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***KENYA GAZETTE SUPPLEMENT***

**MAKUENI COUNTY BILLS, 2023**

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NAIROBI, 8th April, 2023

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2023**

**No. 1 of 2023**

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**THE MAKUENI COUNTY ADMINISTRATIVE JUSTICE ACT,  
2023**

**AN ACT of the County Assembly of Makueni to give effect to Articles 10 and 232(1)(e) of the Constitution of Kenya to establish the Office of the County Ombudsman as an independent and impartial Office on administrative justice; to provide for powers and functions of the Office on Administrative Justice, and for connected purposes.**

**ENACTED** by the County Assembly of Makueni, as follows —

**PART I —PRELIMINARY**

**Short title and commencement**

1. This Act may be cited as the Makueni County Administrative Justice Act, 2023 and shall come into operation upon publication.

**Interpretation**

2. In this Act, unless the context otherwise requires —  
“administrative action” means any action relating to matters of administration and includes —

- (a) a decision made or an act carried out in the county public office; or
- (b) a failure to act in discharge of a public duty required of an officer in the county public office;

“authorized officer” means any person prescribed and authorized in writing by the Governor to act as an authorized officer under this Act;

“county government” means the County Government of Makueni;

“county public office” means an office with the meaning assigned to it under Article 260 of the Constitution of Kenya;

“county public officer” means an officer as defined under Article 260 of the Constitution of Kenya;

‘executive committee member’ means the executive committee member responsible for matters relating to county administration;

“governor” means the Governor of the Government of Makueni County;

“County Ombudsman” means a public official appointed to investigate and address complaints of maladministration or a violation of rights by public officers within the county;

“record” means all records, documents, books, papers, files, photographs, microfilms, sound recordings, video recordings, magnetic storage media, computer data and all other materials, regardless of physical form or characteristics, created, generated, recorded, received, possessed or controlled by or on behalf of any county public office.

### **Object and Purpose of the Act**

3. The object and purpose of this Act is to provide for a legal framework to promote service delivery and accountability in the county public service.

## **PART II — MANDATE, COMPOSITION AND FUNCTIONS OF THE OFFICE OF THE COUNTY OMBUDSMAN**

### **Establishment of the Office of the County Ombudsman**

4. (1) There is established the office of the County Ombudsman in the county public service.

(2) The office shall consist of —

- (a) the County Ombudsman;
- (b) the Deputy County Ombudsman; and
- (c) such other number of officers as the County Ombudsman may in consultation county public service board consider necessary.

### **Appointment and Qualification of the County Ombudsman**

5. (1) The County Ombudsman shall be appointed by the Governor with the approval of the county assembly.

(2) A person qualifies for appointment as the County Ombudsman if such person –

- (a) has knowledge and at least seven years’ experience in matters relating to human rights, law, conflict resolution, arbitration or administrative justice;
- (b) holds a Bachelor’s Degree in social sciences from a university recognized in Kenya in a relevant field; and
- (c) meets the requirements of Chapter Six and Article 232 of the Constitution.

(3) The County Ombudsman shall take and subscribe to the oath or affirmation as set out in the First Schedule before assuming office.

### **Procedure for appointment of the County Ombudsman**

6. (1) The County Ombudsman shall be appointed by the Governor from a list consisting of three names submitted by a selection panel

appointed by the executive committee member in accordance with subsection (2).

(2) The selection panel referred to in subsection (1) shall comprise a chairperson and four other persons appointed by the Executive committee member as follows —

- (a) one person to represent the office of the governor;
- (b) one person to represent the County Public Service Board;
- (c) one person to represent the department responsible for matters relating to county administration; and
- (d) two eminent persons from the county appointed by the public, the business community or professional bodies.

(3) The selection panel shall have power to regulate its own procedure.

(4) The selection panel shall advertise the vacancies and publicize the names of applicants and shortlisted candidates on the county government website.

(5) In determining the nomination criteria for the County Ombudsman, the selection panel shall have regard to the objectives of the Act.

(6) In nominating the County Ombudsman, the selection panel shall ensure that those nominated shall not have conflict of interest in serving as chairperson and members of the Board.

(7) If the Governor rejects the names submitted under subsection (1) the Governor shall inform the selection panel within seven days and request the panel for a replacement within twenty-one days.

