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PUBLIC SERVICE COMMISSION

**AN EVALUATION REPORT ON THE STATUS OF COMPLIANCE
OF THE PUBLIC SERVICE PREPARED PURSUANT TO
ARTICLE 234 (2) (h) OF THE CONSTITUTION**

ANNUAL REPORT 2021/2022

Executive Summary

This report is prepared in fulfilment of the constitutional mandate prescribed in Articles 234 2(c) and (h), and in line with the Public Service (Values and Principles) Act, 2015 which requires the Commission to promote, monitor and report to the President and Parliament the status of compliance with the values and principles in Articles 10 and 232 of the Constitution. The report presents the status of public service compliance with the values and principles in Articles 10 and 232 of the Constitution for the 2021/2022 financial year (FY).

The extent of compliance by public institutions and public officers is determined by the level of adherence to the legal and policy frameworks put in place, as they execute their functions.

In discharging this mandate, the Commission is guided by several legislations which have embedded standards that facilitate the realization of the values. These include: Public Service Commission Act, 2017 which operationalizes the Commission's mandate and mainstreams the values related to the management of human resources for efficient service delivery; the Public Officer Ethics Act, 2003 and the Leadership and Integrity Act, 2012 which regulate the conduct of public officers to ensure observance of high standards of professional ethics and good governance, the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act, 2015 which prescribe the standards for efficient and effective use of financial resources; Framework for the Implementation of Values and Principles in the Public Service, 2015 which unbundles and unpackages the values and principles, strategies for promotion, performance standards and indicators for monitoring and reporting.

The public institutions evaluated were grouped into six service sectors, namely Constitutional Commissions and Independent Offices; Ministries and State Departments; Public Universities; State Corporations and Semi-Autonomous Government Agencies (SAGAs); Statutory Commissions and Authorities, as well as Technical and Vocational Education Training institutes (TVETs). For purposes of evaluation, the values and principles in Articles 10 and 232 were clustered into seven thematic areas. These included Service Delivery

Improvement; High Standards of Professional Ethics in the Public Service; Good Governance, Transparency and Accountability; Performance Management; Equitable Allocation of Opportunities and Resources; Public participation in the policy-making process; and Efficiency, Effectiveness and Economic use of Resources and Sustainable Development.

The survey targeted 525 institutions out of which 477 responded, translating into a response rate of 91%. This was an improvement of 7% compared to the 2020/2021 FY. The status of compliance of the various institutions was determined through a survey conducted by the Commission using a questionnaire. Another specific questionnaire was administered to 26 oversight institutions out of which 25 responded. Further, for the first time, the survey included a rapid citizen satisfaction survey administered to citizens who sought services from 301 reporting institutions. The purpose of the rapid citizen satisfaction survey was to verify the accuracy of the information submitted to the Commission on the quality of services provided by the institutions.

The values are intangible and can only be measured through demonstration of certain attributes. To measure the attributes, the Commission developed performance indicators for every thematic area against which the institutions were rated to establish the performance index. The performance indices for the six thematic areas per institution were aggregated to determine the overall compliance index.

The overall compliance index for the 2021/2022 financial year is 41.7%. This is a moderate performance meaning that a lot needs to be done to improve the compliance level to at least 50% and above. It also means that while the public service is rendering service to the citizens in many quarters, there is non-observance to the national values and principles of governance in Article 10; and the values and principles of the public service in Article 232. However, there is an improvement of compliance of 1.7% from the previous year (2020/2021). It is therefore recommended that this upward trajectory be maintained with higher momentum. It is incumbent on each institution to increase the level of compliance at the micro-level because that is where the citizens make contact with government service delivery.

The improved overall compliance index is attributed to an increase in performance in three thematic areas, namely service delivery improvement, performance management and equitable allocation of opportunities and resources. In addition, five sectors improved by posting a medium improvement of over 40%. The Ministries and State Departments recording the highest increase of 11.7% while the best-performing service sector was Public Universities.

The performance index in Service Delivery Improvement was determined using seven indicators. The overall performance index was 56.3%. Public Universities had the highest performance index at 68.4%. This was attributed to transcription of their service charters into Braille. Constitutional Commissions and Independent Offices had the lowest performance index at 43.9%.

Under the Good Governance, Transparency and Accountability thematic area, three indicators determined the performance index. The overall performance index was 29%. Constitutional Commissions and Independent Offices had the highest performance index at 55%. This was informed by high scores in the management of gift registers and the publication of annual reports by institutions in this sector.

In the thematic area of High Standards of Professional Ethics in the Public Service, the performance index was determined using eight indicators. The overall performance index was 53%. State Corporations and SAGAs were the highest achievers at 62% since majority of the officers complied with the biennial declarations. This was followed by Constitutional Commissions and Independent Offices at 61%.

The performance index in the Performance Management thematic area was determined using three indicators. The overall performance index was 40%. Public Universities had the highest performance index at 64% because they signed performance contracts and were evaluated.

Under the Equitable Allocation of Opportunities and Resources, the performance index was determined using seven indicators. The overall performance index was 40%. This was one indicator where there was improvement in performance. There was an increase in the representation of marginalized communities and PWDs even though some communities were still over-represented.

The Efficiency, Effectiveness and Economic Use of Resources and Sustainable Development thematic area's performance index was determined using one indicator. The overall performance index was 28%. Statutory Commissions and Authorities had the highest performance index at 38% while the Ministries and State Departments had the lowest performance index at 9%.

A decline was registered in the three thematic areas with the highest decline being observed in Efficiency, Effectiveness and Economic Use of Resources and Sustainable Development (-24.2%), Good Governance, Transparency and Accountability (-17.4%) and High Standards of Professional Ethics in the Public Service (-4.8%).

Based on the findings, several recommendations are made to help the institutions improve their status of compliance with the Values and Principles of public service. These include:

- (i) The Commission in liaison with other state agencies to set the optimal staffing threshold based on the capacity of the economy to sustain the wage bill;
- (ii) Public institutions to mainstream values and principles in their business processes to increase the compliance index;
- (iii) Public institutions to develop and implement succession management plans to avoid officers being retained beyond mandatory retirement age;
- (iv) All public institutions to bridge the difference between authorised establishment and in-post;
- (v) Public institutions to migrate services to online platforms in order to enhance compliance with values and principles of governance;
- (vi) Regulatory and oversight institutions to incorporate compliance to values and principles as a key factor in their areas of supervision;
- (vii) Public institutions to conduct due diligence before signing contract to ensure that the contract do not contain unfavourable terms;
- (viii) Public institutions to implement the Public Service Commission (Performance Regulations) 2021;
- (ix) The Ethics and Anti-Corruption Commission to ensure that Section 16 of the Leadership and Integrity Act, 2012 and the Second Schedule on Registrable Interests is enforced as a measure of improving good governance, transparency and accountability;

- (x) The Leadership and Integrity Act, 2012 Regulations be reviewed to set a ceiling on the value of the gift that may be given out by a public institution;
- (xi) Parliament and the Attorney General to amend the Public Service (Values and Principles) Act, 2015, to compel institutions to prepare, publish and publicize their annual reports on the discharge of their functions as a measure to improve good governance, transparency and accountability;
- (xii) Public institutions to develop and implement affirmative action programmes to redress the inequities in gender, ethnicities and PWDs and promote inclusion of PWDs in the policy formulation process, including the provision of sign language interpreters, transcription of documents into Braille and customization of the websites;
- (xiii) The Office of the Prime Cabinet Secretary to enforce performance contracting in the public service to enhance performance and service delivery; and
- (xiv) The Chief of Staff and Head of Public Service to review the modalities and operations of the social protection and empowerment programmes to address duplications and inclusivity as a measure of ensuring equitable allocation of opportunities and resources.

The Commission will endeavour to improve service delivery and transformation by fast-tracking the setting of service delivery standards, instituting a Citizen Service Delivery Charter and annually undertaking a citizen satisfaction survey. It will also undertake an audit of services against which levies are charged and engage the institutions affected on the possibility of removing or reviewing the charges downwards, to facilitate affordability and ease of access to public services.

CHAPTER ONE—INTRODUCTION

1.1 Introduction

The Public Service Commission (PSC) has prepared this report in fulfilment of its constitutional mandate to evaluate and report to the President and Parliament the extent to which public institutions under its purview complied with the values and principles in Articles 10 and 232 of the Constitution. The Commission is also required to publicize and disseminate the report after its release.

This evaluation report on the status of compliance with values and principles of public service by public institutions is the 10th to be published by Public Service Commission (PSC) pursuant to Article 234 (2) (h) of the Constitution.

1.2 Background

Chapter 13 of the Constitution exclusively focuses on public service. Article 233 establishes the Public Service Commission and Article 234 outlines the functions and powers of the Commission.

The Commission is required under Article 234(2)(c) to promote the values and principles in Articles 10 and 232 throughout the public service. Article 10 provides for the National values and principles of governance whereas Article 232 prescribes the public service values and principles. In addition to promotion, Article 234(2)(e) requires the Commission to evaluate and report to the President and Parliament on the extent to which the values and principles in the Articles referred above are complied with in the public service.

The Constitution in its opening chapter gives sovereign power to the people of Kenya. It then pronounces its supremacy and obligates those in authority to defend it. It, therefore, introduces itself as a framework for a democratic system of governance that subscribes to the rule of law, values, diversity, respects human rights, promotes accountability, transparency, integrity and good governance.

The Constitution has outlined structures and institutions that must ensure compliance by governance structures in addressing the aspirations and welfare of the citizens. It is one such responsibility that obligates the Public Service Commission to promote values and principles, evaluate compliance and prepare this report annually.

The Commission, in the discharge of this mandate, is guided by the Constitution, enabling legislation and related policies. These include the Leadership and Integrity Act, 2012, the Public Service Values and Principles Act, 2015 and The National Values and Principles of

Governance Policy (Sessional Paper No. 8 of 2013). Others include Regulations, Codes of Conduct, and Guidelines.

In addition to the legal framework, the promotion of values and principles is anchored on international treaties and conventions that Kenya is a party to, such as the United Nations Convention Against Corruption (UNCAC).

The Commission also collaborates and maintains structured linkages with institutions like the Ethics and Anti-Corruption Commission, Asset Recovery Agency, Kenya Revenue Authority, Directorate of Criminal Investigations, Kenya School of Government, National Council for Persons with Disabilities and Assets Recovery Agency among others to enhance implementation and timely reporting on values and principles.

To comply with the values and principles, the Constitution also requires the public service to be highly professional, efficient, effective, transparent, and citizen-focused.

1.3 The Public Service Commission Mandate in Relation to Values and Principles

The Commission is established under Article 233, with the mandate spelt out in Articles 234, 155 (3) (a), 158 (2) (3) and (4), 171 (2), 230 (2) (b) and 236 of the Constitution. The mandate includes the promotion of values and principles mentioned in Articles 10 and 232 throughout the public service, and evaluation and reporting to the President and Parliament on the extent to which the values and principles are complied with, in the public service.

In execution of the constitutional mandate regarding the implementation of values and principles, the Commission is further guided by Sections 63 and 64 of the Public Service Commission Act of 2017, the Public Service (Values and Principles) Act, 2015, Regulations 4, 58 and 59 of the Public Service Commission Regulations 2020, the Sessional Paper No.8 on National Values and Principles of Governance 2013 and other relevant legislation, policies and guidelines. It is, however, important to note that although some institutions including the county governments are exempted under Article 234 (3) (c) and (d) of the Constitution, the implementation of values and principles apply to all public institutions.

1.4 Values and Principles

Values are important and lasting beliefs or ideals shared by the members of a culture about what is good or bad and desirable or undesirable while principles are rules of action or doctrines that oblige the state to perform its functions in a manner that promotes the general well-being of its people. In terms of their meaningful application in public service, the values and principles are to be treated together in a back-to-back, reinforcing and inseparable manner.

1.4.1 National Values and Principles of Governance

The national values and principles of governance in Article 10 bind all State organs, State officers, public officers and all persons whenever any of them apply or interpret the Constitution; enact, apply or interpret any law; or make or implement public policy decisions.

National Values and Principles of Governance provide the basis for judgement about what is important for a country to succeed in its development. They are key in promoting productivity and fostering unity, stability and national identity. In a nutshell, the inculcation and promotion of national values and principles of governance is instrumental for the achievement of socio-cultural, economic and political transformation towards nurturing and protecting the well-being of the individual, the family, communities and the nation.

The inculcation of national values and principles of governance in the public service will help create a positive influence on the work ethics, as well as a substantial improvement in the quality of leadership, management practices and utilization of national resources at all levels and sectors.

Creating awareness of the national values and principles of governance will steadily be an effort and a deliberate process in making sure that these values are not only expressed but also manifested and adhered to by public institutions and officers in shaping national dialogue and development.

1.4.2 The Concepts of National Values and Principles of Governance

Patriotism: Patriotism refers to loyalty to, love for, selfless service for, sacrifice for, devotion for, sense of belonging to, dedication to, sense of pride in, protection of one's own nation. Public officers are required to demonstrate patriotism as they deliver public services. Public institutions are required to undertake activities that promote unity and cohesion and address the needs of persons born or living in Kenya.

National Unity: Refers to the cohesion which results from shared values, vision, purpose and aspirations irrespective of the ethnic, cultural, economic, religious or any other superficial status in a unitary state, while recognizing diversity. It is the deliberate decision to work in concert with others in pursuit of common goals. It is a choice to work as a team in tackling the challenges Kenyans face as a nation. Public officers should appreciate and respect ethnic diversity at all times while discharging their day-to-day duties. Further, officers should work as a team in tackling the challenges Kenyans face as a nation. Public institutions on the other hand should ensure respect for ethnic diversities to promote national unity.

Sharing and Devolution of Power: sharing and devolution of power refers to a governance environment in which power, political, economic and social resources are distributed between the national and county levels of government and which empowers people at the grassroots to make decisions on matters that affect them. To promote sharing and devolution of power, public institutions shall adopt measures through which economic and social resources are distributed between the national and county governments.

The rule of law: The rule of law refers to the legal maxim that each person within the state should respect and obey the law. It is a legal principle that stresses that matters of governance have to be based on established laws and principles rather than the personal whims of the leaders. In its most basic form, the rule of law refers to the supremacy of the law and equality of all before the law. Public institutions and public officers are obliged to adhere to the laws, policies, guidelines and regulations that guide institutional functions at all times.

Democracy and participation of the people: Democracy and participation of the people refers to a political culture of involving people at all levels of decision making; where everyone is equally bestowed with the powers to exercise personal skills, access information, utilize opportunities, elect their representatives, express their views, and participate in governance without prohibition.

The key role of citizens in a democracy is to participate in public life. Citizen participation is one of the key building blocks of civic responsibility and sustainable democracy. Citizens have the right to be informed about public issues, to watch carefully how their political leaders and representatives use their powers, and to express their own opinions and interests. It is widely recognized that the active and meaningful participation of citizens in public affairs is the distinguishing feature of democratic societies. Further, the people of Kenya shall choose their representatives in regular, competitive, free and fair elections; the elected leaders shall represent the needs and concerns of Kenyans in government. The extent to which public institutions and officers open up public affairs to active citizen engagement, as well as the level of accountability are the hallmarks of democracy. Equally, the public officers are required under the Public Service Code of Conduct and Ethics, 2016 to remain politically non-partisan when rendering public services.

Human dignity: Human dignity means the status of human beings entitling them to respect and not to be taken for granted. Human dignity refers to the inherent right of an individual to be treated with respect. The dignity of the human person is not only a fundamental right in itself but constitutes the real basis of fundamental rights. Public officers shall respect and treat all persons seeking services from public offices with courtesy, address them appropriately and respect their personal space and possessions. Public institutions should endeavour to provide a dignified environment for clients who seek services in the institutions.

Equity: Equity refers to the quality of being fair and impartial. It contains attributes of fairness, justice, impartiality and egalitarianism. It is the quality of being reasonable and fair in all decisions and actions. In law, it is about natural justice and fair conduct. It objects to biasness, favouritism and unjustified preference that does not recognize inequalities. Public officers and institutions should ensure fairness and impartiality in execution of their mandates.

Social justice: Social justice refers to creating a society where human rights and the dignity of every citizen are recognized. The society which gives individuals fair treatment and a just share of the benefits. These benefits includes access to education, health care, social security, labour rights, as well as a broader system of public services, progressive taxation, control of monopoly, encouragement of competition and regulation of markets and to ensure fair distribution of wealth and equality of opportunity.

Public institutions shall adopt measures that promote fairness in service delivery, and distribution of wealth, opportunities and privileges within a society and take deliberate measures to redress any disadvantage a group may have suffered because of past discrimination.

Inclusiveness: Inclusiveness refers to affording all people an opportunity to participate in activities, including decision making, that affect their lives and taking into consideration the plight of everyone. It is a sense of belonging and feeling respected and valued for who you are. It engages each individual and makes him or her feel valued and it is essential to the success of a group, an organization or a country. That means every person has an opportunity to make his or her contribution to the society's development agenda. Where there is inclusiveness, individuals function at full capacity, feel valued and included in the general mission of their society.

Public institutions shall afford all people an opportunity to participate in activities that contribute to the development agenda by: recognizing that differences exist between different groups and applying uniform standards may lead to further exclusion, identifying and removing barriers which prevent certain groups or individuals from participating; taking deliberate measures to address the needs of vulnerable groups, adopting affirmative action measures if need be, to ensure that public officers in the institution reflect the community it serves.

Equality: Equality exists where all people within a group have the same status in a certain respect. It includes equal rights under the law such as security, voting, freedom of speech, access to education, health care and other social security. It also includes equal opportunities and obligations. Equality implies the absence of social class or caste boundaries and the lack of unjustified discrimination motivated by an inalienable part of a person's identity. For example, gender, age, origin, caste or class, income or property, language, religion, convictions, opinions, health or disability must not result in unequal treatment under the law and should not reduce opportunities unjustifiably.

Public institutions and public officers shall treat everyone equally irrespective of their status such as gender, religion, social class, tribe or race; adopt open processes of sharing benefits/opportunities using a common criterion and fairly distribute development programs in the country to address the needs of all people; and eliminate practices which lead to discrimination.

Promotion of human rights: Human rights are the fundamental freedoms and inherent entitlements which human beings are entitled to. They reflect the dignity and worth of every person. Human beings are all equally entitled to these rights without discrimination regardless of nationality, place of residence, sex, national or ethnic origin, birth, age, race, religion, language, or any other status. Public institutions and public officers shall make decisions and provide advice consistent with human rights.

Non-discrimination: Refers to fairness in treating people without prejudice irrespective of their gender, ethnic, class, religious, race, geographical or even generational differences. Public institutions and public officers shall offer services to all persons without bias. The development projects and service access points should evenly cover all parts of the country and information shall be in accessible formats to all categories of people.

Protection of the marginalized: Being marginalized refers to being separated from the rest of the society and not being involved in the affairs of the larger society. Homelessness, age, language, employment status, skill, ethnicity, race and religion are some of the basis that have historically been used to marginalize. Public institutions institutionalize affirmative action programmes to address the needs of the vulnerable and marginalized groups and work towards removing the barriers which impede their progress and participation in public service.

Good governance: Good governance involves transparent and accountable management of human, natural, economic, financial and other resources for the purposes of equitable and sustainable development. It is also the process and behaviour that ensures an organization perform by achieving its intended purpose and conforms with all relevant laws, agreements and directions, and meets the expectations of the society. Public institutions shall obey laws and administrative policies; set up clear and transparent systems for efficient and effective service delivery; work towards achieving objectives of the institution; adopt systems and structures through which the exercise of power and authority can be checked and adopt clear and accessible systems for fair and timely resolution of complaints.

Integrity: This is the consistency between one's values, words and action. Integrity comprises the personal inner sense of "wholeness" derived from honesty and consistent uprightness of character. Integrity is holding true to one's values that are, doing what you said you would do by when/how you said you would do it. Integrity is knowing what is important to you and living your actions accordingly. Integrity means soundness of moral principle and character, as shown by one person dealing with others in the making and performance of contracts, and fidelity and honesty in the discharge of trust.

Public officers should demonstrate truthfulness, transparency, honesty and refuse to engage in corruption and morally questionable behaviours. Public institutions should ensure strict adherence to the provisions of the legislation such as Public Procurement and Asset Disposal Act, 2015 when transacting with clientele.

Transparency and accountability: Transparency refers to openness, lack of hidden agendas and conditions accompanied by availability of full information required for collaboration, cooperation and collective decision making. The information provided must be relevant and reliable. This requires those in authority to provide accurate and timely information to facilitate effective decision making. Transparency in decision making and implementation reduces uncertainty and can curb corruption among public officials.

Accountability is the acknowledgement and assumption of responsibility for actions, products, decisions, and policies including the administration, governance, and implementation within the scope of the role or employment position and encompassing the obligation to report, explain and be answerable for resulting consequences

Public institutions shall comply with the access to information law, they shall display service charters publicly and submit reports to oversight bodies. Public officers shall exercise power responsibly and take responsibility for their actions and provide reasons for actions taken.

Sustainable development: Sustainability is an economic state where the demands placed upon the environment by people and commerce can be met without reducing the capacity of the environment to provide for future generations. Sustainable development is a dynamic process which enables all people to realize their potential and improve their quality of life in ways which simultaneously protect and enhance the Earth's life support systems.

Public institutions work towards improving the quality of life for all generations present and use of resources in a way that meets the needs of the present without compromising the ability of future generations to meet their own needs.

1.4.3 Values and Principles of Public Service

High standards of professional ethics: Every public officer is required to maintain high standards of professional ethics. In that regard, a public officer demonstrates professional ethics by being honest; displaying high standards of integrity, being transparent when executing their duties; being respectful, objective, patriotic and observes the rule of law.

All public servants shall comply with the Code of Conduct for public service and act in a manner that upholds the dignity of the public office whether in public or private. Public officials shall make decisions devoid of political influence, based on public and not self-interest; they shall utilize resources in a prudent manner and always work towards achieving an identified public good. For public officials who are members of regulated professional bodies, they have to be in good standing with the relevant professional body.

High standards of professional ethics in the public service have not been fully realized largely due to weak linkages between disciplinary control in the public service and professional associations in relation to the misconduct of professionals in the public service. Other factors that negatively impact standards of professional ethics in the public service include the politicization of the public service, a poor working environment, irregular recruitment procedures, and skills mismatch in the deployment of public officers.

Efficient, effective and economic use of resources: A public officer is required to use public resources in an efficient, effective and economic manner. A public officer is deemed to have failed to use public resources in an efficient, effective and economic manner if he uses the public resources in a manner that is not prudent, there is unreasonable loss, there is deliberate destruction or the effect is to reduce the effectiveness of the public service.

Efficiency and effectiveness in the public service is, however, hampered by insufficient linkages and consultation in planning, target-setting and the budgeting process *vis-a-vis* the expected results. The public service procurement procedures are cumbersome and susceptible to misuse and corruption this may contribute to inefficiency and ineffectiveness. Unclear job descriptions and deployments that are not based on competencies and requisite skills have resulted in idle capacity in the service. Non-declaration of conflict of interest and weak support to technical departments by support services departments has resulted in slow execution and compromised quality of services and value for money.

Public institutions and officers are, therefore, required to promote efficiency and effectiveness in public service delivery, as well as prudent use of resources.

Responsive, prompt, effective, impartial and equitable provision of services: Public institutions are required to ensure that public services are provided promptly, effectively, impartially and equitably. It is also noted that the provision of public services is not prompt where there is unreasonable delay. Public officers should, therefore, offer effective, prompt and responsive service in an impartial and equitable manner. The provision of public services is said to be ineffective if there is unreasonable loss, if public complaints against a public officer are made regarding the provision of public services, or if public grievances against a public institution are made regarding the quality of its services.

Inefficiencies in service delivery result when there is a gap between customer expectations and service delivery owing to management practices, systems and processes that are not focused on customer priorities. Further, apathy, unclear job descriptions, poor linkages between performance and rewards, poor enforcement of sanctions against non-performers, inaccessibility, and insufficient resources allocation to field offices have compounded this problem. In addition, complaints resolution mechanisms and feedback systems from customers are not optimally operational.

Involvement of the people in the process of policy-making: Public participation is fundamental to the delivery of public services. Inadequate mechanisms, strategies and platforms for informing, educating and communicating government policies have contributed to the low level of public participation in policy-making. Public institutions are, therefore, required to establish efficient and effective systems and mechanisms to facilitate public engagement in the policy-making process.

Accountability for Administrative Acts: Public institutions are required to establish mechanisms to ensure that all public officers are held accountable for their acts. Previously, it has been difficult to hold public officers accountable for their administrative actions and omissions due to non-enforcement of, and compliance with, existing laws, policies and administrative procedures, leading to impunity and acts of corruption amongst others.

In this regard, public institutions should among other things induct, continuously train and sensitize all public servants on the import of their actions by virtue of their offices; put in place measures to facilitate public officers to report any irregular acts by their supervisors; and provide information in accessible formats to all persons, including persons with disabilities that enable the public to hold public officers accountable.

Provision of timely and accurate information: Provision of timely and accurate information enables the public service to be more transparent. The government, therefore, requires to enhance its

structures, systems and mechanisms to provide transparent, timely and accurate information. However, this has previously been hampered by improper classification of public documents as confidential or secret. In some instances, members of the public have been denied information that would benefit them or have been provided with the wrong information leading to losses by both individuals and the government. The manner and format of dissemination of public information is sometimes limited and fails to cover all segments of the public.

