



# **THE KENYA GAZETTE**

**Published by Authority of the Republic of Kenya**

(Registered as a Newspaper at the G.P.O.)

**Vol. CXXIII—No. 60**

**NAIROBI, 26th March, 2021**

**Price Sh. 60**

GAZETTE NOTICE No. 2871

## **THE NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE**

### **EXECUTIVE SUMMARY**

Preparation of the ninth Evaluation Report on the Status of the Public Service Compliance with Values and Principles in Articles 10 and 232 of the Constitution is an annual obligation for Public Service Commission in line with the Public Service (Values and Principles) Act, 2015. The report is published in fulfilment of the constitutional mandate as provided in Articles 234 2 (c) and (h), which mandates the Commission to promote the values and principles, evaluate and report to the President and Parliament on the extent to which they are complied with, in the public service.

Values and principles underpin efficient and effective delivery of services to citizens and every public officer and institution must endeavour to observe them for a better society. For evaluation purposes, the values were grouped into seven thematic areas: service delivery improvement and transformation; ensuring high standards of professional ethics in the public service; good governance, transparency and accountability; performance management; equitable allocation of opportunities and resources; efficiency, effectiveness and economic use of resources and sustainable development; and public participation in the policy making process.

The report is divided into five chapters. Chapter one provides a general overview of the objective of the report and the process followed in collecting and analyzing the data.

Chapter two describes the measures the Commission and other public institutions took to promote the values in the public service. These measures included the incorporation of values and principles in the induction programmes and recognition of officers for excellent service delivery through the Public Service Excellence Award scheme.

Chapter three presents the overall compliance index based on the number of institutions that participated. The overall compliance index for public institutions in the seven thematic areas evaluated was 42.3%, registering a marginal decline of 0.1% compared to 2018/19. The survey targeted 305 institutions, out of which 291 (95%) responded, representing an improvement over the last evaluation period by 4%. Institutions were ranked either as high achievers, medium achievers or low achievers. Overall, 53(18%) institutions were high achievers, 191 (66%) medium achievers while 44 (16%) were low achievers. The category that registered improvement were Public Universities at 3.6% with a score of 46.2% and State

Corporations and SAGAs at 0.1% with a score of 44.3%. However, a decline in performance was registered in Ministries and State Departments at 0.4% with a score of 32.1%, Constitutional Commissions and Independent Offices at 3%, with a score of 40.6%, and Statutory Commissions and Authorities at 8% with a score of 41.6% respectively.

Chapter four presents the findings in each of the thematic areas. Some of the key findings relate to measures taken to enhance access to services by citizens. These include use of the Huduma platform and scaling up the use of technology and innovation among others. The government sought to increase the number of Huduma centres and as at 30th June, 2020, there were 52 operational Huduma Centres countrywide that offered 127 services to over 9 million citizens. Previously, only the national government offered services through Huduma centres but last financial year saw 38 county governments offer various services on the Huduma platform.

There was also an increase in the adoption and use of technology to offer public services. Despite the challenges posed by the COVID-19 pandemic during the second part of the year, public institutions leveraged technology to continue offering services.

There were innovations in various sectors including food security, governance, commerce and financial processes, health care, education, environmental conservation, manufacturing, security and safety and housing. A notable increase was recorded in the number of institutions that patented their innovations from six in 2018/2019 to nine in 2019/2020.

The report also presents findings on the programmes implemented by the government to address the wellbeing of Kenyans in general and those that targeted the vulnerable and marginalized groups. The programmes include those aligned to the Big Four Agenda and the United Nations Sustainable Development Goals as well as programmes targeting youth, older persons, Persons with Severe Disabilities and women. In implementing the programmes, the government aimed at balancing equity and equality.

Whereas performance contracting is a key tool for measuring the performance of public institutions, this report established that not all institutions ensured their officers set performance targets and this had adverse consequences on performance management. It was also noted that performance contracting has not been entrenched into any legislation despite the government having adopted it way back in 2004.

The requirement for public participation runs through the Constitution. Public institutions no longer have the discretion to

determine by themselves what they deem right for the public without involving the public in conversations preceding decisions. Notwithstanding the requirement of the law, very few institutions had developed guidelines to facilitate structured public participation and access to information, both of which are critical components of meaningful public participation.

To address the challenge of youth employability, the public service implemented various internship programmes through which 11,173 interns were recruited. The internship programmes provided the youth with opportunities to gain workplace experience. The 11,173 interns were drawn from 37 ethnic groups out of whom 6,326 (57%) were male, 4,847 (43%) were female and 90 (1%) were PWDs.

In making appointments, public institutions aimed at achieving inclusiveness in terms of ethnicity, gender and Persons with Disabilities. A total of 12,363 officers from 40 ethnic communities were appointed. Gender representation was achieved as those appointed were 7,520 (61%) male and 4,843 (39%) were female. Although overall the gender principle has been met, representation of the female gender is still low at management and policy levels. Representation of PWDs also remains low at all levels. Among those appointed, only 139 (1.1%) were PWDs. The same pattern was observed in promotions where 11,484 officers from 43 ethnic communities were promoted. Of those promoted, 7,233 (63%) were male, 4,251 (37%) were female while 111 (1%) were PWDs.

Regarding the receipt of gifts, there was evidence of non-compliance contrary to the law that bars public officers from receiving monetary gifts or non-monetary gifts whose value exceeds Kshs 20,000. Public officers are also not allowed to receive gifts from organizations the public entity they work for has contractual relations with.

Generally, there was commendable progress on the Status of the Public Service Compliance with Values and Principles in Articles 10 and 232 of the Constitution for the period 2019/2020. The gains that have been made and the momentum it has generated will need to be sustained and upscaled to entrench a value culture in the entire public service for a better society.

The conclusion and recommendations are presented in Chapter five for action by various institutions.

## CHAPTER ONE—INTRODUCTION

### 1.0 Values and Principles

Public service is the machinery through which the government delivers its development agenda. In performing their duties, which include formulating and implementing government policies and programmes, public servants are expected to observe the values and principles in the Constitution as amplified in legislation and institutional codes of conduct.

Values and principles underpin the foundation that informs, guides, determines behaviour and attitude. In public service, they provide a framework for decision making including resource allocation. Although public service is diverse; there are common tenets on how public servants should perform their duties, hence the need for public service values which provide a framework that guides the entire public service. The values which guide the public service are entrenched in the Constitution. Public institutions are also required to include the values in their institutional codes of conduct.

The purpose of entrenching the values and principles in the Constitution is to ensure that there is equity, equality and inclusion in service delivery and that citizens who are the taxpayers get value for money through quality services.

#### 1.1 Constitutional Values and Principles

The Constitution of Kenya 2010 prescribes national values and principles of governance in Article 10 and public service values and principles in Article 232. These values bind all public institutions and all State and public officers in the discharge of their respective mandates, duties and responsibilities.

To ensure compliance with the values and principles, the Constitution under Article 234(h), mandates the Public Service Commission to evaluate and report to the President and Parliament on the extent to which the values and principles in Articles 10 and 232 are complied with in the public service. This report is prepared in compliance with the said constitutional obligation.

### 1.2 National Values and Principles of Governance

National values are beliefs of a nation guiding the way of life, attitudes, actions and behaviour of its citizens. Principles of Governance, on the other hand, are normative standards that obligate the State to perform its functions in a manner that promotes the general well-being of the people. For public service, the national and public service values and principles provide the minimum standards and benchmarks that public officers must observe in rendering services to citizens. The values and principles of public service provided in Article 10 include: (a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized; (c) good governance, integrity, transparency and accountability; and (d) sustainable development.

#### 1.3 Public Service Values and Principles

Values are essential components of organizational culture and instrumental in determining, guiding and informing behaviour. The values and principles of public service apply to all persons in the public service in all state organs in both levels of government and all state corporations. Observance of public service values and principles generates public trust and confidence.

The values and principles of public service provided in Article 232 include:

- (a) high standards of professional ethics
- (b) efficient, effective and economic use of resources
- (c) responsive, prompt, effective, impartial and equitable provision of services
- (d) involvement of the people in the process of policy making
- (e) accountability for administrative acts
- (f) transparency and provision to the public of timely, accurate information
- (g) fair competition and merit as the basis of appointments and promotions
- (h) representation of Kenya's diverse communities and
- (i) affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of—
  - (i) men and women;
  - (ii) the members of all ethnic groups; and
  - (iii) persons with disabilities.

#### 1.4 Legislation Complementing the Values and Principles in the Constitution

In addition to the constitutional provisions on values and principles, Parliament has enacted various legislations which give effect to the Articles in the Constitution. The existing legislations which complement Articles 10 and 232 include the Public Officer Ethics Act, 2003; the Leadership and Integrity Act, 2012; the Public Service (values and principles) Act, 2015; the Public Service Commission Act, 2017; the Access to Information Act, 2016 which facilitates access to information; the Public Finance Management Act, 2012 which specifically sets the standards to ensure efficient, effective and economic use of resources; the Proceeds of Crime and the Anti-Money Laundering Act, 2016 which prescribes measures for the identification, tracing, freezing, seizure and confiscation of proceeds of crime among others.

These instruments facilitate public organizations and public officers to discharge their respective duties in accordance with Articles 10 and 232. Therefore, all public institutions and officers are required to play a fundamental role in the promotion of national values and principles of governance.

#### 1.5 Application for the Values and Principles

Article 10 of the Constitution binds all State organs, State officers, public officers and all persons whenever: (a) they apply or interpret the Constitution (b) enact, apply or interpret any law; and (c) make or implements public policy decision. Further, Article 259(1)(a) provides

that the Constitution shall be interpreted in a manner that promotes its purposes, values and principles. Article 249(1)(b) requires all constitutional commissions and independent offices to ensure the observance of democratic values and principles by all State organs. Article 132 (1) (c) (i) requires the President to report annually on progress on all measures taken and progress achieved in the realization of the National Values and Principles of Governance of Article 10. It is therefore the responsibility of all state actors, public institutions and officers to observe, promote and implement the values and principles of governance in their engagements.

There are several ways in which public institutions and public officers apply the values in their day-to-day activities. These include:

#### 1. *Professionalism*

A public organization or a public officer demonstrates professionalism by—

- (a) Working towards achieving an identified public need;
- (b) Utilizing public resources in a prudent manner;
- (c) Advancing objectives which impact positively on the welfare of the public;
- (d) Obeying the laws and administrative policies;
- (e) Setting up clear systems;
- (f) Demonstrating objectivity and impartiality and timeliness;
- (g) Adopting clear and accessible systems for fair and timely resolution of complaints;
- (h) Complying with the Code of Conduct for public service;
- (i) Putting public interest before self;
- (j) Avoiding political influence in decision making;
- (k) Complying with the requirements of the regulatory organization if one is a member of a professional body.

#### 2. *Integrity*

Upholding integrity for public servants means:

- (a) Acting whether in public or private in a manner that upholds the dignity of the public office;
- (b) Making decisions based on public interest and not self-interest;
- (c) Responsible exercise of power;
- (d) Being honest, open and transparent in dealings;
- (e) Avoiding conflict of interest whether real or perceived;
- (f) Reporting improper conduct;
- (g) Striving to earn and sustain public trust.

