



**ADVOCATES COMPLAINTS
COMMISSION(ACC):
Handling Complaints Against
Advocates Simplified**

**1ST Webinar Series
Presentation
Date: 29.04.2021**

Agenda

- ❖ Who is the Advocates Complaints Commission?
- ❖ What does the Advocates Complaints Commission do?
- ❖ What are the Commission's Achievements.
- ❖ Qs & As

Who Is ACC?

**Presented by: Commissioner
Caroline Saroni**

Establishment

- ✓ The Commission is a statutory body established under Sec 53(1) of the Advocates Act (Cap 16).
- ✓ It was established in 1989 and began its operations in 1990.
- ✓ It is one of the departments in the OAG & DOJ.
- ✓ All its operations are wholly funded by the government.
- ✓ Its Services are free.
- ✓ The Secretariat is composed of 2 Commissioners , 1 Commission Secretary, 25 State Counsel, 17 paralegals, 2 CID officers, 2 office administrators.

ACC's Vision

❖ To Inspire Greater Public
Confidence in the Legal
Profession

ACC's Mission

- ❖ The ACC is committed to providing efficient and effective services in the handling of complaints of professional misconduct against advocates

Mandate

Receive complaints & conduct investigations.



Promote reconciliation & provide an amicable settlement.



Educates the public to know their rights in advocate-clients relationships.



Refers and prosecutes complaints of professional misconduct.

Advice status of advocate professional standing.



