



The



# mbudsman

Newsletter

Volume 2, Issue 2

Newsletter for the period July – September 2021

Issue No.02/2021



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



[www.ombudsman.go.ke](http://www.ombudsman.go.ke)



@KenyasOmbudsman



Ombudsman Kenya

## Chairperson Elected African Region President of the International Ombudsman Institute



<http://www.ombudsman.go.ke>



Ombudsman kenya



+254-20-2270000/2303000/2603765/  
2409574/0777 125818 / 0800221349



[info@ombudsman.go.ke](mailto:info@ombudsman.go.ke)

### EDITOR

Osman Mohammed

### CONTRIBUTORS

1. Florence Mumbi
2. Sammy Cheboi
3. Edward Opany
4. Simon Nzioka
5. Naserian Karbolo
6. Esha Mohammed
7. Winnie Tallam
8. Franklin Lilako
9. Samantha Argwings Kodhek
10. Keith Chungalwa
11. Roseline Wanjiru
12. Hilda Ojiambo
13. Ali Bashir
14. Mercy Chepkemioi



Commission Chairperson, Hon Florence Kajuju during the virtual elections for IOI Africa Presidency

Commission Chairperson, Hon. Florence Kajuju, has been elected the African Region President of the International Ombudsman Institute (IOI). Her election on 9th November 2021 during a virtual meeting came weeks after she was elected to the Board of Directors of the IOI.

As President of the African region, Hon. Kajuju looks forward to working with colleagues across the continent and globally to advance the shared goals of nurturing robust ombudsman institutions that significantly contribute to realisation of Africa's vision for good governance, human rights, and the rule of law. Hon. Kajuju has been elected for a term of four years.

The IOI, established in 1978 and based in Vienna, Austria, is a global organisation for the cooperation of more than 200 independent Ombudsman institutions. In its effort to focus on good governance and capacity building, the IOI supports its members in a threefold way: training, research, and regional subsidies for projects.

IOI is organised around six regions with a secretariat based in Vienna. The regions are Africa, Europe, Caribbean & Latin America, Australasia & Pacific, Asia, and North America. Each region elects its own President.

Hon. Kajuju is also the Secretary General of the African Ombudsman and Mediators Association.

## Commission Trains Journalists to Commemorate Universal Access to Information Day



*Participants follow proceedings during the journalists' training*

The Commission joined the world in commemorating the International Day for Universal Access to Information (IDUAI) on Tuesday 28th September 2021. The theme for IDUAI 2021, was 'The Right to Know – Building Back Better with Access to Information'. The Day highlights the importance of expanding access to information laws, and their implementation worldwide to build back strong institutions for sustainable development and to uphold the vision of information as a public good, as well as to strengthen international cooperation in the field of implementing the right to information as a fundamental right.

The main objective of the Day is to accelerate sustainable solutions aimed at reaching SDG 16 target 10 (as measured by indicator 2, on public access to information), by mobilising governments, civil society, and people to take ownership and contribute to the achievement of this sustainable development goal, particularly in regards to building effective, accountable and inclusive institutions at all levels.

To mark the Day, the Commission, in collaboration with the Media Council of Kenya and GIZ, Good Governance Programme, held a one-day public forum in Garissa town. In addition, the team conducted a two-day training for journalists drawn from Garisa and Wajir counties on

access to information and how they can use the law to advance their journalistic work, particularly investigative journalism. The Commission has in the last one year trained 150 journalists, correspondents, and editors on the access to information law.

During the public forum, Chief Guest, North Eastern Regional Commissioner, Mr. Nicodemus Ndalani, underscored the importance of access to information, saying peace in the region had been achieved through sharing of information between government agencies and citizens. He said the region is peaceful and urged government agencies to purpose to reach out to residents to empower them with information on their different mandates.

Mr. Abdirashid, who represented Garissa County Government, said the county had embraced transparency by availing information related to tenders and recruitment to members of the public. Other institutions represented during the forum were the National Gender and Equality Commission, Muslims for Human Rights, and other civil society organisations.

IDUAI has been celebrated on September 28 of every year since 2016. This is after UNESCO adopted resolution 38 C/Resolution 57 in November 2015 declaring September 28 every year as International Day of Universal Access to Information.



*A section of the participants during the public forum pose for a group photo*

## Commission to Open New Office in Garissa County



In line with its Strategic Plan (2019-2023) of taking its services to the people, the Commission is set to open a new regional office in Garissa to serve the Northern Kenya Region.

To this end, the Commission Chairperson, Hon Florence Kajuju, accompanied by the Chairperson of the National Gender and Equality Commission (NGEC), Dr. Joyce Mutinda, on August 5, 2021, visited Garissa town to inspect the new Ombudsman office which will be housed within the NGEC Garissa Regional Offices near the Kenya Revenue Authority office.