(8) In rejecting the names submitted under subsection (3), the Governor shall attach a memorandum giving reasons for the rejection of the candidates.

### **Functions of the County Ombudsman**

7. (1) The County Ombudsman shall promote accountability in the county public service by —

- (a) investigating any conduct in county affairs, or any act or omission in public administration by any county organ, county or county public officer that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice;

- (b) investigating complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the county public service;
- (c) submitting quarterly reports to the governor and the county assembly on the complaints investigated under paragraphs (a) and (b), and the remedial action taken thereon;
- (d) inquiring into allegations of maladministration, corrupt practices, delay in administrative processes, discourtesy, incompetence, misbehavior, inefficiency or ineptitude within the county public service;
- (e) facilitating the setting up of, and build complaint handling capacity in, the sectors of the county public service, and county organs;
- (f) working with different public institutions to promote alternative dispute resolution methods in the resolution of complaints relating to county public administration;
- (g) providing advisory opinions or proposals on improvement of county public administration, including review of legislation, codes of conduct, processes and procedures;
- (h) publishing periodic reports on the status of administrative justice in county public service;
- (i) promoting public awareness of policies and administrative procedures on matters relating to administrative justice;
- (j) keeping proper records in regard to investigations done and complaints received; and
- (k) performing such other functions as may be prescribed by any other written law.

**General powers of the Office of the County Ombudsman**

- 8.** (1) The County Ombudsman shall have power to—
- (a) issue summons to a county public officer as they deem necessary for the fulfilment of their mandate;
  - (b) arbitrate on matters relating to administrative justice;
  - (c) subject to the provisions of the Access to Information Act of 2016 obtain any information they consider relevant, including requisition of reports, records, documents from a county public officer, organ of the county government or any

person with interest and to compel the production of such information for the proper discharge of his or her functions;

- (d) establish a framework for access to information by the public in the discharge of his or her duties; or
  - (e) interview and interrogate any person or group of persons with interest in any matter under review or investigation.
- (2) The County Ombudsman shall —
- (a) recommend to the county public service board establishment of such administrative units in the office as may be necessary for the effective discharge of the functions under this Act;
  - (b) perform any other action necessary in the administrative interest of the office.

### **Guiding Principles on Code of Conduct**

**9.** (1) In fulfilling its mandate the office of the County Ombudsman shall act in accordance with the values and principles set out in the constitution, and shall observe and subscribe to the code of conduct set out in the Second Schedule.

(2) The County Ombudsman or a person working under them under this Act who breaches the code of conduct shall be subject to disciplinary action.

### **Protection from personal liability**

**10.** No matter or thing done by the County Ombudsman, officers in the office of the County Ombudsman or agent of the office shall, if the matter or thing is done in good faith while executing the functions, powers or duties of the Office of the Ombudsman, render the County Ombudsman, officers or agents personally liable for any action, claim or demand whatsoever.

### **Tenure of office**

**11.** The County Ombudsman shall hold office for a term of three years which may be renewed for a further one term upon satisfactory performance.

### **Removal from office**

**12.** The County Ombudsman may be removed from office for any of the following reasons —

- (a) serious violation of the Constitution or any other law;
- (b) gross misconduct;



- (c) prolonged physical or mental incapacity to perform the functions of the office;
- (d) incompetence;
- (e) has rendered a resignation in writing to the appointing authority; or
- (f) is adjudged bankrupt by a court of law.

**Delegation of duties by the County Ombudsman**

**13.** (1) The County Ombudsman may, either generally or otherwise as provided by the instrument of delegation, by writing under the County Ombudsman's hand delegate to an administrative unit all or any of the powers and functions under this Act or any other written law, except the power of delegation.

(2) A delegation under subsection (1) may be revoked and does not prevent the exercise of a power or performance of a function by the County Ombudsman.

**Deputy County Ombudsman**

**14.** (1) There shall be a Deputy County Ombudsman who shall be competitively recruited and appointed by the county public service board.

(2) A person is qualified for appointment to the office of deputy County Ombudsman if the person —

- (a) has knowledge and at least five years' experience in matters relating to human rights, law, conflict resolution, arbitration or administrative justice;
- (b) holds a degree from a university recognized in Kenya in a relevant field;
- (c) meets the requirements of Chapter Six and Article 232 of the Constitution; and
- (d) meets such other qualifications as the county public service board may require.