The Commission is organized into the following Five (5) Divisions

Review & Investigation Division

In-House and Dispute Resolution (IHDR) Division

Prosecution Division

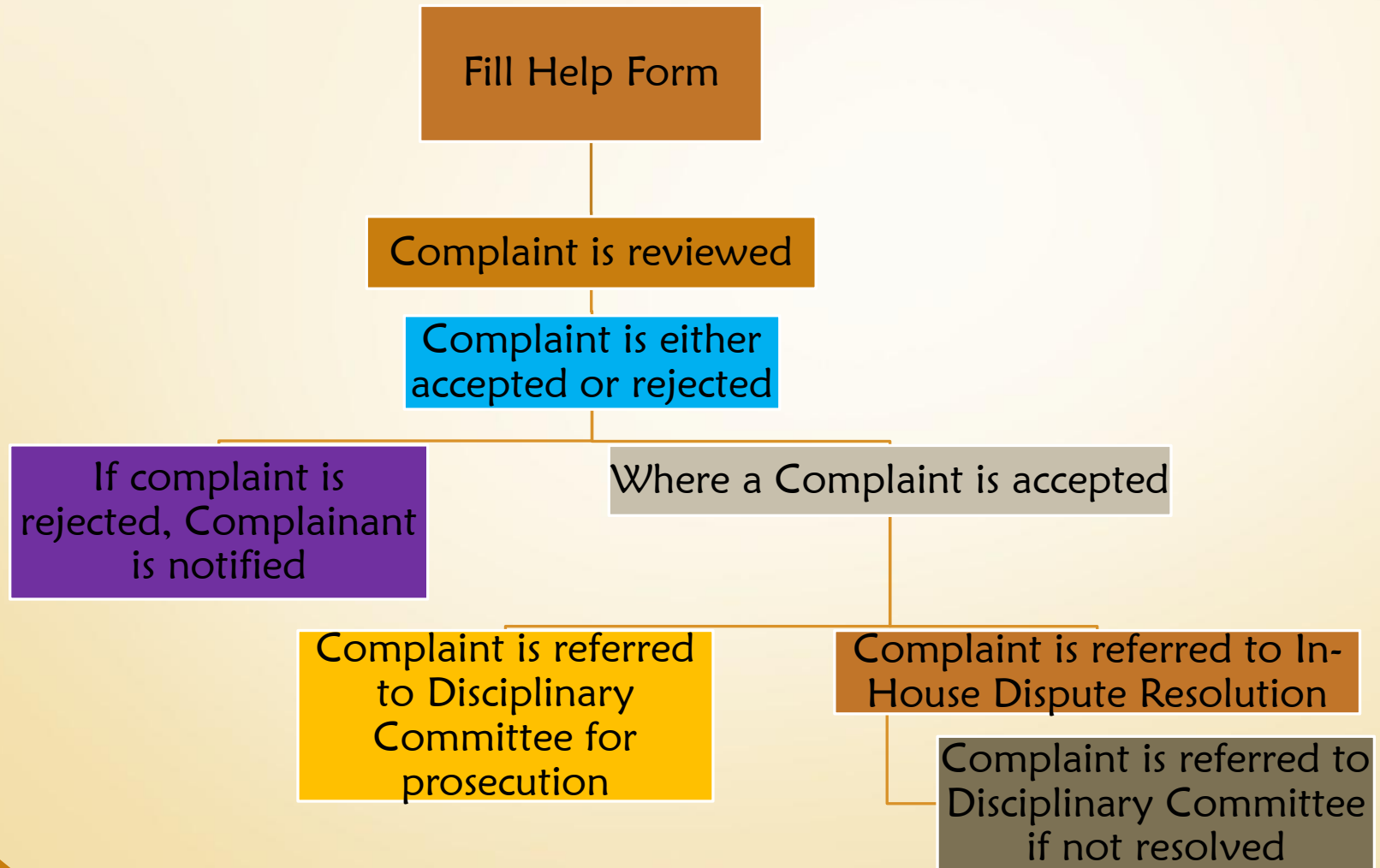
Research & Outreach Division

Registry & Support Services Division

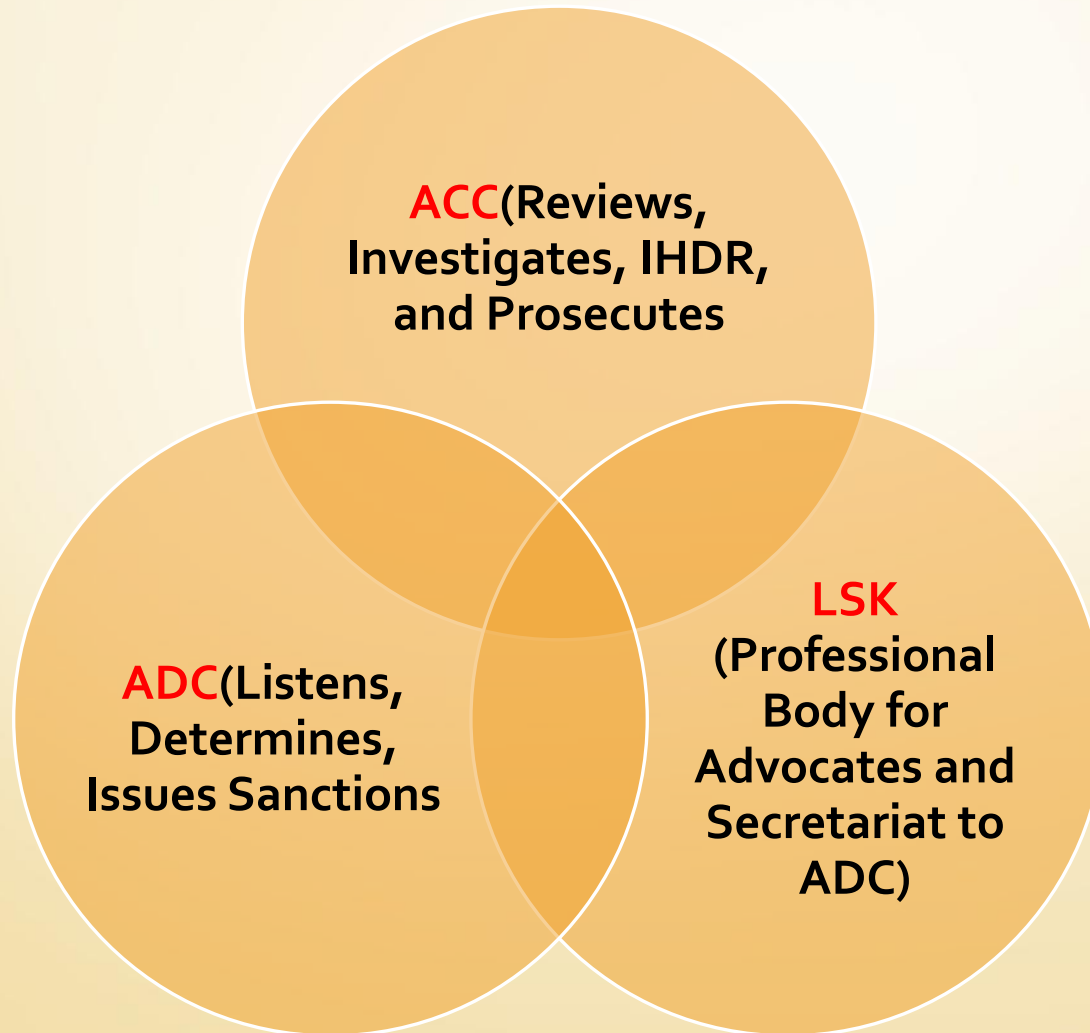
How to Lodge a Complaint

- ✓ Under S. 53(4) – Any person can lodge a complaint.
- ✓ Complaints can also be lodged at the DC by **any person.**(S.60 (1))
- ✓ The Commission has designed a Help form through which complaints are lodged.
- ✓ Members of the public are encouraged to download the Help Form from the Commission's website – www.acc.go.ke, fill it , scan and e-mail it to acc@ag.go.ke for processing.
- ✓ Help Forms can also be obtained at government offices i.e. County Commissioners offices and OAG& DOJ regional offices, once the forms are acquired, they should be completed, signed, scanned and e-mail it to acc@ag.go.ke for processing.
- ✓ A filled Help Form can also be dropped at the Commission's Offices on 20th Floor, Cooperative Bank House, Nairobi
- ✓ In all cases, the complainant is required to attach a copy all the necessary and relevant supporting documents.

Complaint Processing



ACC, LSK and ADC Distinguished





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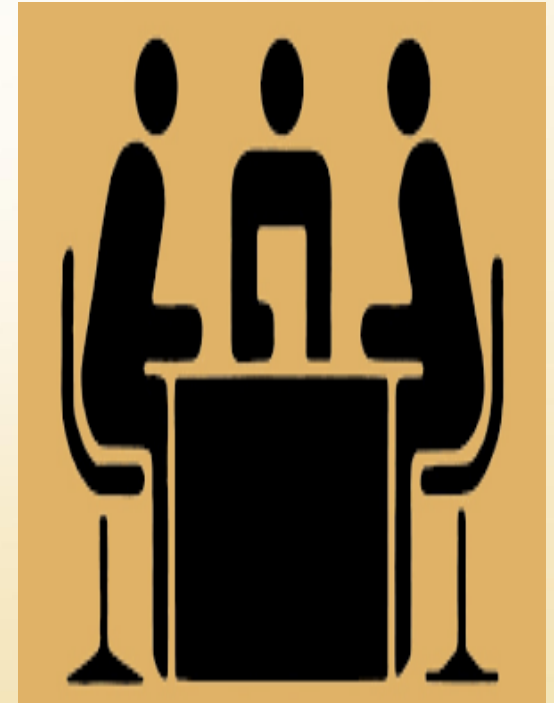


What Does The Commission Do?

Presented by:
Commissioner Samuel Ouma

IHDR Process

- If parties consent to resolving the dispute using ACC's IHDR mechanism, IHDR session(s) are held either virtually or physically.
- If parties agree on a settlement, IHDR settlement Agreement is drafted by the IHDR Division:
