## 





**REPUBLIC OF KENYA**

**THE JUDICIARY**

**PERFORMANCE MANAGEMENT & MEASUREMENT UNDERSTANDING**

**BETWEEN**

**THE PRESIDING JUDGE, XXXXXXX HIGH COURT**

**AND**

**THE HEAD OF COURT STATION, XXXXXX MAGISTRATES’ COURT**

**FOR THE PERIOD**

**1ST JULY 2021 TO 30TH JUNE 2022**

**©SEPTEMBER, 2021**



[

## PERFORMANCE MANAGEMENT & MEASUREMENT UNDERSTANDING

This Performance Management and Measurement Understanding, (hereinafter referred to as “***the Understanding***”), is entered into between the **Presiding Judge XXXXX High Court** of the one part, **AND XXXXXX Magistrates' Courts,** established under Article 169(1) of the Constitution, (*hereinafter referred to as “****the Court****”)* represented by the Head of Station, of the other part. The Understanding applies to both the Presiding Judge and the Head of Station, together with their assignees and successors.

**Whereas:**

1. The Constitution of Kenya states that judicial authority is derived from the people and vests in the Courts and Tribunals established thereunder, and stipulates, *interalia*, that justice will be done to all irrespective of status and without undue delay;
2. The Vision of the Judiciary as specified in the Judiciary Strategic Plan, (herein after referred to as “**the Strategic Plan)**”, is to be “An independent institution of excellence in the delivery of justice to all”;
3. The Mission of the Judiciary as specified in the Strategic Plan is to “To administer justice in a fair, timely, accountable and accessible manner, uphold the rule of law, advance indigenous jurisprudence and protect the Constitution.”
4. The Key Result Areas (KRAs) as specified by the Strategic Plan are;
5. Enhanced Access to Justice
6. Expeditious Delivery of Justice
7. Growth of Jurisprudence and Knowledge Management
8. Improved Governance and Transformative Leadership
9. Improved Human Capital Management and Organizational Development
10. Modernized Registry Operations for Operational Efficiency
11. Enhanced Public Confidence, Awareness and Image of Judiciary
12. Resource Mobilization, Utilization and Stakeholder Engagement
13. The priority areas as specified by the Sustaining Judiciary Transformation (2017-2021) blue print are;
14. Access to justice
15. Clearance of case backlog
16. Integrity, fight against corruption and re-organization of judiciary complaints handling mechanisms
17. Restructuring and strengthening the office of the judiciary ombudsperson
18. Judiciary digital strategy.
19. Leadership and governance
20. The Judiciary is committed to improving its performance in the dispensation of justice in accordance with the Constitution;
21. The Court exercises its mandate and such other responsibilities as conferred by the Judicial Service Act;
22. The purpose of this Understanding is to enhance accountability for results by focusing on delivery of the mandate of the Judiciary and forms the basis for continuous improvement for the transformation of the Judiciary.
23. This Understanding establishes a framework for clear performance objectives, goals and targets for the Court.

**NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

**Part I: Commitments and Obligations of the Presiding Judge, on behalf of the Judiciary**

1. Section 7(1) (2) and (3) of the High Court Act, provides that a presiding judge, whether of a station or division, will be responsible to the Principal Judge for the-supervision of all subordinate courts, tribunals and other bodies falling within the regions designated under section 12(3) of the Act to be under Station or Division.
2. The Presiding Judge in consultation with the Chief Registrar will facilitate provision of requisite financial and human resources as specified in the Court’s annual budget and work plans.
3. Oversee the implementation of a performance management system of the magistrate’s and Kadhis’ Courts in discharge of their mandate, in accordance with the provisions of the Constitution, Magistrates Court Act and any other law.
4. Promote data management systems that ensure accuracy and consistency to include automation of DCRT, protection and sharing of data.
5. Oversee the functionality of the Court Users Committees, Leadership Management Committees in the magistrate’s courts.

**Part II: Commitments and Responsibilities of Head of Station, Magistrates’ Court**

1. The Court will exercise its mandate and such other responsibilities as conferred by the Magistrates Court Act, Chapter 10 of the Laws of Kenya; the Civil Procedure Act, Chapter 21 of the Laws of Kenya; the Criminal Procedure Code, Chapter 75 of the Laws of Kenya and other enabling laws;
2. The Head of Station will:
3. Ensure achievement of the negotiated and agreed Court’s targets; and
4. Ensure preparation and implementation of annual work plan.