#### 3. *Transparency*

This Entails—

- (a) Publicly displaying service charters;
- (b) Ensuring ease of access to information by the public;
- (c) Disclosing important information to the public;
- (d) Having transparent and democratic processes;
- (e) Compliance with access to information laws;
- (f) Submitting the financial disclosures as required by law; and
- (g) Submitting reports to Parliament which exercises oversight authority.

#### 4. *Accountability*

This Entails—

- (a) Exercise of power and utilization of resources for public good;
- (b) Taking responsibility for performance;
- (c) Responsiveness to identified needs of the community;

- (d) Accepting responsibility for decisions;
- (e) Subjecting self to scrutiny;
- (f) Being ready to justify actions;
- (g) Providing reasons for decisions or administrative actions; and
- (h) Working towards achieving clear objectives of the public organization in a clear and transparent manner.

#### 5. *Good Governance*

This entails—

- (a) Having systems and structures through which the exercise of power and authority can be controlled or held to account.
- (b) Prudent utilization of public resources;
- (c) Clear delineation of roles and responsibilities; and
- (d) Planning for efficient and effective service delivery.

#### 6. *Equity*

This entails—

- (a) Fairness in outcomes, not the process;
- (b) Identification and removal of barriers; and
- (c) Adoption of affirmative action where necessary.

#### 7. *The rule of law*

This entails—

- (a) Obedience to the laid down laws, policies, procedures and guidelines in all undertakings.

#### 8. *Sustainable development*

This entails—

- (a) 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;
- (b) Working towards improving the quality of life for all generations present and future; and
- (c) Prudent utilization of resources.

#### 9. *Promotion of human rights*

This entails—

- (a) Actively implementing and supporting human rights; and
- (b) Making decisions and providing advice consistent with human rights.

#### 10. *Non-discrimination*

This entails—

- (a) Offering services and taking care of all persons without bias;
- (b) Placing advertisements in accessible formats and media to reach all categories of people;
- (c) Location of development projects and service access points need to be objective and to evenly cover all parts of the country;
- (d) Ensuring that the procedures and processes do not result in indirect discrimination

#### 11. *Promotion of social justice*

This entails—

- (a) Fairness in service delivery, and distribution of wealth, opportunities, and privileges within a society;
- (b) Taking deliberate measures to redress any disadvantage a group may have suffered because of past discrimination;
- (c) Ensuring enjoyment of the rights that enhance the wellbeing of individuals in all aspects of their interaction with one another and promotes solidarity.

## 12. *Merit-based appointments and promotions*

This entails—

- (a) Advertising all vacancies in the public service in a format that reaches the widest pool of potential applicants;
- (b) Auditing recruitment tools, procedures and processes to ensure that they do not create obstacles;
- (c) Ensuring fairness at the start of the selection process;
- (d) Ensuring fairness in awarding of training opportunities

## 13. *Equality*

This entails—

- (a) Treatment of everyone in equal measure irrespective of their status such as gender, religion, social class, ethnicity or race;
- (b) Adopting open processes of sharing benefits using a common criterion;
- (c) Fair distribution of development programs in the country to address the needs of all people

## 14. *Public participation*

This entails—

- (a) Provision of effective mechanisms for the involvement of the public, communities and organizations that would be affected by or be interested in a decision;
- (b) Identification of key stakeholders;
- (c) Providing the public access to the information they require to participate in a meaningful manner;
- (d) Development of appropriate feedback mechanisms;
- (e) Taking public views into consideration in decision making.

## 15. *Inclusion*

This entails—

- (a) Ensuring that the public service is reflective of the community it serves;
- (b) Identifying and removing barriers which prevent certain groups or individuals from participating;
- (c) Adopting affirmative measures to address identified gaps;
- (d) Affording all people an opportunity to participate in activities including decision making;
- (e) Taking deliberate measures to address the needs of vulnerable groups;
- (f) Using a selection criterion that considers diversities within the population;
- (g) Identifying needs of marginalized and minority groups throughout the recruitment process;
- (h) Integrating employment equity objectives in the design of the recruitment processes;
- (i) Giving everyone a chance to contribute to the development agenda.

Adherence to public service values and principles enables public service institutions to operate efficiently and effectively to achieve their objects and enhances public trust and confidence in the government. On the converse, non-compliance diminishes public trust and confidence in government.

## 1.6 The National Development Agenda

Kenya's long term development agenda as captured in Vision 2030 is to transform the country into a newly industrialized, middle-income country providing a high quality of life to all its citizens. In the medium term, the Government is implementing the Big Four Agenda which seeks to achieve 100% universal health coverage, 500,000 affordable new homes, food and nutrition security and increase the contribution of manufacturing from 9.2% to 20% of the GDP by 2022. Realization of these aspirations requires reforms covering all the

sectors of the economy including the public service. All these strategies are aligned to Africa Agenda 2063 and the Sustainable Development Goals (SDGs)).

Implementation of the Big Four agenda contributes to the progressive realization of Article 43 of the Constitution. The expected results of the Big Four agenda are to improve the quality of lives for Kenyans.

In addition to the above-mentioned interventions, the government has put in place affirmative action programmes to support the vulnerable groups and address other emerging challenges such as the Covid-19 pandemic to cushion the citizens.

## 1.7 Thematic Areas

The values in Articles 10 and 232 are inter-related so that the implementation of one principle impacts on another. For instance, implementation of the value on efficient effective and economic use of resources in Article 232 impacts on sustainable development in Article 10. Similarly, the promotion of inclusion in Article 232 will promote national unity in Article 10. Given the inter-relatedness and interconnectedness, the Commission, for purposes of the evaluation, grouped the values and principles into seven thematic areas as follows—

- (a) Service Delivery Improvement and Transformation;
- (b) Ensuring high standards of professional ethics in the public service;
- (c) Good Governance, Transparency and Accountability;
- (d) Performance Management;
- (e) Equitable Allocation of Opportunities and Resources;
- (f) Public Participation in policy making process; and
- (g) Efficiency, effectiveness and economic use of resources and sustainable development.

## 1.8 Objectives and Focus of the Report

The report provides the status of compliance of the public service with—

- (a) National Values and Principles of Governance in Article 10 of the Constitution of Kenya; and
- (b) Values and Principles of the Public Service in Article 232 of the Constitution of Kenya.

It focuses on how public institutions have implemented and mainstreamed the values and principles of Article 10 and 232. It further outlines the measures adopted by the public service to transform itself to a fit for purpose vehicle which is value driven; skilled, effective, responsive and adaptive to the needs of the citizens.

The report provides information on the measures taken to promote the values and principles, and the extent to which public institutions implemented the values, and the progress realized. It also identifies gaps and makes recommendations on ways of improving the promotion of values and principles.

## 1.9 Survey Approach and Methodology

The survey was carried out in conformation with survey protocols. It entailed a systematic methodology for data collection through questionnaires, collation of evidence, processing, analysis and interpretation. Public institutions submitted data on an online survey tool. The data received was cleaned and analysed to arrive at the findings and recommendations that form the substance of the report. The process was consultative and participatory, enlisting key contact persons in MDAs. This approach was necessary in order to enhance ownership of findings, reflections and improvement on mainstreaming of values and principles in public institutions.

## 1.10 Response Rate

The Survey targeted 305 institutions. A total of 291 institutions responded to the survey, representing a 95% response rate, while 14 did not. These comprised of 10 Constitutional Commissions & Independent Offices, 49 Ministries and State Departments, 35 Public Universities, 190 State Corporations and SAGAs, and 7 Statutory Commissions & Authorities.

The 14 institutions that did not respond to the survey nor provide any reason for non-participation, though values and principles of the public service apply to them, include—

Kenya National Qualifications Authority  
Central Bank of Kenya  
Kenya National Accreditation Services  
National Gender and Equality Commission  
Tourism Regulatory Authority  
Special Economic Zones Authority  
South Nyanza Sugar Company  
Public Health officers and Technicians Council  
Kenya Film Classification Board  
Financial Reporting Centre  
Kenya Industrial Estates Limited  
Public Sector Accounting Standards Board  
Jomo Kenyatta University of Agriculture and Technology  
Kenyatta University

#### *Recommendation*

Authorised officers to explain for their non-compliance to participate in the evaluation.

#### 1.11 Structure and Focus of the Report

This report consists of five chapters. Chapter one which is an introduction provides general information on values and principles, and defines roles and responsibilities. Chapter two provides details on measures taken by the Commission and public organizations in promoting the values. Chapter three provides an overview of the overall compliance index and trend analysis of compliance index by sector, while Chapter four provides details of findings of the evaluation per thematic area. Chapter five presents the conclusion and recommendations on ways and interventions required to improve compliance with values and principles in the public service.

### CHAPTER TWO—PROMOTION OF NATIONAL AND PUBLIC SERVICE VALUES AND PRINCIPLES IN THE PUBLIC SERVICE

#### 2.1 Introduction

Values and principles are promoted in the public service through various avenues including putting in place measures to ensure public servants are skilled, efficient and effective in their service delivery, and having in place responsive and adaptive employment systems. Promotion of values, particularly those which improve inclusion, equity and equality, fairness and respect for citizens, contribute to peace and security and enhances national cohesion and integration. Development thrives when there is peace and security. This Chapter describes the measures taken by the Commission and the public institutions under its jurisdiction to promote the values and principles.

#### 2.2 Obligation to Promote Values and Principles in the Public Service

Promotion of values and principles of governance in Articles 10 and 232 is one of the responsibilities given to the Public Service Commission under Article 234(2)(c) of the Constitution. The implementation of this provision is effected through the public service values and principles Act, 2015, which defines the standards to be observed by the Commission and other public institutions. The Act also provides strategies for promoting efficient and effective service delivery by public institutions. The Commission discharges this responsibility directly or indirectly by issuance of guidelines, delegation of functions where necessary, continuous training on ethics and integrity and monitoring and evaluation of the implementation of values and principles. The main players in the promotion of values and principles therefore, include Public Service Commission, Constitutional Commissions and Independent Offices, authorized officers of public institutions, and all public officers. It is therefore incumbent upon public institutions to put in place deliberate measures to promote and mainstream the values in their administrative procedures and processes.

##### 2.2.1 The Role of the Public Service Commission in the Promotion of Values and Principles

The overall responsibility of promotion of values and principles in the public service rests with the Public Service Commission. The role of the Commission is further defined in the Public Service Commission Act, 2017 which assigns the following responsibilities regarding promotion of values—

- (a) integrating the values and principles in the regulations, procedures, policies and instruments for delivery of the Commission's powers and functions;
- (b) informing and educating public officers and the public about the values and principles for them to practise;
- (c) formulating and implementing programmes intended to inculcate in the public officers and citizens awareness of their civic responsibilities and appreciation of their duty to uphold the values and principles;
- (d) overseeing the implementation and effectiveness of the programmes;
- (e) assessing and reporting on the public bodies' compliance with their obligations under international treaties and conventions on good governance, integrity and anti-corruption;
- (f) collaborating with other institutions working in the field of good governance, integrity and anti-corruption to promote and protect the values and principles of governance in the public service;
- (g) reporting or recommending to the President and Parliament on action taken or effective measures for promotion of the values and principles; and
- (h) performing such other functions as the Commission may consider necessary for the promotion and protection of the values and principles.