(3) The Deputy County Ombudsman shall be the principal assistant of the County Ombudsman in the execution of the function and powers of the County Ombudsman under this Act or any other written law.

**Other officers under the County Ombudsman**

**15.** (1) The County Public Service Board shall appoint such other officers under the County Ombudsman as may be necessary for the proper

and efficient discharge of the functions for the office of the County Ombudsman.

(2) Nothing in this Act shall be construed to entitle any person who is not appointed under this Act to perform the functions of the office of the County Ombudsman.

### **Secondment**

16. (1) The office of the County Ombudsman may, upon request, and in consultation with the county public service board, second any officer under them to a County agency or department on such terms and conditions as the County Ombudsman in consultation with the agency or department which the officer is being seconded, agree upon.

(2) Any officer from the office of the County Ombudsman deployed in any department in the county shall be answerable to the County Ombudsman.

(3) The County Ombudsman shall have the power to issue directions to any officer deployed to a county department with regard to the manner of performing the functions of the County Ombudsman within that department.

## **PART III—INVESTIGATION OF COMPLAINTS**

### **Powers relating to investigations**

17. (1) The County Ombudsman may, for the purpose of conducting any investigation pertaining to an inquiry, employ the services of any public service officer or investigation agency of the county government at the expense of the office.

(2) For the purpose of investigating any matter pertaining to an inquiry, a county public officer or agency whose services are employed under subsection (1) may, subject to the direction of the County Ombudsman —

- (a) summon and enforce the attendance of any relevant person for examination;
- (b) require the discovery and production of any document; and
- (c) subject to the Constitution and any written law, requisition any public records or copy thereof from any public officer.

(3) The public officer or agency whose services are employed under subsection (1) shall investigate any matter pertaining to the inquiry and submit a report thereon to the County Ombudsman.

(4) The County Ombudsman shall satisfy himself on the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to him or her under subsection (3) and for that purpose, the County Ombudsman may make such inquiry, including the examination of any person who conducts or assists in the investigation, as it deems fit.

### **Jurisdiction in investigations**

**18.** (1) The County Ombudsman shall investigate any complaint, or on their own initiative, investigate any matter arising from the carrying out of an administrative action of—

- (a) a county public office;
- (b) a county corporation; or
- (c) any other county body or agency.

(2) The County Ombudsman shall endeavor to resolve any matter brought before them by conciliation, mediation or negotiation in consultation with the county

(3) If the matter referred to under subsection (2) cannot be resolved and the County Ombudsman determines that the administrative action was carried out unjustly or unreasonably, the County Ombudsman shall make such recommendations as they deem fit.

### **Limitation of jurisdiction**

**19.** The County Ombudsman shall not investigate —

- (a) proceedings or a decision of the county executive committee or a sub-committee of the county executive committee;
- (b) the commencement or conduct of criminal or civil proceedings before a court or other body carrying out judicial functions;
- (c) a matter pending before any court or judicial tribunal;
- (d) the grant of honors or awards by the governor;
- (e) a matter relating to the relations between the county and any other county and national government;
- (f) anything in respect of which there is a right of appeal or other legal remedy unless, in the opinion of the County Ombudsman, it is not reasonable to expect that right of appeal or other legal remedy to be resorted to; or

- (g) any matter for the time being under investigation by any other person or office established under the Constitution or any other written law.

### **Complaints**

**20.** (1) A complaint to the County Ombudsman may only be made by the person aggrieved by the matter complained of or on his behalf as specified under subsection (2).

(2) A complaint may be made on behalf of an aggrieved person —

- (a) if the aggrieved person is dead or otherwise not able to act in person, by a member of their family or other person suitable to represent the aggrieved person; or
- (b) by a member of the county assembly with the consent of the aggrieved person or other person who, under paragraph (a), is entitled to make the complaint on behalf of the aggrieved person.

### **Forms of complaint**

**21.** (1) A person wishing to lodge a complaint under this Act may do so orally or in writing or sign language addressed to the County Ombudsman.

(2) Where a complaint under subsection (1) is made orally or in sign language, the County Ombudsman shall cause the complaint to be recorded in writing.

