

Public Complaints Policy

2023

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#

# **FOREWORD**

I am delighted to present the Biosafety Appeals Board's Public Complaints Handling Policy, a crucial framework emphasizing transparency, fairness, and accountability in our service delivery. I am proud to introduce this document, which underlines our commitment to providing a responsive and accessible avenue for public concerns.

 This policy reflects our dedication to openness and accountability. The document outlines procedures and mechanisms for individuals and organizations to express concerns, ensuring their grievances are heard and addressed promptly.

Key features of the Public Complaints Handling Policy include:

1. Accessibility: We provide clear information on how to file a complaint, relevant forms, and contact details for a user-friendly experience.

2. Transparency: The policy establishes transparent communication throughout the complaints process, keeping complainants informed of progress and decisions.

3. Impartiality and Independence: Measures are in place to maintain the impartiality and independence of the Biosafety Appeals Board, ensuring a fair process.

4. Timeliness: Specific timeframes for each stage of the complaints process underscore our commitment to timely resolution.

5. Continuous Improvement: Feedback will be analysed for continuous improvement, reflecting our dedication to refining our regulatory approach.

This Public Complaints Handling Policy is a testament to our pursuit of the highest standards of service delivery. I express gratitude to those who contributed to its development and look forward to its successful implementation.

**Judy Wamae**

**Chief Executive Officer**

**Biosafety Appeals Board**

# **ACKNOWLEDGEMENT**

As the Chairperson of the Biosafety Appeals Board, I extend my sincere appreciation to the dedicated members of the Complaints Handling Committee for their exemplary work in formulating the Biosafety Appeals Board Public Complaints Handling Policy. The committee's commitment to excellence during the policy development process in Naivasha has significantly contributed to the establishment of a comprehensive framework for addressing public concerns in the Board.

I would like to express our gratitude for the financial assistance provided by the Board. Your support has been instrumental in ensuring the successful development of this policy. The provision of resources reflects the Board's commitment to fostering transparency, accountability, and responsiveness in handling public complaints related to the Board’s mandate.

This acknowledgment underscores the collaborative efforts between the Complaints Handling Committee and the Biosafety Appeals Board, with the Board providing crucial financial support. The synergy between these entities has resulted in a policy that upholds the highest standards and demonstrates a shared dedication to addressing public concerns with diligence and fairness.

I extend appreciation to all those involved in this important initiative, recognizing that your collective contributions, both within the committee and through the Board's financial support, have established a solid foundation for a more transparent and accountable biosafety governance framework.

**Chairperson**

**Biosafety Appeals Board**

* 1. **INTRODUCTION**
	2. **Background and Context**

The Biosafety Appeals Board, established under the Biosafety Act No. 2 of 2009, Section 35, has been operational since 2014. Comprising five members appointed by the Cabinet Secretary in charge of Science and Technology, this quasi-judicial body is mandated by the Kenyan government to receive and adjudicate complaints and appeals from individuals aggrieved by decisions made by the National Biosafety Authority (NBA). The NBA oversees activities related to the development, transfer, handling, and use of genetically modified organisms (GMOs).

In the broader context of public service, Kenya has been undergoing reforms since the early 1990s. These reforms aim to foster a performance-oriented culture, enhancing the efficiency and effectiveness of public organizations. A results-based management approach, including performance contracting for government agencies, has been adopted. This approach assesses various indicators, including complaints handling and customer satisfaction.

To better address customer needs, government ministries, departments, and agencies (MDAs) have developed complaints handling systems, including the establishment of institutional ombudsmen.

In 2007, the President established the Public Complaints Standing Committee (PCSC) through Gazette Notice number 5826 of June 2007. Subsequently, with the enactment of the Constitution of Kenya 2010, the functions of the PCSC were assumed by the Commission on Administrative Justice, established by an Act of Parliament in 2011 (Cap 102A).

In alignment with these developments, the Board has set up a Public Complaints Committee to mainstream public complaints management within the institution.

##  OUR MANDATE

To receive and adjudicate complaints/appeals from persons aggrieved by decisions of National Biosafety Authority (NBA) as it exercises supervision and control over activities relating to the development, transfer, handling and use of genetically modified organisms (GMOs).