The Commission's scope of responsibility in the function of promotion, evaluation and reporting on values and principles in Articles 10 and 232 covers the public officers in all public service sectors including, a) Ministries and State Departments; b) State Corporations and Semi -Autonomous Government Agencies (SAGAs); c) Constitutional Commissions and Independent Offices namely: Gender and Equality Commission; Commission on Administrative Justice; Kenya National Commission on Human Rights; National Lands Commission; Independent Electoral and Boundaries Commission; Commission on Revenue Allocation; Ethics and Anti-Corruption Commission, Salaries and Remuneration Commission, the Office of the Auditor General and the Office of the Controller of Budget.

##### 2.2.2 Role of Public Organizations in Promotion of Values and Principles

Although promotion of values is an express function of the Commission, public institutions are obligated to observe the provisions in Articles 10 and 232 in the discharge of their mandates. This requires the institutions to put in place measures which will facilitate observance. In essence, public institutions are obliged to promote the values. They do so through—

- (a) integrating the values and principles in the regulations, procedures, policies and instruments for delivery of the functions;
- (b) training, informing and educating public officers and the public about the values and principles;
- (c) adoption of corruption prevention measures;
- (d) mainstreaming values in the codes of conduct which prescribe clear and appropriate standards of conduct and sanctions for breaching them;
- (e) training of public servants on ethical standards; and
- (f) embedding values in conditions of service and adopting human resource practices which link values to the entry and advancement, and merit-based recruitment and promotion.

##### 2.2.3 Role of Authorized Officers

The "Authorized Officer" in the public service is the officer to whom the Public Service Commission has delegated responsibility for the discharge of some of its functions. They play an executive role in the management of the public institution.

The responsibilities of the Authorized officers in the promotion, evaluation and reporting on the implementation of values and principles in their institutions include—

- (a) dissemination and implementation of the values and principles policy framework;
- (b) identification of value carriers and value drivers in the organization; mainstreaming of the performance standards and performance indicators on values and principles into the organizational business processes;
- (c) to mainstream the values into the client service delivery charter, the strategic plan, the performance management system including performance appraisal, the Public Officer Code of Conduct and Ethics into the organizational business processes; and
- (d) report to the Commission on a quarterly and annual basis on the implementation of the values and principles including measures and activities on promotion of values and compliance evaluation.

#### 2.2.4 Role of Public Servants in Promotion of Values and Principles

Public servants are servants of the people, servants of the law and servants of the government of the day. Being a public servant is a position held in trust for the people of Kenya, therefore, public servants have a responsibility to always act in the best public interest of the country. Article 10(1) of the Constitution requires public officers to observe the values and principles of governance when applying or interpreting the Constitution; when enacting, applying or interpreting any law; or making or implementing public policy decisions. Public servants are always under scrutiny by the public, and must always—

- (a) act in a manner that upholds public service values whether acting in an official or private capacity;
- (b) provide politically neutral services and always act impartially without fear of political interference;
- (c) respect and abide by the Public Officer Code of Conduct and Ethics;
- (d) be guided by the citizen service delivery charter;
- (e) deliver on all the organizational, departmental and individual performance targets;
- (f) maintain high standards of decorum, civility and courtesy in the discharge of public duty;
- (g) act in a manner that does not bring self, organization and government into disrepute; and
- (h) report any violation of values and principles wherever and whenever detected.

#### 2.3 Promotion Initiatives by the Commission

Values and principles are interrelated and interconnected. Therefore, one measure or activity implemented would apply to several values and principles just as they cut across several thematic areas. The measures that are taken and activities implemented by the Commission to promote values and principles include establishment and abolition of offices; appointment of officers; enforcement of compliance with the Public Officer Ethics Act, 2003; administration of service delivery excellence awards; leveraging Information Communication and Technology; partnering with the Ministry of Education to promote values and principles; and collaborating with other institutions in the fight against corruption.

##### 2.3.1. Establishment and Abolition of Offices

The Commission reviewed organizational structures and staff establishments to align the same to the mandates of the Ministries, Departments and Authorities (MDAs). The exercise aimed at removing overlaps and duplications thus improving on efficiency, to ensure organizations have staff establishments that will enable them to deliver on their mandates. The Commission undertook functional analysis and reviewed organizational structures for 14 MDAs based on allocated functions in the Executive Orders and workload analysis. The Commission further reviewed staff establishment for 13 MDAs and established 5,402 posts.

##### 2.3.2. Appointments

Efficient and effective service delivery requires that public organizations are adequately staffed. In 2019/2020 financial year, the

Commission made 9,806 appointments out of which 7,938 were new appointments done through competitive recruitment processes and 1,868 were promotions. Of the 7,938 appointments made 4,444 (60%) were male and 3,494 (40%) were female. Of the 1,868 promotions, 1,174 were male (63%) while 694 (37%) were female. The persons appointed were from diverse communities of Kenya thus promoting inclusivity in the public service.

##### 2.3.3 Enforcing Compliance with the Public Officer Ethics Act, 2003

The Public Officer Ethics Act, 2003 designates the Public Service Commission to be the 'responsible commission' in relation to public officers. The Act prescribes a general code of conduct and ethics for the public service. It also requires public officers to make declarations on income, assets and liabilities within 30 days of being appointed to the service, thereafter every two years and finally 30 days after exiting the service. The declaration of income, assets and liabilities is a tool for the management of conflict of interest and for promoting accountability and transparency in the management of public affairs.

The Public Service Commission coordinated the administration of financial disclosures for the period 2017-2019 for all public officers. In readiness for the declaration exercise, the Commission trained 639 heads of human resource management and technical officers in ethics, on governance and declaration of income, assets and liabilities. The trainees were drawn from Commissions and Independent Offices, Ministries/State Departments, State Corporations and Public Universities and Colleges.

##### 2.3.4 Public Service Efficiency and Effectiveness

One of the functions of the Commission is to ensure that the public service is efficient and effective. To reinforce effectiveness and efficiency, the Commission established the Public Service Excellence Awards (PSEA) Scheme. The objective of the Scheme is to improve public service delivery by rewarding public officers who demonstrate sustained achievement over and above the expectations of their job description and whose actions have a tangible impact on the lives of citizens. The Commission recognized and rewarded 15 public servants for exemplary performance on 6th December 2019. The awards were in three categories namely: Citizen-Focused Service Delivery, Public Service Values and Ethics and Innovation for Efficiency and Productivity.

##### 2.3.5 Leveraging Information Communication and Technology

The Commission has always received job applications online. However, the year 2020 provided an unprecedented opportunity for the Commission to go a notch higher in terms of leveraging technology to deliver services. Following the reporting of the first Covid-19 case in the country in March 2020, the Commission was assigned an urgent responsibility of recruiting medical personnel to be deployed to various medical facilities following the spread of Covid-19 infections. The assignment came at a time when the country was on partial lockdown and prospective candidates who were spread all over the country could not travel to Nairobi for interviews, as has been the practice. The Commission, therefore, needed to be innovative to ensure that it enables the country to have healthcare personnel in good time without compromising the regulations issued by the Ministry of Health.

To surmount the challenge, the Commission opted to shortlist applicants and conduct interviews online. As a result, the Commission processed 512,183 applications which were received online in record time, and conducted 3,462 interviews online. The adoption of online interviews did not only save the candidates time and travel costs, it enabled the Commission to recruit critical healthcare staff promptly. This enabled the country to be well prepared to fight the Covid-19 pandemic. The Commission also virtually interviewed 1,080 TVET tutors during the same period.

##### 2.3.6 Collaboration with MDAs in Promotion of Values and Principles

###### (i) Partnering with the Ministry of Education to Promote Values and Principles

Character is formed in the early years as children grow. Therefore, it is essential to impart values in them while they are still young. The Commission recognizes the importance of having values inculcated early in life. For this reason, the Commission partnered with the Ministry of Education and developed thematic areas on the promotion of Values & Principles that were used during the annual 2020 Kenya Music, and the Drama and Film, festivals. It also donated trophies for

the winning teams on thematic areas of values and principles during the 93rd edition of the National Music Festival held at Kabarak University in August 2019.

#### (ii) *Collaboration in the Fight against Corruption*

The fight against corruption requires collaboration by various agencies. In this regard, the government established the Multi-Agency Team (MAT) with membership drawn from the Office of the President, Ethics and Anti-Corruption Commission, Office of the Director of Public Prosecutions, Directorate of Criminal Investigations, National Intelligence Service, Financial Reporting Centre, Asset Recovery Agency and Kenya Revenue Authority.

Although the Commission is not part of MAT it works closely with the investigating agencies as the custodian of wealth declaration forms of public officers under its jurisdiction. The declaration form is a crucial document when a public officer is under investigation on suspicion of having acquired unexplained wealth. The law allows investigative agencies to access the declarations held by the Commission. As a result, there were 60 requests made to the Commission as follows: the Ethics and Anti-Corruption Commission, 21 requests; Directorate of Criminal Investigations, 10 requests; Kenya Revenue Authority 23 requests; and Asset Recovery Agency six requests. The collaboration with the investigative agencies contributes to good governance, transparency and accountability.

### 2.4. Promotion of Values by Public Organizations

#### 2.4.1 Strategies for promotion of Values and Principles

The Public Service Commission Framework for Implementation of Values and Principles, 2015 outlines various strategies public organizations may adopt for promotion of values. These strategies include: Mainstreaming values and principles in the public service entry requirements; awareness creation through induction and in-service training programmes; mainstreaming of values in the terms and conditions of service; use of media campaigns, advertisement and publications; use of posters, brochures and flyers; sports, performing arts, drama and music festivals and public service honours and awards among others.

Mainstreaming values and principles in the public service entry requirements

Promotion of values should commence at the entry level into the public service. The criteria for recruitment should entail an assessment of whether the candidate is aware of the values and principles governing the conduct of officers in the public service. Testing the awareness on the values and principles from the onset as candidates enter service helps create the consciousness on the officers that there are standards of conduct to keep an eye on in the public service. Interview questions need to be formulated around the values and principles. The survey sought to establish the number of institutions that had mainstreamed questions on integrity, values and principles in the interview tool.

A total of 248 (85.2%) institutions developed interview tools to guide the recruitment process while 43 institutions (14.8%) did not. Out of the 248 institutions with interviewing tools, only 57 (23%) mainstreamed questions on values and principles in the tool. The remaining 191 (77%) did not. Of the 57 institutions that mainstreamed values and principles, 39 were from State Corporations and SAGAs. The low numbers of the institutions which mainstreamed the values and principles in the interview tool mean many officers joined the service without being aware of the standards of conduct expected of them.

#### Induction programmes

Officers joining service should have clarity on why the values and how to observe them. It is therefore a requirement that the induction programme should include a thorough sensitization on the values and principles.

Institutions were asked whether they held induction programmes for newly recruited public officers and whether the induction covered topics on the code of conduct and ethics and values and principles. It was established that 147 (50.5%) held induction programmes for new officers. However, some induction programmes did not have content on either the code of conduct or values and principles. Induction programmes of 138 institutions (93.9%) covered topics on the code of conduct and ethics, while those of 9 institutions (6.1%) did not. On

training on values and principles, 129 institutions (87.8%) had programmes which broadly covered topics on values and principles.

