



COUNCIL OF GOVERNORS



Virtual Peer-to-Peer Learning Report on How Adopting Good Practices can Institutionalize Access to Information within Counties

Background

The Council of Governors (CoG) hosted a virtual peer-learning meeting on Access to Information and its Institutionalisation at the county level on **March 31st 2022** at **9.00 am**. The objective of the three-hour event targeting County Attorneys, Access to Information (ATI) Officers, and Directors in charge of Public Participation, was to facilitate peer-to-peer learning amongst Counties on the development and implementation of Access to Information laws, and strengthen counties' ability to engage with the *County Model Law on Access to Information*¹. In addition, they were to get first-hand experiences from their peers in Embu, Kisumu and Kwale County Governments on aspects of their legal framework and practices on access to information that have enabled citizens to increase their political knowledge, interest and efficacy, and sense of civic duty. In attendance were staff from Commission on Administrative Justice (CAJ) and CoG. There were 62 people who attended.

Welcoming Remarks

Ms. Evelyn Wekesa, the Director in charge of Public Participation and Access to Information in Bungoma County, representing the Caucus of Directors in charge of Public Participation welcomed participants by echoing the clarion call 'As people who are given the authority to be in the office of the ATI, let us learn to give information when it is needed so long as the right channels have been put in place'. She also ran through the objectives of the day, which were;

- To facilitate peer-to-peer learning amongst Counties on the development and implementation of Access to Information laws.
- To sensitize County Governments on the Access to Information Act.
- To identify best practices from County Governments on the implementation of public participation laws.
- To harvest recommendations on how best County Governments can be supported in the development and implementation of access to information and public participation laws.

Mr. Caleb Nyamwage, the County Attorney of Nakuru County and Chair of the County Attorneys' Caucus, appreciated the role being played by the CAJ to actualise Article 35 of the Constitution of Kenya and the Access to Information Act, 2016, by decentralising its services.

¹ [Access To Information Centre \(ombudsman.go.ke\)](https://ombudsman.go.ke)



He highlighted the case laws of Counties being sued for lack of public participation and access to information.

Welcome and Panel Discussions: Institutionalizing Access to Information

Ms. Irine Ogamba, the Director of Legal Services at the Council of Governors, welcomed participants to the CoG-hosted event and introduced the Access to Information law. She shared insights on the importance of transparency to County Governments and informed that CoG has supported Counties in legislative drafting and now peer learning towards setting up institutional structures, systems and process for Access to Information and Public Participation. She highlighted components of the Memorandum of Understanding between CAJ and CoG signed on 2nd August 2021 towards supporting County Governments on:

- Drafting of legislation on access to information and implementation of the access to information model law in the counties
- Development of service delivery charters
- Establishment of complaints handling infrastructure at the county level
- Training of County officials on complaints handling, access to information and good governance.

She added that the CoG is also adopting the complaints handling infrastructure and finalise on the development of its Service delivery Charter.

Mr Osman Mohamed, the Director in charge of Public Education and Corporate Communication at the CAJ reiterated the need for County Governments, after the discussion, to prioritize the passing of Access to Information laws to ensure access to information for the citizens, as enshrined in the Constitution.

Ms. Maryann Wanjiru, the Access to Information Officer at the CAJ took participants through the *Obligations on Public Entities* to facilitate the public's access to information held by these entities. The obligations include:

1. Proactive Disclosure
 - Particulars of its organization, functions and employees
 - Powers and duties of its officers and employees
 - Salary scales of officers by grade
 - Contract details — contract sum, scope, service provider, timelines, e.t.c. [Executive Order No. 2 of 2018]
2. Provision of information upon request
 - Expeditious and reasonable costs
 - Assistance for illiterate and disabled applicants
 - Response within 21 days or 48 hours
3. Protection of whistleblowers; and



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4. Management of records, including keeping and maintaining accurate, authentic records.

Next, she gave a brief on *limitations and exceptions to information disclosures*. This limited confidentiality principle is meant to protect the rights of others based on legal requirements. This includes information that:

- undermines national security of Kenya
- endangers the safety, health, or life of any person
- involves unwarranted invasion of privacy of an individual.

Lastly, she gave highlights of the provisions on the *County Model Law on Access to Information* developed in 2016 which give effect to Section 96(3), County Government Act; which requires County Governments to enact legislation to ensure access to information and to give effect to Article 35 of the Constitution of Kenya. The model law acts as a reference guide to Counties that have not enacted ATI legislation in the drafting & enactment.

