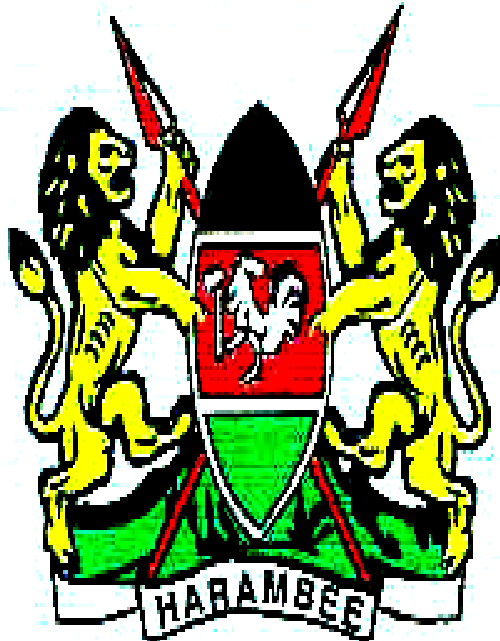


**REPUBLIC OF KENYA**



**GOVERNMENT OF MAKUENI COUNTY**

**HUMAN RESOURCE POLICIES AND PROCEDURES MANUAL FOR THE COUNTY  
PUBLIC SERVICE**

**JUNE, 2017**

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## **FORWARD**

The development of this Policy Manual is geared towards aligning it to the new Constitutional dispensation as well as other public service regulations. The manual aims at giving adequate focus to public servants on the need to understand government operations including provisions of national values, public service values and principals, performance management as well as regulations governing the conduct of public servants in the discharge of their duties at the workplace.

The Constitution of Kenya, 2010 has placed tremendous responsibility on the Public Service to deliver speedy and high quality services to the citizens. The Kenya Vision 2030 also envisages a Public Service that is efficient, effective and result oriented able to deliver on the Vision's aspirations of a "globally competitive and prosperous country with a high quality of life for its citizens".

In essence this Human Resource Policy Manual is a summary of policies, procedures and practices related to human resource management in the Kenyan Public Sector as well as other best practices from various common wealth nations. It further provides guidelines in the management and development of human resource capacity towards the achievement of the county public service Board's strategic goals and objectives for an effective and efficient staff management. In this regard, the CPSB rallies on all staff members to make reference on this manual to ensure organizational standards are followed in the application of the stated best practices across board.

In particular, it's imperative to note that, this policy manual takes great cognisee of the provisions of the Constitution of Kenya 2010, the Labour Laws, and other legislations that govern various aspects of industrial relations.

Further, it's advised that, since the policies contained in this manual are not exhaustive of all the rules and regulations governing the Board staff in their day to day activities, it should be read alongside other relevant statutes, where applicable for better interpretation and

application. As the County Public Service Board seeks to respond to the opportunities that exist under its scope in delivering services, it is important for all members of staff to recognize that the decisions made in pursuing the vision, mission and objectives of CPSB shall be an ultimate goal. In this regard, development of a strong team that subscribes to the core values of CPSB is critical.

Further, the CPSB is expected to be guided by this Manual to induct newly recruited, officers on transfer and those who have been promoted. In essence, the CPSB through t h e

Secretary/CEO and Officers in charge of various Departments and Units will be responsible for effective implementation of this initiative in their respective areas of jurisdiction. To achieve the expected results, the office responsible for Human Resource, under the stewardship of the Secretary/CEO, will be expected to implement the outlined procedures contained herein on behalf of the Board; and shall be available to answer any queries or provide clarification on any content of this manual. The policies in this manual will apply to all Makueni County Public Service staff.

In conclusion, it's reiterated that all members of staff shall be expected to familiarize themselves with the contents of this manual. As a dynamic organization, the provisions of this manual will be reviewed from time to time to respond to emerging needs and changing operating environment of the County Government.

Finally, the county Public Service Board will endeavour to have and maintain a work environment that recognizes diversity, personal and professional growth for its entire staff.

**Benjamin Mutie**

**Chairman**

**Makueni County Public Service Board**



## **EXECUTIVE SUMMERY**

The Constitution of Kenya (2010) provides for restructuring of the government from a centralized to a devolved system. The Fourth Schedule distributes functions between the National and County governments. The National government deals with policy formulation, national planning, quality assurance and setting of norms and standards, while County governments deal with policy formulation and service delivery at the County level. With the transfer of functions to the County level of government, a County public service which will perform the functions has been established. To ensure the County public service is effectively managed, it has been found necessary that the County Public Service Human Resource Policies and Procedure Manual be developed. The manual provides procedures on various aspects of HRM function that will guide the management of human resources in the County government.

This manual is in tandem with best human resource practices and incorporates the provisions of the Constitution of Kenya (2010), the County Governments Act (2012), Labour Laws and other relevant legislation that govern various aspects of employee/employer relationship in the Public Service. The Regulations are also anchored on other policies and guidelines governing the management of the Public Service.

The manual covers among other key areas Organization of Government, Labour Relations, Terms and Conditions of Employment, Performance Management, Code of Conduct, Salaries and Advances, Allowances, Medical Benefits, Leave, Training and Development, Health and Safety as well as Terminal Benefits.

It is important to note that this Manual is not exhaustive and should be read together with all relevant legislations and regulations governing devolution and the Public Service.

The manual will apply to the County government public service, and will be updated from time to time to reflect policy changes affecting human resource management in the Public Service.

Where clarification on any part of this Manual is required, it should be sought from the Secretary, County Public Service Board.

**CS. Justus K. Kisilu**

**Secretary/CEO**

**Makueni County Public Service Board**

## **INTRODUCTION**

This manual provides a source of information on the conditions of employment for staff and is a general guide outlining the County Human Resource Policy. However, staff should seek guidance and clarification from the Secretary, CPSB in respect of cases which may not have been covered by any general statement, including interpretation of any section of the manual. Further, it should be noted that any information not captured in this manual will be addressed on need basis through other Government procedures including but not limited to service guidelines, circulars and memos from time to time.

## **DEFINITION OF TERMS**

In this manual, except when the context otherwise requires, the following words and expressions shall have the following meaning; -

<b>Accounting Officer</b>	Means a public officer appointed to take full responsibility on the finances, assets and liabilities of the respective County department.
<b>Authorized Officer</b>	Means a County public officer to whom the County Public Service Board has delegated its functions and exercises supervision over a County Department.
<b>Basic Salary</b>	Means an officer's salary excluding allowances.
<b>Bondee</b>	Means an employee who is serving a training bond obligation.
<b>County Executive Committee Member</b>	Means a person holding office of a CEC–Department of the Government of Makueni established the Constitution provisions of Kenya.
<b>Chief Officer</b>	Means an Officer responsible for a County Department.
<b>Children</b>	Means the biological off-springs or legally adopted child under

the age of twenty two (22) years who are unmarried and are wholly dependent on the officer. For purpose of records, the names of the children must be declared at the time of birth or adoption if it occurs during employment in the Civil Service. Copies of birth certificates or legal adoption papers will be required in either case.

<b>Consultative Committee</b>	Means a forum for co-operation and negotiation between the County Government as an employer, and trade unions.
<b>Constitution</b>	Means the Constitution of Kenya, 2010
<b>County Public Servant Or Officer</b>	Means employee of the County Public Service
<b>County public service</b>	Means the collectivity of all individuals performing functions within any department of the County government or its agency but does not include the Governor, Deputy Governor, members of the County Executive Committee, County Secretary and members of the County Assembly.
<b>County</b>	Means a County established under Article 6 (1) of the Constitution and specified in the First Schedule.
<b>County Governor</b>	Means the Chief Executive Officer of a County in a County Government
<b>Extended Family</b>	Includes parents, brothers and sisters of the officer.

**Immediate Family** Includes the officer, spouse, children and the officer's parents.

**Leave Year** Means the period commencing 1<sup>st</sup> July to 30<sup>th</sup> June of each financial year.

**Living Allowance** Means an allowance paid to an officer undertaking long a course abroad as determined by the Government for respective countries. The allowance

is meant cater for subsistence, accommodation, outfit and excess baggage. Officers attending long courses on full time basis in local institutions and outside their duty stations will be eligible for living allowance on similar arrangements.

**Next-of-Kin** Means the name of the person provided by the officer for the purpose of contact during emergency and in case of death.

**Nuclear Family** Means the officer, spouse and children.

**Public officer** An employee of the Government including a state officer

Whose remuneration is drawn from the consolidated fund

**Pro-rata** Means computation of benefits for the period served in relation to the full term entitlement.

**Reimbursable Allowances** Means those allowances where an officer gets reimbursement on the expenditure incurred in the course of duty.

**Remunerative Allowance** Means those allowances paid to an officer, in addition to salary as a form of compensation for additional responsibilities

**Daily Subsistence allowance (Local Travel)** Means Payment made to an officer when



travelling on duty and stays overnight away from his duty station and makes his own arrangements for accommodation, accommodation allowance shall be paid to him at the rates determined by the Government from time to time.

<b>Spouse</b>	Means legal marriage partner of an officer specified under the Marriage Act or in accordance with the relevant Customary Law.
<b>State Officer</b>	Means a person holding a State Office.

**Surety**

Means a person who formally accepts responsibility to locate a bondee and/or redeem the bond obligation of a bondee who defaults or appears in a court of law in respect of the same.

**Tour of Service**

Means the period of employment contract in the Civil Service awarded to a foreign employee.

**Training Bond**

Means formal agreement between the County Government and its employees who are selected for approved training that oblige them to serve in the County public service for a specific period of time on completion of training.

**Disclaimer**

This County Public Service Human Resource Manual is formulated with due regard to gender; thus where reference is made either to 'he' or 'she' only, it shall be construed to mean and include reference to both 'he' and 'she' and where reference is made to spouse, it shall be construed to mean and include reference to both 'husband' and 'wife' where applicable and vice versa.

## **LIST OF ACROYNYS**

<b>CBA</b>	Collective Bargaining Agreement
<b>CHRAC</b>	County Human Resource Advisory Committee
<b>CPSB</b>	County Public Service Board
<b>DPMC</b>	Departmental Performance Management Committee
<b>DOSH</b>	Directorate of Occupational Safety and Health
<b>GPA</b>	Group Personal Injury
<b>NSSF</b>	National Social Security Fund
<b>PSC</b>	Public Service Commission
<b>TA</b>	Transition Authority
<b>SRC</b>	Salaries and Remuneration Commission
<b>WCPS</b>	Widows and Children's Pension Scheme
<b>WIBA</b>	Work Injury Benefits Act
<b>CGA</b>	County Governments Act

## **PURPOSE AND SCOPE OF THIS MANUAL**

The Human Resources Policies and Procedures manual is a set of guidelines to assist Authorized Officers and employees undertake their operational responsibilities without impediment or debate. It provides a framework within which consistent decisions are made to promote equity and harmony in the Management of Human Resources in the County.

These policies and procedures manual should be read in conjunction with the contract of appointment. Except where specifically stated, the contract of appointment takes precedence over the terms and conditions stated in this manual.

The County Public Service Board will distribute and make amendments to the manual from time to time. Such amendments will be communicated through circulars indicating the date of issue, and be incorporated in the manual upon the next review.

## **APPLICABILITY OF RULES**

Except as otherwise expressly provided herein, powers exercised by any category of officer under these regulations can also be exercised by a superior officer.

Staff Notices, Circulars and Instructions currently in operation will be regarded as part of the Staff Rules and Regulations.

Except as otherwise expressly provided herein, these Rules shall apply to all County employees.

Where these Rules conflict with the respective Collective Bargaining Agreements, individual contracts and terms of employment as contained in appointment letters, then the latter shall prevail.

## **SECTION A: ORGANIZATION OF GOVERNMENT**

### **A.0 INTRODUCTION**

This section provides for the structure of government in Kenya. It also provides for the national values and principles of governance and values and principles of Public Service, the functions of the National and County governments, the organization of the County governments and functions and powers of the County Public Service Board. The role of the Public Service Commission in relation to County Public Service is also contained in this section. It shall be read in conjunction with the Constitution of Kenya, the County Governments Act, the Public Service Commission Regulations and other relevant legal statutes.

### **A.1 GOVERNANCE, STRUCTURE AND OFFICIAL COMMUNICATION**

The National Government comprises of the National Executive, the Legislature and the Judiciary. The National Executive comprises of the President, the Deputy President and the Cabinet. The Cabinet consists of the President, Deputy President, Attorney General and not fewer than fourteen and not more than twenty two Cabinet Secretaries.

- (1) The Parliament is a bicameral Parliament i.e. it consists of two houses; The National Assembly and the Senate. The National Assembly represents the constituencies while the Senate represents the counties.
- (2) County Government comprises the County Executive and the County Assembly. The County Executive Committee comprises of the Governor and County Executive Members appointed by the Governor with the approval of the County Assembly. The County Assembly is the legislative arm of the County Governments.

## **A.2 THE COUNTY PUBLIC SERVICE**

The County Public Service shall be responsible for implementation of the Government policies and programmes as stipulated under the County Governments Act, 2012.

- (1) The functions of the county government will be performed through the public service. The public service is a catalyst for socio-economic development of a country /County and it greatly impacts on the quality of life of the citizens.
- (2) Under Article 260 of the Constitution, public service means the collectivity of all individuals, other than State officers, performing a function within a State organ.
- (3) Under Article 56 of the Constitution and Section 56 (1) of County Governments Act, each County shall have its own public service to be known as County public service.
- (4) The public service whether at the national or county level serve the Kenyan public and should as much as possible be insulated from politics.

## **SECTION B: INSTITUTIONAL FRAMEWORK**

This section provides a summary of matters related to the administration and management of the County Government. It shall be read alongside the Constitution of Kenya, other Public Service Regulations and legal statutes.

### **B.1 NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE**

In discharging their functions, the county government shall be guided by the National values and principles of governance and values and principles of public service.

(1) The National Values and Principles of Governance include: -

- (a) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of people;
- (b) Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;
- (c) Good governance, integrity, transparency and accountability; and sustainable development.

(2) The Values and Principles of Public Service include:-

- (a) High standards of professional ethics;
- (b) Efficient, effective and economic use of resources;



- (c) Responsive, prompt, effective, impartial and equitable provision of services;
- (d) Involvement of the people in the process of policy making;
- (e) Accountability for administrative acts;

- (f) Transparency and provision to the public of timely accurate information;
- (g) Subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;
- (h) Representation of Kenya's diverse communities; and
- (i) Affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service of:-
  - i men and women;
  - ii the members of all ethnic groups; and
  - iii persons with disabilities

The County Public Service Board shall promote, evaluate and report on the state of compliance of the values at the County level.

## **B.2 FUNCTIONS OF THE NATIONAL GOVERNMENT**

The functions of the National Government are set out in the Fourth Schedule of the Constitution. The National Government is responsible for:

- (i) Foreign affairs, foreign policy and international trade;
- (ii) The use of international waters and water resources;

(iii) National defence and the use of the national defence services; and

(iv) Police services amongst others.

**Functions of the County Governments as set out in fourth schedule are:**

(i) Agriculture;

- (ii) County health services;
- (iii) Control of air pollution, noise pollution, other public nuisances and outdoor advertising;  
and
- (iv) Cultural activities, public entertainment and public amenities amongst others.

Article 6(2) of the Constitution provides that the governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.

### **B.3 ORGANIZATION OF COUNTY GOVERNMENTS**

The County governments have an executive arm of government and a legislative arm. The executive arm of County governments comprises the governor and the County Executive Committee appointed by the governor and approved by the County assembly. The County Public Service shall be headed by the County Secretary who shall also be secretary to the County Executive Committee.

#### **B.3.0 Role of the Executive Committee**

- (1) The County Executive Committee will be responsible for the management and coordination of the County administration and its departments and will develop and implement County policies as provided for under Section 37 of County Governments Acts (CGA).
- (2) The members of the Executive Committee are individually and collectively accountable to

the Governor in the exercise of their powers and the performance of their duties and responsibilities.

- (3) They shall appear before a Committee of the County Assembly when required by the Committee and answer any question concerning a matter for which the member is responsible (Section 39 of CGA).

### **B.3.1 Allocation of Functions to County Departments**

The allocation of functions to County Departments shall be as set out in Governor's Circulars which will be issued to the County Public Service from time to time.

### **B.3.2 Communication by Executive Committee Members**

- (1) Executive Committee Members will communicate directly with the Governor by minutes, letters or verbally, as may be appropriate. They may see him/her by arrangement whenever they wish to do so. Executive committee members should inform the Governor at the earliest possible opportunity of any important event connected with the administration of functions of their respective County Departments.
- (2) Executive Committee Members will communicate: -
  - (i) With one another on official matters by letters, emails, Memos, telephone and not by passing files;
  - (ii) With the County Secretary by minutes, emails, telephone or orally;
  - (iii) With their Chief Officers by letters, emails, Memos and telephone;

- (iv) With Heads of Departments under their control in writing through their Chief Officers.

- (3) If an Executive Committee Member wishes to communicate with a Department not falling within his portfolio, he will do so through the appropriate Executive Member and not directly.
- (4) An Executive Committee Member will communicate with officials of Departments under his/her general control through the appropriate Chief Officer/Head of Department, or the immediate supervisor as the case may be and not directly except in such matters of daily routine as may require direct communication, or when special circumstances so require. In such cases, if any important decisions or directions are involved, the Executive Committee Member concerned should also confirm his instructions to the Chief Officer/Head of Department as soon as possible.

### **B.3.3 Role of the County Secretary**

The County Secretary shall be the head of the County public service. He/she will be responsible for arranging the business and keeping the Minutes of the County Executive Committee subject to the directions of the executive committee, conveying the decisions of the County executive to the appropriate persons or authorities and performing any other functions as directed by the County Executive Committee (Section 44 (3) of CGA).

### **B.3.4 Role of County Chief Officers**

- (1) County Chief Officers are responsible to their respective County Executive Committee Members for:-
  - (i) Efficient management and administration of their respective County departments as provided for under Section 46 of CGA
  - (ii) Efficient utilization of funds and other Public resources placed at their disposal as they shall be the Authorized Officers in respect of exercise of delegated powers; and



- (iii) Giving effect to lawful directives of County Executive Committee Members and keeping them informed of all important activities and events;
- (2) County Chief Officer should always seek advice and guidance from their respective County Executive Committee Members on important policy matters.
- (3) County Chief Officer intending to be absent from his/her office will notify his/her respective County Executive Committee Member and the County Secretary of his/her absence.

### **B.3.5 Role of the County Attorney**

The County Attorney is the principal legal advisor to the County Government. His responsibilities include ensuring that County Departments and Agencies are given appropriate legal advice with reference to the Office of the Attorney General Act, 2012.

### **B.3.6 The County Public Service Board**

Section 58 of the County Governments Act, 2012 establishes a County Public Service Board (CPSB) for each County. The CPSB is the body responsible for management of the human resources in the County. It consists of a Chairperson and a Secretary and not less than three but not more than five other members appointed by the Governor with the approval of the County Assembly.

### **B.3.7 Functions and Powers of the County Public Service Board**

The County Governments Act 2012, section 59, empowers the CPSB to:-

- (i) Establish and abolish offices in the County public service;

- (ii) Appoint persons to hold or act in offices of the County public service including in the boards of cities and urban areas within the County and to confirm appointments;
- (iii) Exercise disciplinary control over, and remove, persons holding or acting in those offices;
- (iv) Prepare regular reports for submission to the County assembly on the execution of the functions of the Board;
- (v) Promote in the County public service the values and principles referred to in Articles 10 and 232 of the Constitution;
- (vi) Evaluate and report to the County assembly on the extent to which the values and principles referred to in Articles 10 and 232 of the Constitution are complied with in the County public service;
- (vii) Facilitate the development of coherent, integrated human resource planning and budgeting for personnel emoluments in counties;
- (viii) Advise the County government on human resource management and development;
- (ix) Advise County government on implementation and monitoring of the national performance management system in counties;
- (x) Make recommendations to the Salaries and Remuneration Commission, on behalf of the County government, on the remuneration, pensions and gratuities for County public service employees.

### **B.3.8 Delegation by the County Public Service Board**

The County Public Service Board may delegate in writing any of its functions to any one or more of its Members, the County Secretary, County Chief Officer, Sub-County or Ward Administrator, Village Administrator, City or Municipal Manager and Town Administrators.

### **B.3.9 Communication with the Public Service Board**

All communication with the Board shall be addressed to the Secretary, County Public Service Board. Serving officers may communicate with the Board only in exceptional cases and should channel their letters through their respective Authorized Officers with an advance copy to the Board.

### **B.3.10 Communication of CPSB Decisions**

- (1) The decisions of the County Public Service Board will be communicated through the Secretary, County Public Service Board.
- (2) The Secretary, County Public Service Board will communicate to the County Chief Officer responsible for Human Resource who will in turn communicate to the affected officer.

### **B.3.11 Role of the Public Service Commission in Relation to County Public Service Board**

- (1) The Public Service Commission is mandated to hear and determine appeals from the County Public Service.
- (2) The appeals may be in respect of any decision relating to: -

- (a) Recruitment, Selection, appointment and qualifications attached to any office;

- (b) Remuneration and terms and conditions of service;
- (c) Disciplinary control;
- (d) National values and principles of governance, under Article 10, and values and principles of public service under Article 232 of the Constitution;
- (e) Retirement and other removal from service;
- (f) Pension benefits, gratuity and any other terminal benefits; or
- (g) Any other decision the Commission considers falling within its constitutional competence to hear and determine an appeal in that regard.

**B.3.12 County Human Resource Management Advisory and Departmental Performance Management Committees (CHRMAC & DPMC)**

- (1) To ensure effective human resource management, each Department shall constitute Departmental Human Resource Management Advisory Committee and a Departmental Performance Management Committee.

The committees shall have a membership of nine (9) and the quorum shall be five (5) members. The CHRMAC shall meet at least once in each month while the DPMC shall meet at least once in each quarter. The decisions of the Committees shall be by consensus or majority vote of the members present.

(i) The CHRMAC shall consist of the following members:

(a) County Secretary – Chairperson.

(b) Director Human Resource Management and Development – Secretary.

- (c) Seven other members above Job Group 'P' representing technical departments.
  - (i) An Administrative Officer not below Job Group "Q" may be appointed alternate Chairperson to CHRMAC.
  - (ii) Where the requirement of (c) and (ii) above are deficient, the Committee may co-opt such members, in writing, as necessary from time to time with the approval of the Authorized Officer.
- (2) The functions of Country Human Resource Management Advisory Committees entail making recommendations to the Authorized Officer regarding:-
- (i) Recruitment, selection and appointment;
  - (ii) Performance management;
  - (iii) Promotions;
  - (iv) Confirmation in appointment;
  - (v) Training and Development;
  - (vi) Training Impact Assessment;
  - (vii) Management of skills inventory;



(viii) Establishment and Complement control;

(ix) Payroll management;

(x) Deployment;

- (xi) Promotion of values and Principles of Public Service;
- (xii) Recommendation for secondments and unpaid leave;
- (xiii) Recommendation for retirement under 50 years rule;
- (xiv) Recommendation for retirement on medical grounds;
- (xv) Recommendation for re-designation;
- (xvi) Recommendation for renewal of contract;
- (xvii) Discipline;
- (xviii) Pension administration.