**Part III: Monitoring and Evaluation**

1. The Court will submit, monthly, quarterly, and annual performance and statistical reports to the Presiding Judge and/or his/her designated representative;
2. The reports will be accurate, timely and submitted in the specified reporting formats for purpose of monitoring progress of performance and for annual evaluation.

**Part IV: Duration of the Performance Management and Measurement Understanding**

The Understanding will run for a period of 12 months, from ***1stJuly 2021 to 30thJune 2022.***

**PROVIDED ALWAYS** that all parties hereto will act in good faith and take into account any extenuating and exogenous circumstances occurring in the performance period.

**SIGNATORIES**

**Signed: .......................................... Date……..………………**

**Hon. Justice XXXXXXXXX**

Presiding Judge,

XXXXXXX High Court

**Signed: ........................................... Date……..………………**

**Hon. XXXXXX**

Head of Station,

XXXXXXX Magistrates Court

**Witnessed by:**

**Signed: ........................................... Date……..………..………**

**Hon Justice XXXXXXX**

XXXXX Court Judge

AJPMC, Member

**Endorsed by**

**Signed: ........................................... Date……..………..………**

**Hon. Anne A. Amadi**

Chief Registrar of the Judiciary

**Schedule 1. Magistrate Courts’ Targets**

|  |  |
| --- | --- |
| **Matter** | **Recommended Time frame** |
| 1. Certified Urgent Applications | * Within 30 days from the date of filing |
| 1. All applications | * Within 180 days from the date of filing |
| 1. Injunction applications | * Hearing within 60 days from the date of filing * Determination 30 days from the date of hearing |
| 1. Hearing and determination of Civil and Criminal cases | * Determination within 360 days from the date of filing |
| 1. Election petitions | * 180 days from the date of filing |
| 1. Delivery of judgments/rulings | * Determination within60 days from the date of finalisation of hearing |
| 1. Other Applications of cases civil and criminal in nature | * Determination within 90 days from the date of filing |

**Schedule 2: Performance Targets Matrix, XXXXX Magistrate Courts**

| **INDICATORS** | **Unit of measure** | **Weight** | **Baseline**  **2020/2021** | | **Target**  **2020/2022** |
| --- | --- | --- | --- | --- | --- |
| 1. **CORE MANDATE** |  |  |  |  |  |
| **A.1. Expeditious Delivery of Justice** |  |  | **Actual** | % |  |
| 1. Certified Urgent Applications - % of certified urgent applications concluded within 30 days from the date of certification | % | 3 |  |  |  |
| 1. Injunction applications -% of injunction applications heard and determined within 90 days of filing | % | 3 |  |  |  |
| 1. All Other Applications -% of other applications heard and determined within 180 days of filing | % | 3 |  |  |  |
| 1. Hearing and determination of Criminal cases -% of cases concluded within 360 days of filing | % | 7 |  |  |  |
| 1. Hearing and determination of Civil cases -% of cases concluded within 360 days of filing | % | 8 |  |  |  |
| 1. Percentage of judgments/rulings delivered on the date first scheduled for delivery | % | 3 |  |  |  |
| 1. Delivery of Judgments & Rulings -% of judgments & rulings delivered within 60 days of conclusion of the hearing | % | 3 |  |  |  |
| 1. Applications in criminal matters -% of applications concluded within 90 days of filing | % | 3 |  |  |  |
| 1. Reduced no. of days spent in remand custody from the “***Date of plea***” to the “***Date of first hearing****” (where bail has been denied or where the remandees are unable to meet the bail terms)* | No. of Days | 3 |  |  |  |
| 1. Case clearance rate for Criminal Cases | % | 4 |  |  |  |
| 1. Case clearance rate for Civil Cases | % | 4 |  |  |  |
| 1. Case Clearance Rate for Traffic Cases | % | 3 |  |  |  |
| 1. Percentage reduction of backlog | % | 4 |  |  |  |
| 1. Merit Productivity | No | 6 |  |  |  |
| 1. Other productivity | No | 3 |  |  |  |
| **SUBTOTAL** |  | **60** |  |  |  |
| **A.2. TRIAL AND DELIVERY DATE CERTAINTY** |  |  | **Actual** | % |  |
| 1. Advance communication of adjournments of trials & hearings and date of judgment of delivery of judgments/rulings | % | 2 |  |  |  |
| 1. Percentage of trial/hearings held when first cause listed | % | 2 |  |  |  |
| 1. Percentage of pre-trial events held when first listed – mentions and supervision for compliance by parties in filing pleadings/exhibits | % | 1 |  |  |  |
| 1. Submission of Court proceedings for appealed Matters within 60 days from date of receipt of notice | % | 2 |  |  |  |
| 1. Adoption of Alternative Dispute Resolutions - % of Filed Cases referred for Alternative Dispute Resolution (ADR/CAM/AJS) | % | 2 |  |  |  |
| 1. Publish daily cause lists and posting on the notice board/online - seven days in advance | % | 1 |  |  |  |
| 1. Stakeholder Engagement | % | 2 |  |  |  |
| 1. Timely Submission of accurate monthly court returns | % | 2 |  |  |  |
| **SUBTOTAL** |  | **14** |  |  |  |
| **A.3. Court files Integrity** |  |  | **Actual** |  |  |
| 1. Implement the Registry Manual procedures | % | 3 |  |  |  |
| 1. Maintain and update all registers | % | 3 |  |  |  |
| **SUBTOTAL** |  | **20** |  |  |  |
| **SUBTOTAL** |  | **80** |  |  |  |
| **B. COURT INFRASTRUCTURE** |  |  |  |  |  |
| 1. Maintenance of asset and equipment register | Register | 1 |  |  |  |
| 1. Supervision of construction (Where applicable) | Report | 1 |  |  |  |
| 1. Disposal of idle assets (Where applicable) | Report | 1 |  |  |  |
| **SUBTOTAL** |  | **3** | - |  |  |
| **C. FINANCIAL PERSPECTIVE** |  |  | **Actual** | % |  |
| 1. Compliance with the budget | % | 1 |  |  |  |
| 1. Revenue Management | % | 2 |  |  |  |
| 1. Implementation of Audit report recommendations. | Report | 2 |  |  |  |
| **SUBTOTAL** |  | **5** |  |  |  |
| **D. CUSTOMER PERSPECTIVE** |  |  | **Actual** |  |  |
| 1. Compliance with Service Delivery Charter Standards | % | 4 |  |  |  |
| **SUBTOTAL** |  | **4** |  |  |  |
| **E. INNOVATION AND LEARNING** |  |  |  |  |  |
| 1. Service improvement Innovations | No. | 2 |  |  |  |
| 1. Competency development | No | 2 |  |  |  |
| **SUBTOTAL** |  | **4** |  |  |  |
| **F. INTERNAL PROCESSES** |  |  | **Actual** |  |  |
| 1. Corruption Prevention &Eradication | % | 2 |  |  |  |
| 1. Improve Employee wellness and work environment | % | 1 |  |  |  |
| 1. Implement court user survey recommendations | % | 1 |  |  |  |
| **SUBTOTAL** |  | **4** |  |  |  |
| **GRAND TOTAL** |  | **100** |  |  |  |

