

REPUBLIC OF KENYA



COUNTY ASSEMBLY OF SIAYA

ACCESS TO INFORMATION POLICY

JUNE, 2023

ABBREVIATIONS AND ACRONYMS

| | |
|-------|---|
| AIO | - Access to Information Officer |
| ATI | - Access to Information |
| CAJ | - Commission on Administrative Justice |
| CHAIC | - Complaints Handling and Access to Information Committee |

DEFINITIONS OF TERMS

Citizen

Means any individual who has Kenyan citizenship and any private entity that is controlled by one or more Kenyan citizens.

Commission

Means the Commission on Administrative Justice.

Information

Includes all records held by the Assembly, regardless of the form in which the information is stored, its source or the date of production

Disclosure

The act of making information known.

Edited copy

Means a copy of a document from which exempt information has been deleted

Electronic Records

This is a record generated in digital form by an information system, which can be stored and/or transmitted within an information system or from one information system to another.

Exempt information

Means information that may be withheld by a public entity or private body in accordance with Section 6 of the Access to Information Act, 2016

Information access officer

Means any officer of the Assembly designated under Section 7 of the Access to Information Act, 2016

Public Entity Means

- a. any public office, as defined in Article 260 of the Constitution; or
- b. any entity performing a function within a commission, office, agency or other body established under the Constitution

Public Records

This is any record in writing or any other form containing information that is prepared, owned, used or retained by a public institution and relates to conduct of its business and is available to the public.

Requestor

May include an individual, organization, partner, stakeholder, government or the general public seeking information.

Whistleblower

Refers to government employee or third-party privy to government functions who disclose information of wrongdoing by government officials, information which is the subject of exemption

TABLE OF CONTENT

| | |
|---|-----|
| ABBREVIATIONS AND ACRONYMS | ii |
| DEFINITIONS OF TERMS | iii |
| 1.0 INTRODUCTION | 1 |
| 1.1 County Assembly of Siaya | 1 |
| 1.2 Purpose | 3 |
| 1.3 Scope..... | 3 |
| 1.4 Policy Statement..... | 3 |
| 1.5 Guiding Principles..... | 4 |
| 1.6 Legal Framework | 5 |
| 1.7 Underlying Principle | 6 |
| 2.0 DECISIONS..... | 6 |
| 3.0 PROACTIVE DISCLOSURE | 7 |
| 3.1 Statement on proactive disclosure..... | 7 |
| 3.2 Specific Disclosure | 8 |
| 3.3 Methods of Disclosure..... | 9 |
| 4.0 RESPONSIBILITIES | 9 |
| 4.1 Information Requestor..... | 9 |
| 4.2 County Assembly Service Board | 9 |
| 4.3 County Assembly Clerk | 9 |
| 4.4 Information Access Officer (IAO) | 10 |
| 4.5 Complaints Handling and Access to Information Committee (CHAIC) | 10 |
| 4.6 Heads of Departments/Sections | 11 |
| 4.7 Legal Officer..... | 11 |
| 4.8 County Assembly staff | 11 |
| 5.0 ACCESS TO INFORMATION APPLICATION PROCESS | 11 |
| 6.0 PROCESSING OF APPLICATION AND RESPONSE TIMELINES | 12 |
| 7.0 TRANSFER OF APPLICATION | 13 |
| 8.0 PROVISION OF REQUESTED INFORMATION..... | 13 |
| 9.0 FEE | 14 |
| 10.0 CORRECTION OF INFORMATION | 14 |
| 11.0 MANAGEMENT OF RECORDS | 15 |
| 12.0 FILING OF AN APPEAL WITH THE CAJ | 15 |
| 13.0 MONITORING AND EVALUATION | 16 |

14.0 REVIEW 16
Appendix 1: Information Request Form 17

1.0 INTRODUCTION

The Access to information Act, 2016 provides that every person has a right to request information from the government including the county and it is the duty of the County to provide the requested information unless limitation by law applies.

The right of access to information is guaranteed under Article 35 of the Constitution of Kenya 2010. County Assembly of Siaya is committed to making information relating to its work, available to the public.

1.1 County Assembly of Siaya

The establishment of County Assembly of Siaya is found in Article 176 (Chapter Eleven) of the Constitution. This chapter established County Governments as consisting of a County Assembly and a County Executive. The Chapter further sets out the roles, functions and other matters relating to the membership and operations of the County Assembly. Membership of the County Assembly of Siaya is anchored on Section 7 of the County Government Act No 17 of 2012. In addition to the members who are elected under Article 177(a), or nominated under Article 177(b) and 177(c) of the Constitution, and the speaker, who is an ex officio member.