Please note that the above function can also be performed at Departmental level with membership reflecting the above scenario.

- (3) The DPMC shall consist of the following members:

- (i) Chief Officer– Chairperson
- (ii) Directors of Technical Departments or their appropriately meriting alternates
- (iii) Director of Administration where this exists as an appropriately meriting alternates
- (iv) Head of Planning Unit
- (v) Director of Human Resource Management and Development – Secretary

(4) The Functions of the Departmental Performance Management Committee (DPMC) shall be as follows:

- (i) Undertake quarterly review of implementation of Strategic Plans and Performance Contracts;
- (ii) Ensure linkage between Institutional Performance Contract and Performance Appraisal System;
- (iii) Ensure that the overall assessment of employee performance is within the context of institutional performance as evaluated through staff Performance Appraisal System;
- (iv) Ensure that the performance of all officers is evaluated and feedback on performance is relayed in writing at the end of the year;
- (v) Hold quarterly performance review meetings;
- (vi) Consider performance reports from various departments and make recommendations for improvement;
- (vii) Review cases of appeals on appraisal ratings between supervisors and appraisees;
- (viii) Make recommendations to the Authorized Officer on the application of Rewards or Sanctions;
- (ix) Develop and implement the internal monitoring and evaluation and

reporting system; and

- (x) Ensure that the integrity and credibility of the overall process of rewards and sanction system is safeguarded and maintained at all times.

## **B.4 GOVERNMENT COMMUNICATION**

### **B.4.0 INTRODUCTION**

This Section spells out the basic rules for effective communication through correspondence and other means. It provides for expeditious treatment of communication within the prescribed rules and gives a brief guide for use of a variety of other communication media.

#### **B.4.1 Forms of Correspondence**

- (1) Great importance is attached to the expeditious treatment of all communication received by the Government. Every communication requiring a response but which cannot be answered at once should be acknowledged promptly on receipt. The necessary consultations should then be finalized and appropriate reply dispatched in not more than seven (7) days unless it can genuinely be established that such consultations require a longer period.
- (2) Correspondence within the Service should be as concise as possible, indicating the general background to the issue and advice or decision sought on the issue.
- (3) Each correspondence should be confined as far as possible to a single subject under an appropriate and summarized heading. Invariably, the reference number and date of the last communication, if any, from the writer and from the person addressed on the same subject should be given.

- (4) Enclosures in foreign languages should be accompanied by a certified translation or in the case of documents of minor importance, by a summary of the contents.

- (5) Documents received in foreign languages should be referred to the responsible for Foreign Affairs for official translation, if necessary.
- (6) Any information relating to County Government business should not be communicated to the general public without the sanction of the Authorized Officer of the State Department concerned.
- (7) When decisions of the Government have to be conveyed to non-governmental bodies or to members of the public, they should be communicated as the decisions of the Government, and not as those of an individual officer or Department.
- (8) The responsibility of ensuring that correspondence reaches its destination rests with the sender.

#### **B.4.2 Communication by Public Officers**

A public officer shall communicate to his Authorized Officer through his head of department.

All communication to the County Public Service Board shall be through his Authorized Officer.

An officer is not allowed to take extracts or make copies of minutes or correspondence, unless such correspondence is expressly addressed to the officer personally.

#### **B.4.3 Correspondence with Other Governments or Administrations**

Any correspondence relating to relations between Kenya Government and other administration shall be governed by existing bilateral arrangements and other protocols and shall be referred to the State Department responsible for Foreign Affairs for guidance.



#### **B.4.4 Classified Correspondence**

The Government of Kenya Security Manual contains instructions regarding classified correspondence.

The appropriate classification should be clearly marked at the top and bottom of every page of all classified documents.

Authorized Officers will be held responsible for ensuring that the most careful attention is paid to security matters in all offices under their control. The attention of all officers having access to classified information should be particularly drawn to the Security Manual regularly.

#### **B.4.5 Reports and Memoranda for the County Executive Committee (CEC)**

A memorandum intended for consideration of the CEC must be signed by the CECM concerned and submitted in original to reach the Secretary to the CEC at least seven (7) days before the meeting at which it is to be considered.

The memoranda shall be prepared in accordance with the guidelines contained in the Government Office Manual.

#### **B.4.6 Publicity/Broadcasts**

CEC's shall liaise with their respective department of Public Communications for any information they wish to communicate to the public through the media.

The department of public communications will assist in the preparation of the material for publicity in a form most suitable to the media but it will be the responsibility of the

Department concerned to ensure accuracy before any material is issued.

A public officer shall not issue statement(s) to the media on official matters without prior approval of the Authorized Officer.

#### **B.4.7            Use of modern Means of Communication**

For faster communication, Departments shall adopt modern means of Communication such as use of e- mail, fax and telephones.

#### **B.4.8            Use of Password**

Where data is of a confidential nature and electronically stored, officers to whom passwords are entrusted shall take precautions to keep them confidential and safeguarded.

#### **B.4.9            Annual Reports**

- (1) Annual reports are intended to be a record of work done during the period under review and should be concerned with assessing whether government programmes, performance contracts, functions and activities have led to achievement of stated objectives or goals during the year in question. Annual Reports should therefore, include the following information:
  - ① A descriptive statement giving background information about a programme, function or an activity which should include elements such as cost, time span, size and schedule;
  - ① statement of intended objectives which were to be achieved after implementation;

- (i) Environmental influences/factors during implementation;
- (iv) Outcomes/Impacts in relation to the originally stated objectives;

- (v) An analysis on whether the activity in question has been managed efficiently and effectively as planned; and
  - (vi) Recommendations and suggestions for future improvement of the County Government policies and programmes.
- (2) Where feasible, Departments shall publish one report covering it.
  - (3) The result of research or scientific investigations should be published in scientific journals, or as separate monographs, and not in annual reports. The reports should, however, include a reading list referring to these separate publications.
  - (4) Annual Reports will be prepared on the basis of a financial year.
  - (5) Annual Reports should not be published without prior sanction of the Authorized Officer concerned.

#### **B.4.10 Research Approvals**

An officer or a member of the public wishing to undertake research on any aspect of the Public Service in a Government establishment will be required to seek approval of the County Government.

#### **B.4.11 Publications for Diplomatic and Other Representatives Abroad**

- (1) All printed annual, statistical or other reports of general interest prepared by Departments should be sent to the Government's diplomatic and other representatives abroad. To ensure that this is done, the addresses of diplomatic and other representatives abroad should be included in mailing lists.

- (2) It is of great importance that diplomatic and other representatives abroad should be provided with up-to-date information for purposes of publicity and response.

#### **B.4.12 Kenya Gazette**

- (1) All communication for publication in the Kenya Gazette should reach the Government Printer not later than Friday of the week before publication is desired.
- (2) A Department will be required to meet the cost of advertising in the Kenya Gazette.

#### **B.4.13 Official Seals and Stamps**

- (1) The use of official seals and stamps in all County Government offices must be confined strictly to official requirements.
- (2) Applications by private persons for impressions of official seals shall not be allowed.
- (3) The official seals and stamps must be kept under the custody of a senior officer designated for the purpose by the Authorized Officer who shall be accountable for their custody and appropriate use.

#### **B.4.14 Disposal of Records**

Disposal of official records shall be done in accordance with the provisions of the *Official Secrets Act*, the Public Archives and Documentation Services Act and Personnel General

Letter No.1 of 2008.



## **SECTION C: RECRUITMENT, SELECTION, APPOINTMENT AND TRANSFERS**

This part addresses recruitment, selection, appointment, promotions and transfer matters in the public service.

### **C.0 INTRODUCTION**

This provides rules governing recruitment, appointment, confirmation in appointment and promotion of public officers. It also provides guidelines on career progression, secondments and transfer of officers from one organization to another and other related matters.

### **C.1 RECRUITMENT AND APPOINTMENT**

#### **C.1.0 Human Resource Plans**

- (1) Every Department shall prepare Human Resource Plans to support achievement of goals and objectives in their Strategic plans. The plans shall be based on comprehensive job analysis and shall be reviewed every year to address emerging issues and needs.
- (2) On the basis of these Human Resource plans, Departments shall be required to develop annual recruitment plans which will be forwarded to the County Public Service Board at the beginning of each financial year to enable it plan to fill the vacancies.

#### **C.1.1 Reporting of Vacancies**

- (l) An Authorized Officer shall declare all vacant posts to the County Public Service Board in accordance with the procedures set out in the Boards' regulations.

- (2) All vacancies at entry levels will be reported to the County Public Service Board for filling.
- (3) The County Public Service Board shall consider requests for approval of declaration of vacancies. Such requests shall be forwarded by the Authorized Officer upon recommendation by the CHRMAC.
- (4) Recommendations for filling vacancies in an acting capacity shall be submitted to the County Public Service Board. Such recommendations should be accompanied by a draft indent and a seniority list of officers including an account of their performance.

#### **C.1.2 Advertisement of Vacant Posts**

- (1) Departments will advertise all vacant posts in a manner that reaches the widest pool of potential applicants and allow for at least twenty one (21) days before closing the advert. The advert shall have the following details: the title of the post, number of vacancies, job description, person specification and the proposed remuneration.
- (2) The advert shall be delivered in soft copy to the County Public Service Board to be posted in its website.

#### **C.1.3 Recruitment**

Recruitment will be undertaken on the basis of fair competition and merit; representation of Kenya's diverse communities; adequate and equal opportunities to all gender, youth, members of all ethnic groups, persons with disabilities and minorities.

#### **C.1.4        Application for Employment**

A candidate applying for employment shall do so online or manually by completing the

prescribed Makueni CPSB form.

### **C.1.5 Offer of Appointment**

- (1) Before taking up duty, a person appointed to any office will be issued with the appropriate letter of offer of appointment, as the case may be, which must be signed before he commences his/her duties.
- (2) An offer of appointment may be withdrawn if the candidate does not accept in writing and take up the appointment within thirty (30) days of the offer.

### **C.1.5 Categories of Appointment**

Appointments in the public service fall into two categories:

- (i) Pensionable; and
- (ii) Contract.

### **C.1.6 Appointment Procedures**

- (1) The procedures to be followed in filling vacancies within the scope of the County Public Service Board are set out in the Board's Regulations which may be amended from time to time.
- (2) The County Public Service Board may delegate its powers to appoint persons to hold office in the County public service to an Authorized Officer as determined from time

to time.

- (3) Appointments made under the powers delegated by the County Public Service Board to Authorized Officer shall be processed through the appropriate County Department's Human Resource Management Advisory Committee in accordance with Makueni County Public Service Regulations and guidelines issued to the service

from time to time.

### **C.1.7 Letters of Appointment**

- (1) An officer appointed to a position in Makueni County public service shall be issued with a letter of appointment specifying the terms and conditions of service.
- (2) A letter of appointment shall state particulars of employment which should include the name and address of the employee, job title, date of commencement of appointment, terms and duration of employment, place of work, remuneration, terms and conditions of employment and terms of separation.

### **C.1.8 Date of Appointment**

The date of appointment shall be the date of assumption of duty.

### **C.1.9 Appointment documents**

- (1) A candidate on first appointment shall provide the following documents:
  - (i) National identity card;
  - (ii) Birth Certificate;
  - (iii) KRA tax PIN;
  - (iv) Original academic and professional certificates duly authenticated by the issuing authority;
  - (v) Certificate of good conduct from the Directorate of Criminal Investigations;

(vi) Colour Passport size photograph; and

(vii) Bank account details.

- (2) In addition, Authorized Officers shall ensure that all newly appointed officers are duly vetted as per the existing vetting policy.



- (3) The officer shall also make an initial declaration of income, assets and liabilities by completing the prescribed form.

#### **C.1.10 Next of Kin**

An officer will be required to complete a next-of-kin form on first appointment and to update his next-of-kin records and other family details in the Government Human Resource Information System (GHRIS) whenever necessary.

#### **C1.10 Record of Previous Employment**

- (1) It is the duty of the Authorized Officers, when making appointments under delegated authority, or in making recommendations for new appointments, to ensure that a candidate's record of previous employment is satisfactory in all respects.
- (2) A candidate with a record of conviction should be employed only with the concurrence of the County Public Service Board.
- (3) A candidate whose appointment in Makueni Public Service had been terminated for any reason including resignation shall not be employed without prior approval of the County Public Service Board.

#### **C1.11 Medical Examination**

All candidates on new appointment shall be required to undergo a medical examination by a Medical Officer who must complete the prescribed form. The purpose of the medical examination shall be to guide deployment of the employees.

## **C.2**

## **APPOINTMENT ON PROBATION TO PENSIONABLE ESTABLISHMENT**

- (1) Where vacancies exist in the pensionable establishment, candidates recruited to fill such vacancies shall be appointed on probation for a period of six (6) months.
- (2) An officer appointed on probation to the pensionable establishment shall be regarded as being on assessment with a view to learning his work and being tested as to his suitability for it. It is the duty of the supervisor(s) to ensure that every officer on probation is given adequate opportunities to qualify for confirmation in appointment.

At least one (1) month before the expiry of the probationary period, the Authorized Officer shall consider in the light of the report(s) on the officer's performance, conduct and capabilities whether or not the officer is suitable for confirmation.

- (3) Where an officer's performance is unsatisfactory, he shall be informed in writing and the probation period may be extended for a maximum period of three (3) months.
- (4) Should the officer's performance fail to improve on expiry of the extended probation period, his probationary appointment shall be terminated in accordance with Makueni County Public Service regulations.
- (5) Where an officer has served on terms other than pensionable and is subsequently appointed on a pensionable post, the terms of service may be translated to pensionable from the date the officer was placed on a pensionable post. The officer will, however, not be required to serve the probationary period in accordance with this regulation.

## **C.2.0 Admission to pensionable Establishment**

- (1) Appointment to the pensionable establishment when the county shall formally be enlisted shall be restricted to officers who will be in a position to complete the qualifying period necessary for the grant of a pension in accordance with regulations of the respective pension scheme (Pensions Act Cap 189 or the Public Service Superannuation Scheme Act).
- (2) For the purposes of this manual and for the officer's subsequent retirement from the service, a birth certificate and National Identity card issued after the date of first appointment will not be accepted unless the date of birth shown in the birth certificate/identity card tallies with the date of birth declared by the officer in the Application for Employment Form completed and signed by him prior to or immediately after first appointment.

#### **C.2.1 Confirmation in Appointment and Admission to Pensionable Establishment**

- (1) An officer appointed to the Service in a pensionable post will be confirmed in appointment and admitted into the then existing permanent and pensionable establishment on completion of probationary period of six (6) months satisfactory service.
- (2) Service on contract terms may be taken into account in full as probationary service, in the case of an officer who has been appointed on probation to pensionable establishment without a break in service.

#### **C.2.2 Procedure for Confirmation in Appointment**

- (1) The powers of confirmation of all officers in their appointments are delegated to Authorized Officers and will be exercised on the advice of the respective Human

Resource Management Advisory Committee. However, extension and termination of probationary appointments will be dealt with in accordance with the powers

delegated by Makueni County Public Service Board.

- (2) The Supervisor will make a report on the officer's suitability for confirmation or otherwise at least one (1) month before the end of the probationary period and inform the officer accordingly. Where the Supervisor fails to submit a report during the probationary period, the officer shall be confirmed in appointment.
- (3) Where an officer's performance is unsatisfactory, he shall be informed in writing and the probation period may be extended to a maximum period of three (3) months.
- (4) Should the officer's performance fail to improve on expiry of the extended probation period, his probationary appointment shall be terminated in accordance with the County Public Service Board regulations.

### **C.2.3 Appointment on Contract Terms**

- (1) Appointment on contract terms will be made under the following circumstances:
  - (i) Where persons to be appointed may not qualify for pension as per the respective pension scheme.
  - (i) Where officers are appointed to serve on fixed term projects.
  - (ii) Appointments at senior levels as determined by the County Public Service Board from time to time.
  - (iv) Where capacity in the public service is lacking or specific skills are required.
  - (v) Personal staff of specified state officers as determined by the Board from time to time. Such staff shall serve during the tenure of the state officers.
- (2) Appointment of officers on contract and renewal of such contracts shall be made on

authority of Makueni County Public Service Board. An officer serving on contract

and whose services are still required, will be informed in writing at least three (3) months before the expiry of the contract. On acceptance of the offer, the case will be referred to the Board for renewal. This however will not apply to any staff serving on casual basis.

- (3) An officer serving on contract, and whose services are still required, will be informed in writing at least three (3) months before the expiry of the contract. On acceptance of the offer, the case will be referred to the Board for renewal.
- (4) Contract appointments will be limited to a maximum period of three (3) years, renewable subject to demonstrable performance and other terms of the contract.

### **C.3 RE-DESIGNATION**

- (1) The CPSB shall have power to re-designate ALL officers upon recommendation of CHRMAC, subject to suitability interview for those moving to non-related cadres.
- (2) Re-designation of officers shall be subject to the following conditions:
  - (i) Suitability interview for officers who are moving from one cadre to another;
  - (ii) Suitability Interview shall not apply for posts which fall within the same job family;
  - (iii) Shall be limited to positions in the first two (2) entry levels in any cadre;
  - (iv) Shall take effect from the date of the decision;
  - (v) Authorized Officers shall be required to promote qualified officers before



processing the re-designation requests;

- (vi) Re-designation with continuous service will be allowed only for technical

cadres whose job specifications are similar for both graduate and non-graduate officers; and

- (vii) Shall be subject to existence of vacancies.

The above notwithstanding, re-designations will be based on an officer's demonstration of competence, merit and ability in performance.

#### **C.4 NON DISCRIMINATION IN EMPLOYMENT**

- (1) The Government of Makueni County shall promote equality of opportunity in employment and will not discriminate directly or indirectly against an employee on any grounds including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.
- (2) The County Government will endeavour to have a gender balanced Civil Service by ensuring that not more than  $\frac{2}{3}$  of positions in its establishment are filled by either gender.

##### **C.4.0 Rights and Privileges of Persons with Disabilities**

- (1) Persons with disability shall be accorded equal opportunities for employment provided they have the necessary qualifications and are suitable for such employment.
- (2) The government shall implement the principle that at least five (5) percent of all

appointments shall be for persons with disabilities.

- (3) The Government shall provide facilities and effect such modification, whether physical, administrative or otherwise, in the workplace as may be reasonably

required to accommodate persons with disabilities.

#### **C.4.1 Recruitment of Non-Citizens**

- (1) It is the policy of the Government of Makueni County not to employ non-citizens where there are citizens with the appropriate qualifications. Recruitment of a non-citizen will require the authority of the County Public Service Board.
- (2) The Board will grant such authority once it has established that there are no local candidates with the requisite qualifications to meet the staffing needs. Appointment of non-citizens will only be on contract terms not exceeding three (3) years, renewable once.
- (3) In applying for authority to recruit a non-citizen, an Authorized Officer should confirm that there is no citizen with the required qualifications available for appointment and the candidate has complied with the provisions of the Immigration Act and regulations.
- (4) Recruitment from outside Kenya will also be subject to the following: -
  - (i) that the candidate is prepared to accept an appointment on contract terms;
  - (ii) that the Government of the country to which the candidate belongs raises no objection to his/her recruitment; and
  - (iii) The candidate complies with the requirements of the Immigration Act.
- (5) Non-citizens will not be eligible for appointment to State Offices.

- (6) Non-citizen employees are also subject to the policies and regulations applicable in the County Public Service.

- (7) It is the responsibility of the concerned County Department to facilitate acquisition of work permits for non-citizen employees.

## **C.5 PROMOTIONS**

- (1) Promotions in the county public service will be based on qualifications and other requirements for appointment as stipulated in the career progression guidelines.
- (2) In selecting candidates for promotion, regard shall be given to affording adequate and equal opportunities to all gender, youth, members of all ethnic groups, persons with disabilities and minorities.

### **C.5.0 Promotions Dependent on Examinations**

- (1) Where an officer is to be promoted upon satisfying requirements which include the passing of relevant Board's examinations, the officer shall be promoted with effect from the date he or she passed the examination.
- (2) The date of passing the examination is the date of release of results by the Board.

### **C.5.1 Promotion to posts in Common Establishment**

Promotion to posts within a common establishment shall cover the first two (2) grades at entry level or as determined by the Board from time to time.

### **C.5.2        Dates of Promotion**

- (1)     The effective date of an officer's promotion will be the date of the County Public Service Board decision or date of the CHRMAC meeting.
  
- (2)     Promotion within common establishment posts shall be effective from the date the

officer qualifies.

- (3) If an officer has been appointed by the County Public Service Board to act in a post and is subsequently promoted to it without any interval between the appointment in an acting capacity and the date of his substantive promotion, the effective date of promotion will be the date on which he commenced to act.

### **C.5.3 Seniority**

Seniority of public officers in the County Public Service shall be determined as follows:

- (1) As between public officers of the same grade:
  - ① By reference to the dates on which they respectively entered the grade.
    - (i) If the public officers entered that grade on the same day, by reference to their seniority on the day immediately preceding that day.
    - (i) If any public officers who entered the same grade on the same day did so by appointment and not by promotion, then seniority relative to each other shall be determined by reference to their respective ages.
- (2) As between public officers of different grades on different salary scales, by reference to the maximum point on their salary scale, a flat rate of salary being regarded for this purpose as a salary scale with a maximum point equivalent to the flat rate.

### **C.5.4 Release of Officer(s) Selected for Promotion in County Departments**



- (1) An officer who is selected for promotion to a County Department other than that in which he is serving will be released to take up his appointment on transfer within a period of two (2) months from the date of the letter authorizing the promotion.
- (2) If the promotion takes effect before his transfer, salary at the full rate attached to his

new appointment will be payable by the receiving County Department from the date of his promotion as specified in the County Public Service Board letter.

- (3) An officer who is promoted to a post in a different County Department while attending a training course will be transferred to that Department from the date of his promotion and the new Department will be required to pay his full emoluments.
- (4) It is the responsibility of an officer to take up an appointment on promotion. An officer who fails to take up a promotion in a different County Department shall be deemed to have declined the promotion which shall then be rescinded.

