,000.

#### Delivering administrative justice to a complainant

The Commission assisted a Complainant to get his terminal dues amounting to US \$10,000 approximately (KES One Million). The Complainant worked with a foreign embassy in Nairobi for 11 years until 31<sup>st</sup> January 2009. His terminal dues were, however, not paid. His efforts to address the matter through the Courts were unsuccessful on grounds of diplomatic immunity. Similarly, his efforts for redress through the Ministry of Foreign Affairs and International Trade did not bear fruit thereby compelling him to lodge the complaint with the Commission. This prompted consultation with the Ministry for diplomatic resolution of the matter consequently the complainant was offered payment of US \$10,000 approximately (KES One Million).

#### Righting improper and unlawful conduct

The Commission successfully thwarted tax evasion that would have occasioned loss of revenue amounting to KES 1,120,000 in respect of Land Parcel No. Kisii Municipality Block III/139. The Commission established that the piece of land has been undervalued at KES 7 million against KES 35 million. The Commission advised the Ministry to take action against its officers at the Kisii Land Registry.



### Securing justice for an accident victim

The Commission secured justice for a minor who had been knocked down by a motorist along the Mombasa – Malindi Highway in April 2016. The matter was reported to Nyali Police Station, but no action was taken to bring the suspect to account. This prompted the Complainant to lodge a complaint with the Commission on behalf of the minor. Upon receipt of the complaint, the Commission intervened and the motorist was arrested and charged in court.

### Addressing delay in payment of work injury benefit

The Commission assisted the Complainant to secure payment of work injury benefit amounting to KES 1,027,992 which had been outstanding since 2010. According to the complaint, the defunct Ministry of Internal Security and Provincial Administration had failed to pay dues for the injuries sustained by the complainant in the course of his duties. Following the intervention by the Commission, computation was done and the complainant subsequently paid his dues.

### Delivering administrative justice to persons in detention

The Commission successfully intervened on a complaint by an in-mate at Kibos Main GK Prison against the facility. It was alleged that the institution had failed to consider his asthmatic condition and a doctor's recommendation that he be deployed in an environment with minimal dust and cold. Upon receipt of the complaint, the Commission intervened and the complainant was deployed to suitable environment.

### Securing payment of pension to a complainant

The Commission assisted a complainant to secure pension for her deceased husband amounting to KES 706,000. The Complainant had alleged that the Department of Pensions delayed to settle the dues for her deceased husband, a former employee of the Teachers Service Commission (TSC). The Complainant eventually lodged the complaint with the Commission after pursuing payment with TSC and the Department of Pensions.



### **Advancing fair treatment in the public sector**

The Commission secured conversion of terms of employment from contract to permanent and pensionable for over 400 employees of the Moi Teaching and Referral Hospital. The Complainants had alleged that the Hospital failed to convert their terms of employment since 2010, and accord them a fair opportunity to be employed under permanent and pensionable terms. Having failed to get a positive response from the Hospital, they lodged a complaint with the Commission. The Commission made an inquiry into the matter and later a Determination that recommended, inter alia, conversion of the terms of service to permanent, and review of the Hospital's Human Resource Manual to mainstream fairness, transparency and equity in the recruitment process. Pursuant to the determination of the Commission, the Hospital converted the terms of employment and commenced the review of its Manual as advised by the Commission

### **Ensuring compliance with service delivery standards**

The Commission successfully intervened in a complaint of delay by the National Council for Persons with Disabilities to issue a complainant with a tax exemption certificate. The complainant alleged that processing of his application for the certificate had inordinately delayed.

### **Securing justice for special groups**

The Commission assisted a women group to secure payment of KES 400,000 from the Siaya County Government for services rendered. According to the complaint, Kwe gi Lamo Women Group had constructed four pit latrines at Odendo Market in South Gem Ward in Siaya County, but the County Government delayed to pay for the services rendered. It is for this reason that the group lodged a complaint with the Commission which successfully intervened.

### **Addressing unresponsiveness in service delivery**

The Commission successfully intervened in a complaint of delay by Eldoret University to rectify the Complainant's certificate. According to the Complainant, the University had failed to rectify an error in the certificate despite making several follow-ups. The Commission intervened and a new certificate was issued.

## 2.3.2. SAMPLE CASES

Table 2 presents a sample of different complaints handled by the Commission for the period under review.

**Table 2: Sample of complaints handled**

No	Complaint Ref. No.	Respondent	Classification	Summary of Complaint	Remedial Action Taken
1	CAJ/M.LAB/17/601/16	Ministry of East Africa Community, Labour and Social Protection	Inefficiency	A complaint that the State Department of Labour had made an assessment under the Work Injury Benefits Act, 2007 for the complainant to be paid KES 424,413.55 by Safaricom Ltd in December 2011, but had failed to follow up with the institution to ascertain compliance.	An inquiry was initiated and is still ongoing.
2	CAJ/ ACC/001/1675/16	Private Entity	Professional Misconduct	A complaint that an Advocate failed to transmit money awarded to the Complainant in Civil Case No. 1237 of 1996.	The matter was referred to the Advocates Complaints Commission for resolution.
3	CAJ/JUD/001/1672/16	Private Entity	Civil Dispute	A complaint relating to a commercial dispute on the directorship and shareholding of King Woolen Mills Ltd, a private company. It was established the matter was the subject of court proceedings.	The complainant was advised that the complaint was inadmissible since the matter was pending litigation. Further, the complaint was against a private entity.



No	Complaint Ref. No.	Respondent	Classification	Summary of Complaint	Remedial Action Taken
4	CAJ/D.KIM/013/1123/16	Dedan Kimathi University	Delay	A complaint that there had been delay in determination of an appeal lodged by a student against a decision to expel her by Dedan Kimathi University.	The Commission intervened and the outcome of the appeal was communicated to the complainant.
5	CAJ/PPOA/000/700/16	Public Procurement Regulatory Authority	Delay	A Complaint alleging that on 1st December 2014, the Public Procurement Regulatory Authority engaged the complainant and three others, as record management clerks in the Policy and Research Department and they were to be paid an accumulated wage of KES 22,000 per month. After working until 15th February 2015, they had not been paid for the services rendered.	After intervention of the Commission, the complainants were paid the dues owed to them in full.
6	CAJ/JUD/001/1714/16	Judiciary	Delay	A complaint that the judiciary had delayed in supplying the complainant with typed proceedings of Naivasha Civil Suit No. 17 of 2015.	The Commission intervened and the complainant was supplied with certified typed copies of the proceedings.



No	Complaint Ref. No.	Respondent	Classification	Summary of Complaint	Remedial Action Taken
7	CAJ/M.LAB/017/628/16	Ministry of Labour, Social Security and Services	Improper official conduct	A complaint that the Kiambu Children's officer prepared a report - in an unprofessional and unprocedural manner - which was used in court in a custody matter. Further, that based on the report the Court gave a verdict against the complainant.	The complainant could not substantiate the allegations consequently, the matter was dismissed. In any event the complainants redress, if at all, lay in filing an appeal.
8	CAJ/NSSF/017/600/16	National Hospital Insurance Fund	Delay	A complaint that National Hospital Insurance Fund (NHIF) failed to refund the complainant monies he spent on medical services at one of the facilities accredited by them as stipulated in their service charter.	The Commission intervened and the NHIF promptly made the refund.
9	CAJ/M. IMM/003/264/16	Department of Immigration	Manifest Injustice	A complaint that the Department of Immigration failed to renew a passport on grounds that the person had already been renewed.	The Commission intervened and the passport was renewed.

No	Complaint Ref. No.	Respondent	Classification	Summary of Complaint	Remedial Action Taken
10	CAJ/KRA/000/696/16	Kenya Revenue Authority	Unfair Treatment	A claim that the complainant's sons were being taxed twice: in Kenya and the USA where they lived and worked.	The Commission intervened and the complainant was advised to have her sons comply with the Kenya Revenue Authority's advice that they file nil returns.
11	CAJ/PE/040/1505/16	Private Entity	Unresponsiveness	A complaint that the United Nation High Commissioner for Refugees failed to respond to a letter requesting for a refugee Identity Card.	The complaint was inadmissible as it was outside the Commission's mandate.
12	CAJ/MSA/M.LAB/017/56/16	Ministry of East Africa Community, Labour and Social Protection.	Unfair Official Conduct	A claim that the complainant registered with National Social Security Fund (NSSF) in 2003 but upon checking in 2016, he was informed that the never registered and therefore had no benefits.	The Commission intervened and the registration was affected. Further, his contributions were updated in the NSSF system.
13	CAJ/MSA//JUD/001/114/16	Judiciary	Improper Conduct	A complaint that part of the money paid as bail in Shanzu Law Courts Criminal Case No No.1393/15, was unaccounted for.	The Commission intervened and it was discovered that the allegations were untrue.

No	Complaint Ref. No.	Respondent	Classification	Summary of Complaint	Remedial Action Taken
14	CAJ/MSA/PE/ 040/173/16	Private Entity	Civil Matter	A complaint of breach of contract between a management company and a band resulting in infringement of intellectual property rights.	The matter was referred to the relevant agency for resolution.
15	CAJ/MSA/M. LAB/017/64/16	Ministry of East Africa Community, Labour and Social Protection.	Unfair Treatment	A complaint that the Department of Social Protection failed to issue the complainant with a card showing that he is a person living with disability despite having met all the requirements.	The complainant was issued with the document after the Commission's intervention.
16	CAJ/MSA/ PE/040/185/16	Private Entity	Breach of Contract	A complaint that an insurance company failed to reimburse medical bills for the complainant's wife who had a medical cover with the company.	The complainant was referred to the Insurance Regulatory Authority for redress.
17	CAJ/MSA/ NSSF/017/65/16	National Social Security Fund	Inefficiency	A complaint on delay in payment of benefits in contravention of provisions of the NSSF service charter.	The Commission intervened and the complaint was resolved.
18	CAJ/MSA/M.EDU/013/37/16	Ministry of Education, Science and Technology	Delay	A complaint that the Kenya National Examinations Council delayed in releasing the Kenya Certificate of Secondary Education (KCSE) for the complainant's brother despite satisfying the requirements.	The Commission intervened and the complaint was resolved.



No	Complaint Ref. No.	Respondent	Classification	Summary of Complaint	Remedial Action Taken
19	CAJ/MSA/M. IND/020/3/16	Ministry of Industry, Trade and Cooperatives	Delay	A complaint that the Kenya Industrial Estates Limited delayed in remitting excess funds due the complainants after sale of their property that had been held as collateral.	The Complaint was successfully resolved and the balances paid upon intervention of the Commission.
20	CAJ/MSA/M.TRA/004/33/16	National Construction Authority	Unresponsiveness	A complaint that the National Construction Authority failed to respond to a complaint that had been lodged with it questioning a construction project that was hazardous and had allegedly not been approved.	The commission raised the issue with the Authority which instantly took up the matters.

### 2.3.3. SAMPLE LETTERS OF APPRECIATION

013/1835 - WT

MR. PETER K. KIRUI  
P.O BOX 505-20400  
BOMET.  
30TH JULY 2016

THE CHAIRPERSON  
COMMISSION ON ADMINISTRATIVE JUSTICE  
OFFICE OF THE OMBUDSMAN  
P.O BOX 20444 - 00200  
NAIROBI

Dear Sir,

RE: APPRECIATION

I would like to thank you and members of your staff for the good work that you are doing in assisting Kenyans, I for one, get the services they are entitled to from adamant bureaucrats.

You assisted me reach the concerned at the Higher Education Loans Board at a time when I was pursuing justice for my children in terms of loans to finance their university education.

Many Kenyans suffer, out of ignorance when they are denied services they are entitled to. Please continue assisting them and in the long term they will live in a better Kenya. May God bless you.

Yours sincerely  
PK Kirui  
PETER K. KIRUI



COMMISSION ON  
ADMINISTRATIVE  
JUSTICE  
OFFICE OF THE OMBUDSMAN

KARIMI, Salome <s.karimi@ombudsman.go.ke>

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## LOAN DISBURSEMENT

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Robert Maritim <maritimro@gmail.com>  
To: "KARIMI, Salome" <s.karimi@ombudsman.go.ke>

Mon May 16 2016 at 3:37 PM

Dear Salome,

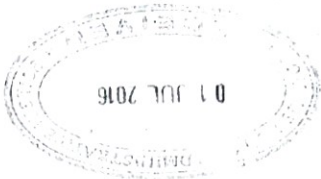
I am grateful to the Ombudsman for the effort they put towards the disbursement of help loan of 40,000 that I was awarded. The disbursement had delayed for almost two years and now the money had been disbursed to the campus account and the good news is that it has reflected in the student portal. Thanks to the Ombudsman's office and may GOD reward your effort.

From ROBERT MARITIM, student at MKU, KABARNET CAMPUS.  
BLESSINGS!!



MUMBUNI P.S. SCHOOL  
P.O. BOX 823  
MACHAKOS  
24/06/2016

013/1120 WT



THE CHAIRMAN  
COMMISSION ON ADMINISTRATIVE  
JUSTICE  
WEST END TOWERS, WAIYAKI  
WAT-WESTLANDS  
P.O. BOX 20414 - 00200  
NAIROBI

DEAR SIR

RE: CONFIRMATION OF PAYMENT

I sincerely want to thank you for your quick action on my letter of 22nd April 2016. I received the payment on the month of May.

Yours faithfully


~~JOYCE MUMBI KITALA~~  
JOYCE MUMBI KITALA  
TSC NO. 249836

Dear Sir / Madam,

I hereby with all due respect it deserve take this opportunity to acknowledge that the office of the Ombudsman has helped the Noah Society to get its registration certificate from the registrar of societies, for this we will always be grateful for the wonderful service given to us through this office.