Public institutions are required to establish mechanisms to enhance access to information in accessible formats for all persons. Further, institutions and public officers should be responsible for the timeliness and accuracy of the information provided to the public. More importantly, public institutions shall, in providing information to the public, comply with the timelines prescribed in the Access to Information Act, 2016.

Fair Competition and Merit as a Basis of Appointments and Promotions in the Public Service: All public institutions are required to establish mechanisms to ensure that recruitment and promotion in the public service is based on right competencies and proven performance but not just emphasis on academic qualifications or connectedness. It is noted that whereas merit and fair competition should be the cornerstones for appointments and promotions in the public service, this is not always the case. Unfair competition and bias in appointments may be attributed to cronyism, political interference, corruption, fraud, nepotism and tribalism. Disregard for fair competition and merit may result from manipulation of recruitment procedures, varied terms and conditions of service and unclear job requirements. Others include emphasis on technicalities and academic qualifications rather than proven performance, skewed recruitment and promotion panels, ineffective communication systems, and the use of insider information to favour some over others.

To ensure fair competition and merit, all public institutions are, therefore, required to continuously audit and correct recruitment and selection tools, procedures and processes to eliminate any discrimination against persons with disabilities and members of marginalized and minority groups; apply affirmative action in the in-service training for persons with disabilities, marginalized communities and minorities to enable them compete on an equal basis with others; and ensure that all public officers are provided with adequate training opportunities for career advancement in the public service especially if it is used as a criterion for promotion.

Representation of Diverse Communities: Kenya is composed of diverse communities that include racial, ethnic, religious, and disability among others, but its diversity is inadequately reflected in the public service. This is exemplified by the over-representation of some communities, and under-representation or non-representation of others. Consequently, public institutions shall create an environment that maximizes the potential of all employees by valuing diversity, advertising jobs in an accessible manner and using a mode that reaches the widest pool of applicants, job advertisements shall have no exclusionary impact, the evaluation of all applicants shall be fair and take into account their unique circumstances.

In addition, public institutions are required to conduct a baseline survey and subsequent annual surveys to establish both the level and status of representation in the public service as compared to the general population in key areas including disability status, race, ethnicity and religion. In this regard, public institutions should develop and implement a diversity management policy, including strategies for affirmative action, to redress diversity gaps in the public service.

1.5 Legal and Policy Framework

A legal framework refers to the system of rules, regulations and guidelines which are enforced through social institutions that govern behaviour. In this regard, the standards for implementing the values and principles prescribed in the Constitution are found in various legislation enacted by Parliament.

Separately, policies are the basic guidelines or course of action developed and issued by the government to facilitate service delivery. They are the declared objectives that a government or party seeks to achieve and preserve in the interest of the nation.

The promotion and implementation of values and principles is guided by a number of legislation and policies that have so far been developed as illustrated in the following section.

1.5.1 Legislation

- (a) Public Service (Values and Principles) Act, 2015: The Act gives effect to Article 232 of the Constitution on values and principles of public service. It establishes the standards which public institutions must observe in promoting values and principles including integrity, good governance, transparency and accountability and sustainable development.
- (b) The Leadership and Integrity Act, 2012: The Act gives effect to Chapter Six of the Constitution. It prescribes a general code for state officers that include management of conflict of interest and gifts received by public officers in the course of duty. It is also instrumental in promoting integrity, good governance, transparency and accountability.
- (c) The Public Officer Ethics Act, 2003: The Act prescribes a Code of Conduct and Ethics for public officers and requires public officers to make financial declarations (wealth declarations) which promotes the principle of integrity, good governance, transparency and accountability, efficiency and effectiveness in public service delivery.
- (d) The Public Service Commission Act, 2017: The Act prescribes standards which the Commission and all institutions not exempted under Article 234(3)(c) from the Commission's jurisdiction must comply with. The Act prescribes measures for ensuring that appointments and promotions are based on meritocracy and competitiveness. It also prescribes measures to ensure that the service promotes diversity, efficiency and effectiveness. Other values promoted through the Act include accountability for administrative acts, professionalism, good governance and integrity.
- (e) The Kenya National Human Rights Act, 2011: The Act enhances the promotion and protection of human rights in public and private institutions, respect for human rights and develop a culture of human rights to restore public confidence in the rule of law. In addition, it facilitates the realization of human dignity, social justice, equity, equality, inclusiveness, non-discrimination and protection of the marginalized.
- (f) Commission on Administrative Justice Act, 2011: The Act was developed pursuant to Article 59 (4) of the Constitution to address all forms of maladministration, promote good governance and efficient public service delivery by enforcing the right to fair administrative action. The Commission on Administrative Justice investigates abuse of power, manifest injustice and unlawful, oppressive, unfair or unresponsive official conduct to ensure public officers and public institutions respect sovereignty of the people of Kenya and promotes social justice and good governance.
- (g) National Gender and Equality Commission Act, 2011: The Act was established to promote gender equality and equity and freedom from all forms of discrimination which is one of the basic foundational principles for the realization of national values. Policies developed by public institutions should aim at eliminating all forms of practices and customs that discriminate or are detrimental to the dignity of any gender.
- (h) The Independent Electoral and Boundaries Commission Act No. 9 of 2011: The Act gives effect to Article 88(4) of the Constitution and enhances democracy by ensuring the right to vote and the opportunity to vote, what is referred to as universal suffrage and also good governance by resolving disputes of elections. The Act promotes democracy and participation of the people and institutions that facilitate the realization of these set of values and principles, such as those dealing with civil registration services.
- (i) The Commission on Revenue Allocation Act, 2011: The Act promotes National Values and Principles such as protection of the marginalized, equity and sustainable development by ensuring equitable sharing of revenue raised by the national government between the national and county governments.
- (j) The Anti-Corruption and Economic Crimes Act, 2003 established the Ethics and Anti-Corruption Commission which was repealed to Ethics and Anti-Corruption Commission Act, 2011. The Act provides for promotion of ethics and strategies for fighting against corruption and economic crimes. It also facilitates the enforcement of the

value of integrity in the society especially among public and state officers. It equally promotes transparency, accountability and good governance in the management of public affairs.

- (k) Public Audit Act No. 12 of 2003: The Act roots for the audit of government, state corporations and county governments, to provide for efficiency and effectiveness as well as for lawful procedures for spending and collection of government revenues, and financial accountability of government agencies. The Act, therefore, enhances the realization of integrity, transparency and accountability by public institutions and officers.
- (l) The Public Finance Management Act, 2012: The Act sets the standards to ensure that public institutions and officers utilize public finances in an inefficient and effective manner. Values and principles promoted through the Act include transparency and accountability, good governance, integrity and sustainable development.
- (m) The Public Procurement and Asset Disposal Act, 2015: The Act establishes the standards to ensure that there is economy and value for money when public institutions procure or dispose of assets. It promotes good governance, transparency and accountability and sustainable development.
- (n) The Access to Information Act, 2016: The Act gives effect to Article 35 of the Constitution on access to information and prescribes timelines for release of information thus promoting the value of transparency, accountability and good governance.
- (o) The National Environment Management Act, Chapter 387: The Act sets the standards for ensuring the management of the environment to ensure sustainability. It establishes the National Environment Management Authority which enforces the standards. The Act concretizes the promotion of sustainable development.
- (p) The National Cohesion and Integration Act No. 12 of 2008: The Act seeks to promote national cohesion and integration by outlawing discrimination on the basis of ethnic, religious, racial and social origin. This goes further to facilitate and promote representation of Kenya's diverse communities, inclusiveness, protection of the marginalized and non-discrimination in public institutions
- (q) The Inter-governmental Relations Act, 2012: The Act establishes a framework for cooperation and consultation between the two levels of government thus deepening sharing and devolution of power. The objective of the Act is to provide a framework for consultation and cooperation between the national and county governments, provide a framework for consultation and cooperation amongst county governments, establish institutional structures and mechanisms for inter-governmental relations and provide a framework for the inclusive consideration of any matter that affects relations between the two levels of government and amongst county governments. It further gives effect to Articles 187 and 200 of the Constitution, in respect of the transfer of functions and powers by one level of government to another, including the transfer of legislative powers from the national government to the county governments.

1.5.2 Policy Framework

- (a) Sessional Paper Number 8 of 2013: Government issued Sessional Paper Number 8 of 2013 to mainstream Article 10 on National Values and Principles of Governance. The Policy provides a framework for fostering national unity, inculcating patriotism, redressing marginalization, and promotion of an accountable and democratic electoral process. It sets broad goals, objectives and guidelines to government, non-state actors and citizens to develop action plans for mainstreaming of national values and principles of governance. It further seeks to guarantee accountable exercise of executive authority by both the national and county governments and ensure equitable distribution of resources and opportunities and the promotion and protection of the objects of devolution as enshrined in the Constitution.
- (b) Framework for Implementation of Values and Principles in Articles 10 and 232 of the Constitution

The Commission issued the framework for implementation of the national values and principles of governance (Article 10) and the values and principles of the public service (Article 232) in 2015. The Framework guides on the clustering of the values into thematic areas; sets expected performance standards and indicators per thematic area; provide for promotional strategies; and provides policy guidelines on areas of evaluation such as affirmative action programmes.

The Framework for Implementation of Values and Principles envisaged a formulation of an overarching citizen service delivery charter wherein the values and principles are mainstreamed in service delivery processes and an annual assessment of compliance is undertaken through a citizen satisfaction survey. The Commission has commenced the development of a citizen service delivery charter that will complement the current framework by placing the citizen at the centre of compliance evaluation and reporting processes.

The framework also anticipates a progression of the evaluation from the establishment of baseline information (2011-2015), the setting of performance indices (2016/2017), establishment of performance trends (2018-2023) and the establishment of compliance outcomes and impact (2023 -2025). The implementation and compliance with the values and principles are, therefore, a means to the transformation of the Kenyan society into a value based society and the primacy of values and principles in service delivery throughout the public service.

(c) Kenya Vision 2030

Kenya Vision 2030 is built on three pillars: social, economic and political. The Vision emphasizes the need to focus on interventions towards the arid and semi- arid lands, high poverty areas, unemployed youths, women and vulnerable groups which is critical in the promotion of equity.

Each of the pillars in the Vision is geared towards the realization of National Values and Principles of Governance. The social pillar envisions the building of a just and cohesive society that enjoys equitable social development in a clean and secure environment. The Vision lists the key social sectors to be transformed to include: education and training, health, water and sanitation, housing and urbanization, gender, youth, sports, and culture. These sectors are conventionally accepted to be important for the realization of National Values and Principles of Governance and especially social justice.

The economic pillar strives for macroeconomic stability as the foundation for greater economic growth that creates wealth, and reduces poverty and inequality to enhance the realization of National Values and Principles of Governance.

The political pillar envisions a democratic political system that is issue-based, people-centred, result-oriented and accountable to the public. The Vision provides for governance reforms designed to enhance transparency, accountability and efficiency. Further, the Vision anticipates judicial, public service and policing reforms that should improve service delivery to regions previously marginalized in these aspects.

In a nutshell, the Vision prioritizes and promotes the following values among others: sustainable development, human rights, social justice, human dignity, equity and equality, rule of law, democracy and participation of the people, transparency and accountability among others.

(d) Sessional Paper No. 9 of 2013 on National Cohesion and Integration

The Sessional Paper No. 9 on National Cohesion and Integration aims at ensuring that Kenya becomes an equitable society that is politically, economically and socially cohesive and integrated where the citizens have a shared vision and sense of belonging while appreciating diversity which are key tenets of a values-based society.

This Policy is critical in the promotion of National Values and Principles of Governance through addressing socio-economic inequalities, managing ethnic and socio-cultural diversities, preventing and reconciling conflicting situation which often impact negatively on national unity, ensuring the rule of law, security and order, entrenching national values in all segments

of the society, addressing unemployment challenges and promoting participatory communication which is key in enhancing democracy and participation of the people.

(e) Policy on Peace Building and Conflict Management

This policy aims at re-focusing peace building and conflict management efforts and practices towards measures that increase the potential for peaceful co-existence and human security as precursors for sustainable development, and a just and peaceful society. The policy also espouses the following values hinged in the Constitution: national unity and nationhood; equality before the law and application of the rule of law; integrity, honesty and accountable leadership; equitable distribution of wealth among others. It, therefore, forms a foundation for the promotion of National Values and Principles of Governance.

(f) Gender Policy

This policy seeks to contribute to strengthening gender equality through promoting equity and equality between women and men, girls and boys. It specifically seeks to: promote equity and equality of women and men, and ensure that interventions do not promote inequitable gender roles and relations, provide quantitative and qualitative information on the influence of gender on diverse sectoral issues.

(g) Youth Policy

This Policy aims at ensuring that the youth play their roles in the development of the country. Its goal is to promote youth participation in community and civic affairs and to ensure that youth programmes are youth-centered. It proposes guidelines and strategies that can be used to facilitate participation of the youth in national development. The policy thus lays a key foundation for promotion of national values such as democracy and participation of the people, equality, human rights and human dignity among others.

(h) The National Land Policy

The national land policy was formulated to provide an overall framework and define the key measures required to address the critical issues of land administration, access to land, land use planning, restitution of historical injustices, environmental degradation, conflicts, unplanned proliferation of informal urban settlements, outdated legal framework, institutional framework and information management. By recognizing the need for security of tenure for all Kenyans, all socio-economic groups, women, pastoral communities, residents of informal settlement and other marginalized groups, the policy addresses the national values such as inclusiveness, non-discrimination, protection of the marginalized and sustainable development.

1.6 Implementation of Values and Principles

The values and principles are at the core of the intricate relationship between the government and its citizenry. They are the yardstick that influences the nature and quality of interactions between and within these two segments of society. Effective implementation of national values and principles of governance will help weave a united, cohesive and rapidly developing Kenyan nation. Such is the nation envisioned under the Kenya Vision 2030 that will fulfil a majority of citizens' aspirations and desires.

Implementation of the national values and principles of governance will further facilitate transformation of Kenya into a leading nation in the community of nations. This is in view of the fact that values and principles are a binding guide in the conduct of all public affairs, in the exercise of leadership and for the promotion of the welfare of all Kenyans. They are also a yardstick for evaluating and appraising performance and determining the suitability of all persons in positions of responsibility.

Implementation and the subsequent compliance happens through the transactional environment of the public institutions and the discharge of their mandates; the public officers rendering services in the institutions and the citizens who are the recipients of public services.

Compliance in the public service occurs at the following three levels:

Level I: The first level of compliance is through the development of the legislative, policy, regulatory and institutional framework for the implementation of the values and principles in the public service. These include the establishment of performance measures and mechanisms for implementation and enforcement. Among the challenges faced at this stage are slow pace in processing of relevant policies and bills by the national assembly, inadequate implementation levels of existing laws, policies, regulations and guidelines, inadequate budgetary provision to support programmes and activities that promote values and principles.

Level II: The second level of compliance is through the mainstreaming of the values and principles into the institutional business processes including compliance enforcement mechanisms. Some of the challenges faced at this level include slow pace in automation of services, lack of periodic capacity building on technological skills and competences, and inadequate ICT infrastructure; and

Level III: The third level of compliance is when public officers adhere to values and principles in the day-to-day delivery of public services. Public officers should, therefore, demonstrate the willingness and commitment towards complying with values and principles. Among the challenges faced at this level include low levels of patriotism, reduced work ethics and impunity (disregard for the rule of law).

1.7 Sectors Evaluated

Public institutions are categorized into sectors that are determined by the general mandates of the institutions. The mandates include oversight responsibilities, academic, independent and semi-autonomous government agencies, as well as mainstream civil service institutions among others.

For purpose of undertaking the evaluation on compliance with values and principles, the entire public service is divided into six sectors as follows:

(i). The Constitutional Commissions and Independent Offices

These are some of the Chapter 15 commissions and independent offices established by the Constitution. However, regarding promotion and evaluation of values and principles nine Commissions and two independent offices fall under the jurisdiction of the Public Service Commission. It is, however, noted that Article 234(3)(c) exempts the Parliamentary Service Commission (PSC), the Judicial Service Commission (JSC), the Teachers Service Commission (TSC) and the National Police Service Commission (NPSC) from the jurisdiction of the Commission. It is important to note that besides the above institutions, county governments are equally excepted under Article 234(3)(d).

The 11 commissions are: Commission for Administrative Justice; Ethics and Anti-Corruption Commission; Independent Electoral and Boundaries Commission; Kenya National Human Rights Commission; Gender and Equality Commission; National Lands Commission; Salaries and Remuneration Commission and Commission for Revenue Allocation.

The two independent offices on the other hand are the Auditor-General and the Controller of Budget.

(ii). Ministries and State Departments

Ministries and State Departments are established by the President under Article 152 of the Constitution. The President establishes state departments through executive orders from time to time. The evaluated State Departments were 48 and included the Office of the Attorney General.

(iii). State Corporations and Semi-Autonomous Government Agencies (SAGAs)

The 225 State Corporations invited to participate in the survey are established by the President in accordance with Part II, Section 3 of the State Corporations Act, Chapter 446 of the Laws of Kenya.

(iv). Public Universities

The 38 Public Universities that were invited to participate in the survey are established under the Universities Act, No. 42 of 2012.

(v). Statutory Commissions and Authorities

Some Statutory Commissions and Authorities are established by the government to discharge specified duties and responsibilities. The eight Statutory Commissions and Authorities are, the Office of the Director of Public Prosecutions, Office of the Registrar of Political Parties, Inter-governmental Relations Technical Committee, Council of Governors, Kenya Law Reform Commission, Independent Policing Oversight Authority, National Cohesion and Integration Commission and Office of the Data Protection Commissioner.

(vi). Technical and Vocational Education Training Institutes

The Technical and Vocational centres came into being after the enactment of the Technical and Vocational Education Training Act, 2013. The Technical Training Institutes are recognized under Section 58 of the TVET Act. National polytechnics on the other hand were established through various orders issued by the Cabinet Secretary for education. All the 195 TVET institutions were invited to participate in the survey.

1.8 Compliance Evaluation Methodology

The evaluation method used to determine the status of compliance with the values and principles by public institutions was not only consultative but also participatory. The method complied with global survey practices towards ensuring objectivity and integrity of the data collection process. Primary data was collected through a questionnaire, which is a research instrument that consists of a set of questions for the purpose of gathering information from target respondents. It is typically a mix of close-ended questions and open-ended questions, or a combination of both. The data collected was quantitative and qualitative.

Specifically, the survey was conducted using an online questionnaire known as Sogolytics survey tool that was duly authorized by the Commission Board. The tool is easy to create and deploy surveys with no limitations as to the number or type of questions and responses. It gives free access to view and download the raw survey data. It is fairly intuitive to use and its question display logic option provides great flexibility for ease of use by respondents.

The Commission communicated to public institutions under its purview about the values and principles compliance evaluation survey. The communication provided clear guidelines on the management and submission of data via the online tool and the corresponding submission timelines. Thereafter, the survey tools were emailed to the identified respondents from each institution.

The four independent online survey tools sent to the respondents sought information relating to staff bio-data; measures taken and progress achieved in realization of values and principles across thematic areas; citizen satisfaction with public services offered; specific support (customized services and facilities) provided to PWDs, actual staff training and induction status. As regards to the citizen satisfaction, the Commission undertook a rapid citizen satisfaction survey targeting members of the public who sought services from government institutions. A total of 3,000 citizens were identified for the survey through perusal of institutional customer registers submitted by 301 institutions. An online questionnaire containing five questions was used to collect data. The survey was administered through the mobile platform.

Separately, data was also sourced through telephone calls to institutions regarding the functionalities of institution's helplines and hotlines. Further there was verification on functionalities of emails and websites as well as the availability of service charters online.

Respondents submitted filled questionnaires which were authenticated by the institutional heads. The data received was cleaned, collated, standardized before being analysed. The findings were then interpreted and recommendations made.

1.9 Structure of the Report

This report is divided into five chapters. Chapter 1 is an introduction which highlights rationale for evaluation and reporting on the values and principles. It has also laid bare the parties involved in the evaluation and the mechanism for sourcing data to benefit the reporting. Chapter 2 is on promotion of values and principles and illustrates the role played and strategies deployed by actors towards mainstreaming the values and principles in the public service. Chapter 3 relates to progress made in implementation of values and principles.

It accounts for the actions of the public institutions to institutionalize the values and principles into the service delivery during the period under review, and also reflecting on performance over time of some thematic areas through trend analysis. The voice of the citizen has been tapped through a satisfaction survey as a mechanism to confirm the report findings before deriving appropriate recommendations. Chapter 4 presents the status of implementation of values and principles. This is achieved by exploring the extent to which the values and principles of public service have been complied. Towards this end, performance indices based on overall performance and performance in each thematic area and sector have been determined. Finally, Chapter 5 provides an outline of policy and sectoral recommendations.

CHAPTER TWO—PROMOTION OF VALUES AND PRINCIPLES

2.1 Introduction

This chapter highlights the role of diverse actors in the promotion of values and principles, an interpretation of thematic areas that guided the evaluation, strategies employed by institutions to promote values and principles, as well as the specific measures taken by the Public Service Commission in promoting values and principles.

Promotion refers to the coordinated self-initiated efforts to establish a channel of information and persuasion to facilitate acceptance of ideas. It is a set of activities to share knowledge about a particular issue with as many people as possible with the aim of increasing its awareness.

The promotion of values and principles requires coordinated and concerted interventions by diverse state and non-state actors to ensure effective implementation processes. The strategies for the promotion of values and principles are provided by the Framework for Implementation of the Values and Principles in Articles 10 and 232 of the Constitution, as well as the Sessional Paper No.8 on National Values and Principles of Governance, 2013.

2.2 Role of Various Actors in Promotion of Values and Principles

The national values and principles of governance bind all state organs, state officers, public officers and persons whenever any of them; (a) applies or interprets the constitution (b) enacts, applies or interprets any law and (c) makes or implements public policy decisions. Similarly, the values and principles of public service apply to all state organs in both levels of government and all state corporations. Various public institutions and officers have respective roles in the promotion of national values and principles of governance and values and principles of public service.

2.2.1 The Presidency

The President is expected to provide leadership in championing national values. Article 132 (1) (c) (i) of the Constitution provides that the President shall once every year report, in an address to the nation, on all measures taken and the progress achieved in the realization of national values.

Article 234 (2) (h) of the Constitution obligates the Public Service Commission to evaluate and report to the President on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the public service.

Further to the findings of the report that may inform government policy, some of the recommendations may require enforcement by the Presidency.

2.2.2 Parliament

Parliament allocates funds necessary for the implementation of interventions to promote, inculcate and enforce National Values and Principles of Governance by the government.

The Constitution obligates the Public Service Commission to evaluate and report to Parliament on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the public service.

The report gives recommendations some of which may require enactment of various laws or amendment of some.

2.2.3 Judiciary

The Judiciary is the guardian of the Constitution, which is the supreme law of the land. The National Values and Values and

Principles of Governance and Values Principles of Public Service are prescribed by the Constitution hence the role of the Judiciary to interpret and protect them.

The Judiciary should give justice to the people whenever approached on matters related to National Values and Values and Principles of Public Service. For example, courts have nullified processes that have been undertaken and concluded without public participation.

2.2.4 Public Service Commission

The Public Service Commission is mandated by the Constitution to promote the realization of the National Values and Principles of Governance, undertake the responsibility to promote, uphold and enforce values and principles of public service throughout the public service.

Under the Framework for the Implementation of Values and Principles, 2015, the Public Service Commission is required to:

- (i) promote, undertake compliance evaluation and report on measures taken, progress achieved and impediments in the realization of the values and principles in the public service;
- (ii) oversee the implementation of recommendations made by the presidency and parliament;
- (iii) build institutional capacity both internal and external necessary for the promotion, compliance evaluation and reporting on the values and principles;
- (iv) develop and disseminate policy framework for the implementation of the values and principles;
- (v) include values and principles in the criteria for appointments, promotions and removals from the public service;
- (vi) develop and disseminate the code of Conduct and Ethics for Public Officers;
- (vii) set performance standards on values and principles;
- (viii) set the performance indicators on values and principles;
- (ix) establish institutional linkages for implementation of the values and principles;
- (x) develop strategies for the promotion of values and principles;
- (xi) develop a criteria for the evaluation of values and principles;
- (xii) develop a reporting framework for the values and principles;
- (xiii) establish recognition, reward, commendation and honours system for the outstanding embodiment of the values and principles;
- (xiv) award best public service role models through a participatory process with commendations and honours such as 'maadili bora' and 'mzalendo' award; and
- (xv) host a national conference once a year to stimulate national dialogue on various thematic areas such as the 'place of values and principles in national development'.

2.2.5 Public Institutions

Public institutions interpret and implement government policies and programmes in conformity with the Constitution. The Constitution obligates them to provide services efficiently and effectively, and promote the values and principles of governance that are outlined in Articles 10 and 232 of the Constitution.

Under Article 232, the values and principles of public service entrench high standards of professionalism in the service. These include responsiveness, prompt, effective, impartial, and equitable provision of service; high standards of professional ethics; efficient, effective, and economic use of resources; and transparency and accountability.

Public institutions play a big role in achieving equitable distribution of government resources and provision of other basic public services to the citizens. They are, therefore, obliged to be responsive to citizens' needs and tailor services to address the needs.