## **C.6 TRANSFERS**

### **C.6.0 Transfer from One County Department to Another**

- (1) Employees who wish to move from one County Department to another will have to apply for vacant positions as and when advertised. Further, deployment of officers in their substantive capacity within a Department will be undertaken by the respective Authorized Officer on recommendation of CHRMAC.
- (3) In exceptional circumstances, transfers of officers in Job Group 'Q' and above shall be approved by the County Public Service Board on the recommendation of the Committee responsible for County Postings.

### **C.6.1 Transfer of Service**

- (1) Transfers to and from the Civil Service and other Administrations or County Public Service shall be approved by the County Public Service Board.

- (2) An officer will be considered for transfer of service having regard to the provisions of applicable pension schemes.
- (3) An officer seeking appointment in another administration should submit his application through his Authorized Officer.
- (4) If an officer is offered appointment in another administration, requests for his transfer shall be made to the County Public Service Board.
- (5) An officer, who wishes to take up appointment in another administration other than in accordance with the procedures set out in this manual, shall be required to resign from his position in the county public service.

#### **C.6.2        Secondment**

- (1) Secondment of officers from the Public Service to other organizations is applicable to pensionable officers, for a period not exceeding three (3) years and may be renewable once.

Approval for secondment for officers moving from the Civil Service to other Public Administrations shall be the responsibility of the County Department responsible for Public Service.

- (2) Approval for secondment for officers moving from the other public administrations to the Civil Service shall be granted by Public Service Board.

- (3) Secondment of officers from the civil service to other organizations shall be authorized only in cases where an officer is joining an institution that has not been declared a

'Public Service' for pension purposes.

- (4) To maintain an officer's pensionable status, the officer or the organization to which the officer is seconded will be required to make pension contribution at the prevailing rate. Where the organization pays the pension contribution for the officer, such amount shall be deducted from the officer's service gratuity.
- (5) Officers on secondment will be paid their salaries and other allowances by the organizations in which they are deployed.
- (6) Secondments of officers in the Public Service will be regulated in the context of the relevant pension legislation in place.
- (7) Officers on secondment to other organizations will be eligible for promotion in the Civil Service.

## **SECTION D: TERMS AND CONDITIONS OF SERVICE**

### **D.0 Introduction**

This Section provides discusses on the rights and obligations of an employee and an employer in the employment contract. It covers such issues as; salary, allowances, housing, transport, terminal benefits, leave, conducive work environment, and employee welfare and wellness as well as other related matters within the County Government of Makueni.

### **D.1 SALARY AND ALLOWANCES**

The Salaries and Remuneration Commission will be based on recommendation of the County Public Service Board, advice and regularly review the salary and allowances applicable to officers in the County Public Service, amongst other public officers. Salaries and Remuneration Commission will be guided by the following principles: -

- (i) The need to ensure that the total public compensation bill is fiscally sustainable;
- (ii) The need to ensure that the County public service is able to attract and retain the skills required to execute its functions;
- (iii) The need to recognize productivity and performance;
- (iv) Transparency and fairness; and
- (v) Equal remuneration to persons for work of equal value.

### **D.1.0        Payment of Salary**

- (1)     On appointment, an officer will be paid full salary from the date of assumption of duty.



- (2) All officers will be paid salary on monthly basis in Kenyan currency through their respective bank accounts.
- (3) Public officers shall not over-commit their salaries beyond two thirds ( $\frac{2}{3}$ ) of their basic salaries and Heads of Human Resource Units should ensure compliance.

#### **D.1.1 Salary Structure**

The County Public Service salary structure will be based on the grading levels spelt out in the various career progression guidelines and schemes of service and will be reviewed from time to time taking into consideration economic performance, availability of funds, performance level of staff and collective bargaining agreements.

On first appointment, an officer will enter the salary structure at the minimum point of the respective salary scale. However, an officer maybe granted incremental credit for previous relevant experience at the rate of one increment for each complete year of approved experience provided the maximum salary of the Job Group assigned to the post is not exceeded. The grant of increments for relevant experience will be subject to the following conditions:

- (i) Incremental credit will only be granted in respect of approved experience gained after acquiring the requisite minimum qualifications for the grade. In granting incremental credit, any period of service or experience stipulated as a basic requirement for appointment or promotion to a particular grade will be excluded;
- (ii) Incremental credit will be granted only for previous approved experience in the type

of work upon which an officer will be employed on his appointment to the particular grade;

- (iii) Incremental credit may not be granted on appointment to promotional posts, i.e. posts to which an officer would not normally be appointed if he had joined the County Government Service immediately after completing his education; and
- (iv) Incremental credit may be granted for the number of years of aggregate approved experience, periods in excess of full years being ignored.

#### **D.1.2 Determination of Salary on Promotion/Upgrading**

- (1) If the salary of an officer who is promoted to a higher Job Group is less than the minimum of the salary scale attached to the higher Job Group, he will enter the scale of the higher Job Group at the minimum point of the scale on the effective date of his promotion/upgrading. His future incremental date will be the following year on the 1<sup>st</sup> date of the month in which the officer was promoted.
- (2) If, however, the salary of an officer on the day preceding the effective date of his promotion is one point immediately below the minimum of the salary scale attached to his new Job Group and if that officer was earning an annual increment, he will receive the minimum salary scale attached to his new Job Group on the effective date of his promotion and retain his former incremental date.
- (3) If on the effective date of promotion/upgrading the officer was already within the higher salary scale but the officer had not attained the maximum point of his current salary scale, the officer will enter the higher salary scale, at the point next above his current salary on the effective date of his promotion/upgrading and the officer will retain his former incremental date, i.e. incremental date immediately prior to his promotion.

- (4) If on the day preceding the effective date of his promotion he had attained the maximum point of the salary scale attached to his former Job Group and his service at that salary amounted to less than one year, he will enter the salary scale attached to his new Job Group from the effective date of his promotion at the point next above his salary. His future incremental date will be the 1<sup>st</sup> date of the month in which the officer was promoted.
- (5) If on the effective day of the promotion an officer had served at the maximum salary point of his present salary scale for one (1) year but less than two (2); the officer will enter the next salary point above his salary and will retain his former incremental date prior to reaching his maximum salary point.
- (6) If on the effective day of the promotion an officer had served at the maximum salary point of his present salary scale for two years but less than three years, the officer will be granted two (2) salary increments at the point above his salary. His future incremental date will be the 1<sup>st</sup> date of the month in which he was promoted.
- (7) If on the effective day of the promotion an officer had served at the maximum salary point of his present salary scale for three years and above, the officer will be granted three (3) salary increments at the point above his salary. His future incremental date will be the 1<sup>st</sup> date of the month in which he was promoted.

#### **D.1.3          Determination of Salary of an Officer Transferred from another Administration**

- (1) The salary of an officer who is transferred from another administration will be determined by application of the provisions of Regulation E.4.

- (2) However, where an officer from another Government organization has been identified for a particular assignment and his salary is higher than the salary applicable to the

relevant grade, the case will be referred to the County Public Service Board for determination.

#### **D.1.4 Determination of Incremental Dates on Appointment or Promotion/Upgrading**

Each 1<sup>st</sup> date of the month is an incremental date. Officers' incremental dates will be the 1<sup>st</sup> date of the month they are appointed, promoted or upgraded subject to the provisions of Regulation E.4.

#### **D.1.5 Conditions for the Grant of Annual Increments**

An officer serving on an incremental scale is not entitled to receive an increment as a right. An increment will only be granted based on the performance of the officer.

#### **D.1.6 Advance of Salary**

- (1) An advance of not more than one month's salary may be granted by an Accounting Officer to an officer on permanent and pensionable or contract establishment when the officer, owing to circumstances beyond his control, is placed in a difficult financial position requiring assistance from the Government.
- (2) In applying for the advance, the officer should explain in detail the circumstances leading to the situation which he could not have foreseen and therefore planned for.
- (3) Officers posted to designated hardship areas on new appointment may be granted salary advance by the Accounting Officer, each such case being considered on its

own merit.

- (4) An advance under this regulation may be granted only when an officer has no other outstanding salary advance. In very exceptional circumstances, an Accounting Officer may grant an advance of not more than two (2) months' salary in situations similar to those in paragraph (1) above if he is satisfied that the officer needs assistance in excess of one month's salary advance.
- (5) The recovery period for salary advance will be limited to a period of not more than twelve (12) months. In respect of an officer who is due to leave the service before twelve (12) months, the advance must be fully recovered in equal installments within the remaining period of the officer's service in the County Government.

#### **D.1.7 Allowances**

- (1) Additional payments are made in form of allowances, either to reimburse an officer for the expenses incurred directly or indirectly in the execution of his duties, or to compensate him for services rendered over and above the normal job requirements.
- (2) The following are the allowances that are currently applicable in the Service and the circumstances under which they are payable.

#### **D.1.8. House Allowance**

- (1) All officers are eligible for house allowance applicable to their grades as stipulated in Salaries and Remuneration Commission circulars issued from time to time.



- (2) Officers occupying institutional houses will pay rent equivalent to the value as shall be determined by the County Department responsible for Housing or surrender their house allowance whichever is lower.

### **D.1.9 Commuter Allowance**

- (1) All officers in Job Group 'T' and below shall be eligible for commuter allowance where they are not provided with County Government transport.
- (2) The rates of the allowances will be determined by the SRC from time to time.
- (3) It will be an offence for an officer in receipt of commuter allowance to use County Government vehicle from house to office and vice versa.

### **D.1.10 Hardship Allowance**

Officers deployed in designated hardship areas shall be eligible for the applicable hardship allowance as determined by the SRC from time to time.

### **D.1.11 Leave Allowance**

- (1) All officers shall be eligible for leave allowance payable once a year. The rate of leave allowance will be determined by the SRC from time to time.
- (2) An officer stationed in any designated hardship area and who proceeds on leave twice a year and takes not less than half ( $\frac{1}{2}$ ) of his entitlement shall be eligible for full payment of leave allowance twice per year. If such an officer does not apply for leave he shall

only draw leave allowance once a year.

#### **D.1.12 Entertainment Allowance**

Public officers in Job Groups 'T', 'U' and 'V' are from time to time required by the nature of their duties to provide hospitality and entertainment to official guests. To enable them

meet such expenses, a non-accountable monthly entertainment allowance shall be paid as may be determined by the Board and approval on the same obtained from Salaries and Remuneration Commission (SRC).

#### **D.1.13 Extraneous Allowance**

Extraneous allowance shall be paid to officers who are called upon to undertake extra responsibilities in addition to their normal duties and therefore work over and above the official working hours on a continuous basis. The rates and eligibility for payment shall be determined by the SRC from time to time.

#### **D.1.14 Acting Allowance**

- (1) When an officer is eligible for appointment to a higher post and is called upon to act in that post pending advertisement of the post, he is eligible for payment of acting allowance at the rate of twenty percent (20%) of his substantive basic salary. Acting allowance will not be payable to an officer for more than six (6) months.
- (2) Acting appointments shall not be approved to take effect from a date earlier than one (1) month prior to the date on which the recommendation is submitted to the Authorized Officer or the County Public Service Board as the case may be.  
The payment of acting allowance shall be subject to recommendation by the County Human Resource Management Advisory Committee and approval by the Authorized Officer.
- (3) All recommendations for acting appointments shall be accompanied by a draft indent for advertisement of the vacancy and shall be forwarded to the County Public Service Board for appropriate action.

- (4) When a post falls temporarily vacant due to the absence of the substantive holder, an acting appointment shall not be made unless the period of such absence

exceeds thirty (30) days.

- (5) A recommendation for an acting appointment for a period of thirty (30) days or less will be considered by the County Public Service Board for those cases where the law or regulations require that, in the absence of the substantive holder of a public office, the function of that public office can be exercised only if another officer is appointed in an acting capacity.
- (6) An officer who is appointed to act in a higher post shall be eligible for the duration of his acting appointment for the travelling privileges, accommodation allowance, subsistence allowance or an extraneous allowance and entertainment allowance applicable. However, the officer shall not qualify for house allowance or other remunerative allowances applicable to the higher post.
- (7) Acting Allowance shall not be paid against any post falling within the common establishment.
- (8) In all cases, an officer must be appointed to act in writing by the Authorized Officer or such other officer to whom the Authorized Officer may delegate such responsibility.

#### **D.1.15 Special Duty Allowance**

- (1) When an officer is called upon to perform duties of a higher post but does not possess the necessary qualifications for appointment to that post, he shall be paid special duty allowance at the rate of fifteen per cent (15%) of the officer's basic salary. The payment of special duty allowance will be subject to recommendation by the County Human Resource Management Advisory Committee and approval by the County

Public Service Board.

- (2) When a post falls temporarily vacant due to the absence of the substantive holder,

special duty allowance should not be paid to an officer performing duties of such a post unless the period of absence exceeds thirty (30) days.

- (3) Officers shall not be called upon to perform duties of a post that is more than two (2) grades higher than the officer's substantive grade.
- (4) Special Duty Allowance will not be payable to an Officer for more than six (6) months.
- (5) Officers performing duties of a higher post under this provision shall be eligible for travelling privileges, accommodation allowance, subsistence allowance or an extraneous allowance and entertainment allowance applicable. However, the officer shall not qualify for house allowance or other remunerative allowances applicable to the higher post.

#### **D.1.16      Daily Subsistence Allowance (Local Travel)**

- (1) When an officer is travelling on duty and stays overnight away from his duty station and makes his own arrangements for accommodation, accommodation allowance shall be paid to him at the rates determined by the Government from time to time.
- (2) Accommodation allowance will be paid for a maximum continuous period of thirty (30) days. Notwithstanding the provisions of paragraph (1) of this provision, an officer who is required to be away from his duty station for more than thirty (30)



days will be paid accommodation allowance for the subsequent additional days at half ( $\frac{1}{2}$ ) rate up to a maximum period of five (5) months. Beyond this period, if the officer continues to work in the same station, this will be treated as a posting and accommodation allowance will cease to be applicable.

- (3) On transfer from one station to another, an officer may claim accommodation allowance for self and spouse and up to a maximum of four (4) unmarried children under twenty five (25) years of age, who are living with and are in full time schooling and dependent on him should they be compelled to spend one or more nights on the journey. The rate of allowance for the spouse and children aged eighteen (18) years and above will be the same as that of the officer. The rate for the children below eighteen (18) years will be half that payable to the officer.

#### **D.1.17 Meal Allowance**

- (1) Meal allowance will only be paid to officers travelling on duty within the country but who are not required to spend a night away from the permanent duty station. Meal allowance will not be paid alongside accommodation allowance.
- (2) Meal allowance shall be paid at the rate of 15% for breakfast, 20% for lunch and 20% for dinner of the daily subsistence rate applicable.
- (3) Meal allowance shall not be paid as a compensation for officers who are required to work beyond the official working hours.

#### **D.1.18 Daily Subsistence Allowance while Travelling on Duty outside Kenya**

- (1) A public officer who is required to travel on duty outside Kenya will be granted subsistence allowance at the daily rates determined by SRC from time to time.

- (2) The rates of subsistence allowance are designed to meet the cost of accommodation at good, but not luxury class hotels, meals, including service charges, local travelling (such as taxi, bus or train fare), incidental expenses

including any taxes and an element in respect of essential entertainment.

- (3) Travelling expenses incurred from the airport to a hotel or other residential place and vice versa, airport charges, fees for vaccination, visas and passport charges will be refunded.
- (4) Where an officer's travelling and accommodation expenses are covered in full by the National Government, County Government or any other Organization, a residual allowance of up to one-quarter ( $\frac{1}{4}$ ) of the standard rate of subsistence allowance will be paid to him to cover incidental expenses.
- (5) In cases where the sponsor does not meet the expenses directly but pays an allowance and such allowance is less than the standard rate of subsistence allowance, the officer may claim the difference from the County Government.

#### **D.1.19 Overtime Allowance**

- (1) Where an officer in Job Group 'J' and below is required to work overtime, an allowance may be granted to him with approval of the departmental head for overtime worked in excess of forty (40) hours per week, at the rate of one and a half ( $1\frac{1}{2}$ ) times the officer's basic salary during working days and two (2) times the officer's basic salary during other days including public holidays.
- (2) Overtime allowance will be paid subject to a maximum of ten hours per week.

- (3) This provision will not apply to certain categories of staff in County Departments who are required to work overtime regularly and an allowance has been authorized for their compensation.

### **D.1.20      Transfer Allowance**

- (1) When an officer is transferred from one station to another, he will be eligible for transfer allowance amounting to one (1) month's basic salary provided the new station is not less than 40 kilometres from the former station. Transfer allowance will be paid at least three (3) days prior to departure.
- (2) Transfer allowance will not be paid to: -
  - (i) Field officers such as Surveyors, Hydrologists, Engineers, Geologists, and Inspectors of Works, when moving from one camp to another;
  - (i) Officers who are deployed on temporary basis (i.e. on relief duty) for a period not exceeding five (5) months; and
  - (i) Officers who are transferred at their own request.

### **D.1.21      Field Allowance**

Field officers such as surveyors, road foremen, prospectors and officers in charge of land development units, whose duties entail continuous field work and who live in movable accommodation (i.e. portable huts, tents or caravans), may be granted a regular field allowance at the rate of 25% of the daily Accommodation Allowance as provided from time to time.

#### **D.1.22      Baggage Allowance**

- (l) When travelling on first appointment, transfer or termination of appointment, an officer shall be provided with a County government vehicle to transport his

luggage.

- (2) In the absence of a vehicle, the officer will be eligible for a baggage allowance at rates determined by the SRC from time to time.
- (3) The officer will be expected to request for transport within three (3) months of appointment, transfer or termination of appointment failure to which, the privilege will be forfeited.
- (4) In case of the death of an employee, the next-of-kin shall be eligible for a baggage allowance at rates determined by the SRC from time to time.

#### **D.1.23 Other Allowances**

The County Government may pay other allowances to different categories of public officers in various circumstances as maybe provided for by SRC. Such allowances shall be communicated from time to time.



## **SECTION E:            BENEFITS**

Employees will be awarded benefits as determined by the Salaries and Remuneration Commission as well as other authorised public service institutions. The benefits contained in this section include Housing, medical, transport and terminal benefits.

### **E.1                    ALLOCATION OF COUNTY GOVERNMENT HOUSES**

- (1)     The County Government may provide houses for employees who are required to pay rents at prevailing market rates as determined from time to time by the County Department responsible for Housing.
- (2)     County institutional houses shall be allocated at the station where an officer is posted for duty. The guidelines for allocation shall be provided by the County Department responsible for Housing from time to time.
- (3)     Applications for County Government housing should be submitted to the Authorized Officers responsible for Housing through the Authorized Officer.
- (4)     The responsibility for the allocation of housing at Institutions and recovery of rent rests with the respective Authorized Officers.

### **E.2                    MORTGAGE SCHEME**

- (1)     County Government staff will be entitled to Mortgage schemes as may be determined by the Salaries and Remuneration Commission from time to time.
- (2)     The County Government shall partner with accredited Financial Institutions to offer mortgage loans to staff at subsidized rates to either buy or construct their own houses as may be determined by the Salaries and Remuneration Commission from time to time.

- (3) The management of the Mortgage Scheme will be guided by Mortgage guidelines developed by the County Department responsible for housing.

## **E.3            MEDICAL BENEFITS**

### **E.3.0           Medical Privilege**

- (1)    The County Government will outsource the provision of medical services cover through a competent, reputable and well established health insurance provider.
- (2)    The nature and extent of medical cover for employees will be determined based on, among other considerations, available resources and may change from time to time as determined by the County in its absolute discretion subject to the minimum standards required by law.
- (3)    Medical cover is intended to assist an employee and his/her immediate family in maintaining good health since a healthy and focused employee is an asset to the County.
- (4)    All employees and their immediate family members will be entitled to the following medical benefits:
  - (i)    Out-patient medical cover;
  - (ii)   In-patient medical cover;
  - (iii)   Maternity cover;
  - (iv)   Optical Benefit;

(v) Dental Benefit; and

(vi) Other benefits depending on the provider.

- (5) For purposes of this section, the term “family” means a spouse(s) partner or partners and up to a total of four dependents/adopted children of the employee who are under the age of 21 years. However, in instances where the child is over 21 years and below 25 years and still in school and under the care of his/her parents, proof will be provided to the Human Resource office for approval for inclusion in the Medical cover.
- (6) An employee shall be required to immediately provide details of any other new eligible entrants to the medical scheme. Requests by staff for removal of a dependant from the medical cover shall be in writing and deposited with the Head of County Human Resource.
- (7) The benefits for an employee and dependants will be deemed to terminate at the expiry of the cover period for the reasons stated below:
  - (i) Death of the employee;
  - (ii) Retirement or termination of employment with the Board;
  - (iii) Termination of the Scheme; and
  - (iv) In case of international training whose package includes a medical cost paid for by the county, the benefit will not be applicable to the employee, but to his/her nominated dependants.

### **E.3.1 Medical Treatment outside Kenya**

Employees and their dependants will be eligible for medical treatment outside the country in cases where such treatment is not available locally, subject to prior authorization by the

County Director of Medical Services and the Scheme administrator.

### **E.3.2 Medical Ex-gratia Assistance**

- (1) The County Government will provide medical ex-gratia assistance to cover in-patient medical expenses incurred by an officer, spouse and dependent children 25 years and below, subject to prevailing limits, upon exhaustion of the medical cover entitlement within a financial year.
- (2) All cases for ex-gratia assistance should be referred to the county treasury for consideration and approval.

### **E.3.3 Work and Injury Benefit Compensation Insurance Cover**

- (1) The County Government will secure the safety, health and welfare of persons at work; and protect other persons at work against risks to safety and health arising out or in connection with, the activities of persons at work.
- (2) Under the terms of the Work Injury Benefits Act, 2007, the County Government will take insurance cover against accidents to employees arising out of, and in the course of their employment. Workmen's compensation shall be applied in accordance with the Act.
- (3) Compensation covers medical expenses, injuries, diseases, disability and death as specified in the Act and may change from time to time as determined by the County Government in its absolute discretion subject to the minimum standards required by law.

### **E.3.4 Group Personal Accidents Insurance Cover**

Under this insurance scheme, the County Government will cover all employees against accidents which may occur in the course of duty. The nature and extent of the cover will be determined

by the County Government based on, among other considerations, available resources and in the absolute discretion subject to the minimum standards required by law.



## **E.4           INSURANCE**

All property owned by the County Government is insured by the County Government and therefore any loss or damage or accident to any property belonging to the County Government shall be reported to the authorised officer in the specific department and in his/her absence, the Head of Human resource.

### **E.4.0           Group Life Policy**

Under this policy, the County Government may provide a Group Life Insurance policy for all employees. The nature and extent of the cover will be determined by the County Government based on, among other considerations, available resources and in the absolute discretion subject to the minimum standards required by law.