- Contents of the IHDR Agreement:
 - Part I – Details of the Parties
 - Part II – Nature of Professional Misconduct
 - Part III – Terms of the Agreement
 - Part IV – Default clause
 - Part V - Signing Off



Compliance of the IHDR Agreement terms monitored by IHDR Division

The Prosecution Process

- ❖ Draft a comprehensive affidavit of charge.
- ❖ The affidavit of charge is sworn by a Commissioner.
- ❖ File the commissioned affidavit at the ADC Secretariat.

Prosecution Stages at the Advocates Disciplinary Committee (ADC)

- 1) Plea taking
- 2) Hearing
- 3) Judgment
- 4) Mitigation and sentencing
- 5) Execution



Common Charges at The A.D.C.

- Withholding clients monies.
- Failure to account for clients' monies.
- Wrongfully asserting a lien
- Failing to render any or adequate professional services
- Conflict of interest
- Delay in carrying out instructions
- Failure to Keep Clients Informed on the Progress of their Matter.
- Issuing cheques that are subsequently dishonored upon presentation at the bank.
- Failure to honour professional undertakings
- Practicing without a valid practicing certificate

Sanctions at the ADC

The Advocates Disciplinary Committee (ADC) may :

- (a) Admonish; or
- (b) Suspend from practice for a specified period not exceeding five years; or
- (c) Strike off an advocate's name from the [Roll](#); or
- (d) Fine an advocate an amount not Exceeding one million shillings; or
- (e) Order the advocate to pay to the aggrieved person compensation or reimbursement not exceeding five million shillings; or
- (f) Such combination of the above orders