Yours Sincerely,

 19/07/2016

Richard Simiyu  
for Noah Society  
(0704 207 466)

24<sup>TH</sup> JANUARY ,2017.

THE CHAIRMAN ,

THE COMMISSION ON ADMINISTRATIVE JUSTICE

P.O.BOX 1967 - 40100

KISUMU

ATTENTION MR. LILAKO.

Dear sir,

RE: REFUND FROM PORT FLORENCE.

Refer to my letter dated 10<sup>TH</sup> October 2016 appreciating your office's effort to help regarding my complain against Port Florence Hospital. I wish to confirm that indeed that effort was not in vain for I received a cheque of Ksh 10400/- on a date I cannot remember towards the end of October 2016. It was an oversight on my part not to bring this to your attention, and am sorry for this for without your intervention I would have not got the refund.

I Sincerely say thanks to the entire Ombudsman Kisumu.

Yours sincerely



Ben Aggrey Muga Oselle.





THE CHIEF JUSTICE  
Commission on  
ADMINISTRATIVE JUSTICE  
OFFICE OF THE COMMISSIONER  
P.O. Box 81970 - 80100  
MINNAPOLIS

MR. JULIUS ANGELO  
P.O. Box 451  
MINNAPOLIS  
4/5/2016

Re: Complaint By Mr. J. Angelo  
Against Minnesota Law Courts  
in Case No 40 of 2016

It is with utmost gratitude and  
thankfulness to your wife & Her Hon  
Majesty the Queen, and the receipt  
of the certified judgment on the 19/7/16  
and was forwarded to PG Office on  
the 21/7/2016 as per her request  
I now expect her expenses to be met

Yours faithfully

J.A.

Julius Angelo

cc: [unclear]

[unclear]

GLADYS N. INYANGA  
P.O. Box 93496  
Mombasa  
21/7/11

21/7/11

To THE OFFICE OF CHIEF MAGISTRATE  
MOMBASA

Dear Sir/Madam

RE: APPRECIATION FOR A GOOD SERVICE

I am very grateful for the good help you offered me when I had stalled for long over my father's K.C. son certificate which had been held for close to five years due to a mistake which was not his.

I have received a letter from head office confirming that incompetent officers they did apologise for the mistake.

My father has his certificate now.

Thank you

Yours faithfully  
Gladys

GLADYS N. INYANGA

## 2.4. INVESTIGATIONS

In line with its mandate under Article 59(2) (h&j) of the Constitution and Section 8 of CAJ Act, the Commission conducted seven specific investigations and one systemic on various matters during the period under review. The systemic investigation was on payment of pensions, gratuity and other terminal benefits, while the specific investigations included; alleged irregular allocation of land in Eastleigh market; alleged misconduct by the Executive Director of the NGOs Coordination Board; alleged complaint on sexual harassment on HIV/ AIDs Tribunal and alleged dereliction of duty by security agencies during the Garissa University attack.

Stemming from the investigations, the Commission published detailed reports and made recommendations for remedial action. The reports were shared with relevant government agencies and members of the public for information.

### **Payment of Pensions, Gratuity and Other Terminal Benefits**

The Commission undertook a systemic investigation into issues inherent in the payment of pensions, gratuity and other benefits. This was occasioned by increased public complaints on payment of pensions and other benefits which pointed to systemic inefficiencies in processes and procedures. The investigation revealed that systemic factors such as inadequate resources, bribery, lack of decentralisation, bureaucracy, outdated and insufficient legal framework, inefficiency, and poor records management were the main causes of delay and non-payment of pension and benefits.

In order to remedy the foregoing, the Commission made a number of recommendations including a review of the relevant laws, allocation of adequate resources, development of a comprehensive policy for processing the benefits, automation of pension records and processes, effective complaints handling in the Department of Pensions, and effective communication with relevant agencies and the beneficiaries. The report was disseminated to relevant government officers and departments, including the Head of the Public Service who informed the Commission of the Government's commitment to implementing the recommendations.



## CHAPTER THREE

### 3.0. ENHANCING COMPLAINTS HANDLING CAPACITY IN THE PUBLIC SECTOR

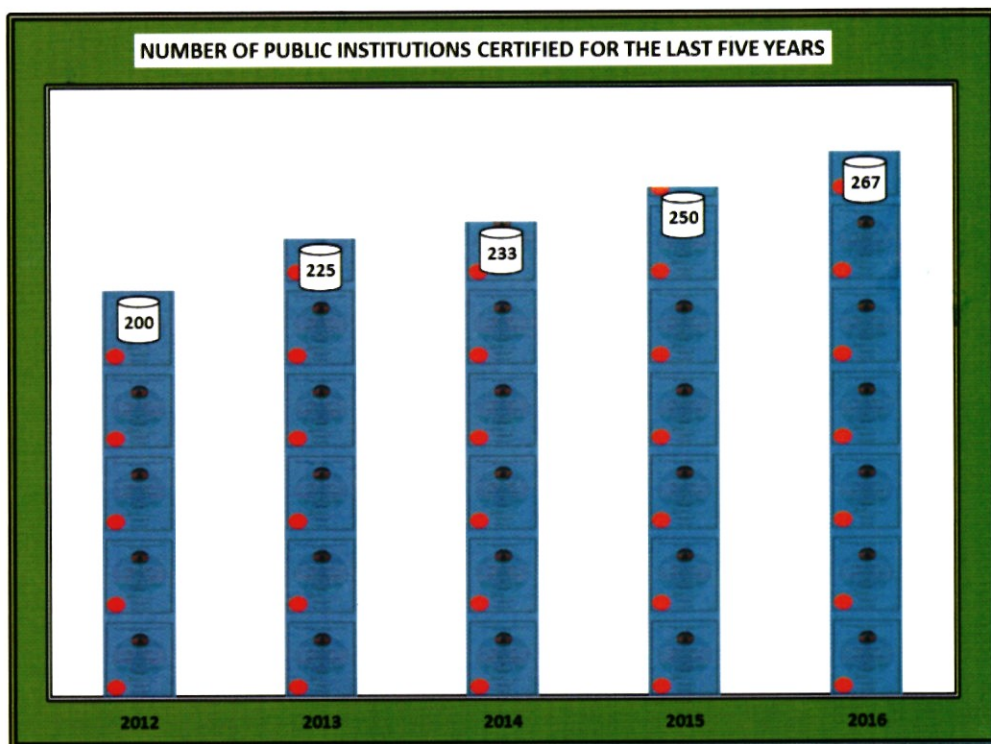
The Commission continues to play a key role in public sector reforms in order to improve service delivery in line with the Kenya Vision 2030. Accordingly, the Commission employs different strategies to realise this goal. First, the Commission is one of the lead agencies in the performance contracting framework, where it is responsible for implementation of the "Resolution of Public Complaints Indicator". The second strategy entails provision of training on good governance, complaints handling and ADR methods, while the last approach, involves provision of technical support in an array of areas, including development of complaints policies, service charters and institutional complaint handling procedures.

#### 3.1. TRAINING OF PUBLIC OFFICERS

In 2016, the Commission trained 2,055 officers drawn from 153 institutions across diverse sectors. The training that targeted complaints officers, senior managers and frontline officers focused on, *inter alia*, best practices in complaint management, principles of public administration, compliance with the Indicator on resolution of public complaints and ADR. In order to respond to emerging needs, the Commission reviewed its curriculum in line with Sixth edition guidelines.

Consequently, public institutions have become more responsive to public demands for quality service. This is further demonstrated by the high complaints resolution rate which stood at 91% during the period under review. Moreover, the trainings have contributed to the significant increase in the number of institutions certified since 2012. Figure 7 and Table 3 presents the number of institutions trained and certified respectively.

**Figure 7: Comparative analysis of compliance levels for the last five years**



**Table 3: Number of public institutions trained in 2016**

Number	Name of Institution	Number of Officers
1	Kenya Dairy Board	150
2	Kenya Ports Authority	78
3	Kenya Medical Supplies Authority	73
4	Kenya Institute of Highways and Building Technology	59
5	Kenya Tsetse and Trypanosomiasis Eradication Council	59
6	Anti-Counterfeit Agency	54
7	Kenya School of Government	56
8	County Government of Kisumu	83
9	County Government of Kitui	52
10	County Government of Kilifi	48



Number	Name of Institution	Number of Officers
11	Ministry of Transport and Infrastructure	44
12	Karatina University	44
13	South Nyanza Sugar Company Ltd	44
14	Micro and Small Enterprises Authority	43
15	Bomas of Kenya	40
16	County Government of Elgeyo Marakwet	39
17	ICT Authority	39
18	Kenya Animal Genetic Resources Centre	39
19	Insurance Regulatory Authority	38
20	Meru University of Science & Technology	36
21	Kenya National Library Services	33
22	Agricultural Finance Corporation	32
23	Ministry of Interior and Coordination of National Government	32
24	Pest Control Products Board	30
25	County Government of Mombasa	28
26	University of Kabianga	26
27	Ministry of Devolution and Planning	25
28	Postal Corporation of Kenya	25
29	Kenya Industrial Property Institute	23
30	Kenya Rural Roads Authority	23
31	Kenya Institute of Special Education	23
32	Kenya Film Commission	20
33	Ministry of Foreign Affairs & International Trade	19
34	Unclaimed Financial Assets Authority	18
35	Kenya Leather Development Council	17
36	Kenya Wildlife Service	17
37	Capital Markets Authority	16
38	Ministry of Environment, Water and Natural Resources	14
39	Ministry of East African Affairs, Commerce and Tourism	13
40	Kenyatta University	13
41	Kenya Forestry Research Institute	11
42	County Government of Kwale	16



Number	Name of Institution	Number of Officers
43	Kakamega County Public Service Board	10
44	Kenya National Highways Authority	9
45	National Oil Corporation of Kenya Ltd	4
46	Kenya Industrial Estates Limited	4
47	Nzoia Sugar Company Ltd	3
48	National Cereals and Produce Board	3
49	Agricultural Development Corporation	3
50	Kenya Broadcasting Corporation	3
51	Kenya Reinsurance Corporation	3
52	Kenya Power	3
53	Kenya Pipeline Company Ltd	3
54	Kenya Institute of Mass Communication	3
55	Kenya Education Management Institute	2
56	Competition Authority of Kenya	2
57	Kenya Electricity Generating Company	2
58	Kenya Institute for the Blind	2
59	Kenya Revenue Authority	2
60	Moi Teaching and Referral Hospital	2
61	National Housing Corporation	2
62	The Kenyatta International Convention Centre	2
63	Kenyatta National Hospital	2
64	Privatization Commission	2
65	National Social Security Fund	2
66	Kenya Agricultural and Livestock Organization	2
67	Kenya Literature Bureau	2
68	National Industrial Training Authority	2
69	University of Nairobi Enterprises and Services Ltd	2
70	Kenya Institute of Curriculum Development	2
71	Kenya Electricity Transmission Co. Ltd	2
72	National Aids Control Council	2
73	Higher Education Loans Board	2
74	Jomo Kenyatta Foundation	2

Number	Name of Institution	Number of Officers
75	National Commission for Science, Technology and Innovation	2
76	Tourism Finance Corporation	2
77	Industrial & Commercial Development Corporation	2
78	Centre for Mathematics, Science and Technology Education in Africa	2
79	Numerical Machining Complex Ltd	2
80	National Hospital Insurance Fund	2
81	Kenya National Trading Corporation Limited	2
82	Kenya Vision 2030 Secretariat	2
83	Local Authorities Provident Fund	2
84	The Sacco Societies Regulatory Authority	2
85	Kenya Medical Research Institute	2
86	Commission for University Education	2
87	National Biosafety Authority	2
88	Kenya Airports Authority	2
89	National Council for Persons with Disabilities	2
90	University of Eldoret	2
91	Public Procurement Regulatory Authority	2
92	Retirement Benefits Authority	2
93	Kenya National Examinations Council	2
94	Kenya Trade Network Agency	2
95	Machakos Technical Institute for the Blind	2
96	East African Portland Cement Co. Ltd	2
97	IDB Capital Limited	2
98	School Equipment Production Unit	2
99	Anti FGM Board	2
100	TVET Authority	2
101	Kenya Universities and Colleges Central Placement Services	2
102	Kitale Technical Training Institute	2
103	Rift Valley Technical Training Institute	2



Number	Name of Institution	Number of Officers
104	Kaiboi Technical Training Institute	2
105	Mathenge Technical Training Institute	2
106	Jeremiah Nyagah Technical Institute	2
107	Kisumu National Polytechnic	2
108	Masai Technical Training Institute	2
109	Mosoriot Teachers' College	2
110	Matili Technical Training Institute	2
111	Bumbe Technical Training Institute	2
112	Sigalagala Technical Training Institute	2
113	Keroka Technical Training Institute	2
114	Vocational Training Centre for the Blind and Deaf - Sikri	2
115	Shamberere Technical Training Institute	2
116	Shanzu Teachers' Training College	2
117	Baringo Technical College	2
118	Karen Technical Training Institute for the Deaf	2
119	Nyang'oma TTI	2
120	Ministry of Health	2
121	The National Treasury	2
122	Ministry of Education, Science and Technology	2
123	Ministry of Sports, Culture and the Arts	2
124	Ministry of Mining	2
125	Ministry of Lands and Physical Planning	2
126	Ministry of Labour, Social Security and Services	2
127	Office of the Attorney General	2
128	Chemelil Sugar Co. Ltd	1
129	Tana and Athi Rivers Development Authority	1
130	Rural Electrification Authority	1
131	Geothermal Development Company	1
132	Tanathi Water Services Board	1
133	Kenya National Assurance Company Ltd	1
134	Kenya Safari Lodges & Hotels	1



Number	Name of Institution	Number of Officers
135	Ewaso Ng'iro North Development Authority	1
136	Brand Kenya Board	1
137	Kerio Valley Development Authority	1
138	Kenya Postbank	1
139	Coast Water Services Board	1
140	National Authority for the Campaign against Alcohol and Drug Abuse	1
141	Policy Holders Compensation Fund	1
142	National Construction Authority	1
143	Media Council of Kenya	1
144	Council of Legal Education	1
145	Child Welfare Society of Kenya	1
146	Education Standards and Quality Assurance Council	1
147	Oi'lessos Technical Training Institute	1
148	Machakos Teachers' College	1
149	Emining Technical Training Institute	1
150	Migori Teachers Training College	1
151	Ministry of Information, Communication and Technology	1
152	Energy Regulatory Commission	1
153	Other Public Officers	241
<b>Total Officers Trained</b>		<b>2055</b>

## 3.2. RESOLUTION OF PUBLIC COMPLAINTS INDICATOR

The Indicator 'Resolution of Public Complaints', introduced in the Performance Contracting framework during the financial year 2009/10, is central to improvement of public service delivery. Under the Indicator, public institutions are obligated to establish mechanisms of addressing public complaints and reporting to the Commission on quarterly basis. To ensure compliance the Commission carries out assessments and certifies public institutions based on set criteria.