## **E.5           TRANSPORT**

Transport in the Public Service is regulated through the County Government Transport Policy. This Section addresses various aspects of the Transport Policy and includes the car loan scheme and as captured above on in this manual, transport of officers while on duty and use of County Government vehicles. It includes travelling privileges of members of the officer's family in certain circumstances and transportation of personal effects. All officers will be eligible for commuter/transport allowance provided they are not facilitated with Government transport. The rates of the allowances will be determined by the SRC from time to time. It will be an offence for an officer in receipt of commuter allowance to use Government vehicle to and from the office.

### **E.5.0           Travelling by Public Service Transport**

When travelling by road or railway on transfer or duty outside the duty station, an officer will be eligible to claim applicable reimbursements of the amount of the fare paid on production of travel tickets.

### **E.5.1 Travelling by Government Vehicles**

All officers in Job Group 'T' and below will use pool transport when travelling on official duty. County Departments will provide officers travelling outside their duty stations with pool transport or imprests to facilitate use of public transport depending on the nature of work and cost implication. Where possible, officers should travel together in one vehicle.

### **E.5.2 Use of Personal Vehicle**

- (1) In the absence of County Government vehicle, an officer may with prior authority of the Authorized Officer use his personal vehicle for official duty.
- (2) Where such authority is granted, the employee shall claim reimbursement based on the prevailing Automobile Association (AA) of Kenya rates. The vehicle capacity shall be limited to 2,000c.c.

### **E.5.3 Travelling by Air**

- (1) When travelling on duty to another country an officer may travel by air. Air travel on duty within Kenya will require the prior approval in writing of the Accounting Officer. Such approval may be given when other modes of transport are unavailable, air travel is economical or where the saving of time is paramount.
- (2) It is recommended that State and Public Officers will travel on Economy Class.
- (3) When it is necessary to travel by air within Kenya to places not served by any

commercial airline, the services of other County Government departments/agencies shall be utilized in accordance with the existing transport policy.

#### **E.5.4 Travelling for Interview**

An officer who is invited for an interview by the County Public Service Board or a County Department will be regarded as travelling on duty and his travelling expenses will be charged to the appropriate vote of his Department. This regulation will also apply to officers who travel to other stations to sit for examinations conducted by the County Public Service Board.

#### **E.5.5 Travelling on Retirement**

On retirement, the County Government will meet the officer's transport cost to his retirement destination within Kenya. The cost of transport in this case will be limited to the cost of road and rail transport in respect of the officer, his nuclear family and baggage. The officer will be expected to request for transport within six (6) months of retirement.

#### **E.5.6 Transport Facilities on Bereavement**

- (1) Transport facilities for a deceased officer and immediate family members shall be provided at County Government expense to the place of burial when an officer dies while in service and if the spouse or dependant unmarried children aged twenty five (25) years and below die while the officer is still in the service.
- (2) The County Government shall provide a token contribution of Ksh.50,000 to defray funeral expenses for a deceased officer, one spouse and up to four (4) children aged twenty five (25) years and below.
- (3) Where County Government transport is not available, a private hearse may be hired

at the County Government's expense.

- (4) An officer who will represent the County Government at the burial of the deceased shall be granted official transport.

## **E.6 EXIT FROM THE SERVICE AND TERMINAL BENEFITS**

The County Government has established various benefits payable to public officers who exit from the service. This Section provides guidelines on various forms of exit from the Service and the benefits payable. The various forms of exit from the County Government include:

- (i) Resignation
- (ii) Termination in accordance with the letter of appointment
- (iii) Expiry of contract
- (iv) Retirement:
  - (a) On attainment of mandatory retirement age
  - (b) Under '50 Year Rule'
  - (c) On medical grounds
  - (d) On abolition/re-organization of office
  - (e) Retirement in public interest
- (v) Dismissal
- (vi) Death.

## **E.6.0            Resignation**

- (1)    An officer may resign his appointment by giving one (1) month notice or by paying one (1) month's gross salary in lieu of such notice. An officer on contract may resign his appointment in accordance with the terms of the contract.
- (2)    On resignation, an officer is required to settle any outstanding liabilities to the County Government. Any amount due to an officer will be withheld and applied to settle any sum due from him. If any liabilities are outstanding, the matter will be referred to the County Attorney for legal redress.
- (3)    An officer whose terminal benefits are determined under the Pensions Act will not be eligible for pension or gratuity on leaving the Service except in the specific circumstances defined in the Pensions Act or letter of appointment. An officer who resigns cannot, if subsequently re-employed after a break of service, count his previous service for pension.
- (4)    An officer who is a member of the County Public Service Contributory Scheme, shall on resignation, be eligible for terminal benefits in accordance with the terms set out in the scheme.

## **E.6.1            Termination of Appointment**

The employment of an officer serving on contract or probationary terms may be terminated by an Authorized Officer in accordance with the provisions of the officer's agreement or by giving appropriate period of notice or gross salary in lieu of notice.



## **E.6.2            Mandatory Retirement Age**

All officers shall retire from the Service on attaining the mandatory retirement age of 60 years, 65 years for persons with disabilities and/or as may be prescribed by the National

Government from time to time.

### **E.6.3 Retirement under the '50 Year' Rule**

- (1) An officer on attaining the age of 50 years may opt to retire any time thereafter.
- (2) An officer whose pension is determined under the Pensions Act and has completed ten (10) years' service, will be eligible for pension should he retired or opt to retire under '50 year' rule. However, if he has less than ten years' service, he will be eligible for a gratuity in accordance with the Pensions Regulations.
- (3) An officer will be required to give one (1) month's notice of his intention to retire under the '50 year' rule.
- (4) An officer who is a member of the County Public Service Contributory Scheme and opts to retire under the '50 year' rule will be eligible for benefits under the Scheme.
- (5) Applications from officers to retire under the '50 year' rule will be approved by their respective Executive Committee Members.

### **E.6.4 Retirement on Medical Grounds**

- (1) Where it appears to an Authorized Officer that an officer is unfit for continued service due to ill-health, the officer may be considered for retirement on medical grounds.
- (2) Where it is necessary to convene a Medical Board to determine an officer's fitness

for further service or otherwise, the Authorized Officer shall refer the case to the County Director of Medical Services.

- (3) The County Director of Medical Services shall forward a report to the respective

county department within a period of one (1) month after appearance of the Officer before the medical board. The retirement of an officer on medical grounds will require the authority of the County Public Service Board.

#### **E.6.5 Retirement on Abolition/Re-organization of Office**

An officer may be retired either on the abolition of the office he holds or upon the re-organization of the Department in which he holds an office. The retirement shall be approved by the County Public Service Board.

#### **E.6.6 Retirement in public interest**

In the event that the conduct and performance of a public officer is deemed to have lost the confidence and trust of the citizens, the holder of the office may be retired as prescribed under such circumstances if there is sufficient evidence from the public that the office holder is not fit to hold such an office. Nevertheless, the officer must be given a fair hearing before retirement.

#### **E.6.7 Dismissal**

- (1) Dismissal refers to termination of appointment arising out of disciplinary proceedings.
- (2) An officer, whose pension is determined under the Pensions Act and is dismissed from the Service, shall not be eligible for pension benefits. However, he will be entitled to Employer's contribution under N.S.S.F. Act and the Widows and Children's Pension Scheme.

- (3) An officer who is a member of County Public Service Contributory Scheme shall on dismissal be eligible to terminal benefits as provided in the Scheme.

## **E.6.8            Death**

Upon the death of a public officer, the legal beneficiary shall be paid death gratuity and dependents pension. In addition, in case of death of an officer who was contributing to Widows and Children's Pension Scheme, the legal beneficiary shall be paid the benefits thereof.

## **E.6.9            National Social Security Fund (NSSF) Benefits**

An officer who is a member of the NSSF shall be eligible for terminal benefits under the NSSF Act.

## **E.6.10            Widows' and Children Pensions Scheme**

- (1) The Widows' and Children's Pensions Scheme, established under the Widows' and Children's Pensions Act of 1965, makes provision for granting pensions to widows and children of deceased public officers with effect from 1<sup>st</sup> January, 1966. Entry into the Scheme was optional for all male Kenyan citizens who were serving with the Government on pensionable terms of service (confirmed or probationary) on or before 1<sup>st</sup> January, 1966 and compulsory for those who joined the service thereafter.
- (2) A female pensionable officer who is a Kenyan citizen may opt to join the Scheme if she can prove her husband is wholly or mainly dependent on her. If, however, in the event of her husband's death, she remarries, the subsequent marriage and the children thereof shall not be taken into account for the purposes of the Scheme unless she proves while she is still a public officer that her husband by that marriage is wholly or mainly dependent on her.
- (3) A monthly contribution of 2% of the officer's salary will be recovered towards the

fund.

- (4) This Regulation will apply to officers whose pension is determined under the Pensions Act.

#### **E.6.11 Refund of Contributions**

Where an officer who was a member of WCPS has no spouse or children of dependant age on the last day of his service, i.e. he remained unmarried or his spouse died during his service and all his children have ceased to be dependant and he leaves the service with eligibility for the grant of a pension, the total amount of his contributions shall be refunded to him with interest. Where an officer leaves the service without the grant of a pension i.e. on resignation or dismissal, the total amount of his contributions shall be refunded to him with interest. If an officer retires on any other ground, apart from medical, and he is entitled to receive a service gratuity only, he can opt to be refunded his contributions, instead of benefits under the Scheme.

#### **E.6.12 Conditions Attached to Payment of Benefits**

1. The widow's pension is payable until her death, remarriage or cohabitation.
2. A widow's pension will not be granted (except in special circumstances) if the husband dies within twelve (12) months of the marriage and there are no children.
3. An officer's widow cannot benefit if the marriage took place after he left the service.
4. In the case of a polygamous officer, if he leaves more than one widow, benefits are



divided equally between the widows, subject to the satisfaction of the other conditions.

5. A divorced wife shall not benefit.

6. A child's pension is payable in accordance with the Widows and Children's Pension

Scheme (WCPS) Act. Adopted child, or step-child only qualifies for payment of benefit if the child was wholly or mainly dependent on the officer at the time of his death.

#### **E.6.13 Definitions of Terms used in Pensions**

- (1) Pensionable Office means an office to which an officer has been appointed whether on probation or otherwise on terms which include eligibility for the grant of a pension under the Pensions Act.
- (2) Pensionable Officer means an officer who is the holder of a pensionable office in which he has been confirmed.
- (3) Qualifying Service means service which may be taken into account in determining whether an officer is eligible, by length of service, for pension or gratuity.
- (4) Pensionable Service means service which may be taken into account in calculating a pension or gratuity under the Pensions Act.
  - (i) Probationary service followed by service on permanent and pensionable terms is reckonable in full for the purposes of calculating a pension or gratuity; Contract service is reckonable in full if an officer surrenders or refunds the gratuity earned under the contract provided that he was admitted without a break of service to the pensionable establishment;
  - (ii) Provident Fund service is reckonable in full if an officer surrenders his personal contributions to revenue provided that he was admitted without a break of service to the pensionable establishment;
  - (iii) Temporary service; normally counts at half ( $\frac{1}{2}$ ) rate in calculating a pension or gratuity; and

(iv) Unpaid leave is not pension earning.

#### **E.6.14 Eligibility for Pension/Gratuity**

- (1) An officer is eligible for the grant of a pension or gratuity under the pensions Act only when he retires from the service of the County Government in any of the following circumstances: -
  - (i) Age not less than 50years;
  - (ii) Abolition or re-organization of office; and
  - (iii) Ill-health.
- (2) An officer who voluntarily resigns from the service of the County Government or who is dismissed forfeits all claims to the retirement benefits. However, this shall not apply in case of resignation of an officer on or with a view to marriage or on account of circumstances surrounding their marriage. In this event, the resigning officer becomes eligible for the grant of a lump sum marriage gratuity if she fulfils the conditions necessary for the grant of the gratuity under Regulation 6 of the Pensions Act.

#### **E.6.15 Refunds on Termination of Appointment or Dismissal**

- (1) On leaving the Service on resignation or dismissal, an officer will be eligible for registration under the National Social Security Fund Act and the County Government will pay the equivalent employers contribution as if the officer was on temporary terms of Service.

- (2) Contributors of Widows' and Children Pensions Scheme will be eligible for refund in accordance with the provisions of the Widows' and Children Pensions Scheme Act.

#### **E.6.16      Reporting of Retirements to the National Treasury**

- (1) In cases where the retiring officer is eligible for retirement benefits under the

Pensions Act, a claim for such benefits should be submitted to the Pensions Department, National Treasury on the appropriate Form G.P. 178 for permanent and pensionable staff or 179 for subordinate staff who are not eligible for monthly pension as the case may be, at least nine (9) months before the date of retirement. It is important to note that, though G.P.179 is currently in use, plans to phase it out are on course as the Government is gradually disengaging this cadre of staff.

The Head of the Human Resource Management Division or an officer duly authorized by him to sign notices of retirement at the County Government will be held responsible for the availability of the relevant service records to facilitate the submission of an acceptable retirement benefits claim to the Director of Pensions, National Treasury within the time limit specified in the Sub-section (1) of this regulation. The same officer will be held accountable for the accuracy and timely submission of information to the Director of Pensions, Treasury.

- (2) The retiring officer should submit all the documents stipulated in the retirement notice within the timeframe.

#### **E.6.17 Retirement Benefits Payable under the Pensions Act**

The retirement benefits payable under the Act are: -

- (i) Pensions which include service pension (whether unreduced or reduced, injury pension, killed-on-duty pension and abolition additional pension;
- (ii) Gratuities which include commuted pension gratuities, service gratuities, death gratuities, compassionate gratuities and marriage gratuities; and

- (iii) Other allowances which include annual allowance and maintenance allowance.

The rates and modes of calculation of these benefits are set out in the pensions regulations.

#### **E.6.18 Transfers and Secondments of Pensionable Officers**

- (1) When a pensionable officer is transferred to another Government or administration, which is "scheduled" under the Pensions Act, the pension Form GP.178 and the statement of aggregate pensionable emoluments form GP.190 should be completed and forwarded to the Pensions Department of the Treasury for submission to the Government or Administration concerned. Similarly, when an officer is transferred to the service of the National Government, the Pensions Department of the Treasury should be informed.
- (2) Transfers of pensionable officers from the Government to organizations which are not "scheduled" under the Pensions Act but which have been declared to be "public service" for the purposes of the Act, need not be notified to the Pensions Department of the Treasury until the eventual retirement from the organizations of such officers.
- (3) County Departments are required to ascertain from the Department responsible for County Public Service or the Pension Department of the Treasury whether or not an organization to which their officers are seeking transfer has been declared a "public service".
- (4) An officer whose benefits are determined under the County Public Service Contributory Scheme will be able to transfer his terminal benefits to a new organization.
- (5) When pensionable officers are seconded from the civil service to another public institution, the recipient institution or the officer will pay pension contributions to the



Director of Pensions at the prevailing rate of the officer's civil service basic salary for the period of secondment.

#### **E.6.19 Pension Schemes**

The County government shall establish pension scheme in accordance with Retirement Benefits Act or adopt Public Service Superannuation Fund established under Public Service Superannuation Scheme Act, 2012.

#### **E.6.20 County Pension Funds (CPF)**

- i The Government will contribute 15% of an employee's monthly basic salary while the employee will contribute 12%.
- ii The contributions will be paid into the County Pension Fund.
- iii Employees will be allowed to access their own accumulated contributions on leaving the service before retirement age and only 50% of the employer's contribution.
- iv Contributions by employees will be tax exempt up to 30% of the contributions or Ksh.20,000 whichever is lower. The contribution will be deducted from the salary before tax is calculated. This will in effect reduce the tax level and improve the net pay.

#### **E.7 Public Service Superannuation Scheme**

- (1) This is a retirement benefits scheme under the Retirement Benefits Act, 1997.

- (2) Membership to the Scheme when it shall take effect will be mandatory for serving employees in the public service below the age of 45 years and optional for those aged 45 years and above. All new employees appointed to the Service will be

required to join the Scheme.

- (3) The benefits and contributions under the Public Service Superannuation Scheme will be portable. Portability refers to employee's right to transfer pension benefit credit from a former employer to a current one.

#### **E.7.0 Objectives of the Scheme**

- (1) The Scheme will ensure that every Member of the Scheme receives his retirement benefits as when they become due. The Scheme will also improve the social security of Members by ensuring that they save in order to cater for their livelihood during their retirement; and
- (2) There will be a uniform set of rules, regulations and standards for the administration and payment of retirement benefits for the Members of the Scheme.

#### **E.7.1 Rates of Contribution**

- (1) When this scheme takes effect, the County Government will contribute 15% of an employee's monthly basic salary drawn from the Consolidated Fund towards the employee pension while the employee will contribute 7.5% of his monthly basic salary towards the Scheme. However, the employee may make additional Voluntary Contributions to the Scheme on request.
- (2) The County Government will provide a life insurance policy that has disability benefits

in favor of every Member of the Scheme for a minimum of five (5) times of the Member's annual pensionable emoluments.

- (3) The contributions will be paid into the Public Service Superannuation Fund once it is implemented for all serving public servants. Employees will be allowed to access

their contributions on leaving the Service including any Voluntary Contributions made into the Scheme together with the accrued interest thereon in full.

- (4) Employees will be allowed to access their own accumulated contributions on leaving the service before retirement age and 50% of the employer's contribution thereof.

### **E.7.2 Vesting Period**

- (1) Vesting refers to the legal ownership of the benefits built up in a scheme for a member including what has been contributed by the employer and returns thereon.
- (2) The Scheme is flexible and provides for vesting of employee benefits on pro-rata basis as follows: -
  - ⓪ Below 5 years: Access only employee's contribution.
  - (i) After 5 years: Access 50% Government contribution.
  - (i) After 10 years: Access 100% Government contribution.
- (3) An employee will be eligible to access 100% County Government contribution after contributing to the Scheme for a minimum period of ten (10) years.
- (4) An employee who is dismissed or resigns from the Service before completion of the 5 years vesting period will not be eligible for County Government contribution. However, the employee will be eligible for his full contribution for the period served,

including interest that has accrued from his contributions.

- (5) Where a Member dies while in Service, the contributions by the County Government to the Member's retirement account will vest in the dependants of the Member.

### **E.7.3 Transition Modalities**

- (1) On joining the Scheme, benefits accrued under the non-contributory pension scheme will be calculated and a Recognition Bond issued to each employee. These benefits will be payable on retirement or on leaving the Service under the circumstances provided for in the Pensions Act.
- (2) Widows and Children's Pension Scheme (W.C.P.S) contribution will cease immediately an employee joins the Scheme to avoid double contribution.

### **E.7.4 Management of the Scheme**

- (1) The new Scheme ensures involvement of the employees and the pensioners in the management of their retirement fund through participation in the Board of Trustees in accordance with the Retirement Benefits Authority amendments Cap 197, of 2014.
- (2) The Scheme will be operated and managed by the Public Service Superannuation Fund Board of Trustees to be appointed under the Public Service Superannuation Act. The Superannuation Fund Board will appoint the Administrator, the Manager, Custodian and other service providers of the Scheme.
- (3) The Members of the Board of Trustees will consist of: -
  - (i) Chairman who shall be appointed by the Cabinet Secretary responsible for Finance and who: -

- has at least twenty (20) years or an aggregate of twenty (20) years' experience in a senior management position in the Public Service; and
- is not in the service of any employers' or worker's representatives or any person affiliated to any of the organizations represented on the Board;



- (i) Principal Secretary in the Department for the time being responsible for matters relating to finance or his representative;
- (ii) Principal Secretary in the Department for the time being responsible for matters relating to the public service or his representative;
- (iv) Representative from the public service commission, teachers service commission, police service and trade unions;

The duties of the Board of Trustees will be:

- (i) Collect contribution of Members;
- (ii) Optimally invest the contributions collected;
- (iii) Protect Members contributions;
- (iv) Provide pension and other benefits to the Members of the Scheme and their dependants;
- (v) Advise the cabinet secretary for Finance on any adjustments to improve the Scheme; and

- (vi) Perform such other functions as may be conferred by the Act.

#### **E.7.5 Certificate of Service**

- (1) Certificate of Service Form G.P. 31 will be given to an officer, upon his retirement,

resignation, dismissal or termination of appointment.

- (2) An Authorized Officer, when completing the certificate should bear in mind that its main purpose is for use as a reference covering the officer's period of Government Service.
- (3) The certificate will be signed by the Head of the officer's Department and countersigned by the Head of Human Resource Unit. A copy of the certificate will be filed in the officer's personal file.
- (4) In the case of an officer who has not rendered satisfactory service during his employment, care should be taken to ensure that the certificate is carefully worded so as to give the officer credit for any good qualities which he may have shown.

#### **E.7.6 Testimonials and Letters of Commendation**

Testimonials and letters of commendation may be awarded to employees by supervisors as a motivation for exemplary service.

In conformity with provisions of the Employment Act, Part V, Section 28 annual leave is granted subject to the exigencies of work for recuperative purposes to enable an employee to renew his/her energies leading to improved efficiency. All leave is, therefore, not normally commuted into cash nor is leave allowance payable to the dependants or the estate in the event of an employee's death.

## **SECTION F: LEAVE**

### **F.1 CATEGORIES OF LEAVE**

Leave falls into any of the following categories

- (a) Annual leave

- (b) Unpaid leave
- (c) Study leave
- (d) Special leave for sportsmen/women
- (e) Paternity leave
- (f) Maternity leave
- (g) Adoption Leave
- (h) Sick leave
- (i) Convalescent leave
- (j) Compassionate leave
- (k) Rest and Recuperation
- (l) Special Leave

## (m) Terminal Leave

### **F.1.0 Annual leave**

An employee will be eligible for annual leave at the commencement of a "leave year" except in the case of a newly appointed employee who will be required to complete a minimum of seven months' service before being granted annual leave. For this purpose, a "leave year" will commence on 1<sup>st</sup> July and end on 30<sup>th</sup> June the following year. Staff will compute their leave balances as at 30<sup>th</sup> June every year.

Annual leave, which excludes Saturdays, Sundays, and gazetted public holidays, will be 28 days for all employees. The gazetted public holidays are in accordance with Public Holidays Act (Cap 110). The Board will also recognize any other public holiday that may be gazetted under the Public Holidays Cap. 110 of the Laws of Kenya. Application for annual leave should be submitted at least two (2) weeks before the commencement of the annual leave.

- (1) In certain circumstances such as emergency leave, the two (2) week notice period may be waived. The application should be approved by the respective head of department/unit or in the case of leave for head of department/units by his substantive Supervisor.
- (2) Annual leave should be taken within the leave year. An employee may however be permitted to carry forward not more than fifteen (15) days of their annual leave, from one leave year to another.
- (3) Annual leave in excess of fifteen (15) days at the end of the leave year should be approved in writing by the Authorized Officer in consultation with the Head of Department and the Human Resource officer in charge.