2.2.6 Authorized Officer

The responsibilities of an authorized officer in the promotion, evaluation and reporting on the implementation of values and principles include:

- (i) dissemination and implementation of the values and principles policy framework;
- (ii) establishment and facilitation of human resource management committee;
- (iii) appointment and training of link person for the values and principles implementation;
- (iv) inclusion of values and principles into the criteria for appointment, promotions and removal from the public service;
- (v) identification of value carriers and value drivers in the institution;
- (vi) mainstreaming of the performance standards on values and principles into the organizational business processes;
- (vii) mainstreaming of the performance indicators on values and principles into the institutional business processes;
- (viii) mainstreaming of the values into the client service delivery charter;
- (ix) mainstreaming of the values into the strategic plan;
- (x) mainstreaming of the values into the performance management system including performance appraisals;
- (xi) mainstreaming of the Public Officer Code of Conduct and Ethics into the institutional business processes;
- (xii) identifying and recommending staff through a participatory process for recognition, reward, commendation and honours for exemplifying the values and principles;
- (xiii) reporting to the Commission on a quarterly, bi-annual and annual basis on the implementation of the values and principles including measures and activities on promotion of values and compliance evaluation; and
- (xiv) participating in the national conference on values and principles of the public service.

2.2.7 Accounting Officer

An Accounting Officer is an officer to whom the National Treasury has delegated responsibility for the discharge of some financial functions as assigned by among other legislative framework, the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act 2015. The role of the Accounting Officer in the promotion of values and principles will entail among other functions; planning and budgeting, mobilization and allocation of resources, auditing and reporting.

2.2.8 Public Officer

Every public officer is expected to:

- (i) Commit to continuous learning to advance knowledge and proper application of the National Values and Principles of Governance;
- (ii) Dedicate to respect, support and collaborate with colleagues, relevant stakeholders and professionals in working towards the full realization of the National Values and Principles of Governance;
- (iii) Refuse to condone or participate in acts of commission or omission that undermine the National Values and Principles of Governance;
- (iv) Uphold and, where necessary, improve the laws, regulations and policies relating to National Values and Principles of Governance;

- (v) Commit to observe and uphold the provisions of the citizen service delivery charters;
- (vi) Promote compliance and enforcement of the National Values and Principles of Governance;
- (vii) Individually or collectively make reports with respect to threatened or actual violation of the National Values and Principles of Governance;
- (viii) Embrace continuous improvement in the realization of the National Values and Principles of Governance through the cycle of planning, implementing, monitoring and corrective action;
- (ix) Embrace and foster transparency and accountability by providing the public with timely, accessible and accurate information on their actions and omissions with respect to the National Values and Principles of Governance;
- (x) Seek to be outstanding examples in the upholding of National Values and Principles of Governance in execution of their duties and roles in the society;
- (xi) Respect and protect the duty of colleagues, stakeholders and citizens to comply with the National Values and Principles of Governance;
- (xii) Eradicate corruption; uphold freedom of association and respect diversity especially in recruitment;
- (xiii) Acknowledge that the relevant state organ and state officer has a mandate and authority to uphold the National Values and Principles of Governance and seek to contribute towards that goal; and
- (xiv) Demonstrate leadership competencies that enhance the realization of national values at family, community, organizational, county and national levels.

2.3 Clusters of Values and Principles

Article 10 on National Values and Principles of Governance has 19 values and principles while Article 232 on values and principles of public service has 9 values and principles. These values are interrelated and interconnected. For instance, implementation of the value on efficient, effective and economic use of resources in Article 232 impacts sustainable development in Article 10. Similarly, the promotion of inclusivity in Article 232 will promote national unity in Article 10. For purposes of promotion and evaluation, the Commission clustered similar and interrelated values and principles into seven thematic areas as follows:

- (i) Service delivery improvement;
- (ii) High standards of professional ethics in the public service;
- (iii) Good governance, transparency and accountability;
- (iv) Performance management;
- (v) Equitable allocation of opportunities and resources;
- (vi) Public participation in policy-making process; and
- (vii) Efficiency, effectiveness and economic use of resources and sustainable development.

2.3.1 Service Delivery Improvement

The values clustered under this theme include the following values from Article 10 namely: good governance; social justice; inclusiveness; human rights; human dignity; non-discrimination; and protection of the marginalized. It also includes the following values from Article 232: public service values and principles of responsive, prompt, effective, impartial and equitable provision of services; high standards of professional ethics; efficient, effective and economic use of resources; accountability for administrative acts; and transparency and provision to the public of timely, accurate information.

Section 7(3) of the Public Service Values and Principles Act, 2015 anticipates public institutions to render services in accordance with the service charter of the institution. Further, the Section provides that service is delayed if it is not given in accordance with the service charter of the public institution. Section 5.5.7(v) of the National Values and Principles of Governance Policy (NV&PGP) requires public institutions to institute and comply with a citizen service

delivery charter, which obligates individual public officers to commit to observe and uphold the provisions of the charter.

In compliance with these values, citizens expect accessible, timely and affordable services. The citizens also expect public officials to be qualified, well trained, competent and professional in the delivery of public services. The public service, therefore, is expected to continuously innovate on new ways of service delivery to meet the ever-rising expectations of the citizens. Such innovations involve a continuous review and automation of the business processes and the use of e-platforms in service delivery.

The service delivery innovations may require the development and review of service delivery tools such as service charters, grievance management procedures, provision of computers and accessories, IT connectivity, upskilling and re-skilling and acceleration of uptake of technology by the public institutions and officers.

Public institutions are, therefore, obligated to develop and ensure adherence to service charters which indicate the type of service, commitments of the institution, expected delivery timelines and the cost of the service and feedback mechanism. Service delivery improvement is, therefore, promoted if institutions comply with the standards prescribed in their service charters.

The evaluation sought to establish the number of institutions with service charters, whether the charters were easily accessible to citizens and whether the charters were rendered in Kenyan sign languages such as Braille and were customized for access by persons with disabilities. The evaluation also sought to establish whether institutions had put in place effective mechanisms for grievance handling and whether the business processes had been automated and migrated to e-platforms. Contact details were taken from copies of uploaded customer service registers and used to triangulate the information submitted by respondents through a separate citizen satisfaction survey which targeted 3,000 clients drawn from the organizational client service register. The evaluation further sought to establish impediments to efficient service delivery including levying of service charges and mode of payments.

2.3.2 *High Standards of Professional Ethics in the Public Service*

The values clustered under this theme include the public service values and principles of efficiency, effectiveness and economic use of resources; accountability for administrative acts; and the national values and principles of governance of transparency and accountability; integrity; patriotism; and the rule of law.

Article 232(1)(a) provides for high standards of professional ethics. This is given effect through Section 5(3) the Public Service (Values and Principles) Act, 2015 that require public officers who are members of regulated professions to uphold high standards of professional ethics through compliance with the provisions of the relevant professional association regarding registration and continuing professional development; being bound by the code of ethics of the relevant professional association; and undergo such disciplinary action of the relevant professional association and by the public service for any act of professional misconduct.

The other standards that the officers are required to comply with are prescribed in the Public Officer Ethics Act, 2003 (POEA) and the Leadership and Integrity Act, 2012 (LIA). All public officers and state officers are required to commit to the leadership and integrity code and the public service code of conduct and ethics respectively. The codes prescribe general ethical standards for professionalizing the public service.

High standards of professionalism are, therefore, promoted if the public officers comply with the standards established in the above legislation alongside others that govern the members of various regulated professions. These professions are established by statute and are held to high standards of performance and responsibility. There were 29 regulated professions represented in the public service as of 30th June 2022.

Public service institutions are expected to comply with the values under this thematic area by maintaining an inventory of regulated professionals, supporting the professionals to undergo continuous professional development, ensuring they are in good standing through compliance with their professional code of practice. Further, institutions are expected to budget for integrity training and ensure that all public officers comply with the public service code of conduct and ethics. This thematic area also seeks to establish the levels of

compliance with the every two-year declaration of income assets and liabilities as required under Part IV of the Public Officers Ethics Act, 2003. The financial disclosure process is a mechanism for promoting accountability in the management of resources in the public service. Adherence to the public service code of conduct and ethics also promotes development of workplace ethics for an ethical and transparent public service. This part also sought to establish the status of professionals in the public service in terms of registration, licensing and good standing.

2.3.3 *Good Governance, Transparency and Accountability*

Article 232 (1) (e) and (f) requires public institutions and officers to observe transparency and accountability in the discharge of their mandates. This is further amplified under Section 9 of the Public Service Values and Principles Act, 2015. The Public Service Code of Conduct and Ethics, 2016 prescribes ethical standards including mechanisms for accountability and transparency such as the declaration of gifts and conflict of interests.

The values clustered under this theme include public service values and principles of transparency and provision to the public of timely, accurate information and responsive, prompt, effective, impartial and equitable provision of services while the national values and principles of governance comprise good governance; transparency and accountability; and the rule of law.

Good governance is the accountable exercise of power and authority. Article 10 (2) (c) of the Constitution provide for values and principles of good governance, integrity, transparency, and accountability. Other provisions for promoting good governance practices are contained in various legislation and policies including the Public Officer Ethics Act, 2003, the Leadership and Integrity Act, 2012, Public Finance Management Act, 2012, Public Procurement and Asset Disposal Act, 2015, The Public Service Values and Principles Act, 2015, and the Fair Administrative Action Act, 2015.

The policies that promote good governance practices include the Human Resource Policies and Procedures Manual (2015), the Framework for Implementation of Values and Principles (2015), the Mwongozo Code for State Corporations (2015), the National Values and Principles of Governance Policy (2013).

Transparency also calls for compliance with Section 5 of the Access to Information Act, 2016. Public institutions are, therefore, expected to ensure ease of access to information. Without information, it is not easy for the public to hold public institutions to account. Consequently, the channels that are used by institutions for communication should have a wide reach.

Public institutions and officers are required to comply with mechanisms prescribed in policy and the law for promoting good governance, transparency and accountability. They are expected to realize this by committing to the code of conduct and ethics, declaring and recording gifts given to officers and given out by the institutions and declaring, recording conflicts of interest whenever they occur.

The evaluation under this thematic area sought to establish the extent to which public service institutions and officials were accountable and the state of corruption cases in terms of the number of reported cases of corruption, prosecutions, convictions and acquittals. It also sought to establish the status of civil litigation in the service in terms of most prevalent areas of litigation, duration of cases and the awards for or against institutions or individual public officers in terms of costs and damages. Another area of evaluation was in the management of gifts and conflict of interest and publication and publicization of information.

2.3.4 *Performance Management*

The values clustered under this theme include public service values and principles of accountability for administrative acts; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; transparency and provision to the public of timely, accurate information; and the national values and principles of governance of equality; equity; inclusiveness; national unity; non-discrimination; patriotism; protection of the marginalized; and social justice.

The Public Service Commission issued performance management regulations for the public service in 2021. The regulations define the roles of various actors in the performance management chain, provide for planning for performance; efficiency and effectiveness measures;

the institutional framework for performance; employee performance management and supervision; rewards and sanctions framework and monitoring, evaluation and reporting.

The values under performance management require institutional and individual employee performance towards the achievement of the institution's strategic goals and objectives. The National Values Policy, 2013 and the Framework for Implementation of Values and Principles, 2015 recommend the use of a performance contracting platform as a mechanism for mainstreaming the values and principles into the organization's business process and according a significant weight on values and principles as a basis of assessing performance. The values and principles are promoted when they form part of the performance agreements for institutions and individual public officers.

For improved productivity and service delivery, human resources need to be continuously retooled and upskilled through continuous training. The training should be conducted in a structured manner based on training needs assessment and training projections in accordance with Section 56(1) (c) and (d) of the PSC Act, 2017. Public institutions are expected to create awareness and inculcate the values and principles to public officers during staff induction and in-service training programmes.

The evaluation under this thematic area sought to establish the status of performance management in the public service in terms of performance agreements; utilization of performance agreement tools; performance evaluation outcomes; performance rewards; disciplinary control; succession management; payroll management and induction programmes and appointment on merit.

2.3.5 Equitable Allocation of Opportunities and Resources

The values clustered under this theme include public service values and principles of representation of Kenya's diverse communities; fair competition and merit as the basis of appointments and promotions; affording of adequate and equal opportunities for appointment, training and advancement at all levels of the public service of men and women; members of all ethnic groups and persons with disabilities and the national values and principles of governance of equality; equity; inclusiveness; national unity; non-discrimination; patriotism; protection of the marginalized; and social justice.

Equity is the proportionate sharing or allocation of resources and opportunities. The resources may include national revenue, development projects, social amenities and infrastructure, natural resources and land. Opportunities are both tangible and intangible benefits that accrue from the sharing of national resources such as employment opportunities, award of public tenders for the supply of goods and services, education, healthcare and social support programmes. Issues of equity and equitable appropriation of resources and opportunities are well catered for in various Articles of the Constitution.

Article 10 (2) (b) of the Constitution prescribes the values and principles of equity, equality, non-discrimination, inclusiveness, human rights and protection of the marginalized. Article 232 (1) (c), (g), (h) and (i) prescribes the values and principles of impartiality, equitable provision of services, fair competition and merit as a basis for appointments and promotions, representation of Kenya's diverse communities and affording adequate and equal opportunities for appointments, training and advancement at all levels of the public service of men and women, members of all ethnic groups and persons with disabilities.

Article 27 (6) provides that the State shall take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination. Article 27(8) further provides that no one gender should constitute more than two-thirds of appointments. Section 10 (2) of the Public Service Values and Principles Act, 2015 provides a framework for affirmative action for under-represented groups in the public service.

Section 10 (2) of the PSVP Act, 2015 give effect to this constitutional requirement and provide that the public service, a public institution or an authorized officer shall ensure that public officers are appointed and promoted on the basis of fair competition and merit, however, a public service may appoint or promote public officers without undue reliance on fair competition or merit in case of under-representation on the diverse categories or groups.

Article 54 (2) provides that 5% of appointments should comprise persons with disabilities. Article 55 (c) provides that the state shall take measures including affirmative action programmes to ensure that the youth access employment and Article 56(c) provides that the state shall put in place affirmative action programmes to ensure that minorities and marginalized groups are provided with special opportunities for access to employment.

Article 56 of the Constitution provide that the State shall put in place affirmative action programmes designed to ensure that minorities and marginalized groups: participate and are represented in governance and other spheres of life; are provided special opportunities in educational and economic fields; are provided special opportunities for access to employment; develop their cultural values, languages and practices; and have reasonable access to water, health services and infrastructure.

Article 227(2) of the Constitution calls for allocation of resources in an equitable manner. The Article provides that an Act of Parliament shall prescribe a framework within which policies relating to procurement and asset disposal shall be implemented and may provide for categories of preference in the allocation of contracts; the protection or advancement of persons, categories of persons or groups previously disadvantaged by unfair competition or discrimination.

Article 204 of the Constitution establishes the equalization fund which is 0.5% of the total revenue collected by the National Government based on the last audited accounts approved by the National Assembly. The National Government shall use the Equalisation Fund only to provide basic services including water, roads, health facilities and electricity to marginalized areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible. This is one of the important measures in ensuring that the marginalized and minorities are protected and their socio-economic and political development is assured.

Article 57 provide that the State shall take measures to ensure the rights of older persons to fully participate in the affairs of the society; to pursue their personal development; to live in dignity and respect and be free from abuse; and to receive reasonable care and assistance from their family and the State. All these constitutional provisions form the basis of equitable distribution of resources and opportunities. The government has developed a policy for the protection of vulnerable members of society which is operationalized under the social protection programme. The social protection programme makes provisions for registered older persons to get monthly stipends from the government which also extends to widows, orphans and persons with severe disabilities.

Public institutions are expected to comply with the values in this thematic area by ensuring that the staff composition complies with the two-thirds gender principle; 5% requirement for persons with disabilities; and proportionate representation of all ethnic groups. All public institutions are required to develop affirmative action programmes to address the gaps in their staff composition.

Part 2.4 of the National Values Policy guides on equitable distribution of resources. Inequalities undermine the people's sense of belonging, causes alienation, marginalization, promotes injustice and ultimately undermines national cohesion and unity. Some of the measures recommended to be taken include enhanced poverty alleviation programmes, promotion of equitable distribution of resources and opportunities, and the initiation and implementation of affirmative action for marginalized groups. This means public resources shall be distributed equitably as far as is practicable geographically taking into account diversity, population and poverty index.

The institutions are further expected to comply with the provisions of Access to Government Procurement Opportunities (AGPO) by setting aside 30% of their procurement budget. They are required to award tenders for the supply of goods and services to registered special groups of women, youth and persons with disabilities.

In addition, all public institutions are expected to comply with equitable distribution of job opportunities at all levels of the public service through the determination of diversity gaps and development of affirmative action programmes to redress the gaps.

The evaluation under this thematic area sought to establish the representativeness and equity in appointment and payment of internship opportunities in the public service; the proportionate

representation in appointment and promotion of ethnicities in the service; representativeness and distribution of training opportunities; use of Kenyan sign languages in the service; customisation of premises for use by PWDs; status of allocation of 30% procurement budget to special groups; and status of implementation of various social protection programmes.

2.3.6 Public Participation in Policy-Making Process

The values clustered under this theme include; public service values and principles of involvement of the people in the process of policy-making; accountability for administrative acts; responsive, prompt, effective, impartial and equitable provision of services; transparency and provision to the public of timely, accurate information. The national values and principles of governance include democracy and participation of the people; transparency and accountability; non-discrimination; protection of the marginalized; and the rule of law.

Public participation entails empowering the people to actively and effectively involve themselves in creating the structures, systems, policies, laws and programmes that serve the interests of all as well as effectively implementing and contributing to the development process and sharing the benefits equitably.

Article 10(1)(c) of the Constitution binds all persons whenever they are making or interpreting public policy decisions. Further, Article 10(2)(a) provide for values and principles of sharing and devolution of power and participation of the people and Article 232 (1) (d) provide for the values and principles of involvement of the people in the process of policy-making.

Section 11 and 12 of the Public Service (Values and Principles) Act, 2015 further gives effect to these constitutional provisions which require the public service to facilitate public participation and involvement in the promotion of values and principles of public service. It also provides that the public service shall develop guidelines for the involvement of the people in policy-making. The Public Service Commission developed and issued to the service the Public Participation Guidelines, 2015. The guidelines provide that the public is given adequate opportunity to review a draft policy; be heard by the makers of a policy; make comments on a draft policy; and be notified of the final draft of the policy and whether or not it incorporates their views. Institutions are expected to customize and implement the guidelines during the development of policies.

Public institutions are, therefore, required to customize and adhere to the public participation guidelines whenever they make or develop public policies. This includes stakeholder mapping, timely circulation of policy documents for public participation, meaningful stakeholder input through the choice of appropriate venue, time and facilitation, keeping of records, ensuring diverse representation of the participants, undertaking policy validation before approval, adoption and publication of the policy.

The evaluation sought to establish the status of engagement of the public by public institutions in policy-making in terms of timely circulation of the invitations and draft policy documents; representativeness of the participants and use of Kenyan sign languages; venue and mode of participation and policy validation; number of litigation filed to challenge public policies formulated without public participation and the outcome.

2.3.7 Efficiency, Effectiveness and Economic Use of Resources and Sustainable Development

Article 232 (1) (b) provide for the values and principles of efficiency, effectiveness and economic use of resources. Section (6) of The Public Service Values and Principles Act, 2015 requires public officers to be efficient and effective in the utilization of public resources.

The values clustered under this theme include; public service values and principles of efficient, effective and economic use of resources and national values and principles of governance of sustainable development; good governance; integrity; and the rule of law.

In the context of this compliance evaluation, efficiency relates to the timeliness and cost-effectiveness of service delivery and implementation of government programmes and projects at planned cost. Effectiveness is the ability to attain planned results while

economic use of resources relates to the prudent use of public resources.

The standards for efficiency, effectiveness and economic use of resources are prescribed in the Public Finance Management Act, 2012 (PFMA) and the regulations issued under it. Regulation 26(1) (f) of the Public Finance Management (National Government) Regulations, 2015 prescribes that development expenditure shall be at least 30% of the total budget. Apart from prescribing roles on the expenditure, the Act places obligations on different institutions with relation to the management of government assets.

Public institutions are expected to ensure compliance by adhering to the budget ratios of recurrent to development of 70:30 and operation and maintenance to personnel emoluments of 65:35. To ensure that the development projects are properly planned, the institutions are required to undertake feasibility studies for sustainability and obtain environmental impact assessment approvals. The development projects are expected to have start and completion dates and are completed at cost. This promotes the value and principle of economic use of resources.

Public institutions are further expected to operate with approved optimal staff levels based on workload analysis. This presupposes that all institutions have human resource development plans which guide the recruitment and selection, staff development, career progression, staff exits and succession management projections. Optimal staffing is critical in maintaining a sustainable public service wage bill and ensuring demand-driven recruitment and selection.

Public institutions are ultimately expected to have a favourable opinion from the Auditor-General in the annual audits and implement recommendations and directions from Parliament as the overall oversight authority.

The evaluation under this thematic area sought to establish adherence by public institutions to set budgetary ratios; payment of dividends by commercial state corporations; undertaking and cost of CSR programmes; budget absorption levels and institutions utilizing Public Procurement Information Portal. For organizations that reported undertaking development projects the evaluation sought to establish whether feasibility studies and environmental impact assessment were undertaken; project cost variations; project completion and payment status and compliance with the regulations on disposal of assets. Another area of evaluation is on the Auditor's General's opinion and implementation of recommendations of PAC and PIC reports.

The above thematic areas are provided for in the *Framework for the promotion of values and principles in Articles 10 and 232 of the Constitution, 2015*, and provides the necessary guidelines for discussing diverse compliance areas in the promotion of values and principles.

2.4 Strategies for Promotion of Values and Principles

A strategy is a plan of action designed to achieve a long-term or overall goal. Strategies are long-term plans of action or methods to help achieve certain desired goals. It involves setting goals, determining actions to achieve the goals, and mobilizing resources to execute the actions. Strategies can be deliberate intention or a pattern of activity that an institution adapts to its environment to enable the realization of its vision and mission. It involves activities such as strategic planning and thinking that enhance the achievements of desirable outcomes from a given program, project or activity. Strategies may either be in the form of broad or action-specific interventions towards the attainment of certain set goals.

Some of the broad strategies proposed include an associative approach which appreciates that the process of inculcating values and principles should be so pervasive that it should be adopted and carried forward by all strata of society. The objective of this strategy is to enable the state and citizens' organizations to form a single delivery framework that transforms all layers of society with a new perspective based on values and principles. Recruiting and mobilizing change agents is the other strategy whose objective is to recruit as many value carriers as possible in all spheres of society - arts and entertainment, communities, educational institutions, families, government, political organizations, private sector, religious and faith-based organizations, and sports. The third strategy is mainstreaming values for behaviour change in all spheres. The objective of this strategy is to make values a fulcrum around which national activities and programs are anchored. In the process, values become a central rallying ingredient and theme in the planning and execution of national programmes. Affirming

national values and their champions is the final strategy which seeks to profile and give visibility to Kenyan heroes and heroines who represent a commitment to national values in both historical and contemporary settings.

Public institutions can choose strategies that are most appropriate to their mandates or which would be more effective to execute the interventions sought.

2.4.1 Promotion of Values and Principles by Public Institutions

The Sessional Paper No. 8 on National Values and Principles of governance requires public institutions to establish systems, structures, programmes and guidelines for the promotion of Values and Principles.

During the 2021/2022 FY, MDAs across the public service undertook various measures as strategic interventions towards the promotion of values and principles. The promotional initiatives were undertaken through various activities clustered into various thematic areas namely awareness creation on values and principles; capacity building; corporate social responsibility; decentralization of services; democracy and participation of the people; efficiency, effectiveness and economic use of resources; equitable allocation of opportunities and resources; good governance, transparency and accountability; mainstream national values and principles; national unity, service delivery improvement; and the rule of law.

Some of the specific strategies adopted by reporting institutions to promote the values and principles were:

- (i) Awareness creation and capacity building on values and principles that included sensitization of internal and external clients on the provisions of the legislation, policies, regulations and guidelines; development and dissemination of IEC materials; convening of annual sensitization forums e.g. open days, public service week, anti-corruption week; and holding of stakeholders' forums e.g. conferences, ASK shows;
- (ii) Sensitization on Public Service Code of Conduct and Ethics 2016, leadership, and integrity; and coaching and mentorship;
- (iii) Undertaking of corporate social responsibilities which included clean up activities, construction of learning facilities, distribution of safety equipment, food donations, donation of books, social empowerment projects, sports activities and provision of water;
- (iv) Planting of trees to secure riparian lands, water towers and improve the national forest cover;
- (v) Decentralization of services by establishing regional offices and the use of mobile offices;
- (vi) Ensuring efficiency, effectiveness and economic use of resources through automation of public services;
- (vii) Drilling of boreholes with solar panels as part of the green energy across various parts of the country;
- (viii) Democracy and participation of the people including use of stakeholders' consultative forums and use of suggestion and complaint boxes;
- (ix) Equitable allocation of opportunities and resources including customization of services and facilities for use by PWDs; recruitment of persons from the minority and marginalized groups in the service; and media campaigns targeting special groups;
- (x) Good governance, transparency and accountability including staff induction; development and implementation of grievance-handling procedures; implementation of quality assurance framework and quality assurance system, promotion of corruption prevention mechanisms - corruption boxes, corruption reporting lines, whistle blower policy; integrity testing for staff; development and/or review of corruption prevention laws and policies; and staff commitment to the Public Service Code of Conduct and Ethics;
- (xi) Mainstreaming of values and principles including publishing articles on values and principles in newsletters;

introduction of values and principles as common units for first year students; and mainstreaming of values and principles in scoring criteria for use during recruitment and promotion interviews;

- (xii) Promotion of national unity which included use of cultural week activities to promote interaction among Kenyans from diverse backgrounds; inter-religious open prayer services; security meetings with the community; peace ambassadors to promote peaceful co-existence; and emphasizing the use of official languages in public offices;
- (xiii) Enhancing service delivery improvement in the public service through enhancement of Information and Communications Technology (ICT) and other innovations in service delivery; migration of business processes to e-government; utilization of social media platforms for service delivery; publishing and publicizing of client service charters; automation of public services; translation and transcription of documents; implementation of excellence and award schemes; and collaboration and partnerships with county governments; and
- (xiv) Compliance with the rule of law which included compliance with constitutional requirements regarding annual reports on values and principles; and general compliance with existing legislation, policies and regulations.