* 1. **Vision**

A dynamic expeditious Biosafety dispute resolving Board in the world.

* 1. **Mission Statement**

To provide an efficient & effective process for realization of fair Biosafety dispute resolutions.

* 1. **Core Values**

### **1.4.1 Integrity**

We will provide our clients with hearings and decisions that are free from outside influences. The Board will enhance public confidence and trust in the appeal process by being professional and ethical.

### **1.4.2 Excellence**

We will base our decisions on statutes, regulations, and legal precedents; use appropriate scientific research methods to conduct studies and make practical recommendations. The Board will interact with its customers and stakeholders in a professional, respectful, and courteous manner. We will strive to serve our clients better through continuous improvement and innovation.

### **1.4.3 Fairness**

We will treat clients in a fair and unbiased manner. The Board will undertake its work in a fair, unbiased, and objective manner. The Board will be inclusive in considering the various perspectives and interests of stakeholders in its work, and in its external and internal interactions with individuals and organizations.

### **1.4.4 Timeliness**

We will issue timely decisions and will respond promptly to inquiries from stakeholders.

### **1.4.5 Transparency**

We will be open and transparent, so that clients and Kenyans can hold the us accountable for our actions and decisions. The Board will make regulations and procedures easy to understand and follow. The decisions made will be easy to understand, and widely available, and accessible on the organization’s website. The Board will strive to enhance the understanding of its mandate and processes through outreach efforts.

* 1. **Policy Statement**

The Board is committed to mainstreaming complaints management and recognizes the right of every person to complain.

* 1. **Policy Objective**

The Biosafety Appeals Board aims to streamline complaints handling by providing clear guidelines. This policy standardizes the process for addressing public complaints against the Board, promoting coordination, collaboration, and efficient monitoring. It ensures that all complaints, whether from internal or external stakeholders, are handled fairly, responsively, and efficiently. The policy aligns with the Board’s vision of enhancing customer services.

* 1. **Scope Of Application**

This policy applies to all complaints received by Biosafety Appeals Board from both internal and external stakeholders.

The Public complaints policy outlines the complaint handling mechanism within the organization with a view of improving our customer services geared towards actualization of the Board’s vision.

* 1. **DEFINITION OF TERMS**

|  |  |
| --- | --- |
| **Complaint**  | An expression of dissatisfaction by a person(s) or a group, institution or organization about an unsatisfactory or unacceptable situation, including an act or omission, or about the standard of a service; whether the action was taken or the service provided by the person, the institution itself or a body acting on behalf of the public institution. |
| **Complainant** | A person, group of persons, organization or institution making a complaint to the Board. |
| **Respondent** | A public or state officer or a public institution against which the complaint is made. In this case Biosafety Appeals Board. |
| **Lodging** | For the purpose of this policy, lodging is the making of a formal or official complaint to BSAB |
| **Resolution** | A situation where BSAB has provided sufficient information, remedy or solution to the satisfaction of the complainant, or where the complainant is dissatisfied and BSAB has taken the complaint through due process and made a just decision. |
| **Complaints Mechanism** | For the purpose of this policy, a complaints mechanism refers to the procedure and process that has been adopted by BSAB to handle complaints. |
| **Root Cause** | The primary source or basis of the complaint. |

1. **GUIDING PRINCIPLES**

In handling complaints, the Board, shall adhere to the following principles

|  |  |
| --- | --- |
| **Commitment** | BSAB is committed to efficient and fair resolution of complaints. Feedback from beneficiaries and other stakeholders is welcome. It is the stakeholders’ right to raise a concern. |
| **Fairness** | BSAB recognizes the need to deal with all complaints in an impartial manner. No decision and subsequent action will be taken until a full investigation is complete. |
| **Accessibility** | Members of the public will be made aware of the complaints handling mechanism and process |
| **Confidentiality** | Complainant’s identity will be protected from disclosure unless the complainant expressly consents to its disclosure all information provided will be kept in confidence. Confidentiality here does not mean keeping information secret. It means sharing the information only on ‘‘need to know basis’’. |
| **Responsiveness** | Receipt of each complaint is acknowledged to the complainant immediately (with exception of anonymous complaints). Complaints will be handled in an efficient and effective manner. Complainants will be treated courteously and kept informed of the progress of their complaint throughout the complaint-handling process |
| **Accountability** | All employees shall be responsible and accountable for effective complaints handling |
| **Effectiveness** | The complaints handling system will be able to resolve the complaint in an efficient manner that ensures clients are not discouraged from complaining |
| **Continual improvement/ Review and audit** | In order to ensure the continued suitability, adequacy and effectiveness of the Complaints Handling Policy and to identify areas for improvement, the policy will be reviewed periodically, with a view to identifying and rectifying systemic or recurring problem. |