- (4) An employee who applies for leave and the same is rejected or referred will have the leave application on record to indicate that he or she was willing to proceed on leave but could not do so due to unavoidable official circumstances. If an employee does not

apply for leave at all in the year, then he will forfeit all his or her days apart from the fifteen days that he is permitted to carry forward as per 7.3.5 above.

Whilst it is widely accepted that a staff member may visit his/her workstation while on leave, such visits should have prior approval of their department/unit head. Leave is an opportunity for rest and recuperation and frequent office visits beat this purpose. A staff member is required to go for a minimum of fifteen (15) days without interruption in a year.

- (5) Staff members are required to apply for leave for a period of absence exceeding five (5) hours in a day.
- (6) Absence from work without valid reason for a period of eight (8) hours will be deducted from annual leave. Disciplinary action may be taken against the officer.
- (7) Every staff must submit a leave schedule for the year to the Human Resource Department before the 1<sup>st</sup> of February every year.

### **F.1.2 Unpaid Leave**

- (1) Unpaid leave up to a maximum of one (1) year may be granted to an employee on the grounds of urgent private business or a proven case of exceptional hardship. The full details of the case which shall be regarded as being strictly confidential shall be submitted to the Authorized Officer in writing.
- (2) Unpaid leave granted in accordance with the above regulations will not be increment earning hence the incremental date should be adjusted. The period on leave will be excluded from the time worked by the staff and hence an employee's contract will be deemed extended by the same duration.



- (3) An employee on unpaid leave of one (1) year shall also be bonded for a period of two (2) years.

### **F.1.3 Study Leave**

- (1) Study leave will be granted based on the identified needs of the Department and in the interest of staff development.
- (2) Study leave for employees proceeding on international courses may be granted for a period not exceeding One (1) year.
- (3) The Authorized Officer may grant an employee five (5) days in a year to sit for examinations while pursuing locally approved job-related courses.
- (4) Study leave will only be considered if the employee had prior approval before commencing the course.
- (5) The Authorized Officer shall have discretion to accept or reject an application for study leave by any employee.

### **F.1.4 Special Leave for Sportsmen and Women**

The Authorized Officer may grant an employee special leave to participate in County, National and International sports. Special leave should not exceed ten (10) days in a year. The employee will receive full payment during the training and subsequent participation period without forfeiting their annual leave.

### **F.1.5 Paternity Leave**

Male members of staff shall be granted paternity leave of fourteen (14) working days in

accordance with section 29 (8) of the Employment Act, 2007. The leave should commence immediately after the birth of the baby. If the employee does not take the leave seven (7) days upon the birth of the baby, then the paternity leave shall be forfeited. Application for paternity leave should be submitted to the departmental head and the human resource officer in charge thirty (30) days before commencement of leave.

#### **F.1.6 Maternity Leave**

- (1) Female members of staff who are required to be absent from duty because confinement, shall be granted maternity leave with full pay for a period of three (3) months. Annual leave shall not be forfeited when an employee takes maternity leave.
- (2) Application for maternity leave should be submitted to the departmental head and the Human Resource Officer in charge thirty (30) days before commencement of leave.
- (3) Where immediately on expiry of maternity leave before resuming her duties a female employee proceeds on sick leave or with the consent of the employer on annual leave; compassionate leave or any other leave, the three (3) months maternity leave shall be deemed to expire on the last day of such extended leave.
- (4) On resumption to duty after maternity, the staff will be provided with a two (2) hour flexible reporting or departure time for the next three (3) months as will be agreed between the human resource manager, the staff and the respective supervisor.

#### **F.1.7 Child Adoption Leave**

An officer who has been granted adoption rights under the Children's Act and wishes to take leave for purposes of bonding and integrating the child into the family will be entitled to Child adoption leave in accordance with the Employment Act, subject to production of an adoption order.

#### **F.1.8 Sick/Convalescent Leave**

- (1) Sick leave is defined as an approved absence of an employee from duty because of an illness or accident/injury or whose attendance is prevented by a public health requirement. Sick leave must be granted by a duly authorized medical officer and the medical certificate, duly signed, submitted to the Authorized Officer through the Human resource officer in charge within two (2) days of absence. The period of leave will depend on the medical reports issued by a competent medical officer/doctor detailing an employee's capacity to perform his or her duties. Convalescent leave means a period of absence of an employee granted on recommendation of a qualified medical officer for the employee's recuperative purposes, immediately following an illness.
- (2) An employee shall be granted sick/convalescent leave up to three (3) months on full pay, followed by three (3) months on half-pay in a leave year provided in cases of continued period of ill health beyond six (6) months, an employee shall be examined by a panel of doctors appointed by the Board to determine such an employee's fitness to continue in employment of the Board. An employee, who is determined to be unable to resume duty after this period, shall be retired on medical grounds.

#### **F.1.9            Compassionate Leave**

- (1) Compassionate leave not exceeding fourteen (14) calendar days in a year may be granted upon the death of a family member, that is, spouse, child and parents.
- (2) Two (2) days will be granted for attending to a sick child in a year. Any other day in addition to that, the employee will be required to apply as part of the annual leave.
- (3) In the event of emergency other than death, the employee may be granted leave to be recovered from the annual leave. The head of department/unit will approve in liaison with the Human Resource Manager.

## **F.1.10      Rest and Recuperation**

This is for an employee working in the Board identified hardship areas. They are entitled to seven calendar days (excluding the days of travel) after every twelve weeks of continuous service and the Board shall facilitate their travelling expenses. This is for employees deployed in hardship areas that are not their initial place of habitual residence.

#### **F.1.11 Festival Holidays**

Leave of absence on the occasion of religious festivals may be granted without loss of pay for not more than two (2) days in a leave year, subject to the exigencies of the service. An application for leave on such an occasion should be addressed to the Authorized Officer well in advance of the date on which any particular religious festival is celebrated.

#### **F.1.12 Terminal Leave**

An employee who is due for retirement will be entitled in addition to his/her annual leave, thirty (30) calendar days leave pending retirement. This leave must be taken a month preceding retirement or be forfeited. It will neither be commuted for cash nor will the employee qualify for additional leave allowance.

#### **F.1.13 Commutation of Leave**

- (1) Except in exceptional circumstances, annual leave may not be commuted for neither cash nor will unutilized leave days be claimed by dependants to the estate of a deceased officer.
- (1) Authorized Officers shall be responsible for authorizing commutation of leave for cash where leave is not taken due to exigencies of service.

- (2) Commutation of leave will be based on an officer's basic salary for the relevant leave year



- (3) The above notwithstanding, it is reiterated that officers should be allowed to utilize their leave in each year.

## **SECTION G:       WORK ENVIRONMENT HEALTH AND SAFETY**

### **G.1           Introduction**

This Section provides guidelines and standards for the prevention and protection of officers against accidents and occupational hazards arising at the work place. It also provides for guidelines, procedures and modalities for the administration and payment of compensation for work related injuries and accidents contracted during and outside the course of work. Authorized Officers shall have a responsibility of ensuring that all officers and visitors are informed of and are fully conversant with the emergency procedures.

## **G.2 FIRE PRECAUTIONS**

- (1) Authorized officers are responsible for ensuring that fire protection facilities are provided in the buildings used by Departments under their control and are adequate and maintained as advised by Fire Officers and Occupational Safety and Health Officers. They are also responsible for enforcing all necessary fire precaution measures as directed by both the Departments responsible for Public Works and Labour.
- (2) General information on fire precautions and fire equipment is contained in publications which are obtainable from the Fire Officer in the Department responsible for Public Works. Regulations regarding fire safety are obtainable from the Department responsible for Labour.

## **G.3 FIRE PREVENTION**

- (1) The County Fire Officers are responsible for providing advice on all matters concerning fire prevention, firefighting, fire protection and fire demonstrations in all County Government premises.
- (2) The Department responsible for Public Works is responsible for ensuring that all buildings are fitted with firefighting equipment. Individual County Departments are responsible for the subsequent replacement of portable equipment and provision of refill for such equipment with advice from Fire Officers and the Occupational Safety and Health Officers.
- (3) Fire prevention and protection in buildings leased to the County Government is the responsibility of both the owner and occupier of the building. The Authorized Officers of

the Department responsible for Public Works and that occupying the premises shall be legally responsible to ensure compliance.

- (4) Alterations should not be carried out on buildings without prior consultation with the Fire Officers and the Occupational Safety and Health Officers. Any means of escape from a building should be kept clear of any obstruction which would make it difficult for occupants of the building to escape in case of fire.
- (5) No hazardous or highly inflammable materials should be stored in buildings without the approval of the Principal Fire Officer or County Fire Officers.
- (6) Positions of firefighting equipment must not be interfered with nor should firefighting equipment such as hose reels and extinguishers be used for purposes other than firefighting.
- (7) Each County Government building must have a Safety and Health Committee headed by a responsible officer and constituted in accordance with the Factories and Other Places of Work (Safety and Health Committee) Rules;
- (8) Fire Officers may recommend any measures which they deem necessary for purposes of safety. It is the responsibility of the officer to whom such recommendations are addressed to ensure that appropriate steps are taken to implement the measures with minimum delay. Any officer who fails to implement such recommendations will be held personally responsible for the consequences and in case of subsequent fire outbreak; he will be liable for disciplinary action and/or prosecution.
- (9) Fire Prevention Committees should be established across all Departments.

(10) The Authorized Officers shall ensure that:-

- (i) Health and Safety Committees are formed in all premises used by officers in their Departments and/or sections;
- (ii) The Committee members and all officers are trained; and
- (iii) Firefighting drills are conducted in all premises used by officers at least once in every twelve (12) months in accordance with the requirement of the Factories and Other Places of Work (Fire Risk Reduction) Rules.

#### **G.4 NOTIFICATION OF FIRES**

- (1) All fires, however small, must be reported to the County Fire Officers or the Police immediately they are noticed. The building or premises so affected by fire must be guarded and no evidence should be interfered with until investigations are over.
- (2) It is the responsibility of whoever detects a fire to initiate alarm, inform the police and fire brigade, and try to control the fire during its initial stages.
- (3) All County Government buildings must be fitted with fire detectors, alarms, water storage tanks and pumps dedicated to firefighting only and separate from the normal water supply.

#### **G.5 MEDICAL EXAMINATION**

The Authorized Officers shall ensure that all officers working in hazardous occupations undergo periodic medical examination in accordance with the Occupational Safety and Health Act.

#### **G.6 PROVISION OF PROTECTIVE EQUIPMENT AND CLOTHING**

Authorized Officers shall ensure that all officers who are employed in any process involving exposure to wet or to any injurious or offensive substances are provided with



adequate, effective and suitable protective clothing and appliances.

## **G.7           SAFE USE OF POTENTIALLY DANGEROUS EQUIPMENT**

The Authorized Officers shall ensure that all plants including hoists and lifts, steam boilers, other equipment and pressure vessels are properly maintained and that they undergo the statutory examinations as per the Occupational Safety and Health Act requirements.

## **G.8           COMPENSATION TO GOVERNMENT OFFICERS IN CASE OF INJURY OR DEATH**

The Work Injury Benefits Act (WIBA) provides for compensation for accidents and occupational diseases arising out of and in the course of an officer's employment. Only injury, diseases or death arising from occupational hazards are compensable. Besides the provisions of WIBA, the County Government shall introduce the Group Personal Accident (GPA) Scheme which will be administered by County Treasury in liaison with The National Treasury.

## **G.9           REPORTING OF ACCIDENT**

(1) Immediately a work place accident, an accident in a County Government vehicle or development of an occupational disease resulting in death or injury to an officer comes to the notice of the officer under whom he is directly deployed, the Supervisor should make a claim for compensation in accordance with the procedure set out below:-

- ① In case of an accident resulting in the injury or death of an Officer Part I of the Directorate of Occupational Safety and Health Services, Accident

Notification form (Form DOSH 1) should be completed in triplicate;

- (i) The forms should then be dispatched to the Authorized Officer of the officer's

Department, the Occupational Safety and Health Officer of the region in which the accident occurred and for non-fatal the Medical Practitioner who is attending to the injured officer; and

- (i) The detailed procedures are contained in the relevant forms which are obtainable from the Director of Occupational Safety and Health Services in the Department responsible for Labour.
- (2) Where the Director of Occupational Safety and Health Services finds anomalies or that the percentage given in the medical report is not in conformity with the provisions of the Work Injury Benefit Act (WIBA), he will decline to process the compensation. The Director will inform the Authorized Officer of the officer's Department of that decision giving reasons as to why he has taken the decision and if the officer qualifies for compensation, he shall advise on the action that should be taken to enable the officer's compensation to be processed.
- (3) Where the Director declines to process the compensation, the Authorized Officer may either request the Director of County Medical Services to convene a Medical Board for reassessment of the County Government's liability to pay compensation or may request the Director of Occupational Safety and Health Services to appoint a county medical panel for reassessment on the officer's diagnosis or injury.

#### **G.10            Approval and Distribution of Compensation**

- (1) If it is considered by the Director that the County Government is liable to pay compensation, he will send a demand note to the Authorized Officer of the County Department employing the injured, sick or deceased officer indicating the amount of money to be paid to the injured/sick officer or the dependants of a deceased officer.

- (2) The payment of the money due for compensation to the injured or deceased officer shall be made within ninety (90) days.

- (3) The injured officer or the dependant(s) of deceased officer will sign a certificate of acknowledgement of payment and complete agreement form in triplicate.
- (4) Copies of such certificate and of the appropriate agreement form should then be distributed as follows:
  - (i) One copy to be handed to the officer or, in case of fatal accident, to the dependant(s);
  - (ii) One copy to be returned to the Authorized Officer of the injured/deceased officer's Department; and
  - (iii) The other copy to be retained by the Director of Occupational Safety and Health Services.

## **G.11 RECOURSE TO COURT**

Where the officer or the Department is not satisfied with the amount of compensation computed by the Director of Occupational Safety and Health Services, they may raise an objection to the said Director or appeal to the Industrial Court.

## **G.12 COMPENSATION PAYABLE DURING SICK LEAVE UNDER WIBA**

An officer on sick leave as a result of an accident or occupational disease will be entitled to full pay.

### **G.13 SOURCE OF COMPENSATION FUNDS**

- (1) Authorized Officers shall source for funds from the County Treasury to meet the compensation of officers who are injured, develop occupational diseases or die in the course of their employment.
- (2) The Accounting Officer in charge of Finance will make appropriate arrangement to ensure that each Department access adequate funds to pay Work Injury Benefits to injured officers.

### **G.14 REPORTING INJURY, SERIOUS ILLNESS OR DEATH**

- (1) In case of an officer's injury, serious illness or death an immediate report by telephone, or special means including e-mail should be made to the relevant Authorized Officer, stating relevant particulars of the officer.
- (2) The next-of-kin must be informed immediately and be made aware of the circumstances under which the officer sustained injuries or met his death.
- (3) In addition to the report referred to in paragraph (1), a Death Certificate should be submitted to the relevant Authorized Officer as soon as possible to facilitate processing of final dues.
- (4) The accident should also be reported to the Director of Occupational Safety and Health Services within twenty four (24) hours in accordance with the requirement of the Occupational Safety and Health Act.

**G.15            GROUP PERSONAL ACCIDENT POLICY**



- (1) The GPA covers permanent bodily injury or death arising from bodily injury caused solely by violent external visible means and provided such death occurs not later than six (6) calendar months after the accident.
- (2) The GPA provides a 24 hour cover to Civil Servants whether within or outside the country unlike WIBA which covers the hours the officer is at his place of work.
- (3) A claimant should not be compensated twice for the same loss under GPA and WIBA.
- (4) The GPA offers extended cover to all Civil Servants as follows:-
  - (i) Accident to employees while riding on motor cycles including pillion passengers;
  - (ii) Accident to employees out of exposure to banditry and similar risks in the course of duty;

County Government drivers deployed to drive privately registered donor development partner vehicles. *Details on conditions for compensation and exclusions are found in the GPA Policy or as maybe communicated otherwise by the National Treasury.*
- (5) Any claim submitted after one (1) year will be time barred and will not be accepted as liability.

- (6) All claims under GPA should be reported by the insured, dependants or nominee in writing.

The benefits payable under the GPA and WIBA are:-

Cover	Benefit
-------	---------

Death under GPA	5 years Basic Salary
Death under WIBA	8 years Gross Salary (basic salary +regular allowances)
Permanent Total Disability under	5 years basic salary x percentage awarded
Permanent Total Disability under WIBA	8 Years (basic salary + house allowance) x percentage awarded

## **G.16 GUIDANCE, COUNSELING AND HIV/AIDS MANAGEMENT IN THE PUBLIC SERVICE**

- (1) The current challenges in the workplace and family environment affects the performance and wellbeing of an officer. To address these challenges, the County Government has introduced guidance and counseling in the Service and a policy developed to regulate guidance and counseling.
- (2) Every County Department shall establish a unit for provision of guidance and Counseling services in order to address the psychological needs of public servants during their entry, stay and exit from service.
- (3) Professional Counselors will be deployed to County Departments to provide guidance and Counseling services to public servants.
- (4) Counseling Services in the county public service shall be free of charge and shall be limited to the County Public Servants. However, consultation with family members or support system may be extended when deemed necessary.

## **G.17 COUNSELING SERVICES**

- (1) Officers may seek guidance and Counseling when faced with psychological challenges.
- (2) A supervisor may refer an officer for Counseling when he notices signs of low productivity, when the officer is a danger to himself and others or in case of an indiscipline problem.
- (3) An officer shall have freedom to accept or reject counseling. This includes freedom to remain in the counseling relationship after it has been initiated.

## **G.18 HIV/AIDS SUPPORT PROGRAMME**

- (1) HIV and AIDS is a major challenge facing officers in and out of the office. It poses a big threat to the individual, the family and the public service. It is in cognizance of this that the County Government has put in place care and support programmes for the infected and affected officers to enable them remain productive.
- (2) HIV/AIDS shall be treated like any other challenging issue at workplace. All officers shall have a role to play in the wider struggle to mitigate the effects of the pandemic.
- (3) Policy guidelines have been developed to address HIV/AIDS challenges affecting County Public Servants in the workplace.

## **G.18.0      Fighting Stigma and Discrimination**

- (1)      An officer shall not be discriminated or stigmatized on the basis of HIV status. It i s

an offence for any person to discriminate another on the ground of actual, perceived or suspected HIV status in the work place.

- (2) The Authorized Officers shall be expected to be at the forefront in providing a conducive working environment for the infected and affected officers. They shall be required to set up programmes that will instill positive behavior in the management of HIV and Aids.

It shall be the responsibility of the County Executive Committee Members to minimize the risk of HIV transmission by adopting First Aid/Universal infection control precautions at the workplace.

#### **G.18.1 Screening for Purposes of Employment/Recruitment**

HIV screening shall not be a requirement for recruitment or for persons in employment. Screening shall be confidential, voluntary and shall be undertaken after counseling. There shall be no disclosure of HIV test results or of any related assessment results to any person without the written consent of the concerned officers.

#### **G.18.2 Continuation of Employment**

Officers with HIV-related illness shall be allowed to work for as long as they are fit to work and HIV infection should therefore, not be a cause for termination of employment.

### **G.19 DRUG AND SUBSTANCES ABUSE**

- (1) Addiction to drugs or substance will be treated like any other disease. An officer who is determined to deal with drug and substance abuse problem by engaging in rehabilitation services will be referred by his Department to a Government doctor for evaluation.

- (2) The Government will provide both in-patient and out-patient rehabilitation services within the limits provided by the prevailing legislation.

## **G.20 EMPLOYEE WELFARE AND WELLNESS**

Authorized Officers shall develop and implement employee welfare and wellness programmes in the work place.



## **SECTION H:        PERFORMANCE MANAGEMENT**

### **H.1            INTRODUCTION**

This Section provides guidelines for performance management in Makueni County Public Service. Performance management involves strategic planning, work planning, target setting, tracking performance and reporting. Performance Measurement shall be undertaken in accordance with the SPAS guidelines issued to Makueni County Public Service.

## **H.2 COUNTY PERFORMANCE MANAGEMENT FRAMEWORK**

- (1) The County Executive Committee responsible for Public Service shall design a performance management plan to evaluate performance of the County Public Service and the implementation of County policies.
- (2) The plan shall provide for among others—
  - (i) objective, measurable and time bound performance indicators;
  - (ii) linkage to mandates;
  - (iii) annual performance reports;
  - (iv) citizen participation in the evaluation of the performance of County government;  
and
  - (v) Public sharing of performance progress reports.
- (3) The governor shall submit the annual performance reports of the County Executive Committee to the County assembly for consideration.
- (4) The performance management plan and reports under this section shall be public documents.

### **H.3                    STAFF PERFORMANCE APPRAISAL SYSTEM**

- (1) The Appraisal will be based upon the principal of work planning, setting of agreed performance targets, feedback and reporting. It is linked to other human resource systems and processes including staff development, career progression, recruitment, placement, incentives and sanctions.

- (2) The purpose of performance appraisal is to assess as comprehensively and objectively as possible the officer's performance against set targets and is aimed at the realization of overall departmental objectives.

### **H.3.0 Objectives of Staff Performance Appraisal**

- (1) The overall objective of staff appraisal system is to manage and improve performance in the County Public Service by enabling a higher level of staff participation and involvement in planning, delivery and evaluation of work performance.
- (2) The specific objectives are to:-
  - (i) Link individual performance with organization performance;
  - (ii) Enable supervisors and appraisees to continuously assess work progress;
  - (iii) Assess the learning and development needs of staff on timely basis;
  - (iv) Promote accountability in the County public service;
  - (v) Promote communication and encourage continuous feedback between appraisee and appraiser;
  - (vi) Set the basis on which an officer's performance is monitored and evaluated as

stipulated in the individual work plan;

- (vii) Improve the quality of work through better planning, on-going discussions and fair participatory appraisal; and

- (viii) Provide information for decision-making on administrative and human resource issues such as renewal of contracts, promotions, delegation of duties, training, deployment, reward and sanctions.

### **H.3.1 Scope of Application**

- (1) Staff Performance Appraisal shall apply to all categories of staff in the County public service.
- (2) County Governments may develop their own performance appraisal instruments.
- (3) All newly employed, promoted, redeployed officers will be required to complete relevant performance appraisal forms within three (3) months of employment, re-deployment and promotion.
- (4) The primary responsibility for implementing Performance Appraisal System (PAS) rests with County Chief Officers and heads of departments.

