



COURT USERS' COMMITTEE

Guidelines

Revised 2019

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1. INTRODUCTION

Article 159(1) of the Constitution of Kenya 2010 recognizes that “**judicial authority is derived from the people and vests in, and shall be exercised by, the courts and tribunals established by or under this Constitution**”.

Section 35 of the Judicial Service Act No.1 of 2011 institutionalizes Court Users’ Committees (herein referenced as CUCs) by providing for the establishment of the National Council on the Administration of Justice (NCAJ) to ensure a coordinated, efficient, effective and consultative approach in the administration of justice and the transformation of the justice system.

CUCs are a platform that brings together actors and users in the justice sector in order to enhance public participation, stakeholder engagement, develop public understanding of court operations, and promote effective justice sector partnerships; for a coordinated, efficient, effective and consultative approach in the administration of justice.

2. RATIONALE

Acknowledging that judicial authority is derived from the people of the Republic of Kenya;

Committed to the realization of national values and principles of governance, of patriotism, national unity, sharing and devolution of power, rule of law, democracy and participation of people, human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;

Taking cognizance that the justice system is chain-linked in the service of the people of Kenya;

In full realization that the mandate potential, capacity and discharge of each actor in the justice system is connected, intertwined and dependent on each other;

Seeking to depart from the silo approaches of the past and to inculcate collective responsibility and mutual accountability amongst and between actors in the justice system;

The NCAJ is tasked with the establishment and operationalization of CUCs at the County Level, Court Stations, Tribunals and other specialized Courts.

3. CORE VALUES

A CUC shall be guided by the following core values:

- i. **Collective responsibility** - That in discharging its functions, each stakeholder or agency bears equal responsibility for the successes and failures of the CUC;
- ii. **Interdependence** - That while all agencies remain independent, they shall nevertheless depend on each other for the operationalization of the CUC;
- iii. **Quality service** - That all stakeholders are bound by the recognition that the CUC is about quality service delivery to the public;
- iv. **Constitutionalism** - That all actors will be guided by fidelity to the Constitution and the principles espoused therein; and
- v. **Mutual accountability and transparency** - That all stakeholders will be open and accountable to each other and perform their obligations within the CUCs.

4. ESTABLISHMENT

CUCs shall be established at different levels to ensure an accountable, coordinated, efficient, effective and consultative approach in the delivery of justice. These levels are:

- i. The High Court Station;
- ii. The Magistrate Court Station;
- iii. Other Courts - Children's Court, County Municipal Courts, Milimani Commercial Court, Kadhis Court, and Mobile Courts;
- iv. Tribunals; and
- v. The County.

5. OBJECTIVES

The overall objective of CUCs is to streamline the administration of justice within the respective courts' jurisdictions.

The specific objectives of CUCs are:

- i. To ensure an accountable, coordinated, efficient, effective and consultative approach in the delivery of justice;
- ii. To improve access to justice and service delivery by all actors in the justice system and in particular children, women and persons with disabilities;
- iii. To enhance public participation and engagement in the delivery of justice;
- iv. To promote information sharing and learning among stakeholders;
- v. To strengthen feedback mechanisms and promote dialogue among stakeholders and court users;

- vi. To propose policies and legislation for implementation by the NCAJ for effective delivery of justice; and
- vii. To carry out all functions that are incidental to the operations of the CUCs.

6. FUNCTIONS AND SCOPE OF COURT USERS', COMMITTEES

The functions and scope of CUCs are to:

- i. Propose policy and legislative interventions to the NCAJ Council for the effective and expeditious delivery of justice;
- ii. Implement policies and strategies of the NCAJ Council;
- iii. Identify needs and challenges from various agencies that hinder the expeditious delivery of justice and propose effective solutions;
- iv. Serve as a platform for promoting and establishing peer review mechanisms among participating agencies;
- v. Enhance information sharing and learning among stakeholders;
- vi. Propose capacity building for stakeholders on relevant fields of concern to the NCAJ;
- vii. Organize and hold annual open days, sensitization events and execute outreach programmes;
- viii. Hold fact-finding missions to penal facilities and places of custody including prisons, remand homes, police stations, borstal institutions, rehabilitation schools, psychiatric hospitals, probation hostels and any other place of detention;
- ix. Prepare and share reports on all CUC activities with the NCAJ secretariat and its stakeholders;
- x. Promote Alternative Dispute Resolution in accordance with the provisions of Article 159 of the Constitution;
- xi. Promote justice and rule of law initiatives; and
- xii. Engage in any other activity to enhance access to justice.