(3) A complaint under subsection (1) shall be in such form and contain such particulars as the County Ombudsman may prescribe.

(4) Upon receipt of a complaint under subsection (1), the County Ombudsman may —

- (a) call for information or a report regarding such complaint from any person within such reasonable time as may be specified by the County Ombudsman; and
- (b) without prejudice to paragraph (a), initiate such inquiry as they consider necessary, having regard to the nature of the complaint.

(5) If the information or report called for under subsection 4(a) is not received within the time stipulated by the County Ombudsman, they may proceed to inquire into the complaint without such information or report.

(6) If on receipt of the information or report the County Ombudsman is satisfied either that no further action is required or that the required action has been initiated by a State organ or other body responsible for the matters complained of, the County Ombudsman shall, in writing, inform the complainant accordingly and take no further action.

### **Rights of a Complainant**

**22.** (1) After the County Ombudsman has decided whether or not to investigate a complaint, the County Ombudsman shall inform the complainant.

(2) The County Ombudsman shall, if requested by the complainant, report the status of his or her investigation to the complainant.

(3) After investigation of a complaint, the County Ombudsman shall inform the complainant of their conclusion or recommendation and, if appropriate, any action taken or to be taken.

(4) After closure of the investigations and recommendations, the County Ombudsman shall inform the complainant that they have a right to appeal the outcome to the Commission on Administrative Justice.

### **Discretion to Investigate**

**23.** The County Ombudsman may decline to investigate a complaint if they consider that —

- (a) there are in existence adequate remedies under any written law or administrative practice; or
- (b) the complaint is trivial, frivolous, and vexatious or is not made in good faith.

### **Notice if complaint is not investigated**

**24.** If the County Ombudsman decides not to investigate a complaint or to discontinue the investigation of a complaint, they shall inform the complainant in writing of that decision and the reasons for the decision as soon as reasonably practicable.

### **Representation on adverse findings**

**25.** The County Ombudsman shall give a county public officer, county organ or agency, county public office against whom an adverse finding or recommendation is made, an opportunity to make representations concerning the finding or recommendation before the County Ombudsman includes the finding in his or her report.

### **Notice of investigation to organization**

**26.** Before commencing an investigation under this Act, the County Ombudsman shall give notice of the intended investigation to the administrative head of the county organ or agency or county public office to which the investigation relates.

**Persons likely to be prejudiced or affected to be heard**

**27.** (1) Subject to subsection (2), if at any stage of an inquiry the County Ombudsman —

- (a) considers it necessary to inquire into the conduct of a county public officer; or
- (b) is of the opinion that the reputation of a county public officer is likely to be prejudiced by the inquiry, the County Ombudsman shall give that county public officer an opportunity to appear before them to give evidence in their own defence.

(2) This section shall not apply where the credibility of a witness is being impeached.

**Witness privileges**

**28.** No statement made by a person in the course of giving evidence before the Office shall subject such person to any civil or criminal proceedings except where it has been established that such evidence is false.

**Action after inquiry**

**29.** The County Ombudsman may, upon inquiry into a complaint under this Act take any of the following steps—

- (a) where the inquiry discloses a criminal offence, refer the matter to the Director of Criminal Investigations or any other relevant authority or undertake such other action as the County Ombudsman may deem fit against the concerned person or persons;
- (b) recommend to the complainant a course of other judicial redress which does not warrant an application under Article 22 of the Constitution;
- (c) recommend to the complainant and to the relevant county public office, body or agency concerned in the alleged violation, other appropriate methods of settling the complaint or to obtain relief; and
- (d) provide a copy of the inquiry report to all interested parties.

**Reprisals prohibited**

**30.** No county public officer who files a complaint or participates in any investigation or proceeding pursuant to this Act shall be subject to any penalties, sanctions or restrictions in connection with their employment or be denied any right, privilege, or benefit because of such action.

**Relations to other laws**

**31.** The provisions of this Act are in addition to and do not in any manner limit or affect any other provisions of law under which any remedy or right of appeal is provided for a county public officer, or any procedure is provided for the inquiry into or investigation of any matter.