#### 2.4.2 Civic Education and Awareness

The Commission sought to establish measures adopted by institutions to educate the citizens and create awareness. There is need to create awareness both to the public officers who are the service providers and the citizens in general who are the service recipients. When awareness is created the public officers will understand better what is expected of them and the citizens will know their entitlements and therefore be able to monitor effectively and provide feedback.

The report findings established that 284 institutions (98%) had implemented at least one measure to promote constitutional values and principles. Training of staff on values and principles, which accounted for 76%, was the preferred mode of creating awareness on values and principles to staff. This was followed by the provision of IEC materials on values and principles (47%); outreach programmes accounted for 39%, media campaigns and advertisements tied at 29%, sports accounted for 23% and use of performing arts at 12%. The low scores can be attributed to the fact that these measures require a substantial amount of resources to be actualized, albeit Covid-19 pandemic.

Other initiatives cited by institutions included: use of website; social media (Facebook, LinkedIn, Twitter, Instagram); recognition of value drivers and value carriers; measurement of attributes during staff appraisal; career week activities for college students; posters on values and principles pinned at the reception and boardrooms; encouraging staff to use messages on values and principles as screensavers; team building activities; printing messages on pay slips; and participation in shows, exhibitions and cultural weeks, among others.

Seven institutions did not undertake any activities to promote constitutional values and principles. These institutions are, National Council for Children's Services; Non-Governmental Organizations Co-ordination Board; Kenya Space Agency; Kenya Prisons Service; Kenya National Library Service; and Chemelil Sugar Company Limited.

#### 2.4.3 Talent Management

Talent management is fundamental in building a public service that will effectively implement the constitutional values and principles of governance. Talent management programmes being implemented by public organizations include the Presidential Digital Talent Programme and Young Professionals Programme which cumulatively enrolled 425 interns. Through these programmes, the government built capacity for those participating in their respective areas and ensured there was a pool of talented young professionals.

#### 2.4.4 Building a Skilled Public Service

To keep pace with the changing needs of the public service, there is a need for continuous renewal of the public service through identifying skills gaps, recruitment to bring in new talent and training existing officers. To this end, the public service appointed new officers and trained those already in the service. The aim was to have a workforce that could meet the felt needs of Kenyans.

##### (a) Appointment

Cumulatively 10,793 officers were appointed; of whom 6,753 were men (63%) and 4,040 were women (37%) while 99 were PWDs (0.9%).

##### (b) Training and Development

Additionally, 17,687 officers were trained. Of these 7,129 (49%) were male, 10,558 (60%) were female while 173 (1%) were PWDs. Other means such as secondment were also used for capacity building and skills transfer.

#### 2.4.5 Innovation

There was a lot of effort by institutions to come up with innovations in various sectors including Food Security, Governance, Commerce and Financial Processes, Health Care, Education, Environmental Conservation, Manufacturing, Security and Safety and Housing. A total of 179 institutions submitted 643 initiatives to be considered as innovations. Further analysis of the innovations revealed that 86 (13%) out of the 643, were considered to be a response to an identified need and thus contributing to improved service delivery.

#### 2.4.6 Programmes to Cushion Vulnerable Groups

Public institutions implemented various programmes intended to cushion vulnerable groups from economic hardships. The programmes included capacity building programmes, cash transfers and reserved procurement. A total of 185,279 women and youth entrepreneurs benefited from capacity building, 1,094,873 benefited from cash transfers while women, youth and PWDs benefited from reserved procurement to the tune of over Ksh. 42 billion.

#### 2.4.7 Recognition of Excellence in Service Delivery

The Commission sought to establish whether the institutions had criteria for identifying and recognizing officers who had excelled in service delivery. The institutions were required to provide the criteria and state if they recognized and awarded outstanding officers. It was established that 141 (48%) developed criteria for identifying and recognizing exemplary officers. Of these, 34% reported having recognized and awarded their staff based on the criteria.

#### 2.5 Deterrent Measures to Promote Constitutional Values

Deterrent measures are used in the public service to promote compliance to values and principle of governance. Some of the deterrent measures applied included prosecution; assets recovery and disciplinary action.

##### 2.5.1 Criminal Prosecution of Public Officers

A total of 132 officers were prosecuted for various criminal offences under the Penal Code and the Anti-Corruption and Economic Crimes Act, 2003. Eight cases were concluded and the officers convicted.

##### 2.5.2 Recovery of Unexplained Assets from Public Officers

A public office is an office held in trust for the people of Kenya. However, some officers abused the trust bestowed in a public office and unlawfully enriched themselves using public funds. To deter such behaviour, the Government continued to implement the Anti-Corruption and Economic Crimes Act, 2003 and the Proceeds of Crime and Anti-Money Laundering Act, 2009.

These legislations aim to make it painful for officers who acquire wealth illegally. Either they explain how they acquired their wealth or they lose it. The courts are critical in the realization of the objectives of the two laws. During the year, the courts ordered the forfeiture of property which the owners were unable to explain how they acquired.

##### 2.5.3 Disciplinary Measures

The objective of disciplinary control in public service is to create a motivated and dedicated Public Service which upholds the rules of conduct and work ethics for optimal service delivery. Enforcement of desired behaviour is essential to avoid contaminating the culture and a domino effect where one dysfunctional employee derails a work group or department or, worse, prompts the departure of high-performance employees.

The standards of conduct for public officers are contained in the Constitution, various laws and the code of conduct and ethics. It was established that 7,151 officers breached these standards and were disciplined for various offences and various punishments meted. The leading cause for indiscipline was absence from duty without permission at 2,524 (35%) cases followed by negligence of duty at 2,152 (30%) cases. The affected officers are aware they have adverse records in their files which may lead to termination of service unless they change their behaviour.

### CHAPTER THREE—STATUS OF PERFORMANCE AND COMPLIANCE

#### 3.1 Introduction

This Chapter presents the compliance indices for all the public institutions as well as their category, performance indices in each thematic area, the scoring criteria for the indicators in each thematic area and level of achievement of the institutions.

The performance index (rating) in this evaluation is a measure of the extent to which an institution has complied with a thematic area. It was measured by determining the mean of the indicator score(s) of each thematic area. The performance index scores ranged from 0% to 100%. The compliance index (rating) in this evaluation is a measure of the extent to which an institution complied in the seven thematic areas. It was measured by determining the mean of 55 indicators across the

seven thematic areas. The compliance index scores ranged from 0% to 100%.

The performance index was determined by identifying questions in each thematic area from the cross-cutting questionnaire that were selected as indicators; the selected indicators were assigned a score of 100% to institutions possessing the attribute and zero to those not possessing the attribute. In some instances, the scores were assigned based on possession of minimum constitutional provisions and in other circumstances, the scores were proportionately assigned. The scores were normalized using the min-max normalization criterion. The mean scores of the indicators in a thematic area for each institution were thereafter determined.

The level of achievement of the institution, classified into high achievers, medium achievers and low achievers was applied to both performance and compliance indices. A public institution was considered a high achiever if the index score was more than one standard deviation above the mean. An institution was considered medium achiever if the index score was within one standard deviation of the mean and low achiever if the score was one standard deviation below the mean.

The term proportion, as used in the report, refers to the number of institutions divided by the total number of institutions under the category of institutions that attained a certain level of achievement. As a general rule, the category with the highest proportion of institutions under high achievers will have the highest performance index while the category with the highest proportion of institutions under low achievers will have the lowest performance index.

#### 3.2 Overall Compliance index

The overall compliance index for the institutions in the seven thematic areas evaluated was 42.3%. Despite the challenges in the second part of the year, the index was maintained at 42%. This was a moderate performance.

The best performing category was public universities. This may be attributed to the high scores that they registered in the thematic areas of service delivery improvement and transformation and high standards of professional ethics in the public service. The least performing category was Ministries and State Departments. This may be attributed to the low scores that they registered in the seven thematic areas.

The compliance scores for each service sector were: Constitutional Commissions and Independent Offices 40.6%, Ministries and State Departments 32.1%, Public Universities 46.2%, State Corporations and SAGAs 44.4% and Statutory Commissions and Authorities 41.6%. The evaluation established that 53 (18.2%) institutions were rated as high achievers, 191 (65.6%) institutions were rated as medium achievers and 47 (16.2%) were rated as low achievers.

##### 3.2.1 Comparison of Overall Compliance Index

The overall performance of institutions remained the same. However, there was a noticeable improvement in performance by Public Universities and State Corporations and SAGAs.

The top ten institutions in the compliance index were:

Kenya Reinsurance Corporation Limited  
State Department for Interior and Citizen Services  
Kenya Plant Health Inspectorate Service  
National Environment Management Authority  
Konza Technopolis Development Authority  
Kibabii University  
Engineers Board of Kenya  
Competition Authority of Kenya  
Kenya Forestry Research Institute  
National Council for Population and Development

#### 3.3 Performance index by thematic area

This section discusses the performance indicators and scoring criteria used, and mean scores attained in each thematic area.

##### 3.3.1 Service delivery improvement and transformation

The performance index for service delivery improvement and transformation was 63.4%. Findings



The publicly displayed service charter in Kiswahili had the highest score implying that the majority of institutions had publicly displayed the Kiswahili version of the service charter.

Creation of awareness to clients on complaints filing procedure recorded the lowest score implying that few organizations had made their clients aware of their complaints filing procedures.

Public Universities had the highest performance index (74.8%) because the proportion of universities that were rated as high achievers was high compared to those that were rated as medium and low achievers. On the other hand, Ministries and State Departments had the lowest performance index (39.2%) because the proportion of institutions in this sector that were rated as low achievers was high compared to those that were rated as high and medium achievers respectively.

### 3.3.2 Good Governance, Transparency and Accountability

The performance index for Good Governance, Transparency and Accountability was 38.1%.

#### Findings

- (a) Although few institutions included values and principles in the scoring criteria majority mainstreamed values and principles during the induction of newly recruited officers.
- (b) Majority of public institutions did not strictly implement the requirements of POEA, 2003 as regards initial and final declaration.
- (c) Statutory Commissions and Authorities had the highest performance index (54.8%) because the proportion of institutions in this sector that were rated as high achievers was high compared to those that were rated as medium and low achievers. Ministries and State Departments had the lowest performance index (22.3%) because the proportion of institutions that were rated as low achievers was high compared to those that were rated as high and medium achievers.

### 3.3.3 High Standards of Professional Ethics in the Public Service

The performance index for Ensuring High Standards of Professional Ethics in the Public Service was 57.1%.

#### Findings

- (a) Majority of public institutions did not sensitize their officers on the code of conduct.
- (b) Public Universities had the highest performance index (64.8%) because the proportion of universities that were rated as high achievers was more compared to those rated as medium and low achievers. Ministries and State Departments, on the other hand, had the lowest performance index (53.3%) because the proportion of institutions in this category rated as low achievers was more compared to those that were rated as high and medium achievers respectively.

### 3.3.4 Public participation in the policy making process

The performance index for public participation in policy making process was 12%.

#### Findings

- (a) Majority of institutions surveyed did not have public participation guidelines.
- (b) State Corporations and SAGAs had the highest performance index (14.7%), the proportion of institutions in this category rated as high achievers was high compared to those that were rated as medium and low achievers. Constitutional Commissions and Independent Offices had the lowest performance index (0%) because the proportion of institutions that were rated as low achievers was more compared to those rated as high and medium achievers.

