



**COUNTY GOVERNMENT OF KISUMU
COUNTY ASSEMBLY OF KISUMU**

THIRD ASSEMBLY

REPORT ON

**THE INDUCTION EXERCISE FOR MEMBERS OF COUNTY
ASSEMBLY**

29TH SEPTEMBER TO 8TH OCTOBER 2022

HELD AT

PRIDE INN PARADISE BEACH RESORT, MOMBASA, KENYA

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ABBREVIATIONS AND ACRONYMS

ACECA	-Anti-Corruption and Economics Crimes Act
AUCPCC	-African Union Convention on Preventing and Combating Corruption
ATI	-Access To Information
ATI Act	-Access To Information Act
BEF	-Budget and Economic Forum
BPS	- Budget Policy Statement
CAF	-County Assemblies Forum
CAK	-County Assembly of Kisumu
CAJ	-Commission on Administrative Justice (Ombudsman)
CASB	-County Assembly Service Board
CBIRR	-County Budget Implementation Review Report
CBROP	-County Budget Review and Outlook Paper
CECM	-County Executive Committee Member
CFSP	-County Fiscal Strategy Paper
CGA	-County Governments Act
COB	-Controller of Budget
COI	-Conflict Of Interest
DIALs	-Declaration of Income Assets and Liabilities
DSA	-Daily Subsistence Allowance
EACC	-Ethics and Anti-Corruption Commission
FAA Act	- Fair Administrative Action Act, 2015
GRM	-Grievance Redress Mechanisms
IBEF	-Intergovernmental Budget and Economic Council
IPPD	-Integrated Payroll and Personnel Database
LIA	-Leadership and Integrity Act
MCA	-Member of County Assembly
MTEF	-Medium Term Expenditure Framework
NHIF	-National Hospital Insurance Fund
NSSF	-National Social Security Fund
PFM Act	-Public Finance Management Act
POEA	-Public Officer Ethics Act
SRC	-Salaries and Remuneration Commission

SUMMARY OF THE REPORT

This report is a documentation of the 3rd Assembly Induction exercise which took place at the Pride–Inn Paradise Hotel in Mombasa from 29th September 2022 to 8th October 2022. The exercise brought together all the 47 members of the Kisumu County Assembly following their successful election or nomination upon the conclusion of the 9th August general elections in Kenya. The objective of the activity was to provide a smooth and seamless takeoff of the 3rd Assembly by providing a platform to impart knowledge, skills and the right attitude to prepare Members to undertake their mandate as envisaged in the Constitution and other Laws.

The event was organized by the County Assembly Transition Committee under the guidance of the Clerk and the Deputy Clerk. Various facilitators were invited to provide authoritative, factual and lawful information and guidance to the MCAs as they prepare to commence their duties. The facilitators who presented included; the Ethics and Anti-Corruption Commission (EACC), Commission for Administrative Justice (CAJ), Salaries and Remuneration Commission (SRC), Controller of Budget (COB), amongst others. The participants were taken through various topics crucial to the central legislative mandates of law making, oversight and representation. Some of the topics discussed include but not limited to; personal financial management, retirement planning, the establishment, structure and workings of the assembly, remuneration and benefits for state officers in the county assembly, the budget making process and the role of the assembly in budget oversight, conflicts of interest, declaration of incomes, assets and liabilities, ethics, integrity and leadership requirements, conflicts and grievance management as well as good governance, access to information and public participation.

The concluding rallying call was centered on finding a perfect balance between politics and effective delivery of the roles of the MCAs and the Assembly through team work, corporation and continuous learning. The participants appreciated the induction exercise as an important and timely activity that is crucial in onboarding them into the County Assembly Environment and imparting the right skills to enable MCAs appropriately discharge their mandate.

ACKNOWLEDGEMENT AND ADOPTION

The office of the Clerk appreciates the Hon. Speaker whose goodwill and commitment to effective legislation made this exercise possible. The magnanimous approach and good leadership offered by the speaker to ensure adequate bonding, onboarding and capacity building of the new MCAs is duly appreciated. Additionally, the clerk also acknowledges the adequate, resourceful and skillful inputs by the entire 3rd Assembly Transition Committee under the leadership of the Deputy Clerk. The committee tirelessly labored to put all that was required for a successful onboarding process for members in order to facilitate a seamless take off for MCAs.

I also appreciate the commitment and zeal apparently displayed by the new MCAs that resulted to 100% participation in the induction exercise. This is a clear indication of a departure from lackluster attitude witnessed in the 1st and 2nd Assemblies to an era of commitment, seriousness and unity in approaching the central mandates placed upon the care of the Assembly.

The office of the Clerk herein adopts this report as a true documentation of all the activities, undertakings and processes of the Kisumu County Assembly, 3rd Assembly Induction Exercise held on 29th September to 8th October 2022 at the Pride-Inn Paradise Hotel in Mombasa.

SIGNED.....DATE.....

Mr. OWEN OJUOK, (Adv.)

CLERK OF THE COUNTY ASSEMBLY

1.0 BACKGROUND INFORMATION

1.1 Justifications of the exercise

Following the August 9th 2022 general elections and the subsequent gazettelement of the successfully elected and nominated members of Kisumu County Assembly and the successful election of the Speaker, the County Assembly Transition Committee organized an induction exercise to provide an onboarding experience for the new county legislators. The event whose main objective was to provide a smooth and seamless takeoff of the 3rd Assembly, was specifically designed to impart knowledge, skills and the right attitude to prepare Members to undertake their new legislative, oversight & representation roles and other functions.

The induction exercise which took place at the Pride Inn Paradise Hotel in Mombasa was graced by facilitators from various government bodies who made presentations on numerous subjects including but not limited to; basics of legislation and legislative committees, personal financial management life/ work balance and life after retirement, presentations by SRC on salaries, allowances and related benefits, the budget making process and related county budgetary performance and budget issues, public participation, access to information and issues related to administrative justice, savings and retirement planning as well as other basics of the workings of the Assembly including but not limited to management of ward offices and ward staffs.

The MCAs benefited from comprehensive and authoritative presentations by competent officers from Constitutional Commissions, and other competent organizations. Some of the institutions that were represented in the exercise include; the Salaries and Remuneration Commission (SRC), Commission on Administrative Justice (Ombudsman), Office of Controller of Budget (COB), Ethics and Anti-Corruption Commission (EACC), Commission on Revenue Allocation (CRA) amongst others.

The induction exercise was a culmination of the onboarding exercise organized by the County Assembly Transition Committee to welcome and prepare the new members into their legislative, oversight and representation roles in the 3rd Assembly. Courtesy of the preparations of the transition committee, all the 47 new members were issued with new editions of; Kisumu County Assembly Standing Orders, Kisumu County Assembly Speaker's Rules, County Assembly Legislative Procedure Handbook and the Assembly Committee Operations Handbook.

It is expected that with a comprehensive understanding and mastery of the legislative tools issued to the members and the take-home from the induction trainings, the members would be in a position to better understand and discharge their roles.

1.2 Opening Remarks and Introductions

The induction exercise started off by official courtesy visits to the Mombasa County Government (Executive and Assembly), on the 30th September 2022 from which the members, (led by the Speaker Hon. Elisha Oraro and the Secretariat), were able to grab a few preliminary learning points and networks for possible inter-county learning and further capacity development.

On the 1st October 2022, the participants gathered at the conference venue and the leadership of the Assembly gave their opening remarks. The Deputy Clerk, Mr. Nashon Kusina, who was the chairperson of the County Assembly Transition Committee, gave the first opening remarks where he outlined the work that had been done by the Transition Committee and acknowledged the support that the members of the Transition Committee accorded him as the chair. He also outlined the objectives of the induction workshop and welcomed the Clerk to give his remarks. The Clerk reiterated the importance of continuous learning and capacity building, he also emphasized on the need to have a united assembly. The deputy Speaker, Hon. Nereah Okombo, encouraged unity and commitment for a deeper understanding of the legislative roles. The Speaker, Hon. Elisha Oraro crowned the session with a commitment to serve all with honesty, equity and to ensure that all the members are adequately and justly facilitated, in line with the requirements of the law, for effective delivery on their law making, oversight and representation roles. The speaker urged members to ask as many questions as possible to the facilitators in order for them to understand how the County Assembly operates.

The Honorable members were then each given opportunity to introduce themselves and spell-out their expectations from the induction workshop. The following emerged as the key the expectations of the members from the training;

- i. Better understanding of the County Assembly Structure and Operations
- ii. Enhanced collaboration and unity amongst members
- iii. Better understanding of the roles and limits of nominated MCAs
- iv. Enhanced collaboration and cooperation with public and the people of Kisumu County while discharging their functions
- v. Enhanced oversight of the executive projects e.g. oversight of infrastructure projects
- vi. Better understanding of legislative procedures and workings of committees
- vii. Enhanced capacity building and knowledge acquisition by members for effective delivery on their mandates

The workshop was attended by the following participants;

Table 1: List of participants

SRL NO.	NAME	WARD
1.	Hon. Eng. Elisha Jack Oraro	Speaker
2.	Hon. Nereah Akoth	Deputy Speaker, Manyatta B Ward
3.	Hon. Kennedy Ouma	Majority Leader/ Ahero Ward
4.	Hon. Joachim Oketch	Kondele Ward
5.	Hon. Seth Ochieng	Market Milimani
6.	Hon. Pamela Awuor	Migosi Ward
7.	Hon. James Were	Nyalenda B
8.	Hon. Samwel Onyango	Railways Ward
9.	Hon. Caren Ajwang	Kaloleni Shauri Moyo
10.	Hon. Ben Adega	Kajulu
11.	Hon. Kelvin Odhiambo	Kolwa Central
12.	Hon. Reuben Okoth	Kolwa East
13.	Hon. Ratab Ahmed	Nyalenda A
14.	Hon. Zachariah Okoyo	Central Kisumu
15.	Hon. Samuel Dedeh	Kisumu North
16.	Hon. Vincent Jagongo	North West
17.	Hon. Jeniffer Obonyo	South West
18.	Hon. Kennedy Odhiambo Ouko	West Kisumu-
19.	Hon. Fredrick Adonijah	Chemelil Tamu
20.	Hon. Habil Omondi	Masogo Nyang'oma
21.	Hon. Geofrey Warindo	Miwani
22.	Hon. Vitalis Komudho	Muhoroni/Koru
23.	Hon. Tom Onditi	Ombeyi
24.	Hon. Vincent Obuya	Central Nyakach
25.	Hon. Tom Nyaoke	North Nyakach
26.	Hon. Patrick Owade	South East Nyakach
27.	Hon. Gard Olima	South West Nyakach

28.	Hon. James Omollo	West Nyakach
29.	Hon. Maurice Ngeta	Awasi Onjiko
30.	Hon. Moses Ochele	East Kano Wawidhi
31.	Hon. Benny Oiko	Kabonyo Kanyagwal
32.	Hon. Bill Odhiambo	Kobura
33.	Hon. Mildred Biko Ajumbo	Central Seme
34.	Hon. Seth Okumu	East Seme
35.	Hon. Millicent Omuya	North Seme
36.	Hon. George Abaja Othuthu	West Seme
37.	Hon. Alice Wajewa	Gender
38.	Hon. Mariam Atieno Abeid	Ethnicity
39.	Hon. Eunice Alandoh	Gender
40.	Hon. Anne Atieno	Gender
41.	Hon. Carolyne Lawino	Gender
42.	Hon. Nancy Matara	Gender
43.	Hon. Emily Oginga	Gender
44.	Hon. Mickey Awuor	Gender
45.	Hon. Regina Atieno Kizito	Youth
46.	Hon. Kennedy Ajwang	PWD
47.	Hon. Peter Henry Otieno	Ethnicity
48.	Hon. Henrietta Bodo	Gender

No.	STAFF	DESIGNATION
1.	Mr. Owen Ojuok, Adv.	County Assembly Clerk
2.	Mr. Nashon Kusina Opanga	Deputy Clerk
3.	Mr. Edwin Kisia	Director Supply Chain
4.	Mr. Felix Owour	Principal Finance Officer
5.	Ms. Roseline Awuor	Senior Administrative Officer

6.	Ms. Faith Judith Akinyi	Senior Sergeants At Arms
7.	Mr. Kennedy Oliech	Human Resource Officer
8.	Mr. Dennis Onyango Ogola	Communications Officer
9.	Mr. Geoffrey Omollo	Accounts Officer
10	Mr. Raphael Akeyo	Legislative Research Officer

Source: Office of the Clerk, Oct. 2022

2.0 THE STRUCTURE AND WORKINGS OF THE COUNTY ASSEMBLY

(Facilitator: Mr. Nashon Kusina Opanga – Deputy Clerk)

2.1 Structure and Operations of the Assembly

The participants were introduced to the County Government for a comprehensive understanding of the establishment, structure and operations of the County Assembly including but not limited to; the leadership (both political and administrative leadership), the organogram, the Board and the functions and roles of each of the units. The roles of the County Assembly were clearly deliberated and they include:

- ▶ Legislation (legislative proposal, bills and Subsidiary Legislation-regulations)
- ▶ Oversight the County Executive and its organs (Sectorial committees, CPAIC)
- ▶ Representation (Statement hour, public participation, Petitions to Senate)
- ▶ Vetting and approving nominees to county public offices (CECMs C.Os, Boards i.e. CPSB)
- ▶ Approving of the Budget Expenditures of the County
- ▶ Approving County development plans and policies (CIDP, ADP, CFSP, CBROP)
- ▶ Approve the borrowing by the county government in accordance with Article 212 of the Constitution; (Sessional Papers)
- ▶ Approving Constitutional Amendment Bills, through the popular initiative i.e. BBI Bill, Punguza Mzigo Bill (Article 257)
- ▶ Perform any other function that may be set out under an act of parliament or any law
- ▶ Approving exploitation of Natural Resources within the County
- ▶ Removal of the Governor, CECMs from office

It was clarified to the members that County Assembly is the legislative arm of the County Government under the leadership of the Speaker who is also the chair of the County Assembly Services Board. The composition of the board was also highlighted with key insights presented on

how its membership is arrived at and which constituencies they represent. The functions of the board was also equally brought out with the aspect of its perpetual existence as a body corporate with a seal emphasized. Some of the Roles of the Board that were deliberated include:

