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**FREQUENTLY ASKED QUESTIONS  
ABOUT THE KENYA  
ANTI-CORRUPTION COMMISSION**

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**On the Frontline against Corruption**



# **FREQUENTLY ASKED QUESTIONS ABOUT THE KENYA ANTI-CORRUPTION COMMISSION**

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Department of Education  
Directorate of Preventive Services

## **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

Team Work

## **1. What is the Kenya Anti-Corruption Commission (KACC)?**

The Kenya Anti-Corruption Commission (KACC) is a public body established under the Anti-Corruption and Economic Crimes Act, on 2<sup>nd</sup> May 2003 as the lead agency for combating corruption in Kenya. The Commission has perpetual succession and the capacity to sue and be sued in its name and to acquire and dispose of property.

## **2. How is the Commission managed on a day to day basis?**

KACC is headed by the Director who is also the Chief Executive of the Commission. He is assisted by four (4) Assistant Directors, one of whom is the Deputy Director. The Commission has four (4) Directorates each headed by an Assistant Director. These are:

- a. Investigation and Asset Tracing Directorate;
- b. Legal Services and Asset Recovery Directorate;
- c. Preventive Services Directorate;
- d. Finance and Administration Directorate.

## **3. How are the Director and Assistant Directors appointed?**

The Director and the Assistant Directors are recommended for appointment by the Kenya Anti-Corruption Advisory Board (KACAB) established under Section 16 of the Anti-Corruption and Economic Crimes Act, 2003. The names of the nominees are then forwarded to Parliament for approval. Once Parliament approves the names, the President then formally appoints the persons to the various offices for which approval was given.

## **4. What is the Kenya Anti-Corruption Advisory Board?**

The Kenya Anti-corruption Advisory Board is a body established under section 16 of the Anti-Corruption and Economic Crimes Act, 2003. The Board consists of twelve (12) members and the Director of the Commission who is its Secretary. The members of the Board are drawn from civic, religious, professional and business organizations and associations. They

are vetted by Parliament and then appointed by the President.

## **5. What are the functions of the Kenya Anti-Corruption Commission Advisory Board?**

The principal functions of the Advisory Board are:

- a. To recommend the appointment of a person as the Director or Assistant Director of the Commission to the National Assembly;
- b. To recommend the termination of the appointment of a person as Director or Assistant Director to the President for being adjudged bankrupt or upon conviction for an offence under the Penal Code or the Anti-Corruption and Economic Crimes Act, 2003;
- c. To recommend to the Chief Justice the establishment of a Tribunal for the purpose of considering the removal of a person as Director or Assistant Director for inability to perform his functions or for involvement in corruption; and
- d. To advise the Commission generally on the exercise of its powers and the performance of its functions.

## **6. What is the specific mandate of KACC?**

Under Section 7 of the Anti-Corruption and Economic Crimes Act, 2003, KACC has wide powers to investigate corruption, prevent corrupt conduct, advise public institutions on ways to prevent corruption, educate the public on the dangers of corruption, enlist public support in fighting corruption, and trace and recover corruptly acquired property.

In the performance of these functions, KACC is not subject to the direction or control of any other person or authority. The Commission is a statutory body which reports only to Parliament.

## **7. When did KACC become operational?**

Although KACC was established by law on 2<sup>nd</sup> May 2003, it was not until 13<sup>th</sup> September 2004 that the Director and three Assistant Directors

formally took up office. Since then, the Commission's management has been carrying out duties of institution building and execution of the Commission's mandate of combating corruption. One of the main preoccupations has been the competitive recruitment of qualified staff. As at September 2010 the Commission was operating at a staff strength of 268 out of the maximum 273.

## **8. How can the Commission be reached?**

The Commission has its Headquarters at Integrity Centre at the Milimani/Valley Road Junction in Nairobi. It also has two regional offices in Mombasa and Kisumu. Plans are underway to establish more regional offices in other parts of the country.

The Commission has a website ([www.kacc.go.ke](http://www.kacc.go.ke)) from which members of the public are free to download information on its activities.

Further, the Commission operates a mobile office which moves through out the country to enhance public access to the Commission's services. Through this mobile office, wananchi are able to report corruption and access other Commission services. The Commission can be reached through our contact addresses and telephone numbers indicated on the back page of this booklet.