**Report to organization**

**32.** (1) After concluding an investigation or an inquiry under this Act, the County Ombudsman shall make a report to the governor and the county public office, agency or body to which the investigation relates.

(2) The report shall include —

- (a) the findings of the investigation and any recommendations made by the County Ombudsman; and
- (b) the action the office considers should be taken and the reasons for the action.

(3) The County Ombudsman may require a county public office, organ or agency that was the subject of the investigation to submit a report to the office within a specified period on the steps, if any, taken to implement the recommendations of the County Ombudsman.

(4) If there is failure or refusal to implement the recommendations of the County Ombudsman within the specified time, the County Ombudsman may prepare and submit to the Governor and the county assembly a report detailing the failure or refusal to implement its recommendations and the governor shall take appropriate action.

**Report to Complainant**

**33.** The County Ombudsman shall inform the complainant on the results of the investigation in writing.

**Report of misconduct to appropriate authority**

**34.** If, after an investigation, the County Ombudsman is of the opinion that there is evidence that a county public officer is guilty of misconduct, the Office shall report the matter to the appropriate authority.

**PART IV — MISCELLANEOUS PROVISIONS****Independence of the Office**

**35.** Except as provided in the Constitution and this Act, the County Ombudsman shall, in the performance of its functions, not be subject to the direction or control of any person or authority.

**Management of information**

**36.** (1) The County Ombudsman shall publish and publicize important information within their mandate affecting the county.

(2) A request for information by a citizen —

- (a) shall be addressed to the County Ombudsman; and
- (b) may be subject to confidentiality requirements of the Office.

(3) The County Ombudsman may decline to give information to an applicant on the following grounds—

- (a) the request may be limited pursuant to the provisions of Section 6 of the Access to Information Act, 2016;
- (b) the information requested is at a deliberative stage by the County Ombudsman; or
- (c) failure of the applicant to satisfy confidentiality requirements by the County Ombudsman.

(4) The right of access to information under Article 35 of the Constitution is limited to the nature and extent specified under this section

**Prohibition of unauthorized disclosure of information**

**37.** (1) Without prejudice to the provisions of any other written law, an officer or a member of staff of the office of the County Ombudsman shall not disclose or use any information gained by the officer or a member of staff in the course of official duties of the officer or a member of staff without the authority of the County Ombudsman.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction to a fine not exceeding one hundred thousand Kenya shillings or to imprisonment for a term not exceeding one year.

**Publicity**

**38.** The County Ombudsman shall, in such manner as they shall consider appropriate, publish a notice for public information specifying—

- (a) the location of its principal office; and



- (b) its address or addresses, telephone numbers and other means of communication or contact with the County Ombudsman.

**Accessibility**

**39.** The County Ombudsman shall have access to persons, relevant records, documents and property pertaining to matters under investigation in the performance of their duties.

**Facilities**

**40.** The county government shall provide adequate facilities for the efficient functioning of the office of the County Ombudsman.

**Annual Reports**

**41.** (1) The County Ombudsman shall, as soon as practicable after the 30th day of June in each year, prepare and furnish to the Governor and the Commission on Administrative Justice a report of the operations of the office during the ended year.

(2) The report prepared under subsection (1), shall, in respect of the year to which it relates contain —

- (a) the financial statement of the office;
- (b) a description of the activities of the office; and
- (c) such other information relating to the functions of the office that the governor may consider necessary

(3) The County Ombudsman shall submit to the clerk of the county assembly a copy of the report under subsection (1) for tabling before the county assembly within 30 days after the day on which the governor receives the report.

**Offences**

**42.** A person who —

- (a) without justification or lawful excuse, obstructs, hinders or threatens the County Ombudsman or a member of staff acting under this Act;
- (b) submits false or misleading information;
- (c) fails to honor summons; or
- (d) misrepresents to or knowingly misleads the County Ombudsman or a member of staff acting under this Act, commits an offence and is liable on conviction to a fine not exceeding one hundred

thousand Kenya shillings or to imprisonment for a term not exceeding two years.