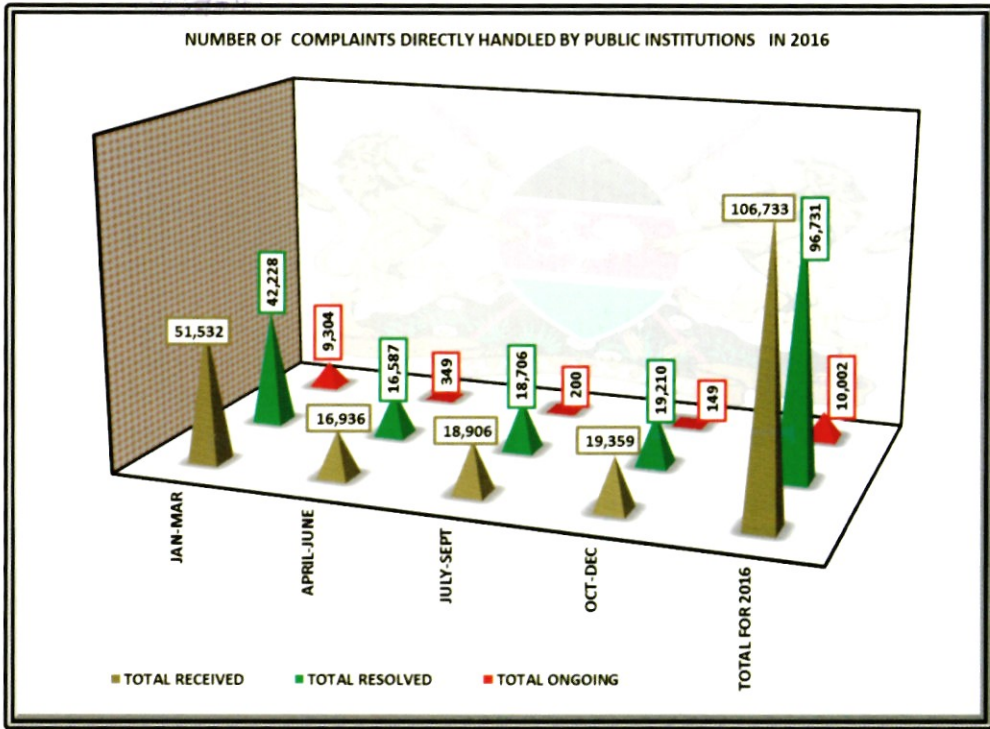
During the period under review, the Commission developed sixth edition guidelines for implementing the Indicator in line with the National Government Performance Contracting Guidelines, and other relevant policies and laws.

The Guidelines require public institutions to:

- i. establish complaints handling and management infrastructure,
- ii. develop complaints handling policy and procedures,
- iii. maintain complaint registers,
- iv. develop and maintain citizen service delivery charters,
- v. build capacity for complaints handling officers and staff,
- vi. create awareness on complaints handling systems and citizen service delivery charters,
- vii. resolve and report on quarterly basis to the Commission on complaints handled and action taken,
- viii. Indicate channels of receiving complaints from members of the public.

During the period under review, institutions reported handling 106,733 complaints out of which 96,731 - representing 91% - were resolved.

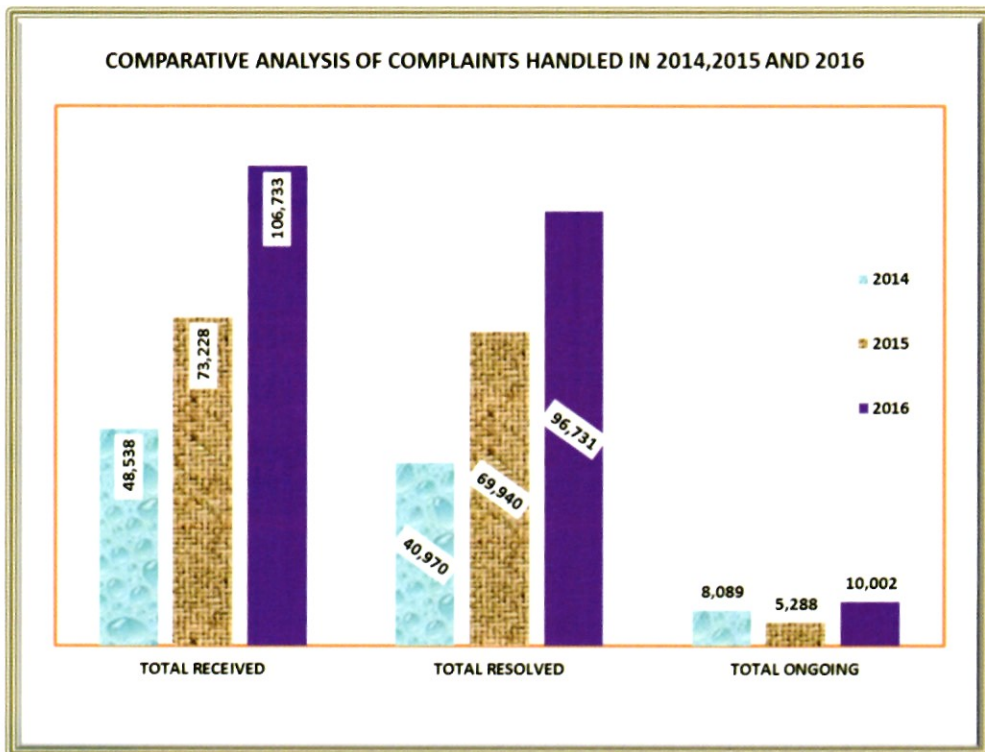
**Figure 8: Analysis of complaints handled by public institutions in 2016**



Comparatively, public institutions handled more complaints in 2016 than the previous two years. This is attributable to the support the Commission has provided to public institutions in setting up and strengthening complaint handling mechanisms. Figure 9 presents the comparative analysis of complaints handled in 2014, 2015 and 2016.



Figure 9: Comparative analysis of complaints handled in 2014, 2015 and 2016



It is worthwhile to note that public institutions are increasingly appreciating the contribution of the Commission to good governance through its training programme as evidenced in Figure 10

Figure 10: Sample Letter of Appreciation



## KITALE TECHNICAL TRAINING INSTITUTE

P.O. BOX 2162 Kitale, Tel: 020 2380086

Email: [kitaletechnical@gmail.com](mailto:kitaletechnical@gmail.com), Web: [www.kitalepolytechnic.ac.ke](http://www.kitalepolytechnic.ac.ke)

Our Ref: KTTI/ADM/GF/I&V/VOL 1/61

Date: 10/02/2016

THE SECRETARY  
COMMISSION ON ADMINISTRATIVE JUSTICE  
OFFICE OF THE OMBUDSMAN  
P. O. BOX 20414 – 00200  
NAIROBI

Dear Sir,

### RE: COMMENDATION AND APPRECIATION

This is to inform you that I attended the two day training organized by your esteemed organization on 27<sup>th</sup> and 28<sup>th</sup> January 2016 at Heron Portico Hotel Nairobi.

On behalf of all participants I would like to inform you that the 2 ladies who were the main presenters did a marvelous job. They exhibited a very high degree of mastery of the various topics and their presentation was great.

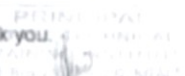
Their responses to various issues raised during the presentations were precise

They were warm and friendly and this created a very conducive atmosphere for presentation and active participation.

As a teacher, I know most presenters are never confident when training teachers but your 2 ladies handled us very well and we felt you have a great team.

Kindly let Wanjiru Kibaki and Ivory Ndekei know that we enjoyed their presentations and we learnt a lot and they should keep up the good work they are doing.

May god bless your organization as you continue serving this great Nation of Kenya.

Thank you.  
  
MR. JOHN M. NDUNYU  
PRINCIPAL

CC Chairman BOG KTTI

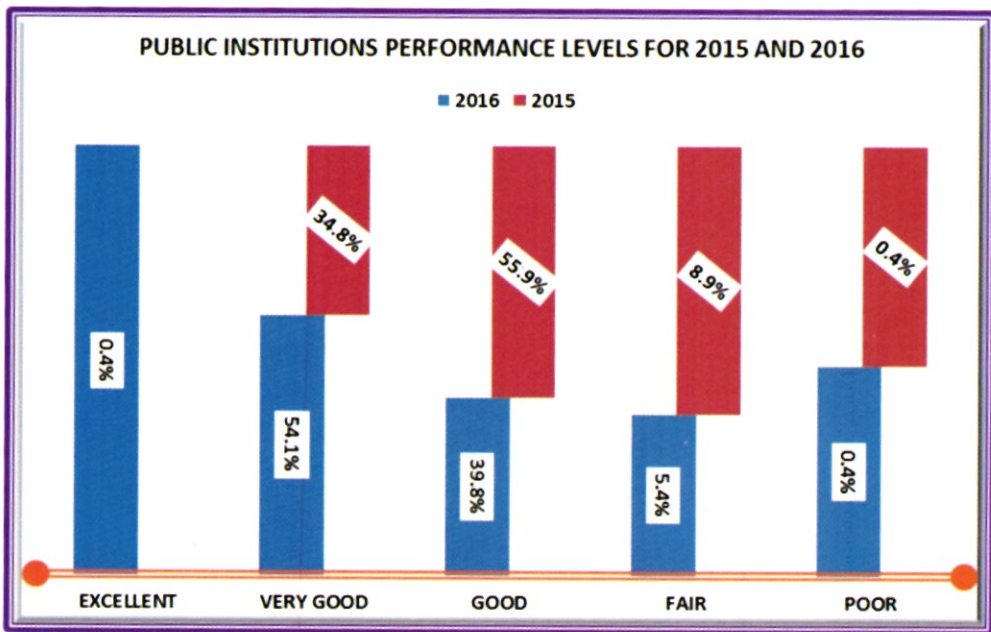
*All correspondence must be addressed to the Principal*

ISO 9001:2008 CERTIFIED INSTITUTION

### 3.2.1. ASSESSMENT OF THE INDICATOR

The Commission received and assessed quarterly reports on complaints handling from public institutions during the reporting period. A total 305 public institutions are under the purview of the Indicator. Out of these, 267 were fully compliant, having satisfied the requirements of the guidelines, while 38 were not. Figure 11 presents the performance of the institutions for the last two years.

Figure 11: Institutions performance scores in 2016



### 3.2.2. PROVISION OF TECHNICAL SUPPORT

As the overseer of service delivery in the public sector, the Commission continues to support public institutions in the development and implementation of the citizen service charters and establishment of complaints handling mechanisms. In relation to service charters, the Commission ensures that public institutions express commitments to service standards and adherence to the same and protect the rights of customers. In addition, the Commission required public institutions to develop a complaints policy.



### 3.3. COUNTY GOVERNMENT ENGAGEMENT

Under the devolved system of government, public service delivery has been taken closer to the people. In this regard, the role played by oversight institutions among them the Commission is more critical now than ever before. The Commission with the support of GIZ trained public officers from various departments in the counties of Mombasa, Kisumu, Kwale and Elgeyo Marakwet. The trainings were preceded by rapid assessments to audit the complaints and feedback mechanisms of the County Governments.

The objectives of the trainings were to:

- i. Create awareness on the legal framework and constitutional requirements for dealing with complaints and ensure County Governments offer efficient and effective services to the citizens;
- ii. Build the capacity of officers on public administration principles and effective complaints handling management;
- iii. Transfer appropriate skills to public officers on effective public complaints management, development of service delivery charters and standards;
- iv. Assist the county governments in setting up complaints handling infrastructure and train them on how to integrate it within the various county departments; and
- v. Support the counties in transforming customer service and professionalism through sharing of best practices.



### 3.4. AUDIT OF SERVICE DELIVERY STANDARDS

In executing its oversight role, the Commission conducts periodic audits and verification to ascertain adherence to service delivery standards. This is carried out through spot checks which cover processes, systems and procedures involved in service delivery. Specifically, the audits focus on the following main areas:

- i. Institutional set-up including accessibility and signage;
- ii. Service quality standards;
- iii. Establishment of complaints-handling and management infrastructure;
- iv. Customer perception of services offered;
- v. Resolution of complaints received and reported to the Commission; and
- vi. Other general observations.

During the period under review the Commission conducted spot checks on 33 public institutions selected based on the following broad aspects: number of people seeking services from the institution; number of complaints received on a quarterly basis; complaints received directly by the Commission; and quarterly reports with nil returns.