The reporting institutions provided specific activities, programmes and projects which they undertook to promote values and principles during the reporting period. It is, however, noted that the above measures are broadly presented from those that were executed by the institutions. The next section presents an overview of the specific measures taken by the Public Service Commission to promote values and principles.

2.4.2 Promotion of Values and Principles by Public Service Commission

The Commission is mandated by the Constitution under Article 234 (2) (c) to promote the values and principles in Articles 10 and 232 throughout the public service. Further, Section 63 of the Public Service Commission Act, 2017 requires the Commission to promote values and principles through mainstreaming of values and principles in service regulations, procedures, policies and other instruments; awareness creation on values and principles, monitoring and evaluation of programmes and activities geared towards promotion of values and principles among others.

During the reporting period, the Commission undertook various measures and activities to promote the values and principles. These included:

- (i) Re-organization of offices in eight MDAs following requests for establishment and abolition of offices. A total of 3,425 posts were abolished while 185 new posts were established in the technical services cadres;
- (ii) Developed a policy on career management in the public service to inject flexibility in all aspects of career requirements in the public service;
- (iii) Appointed 5,182 officers, out of whom 3,018 (58%) were male while 2,164 (42%) were female. PWDs were 107, constituting 2% of the officers recruited. Gender representation was attained in the appointments;
- (iv) Recommended six nominees for appointment to two vacant posts of Member, Ethics and Anti-Corruption Commission; and two nominees for appointment to one vacant post of Member Salaries and Remuneration Commission;
- (v) Implemented succession management programme by promoting 4,309 officers in the civil service of which 2,393 (56%) were male and 1,916 (44%) were female;
- (vi) Re-designated 585 officers to various cadres in accordance with the re-designation framework;
- (vii) Seconded 1,010 officers from Ministries and State Departments to other organizations in the public service to enhance capacity;

- (viii) Developed and disseminated IEC materials on values and principles;
- (ix) Mainstreamed values and principles in the induction and in-service training programmes;
- (x) Sensitized over 600 public officers on the evaluation of values and principles;
- (xi) Sensitized 743 Heads of Human Resource Management and Technical Officers in charge of Governance and Ethics in the 165 organizations on the declaration of Income Assets and Liabilities. The participants were drawn from six Commissions and Independent Offices; 47 Ministries/State Departments; 85 State Corporation; 23 Public Universities and Colleges; 4 Statutory Commissions and Authorities;
- (xii) Evaluated 262 MDAs out of a target 308 institutions and 196 out of 198 TVET institutions. The response rate was 85% and 83% respectively; and
- (xiii) Continued to partner with Kenya Revenue Authority, Ethics and Anti-Corruption Commission, the Directorate of Criminal Investigation and Asset Recovery Agency to promote ethics and integrity in the public service. This collaboration is guided by Section 30 of POEA which authorizes the Commission to allow access to declaration information of a public officer to a requesting person or institution upon demonstrating legitimate interest and good cause that access to the information is in furtherance of the objectives of the Act. The Commission is also required to notify the officers whose records are requested of the request and give the officer reasonable time to make representation if any. The above collaboration contributes to improvement of good governance practices, transparency and accountability. In the year under review organizations made requests for 58 records and 11 individuals requested for their records. The requesting organizations were Ethics and Anti-Corruption Commission, Kenya Revenue Authority and Directorate of Criminal Investigation.

CHAPTER THREE—SURVEY FINDINGS

3.1 Introduction

This chapter presents the survey findings and recommendations. It is divided into three sections. The first section deals with the response rate, by the targeted institutions, to the survey. The second section discusses findings on staffing issues and how they affect efficiency and effectiveness of the public service. The third section is on the findings on each of the thematic areas that is: service delivery improvement; high standards of professional ethics; good governance, transparency and accountability; performance management; equitable allocation of opportunities and resources; public participation and efficiency effectiveness and economic use of resources and sustainable development

3.2 Survey Response

The survey questionnaires were administered to 525 institutions in the six service sectors. 477 institutions responded, giving a response rate of 90.9% while 48 institutions did not respond to the survey. The survey further targeted 26 oversight institutions out of which 25 responded. The data from the oversight institutions was used to triangulate information received from the public institutions.

Recommendations

- (i) Boards of the State Corporations to take action on the Chief Executive Officers (CEOs) who did not respond to the survey tool.
- (ii) The State Department for Technical and Vocational Training to take action on the Principals of the 15 TVETs who did not respond to the survey tool.
- (iii) The Kenyatta University Council to take action on the Vice Chancellor who failed to respond to the survey tool.

3.3 Staff Establishment

The Public Service Commission in Article 234 2(e) is required to ensure that the public service is efficient and effective. This includes the promotion of the values and principles in Article 232 1(b) on the

efficient, effective and economic use of resources. Optimal staff establishment promotes the Values and Principles of sustainable development as provided for under Article 10 2(d).

Staff establishment is a record of the job and aggregate posts approved in an institution in relation to the number of employees' in-post. The Authorized Staff Establishment (AE) in the public service is based on comprehensive human resource plans which are guided by workload analysis. The Commission has guided the Establishment and Abolition of Offices in the Public Service through the issuance of policy guidelines on the establishment and abolition of offices in the public service. It is required that all institutions operate at optimal staffing levels to ensure the provision of quality services.

It was established that:

- (i) 297 institutions provided data on optimal staffing. However, nine institutions did not provide data in the required format and, therefore, the data could not be analysed. These comprise three Public Universities, one Statutory Commission and five State Corporations;
- (ii) The TVETs were exempted from the evaluation on optimal staffing because they did not have authorised establishments;
- (iii) There were 338,593 established posts from 288 reporting institutions out of which 225,782 (67%) were filled while 112,811 (33%) were vacant. This marked an increase of 3% in the filled posts compared to 2020/2021 FY;
- (iv) There was a variance of 26,225 staff reported in the establishments against the list of staff submitted by reporting institutions. In an ideal situation, the authorised establishment should be consistent with the detailed staff list;
- (v) There was an average under-establishment of 33% across 262 institutions. The authorised establishment is based on a workload analysis and an under-establishment could lead to inefficiencies and ineffectiveness in service delivery;
- (vi) 15 institutions were over-established out of which five were over-established by more than 50%. These were Kenya Tsetse and Trypanosomiasis Eradication Council (KENTTEC), State Department for Post Training and Skills Development, Kenya Medical Supplies Authority (KEMSA), State Department for University Education and State Department for Devolution. Institutions which operate beyond the optimal staffing levels may lead to wastage and uneconomic use of resources;
- (vii) Six institutions were still over-established. These were Coast Water Works Development Agency, KEMSA, Kenya Re, State Department for Gender, State Department for Transport and State Department for University Education;
- (viii) 283 (98.3%) institutions out of 288 reporting institutions were not optimally established; and
- (ix) Three institutions did not have staff appointed against the authorised establishment. The staff serving in those institutions were either on secondment or deployment from parent ministries. The institutions include the Institute of Human Resource Management (IHRM), the National Research Fund (NRF) and the National Council for Children Services.

Recommendations

- (a) The Commission in liaison with other state agencies to set the optimal staffing threshold based on the capacity of the economy to sustain the wage bill.
- (b) The authorized staff establishment and organization structures for TVETs be reviewed to facilitate staff and career succession management.
- (c) All public institutions to bridge the difference between authorised establishment and in-post.
- (d) An audit to be undertaken of all public institutions to establish the reasons for the variance between the list of staff and in-post.
- (e) The Boards of the 15 Institutions which were over-established to be censured.

3.3.1 Trend Analysis of Staff Establishment from 2017/2018 FY to 2021/2022 FY

Trend analysis is the process of comparing data or information over time to identify any consistency in growth or decline. A trend analysis assists in developing strategies to respond to the trend in line with the strategic goals.

It was established that:

- (i) Over a period of five years, the service had grown by 27% from 198,119 in 2017/2018 FY to 252,007 in 2021/2022 FY. It was not clear what had led to the continued growth of staff numbers against the functions even with continued deployment and uptake of technology at the workplace;
- (ii) Statutory Commissions and Authorities recorded a growth of 21% while Public Universities recorded a decline of 9% of the staff over the five-year period from 29,501 in 2017/2018 FY to 26,848 in 2020/2021 FY;
- (iii) Constitutional Commissions and Independent Offices recorded exponential growth of 224%;
- (iv) State Corporations and SAGAs recorded a growth of 31.8%; and
- (v) Functions were devolved from the national government to the county governments in December 2013 where 65,011 officers were transferred to the counties out of 134,131 officers. This initially resulted in a 44% decline in national government establishment. It is noted that the staff numbers have risen exponentially over time by 31% from 69,120 officers in 2014 to the current 99,628.

Recommendation

Public institutions to migrate services to online platforms to have a leaner public service.

3.3.2 Distribution of Officers by Terms of Service

The Commission is mandated under Article 234 (1) (g) to review and make recommendations to the National Government in respect of conditions of service, code of conduct and qualifications of officers in the public service. Officers in the public service are engaged on various terms and conditions of service, which include qualifications for entry, induction and training, privileges and remuneration, progression in service and the various terms of exit.

There are three categories of terms of service namely Permanent and Pensionable, Fixed-Term Contract and Casual. Permanent and Pensionable appointments are appointments to an established position with a view of a long-term employment subject to pension benefits. A Fixed-term employment contract is a contract in which an employee is hired for a specific period. Casual employment is where an employee is hired for a period of less than three months and the wages are payable on a daily basis.

It was established that:

- (i) 80.9% of the officers were serving on permanent and pensionable terms and 13.7% were on fixed-term contracts. This meant that a majority of the institutions adhered to the provisions of the Laws and Regulations;
- (ii) Staff serving on a contract beyond the mandatory retirement age were at 0.01%. Though the Ministries and State Departments did not report on this, data from IPPD as of 30th June 2022 revealed that 392 officers were serving on contracts beyond the retirement age;
- (iii) Staff serving on permanent terms without pension were at 0.2%. This finding on staff serving on permanent terms without pension has been a long-running finding in the evaluation and remains unmitigated, denying officers parity of treatment, leading to low morale and negating the principle of fair labour practice; and
- (iv) Staff serving on temporary terms were at 1.3%. The number of temporary staff increased by 194 compared to 2020/2021 FY. Of the 3,169 officers serving on temporary terms of service, 61% were engaged by Kenya Power and Lighting Company PLC. This was contrary to the provisions of the PSC Act, 2017 and the Employment Act,

2007 which does not have provision for this term of engagement.

Recommendations

- (i) Institutions with staff serving on permanent terms without pension be directed to include pension in the terms of the said officers.
- (ii) Officers serving on temporary terms be converted to either fixed-term contract or permanent and pensionable terms.
- (iii) Public institutions to develop and implement succession management plans to avoid officers being retained beyond mandatory retirement age.

3.3.3 Staffing in Public TVET Institutions

The Staff in TVET institutions were appointed by three different employers namely, the Public Service Commission, Board of Governors/Council and Teachers Service Commission under different terms of service. All staff who were previously been employed by TSC were transferred to the Public Service Commission except four who contested their transfers in court. The disparity in the terms of appointments was part of the reason for the subsequent transfer of TVET trainers from the Teachers Service Commission (TSC) to the Public Service Commission in 2018.

It was established that:

- a) 56% of TVET tutors (7,862) were employed and paid by the BOG/BOM/Councils while 44% were employed by PSC; and
- b) The staff employed by the different agencies had different terms of service. The disparity in the terms of service means that the staff serving under unfavourable terms of service feel demoralised thus affecting service delivery.

Recommendations

- (i) The Commission in consultation with the Salaries and Remuneration Commission (SRC) to harmonize the terms and conditions of service for the TVET staff as ordered by the High Court on 15th July 2019.
- (ii) The Cabinet Secretary in charge of Technical and Vocational Training to fast-track the amendment of the TVET Act pursuant to the Court Order of 15th July 2019.
- (iii) The Government should avail funds to absorb the TVET tutors serving under the BOG/BOM/Council to provide for parity of terms for the tutors.

3.3.4 Distribution of Staff in the Public Service by Age

The National Housing and Population Census 2019 provide demographic data on the composition of the Kenyan population. This data indicates that the young population aged between one and 17 years is 46% and the youth aged between 18 and 35 years are 29% while those aged 36 to 59 years are 19% and the elderly aged over 60 years constitute 6% of the population. The employable population in public service is 48% of the total population with marginal exceptions for those over 60 years.

The minimum recruitment age into the service is 18 years and the retirement age is 60 years. The mean age in the service, therefore, is 39 years.

It was established that:

- (i) 61% of the staff were within the median age. This is a normal staff distribution in the public service;
- (ii) The representation of the youth was 30.3% against their proportionate representation in the national population of 29%. The youth have a marginal advantage of 1.3% against their proportionate population size; and
- (iii) The representation of officers above 60 years was 1.3%.

3.4 Secondment

Serving public officers are eligible to work in any other public service institution on terms regulated under Section 42 of the Public Service Commission Act, 2017. The Public Service Commission Act, 2017 prescribes that an officer shall be eligible for secondment if the officer has served for at least three consecutive years after initial

appointment and secondment shall be limited to a period not exceeding three years, but may be renewed once for a further three years.

The Commission approves the secondment of public officers under its jurisdiction and the seconded officers are obligated to adhere to the terms and conditions of secondment. Circumstances under which an officer may seek secondment to another public organization include appointment to that organization pursuant to an application for a job. Public officers may also be seconded as a result of the re-organization of government or request by another public service organization based on skills needs. Where secondment has been granted, the post against which the officer was appointed in the seconding organization is held vacant during the tenure of the secondment of the officer provided that the seconding organization may request as the need arises for the officer to revert to their substantive position in the organization.

Posts in the public service are established to facilitate the discharge of the mandate of a public organization and are based on a workload analysis. The continued holding of vacant posts occasioned by officers on secondment for a prolonged period may affect the optimal staffing level and, therefore, negatively impact service delivery. It may also have other multiplier effects where the releasing organization may need to appoint other officers in acting capacity beyond the six months provided in the law. The officer acting in an office would also continue to perform their other duties and, therefore, straining service delivery or causing a domino effect on other officers under them who may need to be appointed to perform their duties.

It was established that:

- (i) 192 officers (2.6%) were seconded before serving at least three consecutive years after the initial appointment;
- (ii) 490 (6.7%) officers were serving on secondment without approval;
- (iii) 145 officers were serving on secondment beyond the six years;
- (iv) Officers on secondment increased from 1,168 in the 2020/2021 FY to 7,246 in the 2021/2022 FY. This was a percentage increase of 83.4%. The exponential increase in the number of officers on secondment was attributed to the large numbers of staff (6,225) seconded from Nairobi County to the Nairobi Metropolitan Services; and
- (v) There was a decrease in the number of officers who had overstayed beyond six years from 8.6% in the 2020/2021 FY to 2% in the 2021/2022 FY.

Recommendations

- (i) The Authorized Officers who approved the secondment of staff who had not served a minimum of three years as required by the Act to explain and take remedial measures.
- (ii) Officers serving on secondment beyond six years need to either be recalled, transfer their services, retire or resign from their parent organization.
- (iii) Disciplinary action be taken against public officers who fail to comply with the law on secondment.

3.5 Progress realized by institutions across thematic areas

This part presents findings and recommendations across the seven thematic areas of service delivery improvement; high standards of professional ethics; good governance, transparency and accountability; performance management; equitable allocation of opportunities and resources; public participation in policy-making; and efficiency, effectiveness and economic use of resources and sustainable development.

3.5.1 Service Delivery Improvement

Article 232 (1) (c) of the Constitution obligates public institutions to provide services in a responsive, prompt, effective, impartial and equitable manner. Additionally, Section 7(6) of the Public Service (Values and Principles) Act, 2015 calls on public institutions to ensure the adaptability of public services to the needs of the public and that its services are delivered closer to the users of the services.

This calls for institutions to continually identify and remove any impediments to service delivery and adopt measures, including innovation and adoption of technologies to improve access to public services.

The evaluation sought to establish the measures put in place by public institutions to improve access to public services.

The indicators used for evaluation were:

- (i) the number of institutions whose charters were easily accessible to citizens including persons with disabilities;
- (ii) the number of institutions with effective mechanisms for grievance handling;
- (iii) impediments to efficient service delivery including levying of service charges and mode of payments; and
- (iv) Customer feedback on service delivery.

3.5.1.1 Ease of Access to Information on Services Offered

Section 7 of the Public Service Values and Principles Act requires public institutions to develop service charters. The charters contain standards for the responsive, prompt, effective, impartial and equitable provision of services. The service charters promote transparency and is the basis upon which the public can hold public officers and public institutions to account. The information in the charters should, therefore, be in formats accessible to all persons seeking services.

(a) Transcription of Service Charter into Braille

Persons with disabilities have a right to access the information in the charters on an equal basis with the rest of the population. This right is entrenched in Article 54(1) (d) and (e) which provide that persons with disabilities are entitled to use sign language, Braille or other appropriate means of communication.

The 2020/2021 values report recommended that all public institutions transcribe their service charters into Braille. According to the report, 56.1% of the institutions had transcribed their service charters into Braille.

It was established that 55.8% of the institutions had transcribed their service charters into Braille. This percentage is low as persons with visual impairment are not able to access information on services offered by the institutions that had not transcribed the service charters into Braille.

Recommendation

Public institutions to transcribe their charters into Braille.

(b) Translation of Service Charter into Kiswahili

Kiswahili is both a national and official language of Kenya under Article 7 of the Constitution and is understood by a majority of Kenyans. Citizens are entitled to information on services sought in Kiswahili. A citizen service Charter which contains the timelines and costs of services offered by public service institutions should, therefore, be available in Kiswahili language to cater for all the citizens.

It was established that:

- (i) 125(69.4%) TVET institutions had translated their service charters into Kiswahili; and
- (ii) There was no similar inquiry for MDAs as this was done in the 2020/2021 FY values evaluation where it was established that 54.9% of the institutions surveyed had translated their service charters into Kiswahili.

Recommendation

Public institutions to translate their charters into Kiswahili.

(c) Accessibility of Websites to Persons With Disabilities

Section 7 (6) (b) of the PSVP Act calls upon public institutions to adopt technologies and systems for improved service delivery. Consequently, over the years public institutions have leveraged on technology and in addition to publishing information online some institutions provide services through their websites. Accessibility of the websites to persons with visual impairment is, therefore, critical.

Even though 145 (30%) indicated that they had customized their websites to the needs of Persons with Disabilities, a rapid verification exercise to confirm the authenticity of the information established that:

- (i) 17 (4%) of the institutions had their websites fully customized. The tests were to check whether the website

provided had a screen reader, large text, colour contrast and was dyslexia friendly. Some institutions like PC Kinyanjui TVC and Ramogi Institute of Advance Technology (RIAT) had the service charter in voice format and a sign language interpreter embedded. When compared to the number of institutions evaluated, the total number of institutions with fully customized websites was 3.6%;

- (ii) 99 (21%) institutions had their websites partially accessible. However, these websites did not have screen readers; and
- (iii) The websites of 361 (76%) institutions were not customized for accessibility to persons with disabilities. Inaccessible websites impede the right of persons with visual impairment to access information.

Recommendation

The Ministry of Information, Communications and the Digital Economy to work with the National Council for Persons with Disabilities to ensure websites of all public institutions are accessible to Persons with Disabilities.

(d) Functionality of helplines

Responsive service delivery means that institutions can respond to any queries made within the timelines. The majority of public institutions provide on their websites, contacts through which they can be reached. These include helplines, toll-free lines and emails. Whereas public institutions provide the contact details, it is important that the said contacts are functional and institutions are responsive when queries are made.

A verification exercise to establish whether the helplines were functional and responsive was conducted by calling the helpline provided.

It was established that:

- (i) 350 (73%) institutions reported having helplines;
- (ii) 281 (80%) of the helplines for the institutions whose websites were checked were functional, that is the placed calls went through;
- (iii) 218 (78%) institutions responded to the calls. This suggests that most of the institutions were responsive; and
- (iv) Helplines in 63 (22%) institutions were functional, calls went through but were not responded to.

Recommendation

The 127 institutions that did not have helplines to establish the same and ensure functionality.

3.5.1.2 Handling of Grievances and Resolution of Complaints

The framework for the implementation of Values and Principles provides for the development of a grievance-handling procedure as one of the tools against which responsive, prompt, effective, impartial and equitable provision of services may be realized. The framework also provides that a public institution should document all grievance management decisions to ensure accountability for administrative acts. Further, the Public Service (Values and Principles) Act, 2015 requires that complaints be resolved within three months from the date of receipt.

(i) Existence of Grievance-Handling Procedures in TVETs

The MDAs were evaluated under this parameter in the 2020/2021 FY. In the 2021/2022 FY, the evaluation focused on the TVET service sector. Grievances when not resolved, impede service delivery. Institutions are, therefore, required to have in place documented grievance-handling procedures to guide the resolution of any complaints which may arise.

It was established that 116 (64.4%) TVET institutions had grievance-handling procedures.

Recommendation

All public institutions to develop grievance-handling procedures as required in the framework for the implementation of Values and Principles.

(ii) Resolution of Complaints

Many unresolved complaints are an indicator of inefficient and ineffective service delivery.

It was established that:

- a) 282 (59%) institutions received 26,515 complaints;
- b) 24,727 (93.3%) complaints were resolved while 1,778 (6.7%) were not resolved. Failure to resolve complaints may lead to a dissatisfied clientele and low levels of service satisfaction;
- c) 22,664 (91.7%) complaints were resolved within the stipulated three months while 2,063 (8.3%) were resolved outside the stipulated timelines;
- d) 12,997 (49%) complaints were on delays in service delivery. The fact that almost half of the complaints reported relate to delays in service delivery means that most public service institutions do not adhere to the timelines in their service charters or may not have any service charters at all. This is violation of the provision of Article 232 (1) (c) on the responsive, prompt, effective, impartial and equitable provision of services; and
- e) The Commission on Administrative Justice (CAJ) reported having received 753 cases out of which 485 (64%) were resolved. Delays in service delivery accounted for 27% of the complaints while unresponsive official conduct accounted for 17%. Cumulatively this accounted for the highest number of complaints (44%) against the total number of complaints received by CAJ. This correlates with the survey findings.

Recommendations

- (i) The Commission to fast-track the setting of service delivery standards, institute a Citizen Service Delivery Charter and annually undertake a citizen satisfaction survey.
- (ii) The Commission to conduct a sensitization on the Public Service Code of Conduct and Ethics, 2016.

3.5.1.3 Provision of Service through Huduma Platform

The Huduma Centres were established by the government to facilitate ease of access to services by citizens. Using this platform citizens are able to access government services under one roof instead of moving from one government agency to another.

It was established that:

- (i) 76 institutions offered 122 services on the Huduma platform. Of these, 40 were MDAs and 36 were Counties; and
- (ii) 12,915,686 clients were served through the 52 Huduma Centres. More Kenyans were using Huduma Centres to access services.

Recommendation

The Commission to undertake an audit of the front office and core services of the institutions under its jurisdiction to determine the services to be migrated to the Huduma Platform.

3.5.1.4 Levies as an Impediment to Service Delivery

Some institutions charge fees for the services offered. The charges are either statutory or administrative. The statutory charges are those provided for in the law or regulations while the administrative charges are those determined at the institutional level. The services rendered by public institutions are already funded upfront through institutional budgets by the taxpayers. The continued levying of charges without good reasons could, therefore, be an impediment to service delivery.

It was established that:

- (i) 57.7% of institutions levied charges for their services. The large number of institutions which levied charges for their services may lead to low access to the services by the citizens.

Recommendation

The Commission to undertake an audit of services against which levies are charged and engage the institutions affected on the possibility of removing or reviewing the charges to facilitate affordability and ease of access to public services.

3.5.2 High Standards of Professional Ethics in the Public Service

Article 232 (1) (a) of the Constitution calls upon public servants to uphold high standards of professional ethics. The standards for professionalism and ethics that bind all public servants are prescribed in various legislation and codes of conduct including the Public Officer Ethics Act, 2003 and the Leadership and Integrity Act, 2012. Section 9 of the Public Officer Ethics Act provides that a public officer demonstrates professionalism by carrying out duties in a way that maintains public confidence in the integrity of his office; treating the public and his fellow public officers with courtesy and respect; seeking to improve the standards of performance and level of professionalism in his organization; observing official working hours and not being absent without proper authorisation or reasonable cause; and maintaining an appropriate standard of dress and personal hygiene. An officer who is a member of a professional body is expected to observe the ethical and professional requirements of that body including undergoing continuous professional development.