### **H.3.2 Work Planning and Setting of Performance Targets**

- (1) At the beginning of each financial year, each officer shall develop an individual work plan and sign a staff performance appraisal form with his/her supervisor based on agreed performance targets. The departmental work plans shall include departmental priority objectives from which individual performance targets will be derived. Departmental heads will discuss with staff and ensure that the objectives and performance targets of the department are understood.

- ② The individual work plans will be derived from the departmental work plans and officer's job description. The work plan will briefly describe the performance targets or expected results on specific assignment and activities for which the staff member is responsible during the performance year.

- (3) The appraisee will hold discussions with immediate supervisor to agree on the work plan. The performance targets shall thereafter be set as agreed in the discussions by latest 31<sup>st</sup> July of each year. The expected results may include completion of projects/assignments during the period of assessment. For each assignment to be assessed there shall be clear and measurable indicators of success.
- (4) As part of the staff training and development plan, every staff member will indicate at least one training goal to be achieved in the reporting period as agreed with the supervisor. This may include special assignments, continuing education, on the job training, seminars, conferences and study tours.

### **H.3.3 Values and Competencies Assessment**

- (1) Achievement of performance targets will also depend on possession of certain specific competencies. Besides these competencies, it is important to ensure that results in the County Public Service are realized through observance of certain well defined values and ethics.
- (2) The Supervisor shall discuss with the appraisee each competency and value at the beginning of the appraisal period in order to be clear on the relevance of the competencies and values on the performance of the appraisee.

### **H.3.4 Appraisal Period**

The appraisal period will cover one (1) year starting from 1<sup>st</sup> July to 30<sup>th</sup> June of the following year. The Performance Appraisal reflects the summation of the year's performance.



### **H.3.5      Continuous Performance Appraisal**

- (1) Performance appraisal is an on-going process throughout the performance period. Milestones over the review period should be documented and maintained in the appraisee's personal file.

### **H.3.6 Mid-Year Performance Review**

- (1) The main purpose of the mid-year Performance Review is to accord both the supervisor and appraisee the opportunity to jointly review progress made by the appraisee in accomplishing the tasks and assignments agreed at the beginning of the Appraisal period.
- (2) The review shall be centered on what has been achieved; any constraints experienced and whether there is need to vary the initial assignments in order to accommodate any unforeseen circumstances. Any changes, additions or removal of performance targets shall only be made in the event that there have been significant changes in the nature of functions carried out by the appraisee and which may necessitate revision of performance targets.
- (3) The supervisor should, after discussions with the appraisee at the Mid-Year Performance Review, comment on the appraisee's performance.
- (4) In the event that the supervisor leaves the department, he/she will be required to appraise the performance of the appraisee (s) on pro-rata basis.

### **H.3.7 Reporting Frequency**

The appraisee shall submit quarterly performance reports to the supervisor. Reports on performance will be on quarterly basis but reflecting cumulative achievements on agreed targets. The report for the fourth quarter will be the end year report.

### **H.3.8      End of Year Appraisal Process**

The end of year appraisal takes place at the end of the reporting period. The following will constitute the end of year evaluation process.

- ① The appraisee shall submit to the supervisor a preliminary report on the extent to which set targets were achieved as agreed at the beginning of the performance year, with clear performance indicators to support performance;
- ② The supervisor and appraisee shall discuss the overall performance for the whole appraisal period;
- ③ The supervisor is also required to assess the appraisee's core competences and values.

### **H.3.9 County Performance Management Steering Committee**

- (1) The County Secretary shall constitute a County Performance Management Steering Committee which shall implement, monitor and evaluate the performance management system in the County.
- (2) The composition of the committee shall be as follows:-
  - (i) Chairperson To be appointed by the County Secretary from among County Chief Officers
  - (ii) Secretary Chief Officer in charge of Planning;
  - (iii) Members All Chief Officers of the County Departments;

(3) The role of the County Performance Management Steering Committee is to:-

(i) Coordinate the performance contracting system at the County level;

- (ii) Ensure integrity and credibility of overall process of staff performance appraisal is safeguarded and maintained in the County Departments;
- (iii) Propose measures to improve staff performance management process;

### **H.3.10 Departmental Performance Management Committee**

As discussed above in his manual, each County department will establish a Departmental Performance Management committee whose role will be to;

- (i) Ensure staff appraisal process conforms to County Departments' strategic objectives;
- (ii) Ensure staff appraisal process is adequately linked to the County Departments objectives, work plans and performance contracts;
- (iii) Ensure that performance of all officers in the County department is evaluated and feedback relayed to the officers in writing at the end of the year;
- (iv) Arbitrate in case of disagreement on appraisal ratings between supervisors and appraisees;
- (v) Compile the County department annual performance appraisal reports;
- (vi) Implement the internal monitoring and evaluation framework;

- (vii) Hold quarterly performance review meetings.

### **H.3.11        Rewards and Sanctions**

- (1) The overall goal of the Rewards and Sanctions is to establish a basis for rewarding exemplary performance and administering sanctions for poor performance,

motivate employees to have positive attitude to work and to enhance productivity in the public service. This will also create linkages between institutional and individual performance.

- (2) The County Public Service Board will be responsible for the administration of the rewards and sanctions policy. The Board will also handle cases of appeals after employees have exhausted all review mechanisms.

#### **H.3.11.0 Types of Rewards and Sanctions**

The provision and types of rewards and sanctions shall be as set out in the Rewards and Sanctions Framework for the County Public Service.

#### **H.3.12 Appeals on Staff Performance Appraisal process**

Appeals on performance assessment shall be submitted to the County Public Service Board for consideration.

## **SECTION I: TRAINING AND DEVELOPMENT**



## **I.1 INTRODUCTION**

- (1) This Section provides guidelines on how to plan, manage and coordinate training in the County public service. A culture of continuous learning is encouraged as a way of developing Human capital in the Public Service.

- (2) The County Government policy on training is to ensure continuous upgrading of core competencies, knowledge, skills and attitudes of Public Officers including their ability to assimilate technology to enable them create and seize opportunities for career growth, social advancement, economic growth and development.
- (3) The County Government will establish a training fund for financing their training programmes. The fund will be used for job-related courses that enhance performance and service delivery.
- (4) All training must be based on identified training needs. County Public officers should have at least five (5) days training in a year, while newly recruited or transferred officers must be inducted within three months of joining the County Public Service.

## **I.2 MANAGEMENT AND CO-ORDINATION OF TRAINING**

The management of training in the County Public Service will be the responsibility of the County Public Service Board. Human Resource Management and Development Units established in County Departments will be responsible for the training function in the County Departments. Departmental Training Committees shall be established to coordinate the training function.

## **I.3 TRAINING NEEDS ASSESSMENT**

- (1) Training in the County Public Service shall be based on Training Needs Assessment which shall be conducted every two years in each County Department.
- (2) County Departments shall prepare training projections based on Training Needs

Assessment to guide the training committees in nominating officers for training.

## **I.4                    TRAINING PROGRAMMES**

- (1) Training programmes comprise both short and long term courses in specific professions that are intended to impart required knowledge, skills and attitudes to enhance staff performance.
- (2) County Departments may design specific in-house training programmes as a method of developing training interventions which address identified training needs. In addition, training can be provided under institutional training both locally and abroad.
- (3) In designing training programmes County Departments should ascertain the availability of:-
  - (i) Professional, qualified and experienced trainers;
  - (ii) Training programmes that are cost-effective; and
  - (iii) An effective evaluation and feedback system to assess the impact of training on performance.
- (4) Selection of trainees for all training programmes will be based on identified needs with emphasis on training for performance improvement that addresses national, County, organizational and individual goals.

## **1.5                    TRAINING LEVY**

Officers undertaking courses lasting more than three (3) months both locally and

internationally will be required to contribute to the cost of their training. For those on local training a rate of ten percent (10%) of their basic salary per month for the duration of the course will apply whereas those attending courses lasting more than four (4) weeks in institutions outside the country will contribute at the rate of twenty percent (20%) of their basic salary per month for the duration of the course. This is

regardless of whether the courses are sponsored by the Government of Kenya or by Development Partners through bilateral or multilateral arrangements.

- (1) Officers undertaking part-time or full time self-sponsored courses are however, exempted from paying the training levy.
- (2) The County Secretary shall ensure that the officers' contributions are remitted for the duration of the course to the County Public Service Board.

## **I.6 INDUCTION TRAINING**

Induction and orientation training help an employee familiarize with the work environment and requirements. The County Government shall conduct induction training within three (3) months for newly recruited officers and those who have joined on transfer.

## **I.7 ELIGIBILITY FOR TRAINING**

- (1) County Public Officers at all levels will be eligible for at least five (5) days training in a year.
- (2) An officer who attends a course lasting six months and above will be required to work for two years before they can qualify for selection for another long course.

## **I.8 COURSE APPROVAL**

- (1) The County Public Service Board will grant course approval to officers proceeding on authorized foreign and local long-term training in accordance with service regulations.

Officers will be required to obtain approval before commencement of training.

- (2) The County Secretary will be responsible for issuance of course approvals for short-term training undertaken within the country on the recommendation of the County Departmental Training Committee.
- (3) The County Government shall initiate training programmes for all officers. However, employees are encouraged to initiate their own training programmes.

## **I.9 SPONSORSHIP FOR TRAINING**

Sponsorship for training of staff will be guided by the county training policy as follows:

## **I.10 UNDERGRADUATE TRAINING**

- (1) The county government shall not sponsor serving officers for undergraduate programmes. Where there is need for skills at this level, the government will procure the same from the labour market. However, employees who wish to sponsor their training shall be granted approval.
- (2) Notwithstanding (1) above and in a bid to ensure the marginalized and minority groups and persons with disabilities are represented at all levels of the public service, public institutions may recommend sponsorship of officers for relevant undergraduate degree programmes, based on identified training needs in line with affirmative action programmes.
- (3) Any recommendations made in (2) above shall be forwarded to the County Public Service Board for approval.
- (4) The affirmative action for under-graduate degree programmes shall remain in force



until such time that a representative county public service is achieved.

## **I.11            MASTERS PROGRAMMES**

The county government will continue to support and approve training at Masters level for officers requiring the skills at this level for performance and career progression as prescribed in the respective career progression guidelines. However, the county government shall not support officers for second Masters programmes.

## **I.12            PHD PROGRAMMES**

- (1)     PhD training will continue being sponsored and approved for officers in training and research institutions within the county public service. However, officers wishing to pursue the PhD under the self-sponsorship arrangement will be approved on condition that the area of study is relevant to their duties, has completed two (2) years' service since the last long course and the approval shall not provide for reimbursement of training expenses.
  
- (2)     The county government will consider financial assistance or approve request for training at this level on a case by case basis provided that the area of study is a county priority or is focused towards an organization's strategic needs as outlined in its strategic plan and the course is relevant to the officer's current or potential future job.

## **I.13            TRAINING REVOLVING FUND**

- (1)     The County Government will set up a Training Revolving Fund to assist public officers access funds at subsidized interest rates for training in order to enhance knowledge and skills considered critical for performance improvement and achievement of

county development goals.

- (2) Officers, who have been projected for training in critical areas and the Departments

have no funds to sponsor them within the fiscal year, may be advised to seek funds from the training revolving fund.

#### **I.14            TRAINING BOND**

- (1) The County Government will enter into a formal agreement with serving officers proceeding on approved courses of training locally or abroad lasting six (6) or more months.
- (2) The period of the bond for courses lasting six (6) or more months will be determined by the duration of the course as follows:-

##### **Training Period**

##### **Bond Period**

(i)	Six months up to one year	One year
(ii)	More than one year up to two years	Two years
(iii)	More than two years up to three years	Three years
(iv)	More than three years but	As per the duration of the course not exceeding five years

- (3) The Bond period determined by the cost of training will not be less than one year and should not exceed five years.
- (4) The components of the bond amount may be determined by the mode of study and the

sponsoring authority. For full-time sponsored officers, the bond amount will be the total cost of the training plus the gross salary for the duration of the training.

- (5) The bondee and/or surety will be required to redeem the bond amount in lump sum in case of default.
- (6) The CPSB will provide guidelines on the administration and implementation of the training bond.

#### **I.15 SKILLS INVENTORY**

- (1) County Chief Officers shall develop, update and maintain a skills inventory for all officers in their respective Departments for purposes of identifying the available and the required skills in order to plan for training or recruitment to address the identified gaps and for succession management.
- (2) It will be the responsibility of the officer to update their skills inventory.

#### **I.16 ALLOWANCES FOR COUNTY GOVERNMENT SPONSORED TRAINING**

- (1) Officers undertaking long courses abroad will be paid respective countries' living allowance to cater for subsistence, accommodation, outfit and excess baggage.
- (2) Officers attending long courses on full time basis within Kenya but outside their duty stations will be eligible for payment of living allowance to cater for meals, accommodation and related expenses at rates applicable to the respective areas.
- (3) County Government sponsored officers attending part-time, evening, sandwich and holiday module courses will not be entitled to a living allowance or stipend.

- (4) Officers sponsored by the County Government and attending full time courses within their duty stations will not be eligible for living allowance or stipend.

- (5) Officers fully sponsored by the County Government to undertake courses at Government Training institutions are not entitled to any living allowance or stipend.
- (6) An officer attending a short course lasting up to one month that is externally organized but held locally and outside the officers' duty station, will be eligible for living allowance to cater for accommodation, meals, service charges and other incidental expenses.
- (7) Other Allowances paid to officers undertaking courses locally and abroad are:-
  - (i) Research Allowance;
  - (ii) Dissertation/Thesis Allowance
  - (iii) Project Allowance;
  - (iv) Book Allowance.
- (8) The applicable rates are as stipulated in circulars issued to the public service from time to time.

## **I.17 INCIDENTAL EXPENSES**

- (1) The County Government will meet the cost of pre-departure medical examination, visa, vaccination and inoculation while the officer will meet passport expenses for foreign training.
- (2) The County Government will meet the cost of transport and traveling to and from the institution at which the course is held. However, the trainee will meet the cost of daily commuting between lodgings and place of study.



## **I.18        ANNUAL LEAVE**

An officer who has been on training will be eligible for his normal annual leave only for the year he resumes duty in addition to the leave days officially carried forward before proceeding on training.

#### **I.19 DONOR FUNDED COURSES**

- (1) Where a training award/scholarship for a long course organized under bilateral arrangements caters for only tuition and accommodation but do not include meals, out of pocket and stipend, the officer will be eligible for 25% of the living allowance applicable to the designated country.
- (2) Where a short course is partially funded under bilateral agreement, the officer will be eligible for 25% subsistence allowance applicable to the designated country.
- (3) Where a medical insurance cover is not provided under a Technical Cooperation Training Award, the County Government will meet the cost of the relevant medical insurance cover for the officer.

#### **I.20 SEMINARS, WORKSHOPS, RETREATS AND CONFERENCES**

- (1) The rates paid to officers involved in Seminars, Workshops, Retreats and Conferences will be determined by SRC from time to time.
- (2) Workshops which are meant to review develop and produce reports shall be treated as Retreats and should be for a maximum duration of ten (10) days. The number of participants in a Retreat should not be more than ten (10) excluding the secretariat staff.

- (3) The duration of Seminars, Workshops and Conferences should not exceed three weeks. Any Seminar, Workshop and Conference beyond three (3) weeks will be considered as a course and will be subjected to the stipulated provisions for courses.
- (4) No officer should be involved in more than one role in Seminar/Workshop/Conference at a given time.

#### **1.21 REIMBURSEMENT OF TUITION AND EXAMINATION FEES**

- (1) An officer who on his own initiative and at his own time undertakes and passes a course relevant for his career growth and which is administered by a recognized training institution will be eligible for refund of 50% of the amount spent on tuition and examinations provided: -
  - (i) Prior approval of the course had been granted by the Authorized Officer;
  - (ii) The officer has not been sponsored for the same course before; and
  - (iii) The officer avails the original certificate for the course and a training report.
- (2) Candidates who sit for the examinations administered by the County Public Service Board will be required to pay a prescribed examination fee. The rates of fees and mode of payment for the examinations will be notified when the dates for each examination is announced.
- (3) Candidates who pass examinations administered by the Board will be refunded the full amount of the prescribed examination fee by their respective Accounting Officers.

## **I.22            INDUSTRIAL ATTACHMENT**

- (1) Industrial attachment is an important component of education and training. It provides attachees with opportunities to acquire practical aspects of their respective areas of specialization in a real work place environment. The government wills support

industrial attachment by providing opportunities to students in tertiary and higher education institutions.

- (2) Attachment will be undertaken during the course and the duration will be for a maximum period of three (3) months.
- (3) The attachment shall be in line with the values and principles of public service and the existing labour laws.

### **I.23            INTERNSHIP**

- (1) Trainees graduating from training institutions join the labour market with academic and theoretical approaches to work and hence require practical exposure in a real work environment.
- (2) The Public Service uses internship programmes as part of on the job training for the purpose of moulding interns to become responsible citizens who will contribute effectively to the socio-economic development of the country.
- (3) Internship programmes shall be guided by the relevant provisions of the Constitution, relevant professional bodies and other policy guidelines and shall not exceed one (1) year.

## **SECTION J: CODE OF CONDUCT, DISCIPLINARY CONTROL AND LABOUR RELATIONS**

### **J.1 INTRODUCTION**

This Part addresses the code of conduct, disciplinary control and labour relations in the county public service.

### **J.2 CODE OF CONDUCT**

This Section contains general rules of conduct to be observed by public officers so as to maintain integrity and loyalty to the County government and also uphold the dignity of the public office to which they have been appointed. It further outlines procedures to be followed in cases of breach of discipline. It is therefore imperative that every public officer in the County government adheres to these rules of conduct, and such other rules which may be introduced from time to time.

Public Officers in the County Public Service will be required to work forty (40) hours spread over five (5) days in a week. This means that Government office hours for All public servants in the Government of Makueni County will be as indicated below:

Monday to Friday: 8.00 a.m. to 1.00 p.m.  
2.00 p.m. to 5.00 p.m.

## Public Holidays

- (8) The following days shall be observed as public holidays in accordance with the Public Holidays Act (Cap.110):-

New Year's Day .....	1 <sup>st</sup> January
Good Friday .....	
Easter Monday .....	
Labour Day .....	1 <sup>st</sup> May
Madaraka Day .....	1 <sup>st</sup> June
Idd-ul-Fitr.....	
Mashujaa Day .....	20 <sup>th</sup> October
Jamhuri Day.....	12 <sup>th</sup> December
Christmas Day .....	25 <sup>th</sup> December
Boxing Day .....	26 <sup>th</sup> December

- (9) In addition to the above public holidays, the following will be observed as public holidays by concerned officers as indicated:-

- (i) Idd-ul-Haj
- (ii) Diwali

### **J.2.1 Conduct of Public Officers in the Service of the County Government**

- (1) A public officer should ensure that his or her conduct both in public and in private life does not bring the Service into disrepute.



- (2) A public officer who contravenes paragraph (1) is liable to disciplinary action as stipulated in this Section and/or the county discipline policy in conjunction with other existing labour laws.

## **J.3                    ETHICAL PRINCIPLES**

### **J.3.0                Leadership and Integrity**

- (1) A public officer appointed to hold a public office will be required to demonstrate respect for the people; bring honour to the service and dignity to the office; and promote public confidence and integrity, as stipulated in Chapter Six of the Constitution of Kenya, 2010.
- (2) All County Public Service employees must perform their duties with honesty, integrity and to the best of their abilities. They must not allow themselves to be unduly influenced by anything or anybody. They should communicate openly and honestly, and demonstrate a sense of purpose and a commitment to achieving the optimum outcome to the interest of the County even under adverse or tempting conditions.
- (3) Employees must be courteous and obliging to the public. They must give correct and timely information regarding the services of the County in performance of their duty. Any communication from the customers (both internal and external) must be dealt with expeditiously and courteously. They must accept accountability for their actions and decisions and also appreciate positive criticism.
- (4) Employees shall serve at such places as the County may determine and shall devote themselves to their work during the hours of duty. The services which an employee may be required to perform for the County are not limited to those which may be specified in his contract or letter of appointment; he may additionally be called upon to perform any other duty for which he is qualified in connection with the needs and operations of the County.
- (5) Employees shall use their capabilities and develop their potential as much as possible particularly in return for training received.

- (6) Employees shall not absent themselves from duty during appointed working hours; leave their appointed place of work; proceed to a place other than their duty stations; exchange duty with other employees or alter their hours of duty without the permission of their supervisor.
- (7) Employees are expected to share and declare any information they may have about a personal or corporate conflict of interest to avoid a compromising situation.
- (8) Employees shall not solicit for rewards/bribes, before, during or after performance of duty.
- (9) Employees shall NOT disclose confidential information to the press, public or any unauthorized persons. They are also prohibited from extracting or destroying official records.
- (10) Employees shall at all times live within their income to avoid pecuniary embarrassment.
- (11) Employees should challenge others when they behave in unethical way, report behaviour in conflict with this code, but should not suppress unnecessarily any positive and constructive contributions and criticisms.
- (12) Employees shall pay due regard to environmental and public health considerations in and around the workplace.
- (13) It is the employees' obligation to assist senior management to fulfill its ethical obligations as set out in this code.
- (14) It is the responsibility of all employees to uphold and portray positive County image.

- (15) Employees shall at all times take care of the County property including that entrusted under their care.

- (16) All employees shall pledge to uphold the policy of zero tolerance to corruption in all its forms.
- (17) Employees are prohibited from engaging in trade or in any commercial undertakings which may be in conflict with the interest of the County or rendering professional assistance to, or accepting any remuneration from private person or firms.

#### **J.4 CHIEF OFFICER'S OBLIGATIONS**

Chief Officers are responsible for obligations of the County.

The Chief Officers shall, by reason of their being in control of the carrying on of the business of the County be responsible for: -

- (1) Communicating this code and to ensure it is understood by all the employees of the County.
- (2) The observance of the ethical obligations of the County.
- (3) Taking the necessary steps for compliance within the County with the provisions of this Code of Ethics.
- (4) Introducing and maintaining in the county, awareness by all employees prudent utilization of resources of the County, including time.
- (5) Keeping the costs of the County operations at the reasonable level.
- (6) Chief Officers shall not place themselves in a position where their personal interests

conflict with their duties to the County, and in particular they shall : -

- (i) Not divulge information of the County to the public or otherwise make improper use of such information.
- (ii) Not carry own business on their account where this is forbidden by the County.
- (iii) Not accept secret profits, bribes or any other corrupt unconscionable benefits.
- (iv) Acquire for the benefit of the County any economic opportunity, which is in the best interest of the County Priorities.

## **J.5 CONFLICT OF INTEREST**

What constitutes conflict of interest or any unethical business practices are both a moral and a legal question. The County recognizes and respects the individual employee's right in activities outside of his/her employment that are private in nature and do not in any way conflict with or reflect poorly on the County Government.

