



COUNTY GOVERNMENT OF KAKAMEGA

Complaints Management Policy

JUNE 2016

REPUBLIC OF KENYA



COUNTY GOVERNMENT OF KAKAMEGA

**COMPLAINTS
MANAGEMENT
POLICY**

JUNE, 2016

The Chief Officer
Department of Public Service and Administration,
Office of the Governor,
P.O. Box 36-50100
KAKAMEGA

Telephone: 056-31850/1852/31853
Website: www.kakamega.go.ke

Contents

<i>Foreword</i>	v
<i>Definition of Terms</i>	vii
CHAPTER ONE	1
1.0 Introduction.....	1
1.1 Rationale.....	2
1.2 Objectives.....	2
1.3 Guiding Principles.....	2
1.4 Scope.....	3
1.5 Legal, Policy and Regulatory Framework.....	3
1.6 Policy Statements.....	12
CHAPTER TWO	14
2.0 Complaints Handling Mechanism.....	14
2.1 Implementation Framework.....	15
2.2 Funding.....	18
2.3 Complaints Reporting.....	18
2.4 Monitoring and Evaluation.....	18
2.5 Policy Review.....	19

Foreword

The County Government of Kakamega provides a wide range of services to its residents in relation to its functions, programmes and activities. In the course of discharging these responsibilities, incidences of dissatisfaction among the recipients of the services are likely to occur. These may be caused by actions and omissions of County employees; either intentionally or unintentionally. When these occur, the public who are recipients of our services are bound to complain. The County Government regards these complaints as an opportunity to improve its practices and procedures, hence service delivery. Since it places a strong emphasis on quality service delivery, the County Government has the responsibility to ensure strategies are in place towards this end.

In its commitment to the provision of quality service to customers, the County Government has put in place a clear Complaints Management Policy. This Policy takes into cognisance the *Constitution of Kenya, 2010*, The Commission on Administrative Justice Act, No. 22 of 2011, The Public Officers Ethics Act, 2003(Revised 2009), The Ethics and Anti-Corruption Commission Act No.23 of 2011, The County Government Act 2012, The Fair Administrative Action Act, 2015, The Kakamega County Anti-Corruption Policy and The Kakamega County Public Participation Act, 2015.

Employees of the County Government will be required to read and understand this policy as all of them will apply it whenever they receive complaints from the members of the public whom they serve. It will also apply for complaints from our staff about fellow employees.

I am hopeful that this procedure will enable the County Government to resolve complaints amicably, and where necessary, help it to improve its practices and procedures while serving the people of Kakamega County.



Mrs. Rachel Okumu, OGW

CECM – Public Service and Administration

Definition of Terms

- Employee:** A person who is employed by the County Public Service Board, but also includes, trainees, attachee students and agents undertaking work for, or on behalf of the County Government of Kakamega, whether they are working in a full-time, part-time or casual capacity.
- Communication:** Exchange of information between the County Government and the complainant.
- Complaint:** An expression of dissatisfaction with a product or service rendered by the County Government or its representatives that have failed to reach the standards stated, implied or expected. This includes complaints about a service that has been, or should have been rendered.
- Complainant:** A person or institution alleging breach of or unsatisfactory service by any County Government institution or employee.
- County Government:** County Government of Kakamega.
- Customer:** Includes persons or any bodies, internal or external, who seek services from the County Government's institutions or employees.
- Feedback:** Any form of comments, negative

or positive, written or verbal, about services provided by the County Government. Feedback may influence future service reviews and delivery methods.

Request for Service: An application to any department or its representative to provide a service to a person or office.

Resolved: A situation whereby an institution has provided sufficient information, a remedy or a solution, to the complainant or where the complainant remains dissatisfied, but to the satisfaction of the County Government.

CHAPTER ONE

1.0 Introduction

The County Government of Kakamega provides a wide range of services to the public. In its commitment to the provision of quality service to customers, the Government regards complaints as an important avenue for accountability to the public and feedback. Complaints will provide valuable prompts for the County Government to review its performance and the conduct of staff that work within and hence improve its service delivery to the public.

The County Government has put in place mechanisms to encourage the public and the staff to raise complaints where necessary in order to improve on its service delivery efforts. One of the approaches taken by the County Government to ensure that this is done, is the Development of this Complaints Management Policy to provide direction on how matters of public and staff complaints shall be handled in the County.