**ANNEX 1. EXPLANATORY NOTES FOR THE PMMU TARGETS**

**A. CORE MANDATE**

**A.1 EXPEDITIOUS DELIVERY OF JUSTICE - CASE LOAD**.

**1. Certified Urgent Application**

1. Applications filed will be placed before the magistrate immediately for verification as to whether they are urgent or not.
2. Applications will be heard and concluded within 30 days after being certified urgent
3. The court will ensure that there is strict compliance with order 11 CPR.
4. The court will introduce registers for purposes of tracking of applications.
5. The court will ensure that all Urgent Applications are captured in the CTS/DCRT

**2. Injunction Applications**

1. Applications filed will be placed before the magistrate immediately for verification as to whether they are urgent or not.
2. Applications will be heard concluded within 90 days of filing
3. The court will ensure that there is strict compliance with order 11 CPR.
4. The court will introduce registers for purposes of tracking of applications.
5. The court will ensure that all Injunction Applications are captured in the CTS/DCRT

**3. All other Applications including applications in criminal matters**

1. Applications filed will be placed before the magistrate immediately for verification as to whether they are urgent or not.
2. Applications will be heard concluded within 180 days of filing
3. The court will ensure that there is strict compliance with order 11 CPR.
4. The court will introduce registers for purposes of tracking of applications.
5. The court will ensure that all other Applications are captured in the DCRT/CTS

**4. Hearing & determination of Criminal Cases.**

1. The court will hear and determine criminal cases within 360 days.
2. The court will not grant unnecessary adjournments.
3. The court will ensure that all criminal cases are captured in the DCRT/CTS

**5. Hearing & determination of Civil cases (Land cases, Matrimonial cases, Succession cases, Children cases & Employment and Labour)**

1. The court will hear and determine Civil Cases within 360 days.
2. The court will not grant unnecessary adjournments.
3. The court will ensure that all Cases are captured in the DCRT/CTS

**6. Percentage of judgments/rulings delivered on the date first scheduled for delivery**

1. The court will ensure parties take dates by consent.
2. The court will encourage trial date certainty.
3. The court will discourage unnecessary adjournments.

