



On the Frontline

against

Corruption



KENYA ANTI-CORRUPTION COMMISSION

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Department of Education
Directorate of Preventive Services

About the Commission

The Kenya Anti-Corruption (KACC) is a public body established by the Anti-Corruption and Economic Crimes Act, 2003.

The Commission is headed by a Director (who is also the Chief Executive), assisted by up to four Assistant Directors. The Director and Assistant Directors are selected by the Kenya Anti-Corruption Advisory Board (KACAB) and appointed by the President after approval by Parliament.

The Kenya Anti-Corruption Advisory Board

The Kenya Anti-Corruption Advisory Board (KACAB) generally advises the Commission on the exercise of its powers and the performance of its functions.

The Advisory Board consists of twelve (12) members and the Director of KACC who is also the Secretary. The Board Members are nominated by various organizations, approved by Parliament and appointed by the President. The members represent various sectors and interests namely; civil society, religious sector and professional and private sector associations and the trade union movement. The members nominate a Chairman and Vice-Chairman who are then appointed by the President.

Vision

To be a World Class institution fostering Zero Tolerance to Corruption in Kenya.

Mission

To combat corruption and economic crimes through Law Enforcement, Prevention and Public Education.

Core Values

- Integrity
- Professionalism
- Fidelity to the Law
- Courage
- Excellence in Service
- Teamwork

Mandate

The Commission is mandated to combat and prevent corruption and economic crimes through enforcement of the law, educating the public and enlisting their support against corruption and providing preventive services through promotion and development of good practices to seal opportunities and loopholes that facilitate corruption.

Statutory Functions

The Anti-Corruption and Economics Crimes Act, 2003 mandates the Commission to perform the following functions:

- a. Investigations:** The Commission investigates any matter that raises suspicion that any of the following have occurred or are about to occur:
- i. Conduct constituting corruption or economic crime
 - ii. Conduct likely to allow or encourage corruption or economic crime.
 - iii. Conduct that is conducive to corruption or economic crime.

Upon completion of investigations, the Commission submits a report on the result to the Attorney General with recommendations for appropriate action.

- b. Advice:** At the request of any person, the Commission advises and assists any person or public body on ways in which the person or body may eliminate corrupt practices.

- c. Examination:** The Commission also examines the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures that may be conducive to corrupt practices.
- d. Education:** The Commission educates the public on the dangers of corruption and economic crime in order to enlist their support in combating corruption in the country.
- e. Asset Recovery:** The Commission may recover any public property lost or sue for compensation for damage to public property. It has powers to:
 - Investigate the extent of liability for the loss of or damage to any public property;
 - Institute civil proceedings against any person for the recovery of such property or for compensation;
 - Restore that property to the public even if it is outside Kenya.

Institutional Structure

The Commission has four Directorates. These are:

- i. Investigations and Asset Tracing** - responsible for investigation of corruption and economic crime.
- ii. Legal Services and Asset Recovery** - makes recommendation to the Attorney General for the prosecution of persons involved in corruption and/or economic crime and institutes cases in court for the recovery of assets acquired corruptly.
- iii. Preventive Services** - conducts public education, systems examinations and advises

on ways to seal corruption loopholes in order to prevent corruption and economic crime.

iv. Finance and Administration - provides financial and administrative support to the other three Directorates.

Types/Definitions of:

a) Corruption

Under the Anti-Corruption and Economic Crimes Act, 2003, the following are corruption offences:

- Bribery and bribing of agent (employees).
- Secret inducements for advice.
- Deceiving the principal (employer).
- Conflict of interest.
- Improper benefits to trustees for appointment.
- Bid rigging.
- Abuse of office.
- Fraud.
- Embezzlement or misappropriation of public funds.
- Breach of trust.
- An offence involving dishonesty in relation to:
 - Taxes, rates or imposed levies.
 - Election of persons to public office.

b) Economic Crime

Economic crime consists of:

- Unlawful acquisition, mortgage, and disposal of public property, service or benefit.
- Damage to public property.

- Failure to pay taxes, fees, levies or charges payable to a public body.
- Effecting or obtaining non-payment of taxes, levies, fees or charges to a public body to which they are payable.
- Fraudulently making payment or excessive payment from public revenues for:
 - Sub-standard or defective goods;
 - Goods not supplied or not supplied in full; or
 - Services not rendered or not adequately rendered.
- Failure to comply with applicable procedures and guidelines for procurement; allocation, sale or disposal of property; tendering of contracts, management of funds or incurring expenditures.
- Engaging in a project without planning.