- ▶ The board is a body corporate with perpetual succession and a common seal.
- ▶ It's the top Decision making organ of the County Assembly
- ▶ Direct and supervise the administration of the services and facilities
- ▶ Determine and review the terms and conditions of service for all staffs
- ▶ Approve policies and strategies relating to the development of the Service;
- ▶ Approve programmes- for training and capacity building of members and staff
- ▶ Promote public awareness and participation in the activities of the C/assembly
- ▶ Do such other things necessary for the well-being of the members and staff
- ▶ Enforce the values and principles of public service set out in Article 232(1)
- ▶ Acquire, hold, charge and dispose of movable and immovable property
- ▶ Sue and be sued
- ▶ Establish a pension scheme for officers of the Service
- ▶ Perform any legal function as a body corporate
- ▶ Can establish such committees it may consider necessary for the better carrying out of its functions and the exercise of its powers
- ▶ Enforce the national values and principles of good governance set out in Article 10 Constitution

The roles, mandate powers and functions of the Speaker as the head of the institution and the chair of the county assembly service board were well outlined. There was debated as to what extent the speaker influences certain administrative decisions since the speaker is not directly in charge of the administration. This was clarified that the speaker can influence administration through the Decisions of the board where he chairs and the board directly supervises the clerk being the head of the administration. The roles and functions of the speaker that were deliberated include:

- ▶ Head of the Institution
- ▶ Presiding over the debates of the County Assembly at every sitting of the Assembly,
- ▶ Enforce the observance of the Constitution, the Standing Orders, relevant statute and Assembly traditions, procedures and practices,
- ▶ Disciplining members of County Assembly for misconduct in the county assembly,
- ▶ Issuing orders and making rules for the regulation of visitors to the County Assembly
- ▶ Administer the oath of affirmation or allegiance to New Members

- ▶ Issue writs for vacant County Assembly seats,
- ▶ Protect the rights of the minority while making sure that the majority have their way,
- ▶ Organize and prioritize the business of the House through House Business Committee,
- ▶ Spokesperson of the County Assembly
- ▶ Chairs the Appointments Committee
- ▶ Represents the County Assembly in National and International Seminars
- ▶ Ensures that the dignity of the County Assembly is upheld and its rights and privileges are not abused
- ▶ Final authority on all matters touching on the interpretation and application of procedures of the House at all times

The roles, functions, powers of the clerk were also discussed at length. It was made clear as to the roles of the clerk as the administrative head of the county assembly as well as his role as the secretary to the board. The importance of the office of the clerk and all Directorates, and other officers serving under the same office in various capacities in facilitating MCAS to effectively undertake their mandate. Members were eventually encouraged to take due cognizance of the various offices, their roles and duty in facilitating them while discharging their mandates. The importance of peaceful coexistence, collaboration and corporation was also underscored as a key ingredient in ensuring that MCAs adequately deliver on their mandates. It was also made clear that the clerk performs his functions through the Directorates or departments. Some of the Roles of the Clerk that were discussed include:

- ▶ Serves as the CEO of the county Assembly
- ▶ Accounting officer and authorized officer
- ▶ Authority to Incur Expenditure (AIE) Holder
- ▶ Develops and implements the County Assembly Strategic plan
- ▶ Prepare and ensure implementation of policies and procedures
- ▶ Provides overall leadership in Public Finance Management
- ▶ The administrator of the Car Loan and Mortgage scheme for the County Assembly
- ▶ Oversees the management of human resources
- ▶ Accountable for the security and safety of the members and staff of the County Assembly
- ▶ Coordinate all departmental activities of all heads of departments by ensuring smooth and efficient operations.
- ▶ Serves as the principal legal and procedural advisor to the speaker and members of the county assembly
- ▶ Prepares and implements the county assembly budget
- ▶ Control expenditure the County Assembly Service Board budget

- ▶ Oversee procurement of goods and services as per the Act
- ▶ Swears in Members of the County Assembly
- ▶ Plan, arrange and coordinate CASB meetings to ensure efficient operations of the board
- ▶ Develop annual work plans to guide the operations of the assembly.
- ▶ Developing of legislative proposals for enactment by the assembly.
- ▶ Responding to the audit queries before the national audit office and the senate
- ▶ Prepare and submit returns to both statutory bodies and Constitutional commissions.
- ▶ Prepare annual and quarterly reports of the assembly.
- ▶ Offer advice on all legislative procedures, practices, conventions and traditions to the Speaker, Presiding Officers and to all Members.
- ▶ Marshall all legislative measures passed by the County Assembly.

2.2 Parliamentary Practice and Legislative Procedures

Participants were taken through Parliamentary procedures, practices and traditions. It was clear that these procedures and practices of the House are founded on the Constitution and statutes. Members were taken through some of the basic provisions of the Standing Orders. Order paper was deliberated at length as to its purpose and content. All the order of business that appear in the order paper were discussed. Members were taken through basic provisions of the standing order. Some of the issues discussed but not limited to the provisions of the **order paper** which include;

PRAYERS (as provided for in the standing orders)

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Statements

Each of the elements of the order paper were equally individually discussed.

2.3 Legislative Committees

The importance of legislative committees in effective function of legislative work was underscored. Participants were taken through the role of committees in offering a conducive environment and a relaxed set-up in which the MCAs can adequately and comprehensively diagnose legislative matters and report to the plenary. It was clarified that due to the huge number of members, plenary sessions cannot offer a conducive environment for members to comprehensively consider all matters in their charge. This is the most important justification for the existence of legislative committees through which legislative rules are a little relaxed to

provide an environment where members can invite and comprehensively interrogate evidences and witnesses/ submissions as well public and stakeholder hearings on all matters in their charge.

It was noted that, as is currently constituted, the County Assembly committees are designed to provide oversight over each of the sectoral departments of the executive arm of the County Government as well as provide housekeeping and welfare issues within the Assembly. This therefore results to the various types of committees thus; sectoral committees, select committees, housekeeping committees and welfare committees.

Some of the Sectoral committees currently constituted in Kisumu County Assembly include; Committee on Agriculture, Committee on Education, Committee on Finance, Committee on Tourism et al. Select Committees include; PIC/PAC, Budget and Appropriations, Appointments, Implementation amongst others. Some of the housekeeping committees include; House Business Committee, Powers and Privileges Committee, Speakers Panel amongst others. Members were encouraged to gear up to take up responsibilities in various committees in order to comprehensively discharge their law making, oversight and representation roles.

2.4 Simulation of House Proceedings

Members were taken through a mock plenary session for a better understanding of the House order and proceedings. The session converted to a mock plenary session;

- ▶ The house had a volunteer speaker, clerk and the participants acted as the honorable members
- ▶ The speaker and officers of the house entered the chambers through ‘a mock speaker’s procession’
- ▶ The clerk read through a sample order paper – in which only one motion was available
- ▶ The house was taken through a sample motion
- ▶ The motion was moved by one honorable member and seconded by another
- ▶ Points of order were noted as to when the notice of motion is supposed to be given and when the actual motion should be moved. The speaker ruled to the fact that; a notice of motion could be given in an earlier House sitting or session after which the actual motion can then be moved in a later sitting.
- ▶ The speaker then put a question and opened the floor for debate on the motion
- ▶ Members contributed on the motion
- ▶ It was noted that while standing on appoint of order, members should always ensure that they make reference to the right standing orders. It is always advisable to have a copy of the standing orders with them during the debates

- ▶ Some members supported the motion while others also opposed the motion
- ▶ The speaker then called the mover of the motion to reply
- ▶ The mover replied by thanking the members who supported the motion through debate
- ▶ Speaker then put the question for adoption in which the EYES had it!
- ▶ The speaker ruled for the adoption of the motion; time, contents, Hansard be submitted to the said department
- ▶ The clerk then read the next order –adjournment
- ▶ The speaker the adjourned and announced the date for the next sitting

The following clarifications were made from the simulation exercise;

- i. Notice of motion and moving the motion; it was clarified that it is not procedural to give notice of motion and move a motion in the same sitting. Members must be given enough time to research for adequate and comprehensive debates
- ii. The members were notified that all the orders of the day must be read procedurally and the speaker allowed enough time to dispense with one order after another
- iii. Members were notified that the assembly is always a house of order and procedure and as such while on the floor one can only arise on a specific point of order which must only be allowed by the speaker before he/ she speaks.

2.5 Executive –Vs- Assembly Relations

(Facilitator: Mr. Leonard Kwama – Director Governance and Administration)

The County Executive graced the occasion through the director governance and administration. The facilitator outlined the structure of the county executive and presented on the relationship between the County Assembly and County Executive. The presentation focused on the structure of the County Government administrative units and the working relations between the MCA and administrators.

The need for a good working relationships between the MCA and ward administrators was underscored. It was noted that the members must also strive to craft good working relationships and adequate knowledge of the operations and officers in various departments and sectors of the county government. The roles of the village administrators, ward administrators, sub county administrators and the directorate of governance were also comprehensively discussed in relation to the roles of the MCAs. There is need to organize for another induction between the MCAs and all the CECMs once they are appointed to office.

3.0 PERSONAL FINANCIAL& RETIREMENT PLANNING

(Facilitator: Dr. Bani Orwa, PhD – Human Resource Consultant)

3.1 Life After Bunge: How Will It Be?

The need to prepare the members for their post-assembly life experience was a key concern during the induction. MCAs need to be adequately prepared for their eventual retirement in order to properly strategize and plan their lives for any such eventualities. Some of the key issues around retirement that poke the members to think hard when they retire in 2027 or beyond include; preparations can one make in readiness for his/her retirement. This very important session was facilitated by an expert on personal financial management and management consultant, Dr. Bani Orwa, PhD. All honorable members will retire upon the end of the five year term due on 9th August 2027. It is expected that the lives of the members shall drastically change with immediate social, economic and political changes. It is important that members are adequately prepared for the same. The preparation needs to commence as early as during the inception induction exercise. This is the justification of the topic.

The two big retirement issues include; death or outliving your expenses. Members were therefore poked to visualize their biggest worry after the end of their five year term –after the 2027 elections. Some of the things that the MCAs may need to worry about upon the end of their term may include but not limited to;

- i. Too much debt
- ii. Will not be able to afford daily expenses
- iii. Savings may run out
- iv. Expenses will be too high
- v. School fees
- vi. Relatives
- vii. Villagers
- viii. Harambees
- ix. Deaths
- x. No proper house at home
- xi. Business collapsed

Upon the end of the 5 year term limit, and upon retirement in 2027, these worries may lead to several behavioral challenges including and not limited to;

- i. Lack of sleep (insomnia) or appetite
- ii. Fatigue

- iii. Drinking
- iv. Renting offices without duties
- v. Leaving home with nowhere to go

However, there are strategies that may help reduce the risk of outliving your money. What is retirement?

- i. Retirement is a major life change
- ii. Retirement can last a long time
- iii. More than just financial decisions
- iv. An emotional adjustment
- v. What will you do with your time
- vi. Will retirement bring a change of location?
- vii. How will relationships be affected?

Importance of retirement planning

- i. To help you maintain the retirement lifestyle
- ii. To ensure self-sufficiency at retirement
- iii. Provide for emergencies

How much money will you need after retirement?

According to research evidence, you will need between 70% and 80% of your current income, adjustment for inflation, in order to live comfortably after retirement.

Retirement Planning

- i. Retirement planning is more than a game of numbers, it's about your vision, lifestyle, financial attitude and many other emotional factors. Some of the issues include;
- ii. What is within your control? Your earning capabilities, attitudes towards financial planning and discipline in finances (spending Vs Savings).
- iii. What is outside your control?: Interest rates, politics, government policies, what's your neighbor or friends planning?
- iv. What is your lifestyle?: willing to change, modify or status quo

It is therefore advisable that;

- i. You have more than one source of income. Start another business

- ii. Do something that you have done before. Something you enjoy, have passion for and you understand better. Research evidence shows that three quarters of all new businesses fail within the first three years of the start.
- iii. Some of the investment opportunities include; real estate/ agriculture –bee keeping, poultry, greenhouse, horticulture, vegetables, animal feed, dairy, pig, trees, avocados / e-sports and gaming/ virtual education/ minerals/ cyber, Mpesa Shop/ cryptocurrency/ bonds etc.

To crown the retirement planning with real life experiences in business, members shared their own experiences and encouraged themselves in how to start and improve their business ideas and plans in order to be adequately prepared for retirement. The Honorable speaker also shared his experiences in business and other activities outside politics. He encouraged members to pursue other economic and social saving schemes to cushion them during retirement. He made mention of the county state officers pensions scheme bill that was introduced by CAF in the 2nd Assembly but was rejected for unattractive provisions and benefits for MCAs. He advised well thought out saving plans and pension schemes by established.

It was advised that the plan in business relies on:

- i. having a goal,
- ii. having a vision,
- iii. be there/ your presence is key,
- iv. humble beginnings,
- v. research before you start,
- vi. Start saving now!
- vii. Technology
- viii. Succession

3.2 Financial Planning

- 1) Financial planning deals with everything in your life that involves money. Personal financial planning involves arranging to spend, save, and invest money to live comfortably, have financial security and achieve goals. Goals are the things you may want to accomplish.
- 2) It is important for one to calculate and understand his/ her net worth. The difference between all your assets minus all your liabilities. Difference between your net incomes minus your net expenses. Then work towards building your net worth.
- 3) Financial independence: it is important to have goals for purposes of financial independence
- 4) Savings equation:

Which of the following two equations is best saving plan?

(1) Income – Expenses = Savings or **(2) Income – Savings = Expenses**

The best saving equation is:

Income – Savings = Expenses

The 1st equation is not good for a saving plan. It is financially recommended that once you get any income, you save first before you start spending. Savings is your first source of capital. Saving protects your future. Financial intelligence is not about money, it's about attitude/ mindset. Every time one saves, it takes him/her closer to a desired net worth.

It is said that:

‘Poor people spend and save what is left while rich people save and spend what's left!’