1. **ROLES AND RESPONSIBILITIES**

BSAB is committed to handling complaints from customers, clients, employees, or any stakeholders. Therefore, this policy will help to address and resolve complaints promptly and efficiently. Several roles and responsibilities are typically defined to ensure a fair and effective complaint resolution process.

* 1. **Top Management**

The top management shall ensure the following:

* Ensure complaints-handling process is established
* Identify and allocate resources
* Communicate to customers on the complaints policies and decisions
* Establish complaints handling management representative responsibility
* Ensure that the policy and the procedures in this document are implemented efficiently and effectively.
	1. **Complaints Handling Committee**
* Coordinate complaints handling activities in the organization
* Receive and resolve complaints received
* Create awareness to staff on issues of complaints handling
* Prepare quarterly reports and submit to management and CAJ in prescribed format on matters of public complaints
* Spearhead the implementation of performance Contract on Public complaints resolution indicator
* Ensure the integration of complaints handling in the Organization.
* Ensure compliance with the guidelines of the Commission on resolution of public complaints, as may be issued from time to time
	1. **Staff**
* Handling complaints according to the BSAB’S complaints procedures.
* Maintain and manage accurate records on complaints
1. **STAGES OF THE COMPLAINTS MANAGEMENT PROCESS**
	1. Lodging of Complaint
	2. Receipt and acknowledgement of complaint
	3. Assessment of Complaint
	4. Documentation of Complaint
	5. Action
	6. Investigation
	7. Review and Authentication of Evidence
	8. Responding to/resolving the complaint
	9. Closing the File
2. **LAWS, REGULATIONS AND POLICIES**

This section provides the legal framework on complaints handling in Kenya. It outlines the key laws, regulations, manuals and guidelines on complaints handling. The section does not exclude other relevant laws, regulations or policies not mentioned herein.

* 1. **Constitution of Kenya, 2010**

The supreme law of the Republic and binds all persons and all State organs at both levels of government.

* 1. **Commission on Administrative Justice Act, No. 23 of 2011**

An Act of Parliament to restructure the Kenya National Human Rights and Equality Commission and to establish the Commission on Administrative Justice pursuant to Article 59(4) of the Constitution; to provide for the membership, powers and functions of the Commission on Administrative Justice, and for connected purposes.

* 1. **Fair Administrative Action Act, 2015**

An Act of Parliament to give effect to Article 47 of the Constitution, and for connected purposes. It regulates the conduct of 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; or whose action, omission or decision affects the legal rights or interests of any person to whom such action, omission or decision relates.

* 1. **Access to Information Act, 2016**

An Act of Parliament to give effect to Article 35 of the Constitution; to confer on the Commission on Administrative Justice the oversight and enforcement functions and powers and for connected purposes. It provides a framework for public entities and private bodies to proactively disclose information that they hold and to provide information on request in line with the Constitution.

* 1. **Public Service (Values and Principles) Act, 2015**

An Act of Parliament to give effect to the provisions of Article 232 of the Constitution regarding the values and principles of public service and for connected purposes. It makes provision for handling of complaints relating to the violation of the values and principles of public service.

* 1. **Manuals and Guidelines**
1. **The Kenya Public Sector Complaint Handling Guide**

Provides a simplified roadmap to effective complaints handling in the public sector.

1. **National Government Performance Contracting Guidelines**

Provide guidance in the process of implementing Performance Contracts in the Public Service.

1. **Commission on Administrative Justice Performance Contracting Guidelines**

Provide guidance in the process of implementing the indicator, ‘Resolution of Public Complaints’ in the performance contracts of public institutions.