The County Assembly is the legislative Arm of the Siaya County Government and draws its mandate from the provisions of Article 185 of the Constitution of Kenya. These include oversight, representation and legislation.

Vision

To be a responsive and an excellent County Assembly in Africa

Mission

Promoting ideals of devolution, good governance and the rule of law through effective and efficient legislative, oversight and representative functions for the people of Siaya

Core Values

a. Transparency and accountability in all undertakings. It is the aspiration of the Assembly that it ensures that all its activities are undertaken in ways that are trackable, and follow clear approved procedures. Officers shall be responsible for decision that they make and shall be held accountable to that effect.

b. Professionalism and integrity in our operations. There shall be training of staff and correct placement within portfolios so that offices within the County Assembly are occupied by competent professionals that are able to effectively carry out their responsibilities and in equal measure, engage professionally with members of the public. This calls for systems to be put in place to ensure integrity as part of professional service.

c. Diligence and Commitment to our constituents. The Assembly as a representative institution will strive to deliver on its commitments to the electorate. This will require due diligence which shall be exercised through the structures of the Assembly.

d. Respect for the rule of law. The Assembly makes law and will be at the forefront in respect for the law. Procedures will be established to ensure that legal processes are respected and adhered to by all, within and without the Assembly.

e. Accommodative and Cooperative with all stakeholders. It is imperative that stakeholders be part of the Assembly processes. The functions and operations of the

Assembly, especially at the Sub-County, Ward and Village levels will be driven by stakeholder interests.

f. Timeliness in our endeavors. The Assembly strives to deliver timely decisions and to implement the decisions in a timely manner for the benefit of all its stakeholders

1.2 Purpose

The purpose of this Policy is to:

- a. Give effect to the right of access to information by citizens as provided under Article 35 of the Constitution;
- b. Provide information on request in line with the constitutional principles;
- c. Provide a framework to proactively facilitate access to information held by the Assembly in compliance with any right protected by the Constitution and any other law;
- d. Promote routine and systematic information disclosure by the Assembly relating to accountability, transparency and public participation;
- e. Provide for the protection of persons who disclose information of public interest in good faith.

1.3 Scope

The Access to Information Policy applies to all Assembly employees and the public. However, the responsibility of response lies with the Clerk of the County Assembly or an officer delegated with this task.

1.4 Policy Statement

Assembly is committed to ensuring protection of its information assets and that of the Government

and allow the use, access and disclosure of such information only in accordance with the existing

laws and regulations. Assembly shall be responsible for implementation of this policy.

The policy encompasses the safe keeping of information in whatever form, such as written, electronic, or spoken conversations.

The policy shall;

- Ensure protection of information against unauthorized access;
- Ensure integrity of information through protection from unauthorized modification;
- Ensure availability of information to eligible persons;
- Ensure adherence to regulatory and legislative requirements; and
- Provide guidance in reporting and investigating suspected breaches of access to information process, as appropriate.

1.5 Guiding Principles

Maximum Disclosure

This principle establishes a presumption that all information held by Assembly should be subject to disclosure and that this presumption may be overcome only in very limited circumstances.

Obligation to Publish

Assembly shall publish and widely disseminate documents of significant public interest, subject only to reasonable limits based on resources and capacity.

Openness

Assembly shall promote a culture of openness to ensure goals of freedom of information legislation are realized.

Minimum Exceptions

All requests for information shall be met unless ASSEMBLY can show that the information falls within the scope of the limited regime of exceptions.

Facilitation to access

Where necessary, provision shall be made to ensure full access to information for certain groups including those who cannot read or write, do not speak the language of the record, or suffer from disabilities.

Simple and Easy Access

Assembly shall provide for a mechanism that promotes simple access to information.

Whistle-blower protection

Assembly shall ensure whistleblowers are properly protected from reprisals or penalization, as a result of their actions, so long as they act reasonably and in good faith.

1.6 Legal Framework

The policy is premised on but not limited to the following legislative framework:

- i. The Constitution of Kenya, 2010;
- ii. Access to information Act, No. 31 of 2016;
- iii. Commission on Administrative Justice Act No. 23 of 2011;
- iv. Records Disposal Act, 1962 (Revised 2017);
- v. Public Archives and Documentation Service Act Cap 19, 1965 (Revised 2015);

- vi. Public Officer Ethics Act, 2003;
- vii. Official Secrets Act Cap 187;
- viii. Data Protection Act No. 24 of 2019; and
- ix. Public Service (Values and Principles) Act No. 1A of 2015

1.7 Underlying Principle

Every citizen's right to access information should not be affected by-

- a. Any reason the person gives for seeking access; or
- b. The Assembly's belief as to what are the person's reasons for seeking access are.