During the visit, the team paid a courtesy call on Garissa County Deputy Governor, H.E. Abdi Dagane.

The meeting discussed the various issues of mutual interest aimed at enhancing service delivery and equity to citizens in the county.

Hon. Dagane congratulated the Commission for considering opening an office in the county and praised its efforts in addressing public complaints raised against government institutions and officers and promised to work with the two commissions in service delivery to citizens in the county.

On her part, Hon. Kajuju, said the Commission will partner with the county government to step up proactive disclosure of information in an effort to promote transparency, build public trust and improve service delivery and promised that the two sister Commissions (NGEC and CAJ), will work together in serving the people of Garissa and Northern Kenya at large.

Also present during the meeting were the CEO of the Commission, Mr. Leonard Ngaluma, the CEO of NGEC, Ms. Betty Sungura-Nyabuto, Garissa County CEC Livestock and Agriculture, Hon. Mohamed Shale, Chief Officer Gender Mulki Onle, NGEC Head of Communications, Mr. Daniel Waitere, and NGEC Garissa Regional Office Head Abdiwahab Ibrahim.

The Commission is also set to launch a new office in Nyahururu Town, Laikipia County.

## 903 Public Officers Trained

In our pursuit to enhance the public sector capacity for reporting and resolving public complaints, the Commission has been working towards increasing the levels of compliance by the MDAs with the CAJ 11th Edition Guidelines for the FY 2021/22.

During Quarter 1, the Commission trained a **total of nine hundred and three (903)** public officers, with **three hundred and thirty six (336)** public officers drawn from **thirty three (33)** MDAs and **five hundred and sixty seven (567)** public officers from **thirteen (13)** counties.

The main objective of the trainings was to build the capacity of the officers to effectively manage public complaints and requests for information.

The specific objectives of the training workshops were to achieve the following outputs:

1. Establish a responsive and mainstreamed complaints and access to information infrastructures within the MCDAs
2. Increase the resolution rate of public complaints within the MCDAs
3. Enhance the implementation of the obligations under the Access to Information Act, 2016

**PUBLIC INSTITUTIONS & COUNTIES TRAINED DURING Q.1 FY 2021/2022**

NO.	NAME OF INSTITUTION	TRAINING DATE(S)	VENUE	NO. OF PARTICIPANTS
1.	Training for participants in the health and education sectors on proactive disclosure of procurement information held, In partnership with ICJ.	6th -8th July	Nairobi	20
2.	KICC	19th to 23rd July	Mombasa	7
3.	Kenya Revenue Authority	10 <sup>th</sup> August	Nairobi	15
4.	National Environmental Management Committee	18th August	Machakos	25
5.	Meeting on public participation on ATI regulations	18th August	Virtual	30
6.	State Department for Planning	30th August- 1st September	Naivasha	15
7.	Energy & Petroleum Regulatory Authority	2nd September	Virtual	64
8.	National Biosafety Authority	9 <sup>th</sup> September	virtual	48
9.	State Department for University Education	13th to 17th September	Machakos	10
10.	Ministry of Interior	13th to 17th September	Machakos	18
11.	Kenya National Highways Authority	20th to 24th September	Kenya School of Government, Baringo	50
12.	Kenya National Qualifications Authority	29th September to 1st October	Naivasha	14

13.	Kenya Deposit Insurance Corporation	30th September	Virtual	20
14.	County Government of Isiolo	30th August- 1st September	Nanyuki	50
15.	County Assembly of Machakos	13th – 17th September, 2021	Mombasa	20
16.	Kisii County Government	20th to 24th September	KSG Baringo	20
17.	County Assembly Forum	20th to 24th September	Mombasa	97
18.	Sensitization of the Access to information (General) Regulations, 2021 in phase II of public participation	30th August 2021, to 3rd September	<ul style="list-style-type: none"> <li>i. Marsabit</li> <li>ii. Meru</li> <li>iii. Kakamega</li> <li>iv. Bungoma</li> <li>v. Bomet</li> <li>vi. Nakuru</li> <li>vii. Muranga</li> <li>viii. Narok</li> <li>ix. Nyeri</li> </ul>	360



CAJ Legal Officer Ms. Elizabeth Musembi during the training of Complaints Committee from KICC in Mombasa.

## Elders Sensitised on Commission's Mandate

As part of the strategy of taking its services to the grassroots, the Commission through the Eldoret Regional Office, on Friday, July 30, 2021, engaged with Kipaa Elders (Wazee wa Mtaa) drawn from Soy, Turbo and Kapseret Sub Counties, Uasin Gishu County at the Winsta Hotel. The elders were sensitised on the mandate of the Commission of addressing maladministration and oversight and enforcement of the access to information law to enable them channel complaints from their villages for processing. The meeting was organised by Center for Human Rights and Mediation, Eldoret.



The Commission has prioritised taking its services to the grassroots with the aim of addressing insufficient levels of public awareness and ensure good governance at the grassroots.