## 6.10 AUDIT AND REVIEW OF THE SYSTEM

### **6.10.1 Root cause analysis**

The Board shall undertake a root cause analysis of complaints to identify systemic problems and take remedial action as per the template for conducting the root cause analysis (***Appendix III)***

### **6.10.2 Monitoring and evaluation**

The Complaint Handling Committee will review all complaints received and action taken on quarterly basis and make a report as per CAJ Guidelines.

# **7.0 MAKING A COMPLAINT IN WRITING:**

## 7.1 Internal

**The Chief Executive Officer**

Biosafety Appeals Board,

P.O BOX 9583-00200,

Nairobi, Kenya.

Tel: +254-020-3318581

Email: biosafetyappealsboardkenya@gmail.com

## 7.2 External

**Commission for Administrative Justice (CAJ)**

“Office of the Ombudsman”

West end Towers 2nd Floor Waiyaki way -Westlands

P.O Box 20414-00200, Nairobi

Tel. +254 -020-2274046

Email: complain@ombudsman.go.ke

# **8.0 REVIEW OF THE POLICY**

This policy may be subjected to periodic reviews after every three years upon the approval of the management.

# **9.0 ADOPTION**

This policy has been developed and adopted by Biosafety Appeals Board.

***Issued on this 8th December 2023.***

# **APPENDIX I: COMPLAINTS LODGING FORM**

Ref. No: …………………………

1. Complainant’s Details (all information given is voluntary) Name (Dr / Mr / Mrs / Ms)

**………………………………………………………………………………………………………**

ID Number: ……………………………….. Postal address: **……………………………………...**

Mobile No.: ……………………………….. County: ………………………….. Age: …………...

2. How did you get to know about the institution’s complaints mechanism?

 Newspaper TV/Radio Referral by friend

Other (please specify): ……………………………………………………………………………..

3.Which public institution or public officer are you complaining about? Ministry/department/agency:

………………………………………………………………………………………………………………………………………………………………………………………………………………

4. Have you reported this matter to any other public institution/ public official? Yes  No

5. If yes, which one?

………………………………………………………………………………………………………………………………………………………………………………………………………………

6. Has this matter been the subject of court proceedings? Yes No

7. Please give a brief summary of your complaint and attach all supporting documents [*Note to indicate all the particulars of what happened, where it happened, when it happened and by whom*]

………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

8. What action would you want to be taken?

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# Signature: ……………………………………………….. Date: ……………………………….

#  . FOR OFFICIAL USE ONLY

Classification:……………………………………………………………………………………………

Complainant:......................................................

Versus:..................................................................Respondent

Comments by screening Officer …………………………………………………………………………………………………………

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Name:………………………………………… Signature:…………………………................................

Date:…………………….......

# **APPENDIX II: DATABASE FORM**

Ref. no: ………………………………………

1. Complainant’s details Name (Dr / Mr / Mrs / Ms): ………………………………………………………………………………………………………

ID Number: ………………………………. Postal address: ………………………………………

Mobile No.: ………………………………. Email Address: ……………………………………...

County: …………………………………… Age: ……………………..

2. Respondent’s details: Name (Dr / Mr / Mrs / Ms): ………………………………………………………………………………………………………

Staff ID: ……………………………………. Public Institution: …………………………………

Mobile No: ………………………………….. Email Address: …………………………………..

County: ……………………………………… Age: ……………………….

3. Details of the complaint

………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

4. The facts of the complaint

………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

5. The decision reached by the complaints officer

**………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………**

6. Root cause of the complaint

**………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………**

# **APPENDIX III: ROOT CAUSE ANALYSIS TEMPLATE**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Complaint | Officer/ department complained against | Nature of complaint/ service issue,e.g. delay | Type of cause – physical (e.g. system failure), human (e.g. inefficient officers, slow, unresponsive) or organization (e.g. policies, procedures, regulations) | Remedy granted | Corrective/ preventive action to be taken |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
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# **APPENDIX IV: MONITORING AND EVALUATION TEMPLATE**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| No. of complaints received | Mode complaint lodged | No. of complaints resolved | No. of complaints pending | Duration taken to resolve, e.g. spot resolution, 1 day,7 days, 14 days, 1 month, quarterly, annual | Recommendations for system improvement |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |