

COUNTY ASSEMBLY OF KISUMU



THE COUNTY ASSEMBLY OF KISUMU	
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DATE:	Time: 9:00g.m
3/04/2024	Day: Wednesday
TABLED BY:	Hon. Ben Adeg
CLERK AT THE TABLE	A. Obeng

THIRD ASSEMBLY – SECOND SESSION

SELECT COMMITTEE ON POWERS AND PRIVILEGES

**REPORT ON BENCHMARKING EXERCISE WITH THE SISTER COMMITTEE
OF NAKURU COUNTY ASSEMBLY**

PRESENTED BY: HON. BENSON ADEGA

**VICE CHAIRPERSON, COMMITTEE ON POWERS AND
PRIVILEGES**

Directorate of Committee Services

Clerk's Chambers

The County Assembly

Kisumu

NOVEMBER, 2023

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PREAMBLE

BACKGROUND INFORMATION

Mr. Speaker and Hon. Members,

PURSUANT to the provisions of the Kisumu County Assembly Standing Orders **No. 194(2) (C)** which mandates the House Committees to prepare programs and activities to be undertaken in each Fiscal Year, the Committee on Powers and Privileges prepared its Annual Work Plan for FY 2023/2024 detailing errands to be transacted which amongst them, was the approved Study Tour with the sister committee of Nakuru County Assembly.

Following the approval of the Liaison Committee, the Speaker of the Kisumu County Assembly permitted the Committee to carry out the benchmarking exchange to enable the two committees share and learn on best practices to adopt and achieve their mandate.

ESTABLISHMENT AND MANDATE

Mr. Speaker and Hon. Members,

The Committee on Powers and Privileges is established Pursuant to Standing Order No.207 read together with section 15 of the County Assemblies Powers and Privileges Act, 2017. The Committee's mandate amongst others, as outlined under section 15 of the Act is to:

1. Inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege in terms of section 16 of the Act; and
2. Either of its own motion or as a result of a complaint made by any person, inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege
3. Issue summons to witnesses to appear before the Committee
4. Receive evidence and to request for and receive papers and documents from the Government and the Public.

Further, as envisaged under section 18 of the Act as read with Article 195 of the Constitution of Kenya, 2010, the committee as constituted has the same powers as the High Court of Kenya.

COMMITTEE MEMBERSHIP

Mr. Speaker, the Committee as currently constituted comprises of the following Honorable Members,

NAME	DESIGNATION
1. Hon. Elisha Oraro	Chairperson/Speaker
2. Hon. Benson Adega	Vice Chairperson
3. Hon. Sammy Onyango	Member
4. Hon. Nancy Matara	Member
5. Hon. Emily Oginga	Member
6. Hon. Anne Ochola	Member
7. Hon. Kennedy Ooko	Member
8. Hon. Ken Ouko	Member
9. Hon. Vitalis Oliewo	Member

SECRETARIAT

1. Ms. Annebelle Wabuge	- Senior Clerk Assistant
2. Mr. Rodgers Wagude	- Clerk Assistant
3. Mrs. Vallery Achieng	- Hansard Reporter
4. Mr. Silas Kapesa	- Sergeant -At-Arms

IN ATTENDANCE

Members of Powers and Privileges of Nakuru County Assembly

1. Hon. Joel Maina	Chairperson/ Speaker
2. Hon. Wilson Mwangi	Vice Chairperson
3. Hon. Emmanuel Lagot	Member
4. Hon. Anne Wanjiru	Member
5. Hon. Hezy Kariuki	Member
6. Hon. Leah Serem	Member
7. Hon. Helen Chemutai	Member

ACKNOWLEDGEMENT

Mr. Speaker and Hon. Members,

May I take this opportunity to thank all the Members of Powers and Privileges for their substantial input, dedication and valuable contribution exhibited during the entire benchmarking exercise which took place as from **7th to 11th November, 2023** in Nakuru County

Equally, the Committee wishes to convey its utmost and sincere gratitude to both the sister committee and staff of the Nakuru County Assembly for their amiable welcome and full cooperation during the study tour. Besides, they provided us with relevant and useful information on matters pertaining committee mandates which we are very grateful of. I must admit on behalf of the Members, that the hearty, hospitable reception from our sister committee of Nakuru County Assembly made us felt at home.

The Committee also applauds the Offices of Speaker and Clerk of the Assembly for offering extreme support, good will and conducive atmosphere to gauge with the sister Committee.

It is therefore my honor and privilege on behalf of the members of the Committee on Powers and Privileges to present and table this Committee report on Benchmarking Exchange with the sister committee of Nakuru County Assembly for consideration and adoption.