## PWDs in Eldoret Sensitised

The Commission has a complimentary role in the protection of special rights of Persons with Disabilities (PWDs). To this end, the Commission on Thursday August 19, 2021, through the Eldoret Regional Office, engaged PWDs hawkers at the Eldoret County Hall.

During the engagement the group shared some of the challenges they face in the course of their work including harassment by the county enforcement officers, unfair treatment, confiscation of their goods and wares, confiscation of their identity documents on arrest, among others.

The Commission utilised the opportunity to sensitise the group on its mandate of addressing maladministration and enforcing the implementation of the Access to information Act and committed to look into their issues which fall within its mandate and to assist them in accessing information from the county government. On his part, the County Director of Enforcement, promised to address the complaints of the hawkers. The meeting was organised by the Center for Human Rights and Mediation, Eldoret.



*PWDs during Sensitisation at the County Hall*

## Commission Signs MOU with Council of Governors

The Commission has signed a Memorandum of Understanding (MOU) with Council of Governors. The purpose of the MOU is to provide a framework of partnership between the Parties with a view to enhancing and strengthening both parties' institutional capacities in educating the public on principles of democracy and good governance across the 47 Counties through administration of justice, access to information and complaints handling infrastructure.

During the signing ceremony held in Nairobi on August 2, 2021, the CoG team was led by the Chairperson, Hon Martin Wambora, while the Commission team was led by the Chairperson, Hon Florence Kajuju. Also present were the Commissioner in Charge of Access to Information, Ms. Lucy Ndung'u, and the Commission Secretary, Mr. Leonard Ngaluma. The Commission has in the past partnered with CoG to create awareness during the annual devolution conference and the devolution sensitisation week.



## Wellness Policy for the Commission Developed

Health issues are prevalent in our workplaces and have devastating impact on success and productivity. Employee wellness programme is an important step towards improving the productivity of employees by improving their health hence reducing absenteeism, injuries, workers' compensation and disability related costs as well as lowering health care costs. To this end, the Commission through the Wellness Committee in August 2021 developed a wellness policy to support the Employee Wellness Programme.

The formulation of the policy is part of the Commission's commitment to improve effectiveness and efficiency of service delivery through the Employee Assistance Program and the Employee Wellness Program. The policy provides for prevalent issues affecting the Commission employees including work related stress, depression, counselling and referral services, physical illness, physical inactivity, unhealthy diet, marital problems, personal and career development, management of chronic illness both communicable and non-communicable, alcohol and drug abuse among others.



The Commission is committed in mainstreaming wellness in its workplace with the aim to have enhanced performance and productivity amongst its employees, reduce on health-related costs and staff turnover due to dissatisfaction with the environment.

The exercise was conducted with the guidance of the officers from the Ministry of Health.



Members of the Staff Wellness Committee during a workshop at NITA, Athi River

## Commission Plays Host to Ghanaian Delegation



The Commission on Wednesday, July 28, 2021 hosted a delegation from Ghana's Right to Information Commission led by the Executive Secretary, Mr. Yan Sarpong Boateng. The team visited the Commission to learn the best practices and share experiences and challenges in the implementation of the access to information law.

Speaking during the meeting, the Commissioner in Charge of Access to Information, Ms. Lucy Ndung'u, congratulated Ghana for passing the Right to Information law and creating an independent body to oversee the implementation of the law.

She further encouraged the Commission to join the Open Government Partnership and the International Conference of Information Commissioners. Ghana's Commission was established in October 2020, a year after the information law was passed. The Commission just like the Commission on Administrative Justice is mandated to oversight the implementation of the RTI law and to investigate complaints on the violations of the law.

The Kenya's Access to Information law was passed by Parliament in September 2016 to make it easier for all Kenyan citizens to access (get, receive and reach) information from government and private institutions.

## SUCCESS STORIES

### Success Stories- Kisumu Regional Office

#### Lost Court File Found

John filed a complaint with the Commission alleging delay of his case at the Kisumu Law Courts due to a lost file. On enquiry by the Commission on 23rd March 2021, the court's Executive Officer confirmed the facts of the complaint and further disclosed that in the event that the file could not be found, the complainant would be asked to file for reconstruction to enable hearing of the case to conclusion. However, on further intervention, the Executive Officer confirmed to the Commission that the file had been retrieved on 3rd May 2021 and the same was confirmed to be true by the complainant.

#### Inmate Has His Day in Court

Godfrey, a convict serving his sentence at the Kisumu Maximum Security Prison, lodged a complaint with the Commission alleging inordinate delay in hearing of his appeal against his sentencing to death. He had

been charged and convicted for the offence of robbery with violence by the Kimilili Law Courts in 2008. He was dissatisfied with the ruling and lodged an appeal against the lower court's decision at the Bungoma High Court in 2009. Unfortunately, there was manifest delay in being updated on the position of his appeal forcing him to seek the Commission's intervention.