The policy demonstrates the County Government's commitment to its clients and other stakeholders in providing the best possible service. It will help in establishing areas with shortcomings to enable taking of remedial action and eventually improve service delivery.

The Policy covers the following areas:

- (a) Receiving complaints;
- (b) Recording complaints;
- (c) Resolving complaints; and
- (d) Feedback.

1.1 Rationale

An effective complaints management system is a proven way of maintaining and building relationships with the people the County Government serves and who depend on it. It is fundamental to the provision of quality service.

The development of this Policy, therefore, is to provide guidelines and an avenue for staff and the public to raise complaints emanating from the conduct and performance of staff of the Kakamega Public Service and its affiliated agencies.

1.2 Objectives

The main objectives of this policy are:

- (a) To establish a structured process that will enable the County Government to manage complaints.
- (b) To ensure that the public receives a fair and consistent resolution of their complaints.
- (c) To ensure improved service delivery.
- (d) To use complaints to ensure that changes are made to policies, procedures and systems so as to avoid maladministration.

1.3 Guiding Principles

The Complaints Management Policy is based on five principles, which are fundamental in the way the County Government approaches management of complaints. These include:

(a) Fairness

Every complaint will be treated fairly, impartially, confidentially and transparently.

(b) Accessibility

Awareness about the policy shall be created and facilities for receiving feedback from the public will be made easily accessible.

(c) Responsiveness

Appropriate mechanisms shall be put in place to ensure responsiveness to all complaints.

(d) Timeliness

All complaints lodged shall be handled within an appropriate time frame.

(e) Integration

This will be done where the complaint overlaps functional responsibilities of different Departments.

1.4 Scope

The policy applies to staff in all Departments at the County headquarters, Sub-County, Ward, Village and any other levels who handle customers in the course of their duties.

1.5 Legal, Policy and Regulatory Framework

The Policy is anchored on the following legal provisions:

1.5.1 Constitution of Kenya, 2010

1.5.1.1 Chapter 2 – The Republic: Article 10 – National Values and Principles of Governance

States that the national values and principles of governance contained in this article shall apply to all State organs, State officers and public officers.

1.5.1.2. Chapter 6 – Leadership and Integrity Articles 73, 75 and 76 (1) and (2)

These Articles offer guidance on the various pertinent aspects of the State or Public Officers in positions of leadership. These include but are not limited to:

(a) Responsibilities of leadership

Authority assigned to a State Officer is a public trust to be exercised in accordance to the Constitution, along with showing respect for the people and brings honour, promotes public confidence to the nation and dignity and integrity to the office.

(b) Conduct of State Officers

A State Officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids compromising any public or official interest in favour of a personal interest; or demeaning the office the officer holds.

(c) Financial probity (honesty; integrity) of State Officers

- (i) Gifts or donations to State Officers on an official occasion is a gift or donation to the County Government.
- (ii) State Officers shall not maintain a bank account outside Kenya.
- (iii) State Officers shall not seek or accept a personal loan or benefit in circumstances that compromise his/her integrity.

1.5.1.3 Chapter 13 Article 232 – Values and Principles of Public Service

The Values and Principles of Public Service as contained in this Article shall apply to public service in all State organs at both levels of government and all State Corporations. Special emphasis is placed on consideration for men and women, members of all ethnic groups and persons with disabilities.

1.5.2 Commission on Administrative Justice Act, No. 22 (Ombudsman Office) – Part II Article 8 (a) (b) (d) (e) (f) (h) (j) (k)

The Office of the Ombudsman has the power to investigate any conduct in state affairs by any State organ, State or Public officer in National and County Governments. It clarifies the kind of complaints that are made to the commission and lays out the procedure to be followed. Some of the issues addressed here include:

(a) Discretion not to investigate

This section clarifies the ground under which the Commission is at discretion not to investigate a given report.

(b) Notice if complaint is not investigated

If the Commission decides not to investigate a complaint or to discontinue an investigation, it shall inform the complainant in writing.

(c) Representations in case of adverse findings

The Commission shall give an opportunity to make representations before writing their report.

(d) Notice of investigation to the organisation

The Commission shall give notice of any intended investigation.

(e) Report to the Complainant

The Commission shall make a report to the State organ, public office or organisation to which the investigation relates. The report shall include the findings, any recommendations made and the reasons for the action.