Plenary Activity: Strategies to address Access to Information priorities under the model law and Access to Information priorities for the next 6 months

After a 15-minute screen break, the plenary discussions on strategies and priorities were facilitated by **Mr. Jesse Masai**, the Director in charge of Public Participation in Nyandarua County. **Ms. Rosmary Irungu** (CoG) and **Mr. Osman Mohamed** (CAJ) took participants through the Access to Information strategies that were jointly developed by the two organisations for their concurrence. The highlights are:

1. Support the drafting of County bills on Access to Information
2. Training of County officials and officers in areas of Access to Information
3. Peer learning on Access to Information laws



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Table 1: Strategies for the strengthening of Access to Information for the next 1 year

Result 2:	To strengthen the implementation of Access to Information Act, 2016 and Regulations in the counties		
Strategies/Activities	RESPONSIBLE ORGANISATION Commission on Administrative Justice (CAJ)		
	BASELINE (Current Status: Ongoing)	PARTNER	RESOURCES NEEDED
2.1 Support the drafting of County bills on access to information	<ul style="list-style-type: none"> National ATI Act, 2016 ATI regulations, 2021 Model Law on Access to Information for County Governments, 2016 	KLRC, COG, MOD	<ul style="list-style-type: none"> Legislative drafters 7 regional sensitization and drafting/redrafting workshop 7 regional sensitization of County Assembly Committee in charge of the bill
2.2 Training of County officials and officers in areas of Access to Information	ATI training Kit		<ul style="list-style-type: none"> 2 training workshops conducted per year
2.3 Peer Learning <ul style="list-style-type: none"> Right to Information Access to information held by CG and its entities 	Embu, Kisumu and Kwale County ATI Governments laws		<ul style="list-style-type: none"> Consultant to document the good practices 2 learning events conducted

Presentation: From Paper to Practice: Developing and Translating the Access to Information Act

Mr. Ken Njagi, the Director in charge of Public Participation in Embu County, shared tips for the adoption of the ATI legislation and the successes of operationalising it. Despite the Act being adopted in 2015, there have been challenges in implementation. Mr. Njagi recognised the need to align it to the Model Law of 2016. The Act is available online at <https://www.embu.go.ke/wp-content/uploads/2016/08/The-Embu-County-Access-to-Information-Act-20151.pdf>

Wakili Idris Omondi, the County Attorney from Kisumu County, also gave a synopsis of the Access to Information law and recognised that it needs to be aligned to the Model Law and regulations since it was developed ahead of time in 2014.

Observations and Way forward

1. The institutionalisation and decentralisation of County Information officers should be independent of public participation officers. However, they can serve both roles as the county governments progress in developing their governance structures.
2. Kisumu County Government Whistle Blowers Act to serve as a learning legislation. The Council and Ombudsman to interrogate it against the proposed bill in Parliament.



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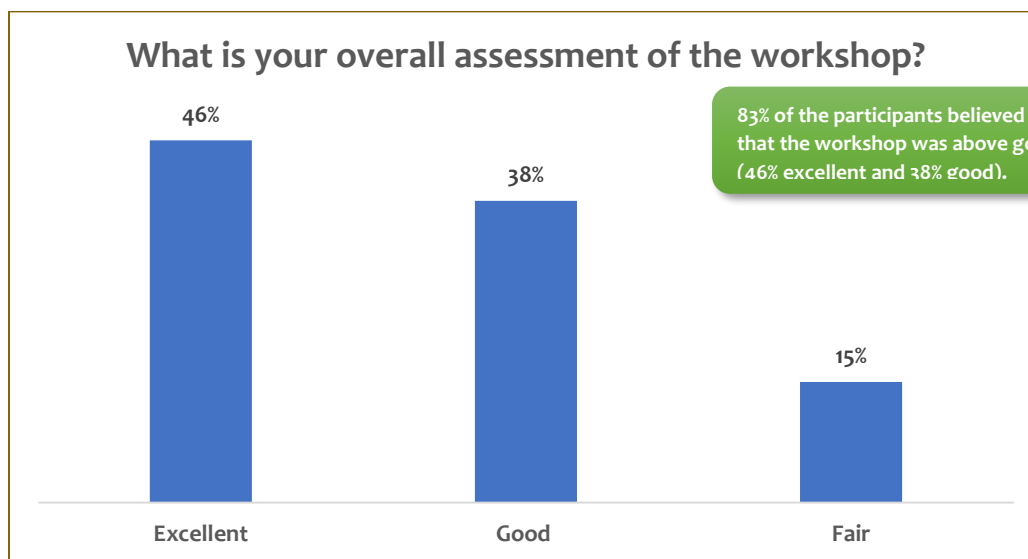


3. Nandi County Assembly to serve as a best practice model on the digitalisation of records.
4. Dr. Rachel Butalanyo expressed the Ministry of Devolution's interest to work with counties towards this initiative. She will work with CoG and CAJ towards resourcing for a physical meeting on implementing the proposed strategies.
5. A low-hanging fruit for the County Governments as they work towards the law during this time of transition is on proactive disclosure. CAJ and CoG to develop and share a guide on the same by **14th April 2022**.
6. CAJ, supported by GIZ, is undertaking sensitisation and training on Access to Information and Resolution of complaints in Kisumu. Kakamega, Vihiga, Bungoma, Busia, Elgeyo Marakwet and Siaya County Governments in Mid May 2022.