On follow up with the Deputy Registrar Bungoma High Court, he confirmed that the matter was allocated a new number and had been allocated a mention date of 26/5/2021. The complainant was advised to comply with the same.

#### Labour Office Resolves Terminal Dues Disputes

The Ministry of Labour has successfully resolved three disputes of terminal dues claims by three former employees of private firms in Kisumu County following the intervention of the Commission.

George, Fredrick, and Jacob had lodged two separate complaints with the Commission alleging that the Labour Office had been slow in intervening to have their former employers settle their outstanding dues following termination of their employment contracts by their respective employers.

Following enquiries by the Commission, the office was able to expedite the resolution of the matters and the rightful outstanding dues were settled.

#### Electricity Poles Relocated

Traders in Koyango market in Kisumu County can now conduct their business in a safe environment following the relocation of five power line poles by the Kenya Power Company in the market thanks to the intervention of the Commission.

A trader in the market, Mr Andrew Abiero lodged a complaint with the Commission alleging that the company had delayed to relocate five power lines poles erected along the footpath curtailing full economic use of the available space in market and its surrounding.

The Commission by a way of inquiry took up the matter with the company leading to the relocation of the poles. The company's Regional Manager-Western Kenya confirmed that the poles had been removed from the market on 11th May, 2021.

#### Medical Records Released

Jaramogi Oginga Odinga Teaching and Referral Hospital (JOOTRH) finally released a patient's medical records under the access to information law.

This followed a request to review an information request submitted by Wasuna & Co Advocates under the instructions of their client Ms. Judith Otieno. According to Ms. Otieno, she requested for treatment records for Powell Jeremy Ochieng, a patient who

## SUCCESS STORIES

had been treated at JOOTRH, this was a request which was made under the Access to Information Act, 2016. Following the refusal by the hospital to release the requested information, Ms Otieno through the law firm made an application for review.

The Commission issued an inquiry to the hospital who responded stating that they could not release the requested information because the treatment register contained the patients' information alongside other person's personal sensitive information, and accordingly they could not provide the requested information due to the need to maintain the confidentiality of their client's records.

The Commission did a review of the response and advised the hospital that the law allows it to disclose information in an edited form. The hospital finally responded by providing the patients treatment records together with an edited form of the treatment register.

### Unlawful Change of Company Directors Corrected

The Registrar of Companies finally addressed a company ownership issue following the intervention of the Commission in a case of unlawful change of company directors.

According to Mr Emmanuel Nderema, he incorporated Lwero Company Limited together with Ms. Jane Nderema and Ms Lucy Nderema as the directors of the company with a shareholding of 350 shares each. However, on 16th January 2021 while undertaking a search at the Registrar of Companies, it came to his attention that a change of ownership of the company had been effected and their names replaced with one Mr Abubakar Omar who was allocated 1000 shares. This prompted him to lodge a complaint with the Registrar of Company however, the registrar inordinately delayed in addressing the complaint impelling him to lodge a complaint with the Commission.

The Commission by a way of inquiry raise the

issue with the registrar who initiated investigations into the matter and upon conclusion, the registrar reinstated their names as the bonafide Directors of Lwero Company Limited. The registrar further recommended the commencement of criminal action against Mr. Abubakar Omar.

### Deceased's Benefits Paid after Thirty Six-year-Wait

A deceased Assistant Chief's benefits dues were finally paid to the beneficiaries after 36 year's wait in a case of inordinate delay by the Pensions Department to process the benefits.

According to Michael Ohula, the Pensions Department had delayed to settle pension dues owed to the estate of Barnabas Ohula Oyindo who until his demise on 9th August 1985 was an Assistant Chief in the then Ministry of Internal Security and Provincial Administration. The effort to have the Pensions Department to pay the benefits did not bear fruits prompting him to seek the intervention of the Ombudsman.

The Commission took up the matter with the Director Pensions leading to the payment of death gratuity owed to the deceased's estate.

## Success Stories- Mombasa Regional Office

### College Fee Refunded

The Thogoto Teachers Training College finally refunded Kshs. 32,000 to a former student, thanks to the intervention of the Commission in a case of inordinate delay.

According to Mr. Ismael Said, the college had refused to refund school fees paid upon the discontinuation of his P1 Teacher Training Course in 2019. To understand why the student was discontinued, the Commission took up the issue with the Principal Secretary, Ministry of Education, who informed the Commission that the decision was informed by a court order issued in Petition No. 16 of 2019 which revoked the Ministry's decision to lower the entry grade for the P1 course on account of affirmative action.

## SUCCESS STORIES

In this regard, the Ministry issued a directive that all affected students be offered an option of placement in other suitable courses or be refunded the fees paid upon deduction of boarding expenses incurred for one term. However, the college failed to comply with the Ministry's directive necessitating Mr. Said to seek the Commission's intervention.