The framework for the implementation of Values and Principles in the public service requires public institutions to keep an inventory of regulated professionals. Regulated professionals are those whose practice is guided by legislation and whose members are overseen by an established regulatory agency. A regulated professional is required to comply with the requirements of the regulating agency such as registration, licensing, continuous professional development and adherence to the body's code of practice.

The evaluation sought to establish the status of professionals in the public service in terms of registration, licensing and good standing.

The indicators were:

- (i) Number of officers disciplined for breach of the Code of Conduct and Ethics;
- (ii) Number of officers in good standing with their professional regulatory bodies;
- (iii) Number of officers supported for Continuous Professional Development Programmes; and
- (iv) Number of officers who submitted initial, biennial and final wealth declarations.

3.5.2.1 Compliance with the Code of Conduct and Ethics

Article 80 of the Constitution provides for a leadership and integrity code of conduct to be prescribed for state officers and customized to apply to the rest of the public officers. All public institutions are required to subscribe to and comply with the prescribed ethical standards that govern the conduct of officers when discharging their official duties. Where an institution has not prescribed a Code of Conduct for its officers, the general Code in the Leadership and Integrity Act, 2012 would apply as if it was the specific Code for those public officers. The Leadership and Integrity Act, 2012 requires all state officers to sign a commitment to the Leadership and Integrity Code and the same applies to the rest of the public officers. Compliance enforcement for ethical breaches is done in accordance with the service regulations of the affected institutions. The Code requires that disciplinary action be taken against a public officer who contravenes the provisions of the Code.

- (i) Officers Disciplined for Breach of the Ethical Standards

It was established that:

- (i) 466 (98%) institutions reported that they had internal codes of conduct and ethics for their members of staff;
- (ii) 2,533 officers in 136 (28.5%) institutions breached the ethical standards;
- (iii) Disciplinary action was taken against 2,412 (95.2%) of those who breached the ethical standards while no action was taken against 121 (4.8%); and
- (iv) The ethical breach with the highest number of officers being disciplined was the absence from duty without official permission at 639 (26%).

Recommendations

- (i) The 11 institutions that did not have internal codes of conduct and ethics to explain the failure.

- (ii) The authorised officers who did not take disciplinary action against the officers who breached the codes of conduct to explain the failure.

3.5.2.2 Status of Membership in Professional Bodies

Section 5(3)(a) of the Public Service (Values and Principles) Act, 2015 requires public officers belonging to regulated professions to be registered and be bound by the respective codes of conduct. While professional bodies assert their position as regulating bodies, they not only represent the interest of the professional practitioners but also safeguard the public interest. The bodies, as a best practice, arrange for continuous professional training for their members. They also use their respective codes of conduct to enforce ethical practices for their members.

It was established that:

1. 15,900 (7%) officers were members of professional bodies spread over 401 institutions;
2. 39 (0.2%) officers were disciplined for breach of the Code of Conduct and Ethics. Out of the 39, three were charged in court and convicted;
3. 76 institutions reported that they did not have staff belonging to regulatory professional bodies yet some of the members from the regulated bodies like the Institute of Certified Public Accountants of Kenya (ICPAK), Institute of Supply Chain Management (ISM) and Institute of Human Resource Management (IHRM) perform support functions in all government agencies;
4. Data on the state counsels from the Office of the Attorney General was not considered as it was incomplete.

Recommendation

The 76 institutions which reported that they did not have any members from the regulated professional bodies to explain the absence.

3.5.2.3 Continuous Professional Development and Practice

Section 5 (3) (a) of the Public Service (Values and Principles) Act, 2015 requires all professionals in the public service to comply with the provisions of the relevant professional standards regarding registration and continuous professional development and practice. This is to ensure that the professionals keep abreast of the new developments in their respective fields. Members of regulated professional bodies are held to high standards of performance based on their specialized training. The codes of practice for most regulated professionals require that the professionals are registered, licensed, subscribe to the body's code of practice and remain in good standing. The public service is an employer to across-section of these professionals.

It was established that:

1. 7,409 (47%) officers underwent the continuous professional development while 8,491 (53%) did not;
2. 6,666 (90%) officers who underwent the continuous professional development were sponsored by the institutions; and
3. 11,327 (71%) of the 15,900 professionals were reported to be non-practising.

Recommendation

All officers belonging to regulated professional bodies to undergo continuous professional development.

3.5.2.4 Compliance with the declaration of income, assets and liabilities

Public officers are required to declare their income, assets and liabilities. The initial declaration is made within 30 days of joining the Service. Thereafter, every two-year declaration is made as scheduled. The final declaration is made within 30 days of an officer exiting the Service. Public officers are required to make declarations of income, assets and liabilities of themselves, their spouse(s) and dependent children under the age of 18 years.

- (i) Initial and Final Declaration

Section 9 of the administrative procedures on the declaration of income, assets and liabilities (Legal Notice No. 53 of 2016) requires authorized officers to submit declaration returns of initial and final declarations biannually on 31st January and 31st July of every year.

It was established that:

- a) 10,021 public officers were appointed in 310 institutions out of whom only 2,374 filed initial financial disclosures. This represented a 24% compliance level;
- b) 8,863 officers in 331 institutions exited the Service out of whom 806 filed final disclosures. This represented a 9% compliance level; and
- c) The number of officers who failed to file initial and final declarations was 7,647 and 8,057 respectively. This implies that compliance levels with the requirements on initial and final declarations were still very low.

Recommendations

- (i) The Authorised Officers to ensure that public officers who have not made the initial declaration are not included in the payroll.
- (ii) Authorized Officers to ensure that officers who have not made their final declaration are not cleared.
- (iii) The Every Two-Year Declaration of Income Assets and Liabilities

It was established that:

- (i) 233,035 (98.6%) out of the 236,451 officers on payrolls as of 31st October 2021 submitted their every two-year declaration within the stipulated timelines;
- (ii) Administrative action was initiated against the 3,416 non-compliant officers. These actions included: Salary stoppage, warning – both verbal and written; and
- (iii) No action was taken against 1,162 non-compliant officers.

Recommendation

Authorised Officers to take disciplinary action against the officers who failed to make the declaration within the timeline.

3.5.3 Good Governance, Transparency and Accountability

Good governance requires having systems and structures through which the exercise of power and authority can be controlled or held to account. It calls for prudent management of organizations and resources by those entrusted with the responsibility of overseeing them.

The evaluation sought to establish the measures public organizations had put in place to promote good governance, transparency and accountability.

The indicators were:

- (i) Number of officers who served on acting appointments beyond the prescribed period;
- (ii) Number and status of cases filed against public institutions;
- (iii) Number of officers prosecuted and convicted on account of corruption;
- (iv) Number of gifts received by public officers and given out by institutions;
- (v) Number of institutions which maintained conflict of interest registers; and
- (vi) Publication and publicization of information.

3.5.3.1 Acting Appointments

Management of human resources is one of the parameters an organization is measured upon in terms of good governance. Section 34(3) of the Public Service Commission Act, 2017 requires that an officer shall not be appointed in an acting capacity beyond six months. Failure to fill vacant positions expeditiously leads to work overload for the officer appointed to act and who may not have the confidence to make decisions in the office he or she is holding in an acting capacity. Circumstances under which acting appointments may also be made include absence of the substantive office holder for periods beyond 30 days and which may exceed six months such as officers serving on secondment, officers on leave, long training, and interdictions and suspensions.

It was established that:

- (i) 1,813 officers were appointed in acting capacity out of which 1,449 (80%) were in State Corporations and SAGAs;
- (ii) 1,124 (62%) officers acted beyond the six months prescribed in the Act with the majority 909 (52%) being from State Corporations;
- (iii) There was a 4.7% increase in acting appointments from 1,732 officers in the 2020/2021 FY to 1,813 in the 2021/2022 FY. Some of the reasons advanced for extended acting appointments were court injunctions against recruitment processes, ad hoc transfers and redeployments, lengthy bureaucracies in recruitment, frozen recruitment by the Government and inadequate budget to recruit; and
- (iv) Supporting documents for 1,103 officers on acting appointment did not provide clarity on whether the approval to act was granted.

Recommendation

Authorised officers of the 80 institutions which failed to provide proof of approval of acting appointments to explain the failure.

3.5.3.2 Civil Proceedings Against Public Institutions

Article 10 (2)(a) of the Constitution on the national values and principles of governance provides that all persons shall adhere to the rule of law.

A high number of litigations against an institution is an indicator of poor governance. Where there are proper governance structures and the law and procedures are followed, incidents of litigations are minimized.

It was established that:

- (i) 874 judgements were delivered out of 3,962 cases;
- (ii) There were 2,930 pending cases; and
- (iii) The status of 158 cases was not established.

3.5.3.3 Judgement Awarded

It was established that:

- (i) Kshs.2.7B (18%) was awarded in favour of public institutions;
- (ii) Kshs.12.6B (82%) was awarded against public institutions. This shows that the government is losing a lot of funds in awards made in favour of litigants; and
- (iii) Kshs.7.2B (57.3%) was related to contracts.

Recommendations

- a. Public institutions to conduct due diligence before signing contracts to ensure that the contracts do not contain unfavourable terms.
- b. Public institutions to adhere to the terms of contracts to avoid unnecessary litigations.

3.5.3.4 Reported Cases of Corruption.

Corrupt activities by public officials undermine the effectiveness of government policy, economic development, and the transparency and accountability of public institutions. It also distorts political outcomes. High cases of corruption indicate weaknesses in governance structures.

It was established that:

- (a) 338 cases of corruption were reported by 22 institutions;
- (b) 320 (94.7%) of the cases were reported by state corporations and SAGAs;
- (c) 64 officers were prosecuted in court;
- (d) 249 cases were handled administratively; and
- (e) The amount of money lost through corruption in the public service was Kshs 1.2B out of which Kshs 1.18B (97%) was lost by public universities. This finding was corroborated by EACC which indicated that it had recovered assets worth Ksh.2.1B.

Recommendations

- (i) The Commission to establish the reasons for the high number of the corruption cases reported in State Corporations and SAGAs.
- (ii) The Office of the Auditor-General to establish the reasons for the high loss of public funds through corruption in Public Universities.

3.5.3.5 Management of Gifts in Public Service

Article 76 of the Constitution provides that a gift or donation to a state officer on a public or official occasion is a gift or donation to the Republic and shall be delivered to the State unless exempted under an Act of Parliament. The Leadership and Integrity Act, 2012 provides for the management of gifts which is further amplified by Regulations on the management of gifts. The management of gifts in the public service is also provided for under the various institutional Codes of Conduct and Ethics. The regulations limit the value of the gift that an officer can receive and require that the gifts received must be declared. In addition, officers are expressly barred from receiving cash gifts.

- (i) Gifts received and declared by public officers

It was established that:

- (i) 866 gifts were received and declared by public officers in 80 (17%) institutions;
- (ii) 64 out of 80 institutions provided copies of their gift registers as follows: Constitutional Commissions and Independent Offices (3), Ministries and State Departments (3), Public Universities (11), State Corporations and SAGAs (42), Statutory Commissions and Authorities (2) and TVETs (3);
- (iii) The highest number of gifts declared was by State Corporations and SAGAs at 82%, followed by Public Universities at 11%;
- (iv) Officers in five institutions received alcoholic drinks worth Kshs.74,850;
- (v) Gifts received by officers and institutions included alcoholic drinks, artefacts, livestock, electronics, foodstuff, clothing, cars, cash and gift vouchers, gift hamper, IEC material, non-alcoholic drinks, sports kit, detergents, cutlery, furniture among others; and
- (vi) The value of the gift received by public officers amounted to Kshs 29M.

Recommendations

- (a) EACC to undertake an audit of the maintenance of gift registers and declaration of gifts in public service.
- (b) EACC to establish the reasons for the large number of gifts received by officers in state corporations and public universities.
- (c) Gifts in the nature of intoxicating substances including alcohol be banned in the public service.
- (d) All public officers who received gifts in the nature of cash or gift vouchers to surrender the same to the institution and be cautioned against receiving such gifts which is contrary to the law.

(ii) Gifts Given out by Public Institutions

It was established that:

- (i) 664 gifts valued at Kshs.20.1M were given out by 78 (16%) institutions;
- (ii) Ministries and State Departments gave out 14 gifts valued at Kshs.9.6M while State Corporations and SAGAs gave out 507 gifts worth Kshs.8.6M. The total value of gifts given by the two service sectors was Kshs.18.2M;
- (iii) Gifts with the highest value were given by the State Department for Interior and Citizen Services amounting to Kshs.9.5M out of a total of Kshs.9.6M, Kenya Marine and Fisheries Research Institute of Kshs.2M, National Environment Management Authority of Kshs.1.7M, Kenya National Trading Corporation of Kshs.0.7M, LAPSET

Corridor Development Authority of Kshs.0.67M, Office of the Auditor General of Kshs.0.59M, Kenya Broadcasting Corporation of Kshs.0.5M and Lake Victoria North Water Works Development Agency of Kshs.0.43M;

- (iv) Three institutions gave out shopping vouchers amounting to Kshs.44,000;
- (v) Four institutions received cash gifts worth Kshs.124,000. Gifting of cash is against the law;
- (vi) Four institutions received donations in form of books and cash which they reported as gifts. These were Bomet University College, NACADA, NEMA, and the State Department for Interior and Citizen Services. Official donations are not part of the regulated gifts;
- (vii) The Institute of Human Resource Management gave out alcoholic drink (wine) in assorted gifts;
- (viii) The Capital Markets Authority reported payments such as facilitation of sitting allowances as gifts; and
- (ix) Gifts given out by institutions included alcoholic drinks, artefacts, livestock, electronics, foodstuff, clothing, cash and gift vouchers, gift hamper, IEC material, non-alcoholic drinks, sports kits, detergents, cutlery and furniture among others.

Recommendations

- (i) Office of the Attorney-General and the Department of Justice to review the regulations to set a ceiling on the value of gifts that may be given out by an institution.
- (ii) The Office of the Auditor General to establish the gifts given out by the eight institutions which gave out gifts valued over Kshs.400,000.
- (iii) Public institutions to adhere to the provisions of the Leadership and Integrity Act, 2012, Leadership and Integrity Regulations, 2015 and the Public Service Code of Conduct and Ethics, 2016 regarding gift management.
- (iv) Public institutions be discouraged from giving and receiving gifts in form of alcohol.
- (v) The Commission to undertake sensitization on the management of gifts in the public service.

3.5.3.6 Conflict of Interest

Article 73(2) (c)(ii) of the Constitution on responsibilities of leadership provides for the declaration of any personal interest that may conflict with public duty. Sections 12 of the Public Officer Ethics Act, 2003 and Section 16 of the Leadership and Integrity Act, 2012 both set out measures for mitigating conflict of interest which include the declaration of interest, maintenance of conflict-of-interest registers and exemption of the persons affected from taking part in the deliberations. The interest to be declared is not only for the affected officer but also for family members or associates.

Management of conflict of interest is vital in good governance and maintenance of trust in public institutions and, therefore, the failure to comply with the measures prescribed undermines the integrity of the decisions made and public trust in the institution.

It was established that:

- (i) 88 cases of conflicts of interest were reported in 25 institutions. Of these, 50 (56.8%) were related to the officer's issue being part of the agenda of the meeting, eight (9.1%) cases involved associate interest while nine (10.2%) involved family interest. The implication of the low number of institutions reporting conflicts of interest may be a pointer to failure to report and manage conflicts of interest;
- (ii) In 28 (31.8%) of the cases, the affected officers were exempted from the assignments and in 32 (36.4%) of the cases the affected officers did not sit in the meetings discussing the issues; and
- (iii) In 10% of the cases, the institutions did not comply with the law. These included five (5.7%) of the cases where institutions indicated that no action was taken despite the declaration of conflict of interest and another four (4.5%) where it was indicated that no remarks or directions were issued.

Recommendations

- (i) The Ethics and Anti-Corruption Commission to sensitize public officers on the need to comply with the Second Schedule of the Leadership and Integrity Act, 2012 on Registrable Interests.
- (ii) The heads of institutions who did not take mitigating measures after the conflict of interest was declared to explain the failure.

3.5.3.7 Publication of Annual Reports

Article 254 of the Constitution requires Constitutional Commissions and Independent Offices to prepare and submit a report to the President and Parliament at the end of each financial year. The said institutions are also required to publish and publicize the reports. Various statutes such as Public Finance Management Act, 2012 (PFMA), Public Procurement and Assets Disposal Act, 2015 and the National Audit also require public entities to give periodic reports including annual reports. Public institutions are funded through the exchequer to discharge statutory functions for which they remain accountable on the efficiency and effectiveness to which they discharge those mandates. Citizens, who are the taxpayers, have legitimate expectations to receive or access management accountability reports by public institutions which are best realized through the preparation, publication and publicization of annual reports. It is a good corporate management practice for institutions to account for their work through annual reporting.

It was established that 137(29%) institutions published their annual reports.

Recommendation

The Public Service (Values and Principles) Act, 2015 be amended to require institutions to prepare, publish and publicize their annual reports on the discharge of their functions.

3.5.4 Performance Management

Performance Management in the public service is guided by the Public Service Commission Act, 2017, Public Service Commission (Performance Management) Regulations, 2021 and the Human Resource Policies and Procedures Manual, 2016. In particular, the Performance Management Regulations provide guidelines that enable institutions to link planning, budgeting and implementation of the plans to achieve the targeted results.

Performance management aims at improving service delivery. It involves the development of strategic plans, signing of performance contracts and appraisal and monitoring and evaluation of performance at the institutional and individual levels.

This evaluation sought to establish the measures that public institutions put in place to improve performance management.

The indicators were:

- (a) Number of institutions that implemented Performance Contracts;
- (b) Number of institutions that implemented the staff appraisal tool;
- (c) Allocation and absorption of training funds;
- (d) Number of institutions that inducted newly recruited officers;
- (e) Number of officers who utilized various types of leave;
- (f) Number of institutions that conducted workload analysis;
- (g) Status of disciplinary cases and the duration taken to conclude the cases; and
- (h) Number of officers who exited the service.

3.5.4.1 Implementation of Performance Contracts

A Performance contract is a tool for measuring performance and promoting transparency and accountability. Regulation 15 of the Public Service Commission (Performance Management) Regulations, 2021 requires public institutions to sign performance contracts at the commencement of each financial year.

It was established that:

- (i) 342 (73.4%) institutions signed performance contracts with the government while 124 (26.6%) did not. The institutions that did not sign provided various reasons including the unavailability of boards of management and the failure of the mother ministry to finalize the commitments;
- (ii) The Chief Executive Officers (CEO) of three (27%) Constitutional Commissions and Independent Offices signed performance contracts with their respective boards while 8 (73%) did not. This was contrary to the recommendation in the 2020/2021 Values report;
- (iii) Compliance rate was highest in State Corporations at 80.8% followed by Ministries and Departments and TVETs at 75% and 69.4% respectively;
- (iv) Compliance rate was lowest for Statutory Commissions and Authorities at 12.5%; and
- (v) The compliance levels in ministries and departments, state corporations and SAGAs and technical and vocational education institutions declined.

Recommendations

- (i) The Commission to liaise with the Office of the Prime Cabinet Secretary to enforce the signing and implementation of performance contracts.
- (ii) The Cabinet Secretary who is responsible for Technical and Vocational Training Institutes to constitute the boards for the various institutes that did not have boards in place.
- (iii) The respective ministries to finalize commitments of the performance contract targets with the State Corporations under them before 30th August of every year for the same to be published on the respective State Corporations' websites in accordance with Regulation 22 of the Public Service Commission (Performance Management) Regulations 2021.
- (iv) CEOs of Constitutional Commissions and Independent Offices should sign performance contracts with the respective Boards.
- (v) PSC and The National Treasury and Planning to develop suitable performance tools for the Financial Reporting Centre (FRC) taking into account the FRC mandate and the nature of its operations.
- (vi) The staff of the Auditor General should sign performance contracts with the Auditor General.

3.5.4.2 Performance Contract Evaluation

Performance evaluation was undertaken for ministries, departments, state corporations and SAGAs and tertiary institutions. Evaluation is carried out to establish the extent to which the public institutions have achieved their planned commitments. Institutions which score 130% and above are rated excellent, between 100% and 129% are rated very good, between 70% and 99% are rated good, 50% to 69% are rated fair and below 50% are rated poor.

It was established that:

- (i) 108 (33.1%) of 326 public institutions met their targets and their performance was rated as ("excellent" or "very good") while 218 (66.1%) did not achieve their set targets and were rated as ("good", "fair" or "poor"). This implies that less than one-third of public institutions achieved their performance contract targets on average;
- (ii) All public universities implemented performance contracts and were evaluated. Out of the 37 universities evaluated, 27 (73%) met their targets and were rated as ("excellent" or "very good") while 11 (27%) did not and were rated as ("good" or "fair");
- (iii) Two (8.7%) of the 23 ministries evaluated achieved their targets and were rated as ("very good") while 21 (91.3%) did not and were rated as ("good", "fair" or "poor");
- (iv) 21 (21.4%) of 98 TVETs that were evaluated met their targets and were rated as ("very good") while 77 (78.5%) did not and were rated as ("good", "fair" or "poor"); and

- (v) Cabinet Office and Nairobi Metropolitan Services, 25 State Corporations and SAGAs and 82 TVETs did not implement performance contracts in line with performance contracting guidelines and hence were not evaluated.

Recommendations

- (i) The Authorised Officers of the 25 State Corporations, 82 TVETs and the Cabinet Office that did not implement the performance contract to explain the failure.
- (ii) All public institutions should implement performance contracts in line with Public Service Commission (Performance Management) Regulations, 2021 and performance contracting guidelines.
- (iii) Ministries and State Departments should re-energize the implementation of performance management to improve the achievement of their targets and improve service delivery.

3.5.4.3 Management of Staff Performance

Regulation 33 of Performance Management Regulations, 2021, requires public officers to develop individual work plans which contain performance targets or expected results on specific assignments and activities for which the employee performance will be measured. The individual work plans are derived from departmental annual work plans. The evaluation results, derived from an objective process, can be used to improve service delivery in that staff who continually meet and exceed their targets should be given priority when opportunities at higher levels arise thus motivating them. The results can also be the basis of tailoring training programmes to staff who are lagging behind thus improving their performance.

(a) Staff Appraisal

Regulations 39, 40 and 41 of the Performance Management Regulations, 2021, provide for the staff appraisal process. Regulation 36 requires public officers to set performance targets based on institutional and departmental work plans. The targets form the basis of the annual staff appraisal. Staff who score 101% + are rated 'Excellent,' those who score 100% are rated 'Very Good,' those who score between 80 – 99% are rated 'Good,' those who score between 60 – 79% are rated as 'Fair' and those who score 59% and below are rated 'Below Average.' The Commission's Rewards and Sanctions Policy prescribe the criteria for rewarding good performance and sanctioning poor performance which include placing officers who perform poorly on a performance improvement programme.

It was established that:

- (i) 434 (91%) institutions had a staff appraisal tool while the remaining 43 (9%) reported that they did not have an appraisal tool. This is an indication that the institutions did not have a way of measuring staff performance;
- (ii) 148,094 (59%) officers set performance targets, while 103,913 (41.2%) did not comply with the requirement to set targets;
- (iii) 87,054 (58.8%) of the 148,094 officers who set targets, were not appraised contrary to the requirement in the regulations. A majority of the officers who set performance targets were not appraised hence defeating the purpose of the performance appraisal system; and
- (iv) 61,040 officers were appraised, out of whom 5,319 (9%) were rated 'Excellent,' 24,418 (40%) were rated 'Very Good,' 21,887 (36%) were rated 'Good,' 7,345 (12%) were rated 'Fair' and 2,071 (3%) were rated 'Below Average.' Those rated 'Very Good' and 'Excellent' were 49% suggesting that half of the officers did not meet their targets.

Recommendations

- (i) Institutions which did not have an appraisal tool to customize the Staff Performance Appraisal System issued by the Commission by June 2023.
- (ii) Authorised Officers to ensure all employees set performance targets and are appraised in accordance with Regulation 39(1) of the Public Service Commission (Performance Management) Regulations.

- (iii) The Commission to establish reasons for failure by the majority of the officers appraised to meet their targets.

(b) Employee Performance Management Committee

Regulation 32 of the Performance Management Regulations, 2021 requires public institutions to establish the Employee Performance Management Committee. The functions of the Committee include the consideration and moderation of individual performance scores and the making of recommendations to the authorized officer on rewards, sanctions and planned performance improvement for officers.

It was established that:

- (i) 261 (55%) institutions had established Employee Performance Management Committees (EPMC) while 216 (45%) had not. This was contrary to the provisions of Regulation 32 of the Public Service Commission (Performance Management) Regulations, 2021;
- (ii) 145 institutions held EPMC meetings and made recommendations on the evaluation scores of 19,696 officers. This represented 30% of the evaluated institutions. The low number of institutions that held EPMC meetings implies that the majority of the institutions were unable to assess the level of performance of their staff, negatively impacting productivity and service delivery; and
- (iii) 17,042 (86.5%) officers were rewarded, 1,687 (8.6%) were placed on Performance Improvement Programmes (PIP) and 967 (4.9%) were sanctioned.