The meeting was called to a close with a vote of thanks from **Mr. Dan Onyancha**, the Director in charge of Public Participation in Nyamira County who thanked members for their active participation and contributions and welcomed members to follow through on the immediate commitments towards establishing Access to Information in the counties. Participants undertook an online evaluation by COG whose results are summarised below.

The next meeting in progress in implimentation on proactive county disclosure was scheduled for **Friday 29th April 2022**.

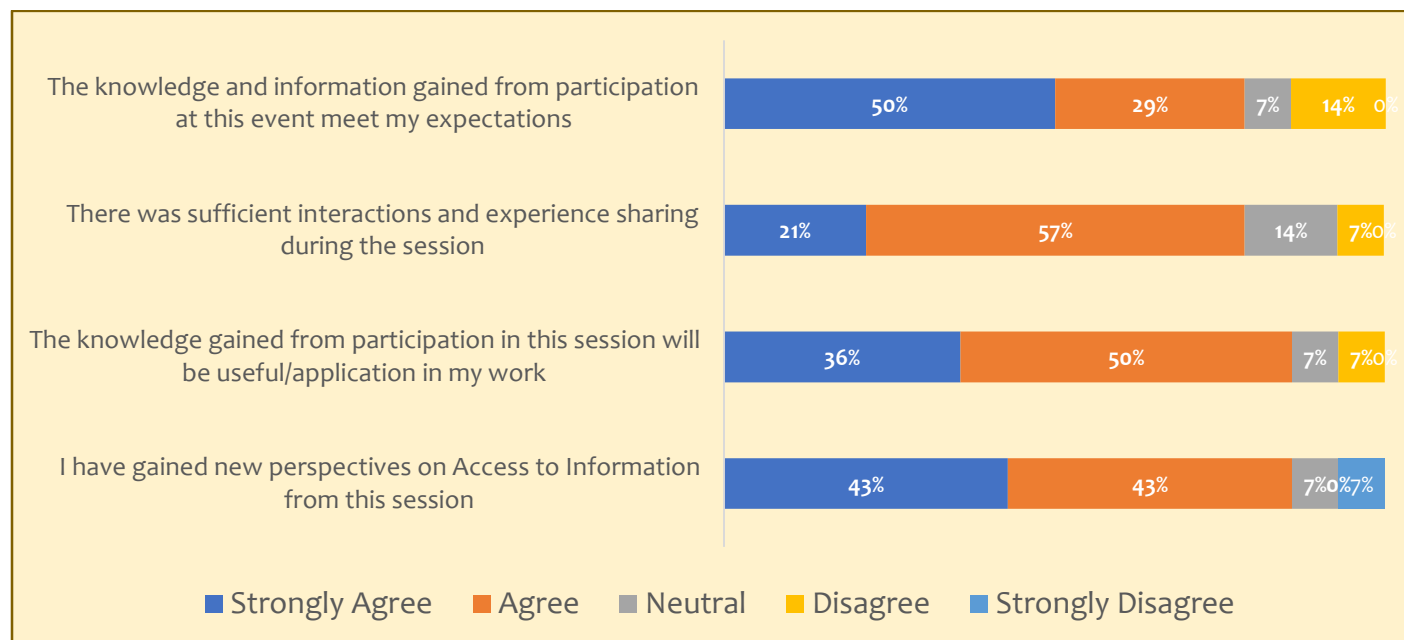
Workshop Evaluation



100% of the participants indicated that the session achieved the intended objectives and while 93% indicated that they learned something new. The new learnings mentioned included access to information, the Embu experience, the role of CAJ, and the model ATI law. The word cloud below represents the feedback received.



The following were the participants' perceptions regarding certain aspects of the workshop.



- 79% (50% strongly agree, 29% Agree) of the participants agreed that the knowledge and information gained from participation in the workshop would be helpful in their work, while 14% felt otherwise.
- 78% (21% strongly agree, 57% Agree) of the participants agreed that there were sufficient interactions and experience sharing during the workshop, while 7% felt otherwise.
- 86% (36% strongly agree, 50% Agree) of the participants agreed that the knowledge gained from participation in the workshop will be useful/applicable in their work, while 7% felt otherwise.
- 86% (43% strongly agree, 43% Agree) of the participants agreed that they have gained new perspectives on Access to information which was critical for the session.

The participants identified **the presentations, the interactions, and the experiences** as the top three things they liked about the session, as shown in the figure below:



The following were the suggestions from participants on improving this meeting in the future and other general recommendations.

- a. Such sessions should be physical for maximum participation.
- b. Ministry of Devolution, Council of Governors, Commission on Administrative Justice, and County Attorneys should support the drafting of county bills on ATI.
- c. Conduct such sessions regularly.
- d. Include more actors such as County Assemblies in the access to information space.
- e. Introduce regional meetings to discuss such critical sessions.