The Commission a way of inquiry took up the matter with the college Principal. Upon correspondence and issuing a notice under Section 27 of the Commission on Administrative Justice Act and Regulations 17 and 18 of the Commission to the Principal on 17th August 2021, Mr. Said contacted the Commission confirming receipt of Kshs. 32,000 from the college being refund of the fee paid. He further availed a copy of bank slip as proof of the refund.

### Information Request Processed

Access to information is critical for enabling citizens to exercise their voice, to effectively monitor and hold government to account, and to enter into informed dialogue about decisions which affect their lives. It is also seen as vital for empowering all citizens, including vulnerable and excluded people, to claim their broader rights and entitlements.

To this end, a resident of Mombasa County, Mr Ainea Ragen, in a letter dated 10th March 2021 to the Commission alleged that he had made a request for information on the current ownership details of a piece of land, LR. No. Mombasa/Mwembelegeza/1475, from the Ministry of Lands pursuant to Article 35 of the Constitution and the Access to Information Act, 2016. Mr Ragen claimed that the land had been grabbed and/or alienated by a private developer despite the fact that the parcel of land had been set aside as public land.

The refusal of the lands office to avail the information within the prescribed timelines impelled him to lodge a complaint with the Commission under the Access to information Act, 2016.

Upon the intervention of the Commission, the Land Registrar, Mombasa, provided the Certificate of Search to Mr Ragen and a copy to the Commission. Notably, the Search indicated that the plot was allocated to Anwarali & Brothers Limited, Mombasa, on 5th September 2018 on a lease of 99 years. Thus, the community is desirous of pursuing the matter further through a court process.

### Former Worker Compensated for Injuries

A former worker with the Portside Freight Terminals, Mombasa, finally received compensation for work- injury related incident.

According to Mr Omar Chondo, he sustained injury in the course of duty which he reported to the Occupational Safety and Health Office (OSH), Mombasa, and sought medical treatment thereafter. However, the OSH office delayed in resolving the complaint since June 2020. His predicament pushed him to lodge a complaint with the Commission.

The Commission by way of inquiry took up the matter with the OSH office which led to compensation. Mr Chondo, in a communication to the Commission on 25th May 2021, acknowledging receipt of Kshs. 30,000 and indicated the matter had been resolved amicably.

## SUCCESS STORIES

### Court Judgment Delivered After Five Year- Wait

"I hereby acknowledge your efforts to help me get my court case judgment which had taken long since 2010 up to 14th September 2021, the day I received it at the Kizurini Law Courts. My entire family appreciates your good work. May God bless you and help you assist as many as possible who are helpless." These were the words of Mr. Albert Baya in an appreciation letter to the Commission's Mombasa Regional Office.

According to Baya, there was a delay without any justifiable cause at Kaloleni law courts (Kizurini law court) to deliver judgments in three consolidated land cases. He stated that the three cases were consolidated and upon hearing, the court indicated that judgment would be delivered on 16th June 2016.

However, this did not materialise despite the litigants following up on the matter individually and through their advocate on record. This necessitated them to seek the intervention of the Commission in February 2021.

Upon inquiries and correspondence with Kaloleni law court, the Head of Station attributed the delay to the transfer of the magistrate who heard the consolidated matters and his oversight to hand over the respective court files. This necessitated the Commission vide a letter dated 16th August 2021 to liaise with the Office of Judiciary Ombudsman for further action.

Subsequently, the complainant through a letter dated 27th September 2021 indicated that the long-awaited judgment had been delivered and appreciated the Commission for the assistance.

### Success Story- Isiolo Regional Office

#### Identity Card issued following Commission's intervention

"Your action elicited the Ministry of Interior to respond promptly and issued me with my long a waited Identity Card. I am therefore obliged to thank you and the Commission's Isiolo Branch office for your good work." These were the words of Ms. Lena Gatwiri in a thank you letter to the Commission.

According to Ms Gatwiri she applied for an ID card and availed all the requisite supporting documents in support of her application but six months down the line she was yet to be issued with the ID card. She made several follow up with the Isiolo County Registration office and the Huduma Service Desk at the Isiolo town but she was not assisted. Her predicament prompted her to seek the intervention of the Commission's Isiolo Branch Office.

The Commission by a way of inquiry took up the matter with the Director, National

Registration Bureau which led to the processing of the ID Card. Ms Gatwiri in a letter to the Commission confirmed the receipt of the ID.

#### Information Released

A resident of Isiolo South was supplied with a report on implemented Constituency Development projects following the review of an application by the Commission under the Access to Information Act, 2016.

According to Mr. Abdi Abdullahi, he made a request for information in respect to implementation status of all projects funded by the National Government – Constituency Development Fund(NG-CDF) Isiolo South from 2017-2021 financial years. However, the NG-CDF refused to grant access to the requested information prompting him to lodge a complaint with the Commission.

