

**CITIZEN CHARTER OF THE OFFICE OF
THE LOKAYUKTA AND UPA-LOKAYUKTA,
MAHARASHTRA STATE,
MUMBAI**

1. The concept of the Institution of Lokpal and Lokayukta based on the Institution of Ombudsman in Scandinavian countries was recommended by the Administrative Reforms Commission in October 1966. In its interim report, the Commission pointed out the inadequacies in the existing arrangement of redressal of citizens grievances and recommended the need for introduction of new machinery for supplementing the same. There was also a public outcry against corruption, existence of widespread inefficiency and unresponsiveness of administration to attend the complaints. The Administrative Reforms Commission, therefore, felt the need of providing institution of Lokpal at the centre and Lokayukta at the State level to remove general discontent among the people and provide prompt sense of satisfaction and to ensure public confidence in the efficiency and integrity of the public services.

2. The State of Maharashtra was the pioneer State to introduce the concept of Lokayukta by enacting the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971. The institution came into being on 25th October, 1972.

3. The Lokayukta is appointed by the Governor after consultation with the Chief Justice of the High Court and the Leader of the Opposition in the Legislative Assembly, or if there be no such Leader, a person elected in this behalf by the members of the Opposition in that House in such manner as the Speaker may direct. Similarly, the Upa-Lokayukta is appointed by the Governor after consultation with the Lokayukta.

4. In Maharashtra, as per practice in vogue a retired Chief Justice or a Judge of the High Court is appointed as Lokayukta and a retired IAS Officer who has served as Chief Secretary or Additional Chief Secretary to the State Government as an Upa-Lokayukta.

5. The Lokayukta is a statutory functionary, independent of the administration with powers. (i) to investigate and make recommendation to redress, and rectify any injustice done to a person through maladministration and (ii) to investigate and make recommendations in complaints of allegations involving abuse of position and corruption against public servants.

6. The functions, powers and jurisdiction of the Lokayukta and Upa-Lokayukta are laid down in the Act. They have to act under law within a clearly defined sphere of activities. But a large number of people in their ignorance consider them a cure for all ills. However, despite efforts to educate the citizens about the precise role and functions of the Lokayukta, we keep on getting a large number of complaints of which no cognizance can be taken. A large number of complainants send copies of their communications to various Government officers to us. Apparently they do so, in the belief that such copies will result in greater dispatch or sympathy in the concerned offices. It would be most helpful if people could be made more aware about the jurisdictional competence of our office. This is necessary not only to save them from the trouble of sending complaints on which no action is possible, but also to prevent raising of hopes which cannot be fulfilled and which may as a consequence, result in frustration and disappointment.

7. ***Jurisdiction of Lokayukta.*** :- The jurisdiction of Lokayukta extends to the entire State of Maharashtra. Lokayukta has powers to inquire and investigate a complaint involving a grievance or an allegation made in respect of any action which is taken by or with the general or specific approval of public servants such as Ministers i.e. members of the Council of Ministers (excluding Chief Minister) in the State of Maharashtra, Secretaries to Government, every President, Vice President and Councillor of Zilla Parishad, Chairman, Deputy Chairman and member of Panchayat Samiti and Chairman of the Standing or any Subjects Committee, constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and every President, Vice President and Councillor of Municipal Council and Chairman of the Standing or any Subjects Committee constituted or deemed to be constituted under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965, every Mayor, Deputy Mayor and Councillor of Municipal Corporations and Chairman of Standing or any Subject Committee constituted under the Mumbai Municipal Corporation Act, the City of Nagpur Municipal Corporation Act, 1948 and The Bombay Provincial Municipal Corporation Act, 1949.

Besides this, Lokayukta has powers to investigate and inquire against the public servants mentioned in the paragraph 12.