(c) Trend in Performance Appraisal and Evaluation of Staff in the Public Service

It was established that:

- (i) The number of institutions that held EPMC meetings had increased from 11 in 2018/2019 to 145 in 2021/2022 evaluation period; and
- (ii) The total number of officers appraised had dropped by 42,677 (42%) from 102,717 in 2018/2019 FY to 60,040, an indication that the performance appraisal process was on a decline.

Recommendation

All public institutions should implement Regulations 33 and 39(1) of the Public Service Commission (Performance Management) Regulations, 2021 on the setting of targets and performance appraisal of employees.

3.5.4.4 Human Resource Development

The Public Service Commission is mandated to ensure the efficiency and effectiveness of the public service and develop human resources in the public service. The Commission is also required to promote the values and principles of public service including the ones on high standards of professional ethics and the efficient effective and economic use of resources. Human resource development includes the building of the capacity of public officials to discharge their responsibilities through continuous training and facilitation. The training helps to build a pool of skills and competencies necessary for excellent performance. This requires a commensurate investment in resources set aside for capacity building as provided for in Section 56 of the PSC Act, 2017 and Regulation 50(2) of the PSC Regulations, 2020 which require the Public Service Commission to determine and recommend to the national government the percentage of the recurrent public service budget that shall be set apart for the development of human resources.

(a) Training Budget

It was established that:

- (i) The total allocation for training (Revised Estimates) as reported by public institutions was 151B. The total reported recurrent budget by MDAs was Kshs.1.5T. This means that the government allocated 10% of the recurrent budget to training in 2021/2022 FY;
- (ii) The absorption level of the funds allocated for training was Kshs.121.4B (80.4%). This means that the reporting institutions did not absorb 29.6B of the allocated training funds (19.6%);

- (iii) The National Treasury reported that Ksh.4.2B was allocated for training during the 2021/2022 FY; and
- (iv) There was inconsistency in the information provided by the National Treasury and the institutions regarding funds allocated and utilized in training.

(b) Induction of newly appointed officers

An employer has the responsibility to induct the employee they have appointed. Induction equips newly employed officers with skills necessary for the performance of their duties and also enables the employees to understand the values of the institution. The induction may also help the institution to identify the areas where the employees need further training thus improving performance.

The Human Resource and Development Policy, 2015 requires officers joining a public institution on the first appointment, transfer, re-designation, re-appointment and promotion to be inducted within three months after their engagement.

It was established that:

- (i) 108 (23%) institutions had induction manuals out of which 101 (21%) had topics on the institution's service charter, code of conduct and ethics, financial disclosures, values and principles in Articles 10 and 232 and governance as recommended in the 2020/2021 Values report;
- (ii) 120 out of 318 institutions which appointed new officers reported having inducted them; and
- (iii) Seven institutions that inducted officers did not provide evidence of the induction manuals used, putting into question the document used to guide the exercise.

In a rapid verification exercise conducted by the Commission targeting 561 newly appointed officers, they all confirmed that they were inducted.

Recommendations

- (i) The Public Service induction manual be reviewed to incorporate topics on national values and principles of governance, values and principles of public service, public service Code of Conduct and citizen service charters.
- (ii) Authorised Officers to ensure that all newly appointed officers are inducted.

3.5.4.5 Management of Leave

The management of the different types of leave for officers is guided by the Human Resource Policies and Procedures Manual, PSC Regulations, 2020 and the Employment Act, 2007. Annual leave is a right of every public officer and it is granted to an officer to renew his/her energies and improve efficiency.

It was established that:

- (i) 148,293 (59.4%) officers utilized their leave days; and
- (ii) 101,435 (40.6%) did not take their leave or took less than 15 days of their leave. Close to half of the public officers were reported not to have utilized or utilized less than 15 days of their leave days meaning that the officers were not sufficiently rested and rejuvenated to engage in productive delivery of public service. This is likely to undermine the efficiency and effectiveness of service delivery leading to underperformance and possible burnout.

Recommendation

Authorized Officers should enforce compliance with the provisions in the Human Resource Policies and Procedures Manual requiring officers to proceed on annual leave as and when due to enhance productivity at the workplace and promote a healthy work-life balance.

3.5.4.6 Workload Analysis

Workload analysis is a method used to determine the time, effort and resources needed by an organization in identifying the actual needs of human resources in quality and quantity in accordance with the goals and strategies of the organization. Public institutions are expected to undertake workload analysis to determine the optimal staffing levels as provided for in the PSC Act, 2017.

It was established that:

- (i) 35 (12%) institutions undertook a workload analysis as recommended in the 2020/2021 report; and
- (ii) 90 (30%) institutions undertook workload analysis between the 2018/2019 FY and 2021/2022 FY.

Recommendation

The Commission to prescribe periodic scheduled workload analysis for public institutions.

3.5.4.7 Disciplinary Control in the Public Service

Article 232(1)(e) of the Constitution provides for the Value and Principle of Accountability for Administrative Acts. The disciplinary control in the public service is guided by Part XII of the PSC Act, 2017, Employment Act, 2007, Part III of the PSC Code of conduct and Ethics and the PSC Discipline Manual, 2022. The objective of discipline is to create a motivated and dedicated workforce which upholds proper work ethics for optimal service delivery. Discipline should be viewed not only from the aspect of imposing punishment against the officer or deterring other officers from committing similar misconducts but also as a way of moulding and developing a positive attitude.

The Public Service Commission Discipline Manual sets six months from the commencement of a disciplinary process as the timeline for concluding a disciplinary case.

It was established that:

- (i) 3,356 disciplinary cases were reported. 2,203 were concluded, 1,082 were ongoing and the status of 71 cases was not indicated;
- (ii) 1,565 (47%) of the 2,203 cases were concluded within six months, 492 (15%) were concluded beyond six months and 146 were not stated. Failure to conclude disciplinary proceedings within the stipulated six months has attracted litigations leading to awards in favour of the litigants against the institutions. This is a loss of public funds that can be avoided;
- (iii) 912 (27%) cases arose from the negligence of duty, followed by absence from duty without permission at 882 (26%) cases. The two accounted for 53% of the total number of cases reported and this impacted negatively on performance and service delivery; and
- (iv) 67 officers were charged in court for various offences. Ministries and State Departments had the highest number of cases at 66 officers and corruption-related offences recorded had the highest number of cases at 26 officers followed by murder at 13 and rape and defilement at 11 cases.

Recommendations

- (i) Institutions which failed to conclude disciplinary cases within the stipulated six months to explain the failure and expeditiously conclude the disciplinary proceedings.
- (ii) The Commission to engage the stakeholders to establish the reasons for the high prevalence of misconduct relating to the negligence of duty and absence from duty which accounted for more than half of the cases of misconduct.

Recommendation

The Commission to establish reasons for high incidents of officers charged with murder, rape and defilement in the Ministries of Interior and Lands.

3.5.4.8 Exits From The Service

Public institutions are required to manage human resource issues through the development and implementation of comprehensive human resource plans. These plans provide for entry requirements, terms and conditions of service, training, conduct and exits. It is, therefore, expected that all public institutions plan for the sustenance of optimal staffing at all times through comprehensive succession management plans. This ensures uninterrupted and seamless delivery of public services as and when vacancies arise. Planned succession management also facilitates the timely transfer of skills and competencies through continuous mentorship and coaching process.

Staff exit may be occasioned by retirement, death, resignation, dismissal or expiry of the contract.

It was established that:

- (i) 9,826 (3.9%) officers out of 252,007 exited the service. These exits if well managed do not constitute a significant percentage to impact negatively on service delivery;
- (ii) 6,012 (61%) officers retired on the attainment of mandatory age accounting for the highest number of those who retired. This was a normal trend; and
- (iii) Four officers from Kenya Prisons Service exited on public interest.

Recommendation

Public institutions to be sensitized on human resource issues including disciplinary control and regulated modes of exit.

3.5.4.9 Processing of Pension Benefits

It was established that:

- (i) 431(12%) officers out of 3,468 who exited service in Ministries and State Departments had been paid their pension benefits;
- (ii) 42 (12%) out of the 347 officers who exited through death in Ministries and State Departments had their documents submitted to the Pensions Department within three months of the demise and the dependants for 8 officers (2%) had been paid; and
- (iii) 1,048 officers out of 2,848 who exited through various modes other than death had their documents to the Pensions Department within 3 months and 415 (14.5%) had been paid. This means that the majority of the officers exiting the service were not paid their retirement benefits within the timelines provided for in law.

Recommendation

The National Treasury to pay pensioners promptly failure to which the officers should be retained on the payroll and continue to earn salary until such time that pension is paid in accordance with the Pensions Amendment Act No. 6 of 2003.

3.5.5. Equitable Allocation of Opportunities and Resources

Article 10(2)(b) of the Constitution provides for Values and Principles of Equity, Social Justice, Equality, Non-discrimination, inclusiveness and protection of the marginalized. Article 232(g), (h) and (i) provide for Values and Principles that guide on the representation of diverse communities in public service. These constitutional values and principles are further amplified for ease of implementation in various enabling legislation, regulations, policies and guidelines issued by the Commission and government from time to time.

The evaluation sought to establish measures taken by various public institutions to promote equitable allocation of opportunities and resources.

The indicators were:

- (i) Distribution of initial appointment opportunities in the public service in terms of the two-thirds gender representation, proportionate representation of all ethnic communities and 5% progressive realization of representation of PWDs;
- (ii) Distribution of opportunities in promotional appointments in terms of the two-thirds gender representation, proportionate representation of all ethnic communities and 5% progressive realization of representation of PWDs;
- (iii) Distribution of training opportunities in terms of the two-thirds gender representation, proportionate representation of all ethnic communities and 5% progressive realization of representation of PWDs;
- (iv) Accommodation of persons with disabilities in terms of Kenyan sign language and customisation of premises;
- (v) Distribution of procurement opportunities for the special groups; and
- (vi) Implementation of various social protection programmes.

3.5.5.1 Distribution of officers by Gender and PWDs

Article 27 of the Constitution requires that no one gender should constitute more than two-thirds in appointment in public service. Further Article 54(2) requires that at least 5% of appointments in the public service should constitute persons with disabilities, although this is to be realized progressively. To attract and retain persons with disabilities in employment in public service, public facilities and services must be accessible.

(a) Overall Gender and PWDs representation

It was established that:

- (i) Gender representation in the public service was 156,390 (62.1%) male and 95,617 (37.9%) female. This implies that the two-thirds gender principle was met at the global level of representation;
- (ii) 114 organizations had not met the constitutional two-thirds gender principle; and
- (iii) The representation of PWDs in the public service was at 1.4% meaning the 5% constitutional threshold had not been attained. There was an improvement of 0.2%, from the 1.2% representation reported during the 2020/2021 FY.

Recommendations

- (i) Public institutions to develop and implement affirmative action plans to meet the constitutional requirements on PWDs.
- (ii) The 114 institutions that failed to meet the two-thirds gender principle to develop and implement affirmative action plans to address the imbalance.

(b) Gender and PWDs Representation across Job Levels

Article 232(1)(i) of the Constitution requires that there should be representation at all levels of men and women, members of all ethnic groups and persons with disabilities.

It was established that:

- (i) The two-thirds gender requirement was achieved at middle management, technical and operative levels; and
- (ii) The female gender was under-represented at the policy level by 13.7%, senior management by 3.6% and support staff by 1.3%.

Recommendation

The public institutions experiencing female gender under-representation at policy, senior and support levels to develop and implement affirmative action programmes to redress the imbalance.

(c) Representation of Ethnic Communities in Public Service

Section 10 of the Public Service (Values and Principles) Act, 2015 requires public institutions to adopt affirmative action measures to redress inequalities in representation in terms of gender, ethnicity and persons with disabilities in the public service. The Framework for the Implementation of Values and Principles in the Public Service, 2015 provides procedures and mechanisms through which public institutions can implement affirmative action programmes. Ethnic representation is attained through proportionate appointment to the public service of members of ethnic communities proportionate to their national population size as reflected in the last national population census.

It was established that:

- (i) 46 ethnic communities were represented in the service; and
- (ii) Thirty-eight Kenyan communities had normal representation in the service while two communities were grossly over-represented (Kikuyu and Kalenjin), one community was over-represented (Kisii), one community was grossly under-represented (Kenyan Somali), three communities were under-represented (Turkana, Luhya and Mijikenda), while one community was not represented (Kenyan American).

Recommendation

Public institutions affected by disproportionate representation of ethnic communities to develop and implement affirmative action programmes to redress the inequities.

3.5.5.2 *Distribution of Opportunities in Appointments, Training and Promotions*

(a) *Representation in appointments made in 2021/2022 FY*

Public institutions when making appointments are required to ensure that the appointments comply with the requirements on gender, ethnicity and PWDs representation.

It was established that:

- (i) 10,761 public officers were appointed out of whom 3,885 (36.1%) were female and 6,876 (63.9%) male. Therefore, the two-thirds gender principle was complied with and all the service sectors were compliant;
- (ii) 116 (1.08%) of the officers appointed were PWDs, therefore, the 5% requirement on PWDs was not met. The number of PWDs appointed increased by 27% from 91 in the 2020/2021 FY to 116 in the 2021/2022 FY;
- (iii) The newly appointed officers were drawn from 38 (82.6%) ethnic communities. Officers recruited from marginalized and minority ethnic communities included Ilchamus/Njemps (7), Sakuye (5), Dorobo (3), Aweer/Waata (1), Dasenach (1) and El Molo (1); and
- (iv) Thirty Kenyan communities had normal representation in the service while one community was grossly over-represented (Kikuyu), one community was over-represented (Luo), five communities were under-represented (Turkana, Mijikenda, Kisii, Kamba and Kenyan Somali), while eight communities were not represented (Dahalo, Goshu, Konso, Makonde, Walwana, Wayyu, Kenyan American and Kenyan European).

Recommendation

The public institutions affected by the under and non-represented communities to develop and implement affirmative action programmes to redress the inequities.

(b) *Status of Appointments made through Head-hunting*

Article 232(g) of the Constitution provides that fair competition and merit shall be the basis of appointments and promotions in public service. However, Section 10 of the Public Service (Values and Principles) Act, 2015 and Section 36 of the PSC Act, 2017 provide for circumstances under which appointments can be made without strictly adhering to competition.

There is no express provision under the Public Service (Values and Principles) Act, 2015 or the PSC Act, 2017 that allows for head-hunting. The evaluation sought to establish the status of compliance with the requirement for fair competition as a basis of appointments in the public service.

It was established that:

- (i) 74 officers were appointed by 26 institutions without complying with the principle of fair competition and merit;
- (ii) Machakos Technical Institute for the Blind, cited the need to implement affirmative action as the reason for their non-competitive recruitment. It indicated that the appointment was made to improve the ethnic balance and the PWDs representation; and
- (iii) The reasons given by the 25 institutions for recruitment without regard to fair competition and merit, were not supported by any law or policy.

Recommendations

- (i) The institutions that appointed the 73 officers to explain the failure to adhere to the principle of fair competition and merit in the recruitment process.
- (ii) All public institutions to strictly adhere to Article 232(1)(g) on the need for fair competition and merit as the basis for appointments.

(c) *Job Advertisements and Modes of Advertisements*

The provision of adequate and equal opportunities for appointments will be achieved if the information on the said opportunities reaches all the intended beneficiaries. Section 37 of the Public Service Commission Act 2017 provides that public institutions

shall invite applications by advertising the vacancies on the Commission's Website, at least one daily newspaper of nationwide coverage, the radio and other modes of communication to reach as wide a population of potential applicants as possible. Further Section 2.2.2(ii)(b) of the Diversity Policy for the Public Service, 2016 provides that public institutions shall advertise available job vacancies in a format accessible to Persons with Disabilities including using established government channels, print, large print, Braille, television, radio and the internet including sharing advertisements with the National Council for Persons With Disabilities. The mode of advertising vacancies determines whether the information on available vacancies reaches all potential applicants.

It was established that:

- (i) 333 (69.8%) institutions advertised for jobs;
- (ii) The most used modes of advertisement were institutional websites (78.4%) followed by newspapers (58%), social media (52.6%) and notice boards (50.8%). Although 58% of public institutions used newspapers as a medium of advertisement as required by law, the use of radio was lowest at 3.3%;
- (iii) 29.7% of the institutions used the notice boards in the national and county administrative services. This means that the advertisements were not as widely circulated through County administrative structures and, therefore, may not be readily accessible to persons resident in outlying regions; and
- (iv) 28.5% of the institutions advertised through the NCPWD Career Portal.

Recommendations

- (i) Public institutions to give priority to statutory modes of advertisements before other modes to promote higher uptake with adverts especially those required to run through radio channels.
- (ii) Public institutions to use the national and county government administrative structures for wider outreach of adverts, especially to the outlying areas of the country.
- (iii) Public institutions to circulate adverts to institutions dealing with persons with disabilities in formats accessible to the visually and hearing impaired.
- (d) *Registration of Public Institutions on the NCPWD Career Portal*

The NCPWD has established a Career Portal which links employers and potential employees with disabilities. The portal contains a database of persons with disabilities, which employers registered on the same portal are able to access and also advertise vacancies. Persons with disabilities registered on the portal can view the advertised vacancies. This, therefore, ensures that PWDs have ease of access to information on available vacancies.

It was established that:

- (i) 301 (63.1%) institutions had registered on the NCPWD Career Portal;
- (ii) 133 (75.6%) institutions that had not registered on the NCPWD Career Portal committed doing so by March 2023 while 43 (24%) committed to register by December 2022; and
- (iii) NCPWD reported that it had not developed a policy to guide the attainment of equal employment opportunities for PWDs.

Recommendations

- (i) All public institutions to register on the NCPWD Career Portal to enhance job opportunities for persons with disabilities.
- (ii) NCPWD to develop a policy for the achievement of equal employment opportunities for PWDs.
- (e) *Distribution of Training Opportunities*

The Constitution requires that there should be adequate and equal distribution of training opportunities among men and women, members of all ethnic groups and persons with disabilities. The

training policy provides for affirmative action programmes to ensure that the marginalized, minority groups and PWDs are granted opportunities for training in public service.

It was established that:

- (i) 38,811 (15%) public officers comprising 16,691 (43.0%) female, 22,120 (57.0%) male while 500 (1.3%) PWDs were trained;
- (ii) The officers trained were from 39 ethnic communities. The ratios did not meet the constitutional requirement of granting members of all ethnic communities and persons with disabilities adequate and equal opportunity in training; and
- (iii) To verify the information received regarding training, the Commission conducted a rapid survey targeting 1,559 officers who were reportedly trained. 1,034 (66.3%) officers confirmed having been trained.

Recommendation

Public institutions to afford adequate and equal opportunity in training to PWDs and members of all ethnic communities.

(f) Equity in Promotional Appointments

The Constitution requires that there should be equity in promotional appointments in terms of gender, ethnicity and PWDs.

It was established that:

- (a) 19,582 (8%) public officers were promoted comprising 6,629 (34%) female, 12,953 (66%) male and 204 (1%) PWDs. The requirement of affording adequate and equal opportunity in promotions was not met; and
- (b) The officers promoted were drawn from 39 ethnic communities. Seven communities (Gosha, Dahalo, Konso, Makonde, Walwana, Wayyu, and Kenyan American) were not represented in the appointments and this may affect their representation at the senior management and policy level.

Recommendation

Public institutions to afford members from all ethnic communities and PWDs adequate and equal opportunities for promotions.

3.5.5.3 Distribution of Internship Opportunities

Internship opportunities, just like appointment opportunities should be shared equitably taking into account gender, ethnic composition and disability status. Interns in the public service were engaged under different programmes: the Public Service Internship Programme (PSIP), organization-specific programmes and in fulfilment of the training requirements of the respective professional bodies. Some of these interns later get absorbed in the public service. It is, therefore, important that the internship opportunities are shared equitably as they will feed into the representativeness of the public service at some point.

(a) Public Service Internship programmes

The primary objective of the Public Service Internship Programme (PSIP) is to provide the youth with an opportunity to acquire hands-on experience and skills necessary for future employability.

It was established that:

- (i) 3,700 interns were engaged of whom 1,697 (46%) were female, 2,003 (54%) were male and 82 (2.2%) were PWDs. The two-thirds gender principle was met while the constitutional threshold for PWDs was not met;
- (ii) The interns recruited were drawn from 34 ethnic communities. Some of the marginalized/minority ethnic communities engaged included Dorobo, Sakuye, Burji, Elmolo, Gosha, Njemps and Orma; and
- (iii) 25 Kenyan communities had normal representation, two communities were grossly over-represented (Meru and Kalenjin), three communities were over-represented (Kikuyu, Kisii and Luo), one community was grossly under-represented (Kenyan Somali), three communities were under-represented (Kamba, Luhya and Mijikenda). 12 communities were not represented.

Recommendation

The Commission to ensure proportionate representation of all ethnic communities in appointment of interns.

(b) Other Internship Programmes

There are three other internship programmes run by public institutions. These include programmes run by public institutions, the Ministries of Health and Livestock and the Presidential Digital Talent Programme. In recruiting the interns, public institutions are obligated by the Constitution to ensure that the opportunities are distributed in an equitable manner.

I. Programmes by other public institutions

It was established that:

- (i) 198 (41.4%) institutions recruited 5,429 interns for periods ranging from 3 months to 1 year, comprising 2,537 (47%) female, 2,892 (53%) male and 45 (0.8%) PWDs. The two-thirds gender principle was met while the 5% constitutional threshold for PWDs was not attained;
- (ii) The interns were drawn from 38 ethnic communities. The following four marginalized and minority communities benefited from the above internship opportunities: Dahalo (4), Dorobo (4), Aweer/Waata (1) and Sakuye (1);
- (iii) Representation of 38 communities was proportional to their national population size. Two communities (Kalenjin and Kisii) were over-represented and two (Kikuyu and Luo) were grossly over-represented, two communities (Kenyan Somali and Mijikenda) were grossly under-represented and two (Luhya and Turkana) were under-represented; and
- (iv) 128 (2%) of the interns were engaged by 47 institutions for more than 1 year contrary to Section 2.3 of the Internship Policy that requires interns to be engaged for a period not exceeding one year. The East African Portland Cement Ltd had the highest number of interns serving beyond 1 year with 30 interns. It was followed by Tanathi Water Works Development Agency (12) and Kenya Revenue Authority (10).

Recommendation

All institutions which registered cases of over-representation and under-representation of ethnic communities in appointment of interns relative to their national population size to adhere to the proportional representation quotas in future appointments.

Payment of Stipend

It was established that:

- (i) 59% of the interns received a stipend of below Ksh. 25,000 contrary to the Public Service Commission Circular PSC/ADM/14/V/105 dated 13th October 2016;
- (ii) 510 (9%) of the interns drawn from 21 institutions were not paid any stipend contrary to the Public Service Commission Circular PSC/ADM/14/V/105 dated 13th October 2016. These were the State Department for Planning, Machakos University, Coast Water Works Development Agency, Commodities Fund, Kenya Broadcasting Corporation, Kenya Marine Fisheries and Research Institute, Kenyatta National Hospital, NEMA, National Museums of Kenya, Nyayo Tea Zones Development Corporation, Tanathi Water Works Development Agency, Aldai TTI, Endebess TVC, Karen TTI for the Deaf, Kenya Technical Trainers College, Kinango TVC, Mwea TVC, Nachu TVC, Riatirimba TVC, Rift Valley TTI and Taveta TVC. It was observed that Machakos University and Coast Water Works Development Agency had equally been identified as organizations that failed to pay a stipend during the 2020/2021 FY and, therefore, did not implement the report recommendation on payment of stipend;
- (iii) Competition Authority of Kenya paid 5 of the interns Ksh. 70,000/- as Young Professionals and reported that the Young Professionals programme was a higher version of apprenticeship. Those enlisted joined with Masters qualification and were deployed in the Technical Department to build capacity on competition law and policy; and

- (iv) Five institutions paid their interns between Ksh. 26,000 and Ksh. 54,000. These were Athi Water Works Development Agency, East African Portland Cement, Kenya National Bureau of Statistics (supported by Statistics Sweden), Kenya Railways Corporation (Management trainees to take over the SGR operations) and University of Nairobi Enterprises and Services Limited (supported by USAID), against the provisions of the PSC Circular on payment of stipend.

Recommendations

- (i) Public institutions to comply with the Public Service Commission circular on payment of stipend. Any institution seeking to deviate from the Circular must seek approval from the Commission.
- (ii) The Commission to develop a policy guiding apprenticeship.

II. Internship Opportunities by the Ministries of Health and Livestock

The Ministry of Health and the State Department for Livestock run internship programmes for medical and veterinary professionals respectively.

It was established that:

- (i) The two institutions complied with the two-thirds gender rule where 44% were female and 56% male. The PWDs representation was 7(0.1%). Therefore, none of the institutions complied with the 5% constitutional requirement on the representation of PWDs;
- (ii) Collectively, the marginalized and minority communities that benefited from the above internship opportunities included Kenyan-Somali (4), Bajuni (4), Boni-Sanye (1), Burji (2), Dorobo (3), Rendille (3) and Sakuye (1);
- (iii) The ethnic distribution for the interns who were engaged through the institutional internship programmes were as follows: Ministry of Health, 36 and the State Department for Livestock 29; and
- (iv) 24 Kenyan communities had normal representation, one community was grossly over-represented (Kalenjin), three communities were over-represented (Kenyan Asian, Kisii and Luo), one community was grossly under-represented (Kamba), five communities were under-represented (Kenyan Somali, Luhya, Mijikenda, Maasai and Turkana). 13 communities were not represented.