### 3.3.5 Efficiency, Effectiveness and Economic Use of Resources

The performance index for efficiency, effectiveness and economic use of resources was 46.4%.

#### Findings

- (a) Although the majority of public institutions had updated assets and liabilities register, they did not submit the same to the National Treasury.
- (b) Constitutional Commissions and Independent offices had the highest performance index (85.0%) because the proportion of institutions in this category that was rated as high achievers was high compared to those that were rated as medium and low achievers. Statutory Commissions and Authorities had the lowest performance index (28.6%) because the proportion of institutions in this category that were rated as low achievers was more compared to those that were rated as high and medium achievers.

### 3.3.6 Performance Management

The performance index for Performance Management was 37.4%.

#### Findings

- (a) Majority of the public institutions had current strategic plans.
- (b) Majority of the public institutions did not undertake training impact assessment.
- (c) State Corporations and SAGAs had the highest performance index (39.7%) because a higher proportion of institutions in this category were rated as high achievers compared to those that were rated as medium and low achievers. Constitutional Commissions and Independent Offices had the lowest performance index (28.7%) because a high proportion of institutions in this category were rated as low achievers compared to those that were rated as high and medium achievers.

### 3.3.7 Equitable Allocation of Opportunities and Resources

The performance index for equitable allocation of opportunities and resources was 33%.

#### Findings

- (a) Radio was the least utilized mode of advertising despite its wide reach.
- (b) Representation for PWDs in the public service remained low.
- (c) Public Universities had the highest performance index (35.8%) because the proportion of universities rated as high achievers was more compared to those that were rated as medium and low achievers. Ministries and State Departments had the lowest performance index (30.2%) because the proportion of institutions that were rated as low achievers was more compared to those rated as high and medium achievers.

### 3.4: Trend Analysis showing performance in each thematic area

The performance index for service delivery improvement and transformation improved by 11.1 in the FY 2018/19 to 63.4 in the 2019/20. Similarly, efficiency, effectiveness and economic use of resources improved by 4.0 to 46.4 in the FY 2019/20 from 42.4 in 2018/19. In addition, Good Governance, Transparency and Accountability improved by 2.5 from 35.6 in 2018/19 to 38.1 in 2019/20, as well as performance management which improved by 11.8 from 25.6 in the FY 2018/19 to 37.4 in the FY 2019/20.

However, the performance for equitable allocation of opportunities and resources declined by -12.1 from 45.1 in 2018/19 to 33 in the FY 2019/20. Similarly, public participation in policy making process declined by -5.1 from 17.1 in FY 2018/19 to 12 in the FY 2019/20. Ensuring High Standards of Professional Ethics in the Public Service equally declined by -3.2 from 60.3 in the FY 2018/19 to 57.1 in the FY 2019/20.

#### Findings

- (a) There was an improvement in the performance index for service delivery improvement and transformation. This may be attributed to institutions summarizing their charters, and translating them into Kiswahili and publicly displaying them.
- (b) There was a decline in the performance index for equitable allocation of opportunities and resources. This may be attributed to the low levels of appointments of PWDs in the public service and low levels of awards under Access to Government Procurement Opportunities (AGPO).

## CHAPTER FOUR—STATUS OF COMPLIANCE WITH THE VALUES AND PRINCIPLES

### 4.1 Introduction

The evaluation aimed at establishing the status of implementation of national and public service values and principles in Articles 10 and 232 of the Constitution. It targeted all public institutions under the jurisdiction of the Commission. The institutions were clustered into five categories namely: Constitutional Commissions and Independent Offices; Ministries and State Departments; State Corporations and Semi-Autonomous Government Agencies (SAGAs); Public Universities; and Statutory Commissions and Authorities.

The data sought included responses to the questions and corresponding reports, guidelines and other documents. The evaluation entailed a survey on the general status of human resource in the public service and the seven identified thematic areas. The findings of the survey are presented in this chapter.

### 4.2 Human Resource

The Constitution requires that public services be delivered efficiently and effectively. This requires that fit for purpose structures are established and sufficient officers with the right skills and competencies appointed. It also requires that those appointed shall reflect the population it serves, that is, the public service shall be inclusive in terms of gender, ethnicity, Persons with Disabilities, minorities and marginalized groups.

#### 4.2.1 Authorized Establishment

The authorized establishment in 289 institutions surveyed was 336,074 authorized posts of which 215,860 were in-post representing 64% and 120,214 posts were vacant representing 36%. The vacant posts have been occasioned by the recruitment moratorium, re-organization and restructuring of government institutions and reviewing of the staff establishment. It was also established that nine institutions were over-established, nine were operating at optimal levels while 271 were under established. Out of the nine over-established institutions, two were over established by over 50%. Of the 271 under established institutions, 103 were found to be operating under 50% of the optimal level.

Over-establishment may occur from time to time depending on the changes in the staffing needs of an institution. For example, the over-establishment in the State Department for Vocational and Technical Training was occasioned by the recruitment of additional staff for the newly established and existing TVET institutions during the year.

#### *Finding*

Moi University, Kenya Civil Aviation Authority, Kenya Medical Supplies Authority and Kenya Post Office Savings Bank institutions were also found to be over-established during the 2018/2019 evaluation cycle.

#### *Recommendation*

The structure of public institutions that are over-established be reviewed to align them to the authorized staff establishment.

#### 4.2.2 Distribution of Officers in the Public Service

The service had an in-post of 210,537 officers.

#### *Findings*

- (a) The policy on employment of contract in the public service was institutionalized with a total of 20,152 officers serving on contract.
- (b) The retirement age for public officers is 60 years except for officers with disabilities whose retirement age is 65 years. A total of 789 officers were serving beyond the retirement age.
- (c) The officers serving on permanent without pension were mostly from the support staff cadre. Their retirement benefits are catered for under the National Social Security Fund.

#### 4.2.3 Staff Secondment

A total of 1,265 officers were on secondment both in the public and private sector. Majority of the secondments were to State Corporations (49%), Constitutional Commissions and Independent Offices (16%) and County Governments (15%) while the majority

were from Ministries and State Departments (60%), and State Corporations (16%).

Staff secondment is an instrument used by the government to share existing critical skills and competencies within the public service. It is also used as a method of re-skilling and re-tooling of staff. Staff secondment within the Public Service acts as a stop-gap measure as well as a means to build capacity for newly created Public Service organizations or officers at the initial stage of their set up.

Secondment opportunities allow officers to be exposed to fields and experiences that are new to the Service for purposes of transferring skills. Through secondment a pensionable employee is temporarily released from an organization within the public service to another organization which does not have reciprocal pension arrangements, to provide critical skills or acquire new skills while preserving the pension rights of the employee.

#### *Finding*

Section 37(4) of the Public Service Commission Regulations, provides that secondment shall be for a period not exceeding three years and may be renewed once for a further period not exceeding three years. However, the evaluation established that institutions did not comply fully with the provision.

The reasons that were given by the institutions for secondment beyond six years included—

- (a) insecurity in the North Eastern Region which made it less attractive to serving officers;
- (b) officers seconded to serve in public/private partnership units;
- (c) expertise still required by the recipient organization;
- (d) extension of projects where an officer is seconded to; and
- (e) Understaffing in the recipient organization.

#### *Recommendations*

- (a) The approved six (6) year secondment period is sufficient for officers to acquire the requisite skills. Extension of secondment beyond six years is unlawful and does not accrue additional benefits to the donor institutions hence detrimental to service delivery. It is recommended therefore that the institutions which did not comply should urgently arrange to correct the anomaly and recall the officers.
- (b) Secondment to international organizations gives a chance for Kenyans to rise in international public organizations. It also gives the country an effective representation at the technical level in international organizations. It is therefore recommended that Section 42 of the PSC Act be amended to provide for secondment beyond 6 years in instances where officers are seconded to international organizations or public-private partnerships.

#### 4.2.4 Engagement of Interns in the Public Service

The public service developed and implemented various internship programmes some of which were focused on specific sectors and cadres. Internship programmes aim at addressing youth unemployment by providing the youth with opportunities to gain workplace experience, thus enabling them to have a competitive edge in the job market. Internship further helps to inculcate public service values and ethos in the young graduates from where the public service can recruit in the future.

#### *(a) Public Service Commission Internship Programme (PSIP)*

The Public Service Internship Programme (PSIP) was developed to consolidate the internship initiatives in the service and inculcate qualities and values of patriotism, uprightness, integrity and honesty among others. Through this programme, the Commission increased the number of youths engaged as interns across the country.

PSIP programme engaged a total of 5,258 interns from 40 ethnic groups in two cohorts in October 2019 and January 2020 and posted to 220 public institutions. Of the 5,258 interns engaged 2,929 (56%) were male, 2,329 (44%) were female while 18 (3%) were Persons with Disabilities (PWDs). The ministries and state departments absorbed 3,151 interns, 1,948 were placed in State Corporations while 340 were absorbed by Public Universities.

*(b) Internship Programmes Undertaken by MDAs*

Besides the PSIP programme, some MDAs run institutional specific internship programmes. A total of 4,360 interns from 34 ethnic groups were engaged by 182 public institutions. Out of the 4,360 interns engaged, 2,341 (54%) were male, 2,019 (46%) were female and 62 (1.4%) were PWDs.

*Findings*

- (a) Majority of the ethnic communities were represented
- (b) The gender principle was met
- (c) Engagement of PWDs was still low at 1.4%.
- (c) Payment of Stipend

Unlike the Interns engaged under the PSIP programme who were paid a stipend of Ksh. 25,000/-, those engaged directly by public institutions were paid a stipend of between Ksh. 3000 and Ksh. 48,500. Seven institutions paid interns a stipend between Ksh. 30,000 and Ksh. 48,500. These included Kenya National Bureau of Statistics, Kenyatta International Convention Centre, Kenya Agricultural and Livestock Research Organization, Kenya Vision 2030 Delivery Secretariat, Media Council of Kenya, Anti-Counterfeit Authority and East African Portland Cement Plc. On the other hand, six institutions paid a stipend of below Ksh. 10,000. The six institutions were Agricultural Development Corporation, Agricultural Finance Corporation, Agro-Chemical and Food Company Limited, Ewaso Ngiro South Development Authority, Kenya Industrial Property Institute and The Technical University of Kenya.

*Findings*

- (a) Two hundred and nineteen interns in public universities and state corporations and SAGAs were not paid any stipend contrary to the Internship Policy and Guidelines for the Public Service 2016 and the Commission's circular Ref. PSC/ADM/14/V/105 dated 13<sup>th</sup> October 2016 that recommends payment of a stipend to the interns;
- (b) MDAs specific internships had varied stipends paid to interns. This depresses the interns and it's for this reason that the Commission harmonized stipend rates paid to interns;

*Recommendation*

Public institutions to comply with the provisions of Internship Policy for the Public Service, 2016 on payment of stipend for interns.

*(d) Mandatory Internship programme*

The State Department for Livestock placed 939 veterinary surgeons on an internship, of whom 663 (71%) were male while 276 (29%) were female.

*Finding*

Internship has been very useful in building capacity and inculcating work ethics and principles of public governance on young graduates.