**7. Delivery of Judgments and Rulings**

1. The court will set a day for writing and delivery of judgments and rulings.
2. The court will deliver judgments within 60 days of conclusion of the matter.
3. The court will introduce registers for purposes of tracking of Judgments and Rulings.
4. **Applications in criminal matters.**
5. The court will deliver instant rulings unless the matter is complex
6. The court will avoid unnecessary adjournments
7. **Reduced no. of days spent in remand custody from the “Date of plea” to the “First hearing date** *(where bail has been denied or where the remandees are unable to meet the bail terms)*
8. The court will give priority to people in custody.
9. The court will give reasonable bond terms.
10. The court will request for pre-bail reports.
11. The court in conjunction with the prisons will prepare a report on the number of days remandees are held in custody where bail has been denied or where they are unable to meet bail terms.
12. **Criminal Case clearance rate.**
13. The court will discourage adjournments
14. The court will ensure that parties comply with strict time lines set.
15. The court will encourage entering of consents
16. The court will engage other stakeholders
17. **Civil Case clearance rate.**
18. The court will discourage adjournments.
19. The court will encourage Alternative Dispute Resolution Mechanism (ADR) where applicable
20. The court will ensure that parties comply with strict time lines set.
21. The court will encourage entering of consents
22. The court will engage other stakeholders
23. **Traffic Case clearance rate.**
24. The court will discourage adjournments.
25. The court will ensure that parties comply with strict time lines set.
26. The court will encourage entering of consents
27. The court will engage other stakeholders
28. **Percentage reduction of backlog**.
29. The court will conduct regular case auditing to determine in- active cases.
30. The court will dismiss dormant cases under Order 17 CPR 2010
31. The court will give priority to hearing of old cases.
32. Encourage ADR
33. Apply order 17 of CPR and 87 (A) of the CPC.
34. **Merit productivity (cases concluded by way of Judgments and rulings)**
35. The court shall discourage adjournments.
36. The court shall ensure that parties comply with strict time lines set.
37. The court shall ensure that both Criminal and civil matters are concluded on time.
38. The court shall ensure that all resolved cases are captured accurately in the DCRT
39. **Other Productivity** **(*cases concluded by way of consent, dismissals and withdrawals)***
40. The court shall encourage entering of consents
41. The court shall conduct audit to identify any dormant and inactive cases
42. It shall implement various initiatives such as service weeks to dispense of with such matters
43. The court shall ensure that all resolved cases are captured accurately in the CTS/DCRT

**A.2. EXPEDITIOUS DELIVERY OF JUSTICE -ADMINISTRATION**.

1. **Advance communication of adjournments of trials & hearings and date of judgment of delivery of judgments/rulings**
2. The court will ensure parties give contacts at the time of filing pleadings.
3. The court will communicate any anticipated adjournment within 7 days and keep records
4. Any unanticipated adjournments will be communicated as soon as it arises and records kept.
5. **Percentage of trial/hearings held when first cause listed**
6. The court will engage stakeholders.
7. The court will discourage unnecessary adjournments.
8. The court will ensure compliance with Order 11 of the CPR.
9. The court will strike out pleadings if need be.
10. The court will ensure that the cause list is realistic.
11. The court will encourage trial date certainty
12. **Percentage of pre-trial events held when first listed**
13. The court will ensure compliance with Order 11 of the CPR
14. The court will ensure parties take dates by consent.
15. The court will encourage trial date certainty.
16. The court will discourage unnecessary adjournments.
17. **Submission of Court proceedings for appealed Matters within 60 days from date of receipt of notice. The Court will ;**
18. Ensure that all court proceedings are typed
19. Submit typed proceedings for appealed matters within 60 days from the date of receipt of notice
20. **Adoption of Alternative Dispute Resolutions - % of Filed Cases referred**
21. The Court will open, maintain and regularly update an Alternative Dispute Resolutions Register
22. The court will do mandatory screen to assess relevant cases filed to be referred to Mediation.
23. The Court will monitor the progress of matters referred to the Alternative Dispute Resolutions process and update its records
24. **Publish daily cause lists and posting online seven days in advance**
25. Identify a person to be in charge of the cause list.
26. The courts will preparation of cause list 7 days in advance.
27. The cause list to be submitted in advance for posting on the Judiciary and National Council for Law Reporting websites
28. The court will keep a file of cause list dully dated and signed
29. **Stakeholder Engagement**
30. The Court will hold quarterly Court Users Committee/ Bar-Bench meetings (50%)
31. The Court will hold quarterly LMTs/ Staff meetings (20%)
32. The court will come up with a schedule of activities on quarterly basis.(10%)
33. The court will maintain contacts of all stakeholders. (10%)
34. The Court will maintain a file of all signed meeting minutes (10%)
35. **Submission of monthly court returns.**
36. The court will ensure timely submission of accurate data by the 5th of every month.
37. The Court will validate CTS/DCRT data before submission to PMD;
38. The court will keep time lines in data submission
39. The court will ensure that all resolved cases are captured accurately in the CTS/DCRT