Recommendation

Public institutions running institution-specific internship programmes to adhere to the constitutional provisions on equitable allocation of opportunities.

III. Presidential Digital Talent Programme

This is a Public Private Partnership Programme whose objective is to develop ICT high-end skills in recent graduates, offer a platform for structured training, coaching, mentoring and promote ICT innovation and solutions development.

It was established that:

- (i) 400 interns comprising 126 (31.5%) female, 274 (68.5%) male, and three (0.8%) PWDs were engaged. The constitutional threshold of gender and PWDs were not met;
- (ii) 18 ethnic communities were represented in the appointment; and
- (iii) 10 communities had normal representation, two communities were grossly over-represented (Kalenjin and Kisii), two communities were over-represented (Borana and Luo), two communities were grossly under-represented (Kenyan Somali and Mijikenda), two communities were under-represented (Luhya and Turkana). 28 communities were not represented.

Recommendation

ICT Authority to adhere to the constitutional provisions on equitable allocation of opportunities.

3.5.5.4 Customization of Facilities and Support to Persons with Disabilities (PWDs)

Section 21 of the Persons with Disabilities Act, 2003, obligates public institutions to create a barrier-free environment. Institutions have a responsibility to create an environment and customize their services to be responsive to the needs of staff and clients with disabilities.

In previous surveys, public institutions had indicated that they had taken steps to facilitate access to their services by persons with disabilities. A rapid survey targeting 2,000 officers with disabilities was conducted by the Commission to verify the information submitted by MDAs regarding the status of customization of services and facilities for use by PWDs. A total of 416 (21%) officers responded.

It was established that:

- (i) 51.2% of the respondents indicated that their institutions had ramps, 49.3% indicated that their sanitary facilities had been customized, 45.5% indicated that they had reserved parking lots for PWDs;
- (ii) 45% indicated that they had been provided with reasonable accommodation; and
- (iii) 49% indicated that they had been provided with assistive devices.

Upon inquiry, NCPWD indicated that it had not audited public premises to ensure accessibility for PWDs as recommended in the 2020/2021 Values report.

Recommendation

NCPWD to conduct an audit of public premises to establish the status regarding accessibility for PWDs.

(a) Availability of a Sign Language Interpreter

Persons with hearing impairment communicate through sign language. It follows that when they seek services in a public institution there should be someone who can communicate to them in a language they understand. To enable persons with hearing impairment to access services, public institutions are required to avail sign language interpreters to provide support to clients with hearing impairment.

It was established that:

- (i) 97 (20%) of the institutions had employed a sign language interpreter; and
- (ii) Public universities had the highest number of institutions that had employed a sign language interpreter at 59.5% while Statutory Commissions and Authorities and Ministries and State Departments had the least number at 12.5% and 16.7% respectively.

Recommendations

- (i) Public institutions to identify and train at least two officers in sign language.
- (ii) A special allowance be introduced to encourage officers to acquire additional skills and competencies in Kenyan sign language and Braille.

3.5.5.5 Programmes for Special, Vulnerable and Marginalized Groups

Article 10(2) of the Constitution obligates the state and public institutions to promote human rights including protection of the marginalized groups. Further Article 20(5) (b) provides that in allocating resources the State shall give priority to ensuring the widest possible enjoyment of the right to fundamental freedom having regard to the prevailing circumstances including the vulnerability of particular groups or individuals. Consequently, the government has put in place programmes targeting vulnerable groups. These include Access to Government Procurement Opportunities (AGPO) targeting the youth, women and persons with disabilities; Cash transfer programmes for older persons, orphans and vulnerable children and persons with severe disabilities; empowerment programmes for the youth, women and PWDs.

(a) *Distribution of AGPO Opportunities to Women, Youth and PWDs*

Section 157(5) of the Public Procurement and Asset Disposal Act, 2015 requires that institutions reserve 30% of the procurement budget for special groups. These consists of women, youth and persons with disabilities. The opportunities are awarded under the AGPO programme, which aims to facilitate the enterprises owned by women, youth and PWDs.

It was established that:

- (i) 63 (13%) of the institutions complied with the 30% allocation of procurement budget to specialized groups under the AGPO policy. This indicates that most special groups were not accorded the advantages envisaged under the policy by the institutions hence perpetuating the inequalities meant to be redressed by the policy;
- (ii) The procurement budget in 2021/2022 FY was 540B, 30% of which is 162B;
- (iii) The total procurement budget allocated to special groups was 48B which was less by 114B. The special groups, therefore, got 70% less of what they should have been allocated during the financial year; and
- (iv) 88 institutions did not award tenders to any of the special groups.

Recommendations

- (i) Public institutions to comply with the 30% AGPO Policy.
- (ii) The 414 institutions which failed to comply with the 30% allocation of the procurement budget to special groups to explain the failure.
- (iii) The 88 institutions which failed to award tenders to special groups to explain the failure.

1. Empowerment Programmes

The government, in implementing Article 10 of the Constitution in a bid to promote human rights and protection of vulnerable groups, put in place several empowerment programmes including the youth, women, PWDs and social protection programmes.

(a) *Youth Enterprise Development Fund (YEDF) Programmes*

The Youth Enterprise Development Fund (YEDF) is a Vision 2030 flagship project under the social pillar. Its objective is to provide loans, business development services and facilitate the marketing of products and services of youth-owned enterprises in local and international markets. The YEDF continued to support youth empowerment initiatives across the country.

The survey sought to establish the distribution of the funds and the number of beneficiaries of the different programmes run by the fund.

It was established that:

- (a) Over Ksh.404 million was disbursed to 1,544 youth groups spread across 46 counties. The youths from West Pokot County did not benefit from the disbursements. West Pokot is one of the marginalized counties and, therefore, the exclusion compounds marginalization;
- (b) 79,978 youths comprising 50.6% male and 49.4% female drawn from 47 counties were trained;
- (c) 657 youth groups drawn from 41 counties were facilitated to access local markets for their services and products. Youths from six counties were not supported to access local markets for their services and products;
- (d) 155 youths drawn from 10 counties were facilitated to access international markets; and
- (e) 25 youths drawn from three counties (Bungoma, Siaya and Kakamega) benefited from employment opportunities locally through the strategic partnership with GIZ/GIAE. Of the 25 beneficiaries, 17 (68%) were male, 8 (32%) were female and six of the beneficiaries were PWDs. The beneficiaries were drawn from the Luhya and Luo ethnic communities and the nature of the partnership was entrepreneurship training.

Recommendation

The Youth Enterprise Development Fund be directed to ensure inclusion in access to funding and training by youths from all the counties, in particular, West Pokot County.

(b) *Ajira Digital Program*

The Ajira Digital Program is a government initiative driven by the Ministry of ICT, Innovations and Youth Affairs to empower over one million young people to access digital job opportunities. The program seeks to position Kenya as a choice labour destination for multinational companies as well as encourage local companies and the public sector to create digital work.

The main objectives are to raise the profile of digital work; promote a mentorship and collaborative learning approach to finding digital work; provide Kenyans with access to digital work, and finally promote Kenya as a destination for online workers.

It was established that:

- (ii) 89,717 youths drawn from all 47 counties benefited from the programme out of whom 45,952 (51.2%) were female and 43,765 (48.8%) male; and
- (iii) The registration portal had not been customized to enable applicants to indicate their ethnicity and disability status.

Recommendation

The registration portal be customized to enable trainees include their ethnicity and disability status.

(c) *ENABLE Youth Kenya Program*

The Empowering Novel Agribusiness Led Employment (ENABLE) Youth Kenya is a skills and capacity development program for unemployed youth who have completed college/university studies for start-up and accelerated youth agripreneur. The programme is coordinated under the State Department for Crop Development and Research in partnership with Africa Development Bank (AfDB). The programme aims at contributing to job creation, food security and nutrition, income generation and improved livelihood for youth in both urban and rural areas.

It was established that:

- (i) 494 youths drawn from 44 counties benefited from the programme, out of whom 145 (29.4%) were female and 349 (70.6%) were male;
- (ii) The youth from the three counties of Tana River, Garissa and Marsabit were not represented in the programme; and
- (iii) The data was not disaggregated by ethnicity and PWD status.

Recommendations

- (i) The Ministry of Agriculture to spread the benefits of the programme across all 47 counties to promote inclusivity.
- (ii) The Ministry of Agriculture to ensure that the data is disaggregated by gender, ethnicity and PWDs.

(d) *Studio Mashinani*

Studio Mashinani is a project through which the Government has taken recording studios to the grassroots level where the majority of talented youth reside. The project aims at enhancing the availability of accessible recording studios and enhancement of self-employment opportunities for artists in the robust creative music industry.

It was established that:

- (i) 580 youths drawn from six counties of Mombasa, Kitui, Machakos, Murang'a, Kisumu and Nairobi applied for the programme out of whom 367 (63%) benefited. These studios were set up by the Kenya Broadcasting Corporation (KBC) which is a national agency and should be accessible to youths from the 47 counties irrespective of the location of the studios. The studios were not distributed equitably, therefore, limiting access to a majority of the youth in outlying parts of the country; and
- (ii) The beneficiaries were 79 (21.5%) female and 288 (78.5%) male, and none was a PWD.

Recommendation

The State Department for Broadcasting and Telecommunications to open up the opportunities offered by the studios to the youth in 47 counties and ensure gender parity and inclusion of persons with disability.

(e) National Hygiene Programme (Kazi Mtaani)

The National Hygiene Programme (NHP) also known as Kazi Mtaani is a national initiative by the State Department for Housing and Urban Development that started in April 2020. The programme was designed to cushion the most vulnerable people from the effects and response strategies of the COVID-19 pandemic. The programme, which is in its third phase, was meant to provide social protection for workers whose prospects for daily or casual work had been disrupted by the containment policies put in place to limit the spread of Covid-19.

The main objective of the programme is to provide a form of social protection for the youth who are vulnerable in society. Through the initiative, residents are recruited to undertake projects concentrated in and around informal settlements to improve the environment, while earning income.

It was established that:

- (i) 1,203,559 youths applied for the Kazi Mtaani programme out of whom 376,663 (31.2%) were recruited;
- (ii) The beneficiaries were drawn across the 47 counties. The highest number of beneficiaries was from Nairobi (18.7%) county followed by Nakuru (6.5%) and Mombasa (5.4%). The counties that had the least beneficiaries were Kitui (3,221), Kilifi (2,038) and Vihiga (1,046); and
- (iii) 236 youths benefited from the Municipal Capacity Enhancement Programme (MCEP) programme out of whom 84 (36%) were female, 152 (64%) were male and none of the beneficiaries were PWDs. The beneficiaries were drawn from 19 ethnic communities across 45 counties. Nairobi and Taita Taveta counties did not have any beneficiaries. The beneficiaries received a stipend of Ksh.25,000 and cumulatively Ksh.5.9M was paid.

Recommendation

The State Department for Housing and Urban Development to promote inclusivity and ensure all the counties benefit from the Municipal Capacity Enhancement Programme.

(f) Kenya Youth Employment and Opportunities Project (KYEOP)

The Government through the State Department for Youth continued to implement the Kenya Youth Employment and Opportunities Project (KYEOP) programme. KYEOP is a national project funded by the World Bank and the Kenyan Government that is designed to equip young people between the age of 18 to 29 with Life Skills Training, Core Business Skills Training, internship opportunities or work experience and support for businesses that would enhance their capacity to secure sustainable livelihoods.

It was established that:

- (i) 5,559 (25%) out of 21,999 youths benefited from training. They were drawn from six counties namely Kwale, Kilifi, Nyandarua, Kakamega, Bungoma, Kisumu and Kisii. This means that there were youths from 41 counties who did not benefit; and
- (ii) 32,661 (12%) youths out of 273,199 drawn from 17 counties received grants. This means that there were youths from 30 counties who did not benefit.

Recommendation

The State Department for Youth Affairs to ensure equity in the distribution of youth empowerment funds across the 47 counties.

(g) Grants for Business initiatives

The State Department for Youth Affairs supported other youth entrepreneurial initiatives. These included business plan competition and small grants to expand businesses.

It was established that:

- (i) Kshs.1.39B was disbursed by the State Department across 45 counties;
- (ii) The counties that received the highest amount were Nairobi at Kshs.343.5M, Kiambu at Kshs. 137.8M, Nakuru at Kshs.79.2M and Kakamega at Kshs.72.9M. The four counties received Kshs. 633,560M representing 46% of the total disbursements;
- (iii) The counties which received the least amount were Baringo, Tana River and West Pokot all of which received Kshs.900,000; and
- (iv) Marsabit and Samburu Counties did not benefit despite being marginalized.

Recommendation

The State Department for Youth Affairs to promote equity in the disbursement of Grants for Business initiatives across the 47 counties.

3.5.5.7 Social protection Programmes

The State Department for Social Protection continued to implement the *Inua Jamii* cash transfer programme that targets older persons, orphans and vulnerable children and Persons with Severe Disabilities; the Presidential Secondary School Bursary (PSSB); and the Nutrition Improvement Programme through Cash and Health Education (NICHE). This is in furtherance of the attainment of Sustainable Development Goal No.1 on "No Poverty".

The Inua Jamii cash transfer programme aims to enhance the capacity of and opportunities for the poor and vulnerable groups to improve and sustain their lives, livelihoods and welfare. The overall objective of the programme is to ensure all citizens live in dignity and exploit their human capabilities for their own social and economic development.

It was established that:

- (i) Kshs.25.8B was disbursed to 1,084,957 (94%) comprising 35% male and 65% female. The beneficiaries from the four cash transfer programmes were drawn from the 47 counties;
- (ii) 10 counties received Kshs.9.3B representing 36% of the total disbursements;
- (iii) Kshs.6.7B was disbursed to Orphans and Vulnerable Children out of which Kshs.2.5B was allocated to 10 counties accounting for 37% of the total disbursements;
- (iv) Cash transfer to Older persons programme was allocated Kshs.18.2B out of which Kshs.7.3B (40%) was disbursed to 10 counties leaving the balance of Kshs.10.9 to be shared among the 37 counties;
- (v) Kshs.865.7M was disbursed to persons with severe disabilities out of which Kshs.326M was disbursed to 10 counties accounting for 38% of the total disbursements;
- (vi) The cash transfer of 18.2B to older persons accounted for 70% of the total cash transfer disbursements of 25.8B;
- (vii) 74,011 (6.8%) of the registered persons did not benefit from the cash transfer programme; and
- (viii) The Presidential Secondary School Bursary (PSSB) programme disbursed Kshs. 388.5M to 19,747 beneficiaries spread across the 47 counties. Ten Counties out of the 47 received 142M (37%) of the total disbursements leaving the balance to be shared by the rest of the 37 counties.

Recommendation

The State Department for Social Protection to ensure there is equity in cash transfer disbursements under the four social protection programmes across the 47 counties.

3.5.5.8 Elimu Scholarship Programme

The Elimu scholarship programme is sponsored by the Kenya government, Equity Bank, and the World Bank with the aim of improving transition and completion rates. The programme supports students from poor and vulnerable backgrounds from informal settlements in 15 urban centres and 110 selected sub-counties across

the country. The programme targets students in public primary schools. The scholarship caters for school fees, transport to and from school, learning materials, and school kits for the beneficiaries for the four-year education period.

It was established that:

- (i) 17,975 students benefited from the scholarship programme amounting to Kshs.702.6M out of whom 9,723 (54%) were female and 8,252 (46%) male; and
- (ii) The beneficiaries were from 1,096 public secondary schools drawn from 46 counties. Lamu county did not benefit from the programme.

Recommendation

The Ministry of Education to promote inclusivity in the programme by ensuring that all 47 counties benefit from the programme and the beneficiaries be disaggregated by gender, ethnicity and PWD.

3.5.5.9 Empowerment Programmes for Youth, Women and Persons with Disabilities

The government has established several funds to empower youth, women and PWDs. The funds include NGAFF, UWEZO fund and Women Enterprise Development Fund.

(a) Empowerment programmes by the National Government Affirmative Action Fund (NGAAF)

The National Government Affirmative Action Fund implemented diverse empowerment programmes for special and vulnerable groups including the youth, women and PWDs.

It was established that:

- (i) 44,183 (93%) applicants out of 47,303 across the 47 counties benefited from school bursary;
- (ii) The highest number of beneficiaries were from the following counties: Mombasa (7.3%), Machakos (5.4%), Kakamega (5.3%) and Makeni (5%);
- (iii) 195,886 (92%) women applicants out of 213,850 drawn from 46 counties benefited from grants amounting to Ksh. 414.5M. Women groups from Garissa County did not benefit;
- (iv) The highest number of women beneficiaries were from the following counties: West Pokot 12,942 (7%), Kiambu 10,912 (6%), Mombasa 10,633 (5%) and Makeni 10,419 (5%);
- (v) Recipients of the highest amounts were from the following counties: Nairobi 21.8M (5.2%), Nakuru 19.6M (4.7%), Machakos 18.0M (4.3%) and Kakamega 17.1M (4.1%); and
- (vi) The fund did not provide disaggregated data on the special and vulnerable groups targeted and the benefits thereof to facilitate a conclusive determination of the efficacy of the interventions in terms of mitigating the vulnerabilities.

Recommendation

The administrator of the National Government Affirmative Fund (NGAAF) to disaggregate data on the funded groups, by County and diversity (Gender, Youth, Students, PWDs).

(b) Uwezo Fund

Uwezo Fund is a revolving fund established by the government to address the socio-economic empowerment of women, youth and persons with disabilities through the expansion of access to finance to facilitate the initiation and expansion of their enterprises. Further, the Fund provides capacity enhancement towards building strong and sustainable enterprises across the constituencies.

1. Loan disbursement to women, youth and PWD groups

It was established that:

- (i) 185 women groups spread across 40 counties with a membership of 3,995 benefited from loans amounting to Kshs.398.3M;
- (ii) The women groups in Garissa, Kisii, Lamu, Nyamira, Tana River, Uasin Gishu and West Pokot counties did not benefit;

- (iii) 162 youth groups spread across 40 counties with a membership of 1,447 benefited from loans amounting to Ksh. 133.9 million;

- (iv) The youth groups in Garissa, Kisii, Lamu, Nyamira, Tana River, Uasin Gishu and West Pokot counties did not benefit; and

- (v) 143 PWDs groups spread across 32 counties benefited from loans amounting to Ksh. 12.7 million. PWDs groups from 15 counties did not benefit.

2. Training programmes for women, youth and PWDs

It was established that:

- (i) 5,232 women, youth and PWDs groups benefited from training under Uwezo Fund. The training was on the requirements for accessing the Uwezo Fund, business development services, the concept of table banking and Access to Government Procurement Opportunities (AGPO);
- (ii) The special interest groups were drawn from 39 counties, and the following 8 counties did not have any trainees who benefited from the training programme: Garissa, Kisii, Laikipia, Lamu, Nyamira, Tana River, Uasin Gishu and West Pokot; and
- (iii) Kabete and Kitui South constituencies had the highest number of special interest groups that benefited from the training programmes with 2.1% of the total each. They were followed by Taveta and Central Imenti with 2% each.

Recommendation

The administrator of the fund to ensure that the training programmes target beneficiaries from all the counties, particularly in the eight counties that were left out.

(c) Women Enterprise Development Fund

Access to Credit Services

The Women Enterprise Fund continued to facilitate the disbursement of the Constituency Women Enterprise Scheme (CWES) popularly known as the *Tuinuke* loan. *Tuinuke* is a loan product given out to registered women groups interested in expanding or starting business ventures.

It was established that:

- (i) Ksh.3B was disbursed to 10,650 women groups across 47 counties;
- (ii) 133,032 women were trained on entrepreneurship. 2,333 of the trainees were PWDs;
- (iii) 472 women drawn from 74 women groups were facilitated to access local markets; and
- (iv) The trainees were drawn from the 47 counties clustered into 16 regions. However, there were no PWDs representations from four (Upper Central, Lower Central, Upper North Eastern and Western) regions comprising 12 counties.

Recommendation

The administrator of WEDF to ensure inclusion of PWDs in training programmes in all the regions.

3.5.5.10 Capitation for Recurrent Expenditure

The Government supports TVETs by way of capitation grants to assist poor students who would otherwise not have enrolled in the institutions. This grant, together with school fees paid by the students, sustains day-to-day running of the TVETs as well as other development projects in the institutions. Except for five special needs institutes the capitation is pegged at Kshs 30,000 per student. Capitation cushions trainees and the parents/guardians from the high cost of training. Trainees who benefit from capitation are also eligible for Higher Education Loans Board (HELB) loans.

It was established that:

- (i) Kshs.4.1B was disbursed by the government to 120 (66.67%) TVETs in 41 counties. This excluded six counties of Samburu, Lamu, Laikipia, Wajir, Tharaka Nithi and Kirinyaga. However, the TVETs institutions reported having received Kshs.3.7B giving rise to a difference of Kshs.355M;

- (ii) The top ten counties which received the highest allocation of capitation amounting to a total of Kshs.2.7B were Nairobi, Kisii, Meru, Kakamega, Nakuru, Trans Nzoia, Uasin Gishu, Busia, Machakos and Siaya. This allocation accounted for 66% of the total disbursement of Kshs.4.1B to the 42 counties. This means that the rest of the 32 counties were left to share Kshs.1.4B (34%);
- (iii) 198,958 students were enrolled in TVETs as reported by State Department for Vocational and Technical Training. This was less by 31,523 students from the 167,435 reported by the TVETs;
- (iv) Meru County had the highest number of TVETs at seven followed by Nairobi County at six and Kakamega, Kericho and Siaya had five each;
- (v) Nairobi County had the highest allocation of capitation of Kshs.480M followed by Meru County at Kshs. 371M and Kisii Kshs.364M;
- (vi) The counties that received the highest amounts per student were Machakos Kshs.109,711, Isiolo Kshs.82,100, Kwale Kshs.58,640, Kitui Kshs.36,413, Turkana Kshs.34,303, West Pokot Kshs.32,320 and Kiambu Kshs.31,845. This was against the recommended capitation of Kshs.30,000 per student; and
- (vii) Kshs.7.8B was generated from other sources including school fees, bursaries from CDF, NGOs/CBOs, County Governments and individuals. This brought the total budget for the TVETs to Kshs.11.8B.

Recommendations

- (i) The State Department for Vocational and Technical Training to promote equity in the distribution of TVET institutions across the 47 counties, including equitable disbursement of capitation to students.
- (ii) The Office of the Auditor-General to audit the disparity between the amounts of funds reported as received by the TVETs institutions and the amount reported as disbursed by the State Department.

3.5.6 Public Participation in Policy Making Process

The public participation process in policy-making in the public service is guided by Sections 11 and 12 of the Public Service (Values and Principles) Act, 2015, Section 8.4 of the Public Service Commission Framework on Implementation of Values and Principles, 2015 and the Public Service Commission Guidelines on Public Participation, 2016.

Public institutions are expected to facilitate public participation in the development of any policies. The public participation process requires that the public and interested stakeholders are accorded an adequate opportunity to review and make comments on a draft policy, be heard by the makers of the policy and be notified of the final draft policy and whether their views were incorporated or not.

Article 54(1)(d) provides that PWDs are entitled to use sign language, Braille or other means of communication. Therefore, in any public participation in policy-making process engagements, it is expected that the relevant documents are provided in an accessible format to persons with disabilities and this includes having the document transcribed into Braille and having sign language interpreters.

The evaluation sought to establish institutions which facilitated public participation in their policy-making processes.

The indicators were:

- (i) The total number of institutions which developed policy documents;
- (ii) The number of institutions that engaged the public in the policy-making process;
- (iii) The number of institutions that transcribed policy documents into Braille and engaged sign language interpreters; and
- (iv) The number of policies challenged in Court for lack of public participation.

3.5.6.1 Involvement of the Public in Policy-Making

It was established that:

- (i) 213 (44.7%) institutions developed 439 policy documents, which were subjected to public participation;
- (ii) 19 (9%) of the 213 institutions engaged sign language interpreters and 32 (15%) institutions transcribed their policies into Braille for public participation. It was noted the majority of the institutions did not accord persons with hearing and visual impairment an opportunity to meaningfully participate in the policy-making process;
- (iii) 50,943 persons participated in the policy-making process out of whom 31,559 (62%) were male, 19,384 (38%) female and 356 (0.7%) PWDs. Persons with disabilities were grossly under-represented;
- (iv) The average time taken from the date the public was notified about public participation to the date the draft policy was circulated was 93 days;
- (v) The average duration taken from the actual stakeholder engagement to the validation of the policy was 57 days. State Corporations recorded the lowest duration at 26 days while Ministries and State Departments recorded the highest duration at 226 days;
- (vi) The most preferred mode of stakeholder engagement was through physical meetings (39%), written/online submissions (36%) and virtual meetings (24%); and
- (vii) Three (1.4%) institutions had their policies challenged in court for lack of public participation. These institutions were the Ministry of Foreign affairs, The National Treasury and the Ewaso Ng'iro South River Development Authority.

Generally, a majority of the policies developed seem to have satisfied the requirements of public participation.