3.3 Work and Life Balance

The members were taken through the importance of having an appropriate balance between work and life balance. Some of the issues that are important to balance include but not limited to;

- i. Assembly meetings
- ii. Meeting with electorates
- iii. Family
- iv. Religion
- v. Fitness
- vi. Nutrition
- vii. Friends
- viii. Free time
- ix. Sleeping
- x. Use of cellphone

Members were equally urged to balance the expectations of the people verses their own family and work related needs. Some of the proposals flaunted that may be of help in managing the needs and expectations of the electorate on the MCA include being commonly available and accessible to the people. Do not disappear or disconnect from the electorates whether you have money or not. It increases expectations from the electorate when you seek reelection. Other proposals include; being sensitive to the needs of the people, staying truthful and avoiding false promises, offering clear explanations to the people in case of limited resources and inability to provide for their needs.

A better understanding of the mandates of the MCA is also an appropriate tool for managing the expectations of the people. Categorizing and attempting to address the needs of the people in terms of groups and giving them sustainable group ventures may also help in managing the expectations of the people. This will help in making the people understand what the MCA is capable of doing and the extent to which he/she may help them.

Members were also advised to;

- i. Create and foster partnerships with NGOs and other organizations for support
- ii. Collaborate and use your networks as a leader to help you manage the expectations
- iii. Share experiences
- iv. Encourage formation of groups and group empowerments.

4.0 PRESENTATION BY SALARIES AND REMUNERATION COMMISSION (SRC) **(Facilitator: Dr. Lucy Mumbua Munyao, PhD – Commissioner SRC)**

The SRC honored our invitation and was represented by Commissioner Dr. Mumbua Munyao to train members on all benefits that MCAs are entitled to in line with the SRC circulars and the law. Some of the issues highlighted for discussion included; the MCA salaries, allowances, car loan and mortgage amongst others.

Moreover, the SRC presentation approached the issues through the following outline;

1. Introduction – About SRC and Objective of Induction
2. Public Wage Bill: Components, Drivers and Targets
3. Impact and lessons on Performance and Productivity in counties' development
4. Responsibilities of Members of County Assemblies (MCAs) with Implications on Fiscal Sustainability of the County Wage Bill
5. Pitfalls/Challenges in Counties
6. Quick wins for the incoming leadership
7. Areas of Collaboration with SRC
8. Remuneration and Benefits for State Officers in the County Assembly
9. List of Selected Key Circulars

It was clarified that the SRC is established under Article 230 of the Constitution of Kenya, 2010, and has the following mandates:

- Set and regularly review the remuneration and benefits of all State officers, and
- Advise the national and county governments on the remuneration and benefits of all other public officers.

SRC is guided by constitutional principles set out in Article 230(5) of the constitution and Section 12 of SRC Act, 2011. These are:

- The need to ensure that the total public compensation bill is fiscally sustainable;
- The need to ensure that the public services are able to attract and retain the skills required to execute their functions;
- The need to recognise productivity and performance;
- Transparency and fairness; and
- Equal remuneration to persons for work of equal value.

Functions of SRC

- Inquire into and advice on the salaries and remuneration to be paid out of public funds
- Keep under review all matters relating to the salaries and remuneration of public offices
- Advice the national and county governments on the harmonization, equity and fairness of remuneration for the attraction and retention of requisite skills in the public sector
- Make recommendations on the review of pensions payable to holders of public offices
- Conduct comparative surveys on the labour markets and trends in remuneration to determine the monetary worth of the jobs in public offices;
- Determine the cycle of salaries and remuneration review upon which parliament may allocate adequate funds for implementation;
- Make recommendations on matters relating to the salary and remuneration of a particular state of public officer;
- Perform such other functions as may be provided for by the constitution or any other written law

4.1 Public Wage Bill: Components, Drivers and Targets

The Components of public wage bill:

- ✓ Salaries and benefits.
- ✓ Remunerative and facilitative allowances.

Legal requirements on the public wage bill:

- **Not more than 35%** of the Total Revenues - PFM Act (2012) & PFM Regulations (2015)
- **Not less than 30%** of Total Expenditure on development- PFM Act (2012) & PFM Regulations (2015)
- **Not More than 7.5%** of the GDP (average for developing Countries)
- **Not more than 7%** of the GDP (internationally desirable level)

Drivers of public wage bill:

- Increased number of employees and Demands for higher pay and wages
- Low productivity in the public service
- Sub-optimal implementation of Performance Management
- Non-implementation of rationalized and optimal organisational structures

Table 2: County Wage Bill, Revenue, Recurrent Expenditure and Employment Trends, Ratios and Growth

Financial Year	2016/17	2017/18	2018/19	2019/20	2020/21*	2021/22+
<i>Economic Indicators (KES. Millions)</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>
Compensation of Employees/Total Wage bill	147,204	152,520	162,728	165,006	180,547	197,552
Total Revenue (Including Grants)	334,721	378,174	412,786	365,699	397,947	466,631
Total Recurrent Expenditure	215,714	236,944	268,999	279,273	281,946	284,644
Employment ("000")						
Total Public Sector Employees	175.5	178.7	190	204.6	208.1	211.7
Ratios (Per Cent)						
Wage bill to Total Revenue <i>(PFM Target: 35%)</i>	43.98	40.33	39.42	45.12	45.37	42.34
Wage bill to Recurrent Expenditure <i>(PFM Target: 30%)</i>	68.24	64.37	60.49	59.08	64.04	69.40
Growth (Per Cent)						
Growth in Wage Bill	52.74	3.61	6.69	1.40	9.42	9.42
Growth in Total Revenue	7.49	12.98	9.15	-11.41	8.82	17.26
Growth in Recurrent Expenditure	12.44	9.84	13.53	3.82	0.96	0.96
Growth in Employment	11.57	1.82	6.32	7.68	1.71	1.71

Source of data: COB CBIRR 2020, 2021 & 2022; The Economic Survey 2020, 2021 & 2022

*implies provisional/estimates; +implies projections

The SRC made the following observations on the County Governments public wage bill;

- County governments wage bill has been on an upward trend;
- The high county wage bill negatively impacts on the county government's ability to render services.
- Counties should put more efforts on 'growing the cake' by increasing performance and productivity

4.2 Productivity and Performance in the County Governments

- 1) Productivity of the public service is of interest to taxpayers, consumers of the services, providers of the services as well as for the government to assess the success of its performance agenda.
- 2) Optimal utilization of resources and efficient delivery of high quality services can only be achieved in a regime where performance and productivity are recognized and rewarded.
- 3) Productivity is expected to play a key role in the Kenyan economy towards economic growth, employment creation, creation of wealth and higher tax revenues, and improvement of welfare of the citizens.

Why Productivity and Performance is Important for County Governments?

- Higher county economic growth enhances creation of wealth and high tax revenue
- Increases employment opportunities hence increased income for workers and employers
- Reduces cost of doing business thereby increasing county's competitiveness
- It enhances cost efficiency, accountability and efficient utilization of public resources

MCAs Oversight Roles with Implications on Fiscal Sustainability of the County Wage Bill

1. For proper oversight of the County Wage Bill, as per Sec 8 of the County Government Act, 2012 MCAs have a responsibility to ensure that:

- i. County Budgets are within Section 107(2) of the PFM Act, 2012 thresholds (i.e. Wage Bill to Total Revenue \leq 35% and Wage Bill to Total Expenditure ratio \leq 30%); and
- ii. Expenditures of County Assemblies shall not exceed seven (7) per cent of the total revenues of the county government or twice the personnel emoluments of that county assembly, whichever is lower.

2. While approving structures from the county executive, MCAs should ensure that **approved staff establishments**, internal **Human Resource Guidelines** and **Career Progression Guidelines** are in place

Pitfalls/Challenges in Counties

- Public Sector Wage Bill growth not in tandem with economic growth.
- Lack of established optimal staffing levels

- Low productivity and lack of a comprehensive performance management system
- High impacts of industrial unrest
- Weak payroll management system
- Multiple remuneration structures in the Counties
- Non-compliance with SRC circulars and guidelines

Non-adherence to SRC Advice and Guidelines, for example:

- Non-compliance to the allowable limit of 35 per cent wage bill to total revenue ratio as envisaged in the PFM Act.
- Some counties have not initiated construction of the official residence for the County Assembly Speaker despite lapse of the construction deadline of 30th June, 2022.
- Non adherence with Car Loan and Benefits Schemes Guidelines
- Weak payroll management where payments are done outside Integrated Payroll and Personnel Database (IPPD).

High impacts of industrial unrest

- Loss of income for workers, employers and revenue for Government
- Loss of man hours
- Opportunity costs to business
- Effects on country's productivity and competitiveness in services.
- Negative impact on government effort to create jobs

Quick Wins for the Incoming Leadership

- Set the tone at the top and embed a culture of performance and productivity
- Ensure optimal staffing level and reskilling of the core and critical areas for service delivery
- Automate payroll management to avoid leakages
- Collaborate with SRC on Implementation of Summit Resolutions especially resolution on Allowances and County Staffing

Areas of collaboration with SRC

- Monitoring and Evaluation of remuneration and benefits advice and guidelines.
- Sensitization and capacity building for effective execution and service delivery
- Partnership and joint implementation of the 8th Summit Resolutions on National Wage Bill Conference 2019
- Management of Wage Bill to release more resources for development

4.3 Remuneration and benefits for State Officers in the County Assembly

1) Monthly Remuneration for State officers in the County Assembly

Table 3: Illustration of Monthly Remuneration for State officers in the County Assembly

State officer	Basic Salary	House Allowance	Commuter Allowance	Salary Market Adjustment	Gross Salary
Speaker of the County Assembly	315,315	80,000	Official	130,210	525,525
Deputy Speaker of the County Assembly	129,938	60,000	Official	26,625	216,563
Member of the County Assembly	86,625	45,000	Official	12,750	144,375

Source: SRC Circulars as presented by SRC during induction of MCAs, Oct 2022

2) Committee Sitting Allowance

State officers in the County Assembly, who serve in Committees, shall be paid Committee Sitting Allowance, as follows:

- (i) **Chairperson:** Kes 6,500 per sitting up to a maximum of Kes 104,000 per month.
- (ii) **Vice-Chairperson:** Kes 5,200 per sitting up to a maximum of Kes 83,200 per month.
- (iii) **Member:** Kes 3,900 per sitting up to a maximum of Kes 62,400 per month.

3) **Daily Subsistence Allowance for local and foreign travels:** Shall be paid to State officers in the County Assembly as per the rates reviewed and set by SRC from time to time.

4) **Airtime:** Shall be paid at the following rates:

- i. **Speaker of the County Assembly:** Up to Kes 10,000 per month.
- ii. **Member of the County Assembly:** Up to Kes 5,000 per month.

5) Official Transport:

- i. **Speaker of the County Assembly:** Shall be provided with an official car of engine capacity not exceeding 2000cc.
- ii. **Deputy Speaker:** Shall be provided a Motor Vehicle Reimbursement of Kes 2,212,000 for the purchase of a car of engine capacity not exceeding 1800cc, for official duties as a Member of County Assembly. The Motor Vehicle Reimbursement shall be payable once in a county assembly term.
- iii. **Members of County Assembly** Shall be provided a Motor Vehicle Reimbursement of Kes 2,212,000 for the purchase of a car of engine capacity not exceeding 1800cc, for official duties as a Member of County Assembly. The Motor Vehicle Reimbursement shall be payable once in a county assembly term.
- iv. **Car Maintenance Allowance:** Shall be paid to Deputy Speaker and Members of County Assembly at the rate of Kes 30,167 per month.
- v. **Mileage Claim:** The Deputy Speaker and Members of County Assembly shall be reimbursed a claimable mileage allowance of one return journey per week from respective county assembly office to respective ward office at the rate of Kes 77.35 per kilometer using a car of engine capacity not exceeding 1800cc. The claimable mileage allowance is zoned and claimable up to a maximum for respective zones, as follows:

Table 4: Illustrations of maximum monthly reimbursable mileage

Zone	One Way Distance (Km)	Maximum Return Journey (Km)	Rate of Claimable Mileage Reimbursement (Ksh)	Reimbursable Monthly Mileage Claim of up to a Maximum of Ksh
1	0 – 45	90	77.35	30,167
2	46 – 80	160	77.35	53,629
3	81 – 115	230	77.35	77,092
4	116 – 150	300	77.35	100,555
5	151 – 185	370	77.35	124,018
6	186 and above	440	77.35	147,481

Source: SRC, Oct. 2022

Notes:

- a. The maximum monthly reimbursable mileage is to be calculated based on 52 weeks in a year, as follows: Maximum monthly reimbursable mileage = (maximum weekly return journey in km X 52 weeks X Kes 77.35)/12 months.
- b. The respective County Assembly Service Board shall ensure that Members of County Assembly are reimbursed within the maximum reimbursable mileage claim for respective zones.

6) **Special County Assembly Duty Allowance:** Shall be paid per month to specific designated offices in recognition of the added responsibilities, as follows:

Table 5: Illustration of Special County Assembly Duty Allowance

Position	Monthly Limits (Kes)
Leader of Majority /Leader of Minority	32,000
Chief Whip/ Deputy Leader of Majority /Deputy Leader of Minority	29,000
Chairperson of Committees / Deputy Chief Whip/ Other Whips	26,000
Vice Chairperson of Committees	23,000
Members of Speakers Panel	20,000

Source: SRC, Oct, 2022

Notes:

- (i) Special County Assembly Duty Allowance is paid to State officers in the County Assemblies whose duties involve added responsibility over and above the duties stipulated in one's terms of service for which a regular salary is paid.
- (ii) Special County Assembly Duty Allowance is applicable to State officers in the County Assemblies who are serving in the enlisted leadership positions. It ceases to be paid when the jobholder ceases to hold the leadership position.

7) Retirement Benefit:

There shall be two types of retirement benefits for State officers, pension and gratuity, as follows:

- i. A State officer, serving or appointed on permanent and pensionable terms, shall be eligible to a pension benefit in line with existing laws.
- ii. A State officer, serving or appointed for a fixed term of office, shall be paid a service gratuity at the rate of **31 per cent** of the annual pensionable emoluments for the term served.

Notes:

- i. Where an employer establishes a pension scheme for its State officers appointed for a fixed term of office, SRC shall review and set the rate of the employer's contributions to the scheme and any other financial retirement benefits.
- ii. No State officer shall benefit from both pension and gratuity benefits from the same public body for a similar period.