**A.3. COURT FILE INTEGRITY**.

**1. Implement the registry manual procedures**.

1. The Courts will submit annually duly filled forms to the Chief Registrar of the Judiciary for compilation into the Register for Convicted Sexual Offenders in line with the Sexual Offences Act.
2. The Court will introduce and maintain colour coding and indexing of the files.
3. The Court will continually sensitize registry staff on the registry manual.
4. **Maintain and Update all registers**
5. The court will maintain registers for all filed applications and ensure all relevant sections are completed including dates and outcomes/decisions made

**B. COURT INFRASTRUCTURE.**

**1. Maintenance of assets, property and equipment**

1. The court will maintain and update the register regularly.
2. There will be regular inspection of assets and property.
3. Undertake repair of equipment, vehicle and furniture
4. The Court will maintain serviceable fire extinguisher.
5. The Court will hold a sensitization forum for staff on disaster preparedness.
6. **Supervision of construction (Where applicable)**
7. The Court will prepare report on progress of construction
8. The court will maintain a file of the minutes of meetings on progress of construction
9. **Disposal of idle assets (Where applicable)**
10. Establish a disposal committee
11. Develop a disposal plan and an itemized schedule of disposals through stores/supply chain office
12. Undertake valuation of technical items by experts
13. The disposal committee to deliberate on the itemized disposal items and keep minutes
14. Disposal committee to fill and sign F.O 58 form and attach reserve prices for each item. This should also be signed by the secretary to the committee (supply chain officer) and approved by Head of station
15. The disposal minutes and the duly signed F.O 58 be submitted to the Director Supply Chain Management for further processing.

**C. FINANCIAL MANAGEMENT.**

**1. Compliance with the budget**

1. The court will ensure 100% absorption of allocated funds
2. It will ensure utilization of allocated funds according to the approved work plans, the financial procedures and avoid any pending bills.

**2 Revenue Management**

1. The Court will implement cashless payment system and sustain collection of all revenues through KCB deposit and introduce M-Pesa payment system
2. The Court will submit monthly revenue returns to CRJ/Directorate of Finance on court fees, court fines and deposits
3. The Court will submit monthly expenditure returns
4. The Court will submit monthly bank reconciliation slips for AIEs to CRJ/ Finance and accounts
5. **Implementation of Audit Report Recommendations**
6. The court will implement all audit report recommendations-90%
7. The court will submit quarterly reports on the status of the implementation of audit recommendations to the OCRJ/Directorate of Internal Audit and Risk management (using the standard template -10%

**D. CUSTOMER PERSPECTIVE**

**1. Compliance with service charter standards**

1. The Court will continue to display the service charter at prominent locations-15%
2. The Court will ensure that the customer care desk is manned at all times to answer any queries 15%
3. The court will track compliance to all the service charter standards and maintain records-70%

**E. INNOVATIONS & LEARNING**

**1. Service Improvement Innovations**

1. The Court will replicate/adopt any relevant innovations from the list of those identified earlier
2. The court **may** come up with one service delivery innovation (Optional)

**2. Competency Development**

1. The Court will undertake an internal training needs assessment and recommend five staff members for training

**F. INTERNAL PROCESSES**

**1. Corruption eradication**

1. The court will publish and prominently display court fees schedule and key processes
2. The Court will continue sensitizing members of staff on the dangers of corruption in staff meetings
3. The court will continue making use of the suggestion boxes.
4. The court will implement strategies to prevent/reduce corruption. This will also be with reference to latest Judiciary corruption perception survey index/ judiciary ombudsman reports/ audit reports

**2. Improve Employee wellness and work environment**

1. The court will identify and implement recommendation of the latest work environment & employees’ satisfaction survey report
2. The court will hold at least quarterly leadership and management team meetings (LMTs)and keep minutes.
3. The court will hold at least quarterly staff meetings
4. The court will organize sports activities
5. The court will have a welfare group for its staff

**3. Implement court user survey recommendations**

1. The court will identify and implement recommendation of the latest court user survey report