Punishment for Corruption Offences and Economic Crime

Administrative Action

- Suspension, on half pay, on being charged with corruption or economic crime from the date of the charge to conclusion of the case.
- Upon conviction, suspension without pay from the date of the conviction pending appeal.
- Dismissal from service if the appeal is unsuccessful or the period during which the public officer should appeal lapses without an appeal being lodged.
- Disqualification from being elected or appointed as a public officer for ten years after the conviction.

Court

- Fine not exceeding one million shillings or/to imprisonment for a term not exceeding ten years, or to both; and
- Additional compulsory fine if, as a result of the corrupt conduct the person received a benefit or any other person suffered a loss that can be measured in money terms.
- The additional compulsory fine shall be two times the amount of the benefit or loss. If the conduct results in both a benefit and a loss, the mandatory fine shall be two times the sum of the benefit and the loss.
- Full compensation to anyone who suffers a loss as a result of corruption or economic crime.

Causes of Corruption

Causes of Corruption include:

- Bad governance.
- Political patronage.
- Lack of political will.
- Breakdown/erosion/perversion of societal values and norms.
- Non enforcement of the law.
- Tribalism, favoritism, nepotism and cronyism.
- Weak or absence of management systems, procedures and practices.
- Misuses of discretionary power vested in individuals or offices.
- Weak civil society and apathy.
- Lack of professional integrity.
- Lack of transparency and accountability.
- Inefficient public sector.
- Greed.

Effects of Corruption

These include:

- Poor infrastructure e.g. impassable roads, poor telephone network.
- Increased cost of goods and services.
- Increased poverty.
- Shoddy work and stalled projects.
- Poor medical services (e.g. lack of medicine and doctors).
- Reduced investment in our economy.
- Unemployment.
- Rise in crime rate and insecurity.
- Delay, denial and sale of justice in our courts.
- Irregular/illegal acquisition of public land, property and utilities.
- Social unrest.
- Negative international image.

Benefits of Fighting Corruption

If we join hands in fighting corruption:

- Our economy will grow and
 - ⇒ Increase public revenue.
 - ⇒ Create more jobs.
 - ⇒ Fund our social services.
 - ⇒ Improve our infrastructure.
 - ⇒ Provide better health care.
 - ⇒ Alleviate poverty.
 - ⇒ Improve our living standards.
 - ⇒ Make us stand proud among nations.
- We will have a caring society.
- Our resources will be used to develop the country.

- The crime rate will decline and we shall have improved security.
- We shall produce quality at affordable prices.
- There will be increased investor confidence in our country.
- There will be peace and stability in our country.

Reporting Corruption

The Commission is empowered to receive reports and complaints on real or suspected corruption. It has set up a Report and Data Centre where all reports are received and processed.

It is important that members of the public and government officials come forward to report suspected corrupt conduct. This way, the Commission will know where and how corruption takes place, identify risk areas and recognize patterns and trends of corruption.

Corruption reports enable the Commission to investigate or undertake corruption prevention and education work.

Report and Data Centre

The Commission:

- Receives and processes all reports of suspected or real corruption.
- Analyzes complaints by making reference to the Anti-Corruption and Economics Crimes Act, 2003 and the Public Officer Ethics Act, 2003, the Public Procurement and Disposal Act, 2005 and any other relevant laws.
- Classifies and prepares case summaries on complaints received.

- Refers complaints to other investigative agencies and government bodies where the complaint falls outside the mandate of the Commission.
- Generates statistics on cases reported to the Commission.
- Makes recommendations to the Attorney General for prosecution of persons where there is evidence to sustain a prosecution.

Protection of Informers

The Commission ensures that the identity of an informer remains confidential during investigations and court hearings. The law protects anyone who may assist the Commission or an investigator in dealing with corruption or economic crime. No action, including disciplinary action, may be taken against a person who assists or discloses information to the Commission in this regard. However, the informer must believe the information to be true.

The Role of Individual Citizens in the Fight against Corruption

Fighting corruption starts with you and you should do the following to fight corruption:

- Respect and protect public property.
- Avoid engaging in corruption.
- Never give or receive a bribe.
- Appreciate and reward hard work, honesty and trustworthiness.
- Report cases of corrupt practices to the Commission
- Talk to everyone about the evils of corruption.

- Refuse to be pressurized to act irregularly and unlawfully.
- Never falsify a claim.
- Be a role model.
- Develop interest in national issues.
- Stigmatize ill-gotten wealth.
- Teach children the virtues of honesty, hard work, integrity and self discipline.
- Correct and reprimand bad behaviour.
- Give advice, direction and suggestions on how to fight corruption to management at your place of work.
- Name and shame corrupt people.

Report all forms of corruption to the Kenya Anti-Corruption Commission:

- In person at our offices
- Write to us a letter or email
- Phone or fax us
- You could report anonymously (through the Commission's BKMS system at www.kacc.go.ke)
- Use any other method convenient to you.

For further information, please contact:

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