8) **Medical Benefit for Speaker and Members of County Assembly:** An annual medical cover shall be provided to the State officer, one spouse and up to four children below twenty-five years fully dependent on the State officer, as follows:

- a) Inpatient: Kes 3 million
- b) Outpatient: Kes 200,000
- c) Maternity: Kes 100,000
- d) Dental: Kes 50,000
- e) Optical: Kes 50,000

9) **Group Life Insurance:** A State officer shall be covered for a value equivalent to three times of the annual pensionable emoluments.

10) **Group Personal Accident:** A State officer shall be covered for a value equivalent to three times of the annual pensionable emoluments.

11) **Car Loan and Mortgage Benefit:** Shall be provided, as follows:

Table 6: County Assembly State Officers' Car Loan and Mortgage Benefit

State officer	Car Loan	Mortgage
Speaker of the County Assembly	Up to Kes 4 million	Up to Kes 20 million
Deputy Speaker and Member of County Assembly	Up to Kes 2 million	Up to Kes 3 million

Source: SRC, Oct, 2022

Notes:

- (i) The applicable rate of interest shall be 3 per cent per annum, for the duration of the loan.
- (ii) MCAs may access a maximum value of Kes 5 million loan for the purchase of a car and/or house.
- (iii) The car loan shall be recoverable within the contract term of a State officer.
- (iv) The car loan and mortgage shall be administered and managed centrally by the County Assembly Service Board within existing applicable regulations to govern the schemes, and subject to the availability of funds.
- (v) Members must provide for security of the loans before its issued i.e. logbooks and title deeds

12) **Official Residence:** The Speaker of the County Assembly shall be provided with an official residence together with commensurate home utilities and attendants by the State. The official residence shall be a physical building/house owned by the county government. The benefit shall not be commuted to cash in lieu of an official residence.

13) **Security:** Shall be provided as advised by the Inspector-General of Police and shall not be commuted to cash.

14) **Abolished Benefits and Allowances:** The following benefits and allowances are abolished and cease to be payable:

- i. Transport Facilitation Benefit in the form of a Car Grant; and
- ii. Sitting Allowance for Plenary Sessions.

Some Selected Key Circulars (Can be accessed on the SRC Website)

- Remuneration and Benefits for State Officers in The County Assembly, 2022
- Review of Rates and Cluster Classification for Purposes of Payment of Daily Subsistence Allowance (DSA) – Local Travel
- Allowances Policy Guideline for the Public Service, 2021
- The Third Public Sector Remuneration and Benefits Review Cycle 2021/2022 – 2024/2025 for all other Public Officers
- Guidelines on Conducting Job Evaluation for the 2021/22 – 2024/25 Remuneration Review Cycle for The Public Sector
- Revised Guidelines on Collective Bargaining in the Public Service.

5.0 PRESENTATION BY OFFICE OF THE CONTROLLER OF BUDGET (OCOB)

(Facilitator: Mr. Joshua Musyimi – Director Research and Planning OCOB)

The office of the Controller of budget (COB) honored our invitation had time to present during the induction exercise. The OCOB's director research and planning Joshua Musyimi presented on the topics that were shared touching on their workings with the county assembly.

The presentation focused on the budget cycle with a specific focus on the following outlines;

1. Introduction
2. Overview of Mandate of Controller of Budget
3. Understanding the Budget
4. Legal Basis of Budget Making Process
5. Importance of Budget Process
6. Institutions in the Budgeting Process
7. Stages in County Budget Process
8. Budget Implementation Stage
9. Exchequer requisition Process

It was noted that a budget is the single most important policy document of governments, where policies and objectives are translated into activities and implemented in concrete terms. Budgeting is one of the key tools for decision making by the government. An instrument for equitable and accountable sharing of resources.

Establishment of the office of the COB

Established under Article 228 of the Constitution to oversee (Article 228(4)) and report (Article 228 (6)) on the implementation of the budgets of both national and county governments; and ensure the public has access to information on Budget Implementation (Section 39(8), PFMA).

5.1 The Budget Process

The budget process offers the government the policy vehicle for reconciling competing government policy objectives and developing and implementing financial interventions on priority objectives to achieve the desired outcome within scarce resources. Chapter twelve (12) of the Constitution 2010, and the PFM Act 2012 outline the budget-making processes for both the national and county governments

Roles and Mandate of the Controller of Budget

- 1) **Oversight**
 - a. Overseeing implementation of the budgets of both national and county governments (Article 228 (4)). *“To oversee connotes monitoring, evaluating, reviewing, controlling and advising”.*

- b. COB monitors both recurrent and development budgets
 - Recurrent expenditures – the COB analyzes recurrent expenditures from quarterly and annual reports and reports to the National/County Assemblies and the Senate
 - Development Expenditures - undertake physical monitoring of selected projects/programs
- c. During monitoring of budget implementation any incidence of mismanagement of public funds is brought to the attention of the Auditor General, EACC and other investigating agencies for further investigation.

2) Controlling Role

- a. Authorize withdrawals from public funds: Equalization Fund (Article 204(9)), Consolidated Fund (Article 206(4)), and County Revenue Fund (Article 207(3)), if satisfied that the same is in accordance with the law (Article 228(5));
- b. This role ensures:
 - i. That funds are released only for budgeted activities
 - ii. Unauthorized activities are not funded
 - iii. Equity in the release of funds (Reports on exchequer requests)

3) Reporting Role

- a. Reports to the Legislature, every four months on the implementation of budgets of national and county governments (Article 228 (6)), Section 5(a) COB Act, 2016);
- b. Report after the end of every year (annual report) to the President and to Parliament (Article 254 (1));
- c. Report, at any time (special reports), as may be required by the President, Parliament (Article 254 (2)) or a member of the public through a petition;
- d. The reports form the basis upon which both the Parliament and County Assemblies oversight usage of public funds by both national and county governments during the year.
- e. In particular, the reports provide information on budget implementation issues such as;
 - i. Level of absorption of public funds (recurrent and development)
 - ii. Utilization of funds according to the appropriation by Parliament/County Assemblies
 - iii. Sectoral analysis on expenditure and the exchequer issues.
 - iv. Performance of Revenue collection, exchequer issues and exchequer requests not funded.
 - v. Recommendations on improving budget implementation by the spending entities.

4) Advisory Role

- a. Advises Parliament on financial matters where the Cabinet Secretary responsible for Finance stops the transfer of funds to a state organ or public entity (Article 225(3)).
 - i. The suspension of funds may not be lifted or sustained before the COB gives a report to Parliament (Article 225(7) (a)).
- b. Advice to national and county government entities on budgeting and implementation matters (Section 5(b) Controller of Budget Act, 2016)

5) Investigation Role

- a. Conducts investigation on its own motion or on a complaint made by a member of the public with regard to budget implementation (Article 252(a)).

6) Conciliation /Mediation/Negotiation Role

- a. Conducts alternative dispute resolution (conciliation, mediation and negotiations) to resolve disputes on financial matters between county government(s) and the national government or between Counties (Article 252 (1(b))).

7) Public Information Sharing

- a. Provide members of the public with information on budget implementation both at the national and county government level in accordance with Section 39(8) of the PFMA, 2012.

8) Enforcing budget ceilings

- a. Enforcing compliance with approved budgetary ceilings by Parliament on national and county government expenditure
 - i. 252 (1(b)) of CoK
 - ii. Section 5(d) of the Controller of Budget Act, 2016

5.2 Constitution & Legal underpinnings of Budget Making Process

What is a budget?

- i. Financial plan of expenditures and revenues expressed in quantitative/monetary terms, covering a specific period of time, usually one year.
 - It is a systematic plan for the utilization of manpower and material resources.
- ii. A key instrument that the government uses to ensure equitable and accountable sharing of resources.
- iii. A Government budget may be considered as; Economic, Planning, Political and Social Document.
 - Economic: due to its allocation of scarce resources

- Planning: due to its act of forecasting for future activities in advance of time.
- Political: due to its determination of who gets how much of the available resources and when.
- Social: due to its ability to distribute benefits and costs according to community preferences

Importance of a budget:

- i. *Minimizing uncertainty:* Attempting to make the future more predictable by identifying and determining what is required, how much of it is available.
- ii. *Policy Direction:* Budgets translate government's policies, political commitments, and goals into decisions and implementable activities
- iii. *Resource allocation:* The budget determines how limited resources are to be divided among the competing alternatives within an organization.
- iv. *Accountability instrument:* provides a basis for budgetary control and evaluation of performance.

The aim of budget making process is to;

- i. To ensure equity in the distribution of financial resources
- ii. To prevent unauthorized expenditure of public funds
- iii. To obtain value from public expenditure
- iv. To match expenditure requisition with revenue collected
- v. To enlist the public and other stakeholders for prudent management of public funds
- vi. To promote transparency, accountability and openness in the management of public funds.

Budgeting and policy framework;

The budgeting process at national level is anchored on key policy documents.

- i. Vision 2030 – the long term development plan (the country's blueprint)
- ii. Medium Term Plan 2013-2017 – 5 year implementation plan
- iii. Sectoral Policies /bias on devolved functions
- iv. Budget Policy Statement
- v. Integrated Development Plans (Section 104, CGA, 2012).
- vi. Annual Development Plans
- vii. Budget Review and Outlook Paper (BROP).
- viii. Fiscal Strategy Paper(FSP)

Coordination of the Budget process

- i. The National Treasury manages the budget process of the National Government
- ii. Initial instructions (Budget Circular) to guide the budget process to be issued by August every year
- iii. Instructions include
 - a. Budget calendar
 - b. key milestones and
 - c. preliminary resource allocation based on the MTEF projections
 - d. Procedure for consultations on the budget process

Budget Process-Strategic Planning [August]

- i. A review of the Medium Term Plan by the Ministry of devolution and planning
- ii. Line ministries will subsequently update their strategic plans based on the MTP and a review of their expenditure performance
 - To realign the plans to the constitutional functions
 - Outline policies and the programs to be implemented in the medium term
 - Plans to include expected output, measurable performance indicators and the estimated cost
- iii. Budget review and economic planning

The CBROP will outline:

The National Treasury prepares and submits to Cabinet for approval a Budget Review and Outlook Paper (BROP) by **30th September each year**. BROP will outline

- i. Actual fiscal performance in the previous years
- ii. Updated macro-economic and financial forecasts from the recent Budget Policy Statement
- iii. Reasons for any deviations from the fiscal responsibility principles and financial objectives
- iv. The revised revenue estimates and revenue shares
- v. Provide indicative resources available for the two levels of government
- vi. Proposed expenditure estimates limits for the national and indicative transfers to the county governments
- vii. Key risks to the macro-fiscal framework
- viii. The process should involve key stakeholders, Intergovernmental Budget and Economic Council(IBEC) and Budget and Economic Forum(BEF)

Budget Policy Statement (BPS)

- i. The National Treasury prepares and submits for the Cabinet's approval, a BPS, Division of Revenue and County Allocation of Revenue Bills
- ii. The approved BPS and Bills by Cabinet are submitted to Parliament by **15th February** each year
- iii. The BPS contain
 - a. broad strategic priorities and policy goals
 - b. assessment of the current state of the economy and
 - c. financial outlook on expenditures, revenues and borrowing for the medium term

Institutions in the Budgeting Process

- **Formulation**

- ✓ The National Treasury – Prepare the BPS
- ✓ National Assembly – Approves the DRB, CARB
- ✓ Senate – Approves the DRB, CARB
- ✓ CRA – Vertical & Horizontal revenue sharing formula
- ✓ County Treasuries – Prepare the CIDPs, ADPs, CFSPs, Budget Estimates
- ✓ The Public – Participation and priority areas

- **Approval**

- ✓ County Assemblies – Discuss the Budget estimates
- ✓ Governors – Assent to Appropriations Bills

County Budget Process

1) Formulation:

- County Executive Committee
- County Budget and Economic Council
- CRA
- Public

2) Approval

- County Assembly
- Governor

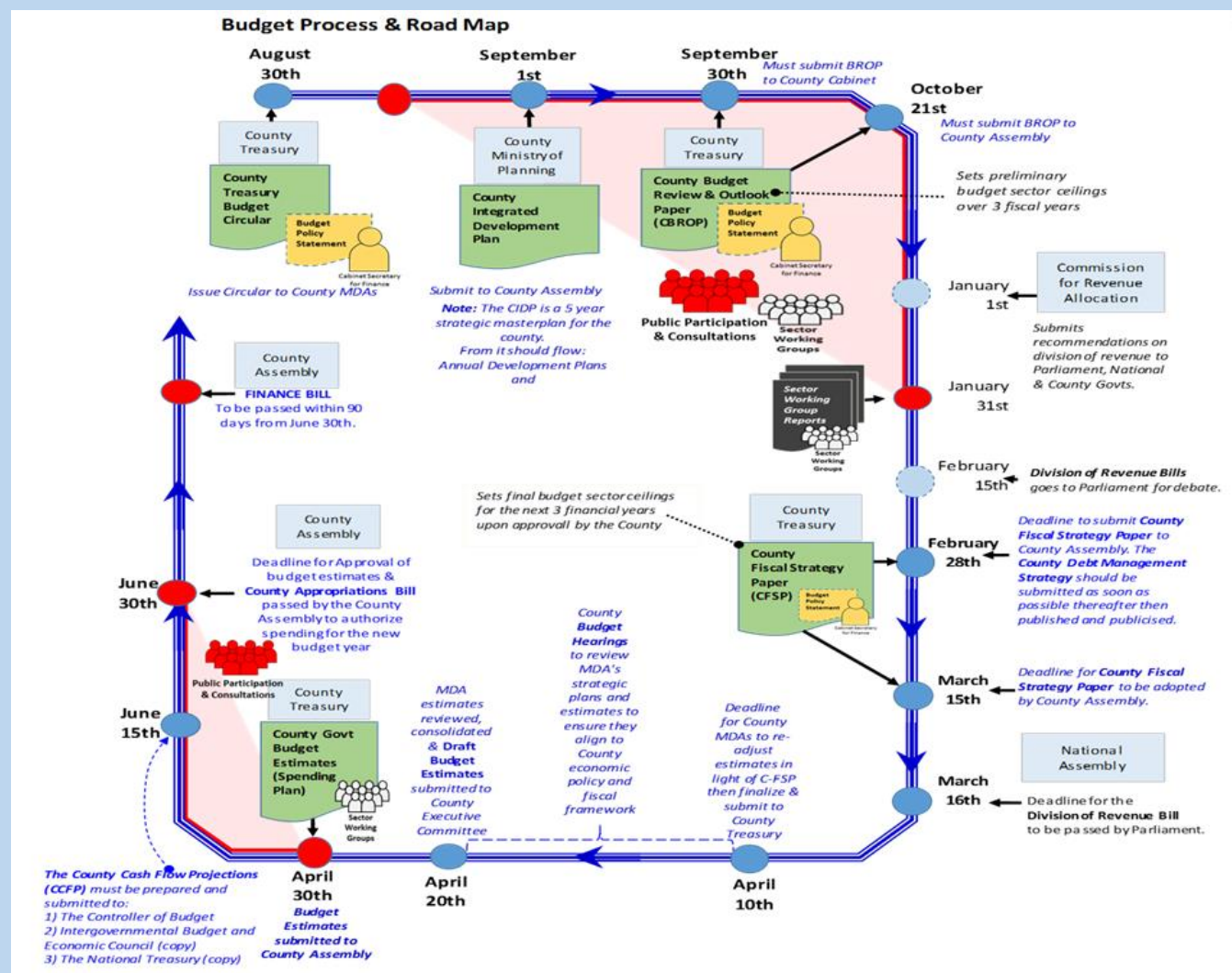
3) Implementation

- Controller of Budget
- County Treasuries
- County government entities

4) Monitoring, Reporting and Accounting

- Controller of Budget
- Auditor General
- County Assembly
- County Treasuries

Table 7: Illustration of the budget process and road map



Budgeting and the Policy Framework

The budgeting process at county level is anchored on key policy documents.