It is a requirement that all officers disclose their personal interests. For the purpose of this regulation, "personal interest" includes the interest of a spouse, relative or business associate which may conflict with official duties.

It is not possible in a general policy statement of this sort to define all the various circumstances and relationships that would be considered "unethical". The list below suggests some type of activities that would reflect in a negative way on the employee's personal integrity or that would limit his/her ability to discharge job duties and responsibilities in an ethical manner.

- ① Simultaneous employment by another organization or entity, particularly if the entity is a competitor or supplier.

- (i) In cases where carrying on County business with a company in which the employee, or close relative of the employee, has substantial ownership or interest, staff should disclose their interest and not participate in the decision making. Non-disclosure will constitute unethical conduct.
- (ii) Holding a substantial interest in, or participating in the management of an organization from which the County procures services, materials, equipment, or supplies.
- (iii) Borrowing money from customers or companies, other than recognized loan institutions.
- (iv) Accepting substantial gifts or excessive entertainment for certain service.
- (v) Speculating or dealing in materials, equipment, supplies, services or property purchased by the County.
- (vi) Misusing privileged information or revealing **confidential data** to outsiders.
- (vii) Using one's position in the County or knowledge of its affairs for outsiders' personal gain.

## **J.6 GIFTS OR BENEFITS IN KIND**

A public officer is prohibited from receiving valuable presents (other than gifts from personal friends and relatives) whether in the form of money, goods, free passages or other personal benefits and from giving such presents.



- (1) A gift or donation to a public officer on a public or official occasion will be regarded as a gift or donation to the County government and shall be delivered to that County treasury unless exempted under an act of Parliament.

- (2) When presents are exchanged between officers acting on behalf of the County government in ceremonial occasions with other governments or their representatives, the presents received will be handed over to the County government and any present in return will be given at the County government's expense.

**J.6.0            A Public Officer Shall Therefore:-**

- (i) not hold shares, corporate or partnership of another body directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties;
- (ii) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict and also refrain from participating in any deliberations with respect to the matter where such interests conflict with the official duties;
- (iii) not award a contract or influence the award of the contract to self, spouse, close relative, business associate, or a corporation, partnership or other body in which the officer has an interest;
- (iv) not use the office to improperly enrich self or another person or improperly use the office to acquire land and other property for self or another person, whether or not the land or property is paid for, for personal benefit or for another;
- (v) not use or allow the use of information acquired in connection with the public officer's duties that is not public for own benefit or others;
- (vi) not engage in a full-time employment in another organization;

(vii) not hold office in a political party;

- (viii) not undertake any private agency in any matter related to official duties; and
- (ix) Not be an agent for a foreign Government, another County, organization or individual in a manner that may be detrimental to the security interests of the County or National Government.

## **J.7 POST RETIREMENT ENGAGEMENT**

- (1) A retired public officer who is receiving a pension from public funds shall not hold more than two concurrent remunerative positions as chairperson, director or employee of:-
  - (i) Company owned or controlled by the government at any level;
  - (ii) State organ.
- (2) A retired public officer shall not receive remuneration from public funds other than as contemplated in paragraph (1) above.

## **J.8 DECLARATION OF INCOME, ASSETS AND LIABILITIES**

- (1) Every officer shall on 1<sup>st</sup> appointment and bi-annually thereafter submit a declaration of income, assets and liabilities of self, spouse(s) and dependent children under eighteen (18) years to the Board.
- (2) A public officer who fails to submit a declaration or clarification as required, or who submits information that the officer knows is false or misleading, will be liable to disciplinary action.

- (3) If an investigation discloses that the public officer has contravened the Code of Conduct and Ethics, the appropriate disciplinary action will be taken against the officer; or if the CPSB is of the view that civil or criminal proceedings ought to be considered, the matter may be referred to the Director of Public Prosecutions.

## **J.9 ABUSE OF OFFICE**

A public officer who uses his office to enrich self or confer a benefit to a third party is guilty of an offence in accordance with the Anti-Corruption and Economic Crimes Act.

## **J.10 MANAGEMENT OF NEWSPAPERS, PUBLICATIONS AND INTERVIEWS ON QUESTIONS OF PUBLIC POLICY**

- (1) A public officer shall not act as the editor of any newspaper or take part directly or indirectly in the management thereof or publish anything which may be reasonably regarded as of a political or administrative nature without the express permission of the relevant authority in the County government.
- (2) A public officer shall not, under any circumstances, communicate with the media either in writing or by granting interview and making statements on matters affecting County government programs or policies without the specific authority of the relevant authority in the County government. Where such authority has been obtained, the officer shall communicate with the press through the respective Chief Officer.
- (3) While it is not desired to interfere with a public officer's freedom of speech, any lack of discretion on the part of the officer is likely to embarrass the County government and may result to serious consequences to the officer responsible.

## **J.11 CONFIDENTIALITY**

- (1) A public officer is bound to uphold confidentiality as stipulated in the Official Secrets Act, 2012 on appointment and on leaving the service of the County government.
- (2) Chief Officers should bring to the attention of all the employees, the provisions of the

Official Secrets Act, 2012 on appointment and at any other time as may be deemed necessary.

## **J.12            SUPPLY OF INFORMATION AND COMMUNICATION WITH MEMBERS OF THE COUNTY ASSEMBLY**

A Chief Officer may give information on technical issues related to the duties and activities of a County department for which the officer is responsible to members of the County Assembly through the respective Executive Committee Member.

## **J.13            HOSPITALITY FROM FOREIGN DIPLOMATIC REPRESENTATIVES**

A public officer may not accept hospitality from any Foreign Diplomatic Representative, without the prior permission of the County Secretary.

## **J.14            MEMBERSHIP TO POLITICAL ASSOCIATIONS**

Public Officers are not permitted to be officials of any associations of which the objects and functions are in any way political. This does not imply that the Government considers active membership of such associations improper or undesirable, but merely that it considers that active membership of a political association is not consistent with the duties and obligations of a public officer who is required to carry out the County government's policy, unbiased by any political view held.

## **J.15            POLITICAL NEUTRALITY**

- (l) Whereas, it is the constitutional right of any officer to be involved in political party activities, a public officer shall not use the office held to:-
  - (i) Act as an agent for, or so as to further the interest of a political party;
  - (ii) Indicate support for or opposition to any political party or candidate in an



election; and

- (iii) Engage in political activities that may compromise or be seen to compromise the political neutrality of the office held.

- (2) A public officer should refrain from active participation in politics. In any dealings which the officer may have with members of the County Assembly, the discussions should be restricted to subjects of general interests and County government affairs which fall under the officer's sphere.
- (3) A public officer must at all times preserve the tradition of loyalty to the Government without which no public service can properly function. The officer should also bear in mind the provisions of the Official Secrets Act, 2012 and the penalties which can result due to contravention.
- (4) A public officer who may wish to contest for a political seat will be required to resign from the service unless the officer is eligible for retirement under the Pensions Act.

## **J.16 INCLUSIVENESS**

- (1) The County government will strive to eradicate all forms of discrimination and harassment in order to promote inclusiveness and representation of Kenya's diverse communities and ethnic groups. It will therefore be an offence for officers who will be found to:
  - (i) Discriminate against a person by applying a requirement or a condition that has an effect of segregating a person on ethnic grounds;
  - (ii) Discriminate another person by way of victimization through any act that is injurious to the person's well-being and esteem by treating the person less favorably.
- (2) To ensure that the County Public Service reflects diversity of the Kenyan communities, the County Government will endeavour to address inclusiveness through recruitment, deployment, training and promotion.

- (3) A public officer is liable to be posted to any station within the service of the County government.

## **J.17           WORKPLACE VIOLENCE**

Workplace violence will not be tolerated. Any employee who commits an act of violence at work against a person or property will face disciplinary action up to and including discharge. Where appropriate, the matter will be referred to legal authorities for prosecution.

Workplace violence is violence against employers and employees and property that takes place in the workplace. It is committed by persons who either have employment-related connection with the County or are outsiders. It involves:

- Physical acts against persons or employer's property.
  
- Verbal threats or various statements that are meant to harm or cause a hostile environment.
  
- Written threat and other written conduct of intense distortion that is meant to threaten or create a hostile environment.
  
- Visual acts which are threatening or intended to convey injury or hostility.

Workplace violence can and must be prevented. Achieving this goal requires the combined efforts of all employees. Anything less than total commitment for the elimination of workplace violence is unacceptable. The intention is to see that it is stopped or does not occur and all employees must do their part to see to it.

All employees are expected to report any act of violence. Employees should bring their concern directly to the attention of line management or the County secretary. All such reports shall be fully investigated. Any employee who takes any reprisal, regardless of the magnitude of the reprisal, against a person who reports any act of violence or a suspicion of violence shall be subject to immediate discipline, up to and including discharge.

## **J.18           SEXUAL HARASSMENT**

Sexual harassment will not be tolerated. The County condemns sexual harassment as a direct and unacceptable contravention of its core values. Sexual harassment is defined as unwelcome sexual advances or request for sexual favors and other verbal or physical conduct of offensive nature.

A public officer should not harass another officer sexually through; direct or indirect request for sexual favors, use of language whether written or spoken of a sexual nature, use visual material of a sexual nature and show physical behavior of a sexual nature which directly or indirectly subjects the person to behavior that is unwelcome or offensive.

Hearings will be conducted fairly with both parties given equal opportunity to put their case forward. Complaints on sexual harassment will be handled confidentially and with sensitivity and due respect to both parties. Care will be taken to protect the careers and reputations of both parties. Sexual harassment is a gross misconduct and where the offender is guilty he will be liable to instant dismissal. Less severe penalties may be applied to minor offenders. Employees subjected to sexual harassment may take legal action. The affected employees will report all cases of sexual harassment directly to the office of County Secretary in confidence for appropriate action. Disciplinary action will be taken against a public officer for harassing another person.

## **J.19            DRESS CODE**

The County believes that proper dress code is essential in a business where developing customer respect and confidence is necessary for long-term growth and prosperity. All employees of the county on permanent or on a temporary contract represent the public image of the County and must ensure that the image they portray upholds high standards of professionalism.

Employees are expected to dress in accordance to general standards expected of a professional work environment and befitting the County at all times.

Men should be formally dressed in a suit, formal shirt and a tie. Ladies should wear formal skirt suits, formal dresses or trouser suits. Presentable broken suits may be allowed.

## **J.20            INAPPROPRIATE ATTIRE**

While employees are expected to use their discretion in the selection of appropriate attire, it is to be noted that certain attire is inappropriate for the County, except when permitted under special circumstances. This includes items such as:

- Sweatpants
- Shorts
- Jeans
- Denim clothing
- Tank tops, spaghetti straps or bare mid-riff apparel
- Sweatshirt
- Jogging suits
- Spandex leggings, hipsters

- Micro-mini skirts
- Sandals
- Excessive jewelry

- Any other attire that may draw away attention from the County business

Employees required to wear uniforms shall be provided with uniforms by the County and will be expected to wear these uniforms.

## **J.21 CASUAL DAYS**

On Fridays employees will be required to wear well-selected County branded business-casual attire that denotes a professional image as well as the County's corporate image, when serving customers.

County branded attire should be appropriately selected, fit well, with its original color maintained. Those items that are perhaps not of the best quality or have seen better days should be relegated to weekend wear. If meetings outside the office have been scheduled on a Friday, formal business attire will apply.

## **J.22 RESPONSIBILITY OF HEADS OF DEPARTMENTS/CHIEF OFFICER**

Heads of Departments are responsible for handling inappropriate attire and Head of Human Resources will advise employees if their attire falls short of the standard.

## **J.23 TELEPHONE USAGE**

The telephone is an important public relations tool for the County. Contact with customers and suppliers are through the telephone. Employees are required to be professional and courteous, forever mindful of the image of the County. Lack of professionalism and courtesy causes frustration and fails to promote the County image of prompt and efficient service.

An attempt should always be made to answer the telephone in a courteous manner on or before the third ring. Personal calls by employees must be limited to the extent possible to those of an emergency nature.



Heads of Departments should monitor the telephone usage to ensure that employees comply with this policy.

#### **J.24            ELECTRONIC MAIL AND INTERNET**

Electronic mail (E-mail) and Internet system should be used properly and in accordance with County ICT policy.

The E-mail and Internet system of the County is part of the business equipment and should be used for official purposes only.

The County expressly reserves the right to access, retrieve, read and delete any communication that is created, received or sent in the E-mail and Internet system to ensure compliance with this and other County policies. Employees will be required where necessary to sent official communication through the official allocated emails address.

Any employee who becomes aware of misuse of the E-mail and Internet system should promptly report to the County Secretary.

#### **J.25            MUSIC AND RADIO IN THE OFFICE**

Employees are allowed legal and acceptable instruments for mental stimulation. However, a sense of good judgment on the volume levels must be exercised to avoid interfering with the work of other employees especially in the open plan offices.

#### **J.26            USE OF COUNTY MOTOR VEHICLES**

- (1) It is the policy of the County to own and maintain Motor vehicles for use by employees

while on official business.

- (2) At all times, Government vehicles must be driven by authorized drivers.

- (3) Employees may use their personal automobile for County business only with prior approval of their Head of Department/Chief Officer.
- (4) Any authorized expenses directly related to County automobiles paid for by the employee will be fully reimbursed by the County. Employees who use their own automobiles for County business shall receive a mileage reimbursement of the County's approved rate per kilometre to cover the applicable expenses.
- (5) Employees who use their own personal automobiles for county business are required to have insurance coverage to adequately cover the vehicle, other property damage, and injuries sustained by individuals as a result of an accident.
- (6) It is the responsibility of the respective Head of Department to verify insurance coverage before allowing personal vehicles to be used for County business.
- (7) A driver who operates a vehicle on County business must possess a valid driving license. The respective Head of Department shall be responsible for checking the driving license for each driver assigned to use County automobiles or using his/her own automobile for County business. The employee shall pay any fines incurred due to personal negligence while on County business.
- (8) Any employee assigned a County automobile is responsible for its proper maintenance. Maintenance requirements must be promptly reported by the assigned driver to the respective head of department.
- (9) Reports of accidents, regardless of extent of damage, must be made immediately to the head of department if a County automobile is involved. Employees should always cooperate fully with the authorities in case of an accident. However, as is generally

advised, drivers should not admit liability.

## **J.27 FINANCIAL PROBITY**

- (1) A public officer shall not:-
  - (i) maintain a bank account outside Kenya except in accordance with the relevant Act of Parliament; or
  - (ii) Seek or accept a personal loan or benefit in circumstances that compromise the integrity of the public officer.
- (2) A non-Kenyan public officer shall not enter into any private arrangement with any bank or financial institution in the country for the purposes of getting any loan without prior approval of his Authorized Officer. In signifying the approval in this regard, the Accounting Officer will ensure that the officer will be able to honour the obligations in full during the tour of service in which the loan is to be granted.
- (3) Before leaving the country on completion of the tour, a non-Kenyan public officer shall be required to certify to the Accounting Officer that financial and other obligations have been cleared.

## **J.27 SALE OF PROPERTY TO THE GOVERNMENT**

If a public officer wishes to dispose personal property or effects by sale to the County government, the same should be in accordance with the Government Procurement Procedures.

## **J.28 UNDUE INFLUENCE**

- (1) Officers should be discouraged from seeking the influence of County Assembly or any other persons as a means of bringing their services to the notice of the County government with a view to consideration for promotion or other favors. Any such

attempt to obtain such favors is considered irregular and may actually be detrimental to the officer's interests.

- (2) A public officer is not permitted to make representations to a Member of the County Assembly on matters affecting his/her individual terms and conditions of service. Proper channels of communication exist to enable officers to make representations regarding their personal affairs.

### **J.30 ABSENCE FROM DUTY WITHOUT LEAVE**

- (1) Where an officer is absent from duty without leave, reasonable or lawful cause, for a period exceeding twenty-four hours (24), the following procedure will apply:
  - (a) Establish the exact period with dates the officer has been absent from duty. If not traced within a period of ten (10) days from the commencement of such absence, salary will be stopped with effect from the date of absence.
  - (b) A show cause letter will be addressed to the officer through his or her last known address by registered mail, giving a reasonable period within which to respond but not less than ten (10) days, stating clearly the nature of the offence and the contemplated action.
  - (c) If the officer does not respond, the case will be submitted to the relevant committee which shall make a recommendation to the CPSB for summary dismissal.
  - (d) If the officer responds, investigations will be carried out on the issues raised in the show cause letter and in the officer's defence; an investigation report prepared; and submitted to the relevant committee for recommendation. Thereafter, the

case will be submitted to the CPSB for a decision.



- (e) The decision will be communicated to the officer informing him or her of the right of appeal, or review to the County Public Service Board within six (6) weeks from the time of the decision.
  - (f) If the officer is not satisfied with the decision of the Board, the officer may appeal to the PSC, in accordance with PSC regulations and section 77 of CGA.
- (2) Where the officer has been absent from duty without permission and has continued to be paid leading to overpayment, the amount in question may be recovered from the salary or any other monies due to the officer from the Government.
  - (3) Where the overpayment is not as a result of a public officer's negligence, the officer who occasioned the overpayment should be held liable.

### **J.31 ABSENCE FROM DUTY ON GROUNDS OF ILLNESS**

A public officer who absents himself or herself from duty on the grounds of illness must produce proof of sickness/sick leave certified by a medical practitioner. Should the officer fail to produce a medical certificate, the officer shall be considered to be absent without leave and his case shall be dealt with in accordance with the relevant disciplinary procedure.

### **J.32 PECUNIARY EMBARRASSMENT**

- (1) Pecuniary embarrassment from whatever cause, will be regarded as necessarily impairing the efficiency of a public officer and rendering him liable to disciplinary proceedings.
- (2) A public officer will be expected to retain a net salary of **not less than  $\frac{1}{3}$**  of his basic salary per month.

- (3) Pecuniary embarrassment, involving both lending and borrowing of money at usurious rates of interest, will be regarded as an offence affecting both the respectability of the service and trustworthiness of the individual and may be held to be a bar to promotion or further retention in the service.
- (4) It is the policy of the County government to give officers who are in debt every possible opportunity to extricate themselves from their financial embarrassment, but there must be a limit beyond which a public officer cannot be retained in the service of the County government, in which case he must be retired in public interest. In certain circumstances, it might even be necessary to consider dismissal, but this step will only be taken in case of most serious nature and where indebtedness is not the only factor involved.
- (5) The department responsible for human resource matters will institute disciplinary action in accordance with laid down disciplinary procedures.
- (6) When a public officer is seriously indebted to the extent of more than six (6) months' salary, consideration should be given for removal from the service. The officer responsible for human resource will issue a show cause letter for the officer to explain why disciplinary action should not be instituted against him on account of indebtedness. The officer shall be required to submit quarterly reports showing exactly the state of his finances and the amounts which have been liquidated during the three (3) months previous to the date on which the report is submitted.
- (7) When a public officer's indebtedness requires that the officer should no longer carry out duties which may tempt the officer to appropriate public funds or stores for own use, it may be necessary either to retire the officer in the public interest or to redeploy the officer. Any officer, therefore, holding an office of this nature and who shows a tendency to run into debt should be warned in writing of this position.

### **J.33                   REPORT IN CASES OF BANKRUPTCY, JUDGMENT-DEBTORS**

- (1)     A public officer, who is declared bankrupt, becomes insolvent or seriously indebted shall at once report the matter to the respective chief officer. Failure to report such matter shall be regarded as a serious offence rendering the public officer liable to disciplinary action.
- (2)     A public officer who has reported bankruptcy, insolvency or indebtedness shall without delay submit a complete statement of facts of the case to the respective Chief Officer who will decide whether the circumstances would necessitate disciplinary proceedings being instituted.
- (3)     In no circumstances shall a bankrupt, insolvent or seriously indebted officer be permitted to be employed on duties involving the handling of public funds.
- (4)     Registrars of the High Court and Magistrates will report to the Authorized Officer, every instance in which a public officer becomes a judgment-debtor or whenever proceedings are taken against a public officer in bankruptcy.

### **J.34                   IMPROPER USE OF COUNTY GOVERNMENT STORES**

Government stores should not be converted for personal use. Disciplinary action will be taken against a public officer making or receiving unauthorized issues.

### **J.35                   ACTING FOR FOREIGNERS**

No public officer shall, in any manner that may be detrimental to the security interests of

Kenya, be an agent for, or further the interests of a foreign government, organization or individual.

### **J.36                    COLLECTIONS AND HARAMBEES**

A public officer shall not use his office or place of work as a venue for soliciting, collecting harambees, either as a collector or promoter of public collection, obtain money or other property from a person using his official position.

### **J.37                    ACTING THROUGH OTHERS**

- (1) A public officer contravenes the code if he causes anything to be done through another person that would constitute a contravention of the code if done by the public officer, or allows or directs a person under their supervision or control to do anything that is in contravention of the code.
- (2) Contravention shall not apply where anything is done without the public officer's knowledge or consent or if the public officer has taken reasonable steps to prevent it.
- (3) A public officer who acts under unlawful direction shall be responsible for his action.

### **J.38                    REPORTING IMPROPER ORDERS**

A public officer shall report to the Authorized Officer or the County Public Service Board, as the case may be, any order required of him that he shall consider improper or unethical.

#### **J.38.0                Losses of Public Funds Include:**

- (i) actual loss or destruction of, or damage (other than fair wear and tear) to, or failure to

account for the disposal of public monies, stamps, securities, or property movable or immovable (including any money or other property, not belonging to the County

government which is held or used by an officer in his official capacity, either alone or jointly with any other person);

- (ii) non collection of any monies due or belonging to the County government, or for the collection of which the County government is responsible;
- (iii) payments made or liabilities incurred without or in excess of any statutory, administrative or other authority, including nugatory and similar payments and payments arising from incorrect certificates; and irregular or excess issues of stores, rations, etc.;
- (iv) unauthorized use of County government stores, vehicles, buildings, equipment, or any other property, or of service (e.g. repair workshop) provided for official purposes; and
- (v) Compensation and similar payments (including third party claims in respect of vehicle accident), legal and court costs, and any other additional expenditure or liability incurred which was avoidable and need not have been incurred.

#### **J.38.1        Loss of Public Funds through Neglect or Fault**

- (1) If at any time public funds are lost in consequence of the neglect or fault of an officer, the officer will be held to have incurred a pecuniary liability in respect of the loss, and if a satisfactory explanation or offer of restitution is not forthcoming, the officer may be required to meet this liability in whole or in part. The amount in question may be recovered from his salary or any other monies due to him from the County government, or may be sued for and recovered in any court of law.
- (2) Such a recovery is not imposed as a fine or punishment but as a means of compensating the public purse of losses sustained as a consequence of an officer's dereliction of duty. It is in no way precluded by any criminal or disciplinary proceedings in respect of the

same occurrence, irrespective of the result.