The Assembly will ensure that access to information it holds shall be provided expeditiously at a reasonable cost.

The Assembly shall apply the provisions of the Access to Information Act on the basis of a duty to disclose. Non-disclosure shall be permitted only in circumstances exempted under Section 6 of the Access to Information Act, 2016.

2.0 DECISIONS

Based on its assessment of the information request at hand, the Assembly's decision may be based on the following criteria:

- i. **Disclose:** reveal or expose information it holds (Refer to the Access to Information Act 2016).
- ii. **Transfer:** Where the application refers to information held by another public institution; the Assembly shall transfer the request to that public institution within five (5) days of its receipt.
- iii. **Decline:** Where the request is dropped on the basis that the information sought is exempt under Section 6 of the Access to Information Act.

Note: In all instances, a statement about how the requester may appeal to the Commission should be availed.

- iv. **On-going:** Indicate that processing of a request for access to information has commenced but has not been finalized.
- v. **Abandon:** This is a situation where the processing of a request for access to information has been discontinued on account of the Applicant/Requester failing to meet their obligations under the Act.

3.0 PROACTIVE DISCLOSURE

3.1 Statement on proactive disclosure

The Assembly endeavors to proactively disclose and continuously update information in compliance with the provisions of the Act. The information shall be disclosed or availed for inspection at no cost.

3.2 Specific Disclosure

The matrix below is a representation of the information the Assembly shall proactively disclose as per the Access to Information Act, 2016.

| No | Broad Category | Specific Information | Sources | Location |
|----|--------------------------------|--|---|--|
| 1. | About the Assembly | <ul style="list-style-type: none"> • Mandates and functions • Legislative framework • Administrative structure • Staffing levels and salary by grade • Contacts and physical location | <ul style="list-style-type: none"> • The constitution of Kenya, 2010 • County Assembly Services Act, 2017 • County Government Act, 2012 • Manuals, policies | <ul style="list-style-type: none"> • Assembly website • Registry/Records Office • Library |
| 2. | Decision making | <ul style="list-style-type: none"> • Decision making procedure including channel of supervision and accountability | <ul style="list-style-type: none"> • Assembly strategic plan • Code of Conduct and ethics for Staff and MCA • Policies • Manual Service charter | <ul style="list-style-type: none"> • Assembly website • Registry/Records Office • Library |
| 3. | How resources are utilized | Recurrent and development budget | <ul style="list-style-type: none"> • Annual reports • Asset register • Procurement plan • Financial report | <ul style="list-style-type: none"> • Assembly website • Registry/Records Office • Library |
| 4. | Registers of information | Register of information held by the Assembly which can be availed for inspection | Information registers | Registry / records office |
| 5. | Public Procurement Information | Public works commissioned, goods acquired or rented, services contracted, scope of services providers, contractors and time period of contract | Procurement contracts entered | <ul style="list-style-type: none"> • Assembly website • Registry/Records Office • IFMIS website |

3.3 Methods of Disclosure

The Assembly commits to avail to the public information used in making policies, regulations and decisions through:

i. access on the website

Information shall be published on the Assembly's homepage or accessed through search function.

ii. Access through inspection

The inspection of the required documents will be facilitated by the Access to Information Officer

4.0 RESPONSIBILITIES

4.1 Information Requestor

This may include an individual, partners, stakeholders, public and private organizations or the general public, who/which makes an application for an information request

4.2 County Assembly Service Board

- i. Approve the policy.
- ii. Approve the requisite budget for implementation of Access to Information Act, 2016.

4.3 County Assembly Clerk

The County Assembly Clerk shall be the Information Access Officer of the Assembly, or may delegate this function to another officer referred to as an Information Access Desk Officer.