- **County Level Policy Documents**

- ✓ Vision 2030 – the long term development plan
- ✓ Medium Term Plan 2018-2022 – 5 year implementation plan
- ✓ Sectoral Policies (bias on devolved functions)
- ✓ Millennium Development Goals
- ✓ Budget Policy Statement
- ✓ County Integrated Development Plan (Section 104, CGA, 2012).
- ✓ Annual Development Plans (Section 126 (4) PFMA, 2012)
- ✓ County Budget Review and Outlook Paper (C-BROP) (Section 118, PFMA).
- ✓ County Fiscal Strategy Paper (C-FSP) (Section 117, PFMA)

5.3 Role of County Assemblies in the Budget Process

The County Assembly should ensure that the County budget meet the 3 objectives:

- ✓ Total level of spending must be affordable, for the County economy to continue to deliver growth and other macro-economic objectives
- ✓ Funds should be allocated to reflect the county's priorities.
- ✓ Agencies should achieve efficiency gains so as to deliver service at lowest cost.

Budget Formulation at County Level

- Budget Circular** - County budget process commences with the issuance of initial instructions (Budget Circular) to guide the budget process by the County Executive Committee Member for Finance (CECM-F) by 30th August every year
- Development Plans** - No public funds can be appropriated without a development plan (Section 104 –County Government Act 2012). Article 220 of the Constitution also requires a development plan. County Executive Committee Member for planning to prepare and

submit a development plan to County Assembly for approval before 1st September every year.

- iii. **County Budget Review and Outlook Paper (C-BROP)** - The County Treasury shall prepare and submit to the county executive committee for approval a C-BROP by 30th September each year
- iv. **County Fiscal Framework** - County Treasury determines the County Fiscal Framework which estimates the available financial resources.
- v. **County Fiscal Strategy Paper(C-FSP)** - The C-FSP shall contain: Broad strategic priorities and policy goals- medium term and long term, Outlook on expenditures, revenues and borrowing for the medium term. In preparing the C-FSP, the county treasury shall seek the views of the public and any other interested persons and groups
- vi. **County Budget Estimates** - County Treasury shall consolidate the budgets for ratification by the County Executive Committee before submission to the County Assembly not later than 30th April for approval.

Budget Approval

- i. County Appropriations Bill
 - a. County Assembly reviews the budget estimates and may make amendments but in line with the C-FSP:
 - i. Any increase in expenditure to be balanced by a reduction elsewhere; and
 - ii. Reduction should be used to reduce the budget deficit.
 - iii. Approved estimates are included in the County Appropriation Bill to be approved by CA by **30th June**.
 - iv. Appropriation bill is assented by the governor
- ii. County Finance Bill
 - a. CECM-F to make a **public pronouncement** of revenue-raising measures—i.e. County Finance Bill **in June**
 - b. Within **90 days** after approval of the Appropriations Bill, the CA is required to consider the County Finance Bill and approve with or without amendments.

Budget Implementation

- i. **Budget Implementation-** is putting to effect the approved budget by executing predetermined and implementable activities intended to achieve set goals and objectives of Government policy.
 - a. Accounting Officers to play a pivotal role in budget implementation.
 - b. It encompasses:
 - i. Revenue mobilization – County OSR
 - ii. Disbursements and requisitions management
 - iii. Budgetary controls and payments management
 - iv. Budget re-allocations – between programs and sub-programs
 - v. Commitment of goods / works / services
 - vi. Cash management by County Treasury
 - vii. County Debt Management
 - viii. Handling of advances from Emergency Fund

Legal Provisions on Budget Implementation

1. County Governments to adhere to:
 - ❖ Principles of Public finance as contained in Chapter 12 of the CoK, 2010
 - ❖ Fiscal responsibility principals – Section 107 of the PFMA, 2012
 - ❖ National Values
2. All revenue receipts by CG are to be paid into CRF, except those receipts reasonably excluded by an Act of parliament.
3. Accounting Officers to ensure that resources entrusted to them are used in an authorized and lawful manner, and their use is effective, efficient, economical and transparent.
4. Expenditure commitments for goods/works or services to be controlled against approved budgets and procurement plans.
5. All commitments for the supply of goods and services to be done on or before 31st May each year.
6. Debt service payments including pending bills to form a first charge on the appropriated funds.
7. Re-allocations of appropriated funds to be in accordance with Section 154 & 135 of the PFMA, 2012.

8. All bank accounts operated by CGs are to be opened at CBK, except the Imprest account for petty cash and accounts for established County funds – on approval by the County Treasury.
9. Accounting Officers to approve and determine imprest limits

5.4 Exchequer Requisition Process

County Treasury to requisition for funds

- i. County government entities prepare annual cash flow forecasts which are submitted to county treasuries with copies to the Controller of Budget
- ii. County government entities requisition funds for budget implementation
- iii. County Treasuries consolidate and make requisitions to the COB for the withdrawal of funds from the CRF (PFM Act, Article 109 (6))

Funds Flow to County Governments

- i. Article 228(4) stipulates that the Controller of Budget shall oversee the implementation of the budgets of the national and county governments by authorizing withdrawals from public funds under Articles 204, 206 and 207.
- ii. The **Consolidated Fund** (Article 206 of CoK, 2010) – receives all monies raised by the National Government.
- iii. The **County Revenue Fund** (Article 207 of CoK, 2010) the fund receives all monies on behalf of the County Government.
- iv. **Equalization Fund** (Article 204 of CoK, 2010) – receives 0.5 per cent of all revenue raised by the National Government each year on the basis of the most recent audited accounts approved by the National Assembly.
 - ☐ The fund is to provide basic services including water, roads, health facilities and electricity to marginalized areas.
 - ☐ The objective is to upscale the basic services in the marginalized areas to the level generally enjoyed by the rest of the nation.

Basis for Authorization of Withdrawals

Section 109 (6) of the PFM Act, 2012 states that withdrawal from the **County Revenue Fund (CRF)** is authorized under:-

- i. an Act of County Assembly that appropriates the money,
- ii. An Act of Parliament or County Legislation that imposes a charge on CRF.
- iii. The PFM Act in accordance with Sections 134 and 135.

The Appropriation Act approves appropriations at the Vote level which represents the respective County Departments

County Budget Execution

- i. The approval by the Controller of Budget and the written instructions from the County Treasury requesting for the withdrawal is sufficient authority for the withdrawal from the County Revenue Fund (Section 109(7)).
- ii. County government entities utilize the funds according to their budgets and work plans
- iii. County government entities submit quarterly revenue and expenditure reports to the county treasury.
- iv. County Treasury submit consolidated quarterly revenue and expenditure reports to County Assembly and send copies to COB, CRA &NT.

Oversight on Budget Execution

- i. Article 185(3) of the Constitution: A County Assembly, while respecting the principle of the separation of powers, may exercise oversight over the County Executive Committee and any other county executive organs.

5.5 County Budget Reporting and Audit

- i. The OCOB submits statutory reports to the County Assembly on implementation of the budgets of national and county governments (Article 228 (6))
- ii. The OCOB also prepares annual and special reports on budget implementation. Articles 254(1) and 252(1)(a)
- iii. Through these reports, the OCOB ensures continuous monitoring of usage of public funds.
- iv. The reports are published and publicized for transparency.

- v. Additionally, the County Assembly can request the County Treasury to prepare and submit to the County Assembly a report on any matter relating to its responsibilities (PFMA (124))
- vi. A County Assembly or any of its Committees has power to summon any person to appear before it for the purpose of giving evidence or providing information. (Article 195(1))

County Budget Implementation Review Reports (CBIRR)

- i. Article 228(6) states that every four months, the Controller of Budget shall submit to each house of Parliament a report on the implementation of budgets of the National and County Governments.
- ii. Other reports:
 - a. Annual report- Article 254 (1);
 - b. Special Reports:
 - i. Report where there has been a stoppage of funds (Article 225(7)(a))
 - ii. Report from an investigation (Article 252(1)(a))
 - iii. Report on dispute resolution
 - iv. M&E Report
- iii. OCOB BIRRs are anchored on Article 201 of the Constitution of Kenya, 2010 on Principles of Public Finance:
 - a. Article 201 (a) Openness and accountability, including public participation in financial matters;
 - b. Public finance system to promote an equitable society;
 - c. Financial Management shall be responsible, and fiscal reporting shall be clear.

Importance of COB Reports

- i. Section 5(b) COB Act, 2016 requires COB to submit quarterly reports to Parliament and county assemblies on measures to improve budget Implementation
- ii. Basis upon which County Assemblies can monitor the usage of public funds by county governments during the year - Section 5(b) COB Act, 2016.
- iii. Accountability & Transparency of government operations and enhance public trust in the government as set out in Section 66 of PFM Act, 2012.
- iv. Detect and prevent abuse and unconstitutional conduct on the part of the government and public agencies-compliance with Chapter 6 of COK
- v. Ensure that government policies are implemented

Issues Highlighted in BIRRs

- i. High wage bill leading to a breach of Regulation 25 (1) (b) of the PFM (CGs) Regulation, 2015 - 35 per cent of County's total revenue threshold on County Government's expenditure on wages and benefits. For example:-
 - a. Counties spent Kshs.190.11 billion on the wage bill which was 43.6% of the realized revenue of Kshs.427.47 billion.
 - b. Only 4 counties were within the ceiling namely; Mandera, Tana River, Isiolo and Kwale.
- ii. Under performance in OSR collection i.e in FY 2021/22, CGs generated a total of Kshs.35.91 billion, which was 59.4 per cent of the annual target of Kshs.60.42 billion. This limits the available funds to fund the budget
- iii. In the last 5 years, the performance of OSR has averaged 64.9 % of set annual targets – equivalent to unrealized revenue/ unfunded gov't programs of Kshs. 95.45 billion
- iv. Low Expenditure on the Development Budget - Sec. 107(2) (b) of the PFM Act, 2012, provides that over the medium term, a minimum of 30% of the CG's budget shall be spent on development programs.
 - a. In FY 2021/22, CGs incurred a total of Kshs.98.47 billion representing an absorption rate of 50.9 per cent of the cumulative annual development expenditure budget of Kshs.193.53 billion.
 - b. In the last 5 years, the trend shows that CGs spent 26.5% of their total expenditure on development programs. This is a violation of the law.
- v. Use of Manual Systems to Process Payroll - In FY 2021/22, wages amounting to Kshs.15.63 billion were processed through manual systems and vouchers. CGs are required to migrate to the Unified Human Resource Information System by October 2022 in line with the guidelines by the Head of Public Service.
- vi. Delay in Submission of Financial and Non-Financial Reports to the Controller of Budget
- vii. There are disputes in resource allocation;
- viii. Public participation requirement is not adhered to by CGs;
- ix. Weak budgetary control and use of revenue at the source where some county governments reported expenditures that exceeded approved exchequer issues and budget ceilings.

- x. Mutilation of budgets
- xi. Delay in release of funds to County Governments
- xii. Weak Accountability for County Established Funds
- xiii. Weak Monitoring and Evaluation framework

County Assembly to Debate COB Reports

- i. Form the basis upon which, County Assemblies can monitor usage of public funds by county governments
- ii. COB reports should be tabled in each House of Parliament and the County Assemblies.
- iii. COB reports should be examined by the appropriate Committee of the County Assemblies and its report be tabled in the House.
- iv. The County Accounting Officers to prepare a report within three months on actions taken to implement recommendations made on the OCOB report as adopted by the Assembly in line with Section 149 (3) of the PFM Act, 2012.
- v. The report required under Sec. 149 (3) of the PFM Act, 2012 SHALL be published and publicized - Section 149 (5).

6.0 PRESENTATION BY ETHICS AND ANTI-CORRUPTION COMMISSION

(Facilitator: Mr. David Boro – Director Ethics Development and Monitoring, EACC)

The EACC honored our invitation and made presentation in induction exercise by taking members through the following topics;

- i. Establishment and mandates of EACC,
- ii. Ethics, leadership and integrity (leadership& integrity code),
- iii. Conflicts of interests,
- iv. Financial probity,
- v. Values and principles of governance and public service,
- vi. Declaration of assets, incomes and liabilities,
- vii. County Assembly Powers and Privileges

It was noted that EACC derives its mandates from;

- i. Articles 79 and 252 of the Constitution;
- ii. Ethics and Anti-Corruption Commission Act, 2011;
- iii. The Leadership and Integrity Act, 2012;
- iv. The Anti-Corruption and Economics Crimes Act (ACECA) of 2003;
- v. The Bribery Act of 2016;
- vi. The Public Officer Ethics Act of 2003 among other relevant laws and legislation

The mandate of EACC include;

- i. Investigations; Asset recovery;
- ii. Public education and awareness;
- iii. Review of systems of public bodies; and
- iv. Promotion of standards and best practices in ethics and integrity

6.1 Leadership, Ethics and Integrity

The broad values and principles of Leadership in public service are laid out in the Constitution.