8. *Jurisdiction of Upa-Lokayukta.* :- Jurisdiction of Upa-Lokayukta extends to the entire State of Maharashtra. Upa-Lokayukta may investigate a complaint involving grievance or an allegation made in respect of any action which is taken by or with the general or specific approval of any public servant other than a Minister, Secretary to Government, President, Vice President and Councillor of Zilla Parishad, Chairman, Deputy Chairman and member of Panchayat Samiti and Chairman of the Standing or any Subjects Committee constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and President, Vice President and Councillor of a Municipal Council, and Chairman of the Standing or any Subjects Committee constituted under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965, every Mayor, Deputy Mayor and Councillor of Municipal Corporations and Chairman of Standing or any Subjects Committee, constituted under the Mumbai Municipal Corporation Act, the City of Nagpur Municipal Corporation Act, 1948 and The Bombay Provincial Municipal Corporation Act, 1949.

9. *Definition of Maladministration.* :- As per section 2(g) of the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 the definition of the term “ Maladministration ” is as follows :-

(g) “ *Maladministration* ” means action taken or purporting to have been taken in the exercise of administrative functions in any case.

(i) where such action or the administrative procedure or practice governing such action is unreasonable, unjust, oppressive or improperly discriminatory, or

(ii) where there has been negligence or undue delay in taking such action, or the administrative procedure or practice governing such action involves undue delay.

10. *Definition of Allegation.* :- As per section 2(b) of the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 the definition of the term “ allegation ” is as follows :-

(b) “ *allegation* ” in relation to a public servant, means any affirmation that such public servant, -

(i) has abused his position as such to obtain any gain or favour to himself or to any other person or to cause undue harm, or hardship to any other person,

(ii) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives, or

(iii) is guilty of corruption, or lack of integrity in his capacity as such public servant.

11. Definition of Grievance. :- As per section 2(d) of the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 the definition of the term “ grievance ” is as follows :-

“ *grievance* means a claim by a person that he sustained injustice or undue hardship in consequence of maladministration. ”

12. Public Servant :- As per the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 “ *public servant* ” denotes a person falling under any of the descriptions hereinafter following namely :-

(i) A member of the Council of Ministers (other than the Chief Minister), for the State of Maharashtra that is to say a Minister, Minister of State and Deputy Minister;

(ii) A person appointed to a public service or post in connection with the affairs of the State of Maharashtra;

(iii) (a) President, Vice President and Councillor of Zilla Parishad, Chairman, Deputy Chairman and member of Panchayat Samiti, and Chairman of the Standing or any Subjects Committee ;

(b) President, Vice President and Councillor of Municipal Council, Chairman of the Standing or any Subjects Committee;

(c) Mayor, Deputy Mayor and Councillor of Municipal Corporation and Chairman of Standing or any Subject Committee.

(iv) Every person in the service or pay of,

(a) any local authority in the State of Maharashtra which is notified by the State Government in this behalf in the *Official Gazette*; {e.g. all Municipal Corporations, Municipal Councils, Zilla Parishads, Panchayat Samitis in Maharashtra, Maharashtra Housing and Area Development Authority (MHADA) and Mumbai Metropolitan Region Development Authority (MMRDA).}

(b) any corporation (not being local authority) established by or under a State of Provincial Act and owned or controlled by the State Government; (this also includes Maharashtra State Road Transport Corporation).

(c) any Government company within the meaning of Section 617 of the Companies Act, 1956 in which not less than fifty-one percent of the paid up share capital is held by the State Government, or any company which is a subsidiary of a company in which not less than fifty-one percent of the paid up share capital is held by the State Government

(d) any society registered under the Societies Registration Act, 1860 which is subject to the control of the State Government and which is notified by that Government in this behalf in the *Official Gazette*.