## **9. Does the Commission cooperate with other agencies in carrying out its mandate?**

Yes. Under section 12 of the Anti-Corruption and Economic Crimes Act, 2003, the Commission may, in the performance of its functions, work in cooperation with any person or body that it thinks appropriate. Pursuant to this section, the Commission has formed partnerships with stakeholders in the anti-corruption fight in order to prevent corruption in the public and private sectors. The bodies or agencies that the Commission may co-operate with include: the Public Procurement Oversight Authority, Performance Contracting Department, the Kenya National Audit Office, the Kenya National Archives and Documentation offices, the Director of

the Criminal Investigation Department (CID), Kenya Police, Efficiency Monitoring Unit (EMU), the Attorney General's Office, Kenya Revenue Authority, Parliament, the National Anti-Corruption Campaign Steering Committee, Professional Associations, the Private Sector, Religious Organizations, the Media, and the Civil Society Organizations.

Partnerships offer the Commission a broad based approach to the fight against corruption as they promote the sharing of information, skills and expertise among participating sectors and stakeholders.

#### **10. Does the Commission have power to prosecute cases it investigates?**

No. The Anti-Corruption and Economic Crimes Act, 2003 does not give the Commission the power to prosecute criminal cases. The Commission investigates cases of corruption and economic crime and makes recommendations for appropriate action to the Attorney General. However, the Commission has powers to institute civil proceedings for the recovery of corruptly acquired property.

#### **11. Do Anti-Corruption laws bind Kenyans living outside the Country?**

Yes. Under Section 67 of the Anti-Corruption and Economic Crimes Act, 2003, a Kenyan national may be brought before Kenyan courts for corruption offences or economic crimes committed in a foreign country if the conduct in question would amount to corruption or economic crime had it taken place in Kenya.

#### **12. Is there any legal protection for people who may assist the Commission in its work?**

Yes. It is the civic duty of every Kenyan to stand up against corruption. Section 65 of the Anti-Corruption and Economic Crimes Act, 2003 protects informers who may assist the Commission or an investigator in dealing with corruption offences or economic crime. No disciplinary action may be taken against informers for their assistance so long as the informer

believes the information to be true.

In 2006, Parliament passed the Witness Protection Act which provides elaborate protection for witnesses in judicial and quasi judicial proceedings or for people who have given or agreed to give evidence on the Commission or possible commission of an offence in Kenya.

This law is now in place. Once it is fully operational, it will complement the Anti-Corruption and Economic Crimes Act in offering protection to informers and witnesses in cases of corruption.

The Commission has also established an internationally certified web-based reporting system that guarantees a completely secure and anonymous reporting process. The Business Keeper Monitoring System (BKMS®) is the only recognized anonymous whistle blower system in the world and is internet-based. Its anonymity has been certified by forensic investigators in Germany and it is recognized by Transparency International, United Nations Global Compact and United Nations Convention against Corruption (UNCAC).

This system ensures that a person's identity as a whistle blower is hidden and that his/her report remains confidential and can only be accessed by KACC. To report using this system, visit KACC website ([www.kacc.go.ke](http://www.kacc.go.ke)).

### **13. What are the penalties for corruption offences and economic crimes?**

Any person found guilty of corruption offences or economic crimes shall be liable to:

- a. A **fine** not exceeding **1,000,000/-** or to **imprisonment** for a period not exceeding **ten years** or to **both the fine and jail term**.
- b. An additional mandatory fine, if as a result of the corrupt conduct or economic crime, the person received a benefit that can be quantified



or measured or any person has suffered a loss that can be quantified or measured.

- c. The mandatory fine shall be equal to **two times** the amount of the benefit or loss described above, or to **two times** the amount of the benefit and loss described above where the corrupt conduct or economic crime results in both a benefit and a loss.

A person who engages in corrupt conduct or economic crimes is also personally liable to anyone who suffers a loss as a result for an amount that would be full compensation for the loss suffered, with interest.

#### **14. Is a Public Officer under duty to declare his/her wealth?**

Yes. Under the Public Officer Ethics Act, a public officer must make a true and correct declaration of his/her incomes, assets and liabilities once every two years. He/she must also declare all incomes, assets and liabilities of his/her spouse(s) and children below eighteen (18) years of age.

#### **15. Are there any penalties for failure to submit a Declaration or making false statements in a Declaration?**

Yes. It is an offence under the Public Officer Ethics Act, 2003 for any Public Officer not to fully or correctly disclose all incomes, assets and liabilities. Any person who commits this offence is liable to a fine not exceeding Kshs. 1,000,000/- or imprisonment for a term not exceeding one year or both.