These values are set out in;

- i. Article 3 (1) Provides that every person has an obligation to respect, uphold and defend this Constitution.
- ii. Article 10 on National values and principles of governance which bind
- iii. Chapter Four – Bill of Rights. It provides that the Bill of Rights applies to all law and binds all State organs and all persons.

- iv. Chapter Six – Leadership and Integrity which include Responsibilities of leadership, Conduct of State officers, financial probity of State officers, Restriction on activities of State officers, Citizenship and leadership.
- v. Article 232 – Values and principles of public service (1) Provides that every person has an obligation to respect, uphold and defend this Constitution.

The Constitution of Kenya, 2010 outlines the National Values and Principles of Governance under Article 10 as follows-

- i. patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;
- ii. human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;
- iii. good governance, integrity, transparency and accountability; and
- iv. Sustainable development.

EACC has an oversight role in the implementation and enforcement of Chapter Six of the Constitution. Under Article 73 of the CoK 2010, the responsibilities of leadership or authority assigned to a State Officer include;

- i. a public trust and to be exercised in a manner that is :
 - Consistent with the purposes and object of the Constitution
 - Demonstrates respect for the people
 - Brings honour to the nation and dignity to the office
 - Promotes public confidence in the integrity of the office
- ii. Vests in the State Officer the responsibility to serve the people rather than the power to rule them

Additionally, Chapter 6 on Leadership and Integrity provides the guiding principles of leadership: Art 73 (2)

- i. Appointment on the basis of personal integrity, competence and suitability;
- ii. Objective; impartial; honest; accountable
- iii. Selfless service that puts public interest first;
- iv. respects and serves the people;
- v. declare any personal interest that may conflict with public duties

Oath of Office of State Officers (Article 74)

This is provided for under Article 74 of Constitution of Kenya 2010: It is expected that before assuming a State Office, acting in a State Office, or performing any functions of a State Office, a person shall take and subscribe the oath or affirmation of office, in the manner and form prescribed in the Third Schedule or under an Act of Parliament.

Conduct of State Officers (Article 75)

A State Officer shall behave: In public; Official life; Private life; or In association with other person in a manner that;

- Avoids conflict between personal interest and public or official duties;
- Avoids compromising any public or official interest in favour of a personal interest; and
- Avoids demeaning the office the officer holds

What happens when a State Officer contravenes Article 75(1)?

- They shall be subject to the applicable disciplinary procedure for the relevant office.
- May, in accordance with the disciplinary procedure be dismissed or otherwise be removed from office. (Cases of impeachment of Governors)

❖ *Moses Kasaine Lenol kula v Director of Public Prosecutions [2019]*

❖ *Ferdinand Ndungu Waititu Babayao & 12 others v Republic [2019]*

A person who has been dismissed or otherwise removed from office for a contravention of the provisions specified in clause (2) is disqualified from holding any other State office.

(See the case of former Nairobi Governor – Petition NO.11 of 2022 where the Supreme Court barred the Governor from contesting.)

Financial probity of State Officers (Article 76)

A gift or donation to State Officer on a public or official occasion is a gift or donation to the Republic and shall be delivered to the State unless exempted under an Act of Parliament.

A State Officer shall not:

- Maintain a bank account outside Kenya except in accordance with an Act of Parliament

- Seek or accept a personal loan or benefit circumstances that compromise the integrity of the State Officer

Restriction on Activities of State Officers (Article 77)

A State Officer shall not:

- Participate in any other gainful employment
- Hold office in a political party

A retired State Officer who is receiving a pension from public funds

shall not hold more than two concurrent remunerative positions as a: Chairperson, Director, Employee of a company owned or controlled by the State or a State Organ and cannot receive remuneration from public funds other than those contemplated in clause (3).

Citizenship and Leadership (Article 78)

- A person is not eligible for election or appointment to a State Office unless that person is a citizen of Kenya.
- A State Officer shall not hold dual citizenship.

Leadership and Integrity Act 2012;

- The Leadership and Integrity Act, 2012, operationalizes Chapter Six of the Constitution. It seeks to ensure that State and Public officers uphold and respect the values, principles and requirements of the Constitution while discharging public duty.
- Part II (General Leadership and Integrity Code) of the Leadership and Integrity Act, 2012 *forms* the Code of Conduct and Ethics. Each Code is developed pursuant to the provisions of the Leadership and Integrity Act (LIA) 2012, further to the provisions of the Public Officer Ethics Act (POEA) 2003.
- The provisions of the Public Ethics Officer Act, 2003 form part of LIA, however, section 6(4) states that If any provision of the Act is in conflict with the Public Officer Ethics Act, 2003, the Leadership and Integrity Act shall prevail.

Obligations of State and Public Officers under the Leadership and Integrity Act, 2012

- i. On Personal Conduct/ Responsibility:-

ii. On Dealings with the public, colleagues and others:-

iii. On Dealings with public property/ Resources/ opportunities in public service:-

Personal Conduct and Responsibility;

- Uphold the rule of Law (S.7)
- Promote Public Interest when holding a position of Trust(S.8),
- Take personal responsibility for omissions and actions(S.9);
- Maintain a high standard of professionalism in the discharge of duties and not discrimination against any person (S.11)
- keep accurate records and avoid falsifying records (S.13 & 30);
- Perform duties in a manner that is accountable, efficient, effective, honest, transparent, courteous and respectful. (S.10, 11 and 13);
- Be impartial and not practice favoritism, nepotism, tribalism, religious bias (S.24);
- Not engage in activities that result to abuse of office(.13);
- Not use official information to further private interests (S. 22)
- Conduct private affairs in a manner that maintains public confidence in the integrity of the office (S.32),
- Give advice in a accurate manner(S.25)
- Dual Citizenship (S.31)

On Dealings with the public, colleagues and others:-

- Do not Bully any person (S.34),
- Report improper orders to EACC (S.36),
- Do not engage in soliciting contributions from the public except as provided by law (S. 18)
- Do not act as an agent or further the interest of a foreign government, organization or individual to the detriment of national security (S. 20)
- Do not participate in a tender to a public entity in which they are serving or associated with (S.17)
- Avoid conflict of interest (S. 16)
- Observe political neutrality
- Do Not give false or misleading information (S. 29)
- Do Not commit offences under the Sexual Offences Act, 2006, Counter Trafficking In Persons Act, 2010 and the Children Act, 2001 (S. 13)

- Do not participate in any gainful employment (S.26) work that is incompatible with your responsibilities, impairs judgement or results to conflict of interest
- Do not be influenced by plans or offers of future employment or benefits (S.27)

Conflict of Interests

- I. Conflict of Interest occurs when a personal interest of a public official competes or is perceived to compete with the interest of the public in the performance of their official duties.
- II. Personal interests includes the interests of a:
 - Spouse
 - Child
 - business associate
 - agent
 - any other matter in which the state or public officer has a direct or indirect pecuniary interest

Legal provisions on Conflict of Interest

Under the Leadership and Integrity Act, 2012, we see:

- ☐ Section 17: Participation in Tenders – not participate in a tender if s/he has a controlling share.
- ☐ Section 26: Gainful Employment – work that is incompatible with responsibilities or impairs judgement
- ☐ Section 27: Offers of Future of employment – not be influenced by plans or offers of future employment or benefits
- ☐ Section 14: Gifts or benefits in Kind
- ☐ Section 42: Anti-Corruption and Economic Crimes Act, 2003
- ☐ Section 59 of Public Procurement and Disposal Act, 2015: A state organ or public entity shall not enter into a contract for a procurement with a public officer of that state organ or public entity

Strategies for preventing the occurrence of conflict of interest

- Conduct regular risk assessments of conflict of interest areas
- Have in place a conflict of interest register and/or policy
- Accounting officer or nominee to keep custody of Register.
- Maintain the register of COI for 5 years after the entry of each volume
- Develop and implement/enforce conflict of interest policies/guidelines/manuals
- Sensitize staff

- Foster partnerships and collaborations in managing conflict of interest.
- Promote individual responsibility and personal example
- Create an organisational culture which is intolerant of conflict of interest

On Dealings with public property/ Resources/ opportunities in public service:-

- Do not receive gifts or benefits not authorized by law (S. 14)
- Do not use your office to wrongly or unlawfully influence acquisition of public property (s.15)
- Do not open or operate bank account(s) outside Kenya without the approval of EACC (s. 19)
- Take care of public property in their custody or possession (S. 21)
- Observe financial integrity by not using your office to enrich yourself or any other person (s. 12)
- Pay any taxes due nor neglect their financial or legal obligations (S. 33)

Permissible Gifts;

A gift or donation to a public officer on a public or official function shall be treated as a gift or donation to the state. The law allows state and public officers to receive or accept certain gifts which include:-

- I. Gifts ordinarily given as a show of appreciation or expression of courtesy or protocol and within the ordinary standards of hospitality;
- II. Gifts that are not monetary (promotional items)
- III. Gifts that do not exceed the value of Kshs. 20,000 or such other value as the commission may prescribe from time to time. If it exceeds, the gift is surrendered to the State/Public Entity

Impermissible gifts;

A state or public officer shall not accept or solicit gifts, hospitality or other benefit from a person if that gift may compromise his or her integrity, objectivity, impartiality or create a potential conflict of Interest or the giver has a legal or contractual relationship with the officer's entity.

- I. Cash or cash equivalents- Including but not limited to cheques, loans, gift vouchers, airtime, treasury bills, shares, life insurance, discounts not available to all employees;
- II. Gifts of Jewelry, precious metals or stones, ivory, or other animal parts protected by law.

- III. Gifts from "disqualified sources" e.g. proscribed organizations, blacklisted companies, enemy states among others.

Obligations

- ❖ All gifts must be declared irrespective of the value to the authorised officer
- ❖ Gifts whose value exceeds Kshs. 20,000 shall be surrendered to the public entity the officer belongs to, 48 hours upon reporting to the office
- ❖ Gifts surrendered shall be received and disposed in accordance with the provisions of the Public Procurement and Asset Disposal Act, 2015
- ❖ Store and maintain gifts in good condition until donated or otherwise utilised/ Make arrangements for transportation
- ❖ Develop and implement gift policies/guidelines
- ❖ Cooperate with the commission and the public entity in matters related to administration of gifts and other benefits;
- ❖ Not accept or solicit gifts and other benefits from sources prohibited by the law;
- ☐ The provisions of POEA, form part of LIA which prevails in case of any conflict. POEA provides for Declaration Of Income, Assets and Liabilities
- ☐ Every public officer makes declarations for self, spouse and dependent children under 18 years;
- ☐ There are three types of declarations:
 - initial
 - two-year (Bi-ennial)
 - final
 - Initial – made within 30 days of joining public service. The statement date being the date of appointment. *The declaration period is one year back.*
 - Biennial – made every two years. The Statement date being 1st November. The declaration period is from the last statement date to the current. *The declaration period is from the last statement date to the current.*

- Final –made within thirty days of exiting service. The statement date is the effective date of exit. The declaration period is from the last statement date to the date of exit. *The declaration period is from the last statement date to the date of exit*

“Declarations are submitted to the designated Responsible Commission”

Under section 52 of LIA, Responsible Commissions established pursuant to section 3 of the Public Officer Ethics Act, 2003.

Enforcement?

- Self-Enforcement
- Institutional Enforcement (state and non-state actors)
- Government Enforcement (EACC, DPP, NPS, Courts)
- Of all these: The best enforcement is self-enforcement!
- *If worst comes to worst, its better your institution does it rather than the EACC, DPP, NPS, Courts etc.*

6.2 Conflicts of Interest

Conflicts of interest are naturally occurring phenomena, a realization that people occupy more than one social life. COI is not necessarily bad. It is only a situation which requires to be managed.

Types of Conflicts of Interest

- **“Real conflict of interest”** occurs where there is a conflict between the public duty and the public official’s interests that improperly influences the performance of the official’s duties.
- **“Apparent conflict of interest”** exists where it appears or can reasonably be perceived that private interests of a person in public duty could improperly influence the performance of their duties but this is not in fact the case.
- **“Potential conflict”** of interest arises where a public official has private interest that could conflict with their official duty in the future.

Legal framework for the concept of conflict of interest;

COI provisions at three levels-

1. International/Regional Instruments

- United Nations Convention Against Corruption (UNCAC),
- African Union Convention on Preventing and Combating Corruption (AUCPCC),
- Multi-lateral/bilateral instruments and protocols

2. National legislation

- Constitution
- statute law
- Regulations

3. Institutional level

- Standing orders, codes of conduct, by-laws,

International/Regional Instruments;

1. United Nations Convention Against Corruption (UNCAC)

- **Article 7 Paragraph 4:** Each state party shall, in accordance with fundamental principles of its domestic law, endeavor to adopt, maintain and strengthen systems that promote transparency and prevent conflict of interest.
- Related offences under the UNCAC
 - **Article 18:** Trading in influence
 - **Article 19:** Abuse of functions
 - **Article 20:** Illicit enrichment

2. African Union Convention on Preventing and Combating Corruption (AUCPCC)

- **Article 4: Scope of Application**
- Art 4 Para 1(c) - Act or omission by a public officer in the discharge of official functions for purpose of illicitly obtaining or conferring a benefit
- **Article 7: Measures to fight corruption**
- Art 7 Para 1 – Financial Declarations
- Art 7 Para 4 – Transparency in procurement of goods and service
- **Article 8: Illicit Enrichment**

3. Kenya's National Legislative and Institutional Framework on COI;

- **The Constitution:** Article 10: National values and principles of governance Entire Chapter Six: Leadership and integrity provisions
 - Article 75: A state (*and public*) officer shall behave, whether in public or official life, in private life, or in association with other persons, in a manner that avoids any conflict between personal interests and public official duties, or compromising any public or official interest in favour of a personal interest.
- **Leadership and Integrity Act:** Section 16 of the LIA; Part III of the LIA Regulations, 2015 and Schedule II (On registrable interests);
- **Public Officer Ethics Act:** Part IV on declaration of income, assets and liabilities; role of Responsible commissions
- **Anti-Corruption and Economic Crimes Act:** Section 42, and Part VI
- **PFMA, 2012:**
- **Mwongozo:** The Code of Governance for State Corporations, 2015
- **PSC Human Resource Policies and Procedures Manual for the Public Service, 2016**

4. Institutional and/or sector specific provisions;

- Third Schedule of the EACC Act: Code of Conduct for Members of, and Staff of the EACC – Section 3 provides for disclosure of conflicting interests
 - **Other Examples:**
 - Codes of conduct for public entities
 - Prosecutorial Guidelines/Policy
 - Parliamentary Standing Orders
 - Judicial Service Code of conduct
 - OAG Act

5. Parliamentary Proceedings on conflicts of interest;

- **Section 11 of the Leadership and Integrity Act-**Duty to declare conflict of interest by members of Senate, National Assembly and County Assembly
 - A member of the National Assembly, Senate or a County Assembly who wishes to speak, participate or take part in any matter in which the member has a

personal interest, pecuniary interest, proprietary interest, personal relationships or business relationships shall first declare that interest.