4.4 Information Access Officer (IAO)

This is an officer appointed by the County Assembly Clerk from the Complaints Handling and Access to Information Committee who shall be the designated Information Access Officer in charge of the information Access Desk. The officer shall be the receiver of all information requests applied for. The Officer shall be responsible for;

- i. Receive and acknowledge application for Access to Information
- ii. Guide application on Access to Information
- iii. Conduct interviews for any clarification on the requested information
- iv. Determine accessibility and location of the requested documents
- v. Keep the applicant informed on the status of their application
- vi. Monitor the inspection of record by the applicant/requester
- vii. Transfer application to the relevant bodies for access to of information in line with the Act
- viii. Maintain Access to Information records

4.5 Complaints Handling and Access to Information Committee (CHAIC)

This is a committee constituted by the County Assembly Clerk comprising of at least five members with a role of establishing and maintaining complaints management and access to information infrastructure. The Committee is responsible for;

- i. Maintaining the Access to Information Register
- ii. Coordinating all matters relating to Access to Information
- iii. Advise the Board on emerging issues with regard to Access to Information
- iv. Sensitize staff on matters of Access to Information

- v. Compile and submit quarterly and annual reports on request made for access to information to the Assembly Board and Commission on Administrative Justice.

4.6 Heads of Departments/Sections

Heads of departments are responsible for availing information that can be found in the department or accessed through their respective departments.

4.7 Legal Officer

The Legal Officer shall be sought when consideration of an exception for information sought is required.

4.8 County Assembly staff

Ensure adherence to the provisions of this policy.

5.0 ACCESS TO INFORMATION APPLICATION PROCESS

- i. Any request on to access information to the Assembly should be made in writing and in a language that can be understood (preferably in English or Kiswahili)
- ii. The applicant shall provide details and sufficient particulars for the access to information request to the County Assembly Clerk.

All Information requests shall be directed to;

Assembly Clerk,
County Assembly of Siaya,
P.O. Box 7-40600
Siaya, Kenya
Tel No; 057 5321021/ 0708745148.
E-mail to clerk@siayaAssembly.go.ke
compalints@siayaassembly.go.ke
Website: www.siayaassembly.go.ke

- iii. Should the applicant be unable to make a written request due to illiteracy or disability, the Assembly's information access officer shall take the necessary steps to ensure that the applicant makes the request in a manner that meets his/her needs. The officer shall, on their behalf, fill in the details in the prescribed form (Appendix I) and then furnish the applicant with a copy of the written request.

6.0 PROCESSING OF APPLICATION AND RESPONSE TIMELINES

- i. The Assembly's information access officer or a designate shall make a decision on an application as soon as possible, but in any event, within twenty-one (21) days of receipt of the application.
- ii. Where the information sought concerns the life or liberty of a person, the information access officer shall provide the information within forty-eight (48) hours of the receipt of the application.
- iii. The information access officer to whom a request is made under subsection (2) may extend the period for response on a single occasion for a period of not more than fourteen (14) days if:
 - a. the request is for a large amount of information or requires a search through a large amount of information and meeting the stipulated time would unreasonably interfere with the activities of the information holder; or
 - b. Consultations are necessary so as to comply with the request and the consultations cannot be reasonably completed within the stipulated time.

As soon as the information access officer makes a decision as to whether to provide access to information, he or she shall immediately communicate the decision to the requester, indicating:

- i. whether or not the Assembly holds the information sought;
- ii. whether the request for information is approved

7.0 TRANSFER OF APPLICATION

- i. The Assembly's information access officer or a designate may, not later than five days from the date of receipt of an application, transfer the application, or any relevant part of it, to another public entity, if the information requested is held by that other public entity.
- ii. When an application has been transferred, the information access officer shall inform the applicant immediately but, in any event, not later than seven days from the date of receipt of the application about such transfer.

8.0 PROVISION OF REQUESTED INFORMATION

Where a decision is taken to provide the information applied for, the Assembly's information access officer shall send to the applicant a written response within fifteen working days of receipt of the application, advising:

- i. that the application has been granted;
- ii. that the information will be contained in an edited copy, where applicable;
- iii. the details of any fees or further fees to be paid for access, together with the calculations made to arrive at the amount of the fee;
- iv. the method of payment of such fees, if any;
- v. the proposed process of accessing the information once the payment if any is made; and
- vi. That an appeal may be made to the Commission in respect of the amount of fees required or the form of access proposed to be provided.

Upon receipt of the fee payable, the Assembly's information access officer shall provide the information to the applicant or permit the relevant inspection

immediately, but in any event not later than two working days from the date of receipt of the payment.

The Assembly shall ensure that any information to be made accessible to an applicant shall be produced forthwith at the place where it is kept, for inspection in the form in which it is held unless the applicant requests that it be made available in another form and, if it is practicable to do so, such information may be copied, reproduced or used for conversion to a sound transmission at the expense of the applicant.