The Commission took up the matter with the NG-CDF, Isiolo South, leading to the release of the information. Mr. Abdullahi visited the Commission's Isiolo office and confirmed receiving the requested information.

## SUCCESS STORIES

### Success Story- Eldoret Regional Office

#### Ombudsman Intervention Leads to Administrative Actions at the Ministry of Water, Pension's Department

When he retired after serving the nation in the Ministry of Water as a driver, Mr. William Mangison did not envisage that this was going to be the beginning of a journey which would frustrate him and deny him a peaceful retirement, thanks to unfair treatment and dereliction of duty by a public officer in the Ministry.

According to Mr. Mangison, he was engaged by the Ministry of Water as a driver in 1991 until July 2014 when he retired after attaining the compulsory retirement age. Upon retirement, he sought to have his retirement pension dues processed but he was advised that his file was not available at the Ministry's registry and was requested to fill new forms for reconstruction of a new file. He obliged by filling new forms for the reconstruction of a new file but four years later, a new file had not been reconstructed even after making several follow up. This predicament pushed him to lodge a formal complaint with the Commission in April 2019 to have the new file reconstructed and to facilitate the processing of his retirement dues.

The Commission by way of inquiry took up the matter with the Principal Secretary, Ministry of Water and Sanitation on 22nd May 2019. However, the Commission unsuccessfully did several follow up through reminders and no response was forthcoming. In April 2021, the Commission exercised its power and issued a notice under Section 27 of the Commission on Administrative Justice Act and Regulations 17 and 18 of the Commission's Regulation on 26th April 2021 to the Principal Secretary (PS), Hon. Mr. Joseph Wairagu Irungu.

The PS in his response through a letter dated 10th May 2021 informed the Commission that upon receipt of the Commission's letter, an internal investigation was conducted and it



was established that Ainea Malunda, a Principal Human Resource Management Officer in the Ministry was holding on a response made by the Ministry on 5th August 2019 on the matter. The investigations found Mr. Malunda culpable for having deliberately mishandled all the letters received in the Ministry in relation to the complaint and for occasioning unjustified and unfair treatment to Mr. Mangison. The disciplinary action against him commenced on 5th May 2021.

Following the intervention of the Commission, the PS secured the personal file for Mr. Mangison and submitted the pension claim to the Pensions Department for processing after computing his retirement benefits. The PS further, held a meeting with Mr. Mangison and offered an apology on behalf of the office for unwarranted treatment and frustration occasioned to him by the said officer and made a commitment to the Commission that the Ministry will expeditiously handle complaints from the Commission.

"I wish to assure you and your Commission that my Ministry has always handled all complaints received from your office with outmost prudence as exemplified by our performance in all the performance evaluations carried out on us by your

## SUCCESS STORIES

esteemed Commission. We also commit to ensure that all correspondences from your office will be handled expeditiously," read a letter from the PS to the Chairperson of the Commission, Hon Florence Kajuju.

Further, to enhance service delivery and to ensure that similar cases do not occur in future, the PS instituted firm administrative actions to streamline the Pensions Department within the ministry and made the following changes;

- I. Reshuffling of the officers in the pensions section;*
- II. Submission of an analysis of all pending pension cases; and*
- III. Confirmation of the progress made on automation of Human Resource (pension) files.*

Mr. Mangison in a letter to the Commission on 12th July 2021 confirmed to the receipt of his dues.

"I firstly, appreciate the Commission for stretching out their supportive hand and ensured that I had my pension dues paid. I therefore, want to emphasise that you continue with the same spirit, not only to me but to each and every mwananchi country wide," read his letter to the Commission.

### Form Four Student Re-admitted

"I hereby write this letter to thank you for your steadfast commitment and follow up towards the issue. On 11th August 2021, I travelled to the school to meet the principal who told me to bring back the boy on 12th August 2021 and also assured me that they have registered him for Kenya Certificate of Secondary Education (KCSE) exams. As at now the boy is in school," these were the words of Mr. Zachary Kapterit in a thank you letter to the Commission.

Mr. Kapterit lodged a complaint with the Commission after his son, a Form Four student at Kabarnet High School, Baringo County, was sent home by the school management.

According to him, on 24th June 2021, the student was given leave of absence by the school during third term on medical grounds to seek treatment.

Upon recovery, the student returned to school in July 2021 for his final year but the school declined to register him for KCSE while the process was ongoing. Consequently, the student was sent home without any reason and his belongings left at the school gate for collection on Sunday 1st August, 2021. The predicament pushed Mr. Kapterit to seek the intervention of the Commission's Eldoret Regional Office.

The Commission wrote to the school's principal seeking readmission of the student and registration to enable him sit for KCSE exams. Through a letter dated 16th August 2021, Mr. Kapterit informed the Commission that the principal called him to discuss the issue and the boy was taken back to school and registered for KCSE exams.