#### **16. Is it true that the Commission concentrates on the small thief or petty corruption?**

No, it is not true. The Commission does not discriminate on any reported case of corruption whether 'petty' or 'grand'. The Commission believes that all kinds of corruption are bad for our society. This position is reflected in the range of cases that the Commission has forwarded to the Attorney General. KACC has investigated and recommended to the Attorney

General for prosecution numerous high profile cases involving State and Public Officers including Ministers in both the former and the current Coalition Government, Members of Parliament, Permanent Secretaries, Chief Executives of State Corporations and Senior Officials and Managers in Government and State Corporations. (For details visit [www.kacc.go.ke](http://www.kacc.go.ke))

## **17. Why do corruption cases take too long to prosecute?**

Speedy conclusions of corruption cases is constrained by the countless opportunities for legal defence afforded by the laws of Kenya and the guarantees that the laws give to due process and rights of the accused. This is compounded by the capacity constraints in both the Office of the Attorney General and the Judiciary.

Fortunately both obstacles are being addressed. The new Constitution has provisions that facilitate speedy hearing of cases. The judicial reforms envisaged under the Constitution will also expedite determination of cases in court. Further, the Chief Justice has expanded the territorial jurisdictions of special magistrates appointed to hear corruption cases. For his part, the Attorney General has moved to recruit more State Counsels and authority has been given to his office to recruit special prosecutors to deal with corruption cases.

## **18. What is the most effective way of fighting corruption?**

There is no one sure approach to eliminating or reducing corruption. This is because corruption is a dynamic multifaceted social problem. A multi-pronged and sustained approach is therefore the only way out. Such an approach must combine investigation, institution building, prevention and education. In this regard, the Commission has adopted a three-pronged strategy for combating corruption and economic crimes, that is, Law Enforcement, Prevention and Public Education.

## **19. What are the Commission’s main achievements since September 2004?**

The Commission has made achievements in the following areas since September 2004:

### **a. Investigations**

The Commission has carried out numerous investigations and forwarded 646 files to the Attorney General for prosecution. 490 of these investigation reports recommended prosecution of the suspects. 123 reports recommended closure of the investigation files, while 30 files recommended administrative action rather than prosecution for criminal offences. The Attorney General agreed with 384 out of 490 of the Commission’s recommendation to prosecute. These files are at different stages of trial in courts of law. (For more details on these criminal trials and other Commission achievements, see our Annual Reports at [www.kacc.go.ke](http://www.kacc.go.ke))

Further, the Commission has conducted covert investigations leading to disruption of corruption in respect of public funds valued at approximately Kshs. 4.66 billion.

Over 330 persons have been arraigned in court and charged with corruption and economic crime offences.

### **b. Asset Recovery**

The Commission has recovered corruptly acquired public property including illegally or irregularly alienated public land and funds embezzled from public institutions whose value is over 6 billion. This was done through 448 recovery suits and out of court settlements.

Some of the recovered public assets include 100 acres of Ngong Forest belonging to the Kenya Forestry Service, 60 acres of Nairobi National Park belonging to the Kenya Wildlife Service, the Grand Regency (Laico Regency) Hotel, Karura Forest, Bypasses, Kenya Agricultural Research Institute (KARI) Plots and Woodley Estate among others.

The Commission has instituted in court civil proceedings which are at various stages of prosecution geared towards tracing, freezing, preservation, recovery, and/ or forfeiture of corruptly acquired public assets as well as compensation for lost and/or damaged public property.

### **c. Systems Audit and Advisory Services**

The Commission undertook and finalized Examination of the systems, procedures, policies and practices of thirteen (13) public institutions to expose corruption loopholes and make recommendations on how they can be sealed. Examination reports for nine (9) of these institutions were completed and handed over to the examined institutions for implementation. These institutions include: Kenya Medical Supplies Agency (KEMSA); Licensing and Registration of Motor Vehicles and Enforcement of Traffic Rules; Immigration Department; City Council of Nairobi; Teachers Service Commission (TSC); The Roads Sub-Sector; Pensions Department; National Registration Bureau, and the Civil Registration Department. As of October 2010, there were four (4) pending reports for the Local Authority Transfer Fund (LATF); Provincial General and District Hospitals; focusing on service delivery and the National Environment Management Authority (NEMA).

The Commission is currently conducting systems audit for the National Aids Control Council and Nairobi City Water and Sewerage Company. All these efforts will contribute towards the improvement of public service in Kenya. For more information and reports on examined public institutions, please visit our website: [www.kacc.go.ke](http://www.kacc.go.ke).

### **d. Education and Training**

The Commission has trained: 2722 Integrity Assurance Officers from over 250 public institutions to equip them with technical skills to enable them provide technical support in mainstreaming anti-corruption strategies within their institutions. Over 6 million Kenyans in the public, private, faiths and civil society sectors have been educated on anti-corruption, integrity and ethics through the Commission's educational programmes.