9.0 FEE

The Assembly may charge a reasonable cost incurred in making copies of such information and, if applicable, supplying them to the applicant. The fee shall not exceed the actual cost of making the copies of such information and, if applicable, supplying them to the applicant.

10.0 CORRECTION OF INFORMATION

The Assembly shall within reasonable time, at its own expense, correct, update or annotate any personal information held by it relating to the applicant, which is out of date, inaccurate or incomplete.

A request under this Section shall be made in writing to the Assembly for the maintenance of the record system containing the out of date, inaccurate or incomplete information and shall:

- i. state that it is a request to amend certain personal information relating to the applicant;
- ii. specify the personal information that is to be amended indicating how such information is out of date, inaccurate or incomplete; and
- iii. Specify the remedy sought by the applicant.

11.0 MANAGEMENT OF RECORDS

The Assembly shall keep and maintain:

- i. records that are accurate, authentic, have integrity and useable;
- ii. records in a manner which facilitates the right of access to information.

In order to comply with the duty to keep and maintain records, the Assembly shall:

- i. create and preserve such records as are necessary to document adequately its policies, decisions, procedures, transactions and other activities it undertakes pertinent to the implementation of its mandate;
- ii. ensure that records in its custody, including those held in electronic form, are maintained in good order and condition;
- iii. computerize its records and information management systems in order to facilitate more efficient access to information.

12.0 FILING OF AN APPEAL WITH THE CAJ

Where a requester is not satisfied with the Assembly's response, Complaints or Appeals can be filed with the Ombudsman on the following address.

The Commission Secretary/Chief Executive Officer,

Commission on Administrative Justice,

2nd Floor, West End Towers, Waiyaki way, Nairobi.

P.O. Box 20414-00200 Nairobi

Tel: +254 + 020 2270 000, +254 020 2303 000

Email : info@ombudsman.go.ke

13.0 MONITORING AND EVALUATION

Monitoring and evaluation is cardinal to the efficient and effective implementation of the Access to Information policy. This shall entail the collection, analysis and use of the data and information to determine the progress and status of compliance. The Information Access Officer working with the Complaints Handling and Access to Information Committee shall submit quarterly and annual reports to CAJ through the Clerk of the Assembly in the prescribed format.

Periodic monitoring and evaluation of Access to Information activities shall be conducted by the Complaints Handling and Access to information Committee with a view to using the findings for improvement of Access to Information.

14.0 REVIEW

This policy shall be reviewed from time to time to reflect changing circumstances.

Appendix 1: Information Request Form

REPUBLIC OF KENYA



COUNTY ASSEMBLY OF SIAAYA

Information Request Form

Article 35 Constitution of Kenya; Section 4 -12 Access to Information Act, 2016
(This form should be filled in duplicate)

Note: Please refer to page 3 for further information

| SECTION A: To be filled by the Applicant | |
|---|---|
| Date of request: | |
| Name of Applicant(s): <i>(If institution name of the Officer in-charge)</i> | |
| Applicant(s)' national ID card number | |
| Applicant(s)' Email: Phone: | |
| Description of the required information: Identify the documents as specifically as possible: | |
| i. | |
| ii. | |
| iii. | |
| Relevant period of information (dd/mm/yyyy) | From To |
| Preferred form of access (tick appropriately) | i. Inspection <input type="checkbox"/> iv. Entity's website <input type="checkbox"/> ii. Hard copies <input type="checkbox"/> v. Other <input type="checkbox"/> iii. Soft copies <input type="checkbox"/> |
| <i>(Attach further details in the attached separate sheet provided, if necessary)</i> | |

Is the information needed relating to a matter of life or liberty?

YES

NO

If YES, the expected date of response is 2 Day

If information is needed before the legal deadline of 21 days, State the expected date of response

DD..... MM YYYY

State briefly why response is urgent:

.....
.....

Signature
(applicant).....
.....

Date

SECTION B: FOR OFFICIAL USE
(to be filled by the receiving officer/information officer)

| | |
|---|--|
| Name of receiving officer | |
| Designation of receiving officer | |
| Date of receipt of application | DD MM YY |
| Is the information requested available? | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| Cost of making copies, if needed (to be filled within 21 days) | No of pages and cost (cost per page not to exceed market price) |
| | Total amount: |
| Contact details (for tracking response to application) | Email: |
| | Mobile: |
| Result of the request | Information disclosed Date..... Format..... |