13. *Jurisdictional Limitations* :- Lokayukta and Upa-Lokayukta do not have jurisdiction to investigate or enquire into a complaint involving a grievance in respect of :-

(a) action taken for the purpose of investigating crime or protecting the security of the State ;

(b) action taken in the exercise of powers in relation to determining whether a matter shall go to a Court or not ;

(c) action taken in matters which arise out of the terms of a contract governing purely commercial relations of the administration with customers or suppliers except where the complainant alleges harassment or gross delay in meeting contractual obligations ;

(d) action taken in respect of appointments, removal, pay, discipline, superannuation or other matters relating to conditions of service or public servants but not including action relating to claims for pension, gratuity, provident fund or to any claims which arise on retirement, removal or termination of service ;

(e) grant of honors and awards ;

(f) if the complainant has or had any remedy by way of proceedings before any tribunal or court of law ;

Provided that, the Lokayukta or the Upa-Lokayukta may conduct an investigation notwithstanding that the complainant had or has such a remedy if the Lokayukta or as the case may be the Upa-Lokayukta is satisfied that such person could not or cannot for sufficient cause, have recourse to such remedy.

The Lokayukta and Upa-Lokayukta cannot conduct any investigation in the case of complaint involving a grievance in respect of any action taken by or with the approval of –

(a) any Judge as defined in section 19 of the Indian Penal Code ;

(b) any officer or servant of any court in India ;

(c) the Accountant General, Maharashtra ;

(d) the Chairman or a member of the Maharashtra State Public Service Commission ;

- (e) the Chief Election Commissioner, the Election Commissioners and the Regional Commissioners referred to in article 324 of the Constitution and the Chief Electoral Officer, Maharashtra State ;
- (f) the Speaker of the Maharashtra Legislative Assembly or the Chairman of the Maharashtra Legislative Council ;
- (g) any member of the Secretarial staff of either House of the Legislature.

As per section 10(2) of the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 every investigation is required to be conducted in private and in particular, the identity of the complainant and of the public servant affected by the investigation cannot be disclosed to the public or the press whether before, during or after the investigation.

Provided that the Lokayukta or the Upa-Lokayukta may conduct any investigation relating to a matter of definite public importance in public, if he for reasons to be recorded in writing, thinks fit to do so.

Save as aforesaid the procedure for conducting any such investigation shall be such as the Lokayukta or as the case may be the Upa-Lokayukta considers appropriate in the circumstances of the case.

Under section 10 (4) of the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971, the Lokayukta and Upa-Lokayukta may in his discretion, refuse to investigate or cease to investigate any complaint involving a grievance or an allegation if in his opinion –

- (a) the complaint is frivolous or vexatious, or is not made in good faith ; or
- (b) there are no sufficient grounds for investigating or as the case may be for continuing the investigation ; or
- (c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies.

In any case where the Lokayukta or Upa-Lokayukta decides not to entertain a complaint or to discontinue any investigation in respect of complaint, he shall record his reasons therefor and communicate the same to the complainant and the public servant concerned.

The conduct of an investigation under this Act in respect of any action shall not affect such action or any power or duty or any public servant to take further action with respect to any matter subject to the investigation.

As per section 15 (1) of the said Act, whoever intentionally offers, any insult, or causes any interruption to the Lokayukta or the Upa-Lokayukta conducting any investigation under this Act, shall, on conviction, be punished with simple imprisonment for a term which may extend to six months or with fine or with both.

As per section 15 (2) of the said Act, whoever, by words spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Lokayukta or Upa-Lokayukta into disrepute, shall on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine or both.

As per section 15(3) of the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 the provisions of section 198 B of the Code of Criminal Procedure, 1898 shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (1) of the said section 198 B, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction:-

(a) in the case of an offence against the Lokayukta, of the Lokayukta,

(b) in the case of an offence against the Upa-Lokayukta, of the Upa-Lokayukta concerned.

No suit, prosecution, or other legal proceeding shall lie against the Lokayukta or the Upa-Lokayukta or against any officer, employee, agency or person referred to in section 13 in respect of anything which is in good faith done or intended to be done under this Act.