*(e) Young Professionals Programme*

The Young Professionals Programme (YPP) is an internship initiative administered by KIPPRA. The programme aims to enhance technical competence in the evidence-based policy process, build research capabilities of participants, enlighten on the scope, relationships and procedures in governance structure in both national and county level, introduce participants to economic tools of analysis and provide practical experience in the policy making process. The programme targets young graduates from both public and private sector at initial stages of their career. A total of 30 interns joined the YPP of which 18 (60%) were male, 12 (40%) were female while one (3%) was a PWD.

*(f) Ministry of Health Universal Health Coverage Internship Programme*

The Ministry of Health designed the internship programme to improve the quality of health care provision in the country and address a critical resource in the implementation of Universal Health Coverage. The programme is a competency-based training that aims at consolidating and integrating knowledge acquired during college

studies with clinical and field work experience to impart the requisite skills for service delivery.

*Findings*

- (a) The gender principle was met in the recruitment of interns under the UHC programme.
- (b) There was a fair representation of PWDs at 4.2%.
- (g) Presidential Digital Talent Programme (PDTP)

The Presidential Digital Talent Development Programme (PDTP) is a transformative ICT programme conceived by His Excellency the President to build capacity within government to ensure effective service delivery to Kenyans and create the next generation of globally competitive ICT leadership and technology talent that will transform Kenya. The Programme is implemented by the Ministry of Information Communications and Technology and Youth Affairs (MoICTA) through the ICT Authority (ICTA).

PDTP has continued to receive support from the private sector in one of the most prominent Public-Private Partnership Programmes targeting the youth within the ICT sector. The year-long PDTP training is a mix of public and private sector attachments, intense specialized training and certification. Additionally, trainees work with seasoned mentors for career guidance and are challenged to innovate to scale up service delivery.

A total of 395 PDTP interns were recruited and successfully went through the programme in 48 public institutions and three county governments (Bungoma, Kilifi and Laikipia). Out of the 395 interns engaged, 279 (71%) were male, 116 (29%) were female while one was PWD.

*Findings*

- (a) The gender principle was not met.
- (b) Representation of PWDs was low at 1%.

**4.3 Service delivery improvement and transformation**

Service delivery improvement and transformation thematic area is one of the key building blocks for creating a citizen-centric public service. Service delivery improvement is achieved through various ways including: commitment to service delivery standards; enhancing accessibility to services; developing innovations to improve service delivery; putting in place measures for receiving feedback on services offered, prompt handling of complaints and recognizing officers who excel in service delivery. In this thematic area, the Commission sought to establish the measures public organizations had put in place for service improvement and transformation. The performance indicators were—

- (a) Availability of service charters
- (b) Modes used to enhance access to services
- (c) Innovations implemented to improve service delivery
- (d) Provision of online services
- (e) Analysis of feedback
- (f) Handling of complaints
- (g) Recognition of officers who excelled in service delivery

**4.3.1 Commitment to Service Delivery Standards**

A service charter is a statement of commitment by the organization towards service delivery, and the standards which citizens should expect. Section 7(6)(a) of the Public Service (Values and Principles) Act 2015 requires that public institutions develop citizen service charters.

The Commission sought to establish the number of institutions which had translated the service charters to Kiswahili, an official language that is understood by the majority of citizens, the institutions which publicly displayed the charters and the ones which took deliberate measures to create awareness to external customers about the charters.

To increase the numbers of citizens that could understand the contents of the service charters, 230 (79%) of the institutions translated their summarized charters into Kiswahili.

Out of those who had Kiswahili versions of the charter, 219 (95%) further displayed them, while 11 (5%) did not. There was an increase in the number of Institutions that sensitized staff on their service charters, at 147 institutions, accounting for 51%, compared to the previous year's 94 institutions that represented 33%.

In the last three financial years, half of the institutions, 143 representing 49%, sensitized external clients on the provisions of their service charters, while 148 (51%) did not.

Overall institutions' compliance rate in translating service charters, displaying them and sensitizing both staff and external clients on their contents was 69%. This was an increase of 11% compared to last year's 58% compliance rate.

However, among the categories of institutions, Public Universities' compliance rate was 79%, followed by State Corporations and SAGAs at 76%. MDAs came third at a compliance rate of 46% while Statutory Commissions and Authorities and Constitutional Commissions and Independent Offices followed at 40% and 36% respectively.

This means there is still room for overall improvement by 31%, while the three categories that registered lower than 50% improvement need to put deliberate efforts to improve their compliance rate.

#### *Recommendation*

Institutions that are yet to translate their charters into Kiswahili should proceed to do so urgently for wider understanding. They should also sensitize staff and clients on the provisions of the charter, and display it in strategic points.

#### **4.3.2 Awareness Creation among Citizens on Services that were Offered**

The responsibility of creating awareness among citizens on government services rests with the public institution rendering the service.

Most public institutions largely used six modes of creating awareness namely; website, social media, print media, IEC materials broadcast media on their services among citizens. Website was the most preferred mode. This was used by 275 (95%) institutions. Social media was used by 234 (80%) institutions; Print media (Newspapers-News Letters) by 196 (67%); Information, Education and Communication (IEC) materials by 180 (62%); and Broadcast Media (TV & Radio) by 154 (53%) institutions.

Sixty-one institutions, representing 21% used other modes of creating awareness. These included mounting exhibitions, displaying service charters, conducting training, using short messages, physical/online stakeholder engagement, and media engagement.

On average, 63% of the institutions utilized the various modes in creating awareness, which was a drop from last year's 67%.

Statutory Commissions and Authorities took lead on average usage of all the modes to create awareness at 83%, Constitutional Commissions and Independent Offices (CCIOs) followed at 82%, Public Universities at 67%, State Corporation and SAGAs at 63%, and Ministries and State Departments at 54%.

However, there was a 10% decline in average usage of the modes by Statutory Commissions and Authorities from 93% previous year, and 8% drop by MDAs from 62% last year. SAGAs dropped by 5% from 68% previous year, while CCIOs and Public Universities gained by 5% and 1% to 73% and 66% respectively.

#### *Findings*

Most institutions have not given serious consideration to creating awareness of their services among citizens. The drop in compliance from the previous year confirms this further. Failure by organizations on this aspect deprives citizens of their rights to access such services if they are not made aware of their availability.

#### *Recommendation*

Institutions should develop robust plans to create awareness of their services among citizens with clear indicators for monitoring and evaluating outputs and outcomes.

#### **4.3.3 Social Media as a Platform for Service Delivery**

Social media is a computer-based technology that facilitates the sharing of ideas, thoughts and information through the building of

virtual networks and communities. By design social media is internet-based and gives users quick electronic communication of content which may include personal information, documents, videos and photos. In the current technological age, it can play a significant role in gauging and monitoring levels of service delivery. Through social media, government institutions can get feedback on their service delivery and also get the opportunity to engage in direct dialogue with citizens who are consumers of their services. Institutions could also create awareness, manage crises, expectations by citizens, and improve institutional image through social media.

Findings revealed that a total of 139 (48%) institutions indicated that they analyzed social media engagements, while 152 (52%) did not. While all the 11 Constitutional Commissions and Statutory Commissions and Authorities used social media in creating awareness, seven, representing 70% went further to analyze social media engagement.

Among the 30 (86%) public universities that used social media to create awareness, only 15 representing 43% analyzed social media engagement.

Similarly, while 153 (81%) State Corporations and SAGAs used social media to create awareness, only 104 representing 55% analyzed social media engagement. Of the 34 (69%) MDAs that used social media to create awareness, only nine representing 18% analyzed the engagement.

#### *Finding*

Institutions' failure to analyze social media engagement implies that they did not tap all available information that would help them to improve service delivery.

#### *Recommendations*

- The Ministry of ICT to develop a policy to guide public institutions in utilizing or engaging on social media to improve service delivery.
- Institutions to train staff on modalities of constructive engagement with citizens on social media.
- Issues raised by citizens on social media should be documented, analyzed and responded to for improvement.

#### **4.3.4. Access to Services**

The Constitution provides that a national state organ shall ensure access to its services in all parts of the Republic, so far as it is appropriate to do so, having regard to the nature of the service. It is therefore a right of citizens to access services irrespective of their status or location. To achieve this, public institutions used various modes to enhance citizens' access to services. These included offering services through regional offices, e-citizen platforms, on-line systems, mobile phone applications, Huduma centres, call and contact centres, bulk Short Message Service (SMS) and mobile offices.

Over 194m citizens accessed services using several modes, with 61.6m (31.6%) of them accessing services through bulk Short Message Service (SMS). This was followed by over 43.8m (22.5%) through regional offices; 41.2m (21.2%) through other online systems which included social media, iTax, short codes and hotline.

Access to services through e-Citizen platform was third at 7.8% (15.2m citizens) followed by contact centres at 6.4% (12.5m), Huduma centres at 4.2% (8.1m), call centres 3.7% (7.3m), Mobile Phone Apps 2.2% (4.3m), Mobile offices 0.2% (486,828) and other modes, including letters, telephone calls at 0.01% (15,947).

State Corporations took overall lead in serving citizens through a variety of platforms by reaching 117m (60.1%), followed by MDAs that reached 76.8m (39.4%), CCIOs 672,598 (0.3%) and Public Universities 164,592 (0.1%).

State Corporations also dominated in Bulk Short Message Service (SMS) at 99.29%, Contact Centers at 94.9%, Huduma Centres at 57.5%, Call Centres at 96%, Mobile Applications at 74.9% and other modes (including letters, telephone calls) at 78.3%. The leading institution on use of mobile applications and bulk message services was the National Hospital Insurance Fund.

MDAs dominated in providing services through four platforms. These included regional offices at 70%, other online systems at 59.8%, e-Citizen platform at 99.5%, and mobile offices at 99.7%.

Citizens accessing services from Constitutional Commissions and Independent Offices and Public Universities across the various platforms was comparatively low at 0.3% and 0.1% respectively.

#### *Findings*

- (a) Use of online and mobile applications is an efficient and effective way of service delivery. This is because citizens can access services from whichever location at a minimal cost.
- (b) The leading institution on use of mobile applications and bulk message services was the National Hospital Insurance Fund.
- (c) There was an increase in the use of online or mobile-based platforms to access services in the second half of the year as opposed to those who sought in-person services. This could be attributed to the country being on partial lock-down, which restricted movement yet citizens still needed to access services.

#### *Recommendations*

- (a) Institutions to adopt more innovative ways of creating ease of access to their services taking advantage of the increasing digital technology.
- (b) Institutions to document experiences and lessons learnt for future improvement and sharing best practices.

#### 4.3.5 Huduma Platform

Huduma platform is an integrated service delivery model that offers One-Stop-Shop for Citizen Services. The model was developed and adopted by the Government on 7th November, 2013 to take services closer to the citizens. Huduma Secretariat indicated that as at 30th June, 2020 there were 52 operational Huduma Centres countrywide that offered 127 services from 33 organizations including five water and sewerage companies in the counties and four private companies. The centres served a total of 9,340,657 citizens during the financial year.

The water and sewerage companies in the counties included Thika Water and Sewerage Company; Kirinyaga Water and Sanitation Company; Mariakani Water and Sewerage Company Limited; Homa-Bay Water and Sewerage Company Limited; and Gusii Water and Sewerage Company Limited. The private institutions were Kenya Red Cross; Metropool Credit Reference Bureau (CRB); and Kenya Network Information Centre (KeNIC).

