

STRUCTURES AND PROCEDURES IN THE JUDGES AND MAGISTRATES VETTING ACT



I. OBJECT AND PURPOSE.
The Act establishes an independent Vetting Board as a mechanism for implementing procedures for the vetting of judges and magistrates pursuant to the requirements of Section 23 of the Sixth Sched-

ule to the Constitution.

II. GUIDING PRINCIPLES.

In the exercise of its powers or the performance of its functions under the Act, the Board shall at all times, be guided by the principles and standards of judicial independence, natural justice and international best practice.

III. COMPOSITION OF THE BOARD.

The members of the Board were appointed through a competitive and transparent recruitment process. A selection Panel involving multi-sectoral representatives conducted the interviews.

The Board Comprises of nine (9) members including a Chairperson, Vice-Chairperson and seven (7) other members three (3) of whom are either currently serving or retired foreign judges of any superior court in the

Commonwealth while the remaining six(6)are Kenyans. Of these at least three (3) must be lawyers.

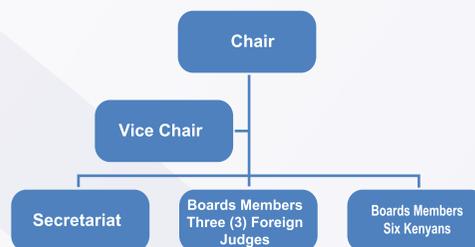


Fig. 1 Organogram depicting the Composition of the Judges and Magistrates Vetting Board.



IV. FUNCTIONS OF THE BOARD.

The Board is tasked with the duty to vet judges and magistrates in accordance with the provisions of the Constitution and the Act.

V. POWERS OF THE BOARD.

The Board has been granted the following powers:-

1. To gather relevant information, including requisition of reports, records, documents or any information from any source, including governmental authorities;
2. To compel the production of such information as and when necessary;
3. To interview any individual, group or members of organizations or institutions at the Board's discretion;
4. To conduct such interviews;
5. To hold inquiries for the purposes of performing its functions under the Act;
6. To inform itself in such a manner as it thinks fit;
7. To receive on oath, written or oral statements;
8. To function without being bound by strict rules of evidence; and
9. To operate independently without being subject to the direction or control of any person or authority.

VI. SECRETARIAT.

The Board is served by a secretariat headed by a secretary to give the Board administrative, functional and secretariat support involving technical aspects of its operations.

It has professional administrative support staff and legal assisting counsel as well as public servants seconded from the public service.

VII. VETTING STRUCTURES.

The Vetting exercise will be conducted by 3 separate panels working concurrently each panel being constituted by a foreign judge, a lawyer and non-lawyer



Fig. 2. Organogram depicting the Constitution and composition of Vetting Panels.

VIII. RELEVANT CONSIDERATIONS.

In determining the suitability of a judge or magistrate, the Board will consider the following relevant considerations:-

1. Whether the judge or magistrate meets the constitutional criteria for appointment as a judge of the superior courts or as a magistrate;
2. The past work record of the judge or magistrate, including prior judicial pronouncements, competence and diligence;
3. Any pending or concluded criminal cases before a court of law against the judge or magistrate;
4. Any recommendations for prosecution of the judge or magistrate by the Attorney-General or the Kenya Anti-Corruption Commission; and