(f) Report of misconduct to appropriate authority

The Commission will report their findings to the relevant authority or advise as appropriate.

1.5.3 Ethics and Anti-Corruption Commission Act, No. 23 of 2011 - Part II – Administration - Articles 11 (e), 12 (c), 13 (2) (c), 32

- (a) Under **Additional powers**, the Commission, has the power to recommend appropriate action against State or Public Officers alleged to have engaged in unethical conduct.
- (b) Under **General Principals** in the Act, in addition to observing Article 10 of the Constitution, the Commission shall, among others, observe the **Rule of Natural Justice**.
- (c) Under **General Powers**, the Commission shall have power to conduct investigations on its own initiative or on a complaint made by any person.
- (d) In Part IV on Regulations, Article 32, the Commission may make regulations for the better implementation of the Act with respect to:
 - (i) Appointment and confirmation of appointment of persons to any office in respect of which it is responsible under this Act.

- (ii) Disciplinary control and termination of appointments of employees of the Commission.

1.5.4 Fair Administrative Action Bill – PART II on Fair Administrative Action

Section 3 and 4

This Act applies to all state and non-state agencies, including any person exercising administrative authority; performing a judicial or quasi-judicial function under the Constitution or any written law. It also applies to anyone whose action, omission or decision affects the legal rights or interests of any person to whom such action, omission or decision relates. Among others it includes:

- (a) Every person has the right to administrative action which is expeditious, efficient, lawful, reasonable and procedurally fair.
- (b) Everyone has a right to request and be supplied with information within thirty (30) days that will facilitate his/her application for an appeal against an administrative action taken.
- (c) The public has a right to issuance of a public notice inviting their views on a proposed administrative action that is likely to materially and adversely affect their legal rights or interests and the reasons for the decision of the action taken.
- (d) An administrator may ignore the requirement to furnish adequate reasons if it is reasonable and justifiable in the circumstances, and shall inform the person making the request of such a decision.

1.5.5 Public Officers Ethics Act – Chapter 183 – Part 3, Articles 7 – 24

This Part sets out a general Code of Conduct and Ethics for public officers in the following areas:

(a) General Performance of Duties

Stresses efficiency and honesty in performance of duties and service provision.

(b) Professionalism

Gives guidelines on the conduct of a Public Officer in the performance of his/her duties in a way as to maintain public confidence in the integrity of his/her office; courtesy and respect towards the public and fellow officers; maintain an appropriate standard of dress and personal hygiene.

(c) Rule of Law

It stipulates that a Public Officer shall not violate the rights and freedoms of any person under Part V of the Constitution, or use his office to improperly enrich himself/herself or others, among others.

(d) Conflict of Interest

A Public Officer shall avoid being in a position in which his/her personal interests conflict with his/her official duties.

(e) Collections and Harambees

A Public Officer shall not use his office, official position or place of work as a venue for soliciting or collecting harambees, or to obtain money or other property from a person.

(f) Acting for Foreigners

A Public Officer shall not, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(g) Care of Property

A Public Officer shall ensure that property entrusted to his care is adequately protected and not misused or misappropriated and shall be personally liable for losses resulting from failure to comply to this.

(h) Political Neutrality

A Public Officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(i) Nepotism, etc.

A Public Officer shall not practice nepotism or favouritism.

(j) Giving of Advice

A Public Officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

(k) Misleading the Public, etc.

A Public Officer shall not knowingly give false or misleading information to members of the public or to any other Public Officer.

(l) Conduct of Private Affairs

A Public Officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(m) Sexual Harassment

A Public Officer shall not sexually harass a member of the public or a fellow Public Officer by making a request, physical contact or action which he/she knows is unwelcome or exerting pressure for sexual activity or favours.

(n) Selection, etc. of Public Officers

A Public Officer shall practice and promote the principle that public officers should be selected on the basis of integrity, competence and suitability; or elected in fair elections.

(o) Submitting of Declarations, etc.

A Public Officer shall submit any declaration or clarification required under Part IV to be submitted or made by him/her.

(p) Acting Through Others

A Public Officer contravenes the Code of Conduct and Ethics if he/she causes, allows or directs anything to be done through another person that if done by the public officer would be a contravention of the same unless it is done without the Public Officer's knowledge or consent if the public officer took reasonable steps to prevent it.