No proceeding of the Lokayukta or Upa-Lokayukta shall be held bad for want of form and except on the ground of jurisdiction, no proceedings or decision of the Lokayukta or Upa-Lokayukta shall be liable to be challenged, reviewed, quashed or called in question in any court.

14. Form and contents of complaints :- Every complaint under the Lokayukta and Upa-Lokayuktas Act, 1971 shall be made as far as possible in the form prescribed in Schedule 'A' of Rule 3 of the Maharashtra Lokayukta and Upa-Lokayuktas Rules, 1974 and shall contain the following particulars :-

(a) The name and address of the complainant.

(b) The name, official designation and address of the person against whom the complaint involving grievance or allegation is made.

(c) If a complaint involving a grievance is made after the expiry of twelve months from the date of action complained against, the date on which the said action complained against became known to the complainant and statement of grounds showing sufficient cause for not making the complaint within the period specified i.e. within 12 months.

In the said complaint the complainant should submit details / nature of complaint along with the requisite copies of the documents.

Every complaint shall be duly signed by the complainant or if he is illiterate it shall bear his thumb impression duly attested by a literate person under his signature and such person shall give his name and address below his signature. Every complaint shall be accompanied by as

many spare copies as there are public servants complained against. Every complaint shall be supported by an affidavit. Every affidavit shall be drawn up clearly and legibly and as far as possible in a language which the person making it understands. It shall be drawn in the first person. Every person making an affidavit shall state his name, father's or husband's name as the case may be, surname, age, profession or trade and place of residence. The affidavit shall be sworn in before the Registrar or the Assistant Registrar of the Lokayukta and Upa-Lokayukta or before a person legally authorized to administer oath.

As per the above mentioned rule, every complaint should be in the form given below:-

**Before the Lokayukta / Upa-Lokayukta,
Maharashtra**

Complaint No.

Date

A.B. (Name and address)

. . . . Complainant.

Versus

C.D. (Name and official designation, if any and address)

. . . . Public servant complained against.

Herein the complainant complains as follows:-

(Here give a brief substance of the action complained against and of the grievance or allegation.) (Lengthy statements should be avoided.)

(If a complaint involving a grievance is made after the expiry of 12 months from the date of the action complained against, give the reasons for the delay.)

A duly sworn in affidavit supporting the averments in the complaint is filled herewith.

Date:

(Signature or thumb mark of the Complainant.)

Affidavit

do swear in the name of God

Thumb impression

I _____ that this is my name and _____

Solemnly affirm

Signature

and that the contents of this affidavit are true.

I further ^{Swear} _____ that what is stated in paragraph (give-numbers)

Solemnly affirm

is true to my personal knowledge and what is stated in paragraphs (give-numbers) is true to my information and is believed by me to be true.

15. *Mode of dealing with complaints:-* The Lokayukta's institution provides a cheap and informal remedy free from technical intricacies. Its grievance redressal process can be activated by the aggrieved just by mailing his complaint on a plain piece of paper. His complaint is examined with utmost care and subjected to rigorous and thorough investigation whether the impugned act of omission or commission is unreasonable, unjust or arbitrary is determined with complete objectivity whether the decision making process has been fair and whether all the relevant facts were taken into consideration among other things engages our special attention.

It is our constant effort to ensure that technicalities do not hamper investigations into the complaints. We do not want to turn down any complaint as far as possible on account of any technicality, or for want of proper form. Most of the complainants have been found to belong to the poorer sections of the society. We do not turn them away but assist them in presenting the complaints properly.

Every complaint received in this office is read carefully and the relevant issues are brought out. Further, where the name and the identity of the complainant appears to be doubtful, confirmation of the contents of the complaint is sought by writing to him at the address given by him.

After meticulous examination of the complaints, a decision is taken for entertaining or rejecting them. In all cases in which the complaints have been rejected for being non-maintainable, the complainants are informed forthwith giving them reasons for not entertaining their complaints.