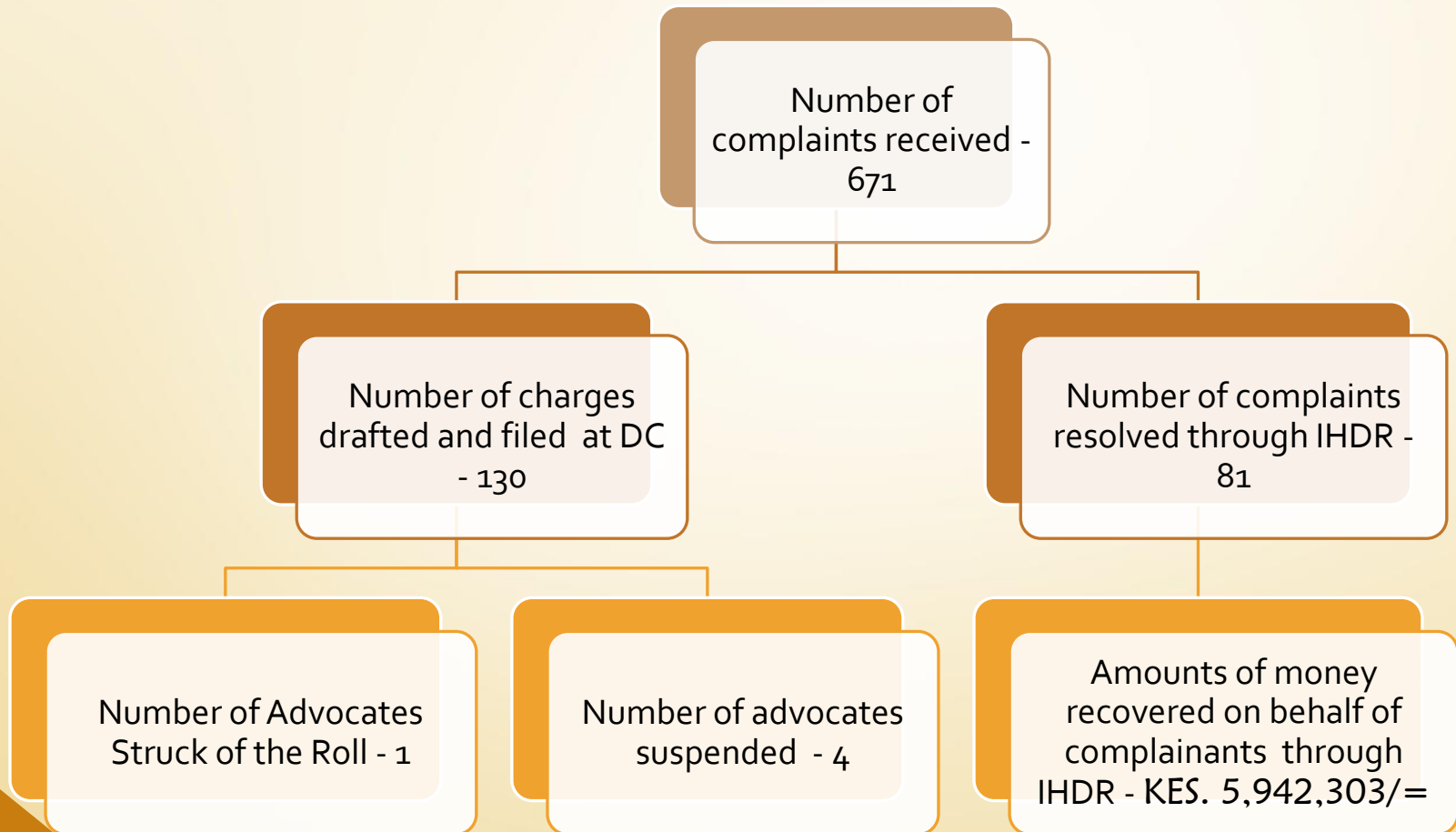
END OF 2ND PRESENTATION



ACC'S Achievements

**Presented By:
George Nyakundi**

Achievements – January - December 2020



Achievements

- 12 Circuit IHDRs in the Counties
- Public Sensitization and legal aid clinics in the counties
- Participation in the annual LSK Legal Awareness Week

Achievements

- Issuance of clearance certificates for legal professionals for appointment to public offices within 2 working days upon request.
- For efficient and effective handling of complaints, the Commission has embraced the use of email in the receipt as well as the processing of complaints.

Achievements

- Use of webinars / Radio and Television talk shows to sensitize the public on advocates discipline.
- Partnerships – e.g. Partnered with the Kenya School of Law to offer guest lectures on Ethics.
- Publication of Quarterly Reports in the Kenya Gazette



END OF 3RD PRESENTATION

A word cloud shaped like a speech bubble, centered around the text "Q & A". The words are in various sizes and orientations, including "questions", "answers", "inquiry", "help", "problem", "confused", "query", "info", "ask", and "investigation". The background is white with a faint grid pattern.