1.5.6 County Government, Act 2012 – Part VIII – Citizen Participation Article 87

This Article articulates the Principles that will guide citizen participation in Counties as relates to various activities including:

- (a) Access to information relevant to policy formulation and implementation.

- (b) Access to the process of formulating and implementing policies, laws and regulations.
- (c) Establishment of specific performance standards.
- (d) Protection and promotion of the interest and rights of minorities, marginalised groups and communities.
- (e) Legal standing to citizens or various groups to appeal or review decisions, or redress.
- (f) Grievances, with particular emphasis on persons and traditionally marginalised communities, including women, the youth, and disadvantaged communities.
- (g) Shared responsibility and partnership of county governments and non-state actors, to provide complementary authority and oversight in decision-making processes to public-private partnerships, to encourage direct dialogue and concerted action on sustainable development.

1.5.7 Kakamega County Anti-Corruption Policy, 2016

This policy stresses Kakamega County's commitment to minimising corruption, theft or other misuse of public funds and assets. It identifies corruption risk areas in the Public Service Departments in Kakamega County. It shall apply to all state and Public Officers at all levels in the Kakamega County Public Service.

1.5.8 Kakamega County Public Participation Regulations, 2016

The rationale for public participation is based on the foundation that the people of Kakamega have sovereign power which they have delegated to state actors at the County level. The sovereignty must be respected and institutionalised in all processes of governance.

These regulations are in line with Article 10 of the *Constitution of Kenya, 2010* which recognises participation of the people as one of our National values and principles of governance. Article 174(c) provides that the object of devolution is to: “enhance the participation of people in the exercise of the powers of the State and in making decisions affecting them.”

1.6 Policy Statements

The purpose of this Policy is to ensure that both internal and external clients of the County Government of Kakamega receive services that reasonably meet their expectations and that they have an avenue to express their dissatisfaction relating to the conduct and performance of staff of the Kakamega Public Service and its affiliated agencies. The following commitments will apply in this policy:

- (a) All members of the public and staff of the County Government have a right to complain if they feel aggrieved by actions of County Government employees.
- (b) All Departments of the County Government and its affiliated agencies shall maintain a supply of Complaints Handling Forms and a Complaints and Resolution Register and ensure all reported complaints are recorded.
- (c) All complaints received in the County Government and its agencies shall be handled with confidentiality, impartiality and fairness.
- (d) Every person lodging a complaint has the right to expeditious and efficient administrative action from

the County Government and its agencies upon timely submission of a complaint, giving all the relevant details on the Complaint Handling Form and any other supporting documents.

- (e) In order to strengthen and maintain interactive partnerships with customers, the County Government and its agencies shall give timely feedback on resolution of complaints, whether in favour of the complainant or employee involved.
- (f) In handling complaints, the County Government and its agencies will promote affirmative action through observing gender equity and providing necessary assistance to those customers with special needs.
- (g) Reports on resolution of complaints will be submitted to the Commission on Administrative Justice on a quarterly basis for deliberation as per their meetings laid out in the Second Schedule of the Act which requires them to hold quarterly meetings.

CHAPTER TWO

2.0 Complaints Handling Mechanism

The County Government welcomes complaints as a way of improving its services. It is the responsibility of all staff within Kakamega County Public Service to ensure this Policy is effectively implemented. All offices of the County Public Service will ensure they have an internal mechanism and maintain registers to capture and record complaints received. The following steps shall be adhered to by all staff while handling public complaints:

- (a) Record the complaint.
- (b) Acknowledge complaints promptly.
- (c) Assess the complaint – resolve those that can be easily managed.
- (d) Plan the investigation where one is warranted.
- (e) Investigate the complaint.
- (f) Respond to the complaint with a clear decision (uphold grievance or uphold action).
- (g) Attend to any customer service concerns.
- (h) Record resolved complaints.
- (i) Consider whether there are systemic issues which need correction and take necessary remedial action.
- (j) Summarise the more complex cases for discussion at the next level of management.
- (k) There are specific responsibilities which have been identified and assigned to specific offices for the successful implementation of this policy.

2.1 Implementation Framework

2.1.1 Office of the Governor

Members of the public may address their complaints to the Office of the Governor. Once the complaint is received, the office shall initiate an investigation into the complaint and advise the complainant through the laid down mechanism.