The Commission has sensitized these Kenyans through dissemination of anti-corruption campaign materials and outreach programmes such as the Agricultural Society of Kenya Shows, Nairobi International Trade Fair, road shows, public barazas, drama and music festivals among others. The Commission participated in the national music and drama festivals by sponsoring anti-corruption themes to foster acquisition of positive values, attitudes, skills and the formation of character that reinforces integrity especially among the youth.

In order to enlist the public in the fight against corruption, the Commission has rolled out its Outreach Programming. Under this programme, the Commission has trained 290 Community Based Anti-Corruption Monitors and Facilitators drawn from civil society based organisations. The Commission runs its Regional Outreach Clinics in which citizens are educated on good governance and Anti-Corruption methods with which to fight corruption in their communities.

In addition, the Commission has reached out to a large number of listeners and viewers through sponsored messages and programmes on seven (7) popular TV and radio outlets including: ‘Je Huu ni Ungwana?’ on KBC TV, ‘This Thing Called Corruption’ on various media houses, ‘Kamusi ya leo’ on KTN, ‘Soul Reflections’ on KTN, ‘Up Next’ on Nation TV, ‘News Beat’ on KISS FM, and ‘News Beat’ on CLASSIC FM Aired Filmlets on Arenas of corruption. These messages and programmes on anti-corruption, ethics, and integrity are geared towards positive attitude and behaviour change.

**e. Development, Production and Dissemination of Information, Education, and Communication (IEC) Materials on Ethics, Integrity and Anti-Corruption**

The Commission has designed, produced and disseminated 1.5 Million anti-corruption educational and good governance materials including, but not limited to Books; Calendars; Assorted Posters; Book Marks; Branded Bags, Pens, Key holders, Umbrellas, Rulers, Caps and T-shirts. These materials are disseminated to various Kenyan publics during the

Commission's public education programming activities. The books are also distributed to various institutions to facilitate anti-corruption education and training of their staff.

The Commission has developed simplified versions of the various Kenyan laws on ethics, integrity and anti-corruption for easier comprehension and use by the general public. The Commission has developed a Bible Study Guide entitled "*Integrity: A Weapon against Corruption*," which identifies the various Books and verses of the Bible that speak on the Law of God and His Will regarding integrity and corruption. (The Bible Study Guide is available online and may be downloaded for free at our website [www.kacc.go.ke](http://www.kacc.go.ke)). The Commission has produced a 65 - minute DVD entitled *Jihad Maadili* that draws from the Holy Quran and other sources in illustrating various anti-corruption and ethics messages. Given the importance of values and virtues in character formation, the Commission has developed Curriculum support materials for use in learning institutions. These materials will be used through the *Adili* (Integrity) Clubs the Commission recently launched. The materials consists of Bookmarks, Brochures and eight (8) booklets on good governance, anti-corruption, ethics and integrity. These materials range from Kindergarten to Class 8.

#### **f. Research Programmes**

The Commission has conducted fifteen (15) research programmes which have provided baseline information on corruption in order to better understand the nature, form, extent, intensity, impact, and the places where it occurs. This research plays a pivotal role in the design and implementation of anti-corruption and governance related reform programmes aimed at preventing corruption in all sectors of society.

#### **g. Institution Building**

The Commission has put in place management systems and structures and recruited 268 professional staff out of the maximum 273. Various training programmes have been undertaken to build the capacity of staff

in specialized areas. The Commission has also drawn and launched its 2<sup>nd</sup> Strategic Plan - 2009-2013.

## **20. What can I as an individual do to help fight corruption?**

Preventing and fighting corruption is every Kenyan's responsibility. Join in the fight against corruption. Report all forms of corruption to KACC or other law enforcement agencies. You could report corruption by:

1. Letter
2. Phone or fax
3. Use of Drop-in Boxes
4. Use of the BKMS anonymous reporting system available at our website ([www.kacc.go.ke](http://www.kacc.go.ke))
5. Any other method convenient to you; or
6. In person

“It is our belief that while investigating and prosecuting perpetrators of corruption is important, in the long run, corruption will only be vanquished through comprehensive prevention and public education strategies and programmes. These will reduce and eliminate opportunities for corruption and inspire behavioural change in our society.”

**Prof. PLO Lumumba, Ph.D.**  
**Director/Chief Executive**  
**Kenya Anti-Corruption Commission**

For further information, please contact:  
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**KACC HEADQUARTERS**

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