Recommendation

Public institutions to promote inclusivity of persons with disabilities in the policy formulation process including provision of sign language interpreters, transcription of documents into Braille and customization of websites.

3.5.7 Efficiency, Effectiveness and Economic Use of Resources and Sustainable Development

One of the values and principles of public service in Article 232 is the efficient, effective and economic use of resources. This ties in with the principle of sustainable development under Article 10. To facilitate the realization of these values, the Public Finance Management Act, 2012 (PFM Act, 2012) and the Public Finance Management (National Government) Regulations, 2015 prescribe the principles to guide the utilization of financial resources. The Act prescribes a 70:30 ratio for development and recurrent expenditure. Further, the National Treasury, vide Circular reference No. 8/2021 on Guidelines for Preparation of 2022-23 to 2024-25 Medium Term Budget, directed that personnel emolument should not exceed 35% of the institutional recurrent budget.

The evaluation under this thematic area sought to establish adherence by public institutions to the standards prescribed under the PFM Act.

The indicators were:

- (i) Adherence to the set budget ratios;
- (ii) Payment of dividends by commercial state corporations;
- (iii) Undertaking and cost of CSR programmes;
- (iv) Budget absorption levels and institutions using the Public Procurement Information Portal;
- (v) Whether feasibility studies were conducted for the development projects that were undertaken and environmental impact assessments were undertaken;
- (vi) Project cost variations;
- (vii) Project completion and payment status;

- (viii) Compliance with the regulations on procurement and the disposal of assets;
- (ix) Complaints and Appeals related to procurement;
- (x) Rating of the institutions by the Auditor General's opinion;
- (xi) Implementation of recommendations of PAC and PIC reports; and
- (xii) Automation of payroll management.

3.5.7.1 Adherence to the Set Budget Ratios

Section 15(2)(a) of the Public Finance Management Act, 2012 requires that over the medium term 30% of the national and county governments budgets shall be allocated to the development expenditure.

It was established that:

- (i) 255 (86%) institutions reported having been allocated recurrent and development funds from the exchequer;
- (ii) The overall ratio of the recurrent expenditure to development expenditure as reported by institutions was 55:45 for 375 institutions. On the contrary, the COB reported a ratio of 70:30 for 311 institutions. Although the data reported by MDAs shows variations with those from the COB, the variations are consistent across the sectors. Thus, the reliability of data from MDAs in arriving at conclusions is not compromised;
- (iii) Seven institutions paid dividends to the Government amounting to Kshs.153B;
- (iv) 212 institutions reported other sources of funds amounting to Kshs.963B. These were own revenue, donors and loans;
- (v) 69 institutions undertook CSR activities with a total sum of Kshs.2.3M;
- (vi) The ratio for PE to operation and maintenance (O&M) for MDAs in the five sectors was 38:62 while for TVETs was 32:77. This contravened the 35:65 requirement in law on PE:OM. However, a total of 70 (14.7%) institutions complied with the 35:65 expenditure ratio on PE to O&M; and
- (vii) Overall budget absorption was at 82%. The implication of this is that citizens were deprived of the services that were to be offered using the budget that was not absorbed.

3.5.7.2 Sustainability of Development Projects

Article 10(2)(d) requires public institutions to promote sustainable development. This calls for avoidance of wastage and proper planning from conceptualization to finalization of the projects. Institutions are required to undertake feasibility studies and Environmental Impact Assessments (EIA).

It was established that:

- (i) 224 (47%) institutions undertook various development projects;
- (ii) 2,286 projects were implemented. Of these, 778 (34.0%) had feasibility studies done, 231 (10.1%) had feasibility studies not done, 358 (15.7%) did not require feasibility studies and 919 (40.2%) projects did not have status on feasibility studies. 66% did not conduct feasibility studies before commencing development projects. Such projects run the risk of being discontinued on the basis of non-viability;
- (iii) 954 (41.7%) of the projects had their EIA approved, 245 (10.7%) not approved, 423 (18.5%) did not require EIA and 664 (29.0%) did not have EIA approvals indicated. The projects which required EIA approval and the same was not sought run the risk of being stopped;
- (iv) 92 projects did not have their project end dates defined. This means that there was a likelihood of project overrun and the project not being completed; and
- (v) 150 projects had cost variations amounting to Kshs.84.7B spread across the MDAs. 72 of these projects had surpassed the requirement that not more than 25% variation cost should be incurred. This is an indicator of poor conceptualization and planning for the projects.

Recommendations

- (i). The Office of the Auditor-General to undertake an audit on the 72 projects with cost variations.
- (ii). The National Treasury to strengthen the monitoring and evaluation to ensure the project timeline and cost are observed.

3.5.7.3 Complaints Against Tender Awards and Assets Disposal Lodged to Public Procurement Regulatory Authority (PPRA)

The Public Procurement and Asset Disposal Act, 2015 empowers the PPRA to investigate and act on complaints that are not subject to administrative review. The complaints may be from procuring entities, tenderers, contractors or the general public.

It was established that out of the 98 complaints received 55 (56.1%) were resolved. The most prevalent complaints were delayed payment at 34.8% followed by requests for clarification on tenders (27.2%) and requests for debarment (13%).

Recommendation

The Office of the Auditor General to undertake an audit on payment procedures in the affected institutions and establish the reasons for delayed payment.

3.5.7.4 Appeals on procurement of assets received by the Public Procurement Administrative Review Board (PPARB)

Public Procurement Administrative Review Board is established to hear and determine disputes relating to tendering and asset disposal.

It was established that, of the 15 disputes brought forward from 2020/2021 and the 102 received within the year, 113 were resolved and only four were pending.

3.5.7.5 Disposal of Assets and Existence of Approved Board of Survey Report

The disposal of public assets is guided by the Public Procurement and Asset Disposal Act 2015 and any attendant guidelines. To establish compliance with this requirement, the Commission requested for submission of an Approved Board of Survey Report.

Out of the 119 institutions that had items to be disposed of, 51 (42.9%) prepared the Board of Survey report. This means that the majority of the institutions disposed of their assets contrary to Public Procurement and Asset Disposal Act, 2015.

Recommendation

PPRA to undertake an audit on the failure of institutions to prepare Board of Survey reports before disposing of assets.

3.5.7.6 Auditor-General's Report

The Constitution and the Public Audit Act, 2015 mandate the Auditor-General to examine and audit accounts submitted by public institutions within the prescribed period, express an opinion and certify the result of that examination. The Auditor examines the books of accounts from institutions and expresses his opinion on audited institutions, certifies the accounts as either Unqualified, Qualified, Adverse, or Disclaimer. For ease of reference:

- (i) An Unqualified opinion is the most desirable and is issued where the financial condition, position, and operations are fairly presented in the financial statements.
- (ii) A Qualified opinion is issued where the financial statements appear to contain a small deviation but are otherwise fairly presented.
- (iii) An Adverse opinion is issued where a financial statement as a whole is not presented fairly.
- (iv) A Disclaimer opinion is issued where a financial procedure is found to be utterly flawed.

The audit reports provide valuable information on whether the country is achieving its developmental priorities and service delivery objectives or not. The reports are critical in monitoring and evaluating the outcome and impact of government expenditures and enhancing accountability.

It was established that:

- (i) 72 institutions had been fully audited as per the OAG report, excluding TVETs. Of these, 31(43%) institutions received an Unqualified opinion, 40 (56%) received a Qualified opinion and one (1%) had an Adverse opinion rating. 170 (57%) of the MDAs and 92 (51%) of TVETs institutions reported that they were yet to be audited;
- (ii) Self-reporting by TVETs institutions revealed that 61 of them had been adversely cited over the years; and
- (iii) 116 State Corporations and SAGAs were yet to be audited.

The request for data for this year's evaluation was made earlier than the previous year because of the General Elections. Therefore, audit reports from some institutions had not been finalized and resulting in a low number of institutions evaluated under this parameter.

3.5.7.7 Implementation of Parliamentary Investment Committee (PIC) and Parliamentary Accounts Committee PAC Recommendations by Public Institutions

The Parliamentary Accounts Committee (PAC) oversight the expenditure of public funds by public institutions to ensure value for money and adherence to government financial regulations and procedures. The Parliamentary Investment Committee (PIC) examines the working of public investments with a particular focus on financial oversight of the use of appropriated public funds. The two committees prepare compliance reports and make recommendations to the institutions concerned.

It was established that:

- (i) 58 (12%) were a subject of PIC or PAC; and
- (ii) 266 (44%) out of the 600 PAC or PIC recommendations had been fully implemented, 157 (26%) partially implemented, 58 (10%) had not been implemented and 119 (20%) the implementation status was not stated.

Recommendation

Public institutions that failed to implement the PIC/PAC recommendations to be sanctioned.

3.5.7.9 Automation of Payroll Management System

Whereas there exists a uniform financial management system developed pursuant to Section 12(1) (e) of the Public Finance Management Act, 2012 which requires the National Treasury to design and prescribe an efficient financial management system for the national and county governments, for human resources, there is no uniform system for its management. Whereas all ministries, some constitutional commissions and state corporations use the integrated personnel and payroll data (IPPD) management system domiciled at the State Department for public service, the rest of the institutions are free to determine the systems they use meaning the human resource data, in the public service, is currently fragmented and inconsistent to support effective management of human resources.

It was established that:

- (i) 293 (61.4%) institutions had integrated payroll management systems;
- (ii) All Ministries and State Departments had integrated payroll management systems followed by public universities and statutory commissions and authorities at 91.9% and 87.5% respectively;
- (iii) TVETs had the lowest level of implementation at 26.1%; and
- (iv) 184 public institutions did not use an integrated payroll management system. Of these, 71 paid staff manually, 60 used excel worksheets and 53 used other software.

Recommendation

All the public institutions operating outside the integrated payroll management system to migrate to the Unified HR System.

3.6 Citizen Satisfaction with Service Delivery

The Commission conducted a rapid experiential survey on the services accessed by the citizens by sending a questionnaire to the sampled respondents. The contacts of the respondents were obtained from the customer service registers of public institutions.

170 citizens responded to the survey. This response was limited and may not be representative for generalization but it gives an indicator of how the situation is and can be used for further survey.

It was established that:

- (i) 255 services were sought, ranging from health, registration, education and financial services;
- (ii) The most utilized channel of service provision was through physical visits (48%) followed by e-citizen (22%), website (16%) and mobile phone (14%);
- (iii) The most sought-after services were Certification, Registration and Employment; and
- (iv) Those dissatisfied with government services cited unresponsiveness of officers (32%), rude officers (19%), demand for bribes (19%), absence of officers (14%), and loss of files (11%) as the main reasons for their dissatisfaction.

Recommendations

- (i) The Commission to undertake a comprehensive Citizen satisfaction survey.
- (ii) Public institutions to migrate services to online platforms to reduce the number of physical visits to offices.
- (iii) Public institutions to develop and implement service delivery standards to improve responsiveness.

CHAPTER FOUR: STATUS OF COMPLIANCE WITH VALUES AND PRINCIPLES

4.1 Introduction

The purpose of the survey was to establish the status of compliance of the public service with the values and principles provided in Articles 10 and 232 of the Constitution. This chapter presents the overall compliance of the entire service, the performance indices for the various thematic areas and the rating of performance of each institution. The compliance index is the level of conformity to the values and principles by all the evaluated institutions. The performance index on the other hand is the measure of achievements against the performance indicators. The aggregation of performance indicator scores informs the computation of the overall compliance index.

4.1.1 Index Measurement

Computation of the indices for each thematic areas involved the following steps:

- (i) Identifying the questions/parameters in each thematic area that were used as indicators for determining an index;
- (ii) A score of one was assigned to institutions that possessed the desired attribute while zero was assigned to those not possessing the attribute;
- (iii) For the indicators that required the attainment of constitutional or legal requirements, the score was proportionately assigned. For example, for the indicator on the representation of PWDs in an institution, the percentage of PWDs represented in the institution was used as a score; and
- (iv) The re-scaling (min-max variable transformation) method in Equation 1 was used for the normalization of the indicators.

Standard Score=MDA Indicator Value-Minimum Values.....
Equation 1

Minimum Value - Maximum Values

4.1.2 Rating of achievement

Rating of achievement of an institution was assigned as high, medium and low achievers. This was applied for both performance and compliance indices.

A public institution was classified as a high achiever if the index score was more than one standard deviation above the mean. An institution was a medium achiever if the index score was within one

standard deviation of the mean and a low achiever if the score was one standard deviation below the mean.

As a general rule, the service sector with the highest proportion of institutions classified as high achievers had the highest performance index, while the service sector with the highest proportion of institutions classified as low achievers had the lowest performance index.

4.2 Performance Index by Thematic Areas

This section presents the performance indicators, scoring criteria and mean scores attained by the indicators in the six thematic areas. The performance indicators selected for the purposes of deriving the performance indicators are those which were mandatory for each institution to have.

4.2.1 Service Delivery Improvement

Seven performance indicators were selected for the purposes of assessing the performance index for this thematic area. The indicators centred around the measures adopted by institutions for purposes of ensuring ease of access to services by the public, particularly PWDs. These included the availability and functionality of helplines, accessibility of websites to the visually impaired and transcription of service charters into Braille.

The overall performance index for service delivery improvement was 56.3%. Public Universities had the highest performance index at 68.4%. This high performance was contributed by the transcription of the service charters into Braille as demonstrated in Chapter 3 which shows that 81% of universities had transcribed their service charters into Braille.

4.2.2 Good Governance, Transparency and Accountability

Three performance indicators were used to calculate the performance index for this thematic area. These included: the availability of gifts registers, the existence of induction manuals, and the publication of annual reports.

It was established that 75% of officers who received gifts declared them to their institutions. Further, 77% of institutions did not have an induction manual while for those who had manuals 79% did not have topics on values and principles, code of conduct and ethics, and the provisions of their service charters. It was also established that 71% of the institutions had not published their annual report.

The overall performance index for good governance, transparency and accountability was 29%. Constitutional Commissions and Independent Offices had the highest performance index at 55%. This was informed by the high score in the management of gift registers and publication of annual reports. It is observed that constitutional commissions are required by law to publish and publicize annual reports and this may have informed the high performance in this area with 72% of the institutions having published their reports.

4.2.3 High standards of professional ethics in the public service

Eight indicators were used to calculate the performance index for this thematic area. These included the compliance by public officers with the requirements for initial, biennial and final declarations, compliance by institutions to file returns on declarations to the responsible commissions, compliance by regulated professionals with the requirements of their professions and availability of action plans to promote values and principles at the workplace.

The overall performance index for high standards of professional ethics in the public service was 53%. State Corporations and SAGAs performed well with the highest score being the biennial declarations.

4.2.4 Performance Management

Three performance indicators were used to calculate the performance index in this thematic area. These were; induction of newly appointed officers, the performance contract evaluation score and the existence of an integrated payroll management system.

The overall performance index for performance management was 40%. Public Universities had the highest performance index at 64%. This was contributed by the fact that all Public Universities signed performance contracts and were evaluated.

4.2.5 Equitable Allocation of Opportunities and Resources

Seven performance indicators were used to calculate the performance index for this thematic area. The indicators selected were those which facilitated access to information on available opportunities such as registration on the NCPWD career portal and the public procurement and asset disposal portal and those which demonstrated the distribution of opportunities in terms of gender, ethnicity and PWDs.

The overall performance index for equitable allocation of opportunities and resources was 40%. Registration on the Public Procurement Information Portal means that more groups may access information on procurement opportunities in institutions registered on the portal. PWDs will also access information on job opportunities available in the institutions registered on NCPWDs career portal.

Achievement of proportionate representation for all ethnic communities remains a challenge, however, there is an improvement as marginalized communities are increasingly being brought on board as demonstrated in Chapter 3 (section 3.5.5.2) on the distribution of opportunities in appointments and promotions.

4.2.6 Efficiency, Effectiveness and Economic Use of Resources and Sustainable Development

Budget absorption was a performance indicator used across all institutions and also to calculate the performance index.

The overall performance index for the thematic area on efficiency, effectiveness and economic use of resources was 28.2 %. Statutory Commissions and Authorities had the highest performance index at 37.5% while the Ministry and State Departments had the lowest performance index at 8.9%.

4.3 Overall Compliance Index

The overall compliance index for the 2021/22 financial year is 41.7%. This is a moderate performance, meaning that a lot needs to be done to improve the compliance level to at least 50% and above. It also means that while the public service is rendering services to citizens in many quarters there is non-observance to the national values and principles of governance in Article 10; and the values and principles of public service in Article 232. However, there is an improvement of compliance of 1.7% from the previous year (2020/2021). It is therefore recommended that this upward trajectory be maintained with higher momentum. It is incumbent on each institution to increase the level of compliance at the micro-level because that is where the citizens make contact with government service delivery.

There was an increase in compliance in all the service sectors with Ministries and State Departments recording the highest increase of 11.7%. The best-performing service sector was Public Universities having scored highly in performance management and allocation of adequate and equal opportunities. The TVET sectors scored low in many of the thematic areas. TVETs, recently transferred to the Commission require a lot of support including having authorised establishments in place, review of terms of service to ensure parity of treatment for tutors and adoption of performance measurement instruments. This will ensure the objective for which TVETs were established is met.

4.4 Comparative Analysis of the Compliance Index by Thematic Areas

The comparative analysis for the 2020/2021 FY and 2021/2022 FY performance indices on the six thematic areas indicated that there was an improvement in three out of the six evaluated thematic areas. These were Service Delivery Improvement (7.2%), Performance Management (12.4%) and Equitable Allocation of Opportunities and Resources (11.9%). There was a decline in three thematic areas with the highest decline being observed in Efficiency, Effectiveness and Economic Use of Resources and Sustainable Development (-24.2%), Good Governance, Transparency and Accountability (-17.4%) and High Standards of Professional Ethics in the Public Service (-4.8%). Public participation was subject to the development of policy and was not a across-cutting indicator and, therefore, not considered for performance index computation.

CHAPTER FIVE: RECOMMENDATIONS

5.1 Introduction

The evaluation was intended to establish the status of compliance with the values and principles in Articles 10 and 232 of the Constitution by the public institutions under the purview of the Public Service Commission. This chapter presents recommendations on necessary interventions and strategic actions expected to improve the quality of services and levels of compliance by public institutions.

5.2 General Recommendations

All public institutions are encouraged to implement or mainstream the following recommendations in order to improve the level of compliance with the national values and principles of governance in Article 10 and the values and principles of the public service in Article 232.

- (i) The Commission in liaison with other state agencies to set the optimal staffing threshold based on the capacity of the economy to sustain the wage bill.
- (ii) Public institutions to mainstream values and principles in their business processes to increase the compliance index.
- (iii) Public institutions to develop and implement succession management plans to avoid officers being retained beyond mandatory retirement age.
- (iv) All public institutions to bridge the difference between authorised establishment and in-post.
- (v) Public institutions to migrate services to online platforms to have a leaner and efficient public service.
- (vi) Public institutions to conduct due diligence before signing contracts to ensure that the contracts do not contain unfavourable terms.
- (vii) Public institutions to adhere to the provisions of the Leadership and Integrity Act, 2012, Leadership and Integrity Regulations, 2015 and the Public Service Code of Conduct and Ethics, 2016 regarding gift management.
- (viii) All public institutions to implement the Public Service Commission (Performance Management) Regulations, 2021.
- (ix) Authorized Officers to ensure that all newly appointed officers are inducted.
- (x) Authorized Officers to enforce compliance to the provisions in the HR Manual requiring officers to proceed on annual leave as and when due to enhance productivity at the workplace and promote healthy work-life balance.
- (xi) Regulatory and oversight institutions to incorporate compliance to values and principles as a key factor in their areas of supervision.
- (xii) The modalities and operations of the social protection and empowerment programmes to be reviewed to address duplications and inclusivity.

5.3 Key Recommendations

5.3.1 General human resource matters

- (i) The authorized staff establishment and organization structures for TVETs be reviewed to facilitate staff and career succession management;
- (ii) The Boards of the 15 Institutions which were over-established to be censured;
- (iii) Institutions with staff serving on permanent terms without pension be directed to include pension in the terms of the said officers;
- (iv) Officers serving on temporary terms be converted to either fixed-term contracts or permanent and pensionable terms;

- (v) The terms and conditions of service for the TVET staff be harmonized as ordered by the High Court on 15th July 2019;
- (vi) Officers serving on secondment beyond six years need to either be recalled, transfer their services, retire or resign from their parent organization;
- (vii) Authorized officers who approved the secondment of staff who had not served a minimum of three years to explain their action; and
- (viii) Disciplinary action be taken against public officers who fail to comply with the law on secondment.

5.3.2 Service delivery improvement and transformation

- (i) The ministry for Information, Communication and the Digital Economy to work with the National Council for Persons with Disabilities to ensure websites of all public institutions are accessible to Persons with Disabilities;
- (ii) Public institutions to translate their charters into Kiswahili and transcribe them into Braille;
- (iii) The 127 institutions that did not have helplines be directed to establish the same and ensure the functionality;
- (iv) Public institutions to develop grievance-handling procedures as required in the framework for the implementation of Values and Principles;
- (v) An audit of the front office and core services of the institutions under the jurisdiction of the Commission be undertaken;
- (vi) Fast-track the setting of service delivery standards and institute a Citizen Service Delivery Charter;
- (vii) Annually undertake a citizen satisfaction survey; and
- (viii) An audit of services against which levies are charged and engage the institutions affected on possibility of removing or reviewing the charges downwards to facilitate affordability and ease of access to public services.

5.3.3 High Standards of Professional Ethics in the Public Service

- (i) The 11 institutions that did not have an internal code of conduct and ethics to develop the code;
- (ii) The 76 institutions which reported that they did not have any members from the regulated professional bodies to explain the absence; and
- (iii) Authorized Officers to ensure that public officers who have not made the initial declaration are not included in the payroll while those who have not made their final declarations are not cleared.

5.3.4 Good Governance, Transparency and Accountability

- (i) The Authorized officers of the 80 institutions which failed to provide proof of approval of acting appointments to explain the failure;
- (ii) Public institutions to adhere to the terms of contracts to avoid unnecessary litigations;
- (iii) An investigation be conducted to determine the reasons for the high number of corruption cases in State Corporations and SAGAs;
- (iv) An audit of gift registers be undertaken in the public service;
- (v) The LIA Regulations, 2015 be reviewed to set a ceiling on the value of the gifts that may be given out by a public institution;
- (vi) The public service to be sensitized on the management of gifts;
- (vii) Section 16 of the Leadership and Integrity Act, 2012 and the Second Schedule on Registrable Interests be enforced; and
- (viii) The Public Service (Values and Principles) Act, 2015 be amended to require institutions to prepare, publish and publicize their annual reports on the discharge of their functions.

5.3.5 Performance Management

- (i) Performance contracting be implemented by all public institutions;
- (ii) CEOs of Constitutional Commissions to sign performance contracts with the respective Boards.
- (iii) The staff of the Office of the Auditor-General to sign performance contracts with the Auditor-General;
- (iv) A study be undertaken to establish reasons for failure by the majority of the officers appraised to meet their targets;
- (v) The Cabinet Secretary who is responsible for Technical and Vocational Training Institutes to constitute the boards for the various institutes that did not have boards in place;
- (vi) The Commission to establish reasons for high incidences of officers charged with murder, rape and defilement in the Ministry of Interior and Lands; and
- (vii) Pension dues to be paid promptly as provided in the Pensions Amendment Act No. 6 of 2003.

5.3.6 Equitable allocation of Opportunities and Resources

- (i) Public institutions to develop and implement affirmative action programmes to redress the inequities in gender, ethnicities and PWDs;
- (ii) All public institutions to strictly adhere to Article 232(1)(g) on the need for fair competition and merit as the basis for appointments;
- (iii) Public institutions to give priority to statutory modes of advertisements before other modes to promote higher uptake with adverts especially those required to run through radio channels
- (iv) All public institutions to register on the NCPWD Career Portal to enhance job opportunities for persons with disabilities;
- (v) Public institutions to afford adequate and equal opportunity in appointment, promotions and training to both gender, PWDs and members of all ethnic communities;
- (vi) An audit of public premises be conducted to establish the status of accessibility to PWDs;

- (vii) Public institutions to identify and train at least two officers in sign language;
- (viii) An allowance be introduced to encourage officers who acquire additional skills and competencies in Kenyan sign language;
- (ix) Public institutions to comply with the Public Service Commission circular on payment of stipend. Any institution seeking to deviate from the Circular must seek approval from the Commission;
- (x) A policy guiding apprenticeship be developed;
- (xi) Public institutions to comply with the 30% AGPO Policy;
- (xii) Review the modalities and operations of the social protection and empowerment programmes to address duplications and inclusivity; and
- (xiii) Promote equity in the distribution of TVET institutions across the 47 counties, including equitable disbursement of capitation to students.

5.3.7 Public Participation in Policy Making Process

Public institutions to promote inclusivity of persons with disabilities in the policy formulation process including the provision of sign language interpreters, transcription of documents into Braille and customization of the websites.

5.3.8 Efficiency, Effectiveness and Economic Use of Resources and Sustainable Development

- (i) The monitoring, evaluation and reporting of projects be strengthened to ensure the timelines and costs are observed;
- (ii) An audit of compliance to provisions of the PPDA Act, 2015 and Regulations on disposal of public assets to be undertaken; and
- (iii) All Public Service Institutions to migrate to the Unified HR system.

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