## CHAPTER FOUR

### 4.0 COMMUNICATION, PUBLIC EDUCATION AND ADVOCACY

The Commission undertook various initiatives geared towards sharing information and building capacities with various publics. This is in line with its strategic objectives aimed at addressing relatively low public awareness on matters of administrative justice. The Commission's advocacy and communication strategy is also aimed at providing a plan for influencing change in policy and practice and/or promoting policy implementation. Some of the outreach activities undertaken include the following:

#### 4.1 COUNTY VISITS AND HUDUMA MASHINANI

The county visits programme is designed to enable the Commission reach communities where the Ombudsman has no physical presence, and to increase the service delivery points. Specifically, the programmes aim at creating awareness on its mandate, forging linkages with various stakeholders; and enhancing accessibility by affording the public opportunities to lodge complaints and access advisory services at their localities. Towards this end, the Commission conducted outreach in two counties, namely; Bungoma and Nandi.

Similarly, the Commission employed existing structures to advance the administrative justice agenda through a concept known as *Huduma Mashinani* (service at the grassroots). Specifically, the Commission enlisted the support of opinion leaders to reach out to residents of informal settlements in Nairobi. The initiative which was in operation in four areas (Mukuru kwa Njenga, Mathare, Kiambiu and Korogocho) in 2015 was extended to cover Kangemi, Mukuru Kwa Reuben, Kibera and Kawangware in 2016. Through this platform, the Commission held awareness forums and provided advisory services in five Churches and Mosques where about 3,000 people were reached. Further, the Commission carried out awareness activities through its branch offices. The counties covered include Kisumu, Kakamega, Vihiga, Bungoma, Mombasa, Kwale, Tana River and Kilifi. Through these engagements, the Commission established important relationships with key stakeholders. The Commission, for instance, established a working relationship with Kodiaga Main GK Prison that has enabled in-mates to file complaints with the Commission



## 4.2 MEDIA ENGAGEMENT

The Commission used conventional and new media to drive its agenda. The Commission, for instance, shared its key advisories and determinations in print, electronic as well as social media, thereby informing public discourse and giving the public opportunities to engage on issues of national importance with regard to good governance.

The interactive nature of social media continues to enable citizens to demand accountability and efficiency in service delivery. Many Kenyans have made inquiries and reported cases through the Commission's Facebook page "Ombudsman Kenya", and Twitter handle "@Kenyasombudsman". As such, social media has made the Commission more accessible with the audience size on Twitter growing from 3,500 to 6,780; and from 3,700 to 5,067 on Facebook in 12 months. Within the same period, interaction rate increased by 40%, an indication that social media continues to be a vibrant platform for engaging the public.

## 4.3. AGRICULTURAL SOCIETY OF KENYA EXHIBITIONS

During the year under review, the Commission participated in the Kitale National Show, Kisumu Regional Show and the Mombasa International Show. The aim of the participation was to create awareness on the Commission's mandate and provide a platform for public to lodge complaints. During the exhibitions, the Commission reached about 5,600 people.

## 4.4. IEC MATERIALS

The Commission produced and distributed various IEC materials on diverse thematic areas to augment awareness creation efforts. Notably, the Commission produced and distributed illustrated posters on fair administrative justice to public offices for display in open/public areas. Also significant is the transcription of the institutional brochure and ADR Manual in Braille to cater for the visually impaired. The materials were distributed to the target groups.

## CHAPTER FIVE

### 1.0. PROMOTION OF GOOD GOVERNANCE IN THE PUBLIC SECTOR

#### 5.1. INTRODUCTION

The Commission, like other constitutional commissions, is mandated under Article 249 of the Constitution to safeguard public interest by protecting the sovereignty of the people, securing the observance of democratic values and principles and promoting constitutionalism. Further, Articles 59(2)(h-k) and 252 of the Constitution, and section 8 of the CAJ Act empower the Commission to promote good governance in public administration. The Commission, therefore, plays an important role that complements the checks and balances under the conventional three arms of government. This section details the strategies employed by the Commission in promoting good governance.

#### 5.2. ADVISORY OPINIONS ON PUBLIC ADMINISTRATION

The Commission issued five advisory opinions to public institutions on various issues of public importance.

##### 5.2.1. Advisory Opinion on Succession Planning in State and Public Offices

The Commission issued an advisory opinion on succession planning in the public sector in Kenya. Specifically, the advisory focused on succession in the judiciary and the Independent Electoral and Boundaries Commission (IEBC). This was occasioned by the uncertainty on the retirement age of judges and the possible expiry of the term of service of IEBC commissioners before the conclusion of the 2017 general elections. The Commission noted the following:

- i. There was a possibility of a dysfunctional Supreme Court to preside over any presidential election petition after the elections due to lack of quorum since three of its members, including the Chief Justice and his Deputy, were likely to have retired;



- ii. The likelihood of vacancies in the offices of Chief Justice and the Deputy Chief Justice would create a constitutional crisis in the context of administration of the oath of office to the president-elect;
- iii. The amendment to the Judicial Service Act which required the Judicial Service Commission to recommend to the President names of three candidates each for the position of Chief Justice or Deputy Chief Justice violated Articles 166(1) and 259(1)(a) of the Constitution which required only one name to be forwarded to the President.

While appreciating the important role played by the judiciary and IEBC in promoting good governance in the context of the 2017 electoral process, the Commission noted that lack of effective succession planning in these State Offices could create an administrative vacuum leading to constitutional crises. Having examined the law and the prevailing circumstances, the Commission recommended that:

- i. In the context of the Judiciary, there was need for the Judicial Service Commission to immediately commence the appointment process of the new Chief Justice to avert a constitutional crisis that may arise.
- ii. In the interest of the country, and for the greater public good, IEBC commissioners should voluntarily leave office with their full benefits to enable appointment of their successors in good time to prepare for the 2017 general elections.
- iii. The determination of the court cases on the retirement age of Judges be fast tracked and the decision of the Court of Appeal be accepted as final to avoid conflict of interest since the litigants were members of the Supreme Court.

### **5.2.2. An Advisory Opinion on the National Treasury Circular No. 13/2016**

The Commission issued an advisory opinion to the Cabinet Secretary for the National Treasury on Circular No. 13/2016 regarding the implementation of the budget for 2016/2017 Financial Year. While appreciating the role of the National Treasury in public financial management, the Commission noted that the manner in which the Circular was issued and implemented undermined public administration



in the following ways:

- i. It contravened the Constitution and the Public Finance Management Act, 2012 insofar as the National Treasury usurped the role of Parliament through review of the budget estimates immediately after parliamentary approval.
- ii. The National Treasury had unilaterally effected the Circular by withholding part of the allocations for government ministries and departments for the Financial Year even before implementation of the budget.
- iii. The Circular undermined the functioning of government ministries, departments and independent agencies.

On the basis of the foregoing and the need for good public administration, the Commission advised, *inter alia*, that:

- i. The National Treasury withdraws the offending part of Circular No. 13/2016, and disburses the total allocations; and
- ii. The National Treasury seeks parliamentary approval in instances where such adjustments are necessary.

### **5.2.3. Advisory Opinion on the County Government (Amendment) Bill, No. 21 of 2015**

The Commission issued an advisory opinion to the Senate on the County Government (Amendment) Bill, 2015 which proposed to amend the principal Act by conferring the power to appoint the sub-county, ward and village administrators to incoming county government after every elections. The Commission examined the Bill and noted, *inter alia*, that:

- i. The proposal would abrogate the rights of the holders of those offices under Articles 41 and 47 of the Constitution on fair labour practices and the right to fair administrative action respectively;
- ii. The proposal contravened Article 236(b) which provides for protection of public officers from arbitrary removal from office; and
- iii. The proposal failed to consider the cost implications of the Bill in terms of litigation and compensation if enacted into law.

### 5.3. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION METHODS

Pursuant to its mandate, the Commission employed ADR in the resolution of a number of complaints. Some of the ADR processes undertaken were referred by the courts while in others, the parties approached the Commission.

In this respect, the Commission mediated a dispute regarding allocation of Kishamba Ranch in Taita Taveta. Additionally, the Commission mediated the Ntulele Group Ranch and the Lake Turkana Wind Power Project disputes following court referrals [*Nairobi High Court Miscellaneous Application No. 690 of 1997, Lepapa Ole Kisotu v Ntulele Group Ranch & 2 Others*; and *Meru ELC No. 163 of 2014 (Formerly Nairobi ELC No. 1330 of 2014)*; *Mohammed Iltarakwa Kochale & 5 Others v Lake Turkana Wind Power Limited & 4 Others*].

### 5.4. PUBLIC INTEREST LITIGATION

The Commission participated in a number of matters of national importance before the courts. Notably, the Commission participated in the *Commission on Administrative Justice v John Ndirangu Kariuki & Independent Electoral and Boundaries Commission [2016] eKLR*. On this case, the Commission sought a determination on the eligibility of Hon. John Ndirangu Kariuki to serve as a member of parliament in light of his past conviction on two counts of abuse of office (in *Anti-Corruption Court in Nairobi in Criminal Case No. 25 of 2002, Republic versus John Ndirangu Kariuki & Another*) and having served the sentence. In particular, the Commission sought the following main orders:

- i. a declaration that Hon. Ndirangu was not qualified to vie for the position of member of parliament for Embakasi Central Constituency under Article 99(2)(h) of the Constitution and Section 24(2)(h) of the Elections Act;
- ii. a declaration that IEBC acted in dereliction of its constitutional and statutory duty in failing to find that Hon. Ndirangu was not qualified to stand for election to the said position; and
- iii. a declaration of a vacancy in the office of member of parliament for Embakasi Central Constituency by virtue of Article 103(1)(g) of the Constitution.

The court held that:

- i. since Hon. Ndirangu had applied for leave in the Court of Appeal to appeal out of time, he had not exhausted all the possibilities of appeal against his conviction and sentence as per Article 99(3) of the Constitution.
- ii. the qualification requirement for a member of parliament under the Constitution applies retrospectively.
- iii. IEBC abdicated its responsibilities by failing to determine whether Hon. Ndirangu was eligible to seek an elective post.

The matter is still in court following an appeal by IEBC.

Other court matters in which the Commission participated during the reporting period included *Nairobi Judicial Review Application No. 409 of 2016, Karisa Iha v the Commission on Administrative Justice*; *Nairobi Judicial Review No. 436 of 2016, Isaac Nyoike v the Commission on Administrative Justice*; *Nairobi Civil Appeal No.129 of 2015, Prof. Paul Musili Wambua v Attorney-General & Others*; *Nairobi Judicial Review Miscellaneous Application No. 514 of 2016, Farah Mohamed Barrow & Another v the Commission on Administrative Justice*; and *Nairobi Miscellaneous Civil Application No. 517 of 2016, Yusuf Mahamed Fazul v the Commission on Administrative Justice*.



## CHAPTER SIX

### 6.0. PARTNERSHIPS AND LINKAGES

In order to enhance its capacity and expand its network base, the Commission cultivated partnerships with local and international institutions to promote administrative justice and good governance. In this respect, the Commission participated in a number of strategic conferences, workshops, seminars and meetings.

### 6.1. NATIONAL ENGAGEMENTS

#### 6.1.1. National Council on the Administration of Justice

The Commission continued to actively participate in the activities of the National Council on the Administration of Justice (NCAJ). This is a multi-agency co-operation platform established under the Judicial Service Act with the responsibility of overseeing and promoting sector-wide partnership through formulation of policies relating to the administration of justice, and mobilising resources for efficient administration of justice. During the reporting period, the Commission participated in the quarterly meetings of NCAJ, and the development of a framework for collaboration with the Council of Governors in the context of devolution.

#### 6.1.2. Policy and Legislative Development

As a player in the promotion of constitutionalism, the Commission provided input to key legislative bills, such as the Access to Information Bill, the Election Laws (Amendment) Bill and the Legal Aid Bill, all of which were subsequently enacted into law.

In addition, the Commission participated in various task forces which included the Task Force on Streamlining of Tribunals which submitted a report and draft Tribunals Bill to the Attorney-General for consideration. Similarly, the Commission participated in the activities of the Task Force on the Review of the Legal, Policy and Institutional Framework for Fighting Corruption which made proposals for strengthening of the anti-corruption framework. During the reporting period, the Task Force developed draft amendments to various anti-corruption laws [the Anti-Corruption Laws (Amendment) Bill, 2016] which were submitted to the

Attorney-General for consideration. The Task Force also examined the Data Protection Bill, 2016 and the Whistleblower Protection Bill, 2016.

The Commission also participated in the Special Committee on the Implementation of the Supreme Court Advisory Opinion (*Advisory Opinion Reference No. 2 of 2014*) on the Respective Roles of the National Land Commission and the Ministry of Land, Housing and Urban Development. The Committee examined the Advisory Opinion and the law, and submitted its report to the National Land Commission and the Ministry.

### **6.1.3. Shaping the Governance and Public Administration Agenda**

The Commission participated in a number of trainings and workshops, and made contributions in the subjects of governance and public administration that involved the following groups:

#### **1. Universities**

- i. A lecture at the University of Nairobi's School of Law on 3rd March 2016 on the import of the Advisory Opinion of the Supreme Court (*Advisory Reference No. 2 of 2014*) on the division of functions between the National Land Commission, and the Ministry of Land, Housing and Urban Development.
- ii. A lecture at Kabarak University on 29th June 2016 titled 'the role of the Commission on Administrative Justice in eliminating impunity in Kenya'.
- iii. A presentation at the Third Annual Youth Summit on empowering the youth on civil rights through education, advocacy and leadership held at the University of Nairobi on 25th October 2016.

#### **2. Public Agencies**

- i. Participation in the National Cohesion and Integration Commission Peace Forum focusing on the role of various groups in peace building and conflict management, and their contribution to peaceful elections.
- ii. Participation in the National Council on the Administration of Justice and the Council of Governors Conference from 11th to 12th March 2016.