- The clerk of the Senate, the National Assembly or a County Assembly shall maintain a register of conflicts of interest in accordance with section 16(10) of the Act.

Challenges on management of Conflict of Interest

- i. State Capture”
- ii. International/Global interests
- iii. Cartels (international and local)
- iv. Hidden Private Interests
- v. Weak enforcement mechanisms
- vi. Lenient sanctions
- vii. Lack of incentives for whistle blowers
- viii. Culture and perception (acceptability)

Tools and Strategies for management of Conflict of Interest

- i. Financial disclosures (periodical disclosures, mandatory disclosures for certain categories, access to disclosures and verifications)
- ii. Disclosures of COI situations
- iii. Recusal and divesture
- iv. Total restriction of certain activities for public officers
- v. Expand the concept of “public officer” and “public entity” for purposes of COI
- vi. Legislative and administrative enforcement mechanisms
- vii. Strict vetting of nominees for appointment to public office
- viii. Whistle blowing incentives

6.3 Declaration of Income, Assets and Liabilities in the Public Sector

The Ethics and Anti- Corruption Commission has the oversight mandate to implement Part IV of the Public Officer Ethics Act on Declaration on Income, Assets and Liabilities. This mandate is derived from Section 4 (2) and Section 6 (3) of the Leadership and Integrity Act, 2012.

Every Public Officer is required under Section 26 of the Public Officer Ethics Act, Cap 183 Laws of Kenya, to submit to the Responsible Commission a Declaration of his/her Income, Assets and Liabilities, those of the Spouse(s), and his/her Dependent Children below the Age of 18 years old. This requirement is intended to check on unexplained and suspicious accumulation of wealth. A public officer making such a declaration is obliged to ensure the declared information is correct.

Legislative Framework on Wealth Declaration in Kenya;

The legal framework underpinning the concept of wealth declaration in Kenya include;

- The United Nations Convention Against Corruption (UNCAC)
- African Union Convention on Preventing and Combating Corruption (AUCPCC)
- The Constitution of Kenya, 2010
- The Public Officer Ethics Act, Cap 183 Laws of Kenya
- The Leadership and Integrity Act, Act 19, of 2012

The Public Officer Ethics Act (POEA):

The major legislative framework on DIALs in Kenya is the Public Officer Ethics Act, Cap 183 Laws of Kenya.

- It provides that every Public Officer shall make Declarations of Income, Assets and Liabilities of themselves, spouse(s) and of their Children Dependent below the age of 18 years old.
- The Public Officer is required to make this declaration to the responsible Commissions provided under Section 3 of the Public Officer Ethics Act.
- POEA enactment made wealth declarations compulsory.

We need to appreciate that Kenya enacted the Public Officer Ethics Act before it ratified the United Nations Convention against Corruption (UNCAC)

Objectives of declaring wealth:

- To provide basic data for anti-corruption law enforcement
- To increase transparency and the trust of citizens in public administration;
- To help heads of public institutions prevent conflicts of interest among their employees and to promote integrity within their institutions; and
- To monitor wealth variations of individual public officials and to help clarify the full scope of illicit enrichment or other illegal activity by providing additional evidence.

The responsible commissions:

In Kenya, the wealth declarations are managed by multiple agencies known as responsible commissions. Each commission is responsible for the public officials who work within its sphere or those over whom it has disciplinary powers.

Section 3 of the Public Officer Ethics Act provides for the Responsible commission.

- i. The Committee of the National Assembly
- ii. The Public Service Commission
- iii. The Teachers Service Commission
- iv. The Judicial Service Commission
- v. The Parliamentary Service Commission
- vi. The Independent Election and Boundaries Commission
- vii. The Defence Council
- viii. Witness Protection Advisory Board
- ix. The National Security Intelligence Council
- x. Commission of University Education

Responsible Commissions at the County Government level;

- The County Assembly service Board
- The County Public service Board

- County Power and Privileges Committee

Section 7 of the Sixth Schedule to the Constitution on transition of existing laws (including POEA)

Role of Responsible Commissions;

- i. Receipt and custody of declarations
- ii. Formulation of administrative procedures under Section 33 of POEA
- iii. Verification of declarations/ comparison of submitted data with other information
- iv. Seeking clarifications on submitted declarations
- v. Proactive monitoring of variations of assets
- vi. Investigations into violations
- vii. Administrative action and/or referral of matters to other law enforcement agencies
- viii. Liaison with EACC on effective management of DIALs
- ix. Periodic reporting to EACC as prescribed
- x. Additional Duties S 9 of the Regulations

What is to be declared;

- 1) Income- money received through work or investment. (Gross earnings)
- 2) Assets- means a thing, tangible or intangible, owned, whether wholly or in part, or controlled by a person, which has an actual or determinable economic value and can be sold, exchanged or otherwise used or applied to meet an obligation or acquire something else in return (Possession, Properties or Resources)
- 3) Liabilities- outstanding financial obligations

Declarations;

There are three types of Declarations.

- Initial Declaration
- Biennial Declaration

- Final Declaration

Initial declaration

- This declaration is to be done by a Public Officer within 30 days of becoming a Public Officer.
- The Declaration shall be dated the Date that the Public Officer became a Public Officer. Section 27 (3) & (4).

Biennial declaration

- Every Public Officer, shall every Two (2) Years submit to the Responsible Commission a Declaration of his/her Income, Assets and Liabilities, those of the Spouse(s), and his/her Dependent Children below the Age of 18 years old. Section 26 (1).
- The Declaration shall be submitted before 31st December of every second year. Section 27 (1) & (2).

Final declaration

- A Public Officer shall submit a final Declaration of his/her Income, Assets and Liabilities after thirty (30) days of ceasing to be a Public Officer.
- The Declaration to be dated the last day where the Public Officers ceased to be a Public Officer.

Administrative Procedures

- The Public Officer Ethics Act under Section 33 also requires the responsible Commissions to come up and publish in the Gazette Administrative Procedures within Ninety (90) days of commencement of the Act.
- This Administration Procedures are to assist in facilitation of submission of Declarations by Public Officers within those Commissions.
- To date, a good number of responsible commissions both at the National Government and County Government have in place updated administrative procedures.

Offences and Penalties

The declaration of income, assets and liabilities is a mandatory requirement for all serving state and public officers.

- Failure to submit a declaration.
- Failure to submit a clarification.
- Giving false information in a declaration or a clarification.

Penalty - fine not exceeding Kshs.1 Million or imprisonment for a term not exceeding one year or to both)

Publishing the contents of a declaration without authority.

(Penalty - imprisonment for a term not exceeding 5 years or a fine not exceeding Kshs.500,000, or to both).

Conclusion

- An effective income and asset declaration regime can help prevent abuse of power, reduce corruption and increase public accountability, public trust in institutions and government legitimacy.
- Adequate resources and capacity should be allocated to the declaration management process.

7.0 COMMISSION ON ADMINISTRATIVE JUSTICE (OMBUDSMAN)

(Facilitator: Mr. Geoffrey Obonyo – Director)

The commission representatives took the participants through the role of the CAJ and the Counties in promoting administrative justice and access to information. The presentation focused on;

- i. The establishment of the Office of the Ombudsman in Kenya
- ii. The role of the commission in redressing maladministration
- iii. Legal framework on County service Delivery & Grievance Redress Mechanism.
- iv. Mainstreaming access to information in the counties

7.1 Establishment & Mandate of CAJ

- ❖ Established under Article 59(4) of the Constitution and the Commission on Administrative Justice Act, 2011.
- ❖ Comprises three Commissioners and a Secretariat.
- ❖ The mandate of the Commission is twofold, and extends to both national and county governments.
- ❖ Promotion of Administrative Justice in Kenya
- ❖ Oversight and Enforcement of Access to Information Act. 2016
- ❖ Promotion of Administrative Justice
- ❖ Redress of maladministration - bad or improper administration or failure by a public agency to effectively perform its functions e.g. delay, inaction, inefficiency etc.
- ❖ Done primarily through complaints handling (inquiries and investigations).
- ❖ Act upon receipt of a complaint or *suo motu*.

CAJ applies, and encourages use of ADR as inexpensive and faster way of resolving disputes.

7.2 Legal framework on service delivery & grievance redress mechanism (GRM)

- i. **Constitution of Kenya**
 - a. Art. 10 - National values and principles of governance
 - b. Art. 47 - Fair administrative action
 - c. Art. 174 - Objects of devolution
 - d. Art. 232 (1) (c) – Values and principles of public service

ii. **County Government Act**

- a. Sections. 87 (d), 88 (1), (2) & (3), 89, 116 (2), 117(3) contain concrete responsibilities in regard to delivery of services and grievances from service delivery.

7.3 Principles of GRM & good governance

i. **Efficiency and effectiveness**

- Resourcing – Have a dedicated budget line for GRM operations, human resource and create complaints handling capacity.
- Develop Standard GRM procedure/processes - explore use of technology to handle complaints, feedback, referral mechanism and expected timelines.

ii. **Transparency, Accountability and Responsiveness**

- Establishment of the office of County Ombudsperson through County legislation, appoint a substantive holder who will report to CAJ annually
- Integrate GRM into the County PC System [including County Officers] to ensure it remains a critical component of County service delivery.

iii. **Participation**

- Sensitize the public on GRM and create demand for its services. In the absence of political will, citizenry demand can create political costs for elected officials for not responding to public concerns.
- Decentralized at both geographical i.e., Sub-County level and ward level, and functional levels i.e., complaints are received directly in the relevant County Departments.

Mainstreaming Grievance Redress Mechanisms (GRM)

- Establish GRMs.
- Put in place controls/ checks for the GRMs to enhance their effectiveness and efficiency.
- Monitoring & evaluation is one way to do this, through continuous data collection and record keeping.

- Use of GRM mechanisms to improve service delivery by identifying systemic issues arising out of grievances and presenting them to the County cabinet for policy decisions on systemic changes.
- CAJ also offers support in development of recording templates and evaluation of the performance of county GRMs.

7.4 Role of County Assemblies in Strengthening GRMs

- **Representation:** Ensure citizens receive county services
- **Legislation:**
 - Introduce service oriented private member's bills.
 - Consider proposals from the executive on policies/ laws to be passed.
- **Oversight**
 - Check on the county executive's operations (service charter implementation); law/ policy implementation and budget implementation
 - Considering citizens' petitions

7.5 Legal Framework on Access to Information (ATI)

- Access to Information (ATI) is a fundamental human right enshrined in Article 35 of the Constitution of Kenya 2010.
- ATI Act, 2016 operationalizes Article 35 of the Constitution.
- County Governments Act: Section 96(3) obligates counties to enact legislation to ensure access to information.
- Sections 94,95,96 require counties to establish mechanisms of ensuring citizens access information using channels with widest public outreach in order to enhance public participation.

Principles of Access to Information

- Maximum disclosure of information within the statutory timelines (21 days and 48hrs).
- Obligation to publish all information on county websites and social media platforms.

- Non-disclosure of information shall only be permitted under legal and justifiable circumstances stipulated under section 6, ATI Act.
- Costs of production levied should be reasonable.

Mainstreaming Access to Information

- Domesticate ATI legislation to give effect to section 96(3) County Governments Act. (Model law by CAJ is a reference guide).
- Appointment of Information Access Officers with clear ToRs.
- Digitization and maintenance of records that are accurate, authentic and have integrity and are usable in a manner to facilitate ATI.
- Establish Access to Information centers within county administration units in order to enhance access to information.
- Proactively disclose information on county websites, notice boards, and social media platforms and regularly update all sets of information under the ATI & PFM Act.
- Develop whistleblowers protection policy in order to encourage public interest disclosures by county officers.

7.6 Enhancing Public participation in County & GRM matters

- i. Constitutional provisions- Art. 10, 118 (1) (b), 196 (1) (b), 232 (1) (d), 174 (c)
- ii. Right to public participation in legislative process, and the role of the legislature in its promotion, providing feedback, and sharing information in an accessible and timely manner
- iii. Choice of any modality and approach informed by ultimate goals
- iv. ATI as an important prerequisite for effective public participation
- v. Sensitize the public on GRM and create demand for grievance redress services. In the absence of political will, citizenry demand can create political costs for elected officials for not responding to public concerns.
- vi. Partner with CAJ in building the capacity of the citizenry to hold County staff accountable through public education forums

Areas of Collaboration with CAJ

- Create linkage between County Governments and CAJ. Support by CAJ in capacity building of county staff, undertaking training needs assessment and training strategy.
- Technical support by CAJ to counties in the development of county GRM and ATI mechanisms.
- Peer learning on good practices in order to mainstream access to information to bolster full implementation of the Access to Information Act.
- Partner with CAJ to decentralize its services to the Counties. Case of partnership with Laikipia County to establish Nyahururu office.

Ways of Lodging a Complaint to CAJ

- Through physical visit to CAJ headquarters in Nairobi or any of the regional offices in Isiolo, Kisumu, Mombasa, Eldoret, Garissa, Nyahururu or Huduma Centers
- Call to Toll free number: 0800 221 349
- EMAIL: complain@ombudsman.go.ke / SMS platform on 15700
- WEBSITE: www.ombudsman.go.ke/ CMIS – Complaints Management Information System www.cmis.ombudsman.go.ke

7.7 Public Participation in Legislation Making

- i. Derived from the principle of Sovereignty of the People that states the people may exercise their sovereign power either directly or through their democratically elected representatives
- ii. A two-way communication
- iii. A collaborative problem solving mechanism
- iv. A form of consultation
- v. Goal: achieve better and more acceptable decisions.
- vi. Other terms sometimes used are ‘citizen participation’, ‘public involvement’, ‘community involvement’ or ‘stakeholder involvement’.