### Land Dispute Resolved

A land dispute was finally resolved following the intervention of the Commission in a case of illegal allocation of land by a chief.

Mr. Silas Kiprono lodged a complaint with the Commission's Eldoret Regional Office alleging that his area chief had allegedly allocated a parcel of land he inherited from his late father to one Ms. Judith Rotich. He further alleged that the said chief threatened to cause his arrest should he further probe the case. Mr. Kiprono thus sought the help of the Commission to have the issue addressed.

The Commission took the issue with the County Commissioner, Nandi County who summoned and mediated the matter between the chief and Mr. Kiprono leading to resolution of the issue.

## SUCCESS STORIES

### Headquarters

#### Teacher Reinstated and Salary Arrears Paid

A teacher was finally reinstated and his 11 months' salary arrears paid by the Teachers Service Commission (TSC) in a case of unfair dismissal.

According to Mr. Fred Ondieki, he was removed from the TSC payroll in October 2018 without any explanation as he had not received a letter to show cause or a dismissal letter from the employer. When he visited the TSC offices he was verbally informed that the reason for dismissal was chronic absenteeism. This pushed him to seek the intervention of the Commission.

The Commission by way of inquiry took up the matter with TSC leading to Mr. Ondieki being served with a "notice to show cause" letter. A disciplinary case ensued which was concluded and he was reinstated.

Further, his eleven months' salary arrears were paid to him in full. Mr Ondieki in an email to the Commission confirmed that the matter was resolved and thanked the Commission for the intervention.

"I confirm that the issues were satisfactorily handled after your intervention, thank you so much," read an email from Mr Ondieki to the Commission.

#### Share Dividends Paid

A Kenyan living in Australia finally received AUD 7,462.50 from the Unclaimed Financial Assets Authority (UFAA) being his share dividends, thanks to the intervention of the Commission.

Mr Andrew Lawrie lodged a complaint with the Commission alleging unresponsiveness in claiming his assets from UFAA. According to him, he sent an official application to the Authority in June 2019 for his UFAA held EABL shares dividends. Mr Lawrie is a Kenyan citizen and a current resident of Australia and could only seek the information from the Authority through email.

He sought information including confirmation of receipt of his application and whether getting his Australian Citizenship Certificate certified by a lawyer and the Department of Foreign Affairs and Trade was acceptable proof of his nationality and therefore acceptable for him to claim the assets.

However, the Authority on several occasions failed to advise accordingly and once the application was received and proof of citizenship accepted the Authority once again failed to keep him updated on the status of his application and consequent refund.

Following the intervention and oversight of the Commission by email and telephone calls to the Authority, the Commission was able to update the complainant on all the queries. Finally, in April 2021, his share dividends amounting to AUD 7462.50 were paid.



## Development of Access to Information Regulations 2021

The Commission has made commendable progress in the process of having the Access to Information (ATI) Regulations enacted especially on the aspect of public participation and stakeholders' engagement as shown below:

### Call for submission on written comments/memoranda

The Commission was able to put out a public notice in the Government newspaper called MyGov on 1st June 2021 calling for submission of written comments and memorandums from stakeholders and general members of the public on the draft ATI regulations. This public notice was widely circulated and shared with all stakeholders and members of the public through the newspaper, online platforms including the Commission's website and social media. Further circulation was made through our stakeholder's information networks. The call had a deadline for 30th June 2021 which was further extended to 3rd September 2021. The call elicited a good response in the form of submission of written comments and views through posts and our online platforms.

### Phase One Stakeholders' Engagement/ Public Participation:

The Commission was able to undertake public participation in several Counties whereof engagement with stakeholders and members of the public was done. Specifically, the Commission was able to undertake public participation in the following eight Counties: - Kitui, Makueni, Mombasa, Taita-Taveta, Nandi, Nakuru, Garissa and Wajir in phase one which was conducted between 21st June 2021 and 25th June 2021. The Commission targeted and was able to reach National Government Ministries, Departments and Agencies, County Executive Departments, County Assemblies, Civil Society Groups,

Community Based Organizations, Special Interests Groups and members of the public/citizens in these Counties.

### Phase Two Stakeholders' Engagement/ Public Participation:

The Commission was able to undertake public participation in nine additional Counties whereof engagement with stakeholders and members of the public was done. Specifically, the Commission was able to undertake public participation in the following Counties: - Nairobi, Nyeri, Muranga, Marsabit, Meru, Bomet, Narok, Kakamega and Bungoma in phase two which was conducted between 31st August 2021 and 10th September, 2021. The Commission targeted and was able to reach National Government Ministries, Departments and Agencies, County Executive Departments, County Assemblies, Civil Society Groups, Community Based Organizations, Special Interests Groups and members of the public/citizens in these Counties.