- iii. Participation in the Fourth National and County Governments Co-ordinating Summit at the Sagana State Lodge from 10th to 11th February 2016.
- iv. A presentation during the training of county administrators on the roles of oversight institutions and independent offices on the theme 'enhancing justice through alternative dispute resolution' held on 12th May 2016.
- v. A presentation at the Kenya Police Staff College in Nairobi on the topic 'the Role of the Commission on Administrative Justice in National Cohesion' held on 29th August 2016.
- vi. Participation in the development of Public Service Commission Service Charter from 23rd to 26th November 2016.

### **3. Private Sector and Civil Society**

- i. Participation in the consultative forum on the development of access to information law at the Serena Hotel in Nairobi on 1st February 2016.
- ii. Presentation at the 2016 Law Society of Kenya Annual Conference on the theme 'Corporate Governance, Corruption and Failing Institutions' held at the Leisure Lodge and Golf Resort from 17th to 21st August 2016.
- iii. Presentation on the 'Ombudsman Perspective on the Right to Fair Administrative Action' from 21st to 22nd March 2016.

### **6.1.4. Strategic Meetings**

The Commission attended strategic meetings with various stakeholders to discuss salient issues, including ways of collaboration. Notably, the Commission held meetings with the County Secretary of the Nairobi City County Government, the Committee on Equal Opportunity from Nandi County Government, the Western Regional Co-ordinator for the National Registration Bureau, Kisumu District Land Registrar, Kisumu County Police Commander, and Officer-in-Charge of Kodiaga Main GK Prison. Other important meetings include engagement with development partners such as the United Nations Development Programme, the UN Resident Representative in Kenya, the Ambassador of the Federal Republic of Germany, and the Ambassador of Finland.



## 6.2. INTERNATIONAL ENGAGEMENTS

### 6.2.1. Partnerships with Ombudsman Institutions

The Commission nurtured partnerships with other ombudsman institutions for purposes of experience sharing and technical assistance. This was further enhanced by the role of the Chairperson as the Secretary General of the African Ombudsman and Mediators Association. To this end, the Commission visited the Ombudsman of Rwanda for a study on their experience in enforcing access to information law.

### 6.2.2. The International Ombudsman Institute

The Commission strengthened its participation in the activities of the International Ombudsman Institute (IOI), which included information sharing on ombudsmanship. Notably, the Commission participated in the 11<sup>th</sup> IOI World Conference in Bangkok, Thailand in November 2016. Additionally, IOI supported the Commission in publishing a report of the second Regional Colloquium of African Ombudsman Institutions.

### 6.2.3. The African Ombudsman and Mediators Association

The Commission enhanced its participation in the activities of the African Ombudsman and Mediators Association (AOMA) in 2016. In particular, being the Secretariat of AOMA, the Commission co-ordinated activities of the Association and organised the following activities:

- i. The 10th, 11th and 12th AOMA Executive Committee meetings in Zambia, Namibia and South Africa.
- ii. The Fifth General Assembly of AOMA in Durban, South Africa from 31st October to 5th November 2016 in collaboration with the African Ombudsman Research Centre (AORC).
- iii. Conferences in Angola, Burundi and Tanzania on topical matters of governance in Africa.
- iv. The 14th AORC Board meeting on 6th July 2016 following the co-option of AOMA Secretary-General in the Board.

#### **6.2.4. Participation in International Conferences, Seminars and Meetings**

The Commission participated in the following international conferences, seminars and meetings:

- i. The Eleventh IOI World Conference on the theme 'Evolution of Ombudsmanship' held in Bangkok, Thailand from 14th to 19th November 2016.
- ii. The Biennial Conference on the theme 'The Role of Ombudsmen/Mediators and Religious Confessions in the Prevention of Identity and Religious Conflicts' held in Bujumbura, Burundi on 27th September 2016.

## CHAPTER SEVEN

### 7.0. FINANCE AND ADMINISTRATION

In the period under review, the Commission focused on strengthening its capacity in the following areas: - human capital, management of financial resources, and application of information communication and technology (ICT) and physical infrastructure to enhance efficiency in service delivery.

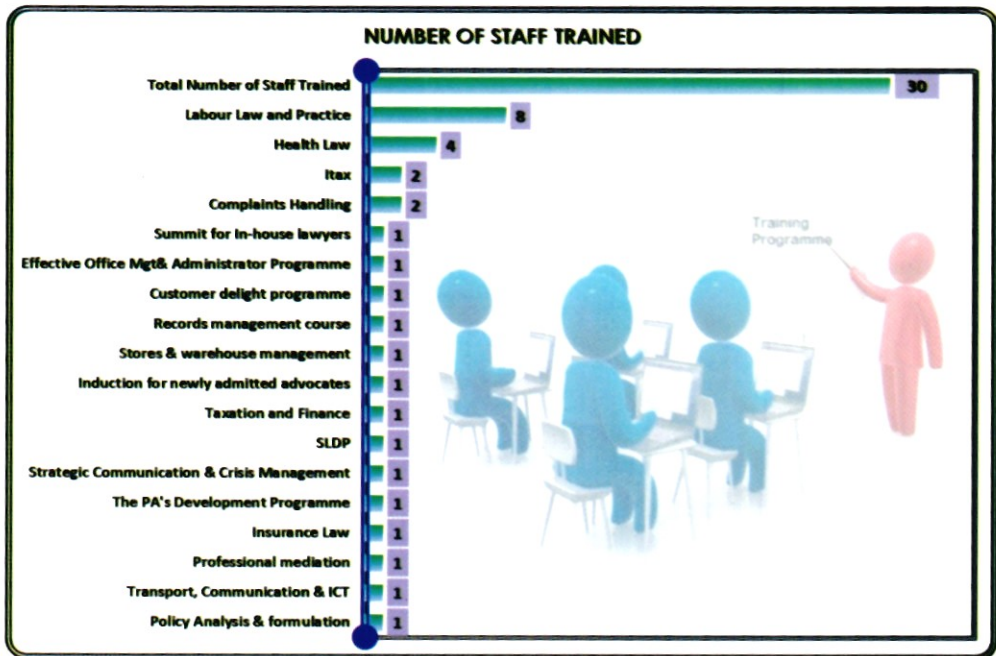
### 7.1. HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT

The Commission has 72 employees representing **21.4%** of the approved establishment of 336. Consequently, staff continue to work under strenuous conditions to meet the demands of the ever increasing work load. The situation was compounded by the new mandate granted to the Commission under the access to information law. In order to address this problem, it is imperative for the Commission to be exempted from the current freeze on employment in the public service, and adequate resources allocated to facilitate recruitment of additional staff.

The Commission is committed to talent management and skills development to ensure that its employees are well prepared to handle new challenges that call for innovation and creativity. To this end, the Commission sponsored 30 officers to undertake various courses as shown Figure 12.



Figure 12: Number of staff trained in 2016



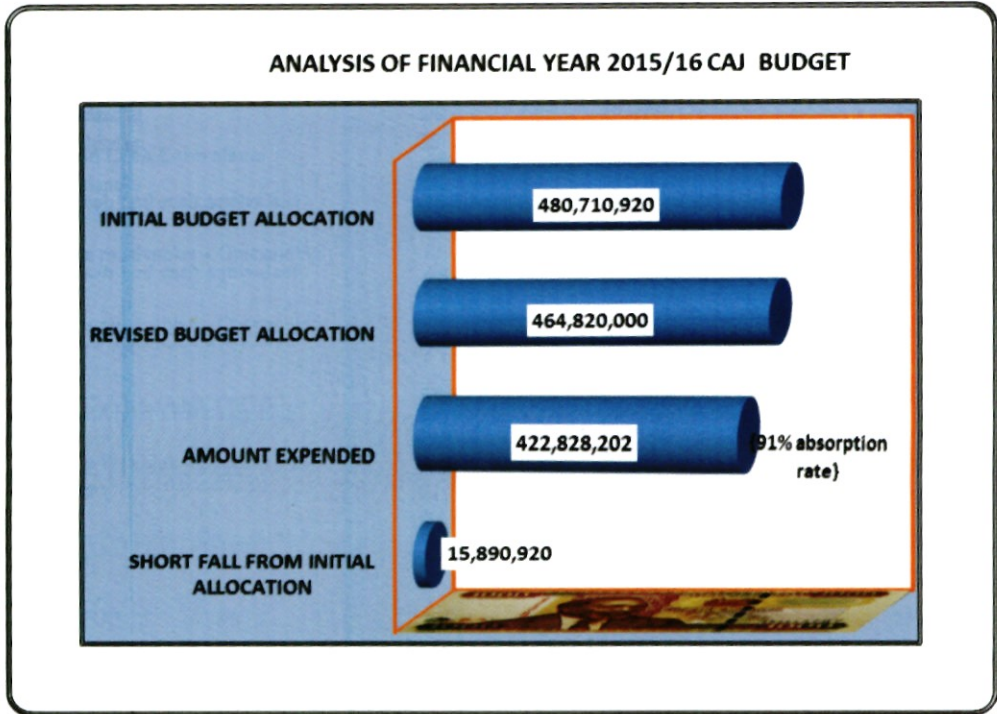
## 7.2. FINANCIAL MANAGEMENT

The Commission is mainly funded through the Exchequer, in accordance with Article 249 (3) of the Constitution. It is also capable of mobilising funds from other sources, as provided for in the section 45 (c) of the CAJ Act, 2011. The commission was allocated **KES 480,710,920** at the beginning of the Financial year 2015/16. This amount was, however, revised downwards in the supplementary estimates by **KES 15,890,920** bringing the figure to **KES 464,820,000**. This represents a **3.3%** reduction.

The reduced allocation curtailed the Commission from implementing some of the planned activities, key among them outreach and advocacy as well as decentralisation of Ombudsman Services. The reduced resource outlay was aggravated further by the shrinking development partners' support, as the programmes funded by various partners among them United Nations Development Programme (UNDP), GIZ and FORD Foundation came to an end upon expiry of the partnership agreements. It is worthwhile to note that formulation of the new project designs is yet to be finalised.

Out of the allocated funds from GoK, the Commission expended **KES 422,828,202** which represents to **91%** absorption rate.

**Figure 13: CAJ Budget analysis financial year 2015/16**



### 7.3. PROCUREMENT OF GOODS, SERVICES AND WORKS

The Commission fostered transparency, accountability and prudent utilisation of funds by complying with government e-procurement, and the relevant policies and laws. In this respect, the Commission complied by submitting all the statutory reports - including Access to Government Procurement Opportunities (AGPO) - to the relevant government agencies.

## 7.4. LEVERAGING ON ICT

The Commission appreciates the importance of ICT in enhancing efficiency in its operations. To this end it, acquired an Integrated Complaints Management System, which will facilitate: -

- I. Handling of complaints in real-time;
- II. Lodging of complaints electronically thereby enhancing convenience of the complainant;
- III. Complainants to track progress of their complaints electronically;
- IV. Providing feedback to complainants promptly through the SMS; and
- V. Reporting on complaints handling Indicator by the MDAs in line with performance contracting requirements.

In order to enhance efficiency in its branch offices, the Commission installed a Local Area Network in its Kisumu and Mombasa Offices. The Commission also acquired modern ICT equipment thereby enhancing productivity and efficiency. Despite these milestones, the Commission requires new servers and other ICT equipment to effectively integrate the complaint handling system.



## CHAPTER EIGHT

### 8.0. CHALLENGES AND WAY FORWARD

Despite the successes highlighted in the report, the Commission experienced a number of challenges that impeded optimum realisation of its mandate.

#### 8.1. CHALLENGES

The main challenges are highlighted below: -

i. **Low budgetary ceiling**

The budgetary ceiling is not in tandem with the Commission's wide mandate which entails overseeing good governance and service delivery at both the national and county levels. This has overstretched human resource capacity and infrastructure, inhibited decentralisation of ombudsman services to counties and implementation of programmes. Although the Commission has been in existence for five years it is yet to be fully set up owing to the aforementioned.

ii. **IFMIS and e-Procurement**

Frequent downtime of IFMIS affected and delayed the procurement of goods and services which had a negative effect on the planned activities. This greatly contributed to the increasing number of pending bills. Further, the inability of suppliers to transact business on the e-procurement portal derailed acquisition of goods and services.

iii. **Pooling of Publicity and Awareness Budget to Government Advertising Agency (GAA)**

The Commission encountered challenges in planning and accessing the funds held by the GAA since the National Treasury did not indicate how much was earmarked for the Commission and other government agencies. This adversely affected the Commission's programmes on awareness creation on matters administrative justice.

iv. **Late disbursement of funds**

Delayed disbursement of funds affected implementation of planned activities and absorption rate.

v. **Unresponsiveness**

The high resolution rate notwithstanding, there are a number of institutions that still remain unresponsive to inquiries by the Commission. This has affected the turnaround time for resolution of complaints.

vi. **Litigation**

The increasing number of court cases against the Commission poses a challenge to the execution of its mandate.

## 8.2. WAY FORWARD

The Commission will continue to execute its mandate in its endeavour to promote good governance. Below are some of the strategic areas of focus for the coming year: -

- i. Review and development of a new strategic framework to guide the Commission through the next phase.
- ii. Operationalisation of the access to information law through development of regulations, and creation of awareness.
- iii. Enhancement of infrastructure and the human resource capacity.
- iv. Resource mobilisation through strengthening of linkages and partnerships.
- v. Capacity building and strengthening of linkages with MDAs to enhance good governance and increase responsiveness.

The audited accounts for the Commission are provided in Annex 1 of the report.