2.1.2 County Executive Committee

This Committee shall meet quarterly to deliberate on issues raised in the report prepared by the County Secretary and make recommendations.

2.1.3 The County Secretary, Office of the Governor

All complaints received from the Departments shall be forwarded to the County Secretary, Office of the Governor, who shall then convene a meeting of the County Executive Committee members to deliberate on issues raised and recommend appropriate action.

The County Secretary shall prepare and present before the Executive Committee all cases received, and deliberated upon within a given quarter and the action taken before submitting the same to the Commission on Administrative Justice, for records, further guidance or action as the case may be.

2.1.4 Chief Officers

Chief Officers shall maintain a Complaints Handling register and ensure that all Section Heads in their Departments and Sub-County offices maintain a register to capture the

complaints from the public and staff. He/She will receive compiled reports/summaries from their Section Heads and Sub-County offices for deliberation.

The decision on the complaints that are resolved should be promptly communicated to the respective complainant. Complaints that are not resolved shall be compiled along with those resolved and submitted to the County Secretary for further necessary action.

2.1.5 Section Heads

They shall maintain a Complaints Handling Register to capture complaints from the public and staff.

The decision on the complaints that are resolved should be promptly communicated to the respective complainant. Complaints that are not resolved shall be compiled along with those resolved and submitted within a time frame to be communicated from time to time to their respective Chief Officers for further necessary action.

2.1.6 Sub-County Administrators and other Sub-County Devolved Units

They shall maintain a Complaints Handling Register to capture complaints from the public and staff.

The decision on the complaints that are resolved should be promptly communicated to the respective complainant. Complaints that are not resolved shall be compiled along with those resolved and submitted within a time frame to be communicated from time to time to their respective Chief Officers for further necessary action.

2.1.7 Ward Administrators and other Ward Devolved Units

They shall maintain a Complaints Handling Register to capture complaints from the public and staff.

The decision on the complaints that are resolved should be promptly communicated to the respective complainant. Complaints that are not resolved shall be compiled along with those resolved and submitted within a time frame to be communicated from time to time to their respective Sub-County Administrators for further necessary action.

2.1.8 Village Administrators

They shall maintain a Complaints Handling Register to capture complaints from the public and staff.

The decision on the complaints that are resolved should be promptly communicated to the respective complainant. Complaints that are not resolved shall be compiled along with those resolved and submitted within a time frame to be communicated from time to time to their respective Ward Administrators for further necessary action.

2.1.9 Community Administrators

They shall maintain a Complaints Handling Register to capture complaints from the public and staff.

The decision on the complaints that are resolved should be promptly communicated to the respective complainant. Complaints that are not resolved shall be compiled along with those resolved and submitted within a time frame to be communicated from time to time to their respective Village Administrators for further necessary action.

2.1.10 Commission on Administrative Justice

The Commission shall receive quarterly reports from the County on all cases deliberated within a given quarter for records, further guidance or action as the case may be.

2.2 Funding

Accounting Officers will factor into and provide funds from their budget allocation for the implementation of this policy where necessary.

2.3 Complaints Reporting

Kakamega County Public Service shall continuously carry out Monitoring and Evaluation and report quarterly to the Commission of Administrative Justice (CAJ). The reports will, among others, cover the following:

- (a) Form/Type of complaint received.
- (b) Action taken.
- (c) Recommendations made.
- (d) Remedial action/s taken.
- (e) Desegregated reports indicating gender, age, disability and ethnicity.

2.4 Monitoring and Evaluation

Monitoring involves a continuous tracking of the progress made on implementation of the policy while evaluation deals with gathering data and information to establish how effective the policy is being implemented and the impact.

Monitoring and Evaluation will help the County Public Service measure the results against predetermined objectives,

fast track the implementation and compliance with the policy. It will also provide feedback on the relevance, efficiency and effectiveness of the Complaints Management Procedure.

2.5 Policy Review

This Policy may be reviewed as need arises but at least once every three years.

Vision

A leading department in the provision of excellent human resource and administrative services in the County and beyond.

Mission

To provide quality and timely human resource and administrative services for sustainable environmental, social and economic development of Kakamega County.

Core Values

- Integrity
- Respect for National Diversity
- Fairness, Equity and Social Justice
- Confidentiality
- Commitment
- Public Participation
- Team Work



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Office of The Governor
P.O. Box 36-50100
Kakamega