Seven institutions offered seasonal services on a need basis through the huduma platform. These included Ministry of Planning and National Treasury when they conducted headcount for pensioners; Ministry of Interior and Coordination of National Government when they conducted registration of Huduma number; Ministry of Lands Housing and Urban Development during registration and payment of affordable housing (Boma Yetu) and IEBC during the updating of the voter registration.

Others were Kenya Copyright Board which created awareness to the public on matters relating to copyright and related rights, implemented training programmes on copyright and rights, license and supervised activities of collective management organization as provided for under the Act, created awareness on protection and traditional knowledge and traditional cultural expression; Postal Corporation of Kenya sold success cards; and M-Akiba conducted sale of treasury bills.

A total of 38 county governments offered services on huduma platform. These ranged from collecting rates, Body Mass Index, Blood pressure and blood sugar tests, water services, licenses, seasonal parking, single business permits, rents and land rates, liquor licenses, boda boda licensing, approvals for physical planning, hotel licensing, motorbike stickers and provision of Public Service Board Application forms.

Nine Counties did not offer services on Huduma Platform. These were Siaya, Turkana, Kwale, Makueni, Taita Taveta, Garissa, Kirinyaga, Marsabit and Mandera.

#### *Findings*

- (a) The few institutions that utilized Huduma Platforms were successful in taking services closer to the people and enhanced convenience to citizens seeking services across the country.

- (b) Majority of the institutions were yet to embrace the Huduma Platform as a way of enhancing citizen's access to public services.

#### *Recommendation*

Institutions to take advantage of Huduma platform to enhance access to their services by citizens across the country.

#### 4.3.6 Enhancing Service Delivery through Innovation

Innovativeness is becoming a way of life, to improve social well-being through leveraging Information Communication Technology and bridging the digital divide. Covid-19 pandemic has reinforced the importance of innovation for business continuity. Innovation is important for the advancement of societies through solution provision and enhancing societies' capacity to act. During the 2019/2020 financial year, 179 institutions submitted 643 initiatives for considerations as innovations.

The ever-increasing demand for efficient, effective and quality public services from an enlightened citizenry has necessitated public institutions to embrace innovation. The Government has mainstreamed innovation in the public service by factoring service delivery innovations in Performance Contracts of MDAs; and empowering the National Commission for Science, Technology and Innovation (NACOSTI) and Kenya National Innovation Agency (KENIA) to manage innovation in the public service.

#### *Findings*

- (a) The Big Four Agenda accounted for 35% of the innovations.
- (b) Nine institutions patented 13 innovations. This was an increase from the six that patented their innovations in the 2018/19 financial year.
- (c) Sixty institutions developed 86 innovations to improve service delivery in Food Security, Governance, Commerce & Financial Processes, Health Care, Education, Environmental Conservation, Manufacturing and Safety & Security. This was an improvement of 7.5% compared to the 2018/2019 evaluation where only 35 institutions that developed various innovations.
- (d) The innovations relating to good governance directly contributed to the realization of Article 10 on good governance and are expected to improve service delivery and reduce complaints related to delay in service delivery.

#### *Recommendation*

Public institutions should, where possible, patent their innovations.

#### 4.3.7 Feedback to Improve Service Delivery

Feedback analysis is critical in guiding public institutions to develop service delivery solutions to respond to citizen's needs.

##### (i) Analysis of Feedback

A total of 216 (74%) institutions indicated that they had received feedback from clients while 75 (26%) had not. Of those who indicated that they had received feedback from clients, 159 (74%) institutions confirmed that they had analyzed the feedback received while 57 (26%) had not.

State Corporations had the highest number of institutions that prepared feedback analysis reports with 118 (77%) institutions. From the 20 ministries and state departments that received client feedback, only 10 (50%) prepared feedback analysis reports while 60% of the Statutory Commissions had equally prepared the reports towards improving service delivery.

#### *Findings*

Analysis of the feedback reports presented by institutions indicated that not all reports contained clear implementation frameworks as required.

##### (ii) Implementation of the Feedback Analysis Report Recommendations

Of the 103 institutions that had implemented the recommendations on the feedback analysis report, 27 (26%) had implemented all the client feedback. On average, 61% of the recommendations were implemented. Further, public universities and state corporations and

SAGAs had the highest implementation rate at 72% and 61% respectively. Ministries and State Departments and Statutory Commissions and Authorities implemented 40% and 11% of the recommendations respectively. It is however noted that no recommendations from Constitutional Commissions & Independent Offices had been implemented by 30th June, 2020.

#### Findings

- (a) Majority of public institutions did not implement recommendations in the feedback analysis reports.
- (b) Analysis and implementation of feedback is an important tool in improving service delivery. Institutions that did not analyze and implement feedback missed out on critical input from their customers.

#### Recommendations

- (a) Public organizations to develop mechanisms to capture and periodically analyze client feedback for improved service delivery; and
- (b) Public organizations prepare quarterly client feedback analysis reports and monitor the implementation status on the recommendations made.

#### 4.3.8 Complaints Handling

Complaints in public service are citizens' expressions of dissatisfaction with services delivered by public institutions. The complaints may be formal or informal but they all provide the opportunity for institutions to improve service delivery. The Commission sort to establish the status and methods of handling complaints by public institutions.

- (a) Documented complaints handling procedures and awareness creation on complaints filing

A total of 223 (77%) institutions, indicated that they had a documented procedure for handling complaints while 68 (23%) had not. Public Universities were the most compliant at 94%, followed by Statutory Commissions and Authorities at 86%, State Corporations and SAGAs at 80%, Constitutional Commissions and Independent Offices at 70% and finally MDAs at 51%.

A total of 126 (43%) institutions had created awareness to the clients on the complaints filing procedure while 165 (57%) had not. Public universities were the most compliant, with 77% of them creating awareness on complaint filing procedure. They were followed by State Corporations and SAGAs at 44%, CCIOs 30%, Statutory Commissions and Authorities at 29% and MDAs at 22%. On average, over half of the institutions had not created awareness, Ministries and State Department were the most affected.

#### Findings

- (a) Over half of the institutions had not created awareness to clients on complaints filing, Ministries and State Department were the most affected.
- (b) Developing a complaint filing procedure without creating awareness to citizens about it adds no value to the institution. The institutions have to create awareness among citizens on how to file complaints.

#### Recommendation

Institutions should use all available platforms to create awareness on the complaint filing procedure.

- (b) Complaints Resolution

Section 13 of the PSV&P Act, 2015 provides that complaints should be investigated expeditiously and resolved within three months. The survey sought to establish the nature and number of complaints received by public institutions and whether those complaints had been resolved. A total of 177 institutions representing 61% had received complaints while 114 representing 39% had not received any complaints. In total, 716,965 complaints were lodged by citizens of which 706,634 accounting for 99% were resolved.

Complaints related to unsatisfactory service were the highest at 71% followed by other complaints, unique to each organization at 21%. Delay in service delivery accounted for 7% while the rest registered below one digit percentage. Similarly, data from

Commission for Administrative Justice (CAJ) confirmed that the highest number of complaints received by the Commission was unresponsive/delay in service delivery which accounted for 43% of the cases.

#### Findings

- (a) Commission for Administrative Justice (CAJ) confirmed that the highest number of complaints received by the Commission was unresponsive/delay in service delivery.
- (b) The recurrence of complaints relating to unsatisfactory service, unresponsive public officials and delay in service delivery reveals that institutions are not taking seriously the complaints from citizens.
- (c) Quick resolution of complaints enhances public trust in the government.

#### Recommendation

Institutions should develop systems of flagging out recurrent complaints to find lasting solutions to them.

#### 4.3.9 Recognizing Excellence in Service Delivery

The PSV&P Act, 2015 requires each public institution to develop guidelines for recognizing, commending and rewarding public officers who offer exemplary, outstanding or innovative services or who perform their duties exceptionally well.

- (a) Institutions with Criteria for Recognizing Excellence in Service Delivery

A total of 141(48%) institutions had developed criteria for identifying and recognizing officers who offered exemplary service. Of these, 48 (34%) had recognized and awarded officers based on the set criteria.

#### Findings

- (a) The objective of recognizing and rewarding officers for excellent service delivery is to motivate the recipient and encourage other officers to improve.
- (b) Failure by a majority of institutions to develop and implement reward criteria impacted negatively on service delivery.

#### Recommendation

Public institutions should develop and implement reward criteria to enable outstanding officers to get recognized for improved service delivery.

#### 4.3.10 Leveraging Information Technology for Enhanced Service Delivery

The outbreak of the COVID-19 challenged the long-held beliefs that one has to be in a formal office setup to be productive. The lockdown period provided an opportunity for remote working.

- (a) Facilitating Officers with ICT Equipment

Existence of basic ICT infrastructure is key to the successful implementation of sustainable e-government initiatives. Necessary devices for office automation and accessing the internet are therefore vital.

Out of the 291 institutions that provided data on provision of ICT devices to staff, 70 (24%) had a computer to staff ratio of 1:1 while 11 institutions (3.8%) with a combined staff size of 5,902 indicated that none of their staff had a laptop or a desktop computer issued to them. Further analysis revealed that State Corporations & SAGAs had made the highest investment in terms of desktop computers, laptops, I-Pads and smartphones.

#### Findings

- (a) Few institutions had a computer to staff ratio of 1:1
- (b) State Corporations & SAGAs had made the highest investment in terms of desktop computers, laptops, I-Pads and smartphones.
- (i) Implementation of Circular Ref: No. OP/CAB.39/1A of March 1, 2018

The Government vide Circular Ref: No. OP/CAB.39/1A of March 1, 2018, directed that all ICT procurement be centralized under Ministry of ICT to ensure economies of scale in procurement and optimize the use of the Shared Services Strategy.

The Ministry issued 843 Laptops, 1,823 Desktop computers, 317 Smartphones and 4 iPads to 57 institutions across the public service except for the public universities. In the issuance of the ICT equipment, 39 institutions received laptop computers, 29 received desktop computers, 2 received iPads and 3 received smartphones. Further analysis of the ICT equipment's issued by the ministry indicated that of the 843 laptop computers, allocation to 5 institutions accounted for 628 (74.5%) with the National Treasury receiving the highest at 400 (47.4%). Of the 1,823 desktop computers, 10 institutions received 1,600 (87.8%) computers, with the National Treasury receiving 834 (45.7%). Out of the 317 smartphones, State House received 300 (94.6%) of the while the remaining went to 2 institutions (2 and 15 smartphones respectively).

Automation reduces human error, promotes better visibility into reporting insights, ensures compliance, increases operational efficiency and improves customer satisfaction. This explains why almost every activity in today's world relies on computer systems. The high internet speeds, the advancement of communications, service networks and multimedia have improved things by opening new horizons in business processing, payment transfer, and other forms of service delivery.

#### Findings

- (a) Only 57 institutions across the public service save for State Corporations and SAGAs were issued with ICT equipment by the State Department of ICT and Innovation.
- (b) In the issuance of the ICT equipment, 39 institutions received laptop computers, 29 received desktop computers, two received iPads and three received smartphones.
- (c) The distribution of ICT equipment by the State Department of ICT appeared to favour some institutions like the National Treasury at the expense of others. The National Treasury received 400 (47.4%) of all the laptops and 834 (45.7%) of all the desktop computers issued.