ANNEX 1: CAJ FINANCIAL STATEMENT

REPUBLIC OF KENYA



OFFICE OF THE AUDITOR-GENERAL

REPORT

OF

THE AUDITOR-GENERAL

ON

THE FINANCIAL STATEMENTS OF  
COMMISSION ON ADMINISTRATIVE  
JUSTICE

FOR THE YEAR ENDED  
30 JUNE 2016



Chair: Dr. Otiende Amollo, EBS  
V. Chair: Dr. Regina G. Mwachia, MBS  
Member: Cmmr. Saadia A. Mohamed, OGW, MBS

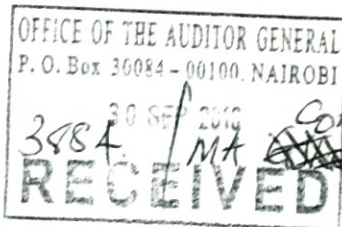


THE  
**COMMISSION ON ADMINISTRATIVE JUSTICE**  
"Office of the Ombudsman"

Our Ref: CAJ/FA/7/5

30<sup>th</sup> September, 2016

**Mr. Edward Ouko**  
The Auditor General  
Kenya National Audit Office  
Anniversary Towers  
P. O. Box 30084  
**NAIROBI**



Dear Sir,

**RE: FINANCIAL STATEMENTS FOR THE YEAR ENDED 30<sup>TH</sup> JUNE, 2016**

Receive warmest compliments from the Commission on Administrative Justice (Office of the Ombudsman).

In accordance with Section 4 of the Public Audit Act 2003 and Sections 81, 82 and 84 of the Public Finance Management Act 2012, I hereby forward the Financial Statements for the period ended 30<sup>th</sup> June, 2016 for audit.

We thank you for your continued support and assure you of our highest regards.

Yours Sincerely,

  
**LEONARD NG'ALUMA, MBS**  
**COMMISSION SECRETARY**

**Copy to:**

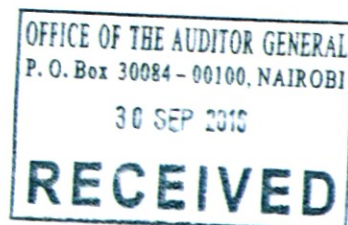
The Director General  
Accounting Services  
**National Treasury**

The Controller Budgets  
**Bima House**

**THE COMMISSION ON ADMINISTRATIVE JUSTICE**  
*"Office of The Ombudsman"*



*'Hata Mnyonge Ana Haki'*



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**THE COMMISSION ON ADMINISTRATIVE JUSTICE**

**REPORTS AND FINANCIAL STATEMENTS**

**FOR THE FINANCIAL YEAR ENDED**  
**JUNE 30, 2016**

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

**THE COMMISSION ON ADMINISTRATIVE JUSTICE**  
**Reports and Financial Statements**  
**For the year ended June 30, 2016**

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**THE COMMISSION ON ADMINISTRATIVE JUSTICE**  
**Reports and Financial Statements**  
**For the year ended June 30, 2016**

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**I. KEY ENTITY INFORMATION AND MANAGEMENT**

**MEMBERS OF THE COMMISSION**

NO.	NAME	POSITION
1.	Dr.Otiende Amollo	Chairperson
2.	Dr. Regina Mwatha	Vice Chairperson
3.	Saadia A. Mohamed	Commissioner
4.	Leonard S.Ngaluma	Commission Secretary

**SENIOR MANAGEMENT STAFF**

NO.	NAME	POSITION
1	Leonard S.Ngaluma	Commission secretary
2.	Daniel Karomo	Director, Finance, and Administration
3.	Yuvinalis Angima	Director, Legal and Advisory Services
4.	Ismail Maaruf	Director, Compliance and Risk
5.	Micah Nguli	Director, Research and Investigations
6.	Phoebe Nadupoi	Director, Advocacy and Communications
7.	Edward Okello	Special Advisor to the Chair
8.	Vincent Chahale	Senior Manager, Legal
9.	Daniel Ochung	Finance Manager
10.	Franklin Mutuma	Chief ICT Officer

(a) Background information

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

The Commission has a mandate, inter-alia, to investigate any conduct in state affairs or any act or omission in public administration in any sphere of Government and complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct. Further, the Commission has a quasi-judicial mandate to deal with maladministration through conciliation, mediation and negotiation where appropriate.

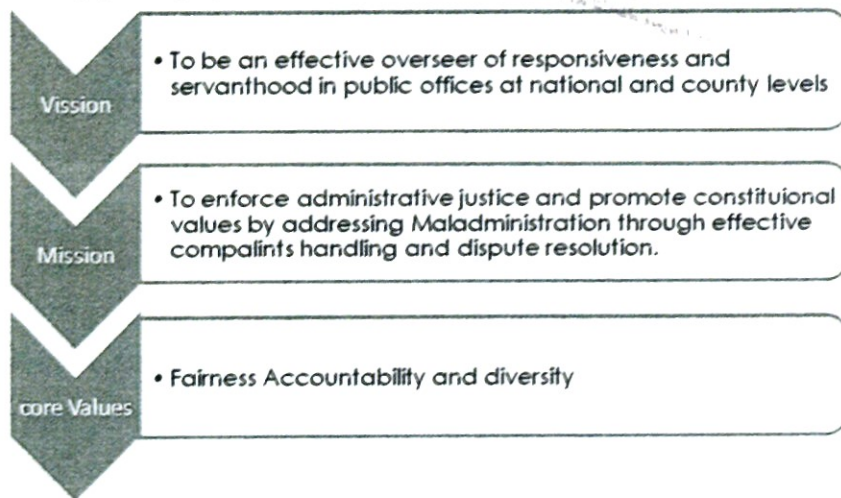
**THE COMMISSION ON ADMINISTRATIVE JUSTICE**  
**Reports and Financial Statements**  
**For the year ended June 30, 2016**

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In the conduct of its functions the Commission has powers to conduct investigations on its own initiative or on a complaint made by a member of the public, issue Summons and require that statements be given under oath, adjudicate on matters relating to Administrative Justice, obtain relevant information from any person or Governmental authorities and to compel production of such information.

**Mandate**

The mandate of the Commission is to enforce administrative justice in the public sector by addressing maladministration through effective complaints handling and alternative Disputes resolution. In addition, the Commission has a Constitutional mandate to safeguard public interest by promoting constitutionalism, securing the observance of Democratic values and principles, and protecting the sovereignty of the people of Kenya.



**Key Strategic Objectives**

1. To enhance responsiveness and effectiveness in the public sector in Kenya.
2. To strengthen the complaints handling capacity of public sector institutions.
3. To enhance public awareness and participation in matters of administrative Justice.
4. To improve standards of public administration and adherence to the rule of law.
5. To strengthen the capacity of CAJ to deliver on its mandate.

**THE COMMISSION ON ADMINISTRATIVE JUSTICE**  
**Reports and Financial Statements**  
**For the year ended June 30, 2016**

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Strategic Programmes

The Commission has been able to utilize the limited resources to implement several programs some of which are listed below

1. An outreach programme to create awareness on administrative justice and the Commission's mandate through county visits,
2. Public interest litigation programme on matters of administrative justice and the rule of law,
3. Integrated Public Complaints Referral Mechanism (IPCRM) which is an electronic based system for referring complaints among various institutions,
4. Initiated, promoted and coordinated collaboration among Constitutional Commissions and Independent Offices in Kenya,
5. Initiated collaborations with key players in the chain of administrative justice and in particular the Judiciary, Kenya Prisons Service and the Independent Policing Oversight Authority (IPOA),
6. Forged partnerships and linkages with foreign ombudsman offices in Finland, Rwanda, Ghana and Canada.

Key Strategic Priorities

1. Creating public service that is responsive, accountable, efficient and fair in service delivery
2. Enhance public sector capacity to handle complains
3. Equip and educate Kenyans on matters of administrative justice
4. Constitutionalism and good governance in the conduct of state/public affairs.
5. Strengthened capacity of CAJ to deliver its mandate.

(b) Fiduciary Management

The key management personnel who held office during the financial year ended 30th June 2016 and who had direct fiduciary responsibility were:

No.	Designation	Name
1.	Accounting Officer	Mr. Leonard S.Ngaluma, MBS
2.	Director, Finance & Administration	Mr. Daniel Karomo
3.	Finance Manager	Mr. Daniel Ochung



**THE COMMISSION ON ADMINISTRATIVE JUSTICE**  
**Reports and Financial Statements**  
**For the year ended June 30, 2016**

---

(c) Head Office

P.O. Box 20414-00200  
West End Towers  
2nd floor Waiyaki Way – Westlands.  
Nairobi, KENYA

Contacts

Telephone - +254 -20-2270000/2303000/2603765/2441211  
Email: [info@ombudsman.go.ke](mailto:info@ombudsman.go.ke)(for general enquiries)  
[Complains@ombusman.go.ke](mailto:Complains@ombusman.go.ke)(for complaints)  
Website: [www.ombudsman.go.ke](http://www.ombudsman.go.ke)

(d) Entity Bankers

Central Bank of Kenya  
Haile Selassie Avenue  
P.O. Box 60000  
City Square 00200  
Nairobi, Kenya

(e) Independent Auditors

Auditor General  
Kenya National Audit Office  
Anniversary Towers, University Way  
P.O. Box 30084  
GOP 00100  
Nairobi, Kenya

(f) Principal Legal Adviser

The Attorney General  
State Law Office  
Harambee Avenue  
P.O. Box 40112  
City Square 00200  
Nairobi, Kenya

**THE COMMISSION ON ADMINISTRATIVE JUSTICE**  
**Reports and Financial Statements**  
**For the year ended June 30, 2016**

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**II. FORWARD BY THE CHAIR**

I am pleased to present the Annual Report and Financial Statement for the Commission on Administrative Justice (Office of the Ombudsman) in accordance with Article 254 of the Constitution and Section 53 of the Commission on Administrative Justice Act, 2011. This is the Fifth Report issued under my stewardship as the Chairperson of the Commission. The Report is our accountability statement to the public on the progress made by the Commission in enforcing administrative justice and promoting constitutional values in respect of addressing maladministration.

As you are aware, the Commission is established under Article 59(4) of the Constitution and the Act to enforce administrative justice and promote constitutional values in the public sector by addressing maladministration through effective complaints handling and dispute resolution. In particular, the Commission is empowered to investigate any conduct in state affairs, or any act or omission in public administration in any sphere of government, as would be prejudicial, constitute improper conduct, or amount to abuse of power, unfair treatment, manifest injustice or unlawful, oppressive or unresponsive official conduct. Accordingly, the Commission undertakes administrative review in the event of maladministration such as delay, inefficiency, discourtesy, ineptitude or unresponsiveness, and provides redress. Moreover, the Commission issues Advisory Opinions on improvement of public administration, including review of legislation, codes of conduct, processes and procedures. Additionally, the Commission participates in strategic public interest litigation on matters of national importance before the court as a way of promoting public administration.

I am encouraged by the accomplishments of the Commission during the reporting period, occasioned by strategic and visionary leadership, institutional strengthening, decentralisation, innovation and strategic partnerships. The accomplishments were registered in all the functional areas of the Commission. Notably, the Commission handled 117,936 complaints and contacts which included 108,920 new matters. Similarly, complaints from branch offices increased from 1,067 in the previous reporting period to 2,379. The rate of resolution also improved from 82% in the period year to 86% in the reporting period.

Further milestones were achieved in key programmatic areas such as awareness creation, building complaints handling capacity in the public sector, promotion of constitutionalism, strategic partnerships and institutional development. In particular, the Commission enhanced its outreach activities to create awareness on administrative justice; trained 4,208 public officers from 212 public institutions; escalated inspections of service delivery by public institutions; enhanced its participation in public interest litigation and alternative dispute resolution methods; and reviewed guidelines on public complaints indicator to strengthen the complaints handling capacity of public institutions. Above all, the Commission continued to employ innovative ways to attaining its mandate mainly through the Huduma Ombudsman Awards for the most responsive and outstanding public institutions and officers; and Ombudsman Committees in informal settlements in Nairobi.

Discharging our mandate has not been without challenges; there were a number of institutional and operational challenges. Notably, the Commission experienced budgetary constraints, increased workload due to low staffing levels, impunity in the public sector, non-compliance with its recommendations and determinations, slow judicial process and adverse judicial decisions. Moving forward, the Commission has adopted a number of strategies to overcome the challenges and deepen

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its activities. In this regard, the Commission intends to enhance its capacity through leverage on technology and countrywide presence; diversify funding sources; lobby for strengthening of the legal framework; and partnerships with stakeholders in the governance process at the national and county levels. As always, we will remain faithful to our mandate and continue to challenge ourselves with high expectations and demanding goals in the execution of our mandate.



**DR. OTIENDE AMOLLO, EBS**  
**CHAIRPERSON OF THE COMMISSION**



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**III. STATEMENT OF ENTITY MANAGEMENT RESPONSIBILITIES**

Section 81 (1) of the Public Finance Management Act, 2013 requires that, at the end of each financial year, the accounting officer for a National Government Entity shall prepare financial statements in respect of that entity. Section 81 (3) requires the financial statements so prepared to be in a form that complies with relevant accounting standards as prescribed by the Public Sector Accounting Standards Board of Kenya from time to time.

The Accounting Officer in charge of The Commission on Administrative Justice is responsible for the preparation and presentation of the Commission's financial statements, which give a true and fair view of the state of affairs of the Commission for and as at the end of the financial year 2015/2016 ended on June 30, 2016. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the entity; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Commission; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Accounting Officer in charge of The Commission on Administrative Justice accepts responsibility for the Commission's financial statements, which have been prepared on the Cash Basis Method of Financial Reporting, using appropriate accounting policies in accordance with International Public Sector Accounting Standards (IPSAS). The Accounting Officer is of the opinion that the Commission's financial statements give a true and fair view of the state of Commission's transactions during the financial year ended June 30, 2016, and of the Commission's financial position as at that date. The Accounting Officer in charge of The Commission on Administrative Justice further confirms the completeness of the accounting records maintained for the Commission, which have been relied upon in the preparation of the Commission's financial statements as well as the adequacy of the systems of internal financial control.