### **Regulations**

**43.** The County Executive Committee Member may make regulations, not inconsistent with this Act, prescribing all matters required or permitted to be prescribed or necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

### **Transition**

**44.** (1) Upon the coming into effect of this Act, the officers holding such office provided for in this Act shall—

- (a) be deemed to be the County Ombudsman and members of staff employed to perform the functions of the office of the County Ombudsman under this Act until their current contract of service expires;
- (b) retain any rights accrued or accruing to them as County Ombudsman or as members of staff; and
- (c) be entitled to receive any deferred or extended leave as if they have continued to be such County Ombudsman or members of staff of the office of the County Ombudsman during their service with the county government.

**FIRST SCHEDULE**

**(s.5(3))**

**OATH/AFFIRMATION OF THE OFFICE OF COUNTY  
OMBUDSMAN**

I ..... having been appointed (the County Ombudsman/deputy County Ombudsman/officer to) the Office of the County Ombudsman Government of Makueni County, do solemnly (swear/affirm) that I will at all times obey, respect and uphold the Constitution of Kenya and all other laws of the Republic; that I will faithfully and fully, impartially and to the best of my ability, discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favor, bias, affection, ill-will or prejudice.

SO HELP ME GOD.

Sworn/Declared by the said

.....

Before me this ..... Day of.....

**SECOND SCHEDULE** **(s.9 (1))**  
**CODE OF CONDUCT**

**Application**

1. (a) This code of conduct shall apply to the County Ombudsman and all officers working under the office;
- (b) This code of conduct is supplementary to the county public service code of conduct.

**Loyalty and Dedication**

2. The County Ombudsman or any officer working under the office shall perform the functions of the office of the County Ombudsman with loyalty and dedication and shall not indulge in any activity that may affect the interest of the office of the County Ombudsman and the county.

**Impartiality and Independence**

3. The office of the County Ombudsman shall perform its functions impartially and independently.

**Conflict of interest**

4. (1) The County Ombudsman or any officer working under the office shall ensure that no conflict arises or appears to arise between their official duties and private interests.

(2) The County Ombudsman or a person working under the office whose personal interest conflicts with their official duties shall —

- (a) in writing, declare the personal interest to their supervisor or other appropriate person and comply with any directions given to avoid the conflict; and
- (b) refrain from participating in any deliberations with respect to the matter.

**Professionalism**

5. The County Ombudsman or a person working under the office shall —

- (a) perform their duties in a manner that maintains public confidence in the Office;
- (b) treat the public and colleagues with courtesy and respect;
- (c) discharge all their duties in a professional, timely and efficient manner and in line with the rule of law; and
- (d) respect the rights and freedoms of all persons that they may interact with.

**Improper Enrichment**

6. The County Ombudsman or a person working under the office shall not —

- (a) use their office to improperly enrich themselves or others;
- (b) accept or request gifts or favours from any person who may have a commercial interest with the office or any other interest that may be affected by the normal business of the office; or
- (c) use information that is acquired during the course of their duties or connected to their duties for their benefit or for the benefit of others.

**Integrity of private affairs**

7. The County Ombudsman or a person working under the office shall conduct their private affairs in a manner that maintains public confidence in the integrity of their office and shall—

- (a) not evade paying taxes;
- (b) not neglect their financial obligations;
- (c) submit an annual declaration of their income, assets and liabilities to the office responsible for such declarations; or
- (d) not engage in political activity that may compromise or be seen to compromise the neutrality of their office.

**Sexual harassment**

8. The County Ombudsman or person working under the office shall not sexually harass a member of the public or colleague sexual harassment includes —

- (a) exerting pressure for sexual activity or favors;
- (b) making intentional or careless physical contact that is sexual in nature; or
- (c) making gestures, jokes or comments, including innuendoes regarding another person's sexuality.

**Nepotism**

9. The County Ombudsman or person working under the office shall not practice favoritism on the grounds of tribe, race, culture, sex, acquaintance or otherwise in performance of their duties.

**Privileged information**

**10.** The County Ombudsman or a person working under the office shall safeguard privileged information that comes into their possession and protect it from improper or inadvertent disclosure.

**Appropriate presentation and attire**

**11.** The County Ombudsman or a person working under the office shall at all times in and outside the place of work appear in smart, proper and decent dress and behave in a manner befitting the County Public Service.

**Fairness and Diligence**

**12.** The County Ombudsman or a person working under the office shall not make an official decision without first giving due consideration to the matter at hand and the impact it is likely to have on the rights of the people involved.