Thank You.



HON. ELISHA ORARO

COMMITTEE CHAIRPERSON

TERMS OF REFERENCE

Mr. Speaker and Hon. Members,

The Scope of Benchmarking exercise with the sister committee of Nakuru County Assembly was envisaged on the following terms of reference;

1. The Composition and the functions of the Committee on Powers and Privileges of Nakuru County Assembly
2. Service of a civil process to members and the Staff of Nakuru County Assembly
3. The Freedom and Immunities of members of Nakuru County Assembly
4. Prohibited acts in respect of the Nakuru County Assembly and its Members
5. Breaches to constitute gross misconduct and the penalties involve
6. Privileges given to witnesses invited or summoned to give evidence before the Committee on Powers and privileges and other Committees of Nakuru County Assembly
7. Offences relating to witnesses
8. The challenges/bottlenecks facing the Committee on Powers and Privileges of Nakuru County Assembly and;
9. Mechanisms put in place to curb the Challenges

Consequently, a program was prepared to enable us smoothly carry out the activities stated above from **Tuesday 7th November, 2023 to Saturday 11th November, 2023**. Below was the programme for the study tour.

DATE	ACTIVITY/OBJECTIVE	RESPONSIBLE PERSONS
7th November, 2023	Traveling & Arrival	Hon. Members and secretariat
8th November, 2023	❖ Registration, and Introduction ❖ Functions of the Committee on Powers and Privileges of	Hon. Members and secretariat

	Nakuru County Assembly	
9th November, 2023	❖ Freedom and Immunities of members of Nakuru County Assembly ❖ Prohibited acts in respect of the Nakuru County Assembly and its Members ❖ Breaches to constitute gross misconduct and the penalties involved	Hon. Members & Secretariat
10th November, 2023	❖ The privileges given to witnesses invited or summoned to give evidence before the Committee on Powers and privileges and other Committees of Nakuru County Assembly ❖ Offences relating to witnesses ❖ The challenges/bottlenecks facing the Committee on Powers and Privileges of Nakuru County Assembly and; ❖ Mechanisms put in place to curb the Challenges ❖ Closing prayer	Hon. Members & Secretariat
11th November, 2023	Departure	

DELIBERATIONS BETWEEN THE TWO COMMITTEES

Hon Speaker,

Below are the deliberations that took place between the two committees in line with the earlier mentioned terms of reference;

1. Committee composition and functions

Here, the Committee sought to understand the structure and responsibilities of the Committee on Powers and Privileges within the County Assembly. This included examining how the committee is constituted, its mandate, and the scope of its functions, to ensure alignment with best practices and legal requirements.

Findings;

The Committee established;

1. **THAT** both Committees are established and their mandates guided by the County Assemblies Powers and Privileges Act (2017) as follows;
 - a) Section 15 (1) of the Act states that; there is established, for each county assembly, a committee known as the Committee of Powers and Privileges consisting of the Speaker as the chairperson and such other members of the county assembly as may be provided in the Standing Orders of the county assembly.
 - b) Section 15(4) states the core functions of the Committee to include investigating any alleged breach of privilege or contempt committed by a member of the County Assembly, as well as considering any matter relating to the powers and privileges of the Assembly or its members, and recommending disciplinary action when/where necessary.

2. Service of civil process

This section sought to explore the established procedures for serving civil process on members and staff the county assembly, and whether there are any limitations or immunities that apply in such situations.

Findings;

The Committee established;

1. **THAT** Serving civil process on Members and staff within the assembly precincts is and Governed by several legal framework; The Civil Procedure Act, County Governments Act, 2012 and most importantly, the County Assemblies Powers and Privileges Act, 2017.

3. Freedom and immunities of Members

This section looked into the immunity of Members and the extent of such immunities and freedom granted to members of the county assembly. It explores their freedom and immunities within the assembly and potential limitations on their actions outside the assembly.

Findings;

The Committee established;

1. **THAT** in both County Assemblies, Members' freedom of speech is safeguarded by Article 115 of the Constitution of Kenya 2010 and Section 8 of the County Assemblies Powers and Privileges Act, 2017. This freedom allows for open and robust debate without fear of legal repercussions for their statements within the assembly. Their actions outside the assembly however, are subject to the law.
2. **THAT** Section 6 of the County Assemblies Powers and Privileges Act, 2017 also give Members immunity from arrest for civil debt during assembly session.