### Virtual stakeholders' engagements:

The Commission was able to undertake virtual engagement meetings with our stakeholders which was undertaken on 18th August 2021 targeting National Government Ministries, Departments and Agencies (MDAs) and on 19th August 2021 targeting Development Partners.

### Targeted stakeholders' engagements:

The Commission has been able to undertake sector targeted engagements on the draft regulations. To this end, the Commission was able to undertake a Media Breakfast meeting targeting news editors and Journalists on 4th October, 2021. Further, the Commission was able to have a radio talk-show hosted by Radio Baraza on 28th September, 2021.



Commission Vice Chairperson, Mr. Washington Sati following the proceedings during the public participation on the Draft Access to Information Regulations, 2021 in Nairobi County.

#### Next Steps:

- i.** The Commission will engage Parliament (National Assembly and Senate) committees. A meeting with the JLAC which was scheduled to take place on 8th and 9th October 2021 was postponed due to unavoidable circumstances.
- ii.** Thereafter, the Taskforce will retreat to finalize the process of drafting the regulations.
- iii.** The final draft of the Access to Information (General) regulations, 2021 will be submitted to the Office of the Attorney General through the Cabinet Secretary, Ministry of Information, Communication and Technology for publishing and onward transmission to Parliament for consideration and enactment.

#### Challenges:

- i.** COVID 19 protocols by the Ministry of health which restricted movement in and out of some regions/counties, limited the reach to all stakeholders and members of the public as well as limited the time for public engagements.
- ii.** Prolonged procurement and financial processes delayed disbursement of funds thus greatly affected planning and implementation of public engagement activities. This in turn necessitated adjustments on the expected activities' completion timelines.



CAJ Commissioner in Charge of Access to Information, Ms Lucy Ndumgu pose for a photo with participants during public participation exercise of the Draft Access to Information Regulations, 2021 in Nakuru County.



Commission Chairperson, Hon Florence Kajuju with Commission and County Government of Kajiado Staff when the Commission launched investigations into alleged service delivery failures at the Kajiado County Referral Hospital that saw casual workers go on strike.



Participants during a public forum to commemorate the International Day for Universal Access to Information in Garissa County.



Commission Chairperson, Hon Florence Kajuju accompanied by the Chairperson of the National Gender and Equality Commission, Dr. Joyce Muinda and the Commission CEO, Mr. Leonard Ngaluma pose for a photo with staff of the Garissa County when they visited the county.



Commission Chairperson, Hon. Florence Kajuju together with the CEO of the Commission Mr. Leonard Ngaluma pose for a photo with participants during The Network of African Women in Conflict Prevention and Mediation (FemWise-Africa) Advanced Training on Mediation for the Great Lakes Region in Kigali, Rwanda.



Stakeholders pose for a photo during a public participation exercise on the Draft Access to Information Regulations, 2021 in Nairobi County

# The Ombudsman Newsletter



## HEADQUARTERS

West End Towers, 2 nd Floor, Waiyaki Way,  
P. O. BOX 20414-00200, Nairobi,  
Tel: +254-202270000/2303000/2603765  
Toll free Line: 00800221349  
E-mail: [info@ombudsman.go.ke](mailto:info@ombudsman.go.ke) (For General enquiries)  
[complain@ombudsman.go.ke](mailto:complain@ombudsman.go.ke), (For complaints)

## BRANCH OFFICES

### ELDORET BRANCH OFFICE

Kerio Valley Development Authority(KVDA) plaza,  
7 th Floor, Oloo Street  
P.O BOX 10326-30100,  
ELDORET  
Tel: 020-8106515,  
Email: [eldoret@ombudsman.go.ke](mailto:eldoret@ombudsman.go.ke)

### KISUMU BRANCH OFFICE

Central Square Building, 2 nd Floor  
Oginga Odinga Street  
P.O BOX 1967-40100  
KISUMU  
Tel: +254 748 254 259/ 731 248 906  
Land line: 057-2022810  
Email: [kisumu@ombudsman.go.ke](mailto:kisumu@ombudsman.go.ke)

### ISIOLO BRANCH OFFICE

County Estate along Kiwanjani Road, next to KRA Offices  
P.O BOX 860-60300  
ISIOLO  
Tel: 020 2007671  
Email: [isiolo@ombudsman.go.ke](mailto:isiolo@ombudsman.go.ke)

### MOMBASA BRANCH OFFICE

Mombasa Trade Centre, 2 nd Floor, North Wing,  
Nkrumah Road (Former Ambalal House)  
P.O BOX 80979-80100  
MOMBASA  
Tel: 041 2315411/ 0731 011116  
Email: [mombasa@ombudsman.go.ke](mailto:mombasa@ombudsman.go.ke)

## HUDUMA CENTRES

Kakamega  
Nyeri  
Embu  
Kajiado  
Nakuru  
Kisii  
Kwale  
Meru  
Nairobi (Telposta Towers)