The Accounting Officer in charge of The Commission on Administrative Justice confirms that the entity has complied fully with applicable Government Regulations and the terms of external financing covenants (where applicable), and that the entity's funds received during the year under audit were used for the eligible purposes for which they were intended and were properly accounted for. Further the Accounting Officer confirms that the Commission's financial statements have been prepared in a form that complies with relevant accounting standards prescribed by the Public Sector Accounting Standards Board of Kenya.

**Approval of the financial statements**

The Commission's financial statements were approved and signed by the Accounting Officer on

30/09/2016.

  
\_\_\_\_\_  
Commission Secretary

  
\_\_\_\_\_  
Director, Finance & Administration



# REPUBLIC OF KENYA

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Fax: +254-20-311482  
E-mail: oag@oagkenya.go.ke  
Website: www.kenao.go.ke



P.O. Box 30084-00100  
NAIROBI

## OFFICE OF THE AUDITOR-GENERAL

### REPORT OF THE AUDITOR-GENERAL ON THE COMMISSION ON ADMINISTRATIVE JUSTICE FOR THE YEAR ENDED 30 JUNE 2016

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#### REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of the Commission on Administrative Justice set out on pages 9 to 25, which comprise the statement assets as at 30 June 2016, and the statement of receipts and payments, statement of cash flows, summary statement of appropriation – recurrent and development combined and summary statement of provisionings for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief were necessary for the purpose of the audit.

#### **Management's Responsibility for the Financial Statements**

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

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

#### **Auditor-General's Responsibility**

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229 of the Constitution. The audit was conducted in accordance with International Standards of Supreme Audit Institutions. Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosure in the financial statements. The procedures selected depend on the auditor's judgement, including the assessments of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments,



the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

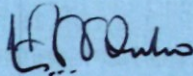
#### **Basis for Qualified Opinion**

##### **Pending Bills**

As disclosed under note 12 to the financial statements, the Commission had pending bills totalling Kshs.7,126,021 as at 30 June 2016. Had the bills been paid in 2015/2016 financial year, the statement of receipts and payments for the year then ended would have reflected a reduced surplus of Kshs.20,111,488 instead of Kshs.27,237,509 now shown.

##### **Qualified Opinion**

In my opinion, except for the effects of the matter described in the Basis for Qualified Opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the Commission on Administrative Justice as at 30 June 2016, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with Public Finance Management Act, 2012.



**FCPA Edward R.O. Ouko, CBS**  
**AUDITOR-GENERAL**

**Nairobi**

**29 March 2017**



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**V. STATEMENT OF RECEIPTS AND PAYMENTS**

	Note	2015-2016 Kshs	2014-2015 Kshs
<b>RECEIPTS</b>			
Exchequer releases	1	443,900,000	363,420,000
Other Receipts	2	-	518,319
<b>TOTAL RECEIPTS</b>		<b>443,900,000</b>	<b>363,938,319</b>
<b>PAYMENTS</b>			
Compensation of Employees	3	213,450,925	148,553,571
Use of goods and services	4	142,276,155	128,788,533
Other grants and transfers	5	429,124	-
Social Security Benefits	6	57,058,957	40,720,000
Acquisition of Assets	7	3,447,330	35,128,393
<b>TOTAL PAYMENTS</b>		<b>416,662,491</b>	<b>353,190,497</b>
<b>SURPLUS FOR THE PERIOD</b>		<b>27,237,509</b>	<b>10,747,822</b>

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 30/09/ 2016 and signed by:

  
 Commission Secretary

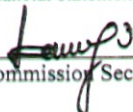
  
 Director, Finance & Administration

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VI. STATEMENT OF ASSETS

	Note	2015-2016 Kshs	2014-2015 Kshs
<b>FINANCIAL ASSETS</b>			
<b>Cash and Cash Equivalents</b>			
Bank Balances	8A	141,402,192	64,711,353
Cash Balances	8B	177,564	29,808
<b>Total Cash and cash equivalent</b>		<b><u>141,579,756</u></b>	<b><u>64,741,161</u></b>
Accounts receivables – Outstanding Imprest	9	114,214	1,099,723
<b>TOTAL FINANCIAL ASSETS</b>		<b><u>141,693,970</u></b>	<b><u>65,840,884</u></b>
<b>FINANCIAL LIABILITIES</b>			
Accounts Payables – Deposits and retentions	10	90,544,126	41,928,549
<b>NET FINANCIAL ASSETS</b>		<b>51,149,844</b>	<b>23,912,335</b>
<b>REPRESENTED BY</b>			
Fund balance b/fwd	11	23,912,335	13,164,513
Surplus/Deficit for the year		27,237,509	10,747,822
<b>NET FINANCIAL POSSITION</b>		<b><u>51,149,844</u></b>	<b><u>23,912,335</u></b>

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 30/09/2016 and signed by:

  
 Commission Secretary

  
 Director, Finance & Administration

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**VII. STATEMENT OF CASHFLOW**

		2015 - 2016 Kshs	2014 - 2015 Kshs
<b>Receipts for operating income</b>			
Exchequer Releases	1	443,900,000	363,420,000
Other Receipts	2	-	518,319
<b>Payments for operating expenses</b>			
Compensation of Employees	3	(213,450,925)	(148,553,571)
Use of goods and services	4	(142,276,155)	(128,788,533)
Other grants and transfers	5	(429,124)	-
Social Security Benefits	6	(57,058,957)	(40,720,000)
<b>Adjusted for:</b>			
Changes in payables		48,615,578	37,360,664
<b>Net cash flow from operating activities</b>		<b>79,300,417</b>	<b>83,236,879</b>
<b>CASHFLOW FROM INVESTING ACTIVITIES</b>			
Acquisition of Assets	7	(3,447,330)	(35,128,393)
<b>Net cash flows from Investing Activities</b>		<b>(3,447,330)</b>	<b>(35,128,393)</b>
<b>CASHFLOW FROM BORROWING ACTIVITIES</b>			
Proceeds from Domestic Borrowings		-	-
Proceeds from Foreign Borrowings		-	-
Repayment of principal on Domestic and Foreign borrowing		-	-
<b>Net cash flow from financing activities</b>		<b>-</b>	<b>-</b>
<b>NET INCREASE IN CASH AND CASH EQUIVALENT</b>		<b>75,853,087</b>	<b>48,108,486</b>
<b>Cash and cash equivalent at BEGINNING of the year</b>		<b>65,840,885</b>	<b>17,732,399</b>
<b>Cash and cash equivalent at END of the year</b>		<b>141,693,972</b>	<b>65,840,885</b>

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 30/09/2016 2016 and signed by:

  
 Commission Secretary

  
 Director, Finance & Administration



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**I. SUMMARY STATEMENT OF APPROPRIATION: RECURRENT AND DEVELOPMENT COMBINED**

Receipt/Expense Item	Original Budget	Adjustments	Final Budget	Actual on Comparable Basis	Budget Utilization Difference	% of Utilization
	a	b	c=a+b	d	e=c-d	f=d/c %
<b>RECEIPTS</b>						
Exchequer releases				443,900,000	443,900,000	100%
Other Receipts						
<b>PAYMENTS</b>						
Compensation of Employees	226,021,000	(4,700,000)	221,321,000	213,450,925	(7,870,075)	96%
Use of goods and services	174,244,220	(3,258,583)	170,985,637	142,276,155	(28,709,482)	83%
Other grants and transfers	550,000	(100,000)	450,000	429,125	(20,876)	95%
Social Security Benefits	58,793,200	-	58,793,200	57,058,957	(1,734,243)	97%
Acquisition of Assets	21,102,500	(7,832,337)	13,270,163	3,447,330	(9,822,833)	26%
Other Payments						
<b>TOTALS</b>	<b>480,710,920</b>	<b>(15,890,920)</b>	<b>464,820,000</b>	<b>416,662,491</b>	<b>(48,157,509)</b>	<b>90%</b>

**Note:**

The significant under-utilization of budget under Acquisition of Assets (below 50%) was due to late release of quarter 4 budget allocation of funds by The National Treasury; which delayed the procurement process.

The entity financial statements were approved on 30/09/ 2016 and signed by:

  
 Commission Secretary

  
 Director, Finance & Administration

THE COMMISSIONER OF ADMINISTRATION AND FINANCE  
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X. SUMMARY STATEMENT OF APPROPRIATION: RECURRENT

Receipt/Expense Item	Original Budget a	Adjustments b	Final Budget c=a+b	Actual on Comparable Basis d	Budget Utilization Difference e=c-d	% of Utilization f=d/c %
<b>RECEIPTS</b>						
Exchequer releases				443,900,000	443,900,000	100%
Other Receipts						
<b>PAYMENTS</b>						
Compensation of Employees	226,021,000	(4,700,000)	221,321,000	213,450,925	(7,870,075)	96%
Use of goods and services	174,244,220	(3,258,583)	170,985,637	142,276,155	(28,709,482)	83%
Other grants and transfers	550,000	(100,000)	450,000	429,125	(20,876)	95%
Social Security Benefits	58,793,200		58,793,200	57,058,957	(1,734,243)	97%
Acquisition of Assets	21,102,500	(7,832,337)	13,270,163	3,447,330	(9,822,833)	26%
Other Payments						
<b>TOTALS</b>	<b>480,710,920</b>	<b>(15,890,920)</b>	<b>464,820,000</b>	<b>416,662,491</b>	<b>(48,157,509)</b>	<b>90%</b>

Note:

The significant under-utilization of budget under Acquisition of Assets (below 50%) was due to late release of quarter 4 budget allocation of funds by The National Treasury; which delayed the procurement process.

The entity financial statements were approved on 30/09/2016 and signed by:

  
 Commissioner/Secretary

  
 Director, Finance & Administration

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**5. SUMMARY STATEMENT OF APPROPRIATION: DEVELOPMENT**

Receipt/Expense Item	Original Budget a	Adjustments b	Final Budget c=a+b	Actual on Comparable Basis d	Budget Utilization Difference e=c-d	% of Utilization f=d/c %
<b>RECEIPTS</b>						
Exchequer releases						
Other Receipts						
<b>PAYMENTS</b>						
Compensation of Employees						
Use of goods and services						
Other grants and transfers						
Social Security Benefits						
Acquisition of Assets						
Other Payments						
<b>TOTALS</b>						

**Note:**

The significant under-utilization of budget under Acquisition of Assets (below 50%) was due to late release of quarter 4 budget allocation of funds by The National Treasury; which delayed the procurement process.

The entity financial statements were approved on 30/09/2016 and signed by:

  
 Commission Secretary

  
 Director, Finance & Administration



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**XI. SUMMARY STATEMENT OF PROVISIONINGS**

*[The provisioning summary statement is required for entities that have a vote in the National Budget.]*

- Details of General Accounts On Vote

	<b>2015 - 2016</b>	<b>2014 - 2015</b>
	<b>Kshs</b>	<b>Kshs</b>
GAV Provisioning account balance	20,920,000	30,565,500
<i>Total</i>	<u>20,920,000</u>	<u>30,565,500</u>

- Details of Exchequer Provisioning

	<b>2015 - 2016</b>	<b>2014 - 2015</b>
	<b>Kshs</b>	<b>Kshs</b>
Exchequer Provisioning balance	443,900,000	363,420,000
<i>Total</i>	<u>443,900,000</u>	<u>363,420,000</u>

  
\_\_\_\_\_  
Commission Secretary

  
\_\_\_\_\_  
Director, Finance & Administration

## XII. SIGNIFICANT ACCOUNTING POLICIES

The principle accounting policies adopted in the preparation of these financial statements are set out below:

### 1. Statement of compliance and basis of preparation

The financial statements have been prepared in accordance with and comply with International Public Sector Accounting Standards (IPSAS) with particular emphasis on Cash Basis Financial Reporting under the Cash Basis of Accounting and applicable government legislations and regulations. The financial statements comply with and conform to the form of presentation prescribed by the Public Sector Accounting Standards Board of Kenya.

The financial statements are presented in Kenya Shillings, which is the functional and reporting currency of the Commission and all values are rounded to the nearest thousand (Kshs'000). The accounting policies adopted have been consistently applied to all the years presented.

The financial statements have been prepared on the cash basis following the Government's standard chart of accounts.

### 2. Recognition of revenue and expenses

The Commission recognises all revenues from the various sources when the event occurs and the related cash has actually been received by the Commission. In addition, the Commission recognises all expenses when the event occurs and the related cash has actually been paid out by the Commission.

### 3. In-kind contributions

In-kind contributions are donations that are made to the Commission in the form of actual goods and/or services rather than in money or cash terms. These donations may include vehicles, equipment or personnel services. Where the financial value received for in-kind contributions can be reliably determined, the Commission includes such value in the statement of receipts and payments both as revenue and as an expense in equal and opposite amounts; otherwise, the contribution is not recorded.

### 4. Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year.

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**5. Accounts Receivable**

For the purposes of these financial statements, Imprest and advances to authorised public officers and/or institutions which were not surrendered or accounted for at the end of the financial year is treated as receivables. This is in recognition of the government practice where the imprest payments are recognized as expenditure when fully accounted for by the imprest or AIE holders. This is an enhancement to the cash accounting policy. Other accounts receivables are disclosed in the financial statements.

**6. Accounts Payable**

For the purposes of these financial statements, deposits and retentions held on behalf of third parties have been recognized as accounts payables. This is in recognition of the government practice of retaining a portion of contracted services and works pending fulfilment of obligations by the contractor and to hold deposits on behalf of third parties. This is an enhancement to the cash accounting policy adopted by National Government Ministries and Agencies. Other liabilities including pending bills are disclosed in the financial statements.

**7. Non-current assets**

Non-current assets are expensed at the time of acquisition while disposal proceeds are recognized as receipts at the time of disposal. However, the acquisitions and disposals are reflected in the entity fixed asset register a summary of which is provided as a memorandum to these financial statements.