- (3) Reckless indifference to the probable consequences of any neglect or fault will result in those consequences being deemed to have been intended.
- (4) Any act or omission which facilitates or makes a loss possible, even though it was not the immediate cause of it, may be regarded as a contributory cause and may involve a consequential liability, provided that full recovery from the person whose neglect or fault, including a criminal act, was the immediate cause.
- (5) Two or more officers may be held to have incurred a joint liability and recovery of all or part of the loss may be apportioned between them.

### **J.38.2      Recovery of Losses of Public Funds**

- (1) The procedure to be followed in reporting and dealing with losses is set out in the Public Finance Management Act and Regulations.
- (2) An Accounting Officer may require an officer to make good the loss of public funds, unless the loss is one which he is authorized by Public Finance Management Regulations (PFMR) and procedures to write off. In all cases, the Executive Committee Member responsible for Treasury may require an officer to make good the loss of public funds after he has considered the recommendations of the Accounting Officer.
- (3) Except as provided for in Public Finance Management Regulations and Procedures, no loss may be written off to public funds without the authority of the County treasury. All losses not within the authority of an Accounting Officer to write off must be reported to the County treasury, who may request any officer who appears to have incurred a pecuniary liability in respect of a loss to explain within a stated time why he should not be required to make good the loss in whole or in part. If a satisfactory explanation is not

forthcoming, the executive committee member responsible for Treasury will review the circumstances of the loss and, after taking into consideration the officer's general

conduct and financial circumstances, any other action which may have been taken against him, will decide whether the officer will be required to make good the loss, and if so to what extent. Similar action will be taken by an Accounting Officer in respect of the cases falling within his authority.

- (4) The executive committee member responsible for County Treasury or the Accounting Officer, as the case may be, will, when recording his decision, give directions as to the method of recovery. The normal method will be deductions from the officer's salary, if necessary in monthly installments, in amounts not exceeding 25 percent of his monthly salary. If, however, the officer's appointment has been or is shortly to be terminated, deductions from any sums due to him from County government will be made in such amounts as may be necessary to effect full recovery before termination of his service.
- (5) The executive committee member responsible for County Treasury or the Accounting Officer, as the case may be, may at any time, if a satisfactory explanation is received or for any other sufficient reasons, relieve an officer in whole or in part of his pecuniary liability, and may direct that sums recovered from him in connection with the loss in question be repaid, in whole or in part.
- (6) An officer who is dissatisfied with a decision to recover from him may appeal within one (1) month (or such longer period as the executive committee member responsible for County Treasury may in any particular case authorize) against a decision of an Accounting Officer.
- (7) Where an officer has received any erroneous payment, he shall be liable to refund to the County government the amount of such payment and paragraphs (2) to (5) of this Section shall apply.
- (8) Paragraph (7) shall not be deemed to relieve any other officer from any pecuniary liability in respect of the erroneous payment and the officer responsible for such

payment may be held to have incurred a joint liability and recovery of all or part of the amount of such payment may be apportioned between them.

(9) For the purpose of this Section:-

(i) "erroneous payment" means the payment of any salary, gratuity or allowance or the grant of any benefit in respect of which the County government incurs any expenditure or loss, to an officer to which he was not entitled or in excess of his entitlement;

(ii) It is immaterial whether an erroneous payment was made under a mistake of fact of law.

(10) In a genuine case where the recovery of an erroneous payment is likely to impose very considerable financial hardship on an officer, such a case should be submitted to the County Public Service Board giving full details of the circumstances in which the erroneous payment was made and making an appropriate recommendation for the grant of any relief. Similarly, where an erroneous payment involves a written contractual obligation between the County government and the officer concerned, the matter should be referred immediately to the CPSB for advice.

(11) In addition to the above provisions, disciplinary action which may lead to dismissal may be taken against an officer on account of loss of public funds.

## **SECTION K: DISCIPLINARY CONTROL**

### **K.1 INTRODUCTION**

The objective of disciplinary control is to create a motivated and dedicated Public Service which upholds the rules of conduct and work ethics for optimal service delivery. It is expected that public officers will maintain integrity and uphold the dignity of the office to which they are appointed. Further, discipline cases shall be dealt with expeditiously, efficiently, lawfully and in a procedurally fair manner

### **K.2 DISCIPLINARY POWERS AND PROCEDURES**

The powers of disciplinary control and removal of County public officers from the service are vested in the CPSB or Authorized Officers as specified in the County Government Act.

#### **K.2.0 Principles Guiding Exercise of Disciplinary Control**

##### **K.2.0.1 Adherence to the principles of natural justice:**

- (i) A person affected by a decision must be given an opportunity to be heard; and
- (ii) The person making the decision must not be biased.

##### **K.2.1 Respect for the rule of law:**

- (i) everybody should be treated equally;
- (ii) no one is above the law;
- (iii) no one is exempt from law;
- (iv) no one can grant exemption to the application of the law;

- (v) acting within legal authority; and
- (vi) A person making a decision affecting a public officer must ensure that he or she is acting within legal authority and in accordance with the prescribed procedure.

### **K.3 FORMS OF PUNISHMENT**

- (i) Recovery of the cost or part of the cost of any loss or breakage caused by default or negligence, provided no such cost has been recovered by surcharge action under the appropriate financial instructions or regulations;
- (ii) reprimand (including severe reprimand);
- (iii) deferment of increment;
- (iv) withholding of increment;
- (v) stoppage of increment;
- (vi) Reduction in rank or seniority; and
- (vii) Dismissal.

## **K.4 INTERDICTION**

- (1) The interdiction process entails the following:
  - (a) An officer may be interdicted where misconduct which is likely to lead to dismissal is reported or a report that an officer has been charged in criminal proceedings is received.



- (b) If the case relates to a criminal charge the officer is served with an interdiction letter. If the misconduct is one which can lead to dismissal but is not of criminal nature the officer will be served with a show cause letter which shall also contain a communication on interdiction.
- (c) Where the misconduct is likely to lead to a dismissal and is also the subject of a criminal charge, the procedure in (b) will prevail.
- (d) A County public officer who is interdicted shall receive half basic salary and full house allowance but other benefits shall be withheld by the authorized officer: Provided that an officer on interdiction shall be paid medical allowance or medical insurance premium remitted whichever is the case.
- (e) If in any case an authorized officer is satisfied that the public interest requires that a County public officer should cease forthwith to exercise the powers and functions of the County public office, the authorized officer may interdict the County public officer from the exercise of those powers and functions, provided proceedings which may lead to the public officer's dismissal are being taken or are about to be taken or that criminal proceedings are being instituted against the County public officer.
- (f) A County public officer who is under interdiction may not leave the duty station without the permission of the authorized officer or of any public officer who is empowered to give such permission on behalf of the authorized officer.
- (g) Where a public officer has been suspended, the public officer may in writing request the authorized officer to communicate the progress and action taken towards the conclusion of the disciplinary case.

Where a public officer has made a request in accordance with paragraph above, the authorized officer shall make the appropriate response by writing to the officer within thirty days from the date of receipt of the officer's request.

(h) Where a public officer has made a request in accordance with this paragraph and the authorized officer has failed to respond within the prescribed thirty days or the public officer is dissatisfied with the response, the officer may apply to the CPSB for the lifting of the interdiction or suspension and the Board shall make an appropriate decision which may include the termination of the disciplinary proceedings.

(i) A public officer whose interdiction has been lifted shall promptly be served with a decision letter.

(2) Under this Part, "**salary**" refers to **basic salary** and, where applicable, includes incentive or overseas allowance.

## **K.5 SUSPENSION**

(1) Where a public officer has been convicted of a serious criminal offence, other than proceedings for minor offences, an authorized officer may suspend the public officer from the exercise of the functions of the public office pending consideration of the public officer's case under these Regulations.

(2) An authorized officer may suspend from the exercise of the functions of the public office a public officer against whom proceedings for dismissal have been taken if, as the result of those proceedings, the authorized office considers that the public officer ought to be dismissed.

- (3) A public officer who is suspended shall receive a quarter basic salary and full house allowance but other benefits shall be withheld by the authorized officer: Provided that

an officer on suspension shall be paid medical allowance or medical insurance premium remitted whichever is the case.

- (4) Where a public officer has been suspended and such public officer is neither dismissed nor otherwise punished under these Regulations, any salary, remunerative allowances or any other benefit withheld under this paragraph shall be restored to the officer upon termination of such proceedings.
- (5) Where a public officer has been suspended and such public officer is not dismissed but any of the other punishments under these Regulations is imposed, any salary, remunerative allowances or any other benefit withheld under this paragraph shall not be restored upon termination of such proceedings:
- (6) A public officer who is suspended may not leave the duty station without the permission of the authorized officer or of any public officer who is empowered to give such permission on behalf of the authorized officer.
- (7) Where a public officer has been suspended, the public officer may in writing request the authorized officer to communicate the progress and action taken towards the conclusion of the disciplinary case.
- (8) Where a public officer has made a request in accordance with paragraph 7 above, the authorized officer shall make the appropriate response by writing to the officer within thirty days from the date of receipt of the officer's request.
- (9) Where a public officer has made a request in accordance with this paragraph and the authorized officer has failed to respond within the prescribed thirty (30) days or the public officer is dissatisfied with the response, the officer may apply to the CPSB for the lifting of the suspension and the Board shall make an appropriate decision which may include

the termination of the disciplinary proceedings.

**K.6                    ABSENCE FROM DUTY WITHOUT LEAVE OR REASONABLE OR  
LAWFUL CAUSE**

- (1)     Where a public officer is absent from duty without leave or reasonable or lawful cause for a period exceeding twenty four (24) hours, and is not traced within a period of ten (10) days from the commencement of such absence, the officer's salary shall be stopped and action to dismiss the officer initiated.
- (2)     The public officer shall be addressed a 'show cause' letter through his last known address by registered post.
- (3)     If the officer does not resume duty or respond to the 'show cause' letter within a period of twenty one (21) days, from the date of the show 'cause letter', the case shall be referred to the respective Human Resource Management Advisory Committee for summary dismissal.
- (4)     When an officer has been absent from duty without permission and subsequently resumes duty, he shall not be eligible for payment of salary for the period of absence and any amount erroneously paid to him shall be recovered from his salary.
- (5)     In cases of delay of stoppage of salary and an officer is subsequently dismissed on account of desertion, the erroneous payment shall be recovered from the officer who occasioned the payment.

**K.7                    OFFICER CONVICTED OF CRIMINAL OFFENCE.**

If a County public officer is convicted of a criminal offence which, in the opinion of the authorized officer, warrants imposition of any of the prescribed punishments, the authorized officer shall forward a copy of the charge and any judgment or order made on appeal or revision to the

Board for consideration, the Board shall decide whether the public officer

should be dismissed or subjected to any of the other punishments mentioned in these Regulations or other legislation, and, in making a decision the Board shall rely solely on the court record leading to the conviction.

## **K.8 DISCIPLINARY PROCEDURE**

The procedures to be followed in dealing with matters that fall within the scope of the County Public Service will be set out in the County Public Service disciplinary manual.

The following are some of the general principles in handling disciplinary matters concerning the employees;

1. All disciplinary cases are supposed to be dealt with promptly and finalized within six (6) months from the date of the occurrence.
2. A person making a decision affecting a public officer must ensure that he or she is acting within the legal authority and in accordance with the prescribed procedure.
3. It should be noted that all disciplinary cases are supposed to be dealt with objectively without any subjectivity throughout the investigative dealings.
4. The officer should be issued with a statement of the alleged offence and the charges framed against him/her (show cause letter) and invite him/her to state in writing the grounds, if any on which he relies to exculpate himself/herself.
5. The period within which to respond to the charges must be specified in the statement which is normally not more than seven (7) days from the date of the issuance of the show cause letter.



**K.9****APPEALS**

- (1) Any person dissatisfied or affected by a decision made by the CPSB or a person in exercise or purported exercise of disciplinary control against any County public officer may appeal to the County Public Service Board against the decision.
- (2) The appeals may be on any decision relating to employment of a person in a County government including a decision in respect of—
  - (a) recruitment, selection, appointment and qualifications attached to any office;
  - (b) remuneration and terms and conditions of service;
  - (c) disciplinary control;
  - (d) national values and principles of governance, under Article 10, and values and principles of public service under Article 232 of the Constitution;
  - (e) retirement and other removal from service;
  - (f) pension benefits, gratuity and any other terminal benefits; or
  - (g) Any other decision the Board considers falling within its constitutional competence to hear and determine on appeal in that regard.
- (3) The Board shall not entertain an appeal more than once in respect to the same decision.

## **K.10        REVIEWS**

- (1) Any person dissatisfied or affected by a decision made by the Board on appeal in a decision made in a disciplinary case may apply for review and the Board may admit the application if:-

- (a) the Board is satisfied that there appear in the application new and material facts which might have affected its earlier decision, and if adequate reasons for the non-disclosure of such facts at an earlier date are given; or
- (b) There is an error apparent on record of either decision.

An application for review shall be in writing and made within the time prescribed by the Board in regulations governing disciplinary proceedings, but the Board may entertain an application for review later if, in the opinion of the Board, the circumstances warrant it.

#### **K.11 DEFENSE OF OFFICERS IN CIVIL SUITS**

- (1) When a civil suit is instituted against a public officer as a result of his official position or of an act done by him in the course of official duties, the officer may apply to the Attorney General or his equivalent through the County Secretary for assistance in the defense. The decision as to whether the Government will undertake the defense will be taken by the Attorney General who may consult the Treasury before reaching a decision.
- (2) It is emphasized that speed is also essential in these cases, and a County Secretary must consult the Attorney General or his equivalent and submit an application for assistance to him at the earliest possible moment.
- (3) In cases where the County government assumes responsibility for the defense of a public officer on the advice of the Attorney General, the latter will provide free legal defense, by instructing a state counsel or by briefing a private advocate and the cost of such defense will be a charge on the vote of the Office of the Attorney General. If the Attorney General briefs an advocate to represent a public officer, this will be done in consultation

with the officer. Whether any damages and/or costs awarded against a public officer in a civil suit will be met from public funds depends on the facts of each

case. If the action is only nominally against the officer and is, in substance and in fact against the County government, the County government will take responsibility and meet all the damages and the costs awarded. The question of so indemnifying a public officer is one for specific decision in each case, and will be decided only after consultation between the Attorney General, the County Treasury and the County department concerned. When the County government accepts liability for damages and/or costs, the County department concerned will be responsible for meeting such liability out of its vote.

- (4) County Officers desiring the County government to assist in their defense in civil suits must apply to the Attorney General or his equivalent through their County Secretary as soon as they become aware that a suit may be instituted against them. They should not wait until summons is served upon them. They must not brief an advocate in their defense and subsequently apply for County government assistance. Unless the proper procedure is followed, the County government may decline to pay any part of the cost of defense or of any damages or costs which may be awarded against a public officer.

## **K.12 ADMINISTRATIVE ARRANGEMENTS**

In order that the defense of officers who apply for legal aid in civil suits, may not be prejudiced by any delay occasioned by the necessity for referring applications and to enable the Attorney General or his equivalent, take any procedural step which may be immediately necessary in order to protect the position of the officer pending a decision on the application but without committing the County government to accede to the application, the County Secretary on forwarding such an application, should send a copy of the officer's statement of defense to the office of the Attorney General or his equivalent.

## **K.13 CIVIL PROCEEDINGS BY OFFICERS FOR DEFAMATION**

- (1) Where a public officer has been defamed in respect of matters arising out of his official position, e.g. in the press or at a political meeting, it may be that the County

government is also defamed by implication, and may, therefore, agree to give legal aid to the officer. Where such a case occurs, the officer should apply for legal aid through his Accounting Officer to the Attorney General or his equivalent. Legal aid will not be granted unless:

- (i) The County government has a substantial interest in seeing that the defamatory statement is repudiated; and
  - (ii) There is, in the opinion of the Attorney General or his equivalent, a good prospect of success in the action.
- (2) The consent of the Attorney General or his equivalent must be obtained before proceedings are commenced. A private advocate, not a state counsel, will normally be employed, and the Attorney General or his equivalent will select, in consultation with the officer, the advocate, or firm of advocates, to be employed. Legal aid will cover either the whole of the plaintiff's expenses, including costs awarded against him if he is unsuccessful in his suit, or any unrecovered costs or a part of such costs, as may be specified, if he succeeds, and will be subject to repayment in proportionate costs or damages are recovered. Any expenses ultimately chargeable to public funds will be met from the vote of the Office of the Attorney General or his equivalent.

#### **K.14            CONSENT TO INSTITUTE CIVIL PROCEEDINGS**

No officer shall institute civil proceedings arising out of any circumstances related with the official position, or with any activity in which he has been engaged in the course of his official duties, without first obtaining the written consent of the Attorney General or his equivalent to the institution of such proceedings, whether or not he desires legal aid. In purely private proceedings, unconnected with their official position or duties, officer's legal aid by Government does not arise.

## **SECTION L:        LABOUR RELATIONS**

### **L.0            LABOUR RELATIONS**

Under Article 41 of the Constitution every worker has the right to fair labor practices including: fair remuneration; reasonable working conditions; the right to form, join or participate in the activities and programmes of a trade union; and the right to go on strike. The Government shall engage Trade Unions representing public officers in negotiating Collective Bargaining Agreements. The Government and the Unions shall negotiate Collective Bargaining Agreements setting out the terms and conditions of service for the employees. The negotiations will be guided by the provisions of the Constitution, relevant legislations and the institutional framework for collective bargaining with public service unions.

### **L.1            INSTITUTIONAL FRAMEWORK FOR NEGOTIATION**

- (1) An Institutional Framework for negotiation with Trade Unions has been developed whose objectives are to:
  - (i) ensure that the collective bargaining process is compliant with the Constitution and the relevant legislations;
  - (ii) identify the parties recognized by law to engage in collective bargaining;
  - (iii) provide consistency and uniformity in the collective bargaining process;
  - (iv) provide a platform for consultations with all stakeholders;

- (v) provide a standard period for collective bargaining across the public service; and



(vi) Promote labour relations and industrial peace.

- (2) The collective bargaining in the Public Service may include salaries, allowances, benefits, and working conditions as shall be agreed upon from time to time.
- (3) Labor relations shall be guided by the provisions of the Constitution and the relevant labor laws.

## **L.2 CONSULTATIVE COMMITTEES**

- (1) The Collective Bargaining Agreements (CBAs) between former Local Authorities and Kenya Local Government Workers' Union have lapsed by operation of law.
- (2) The County governments will sign recognition agreements with public service trade unions at the County level. The recognition agreements will provide for establishment of a Consultative Committee.
- (3) The main objectives of the Committee are:-
  - (i) To provide machinery for negotiations between the County Government and the trade unions for terms and conditions of service of unionisable employees; and
  - (ii) To secure the greatest measure of co-operation between the County Government in its capacity as an employer, and its employees in all matters affecting the County Public Service.

## **L.3 COMPOSITION AND FUNCTIONS OF THE COMMITTEE**

- (1) The Committee may consist of not more than three members from the County Government and not more than three members from the Union;

- (2) The quorum shall not be less than two representatives from each side;
- (3) The function of the Committee will be to negotiate with the trade unions and conclude a Collective Bargaining Agreement on terms and conditions of service for all unionisable employees.
- (4) The Committee will meet as and when necessary, regulate its own procedures and elect its own chairperson and secretary. It may also co-opt, where necessary, members of the County departments or experts on labor issues. It may also set up a sub-committee to deal with a specific matter.
- (5) Unless otherwise agreed, the expenses of the Committee (if any) will be met by the County Government and the trade unions on equal basis;
- (6) A meeting of the Committee shall be convened within fourteen days of a request for a meeting from either side. Such request or report shall state the matter or matters to be discussed and will be placed on the agenda provided that such matters are relevant.
- (7) In the event of failure to reach an agreement at Committee meeting, the provisions of the Labour Relations Act, 2007 on dispute resolutions shall apply in so far as the County Government is concerned.

#### **L.4 UNION MEMBERSHIP**

- (1) All employees may join any registered and recognized trade union of their choice.
- (2) An employee shall not be victimized or disciplined for being a member or participating in

trade Union activities;

- (3) An employee who is appointed as an official of a Union shall be a serving officer in the County Public Service except the Secretary General and will be granted permission to carry out their official duties for the Union;
- (4) An employee is not allowed to be an official of more than one trade union. However, an official of a trade union may also be an official of a federation to which the trade union is affiliated.
- (5) Meetings of members of the Union may take place during office hours with official permission from the Chief Officers of the County Departments concerned.

#### **L.4.0 Recovery of Union Dues**

- (1) The County government may deduct trade union dues from the wages of union members and pay the monies so deducted into a specified account of the trade union;
- (2) Any further deductions from an employee who has resigned his union membership and notified the employer in writing shall be stopped; and
- (3) A copy of an employee's resignation notice shall be forwarded to the union for information.

#### **L.4.1 Dispute Resolution**

- (1) The County government will endeavor at all times to have a good working relationship with the trade union in order to maintain industrial peace. However, should a trade dispute arise concerning dismissal or termination of service of an employee, dispute shall be resolved in accordance with the Labor Relations Act, 2007 in so far as the County

government is concerned.

- (2) The union may also refer a dispute to the Industrial Court as a matter of urgency if the dispute concerns:
- (i) Recognition of a trade union; and
  - (ii) Redundancy where the trade union has already referred the dispute for conciliation for instance when a County government has retrenched employees without giving notice; and employers and employees are engaged in an essential service.

#### **L.4.2 Employees Participation in Strikes**

An employee may participate in a strike if:-

- (i) The trade dispute that forms the subject of the strike concerns the terms and conditions of employment or recognition of a trade union to which an employee is a member;
- (ii) The trade dispute is unresolved after conciliation; and
- (iii) Seven days written notice of strike has been given to the Government and the County Department responsible for Labour by the representative of the Union.

## REFERENCES/READINGS

*Please note that some of the Acts are currently under review.*

1. Constitution Of Kenya 2010
2. Children's' Act,2001
3. The Employment Act 2007
4. HR Policies and Procedures Manual,2016
5. Industrial Relations Act 2007
6. County Governments Act 2012
7. Labor Institutions Act 2007
8. WIBA Act,2007
9. Work Injury Benefits Act 2007
10. OSHA Act,2007
11. Public Service Commission Act 2011?
12. Code Of Ethics Act
13. NHIF Act,2015
14. NSSF Act ,2013
15. RBA ACT Amendments upto,2014
16. Pensions Act, rev,2009
17. Public Service Superannuation Scheme Act,2012
18. Government General Circulars Issued from Time to Time