Who are the public?

- **S. 2 of the CGA** defines "the public", when used in relation to public participation mean to mean—
- (a)the residents of a particular county;
 - (b)the rate payers of a particular city or municipality;
 - (c)any resident civic organisation or non-governmental, private sector or labour organization with an interest in the governance of a particular county, city or municipality;
 - (d)non-resident persons who because of their temporary presence in a particular county, city or municipality make use of services or facilities provided by the county, city or municipality;
- **Subsidiarity principle**— i.e those most affected by a policy, legislation or action must have a bigger say in that policy, legislation or action and their views must be more deliberately sought and taken into account.

Legal Framework on Public Participation

i. Constitution of Kenya, 2010:

- Art. 1 – Sovereignty of the People
- Art. 10 - National values and principles of governance include public participation
- Art. 35 guarantees every citizen the right to access information held by the State. This includes information required for effective public participation
- Article 69(1) - Public participation in the management, protection and conservation of the environment.
- Article 174 (c) - outlines the objects of devolution which include to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them;
- Article 184 (1)(c) - obligates enactment of legislation to provide for participation by residents in the governance of urban areas and cities.

- Art. 196 (1) - obligates the county assembly to facilitate public participation and involvement in the legislative and other business of the assembly and its committees.
- Art. 201. - Principles of public finance are openness and accountability, including public participation in financial matters;
- Fourth Schedule Part 2 (14) - Counties are to ensure and coordinate the participation of communities in governance at the local level.

ii. **County Governments Act**

- s. 6 (6) - obligates county governments in exercising its powers or performing any of its functions to ensure efficiency, effectiveness, inclusivity and participation of the people.
- s. 6A - obligates county governments to facilitate public participation before passing a resolution to transfer the county headquarters.
- S. 15 (1) - Right to petition county assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.
- S. 87 - sets out the principles of public participation in the counties
- S. 88 - Citizens right to petition and challenge the county government on any matter under the responsibility of the county government.
- S. 91 – obligates county governments to facilitate the establishment of structures for citizen participation including—
 - information communication technology based platforms;
 - town hall meetings;
 - budget preparation and validation fora;
 - notice boards: announcing jobs, appointments, procurement, awards and other important announcements of public interest;
 - development project sites;
 - establishment of citizen fora at county and decentralized units

- Section 115 – makes public participation in the county planning processes mandatory and obligates each county assembly to develop laws and regulations giving effect to the requirement for effective citizen participation in development planning and performance management within the county and such laws and guidelines shall adhere to minimum national requirements.
- Kisumu County Public Participation Act, 2015
- Kisumu County Access to Information Act, 2015
- . Public Finance Management Act
 - S. 125 - obligates the County Executive Committee member for finance to ensure that there is public participation in the budget process.
 - S. 137 - provides for the establishment of the county budget and economic forum for county budget consultation process./ Art. 201 - provides for the principles that guide public finance and states that there shall be openness and accountability, including public participation in financial matters
 - S. 207 - provides for enactment of regulations to provide for participatory governance in financial matters

iii. Access to Information Act, 2016

- s. 3 - the objects of the Act include to promote routine and systematic information disclosure by public entities and private bodies on constitutional principles relating to accountability, transparency and public participation and access to information.
- s. 6 - obligates public entities to publish all relevant facts while formulating important policies or announcing the decisions which affect the public, and before initiating any project, or formulating any policy, scheme, programme or law, publish or communicate to the public in general or to the persons likely to be affected thereby in particular, the facts available to it or to which it has reasonable access which in its opinion should be known to them in the best interests of natural justice and promotion of democratic principles (principle of proactive disclosure)

iv. Public Service (Values And Principles) Act, 2015

- **S. 11.** Obligates the public service to facilitate public participation and involvement in the promotion of values and principles of public service.
- **S. 12.** Provides for Public Participation in policy-making and obligates public entities to develop guidelines for the involvement of the people in policy-making. The guidelines developed should ensure the public is given—
 - adequate opportunity to review a draft policy;
 - adequate opportunity to make comments on a draft Policy;
 - an opportunity to be heard by the makers of a policy;
 - Notification of the final draft of the policy and whether or not it incorporates their views.

v. **Fair Administrative Action Act, 2015 (FAA)**

- **Section 5(1)** - where any proposed administrative action is likely to materially and adversely affect the legal rights or interests of a group of persons or the general public, an administrator shall—
 - issue a public notice of the proposed administrative action inviting public views in that regard;
 - consider all views submitted in relation to the matter before taking the administrative action;
 - consider all relevant and materials facts; and
 - where the administrator proceeds to take the administrative action proposed in the notice—
 - give reasons for the decision of administrative action as taken;
 - issue a public notice specifying the internal mechanism available to the persons directly or indirectly affected by his or her action to appeal; and
 - Specify the manner and period within which such appeal shall be lodged.
 - Section 2 of the FAA Act defines an ‘administrative action’ and an ‘administrator’ as follows: -

- ‘administrative action’ includes -
 - (i) The powers, functions and duties exercised by authorities or quasi-judicial tribunals; or
 - (ii) Any act, omission or decision of any person, body or authority that affects the legal rights or interests of any person to whom such action relates;
- ‘Administrator’ means ‘a person who takes an administrative action or who makes an administrative decision’.

vi. **Urban Areas And Cities Act, 2011**

- s. 2. provides for “Citizen Fora”, a forum for citizens organised for purposes of participating in the affairs of an urban area or a city under this Act;
- s. 3 - Object and purposes of the Act include participation by the residents in the governance of urban areas and cities
- 2nd Schedule provides for rights of, and modalities for participation by residents in affairs of their city or urban area

Principles of Public Participation

- i. **Set out under s.87 of CGA.** They include;
 - a. timely access to information, data, documents, and other information relevant or related to policy formulation and implementation;
 - b. reasonable access to the process of formulating and implementing policies, laws, and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards;
 - c. protection and promotion of the interest and rights of minorities, marginalized groups and communities and their access to relevant information;
 - d. legal standing to interested or affected persons, organizations, and where pertinent, communities, to appeal from or, review decisions, or redress grievances, with particular emphasis on persons and traditionally marginalized communities, including women, the youth, and disadvantaged communities;

- e. reasonable balance in the roles and obligations of county governments and non-state actors in decision-making processes to promote shared responsibility and partnership, and to provide complementary authority and oversight;
- f. promotion of public-private partnerships, such as joint committees, technical teams, and citizen commissions, to encourage direct dialogue and concerted action on sustainable development; and
- g. Recognition and promotion of the reciprocal roles of non-state actors' participation and governmental facilitation and oversight.

Public participation process

- **INFORM:** Provide Opportunity for Access to Information E.g. Information, dissemination, Inform, Educate
- **CONSULT:** Provide Opportunity for input E.g. Previsit, Pre-hearing, Environmental Scan]
- **INVOLVE:** Provide Opportunity for dialogue and interaction[E.g. Hearing, Sitting, Participation
- **FEEDBACK:** Provide Feedback to stakeholders E.g. Follow-up visits, Monitoring and Evaluation, Communication

Benefits of Public Participation

- Citizen empowerment
- Generation of new, diverse & innovative ideas
- Appropriate prioritization of projects
- Improved delivery of public services
- Legitimation of government programs
- Enhanced citizen-government relationships

Challenges to effective public participation

- **Laws & Policies**
 - Are there sufficient laws & policies that guide on public participation
- **Funds – budget**
 - Dissemination of notices - advertisements

- Reproducing documents/copying
- Dissemination of documents – transport & messenger
- Securing attendance of the public
- Translating documents to Swahili & local languages
- Transcribing documents to braille
- **Human resource capacities**
 - Adequate number of staff
 - Knowledge/competence
 - Interpreters – for local dialect or sign language
- **Citizen dis-concern/apathy**
 - Demands for transport, lunch, snacks, allowances
 - Citizen education on importance of their participation
- **Time**
 - Early planning - Tana River case
- **Language**

Considerations for effective public participation

i. Target groups

- Guided by s. 2 of CGA
- Must show intentional inclusivity & diversity
- Apply the subsidiarity principle
- Special interest considerations – women, youth, PWD, older persons, the illiterate, minorities & marginalised communities/clans/groups.

ii. Advertisement of notices

- Be specific/with clear details

- Adequate notice – timeline? 7/14 days?
- Mode of communication- its reach to public
 - Radio (local dialect – county radio), TV, newspaper, posters on public notice boards, sms, WhatsApp, facebook, twitter, churches, barazas, road shows etc

iii. Publication of information/documents

- Website, Facebook, newspaper, WhatsApp, public notice boards
 - Public coverage of network
 - Access to wifi or bundles by citizens
- Hard copies – free or charged? – ATI Act 2016
- Simplified versions
- Swahili versions or local dialect

iv. Venues - accessibility

- ✓ Distance from county headquarters, sub-county, wards, locations, sub-locations, villages
- ✓ PWD), older persons

v. Public Forum – physical/virtual

- Attendance
- Sensitization
- Undertake consultations
- Receipt and documentation of views – minutes/report
- No obligation to hear views of everyone

vi. Post participation activities

- Considerations of views
 - Review and consider all views

- No obligation to accept the views
- However, consideration of views must be done in good faith

➤ Reporting/feedback

- Establish feedback channels
- Give reasons (FAA Act)

Other Initiatives to promote citizen engagement

- i. Open plenaries and committee meetings
- ii. Public education initiatives
- iii. Providing feedback to the public on County Assembly interventions/reasons for decisions made
- iv. Continuous/active engagement - A shift towards a more interconnected and outcomes-based approach as opposed to an events driven approaches.
- v. County Assembly week
- vi. Sectoral programmes focusing on youth, women and people with disabilities
- vii. Allocate resources – financial, human, infrastructure, technology etc.
- viii. Leverage on technology

8.0 MANAGEMENT OF WARD OFFICE AND WARD STAFF

(Facilitator: Madam Roseline Awour– Senior Administrative Officer)

8.1 Acquisition of Ward Offices

The process of acquiring Ward offices for Members of the County Assembly is guided by the following statutes:

- i. The County Government Act, 2012
- ii. The County Assembly Service Act (No.24 of 2017)
- iii. The County Assembly of Kisumu Service (Ward offices) Regulations 2022.
- iv. Salaries and Remuneration Commission guidelines (SRC)

The County Assembly of Kisumu Service Board (Ward Offices) Regulations, 2022, provides that the Hon. MCA may identify a suitable office for consideration of the Ward office.

- i. The Regulations mandates the Hon. Member of the County Assembly to identify a suitable office for consideration as the Ward office. The perimeters of consideration include:-
- ii. The building should be fit for human habitation and meets basic public health standards
- iii. The building should be structurally sound.
- iv. Upon fulfillment of the requirements, the Clerk of the Assembly shall sign the tenancy agreement with the Landlord/Landlady/Agent witnessed by the Member of the County Assembly.

8.2 Restriction on where to open an office

- i. The building should not be owned by the Member or his close relative.
- ii. The Member should not have direct interest on the building.
- iii. The office should not be in the Members home.
- iv. The rented office space for the Ward shall not exceed the CAP as directed by the SRC

Any complaint regarding the misuse of Ward office shall be reported to the member in writing and the general public may also direct such complaints in writing to the County Assembly Service Board.

8.3 Funding Of Ward Offices

- i. The Ward office Managers shall be issued with an authority to incur expenditure by the Clerk of the Assembly for the approved budget in respect of that Ward in every financial year.
- ii. The Ward office Manager shall ensure that the money available to the Ward Pursuant to regulation 11 is spent in conformity with existing government structures, Laws and Regulations.
- iii. At regular intervals supporting documents for expenditure incurred shall be lodged with the Clerk for reimbursement.
- iv. An account approved by the County Assembly Service Board (CASB) shall be opened for every Ward with a reputable Commercial Bank.
- v. The signatories to the account opened shall be: The Ward Office Manager and Two signatories approved by the Clerk to the Assembly

8.4 Staffing Of Ward Offices

- i. The Hon. MCA shall forward three names to the CASB to be employed in the position of: Ward office Manager/ Personal Assistant to the MCA, Ward Office Secretary and Security Officer
- ii. The staff employed shall not hold any position in a political party.
 - 1) The staff employed shall be paid: Gratuity, NSSF, NHIF, and Other specified allowances

8.5 Qualifications for Ward Staff

- i. The Ward Office Manager shall have a minimum of 'O' LEVEL qualification. Post 'O' LEVEL qualification will be an added advantage.
- ii. The Ward Office Assistant / Secretary shall have a minimum 'O'LEVEL qualification.
- iii. The Security Officer must be a Kenyan citizen aged 18 years and above.

8.6 Duties of the ward partisan staff

- i. Will provide administrative and institutional support to the Member.
- ii. Prioritize incoming mail and enquiries
- iii. Keep the member well informed about the transactions of the Ward bank account.
- iv. Conduct official correspondence.
- v. Undertake general office management
- vi. Maintain a members diary at the ward office by recording all major ward event that requires the Member's attention and
- vii. The Secretary and other staff shall perform such duties as shall be assigned to them by the Ward Office Manager from time to time.

9.0 SAVINGS AND RETIREMENT PLANNING

The participants also benefitted from additional presentations on personal financial management, savings and retirement planning from the following pension schemes and financial organizations; LAPFUND, Stima SACCO and LAPTRUST (CPF)

10.0 CONCLUSIONS AND RECOMMENDATIONS

Upon the closure of the induction, participants indicated that they had met their individual and general expectations as well as the objectives of the exercise. It was noted that the spirit of unity, team work and corporation had been instilled with participants alluding to have been adequately informed and ready to face their mandates.

However, it was recommended that the MCAs should be encouraged to seek more knowledge and comprehensive understanding of their duties through continuous on-the job learning exercises and capacity building programs. It was also recommended that the management and the leadership of the Assembly should foster more unifying activities as well as capacity building exercises to continuously build on the various skills of the new MCAs for effective and efficient delivery of their duties and the functions of the Assembly.