**8. Pending bills**

Pending bills consist of unpaid liabilities at the end of the financial year arising from contracted goods or services during the year or in past years. As pending bills do not involve the payment of cash in the reporting period, they are recorded as 'memorandum' or 'off-balance' items to provide a sense of the overall net cash position of the Commission at the end of the year. Pending bills form a first charge to the subsequent year budget and when they are finally settled, such payments are included in the statement of receipts and payments in the year in which the payments are made.

**9. Budget**

The budget is developed on the same accounting basis (cash basis), the same accounts classification basis, and for the same period as the financial statements. The Commission's budget was approved as required by Law and as detailed in the Government of Kenya Budget Printed Estimates. A high-level assessment of the Commission's actual performance against the comparable budget for the financial year under review has been included in an annex to these financial statements.

**10. Comparative figures**

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

**11. Subsequent events**

Events subsequent to submission of the financial year end financial statements to the National Treasury and other stakeholders with a significant impact on the financial statements may be adjusted with the concurrence of National Treasury.



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**III. NOTES TO THE FINANCIAL STATEMENTS**

**1 EXCHQUER RELEASES**

	2015 - 2016	2014 - 2015
	Kshs	Kshs
Total Exchequer Releases for quarter 1	68,700,000	62,000,000
Total Exchequer Releases for quarter 2	83,000,000	92,420,000
Total Exchequer Releases for quarter 3	120,900,000	85,000,000
Total Exchequer Releases for quarter 4	171,300,000	124,000,000
<b>Total</b>	<b>443,900,000</b>	<b>363,420,000</b>

**2 OTHER REVENUES**

	2015 - 2016	2014 - 2015
	Kshs	Kshs
Receipts from Administrative Fees and Charges	-	-
Receipts from Administrative Fees and Charges - Collected as AIA	-	41,000
Receipts from Incidental Sales by Non-Market Establishments	-	-
Receipts from Sales by Non-Market Establishments	-	-
Receipts from Sale of Incidental Goods	-	-
Fines Penalties and Forfeitures	-	-
Receipts from Voluntary transfers other than grants	-	-
Other Receipts Not Classified Elsewhere	-	477,319
<b>Total</b>	<b>-</b>	<b>518,319</b>

**3 COMPENSATION OF EMPLOYEES**

	2015 - 2016	2014 - 2015
	Kshs	Kshs
Basic salaries of permanent employees	154,029,268	115,462,433
Basic wages of temporary employees	-	-
Personal allowances paid as part of salary	58,939,497	32,782,258
Personal allowances paid as reimbursements	-	-
Personal allowances provided in kind	-	-
Pension and other social security contributions	-	-
Employer Contributions Compulsory national social security schemes	482,160	308,880
Employer Contributions Compulsory national health insurance schemes	-	-
<b>Total</b>	<b>213,450,925</b>	<b>148,553,571</b>

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*NOTES TO THE FINANCIAL STATEMENTS (Continued)*

**4 USE OF GOODS AND SERVICES**

	<b>2015 - 2016</b>	<b>2014 - 2015</b>
	<b>Kshs</b>	<b>Kshs</b>
Utilities, supplies and services	2,225,555	2,815,921
Communication, supplies and services	11,479,309	9,181,383
Domestic travel and subsistence	11,511,059	11,005,964
Foreign travel and subsistence	5,390,706	4,555,123
Printing, advertising and information supplies & services	3,514,434	7,843,369
Rentals of produced assets	48,571,954	38,752,957
Training expenses	6,092,502	5,901,293
Hospitality supplies and services	4,198,138	5,067,612
Insurance costs	20,705,636	14,908,481
Specialized materials and services	3,000	486,000
Office and general supplies and services	6,240,755	6,685,939
Other operating expenses	7,675,558	9,680,176
Routine maintenance – vehicles and other transport equipment	7,162,064	5,112,787
Fuel oil and lubricants	5,359,000	5,646,034
Routine maintenance – other assets	2,146,485	1,145,495
<b>Total</b>	<b>142,276,155</b>	<b>128,788,533</b>

**5 OTHER GRANTS AND TRANSFERS**

	<b>2015 - 2016</b>	<b>2014 - 2015</b>
	<b>Kshs</b>	<b>Kshs</b>
Membership dues and subscriptions to international organizations	429,124	-
Grants to foreign government	-	-
<b>Total</b>	<b>429,124</b>	<b>-</b>

**6 SOCIAL SECURITY BENEFITS**

	<b>2015 - 2016</b>	<b>2014 - 2015</b>
	<b>Kshs</b>	<b>Kshs</b>
Government pension and retirement benefits	57,058,957	40,720,000
Social security benefits in cash and in kind	-	-
Employer Social Benefits in cash and in kind	-	-
<b>Total</b>	<b>57,058,957</b>	<b>40,720,000</b>

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**7 ACQUISITION OF ASSETS**

<u>Non Financial Assets</u>	2015 - 2016	2014 - 2015
	Kshs	Kshs
Purchase of Buildings	-	-
Construction of Buildings	-	-
Refurbishment of Buildings	414,880	14,927,832
Construction of Roads	-	-
Construction and Civil Works	-	-
Overhaul and Refurbishment of Construction and Civil Works	-	-
Purchase of Vehicles and Other Transport Equipment	-	19,086,296
Overhaul of Vehicles and Other Transport Equipment	-	-
Purchase of Household Furniture and Institutional Equipment	-	-
Purchase of Office Furniture and General Equipment	209,100	881,093
Purchase of ICT Equipment, Software and Other ICT Assets	-	-
Purchase of Specialized Plant, Equipment and Machinery	2,823,350	233,172
Rehabilitation and Renovation of Plant, Machinery and Equip.	-	-
Purchase of Certified Seeds, Breeding Stock and Live Animals	-	-
Research, Studies, Project Preparation, Design & Supervision	-	-
<u>Financial Assets</u>	-	-
Domestic Public Non-Financial Enterprises	-	-
Domestic Public Financial Institutions	-	-
Foreign financial Institutions operating Abroad	-	-
Other Foreign Enterprises	-	-
Foreign Payables - From Previous Years	-	-
<b>Total</b>	<b>3,447,330</b>	<b>35,128,393</b>

**8A: Bank Accounts**

Name of Bank, Account No. & currency	Amount in bank account currency	Indicate whether recurrent, Development, deposit e.t.c	Exchange rate (if in foreign currency)	2015 - 2016	2014 - 2015
				Kshs	Kshs
Central Bank of Kenya,, Account No:1000181524	KES	Recurrent		50,158,066	22,782,805
Central Bank of Kenya,, Account No:1000182377	KES	Deposit		90,544,126	41,928,549
Central Bank of Kenya,, Account No:1000182644	KES	CBK 165		700,000	-
<b>Total</b>				<b>141,402,192</b>	<b>64,711,353</b>



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NOTES TO THE FINANCIAL STATEMENTS (Continued)

**8B: CASH IN HAND**

	2015 - 2016	2014 - 2015
	Kshs	Kshs
Cash in Hand – Held in domestic currency	177,564	29,808
Cash in Hand – Held in foreign currency	-	-
<b>Total</b>	<b>177,564</b>	<b>29,808</b>

Cash in hand should also be analysed as follows:

	2015 - 2016	2014 - 2015
	Kshs	Kshs
Location 1 - Head offices	177,564	29,808
Location 2	-	-
Location 3	-	-
Other Locations ( <i>specify</i> )	-	-
<b>Total</b>	<b>177,564</b>	<b>29,808</b>

**9: ACCOUNTS RECEIVABLE - OUTSTANDING IMPRESTS**

<i>Description</i>	2015 - 2016	2014 - 2015
	Kshs	Kshs
Government Imprests	114,214	606,661
Salary Advances	-	493,063
<b>Total</b>	<b>114,214</b>	<b>1,099,723</b>

Breakdown of the outstanding imprest is tabulated below:

Name of Officer	Date Imprest Taken	Amount Taken	Amount Surrendered	Balance
		Kshs	Kshs	Kshs
Victor Owino Kojo	15/10/2015	8,000	-	8,000
James Ivia Kitonga	16/10/2015	8,000	-	8,000
Catherine Kassim	23/10/2015	4,500	-	4,500
Saidi Swaleh Gongo	08/12/2015	3,500	-	3,500
Fredrick Fadey Oundo	08/12/2015	4,500	-	4,500
Saidi Swaleh Gongo	27/10/2015	22,100	20,746	1,354
Victor Owino Kojo	05/01/2016	21,460	-	21,460
Rama Chacha	04/05/2016	6,400	-	6,400
Grace Gor	29/06/2016	40,000	-	40,000
Wilson Wainaina	29/06/2016	9,500	-	9,500
Grace Gor	29/06/2016	7,000	-	7,000
<b>Total</b>				<b>114,214</b>

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*NOTES TO THE FINANCIAL STATEMENTS (Continued)*

**10. ACCOUNTS PAYABLE**

	2015 - 2016 Kshs	2014 - 2015 Kshs
Deposits	90,544,126	41,928,549
<b>Total</b>	<b>90,544,126</b>	<b>41,928,549</b>

These are contractors' retention moneys and staff gratuity held in the deposit account to be settled when due for payment

**11. FUND BALANCE BROUGHT FORWARD**

	2015 - 2016 Kshs	2014 - 2015 Kshs
Bank accounts	22,782,805	12,846,556
Cash in hand	29,808	231,923
Accounts Receivables	1,099,723	86,034
Accounts Payables	-	-
<b>Total</b>	<b>23,912,335</b>	<b>13,164,513</b>

**12. OTHER IMPORTANT DISCLOSURES**

**PENDING ACCOUNTS PAYABLE (See Annex 1)**

	Kshs	Kshs
Construction of buildings	-	-
Construction of civil works	-	-
Supply of goods	6,340,989	775,960
Supply of services	785,032	4,111,860
	<b>7,126,021</b>	<b>4887,820</b>

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**13. PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATIONS**

The following is the summary of issues raised by the external auditor, and management comments that were provided to the auditor. We have nominated focal persons to resolve the various issues as shown below with the associated time frame within which we expect the issues to be resolved.

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Focal Point person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)	Timeframe: (Put a date when you expect the issue to be resolved)
Paragraph 7 – Basis for Qualified Opinion	Pending bills as at 30 <sup>th</sup> June 2015 of KSh.4,561,860	The matter has already been resolved	Supply Chain Manager	Resolved	The matter stands solved  The payment of this amount was treated as a first charge on the approved budget for the 2015/6 Financial year

**Guidance Notes:**

- (i) Use the same reference numbers as contained in the external audit report;
- (ii) Obtain the “Issue/Observation” and “management comments”, required above, from final external audit report that is signed by Management;
- (iii) Before approving the report, discuss the timeframe with the appointed Focal Point persons within your entity responsible for implementation of each issue;
- (iv) Indicate the status of “Resolved” or “Not Resolved” by the date of submitting this report to National Treasury.

  
 Commission Secretary

  
 Director, Finance & Administration



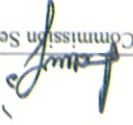


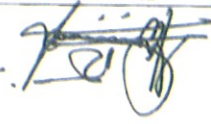
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**ANNEX 1 - ANALYSIS OF PENDING ACCOUNTS PAYABLE**

Supplier of Goods or Services	Original Amount	Date Contracted	Amount Paid To-Date	Outstanding Balance 2016	Outstanding Balance 2015	Comments
	a	b	c	d=a-c		
<b>Construction of buildings</b>						
1.						
<b>Sub-Total</b>						
<b>Construction of civil works</b>						
2.						
<b>Sub-Total</b>						
<b>Supply of goods</b>						
3. Furniture	1,994,000	13/6/16		1,994,000		
4. Furniture	289,500	09/6/16		289,500		
5. Furniture	215,480	09/6/16		215,480		
6. Branchures	296,000	24/6/16		296,000		
7. Suspension files	16,740	24/6/16		16,740		
8. Tonners	320,299	14/6/16		320,299		
9. Tonners	824,760	31/05/16		824,760		
10. Motor vehicle rims	26,280	16/6/16		26,280		
11. Office folders	173,500	09/6/16		173,500		
12. Tonners	326,424	15/3/16		326,424		
13. Tonners	924,856	14/6/16		924,856		

Supplier of Goods or Services	Original Amount	Date Contracted	Amount Paid To-Date	Outstanding Balance 2016	Outstanding Balance 2015	Comments
14. Laptops and Printer	264,480	09/6/16		264,480		
15. Annual Report	334,080	05/5/16		334,080		
16. Staff uniforms	334,590	05/5/16		334,590		
<b>Sub-Total</b>	<b>6,340,989</b>		-	<b>6,340,989</b>	<b>775,960</b>	
<b>Supply of services</b>						
17. Legal services	750,000	24/6/16	-	750,000		
18. Telephone bills	35,032	24/6/16		35,032		
19.						
<b>Sub-Total</b>	<b>785,032</b>		-	<b>785,032</b>	<b>4,111,860</b>	
<b>Grand Total</b>	<b>7,126,021</b>		-	<b>7,126,021</b>	<b>4,887,820</b>	

  
Commission Secretary

  
Director, Finance & Administration

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ANNEX 2 – SUMMARY OF FIXED ASSET REGISTER

Asset class	Historical Cost (Kshs) 2015/16	Historical Cost (Kshs) 2014/15
Land		
Buildings and structures		
Transport equipment	45,186,296.00	45,186,296.00
Office equipment, furniture and fittings	9,478,297.00	9,478,297.00
ICT Equipment, Software and Other ICT Assets	14,615,000.00	12,000,000.00
Other Machinery and Equipment	6,518,633.00	6,290,300.00
Heritage and cultural assets		
Intangible assets		
<b>Total</b>	<b>75,798,226.00</b>	<b>72,954,893.00</b>

  
Commission Secretary



Director, Finance & Administration



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