4. Prohibited acts and gross misconduct

This section attempted to identify acts prohibited within the county assembly or by its members, what constitutes gross misconduct and the potential penalties associated with such offenses.

Findings;

The Committee established;

1. **THAT** apart from other laws on general ethics, what constitutes prohibited acts and gross misconduct of a member of the County Assembly is provided for by the County Assemblies Powers and Privileges Act 2017 and the County Assembly Standing Orders.
 - a) Section 16 of the Act states the conducts that constitute breach of privilege such as disorderly within the assembly or disobeying the Speaker's orders.
 - b) Section 17 elaborates gross misconduct to encompasses acts that bring the assembly into disrepute or violate the Leadership and Integrity Act. It also provides that penalties for misconduct range from reprimands to suspension or even expulsion from the assembly.

5. Privileges of witnesses:

Here, the Committee attempted to examine the privileges extended to witnesses appearing before the Committee on Powers and Privileges or other committees of the County Assembly and clarifies the protections offered to witnesses and any limitations on their testimony.

Findings;

The Committee established;

1. **THAT** both Assemblies are guided by section 14 of the County Assemblies Powers and Privileges Act, 2017 when it comes to the jurisdictions of privileges accorded to witnesses summoned by the Committees of a County Assembly. Such privileges enjoyed by the witnesses are immunity from arrest for civil matters while attending or returning from proceedings and protection from being sued for their testimony.
2. **THAT** the witnesses can however be held liable for perjury or deliberately misleading the committee.

6. Offenses relating to witnesses:

This section explored the potential offenses a witness might commit while in the presence of a Committee of the County Assembly and as earlier mentioned such offences are;

1. Perjury,
2. Deliberately misleading the Committee and;
3. Non-compliance with summons.

In case of such offences the Committee is can recommend punishment, which may include fines or imprisonment.

7. Challenges and Bottlenecks

This section discussed the primary challenges faced by the Committees while attempting to execute their mandates;

Findings:

The Committee established that the two committees face similar challenges which include;

1. Limited resources for investigation
2. Unclear procedures,
3. Difficulties in enforcing sanctions.

8. Mechanisms to address these challenges:

The Committees explored the mechanisms to address the challenges and established that such mechanisms may involve;

1. Strengthening internal capacity through training and skills development,
2. Improving its coordination with other relevant committees and institutions.
3. Revision of rules and procedures to streamline operations and ensure more efficient and effective service delivery.

COMMITTEE RECOMMENDATIONS

Mr. Speaker and Hon. Members,

The Committee is compelled by the aforementioned mechanisms and recommends as follows;

1. **THAT** while organizing for a team building exercise, the County Assembly should provide an avenue for strengthening internal capacity through training and skills development programs for its members and staff. These programs should focus on investigative techniques, the County Assemblies Powers and Privileges Act, the relevant legal framework, and effective communication skills to enhance the Committee's ability to handle complex cases and deliver efficient services. This should be done in the next financial year.
2. **THAT** the County Assembly should improve its coordination with other relevant committees and institutions. This can be achieved by establishing clear protocols for collaboration, information sharing on potential misconduct issues, and building strong relationships with external bodies like the EACC to leverage expertise and facilitate investigations. This will ensure a more comprehensive approach to upholding ethical conduct within the County Assembly.
3. **THAT** the County Assembly should revise the rules and procedures within its Standing Orders to streamline operations and ensure more efficient and effective service delivery. By ensuring efficient, transparent, and accountable procedures, the Committee aims to better serve the County Assembly.

CONCLUSION

Mr. Speaker and Hon. Members,

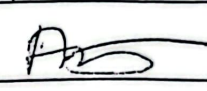
It is now my pleasure and privileges on behalf of the Committee to move this motion,

THAT *this House adopts the report of the Powers and Privileges Committee on its benchmarking exercise with the counterpart Committee of Nakuru County Assembly.*

I call upon Hon.....to second

ADOPTION SCHEDULE

We the undersigned do agree and append our signatures stating that the facts presented on this report by the Select Committee on Powers and Privileges are accurate, valid and authentic.

S/no	Name	Position	Signature
1.	Hon. Elisha Oraro	Chairperson/Speaker	
2.	Hon. Benson Adegga	Vice Chairperson	B.A.A
3.	Hon. Sammy Onyango	Member	S.O
4.	Hon. Nancy Matara	Member	
5.	Hon. Emily Oginga	Member	
6.	Hon. Anne Ochola	Member	
7.	Hon. Kennedy Ooko	Member	
8.	Hon. Ken Ouko	Member	
9.	Hon. Vitalis Oliewo	Member	