7. COURT USERS' COMMITTEES PRIORITIES

CUCs shall address the following *inter alia* :

- Case backlog with emphasis on time management;
- Bail and bond implementation;
- Conditions in detention facilities and holding areas;
- Coordination and communication in the justice sector;
- Access to justice and expeditious delivery of justice;
- Capacity in the justice sector: infrastructure and human resource;
- Access to information;
- Prevention of corruption;
- Record management: police files, court files;
- Access to justice for women, children and vulnerable groups; and
- Emerging issues in cybercrime, social media evidence, automation of court services, transgender/intersex recording, counterfeiting and human trafficking.

8. MEMBERSHIP

Membership of the CUC shall mirror that of the NCAJ Council. The CUC may co-opt members on an *ad hoc* basis as need arises.

The membership of the CUC shall comprise the heads of the following institutions or their representative appointed in writing:

- i. The presiding Judge or Head of the High Court Division (Chair of High Court CUC);
- ii. The Head of a Station Magistrates Courts (Chair of Magistrate Court CUC);
- iii. Judges, judicial officers and staff;
- iv. Office of the Attorney-General and Department of Justice (OAG-DOJ);

- v. The Office of the Director of Public Prosecutions (ODPP);
- vi. The National Police Service (NPS);
- vii. The Kenya Prisons Service (KPS);
- viii. Probation and Aftercare Service (PACS);
- ix. Witness Protection Agency (WPA);
- x. The Representative of National Government in Counties;
- xi. The Representative of County Government;
- xii. The Commission on Administrative Justice (CAJ);
- xiii. The Independent Policing and Oversight Authority (IPOA);
- xiv. The National Gender and Equality Commission (NGEC);
- xv. The Kenya National Commission on Human Rights (KNCHR);
- xvi. The Department of Children Services (DCS);
- xvii. The Law Society of Kenya or local Bar representatives;
- xviii. The Ethics and Anti-Corruption Commission (EACC);
- xix. Agencies with prosecutorial powers;
- xx. Superintendent of the local hospital;
- xxi. Court bailiffs and auctioneers; and
- xxii. Special interest groups.

Membership shall also be in cognizance of the presence of the agencies in the regions provided that overall members shall be not less than 15 and not more than 35.

8.1 County-level Membership

In line with the provision of the Judicial Service Act that CUCs will be established at the County level, the supplementary membership shall be constituted as follows:

- i. The Presiding Judge will be the Chairperson and in his or her absence, the Chief Justice may designate a Judge to perform the functions of the Chairperson;

- ii. In the event that the Presiding Judge is incapacitated, the CUC shall appoint an interim Chairperson, pending appointment of a Judge by the Chief Justice;
- iii. The Chief Registrar of the Judiciary shall appoint a Chairperson for Magistrates Courts Stations in the County;
- iv. Each County CUC shall have representatives from all the CUCs in the County including Special Courts; and
- v. The County Governor shall also be a member of the County CUC.

Because the above membership is simply illustrative and not exhaustive, CUCs shall remain at liberty to permanently or temporarily co-opt or invite any member as shall be deemed relevant for its purposes. CUCs are further encouraged to ensure the participation of all through Sub-Committees and the promotion of awareness of its activities through regular media briefs.

9. OFFICE BEARERS AND THEIR FUNCTIONS

The office bearers of the CUC shall include:

- i. The Chairperson;
- ii. The Deputy Chairperson;
- iii. Treasurer; and
- iv. Secretary.

The Deputy Chairperson, the Secretary and the Treasurer shall be elected by the members of the CUC. They shall hold the position for a period not exceeding two years and may seek re-election. Such elections shall be guided by agreed formulae by the CUC members.

9.1 The Functions

The Presiding Judge of a High Court Station or Division of the High Court or Head of a Court Station or a person acting in that capacity shall be the Chairperson of the CUC.

The Chairperson shall:

- i. Convene and preside over all the meetings;
- ii. Ensure implementation of resolutions of the CUC;
- iii. Submit quarterly reports to the NCAJ Secretariat for implementation;
- iv. Ensure that there is adequate resourcing for CUC activities;
- v. Be the Chief Accounting Officer of the CUC in the case of a magistrates court; and
- vi. Perform such other functions in the furtherance of the objective of the CUC.

The Deputy Chairperson of a CUC shall:

- i. Act as the substantive alternative to the Chair;
- ii. Support the Chairperson in his or her functions;
- iii. Perform such other functions as delegated by the Chairperson in furtherance of the objective of the CUC; and
- iv. Be in charge of monitoring and evaluation of the activities of the CUC.

The Treasurer of a CUC shall:

- i. Be the head of the CUC Finance Sub-Committee;
- ii. Coordinate resource mobilization and management of the CUC finances;
- iii. Be accountable to the Chairperson of the CUC and ensure that the Finance Sub-committee operates within Government regulations;
- iv. Facilitate the CUC Secretariat as it coordinates CUC operations; and
- v. Prepare and submit quarterly financial and other necessary reports.