The complaints entertained for inquiry or investigation are referred for reports to the public servants complained against or the competent authorities depending upon the nature of the complaint. In many complaints, the grievance of the complainants are redressed by correspondence without embarking upon regular investigation. If the reports received are not satisfactory the matters are kept for hearing and an attempt is made to narrow down the difference between the complainant and the administration. If it found that the administration is not receptive to the grievance of the complainant or if we find substance in the allegation of corruption, in such cases investigation is carried out under section 10 of the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 i.e. in such cases investigation is carried out by issuing a notice to the concerned public servant with a copy thereof to the Competent Authority. If after investigation, we find maladministration or substance in the allegation of corruption, findings and recommendations are communicated to the competent authority under section 12(1) or section 12(3). The competent authority to whom a report is sent under section 12(1) or 12(3) shall take necessary action for redressing the complainant's grievance and also to take disciplinary action against the delinquent public servant and to submit a compliance report to the Lokayukta or Upa-Lokayukta within the time specified in section 12(2) or section 12(4).

If the Lokayukta or Upa-Lokayukta is satisfied with the action taken or proposed to be taken on his recommendations or findings referred to in sub-section (1) and (3), he shall close the case under information to the complainant, the public servant and the competent authority concerned. But where he is not so satisfied and if he considers that the case so deserves, he may make a special report upon the case to the Governor and also inform the complainant concerned.

On receipt of such special report, the Governor shall cause a copy thereof together with an explanatory memorandum to be laid before each House of the State Legislature.

If it is found during the enquiry that injustice has been caused to the complainant recommendations are made to remove the injustice. Similarly, if the administrative procedure or practice is found to be unreasonable, recommendations are made to remedy or redress the same. If the allegation is substantiated, disciplinary action is recommended against the concerned public servant.

16. The subject matter of several complaints received by the Lokayukta and Upa-Lokayukta fall outside their jurisdiction as per the provisions in the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971. Similarly, some of the complaints are vague or not specific. Some of the complaints are mere illegible Xerox copies of the correspondence made to the other authorities. It is not therefore, possible to take cognizance of such complaints.

There is a misconceived impression among the complainants that on filing the complaint in the office of the Lokayukta and Upa-Lokayukta, the Lokayukta and Upa-Lokayukta can pass binding orders or give decisions like Courts. Hence, this office continues to receive complaints regarding appointments to particular posts, employment, compensation, promotion, cancellation of transfer or departmental enquiry etc. It is necessary to make the people aware of the fact that the Lokayukta or Upa-Lokayukta cannot give binding orders like Courts. All out efforts are made to redress the grievance of the complainant. But in case the attempts are not successful and after investigation, the Lokayukta or Upa-Lokayukta is satisfied that such action has resulted in injustice or undue hardship to the complainant, recommendations are made to remedy or redress the grievance as specified in paragraph 15 above. Similarly, it is not always possible to give quick relief to the complainant as it is necessary to follow the prescribed procedure laid down in the Act. Each year, nearly about 11 to 12 thousand complaints are received from all over

Maharashtra. It is but natural that careful examination of each complaint would take some time before taking further action.

Although it is our sincere effort to finalise each and every complaint in the minimum possible time, it is not always possible for the reasons enumerated above. The complainants in their attempt to pursue their complaints are often in the habit of making correspondence repeating the contents of their complaint or once the complaint is registered to raise several other issues. The complainants need to avoid such correspondence to save the time of the employees of this office. It is not only impossible but also unnecessary to enter into repeated correspondence with the complainant regarding the progress made in the enquiry into his complaint. If the complainants avoid such unnecessary correspondence, it will help to finalise the complaints as early as possible.

This institution has been successful in redressing the grievance of several complainants. It is our experience that in the last few years, out of the complaints taken up for enquiry the grievances have been redressed in about 60-70% of the cases.

OFFICE ADDRESS:-

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