The Secretary of a CUC shall:

- i. Issue notices and agenda for meetings;
- ii. Take the minutes and manage records of all meetings;

- iii. Extract and forward the resolutions to CUC members;
- iv. Prepare reports as directed by the Committee;
- v. Oversee the functions of the CUC Secretariat including handling logistics, writing reports and organizing meetings;
- vi. Distribute relevant information and materials as received from the Chair and members of the CUC as well as NCAJ; and
- vii. Be the custodian of all the records and minutes of the CUC.

10. MEETINGS

- i. A CUC shall meet at least once every three months in tandem with the NCAJ schedule of meetings in the financial year.
- ii. Any sub-committees of the CUCs may meet on need basis.
- iii. The quorum for each meeting shall be at least half of the members.
- iv. The venues of meetings shall be agreed upon by the members taking into account the distance and convenience.

10.1 Mode of Operation

In the discharge of its functions, the CUC shall:

- i. Determine its procedures at its meetings in accordance with these guidelines;
- ii. Establish such task-oriented Special Working Groups as are necessary;
- iii. Establish sub-CUCs in instances where its membership is large and/or where the area of the CUC's jurisdiction is vast;
- iv. So far as is practicable, adopt a less formal approach in the conduct of its business;
- v. The meeting agendas shall be originated from the CUC taking cognizance of the peculiar facts in the area of jurisdiction; and
- vi. The minutes should be circulated to the members at least two weeks prior to the next meeting.

11. FINANCING

- i. The CUC shall be financed from monies appropriated from Parliament through NCAJ.
- ii. Each CUC is at liberty to mobilize funds/resources from donors and stakeholders provided that Chapter Six of the Constitution is upheld and there is no conflict of interest.
- iii. Each CUC may open and maintain a donor account. Opening of such an account shall be authorized by the office of the Chief Registrar of the Judiciary.
- iv. Each CUC shall prepare and present a financial budget of all its proposed activities to the NCAJ Secretariat within the third quarter of the financial year.
- v. Funds received by each CUC shall be utilized in accordance with the laws and regulations governing Public Finance Management in Kenya. Such funds shall therefore be appropriated through the laid down procedures that would of necessity follow the budget process.
- vi. The funds received shall be utilized for the planned activities agreed upon by the CUCs and the donors.
- vii. Other donor supported activities that are not directly controlled by the CUC shall be brought to the notice of the NCAJ Secretariat and captured in the financial and narrative reports accordingly.
- viii. Every CUC shall file returns to the NCAJ Secretariat detailing the expenditure of the activities undertaken at the end of each financial year.
- ix. The Chairperson of each CUC shall ensure that proper books and records of accounts are kept and maintained in accordance with Public Finance Management Regulations.
- x. The responsibilities relating to financial accounting within the CUC framework shall be in accordance with the Public Finance Management Regulations.

12. MONITORING, EVALUATION AND REPORTING

- i. Each CUC shall develop its annual Work Plan taking into account priorities, available resources, concerns and challenges of each court station.
- ii. The annual Work Plan shall take into account the following key deliverables: access to justice; access to information; public participation; stakeholder engagement; timely delivery of court decisions and restoration of public confidence in the justice sector.
- iii. Every CUC shall prepare and submit a procurement plan to the NCAJ Secretariat.
- iv. The implementation of the work plan shall be in line with timelines determined by the NCAJ.
- v. CUCs shall prepare and submit quarterly narrative and financial progress reports to the NCAJ secretariat.
- vi. CUCs shall adopt the NCAJ standard reporting framework.
- vii. All CUCs shall prepare minutes of their quarterly meetings and forward signed copies to the NCAJ Secretariat with a copy to the County CUC Secretariat for any necessary action.
- viii. NCAJ shall conduct biennial stakeholder surveys on the effectiveness of CUCs using tools developed by the NCAJ Secretariat.
- ix. The County CUC Secretariat shall coordinate, monitor and evaluate the activities of CUCs within the County and all Court Stations falling within the supervisory jurisdiction of the High Court.
- x. NCAJ Secretariat shall prepare an annual report encompassing the work of all CUCs within the first quarter of the succeeding financial year.

13. PERFORMANCE INDICATORS

In conducting monitoring and evaluation of the CUCs, the following shall be the performance indicators:

- i. Reduced trial period from date of taking plea to time of judgment delivery;
- ii. Increase in number of people released on bail or bond;
- iii. Reduction in period taken to execute warrant of arrest and witness summons by the police;
- iv. Increased number of people coming to court to seek services;
- v. Reduction of complaints from the public, litigants and inmates;
- vi. Reduction in number of pending cases;
- vii. Report of the results of the biennial stakeholder surveys; and
- viii. CUC's achievements against set targets in the annual Work Plan.



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