#### Recommendations

- (a) Public servants should be facilitated with the requisite ICT resources and reskilled so as to take full advantage of the technological space for enhanced service delivery.
- (b) The policy on centralization of procurement of ICT equipment to be reviewed.
- (b) *Facilitating Staff to Work Remotely During Covid-19 Lockdown*

Government guidelines on physical distancing in public places to reduce the spread of COVID-19 affected service delivery. Innovatively, institutions had to leverage information technology to ensure essential services continued uninterrupted. In taking advantage of the fast internet in the country, organizations encouraged staff to work away from the office by using online platforms such as WebEx, Zoom, Microsoft Teams, GoToMeeting and Google Meet among others. This paradigm shift placed a demand on institutions to facilitate the staff accordingly.

A total of 221 (76%) institutions facilitated 26,346 (18%) of their 149,726 employees with airtime. Statutory Commissions & Authorities facilitated nearly all their staffs at 96% while Ministries & State Departments facilitated only 13% of their staffs to work remotely.

#### Finding

Very few officers were facilitated with airtime to work remotely.

- (c) Service Delivery through Improved Online Presence

Effective service delivery in the public service should be citizen-centric. Online presence of the services by ensuring global access, 24 hours a day and 7 days a week availability is necessary to maintain citizen satisfaction.

A total of 250 institutions had externally facing services out of which 208 were available online. State Corporations and SAGAs had

the highest number of services offered online, accounting for 65%. This was followed by MDAs and public universities at 15% and 14% respectively. Provision of online services improves efficiency and effectiveness in service delivery.

#### Recommendations

- (a) Public institutions to improve their online presence.
- (b) Public institutions to adopt remote working as a service delivery strategy.

#### 4.4 Professional ethics in the public service

High standards of professional ethics are promoted through various means including, compliance with the law, the code of conduct and ethics and administrative policies, avoiding conflict of interest, provision of services promptly, prudently utilizing resources and delivering services in an objective and impartial manner without political influence. High standards of professional ethics are further promoted by putting in place measures for timely resolution of complaints and ensuring compliance with the requirements of the respective professional body.

The Commission sought to establish compliance with the observance of high standards of professional ethics as provided in the Constitution, POEA, 2003, LIA, 2012 and PSV&P Act, 2015.

The performance indicators for this thematic area were—

- (a) Compliance with the Public Service Code of Conduct and Ethics, revised 2016;
- (b) Sensitization of officers on the Public Service Code of Conduct and Ethics, revised 2016;
- (c) The signing of commitment forms to the Code;
- (d) The number of officers disciplined for breach of the Code of Conduct and Ethics;
- (e) The number of officers charged in court;
- (f) Compliance with the regulatory professional codes of conduct;
- (g) The number of officers registered with regulatory professional bodies;
- (h) The number of registered professionals in good standing; and
- (i) The number of officers supported for Continuous Professional Development.

##### 4.4.1 Public Service Code of Conduct and Ethics

The Code of Conduct and Ethics is a tool used to advance high standards of professional ethics in the public service. The Code which was initially issued in 2003, following enactment of the Public Officer Ethics Act, 2003, was amended by the Commission in 2016 to entrench the values and principles in Articles 10 and 232 of the Constitution. Institutions were then required to customize the Code of Conduct and Ethics in line with their organizational set up, train staff on the same and have them commit to the Code.

Findings revealed that only 51 (17.5%) public institutions had sensitized and committed officers to the Code of Conduct and Ethics while 240 (82.5%) had not. This was a drop from the 2018/2019 evaluation in which 61(21.7%) institutions indicated they had sensitized staff on the Code.

##### 4.4.2 Discipline Cases Related to the Breach of the Code of Conduct and Ethics

Upholding high standards of professional ethics in the public service means complying with the Constitution, working within the laws, and observing the Public Officer Code of Conduct and Ethics. The number of discipline cases is an indicator of compliance levels. The Commission sought to establish the number of officers who had been disciplined based on infractions of the various standards of conduct prescribed in the Code. There were a total of 7,121 discipline cases.

#### Findings

- (a) The discipline cases increased by 903 cases (13%) compared to 6,218 recorded in 2018/2019 evaluation.

- (b) The number of officers charged in court for professional misconduct increased by 158% from 39 to 99.
- (c) Enforcement of compliance by way of prosecution went up. Successful prosecution of such cases can act as a deterrent measure for other public officers.

#### Recommendations

- (a) Institutions to sensitize staff on the Code of Conduct and Ethics and submit quarterly reports to the Commission.
- (b) Public institutions to closely work with professional bodies when handling cases of professional misconducts.

#### 4.4.3 Complaints on the Conduct of public Officers

There were 561,716 complaints related to the conduct of public officers and how services were delivered. Unsatisfactory service was the leading cause of complaints followed by the delay in service delivery.

#### Finding

Professional service delivery leads to customer satisfaction and fewer complaints.

#### 4.4.4 Registration with professional regulatory bodies

Regulatory professional bodies set the standards of conduct for their members and discipline the members when they err. The bodies issue qualification certificates for their members and organize training to enable continuous professional development. The public service has several cadres which fall under regulated professionals.

A total of 121,035 in 286 institutions were members of 28 regulatory professional bodies while 7,985 were not registered. Of those registered, 113,430 (94%) had current practicing license while 119,327 (99%) were in good standing.

#### Findings

- (a) Less than one-third of the institutions sensitized their staff on the code of conduct and ethics over the last two years. Some of the discipline cases could be reduced if public institutions sensitized the officers on the code. Knowledge facilitates compliance, while lack of knowledge may lead to an infraction.
- (b) Very few officers, 13,807 (11%) were supported for Continuous Professional Development (CPD) contrary to the recommendation in the 2018/19 report that public officers who are members of regulatory professional bodies be supported for CPD in line with Section 5(3) of the PSV&P Act, 2015.
- (c) Continuous Professional Development is important as it enables the concerned officers to keep abreast with new developments in their respective fields.

#### Recommendations

Officers should be facilitated to attend courses for continuous professional development.

#### 4.5 Good Governance, Transparency and Accountability

Good governance entails conducting of public affairs and managing public resources efficiently and effectively, to guarantee the realization of human rights and social welfare for all. It requires developing capacity for the entity to deliver on its mandate; having systems for prudent utilization of public resources; clear delineation of roles and responsibilities; planning for efficient and effective service delivery; having internal mechanisms for risk management and establishing systems through which public organizations can be held to account for the exercise of power and authority.

A key tenet of good governance is that organizations should at all times act in public interest which encompasses a strong commitment to the rule of law, integrity and ethical values, transparency and stakeholder engagement.

The Commission sought to, inter alia establish the measures put in place by public organizations to ensure that the organizations had the capacity to deliver on their mandates; promote the rule of law, integrity and ethical values; advance public interest; promote transparency; and facilitate meaningful public participation.

The performance indicators were—

- (a) Existence of functional Boards/Councils
- (b) The number of officers on acting appointment
- (c) Submission of initial, every two year and final declarations.
- (d) The number of gifts and conflict of interest declared.
- (e) Measures for reporting corruption in the organization.
- (f) The number of complaints lodged by citizens
- (g) Existence of a communication strategy
- (h) Channels used by citizens to request information from public institutions
- (i) Existence of guidelines to facilitate organization visibility
- (j) Existence of guidelines on media engagement
- (k) Existence of guidelines on access to information

#### 4.5.1 Capacity to deliver on the institutional mandate

- (a) *Existence of fully Constituted Boards or Councils*

Public organizations need to ensure they remain fit for purpose by having structures and staffing that will enable them to deliver on their mandate. At any given time, there should be a Board or Council which is responsible for policy and providing strategic direction. In addition to the governing body, organizations also require motivated staff with diverse skills and competencies.

Findings revealed that the majority of the institutions evaluated, 208 (92%), had functional Boards/Councils. Only 17 (8%) institutions were functioning without properly constituted Boards. Agriculture and Food Authority, National Biosafety Authority, National Communication Secretariat, Centre for Mathematics, Science and Technology Education in Africa and Kenya Law Reform Commission were also cited in the 2018/2019 report as not having fully functional boards. The seventeen institutions that did not have fully functional Boards were as listed below—

1. Agriculture and Food Authority
2. National Biosafety Authority
3. National Communication Secretariat
4. Centre for Mathematics, Science and Technology Education in Africa
5. Kenya Law Reform Commission
6. Kenya National Commission on Human Rights
7. Athi Water Works Development Agency
8. Energy and Petroleum Regulatory Authority
9. Information and Communications Technology Authority
10. Kenya National Library Service
11. Lake Victoria South Water Works Development Agency
12. Local Authorities Provident Fund
13. National Council for Children's Services
14. National Youth Council
15. Non-Governmental Organizations Co-ordination Board
16. Privatization Commission
17. Vision 2030 Delivery Secretariat

#### Finding

Lack of functional boards/councils has adverse effects on the functioning of these institutions and this impacts service delivery because the institutions lack a body to provide leadership and strategic direction.

#### Recommendations

- (a) Appointing authorities to replace board members whose terms have expired in the respective institutions.
- (b) Appointing authorities to stagger appointments of Boards or Council members in line with Section 1.14 of the Mwongozo Code of Governance to ensure continuity and seamless transition.
- (b) *Acting Appointments in the Public Service*

The Period prescribed for acting appointments is six months. An officer is considered for acting appointment when the office becomes vacant and is pending substantive filling or the substantive holder has temporarily vacated it for one reason or another. Whereas acting capacity is necessary as a stop-gap measure, it is not meant to last for



long, hence the limited period of six months. Public institutions should ensure that when a vacancy, which ought to be substantively filled occurs, the process should be expedited.

A total of 2,282 officers served in acting appointment of whom, 1,435 (63%) served for more than 6 Months while 847 (37%) served for six months and below.

#### *Finding*

A total of 2,282 officers served in acting appointment of whom, 1,435 (63%) served for more than 6 Months while 847 (37%) served for six months and below.

#### *Reasons that were given for acting appointments beyond Six Months*

Institutions gave the following reasons for having officers act beyond six months—

- (a) lack of a fully constituted Board/Council/Senate to undertake recruitment to fill the position;
- (b) delay in the appointment of a substantive MD/CEO to drive the recruitment process.
- (c) acting appointment was renewed for a further six months while awaiting authority for recruitment from the National Treasury;
- (d) delay in receiving approval to initiate recruitment from the relevant authority;
- (e) the institution being re-organized;
- (f) freeze on employment by the National Treasury;
- (g) proposed mergers of some state corporations;
- (h) Failure by the successful candidate to take up the position; and
- (i) position not filled due to a pending court case or commencement of a disciplinary process.

#### *Recommendation*

Public institutions to comply with Regulation 23 of the Public Service Commission Regulations 2020 regarding acting appointments.

#### *4.5.2 Compliance with the Rule of Law, Integrity and Ethical Values*

##### *(a) Compliance with the Public Officer Ethics Act on financial disclosures*

The Public Officer Ethics Act (POEA) 2003 makes it a mandatory requirement for public officers to make financial disclosures of themselves, their spouse(s) and dependent children. The administration of wealth declarations is regulated under Legal Notice No. 53 of 8th April 2016 which provides for procedures for the declaration of income, assets and liabilities. The declaration of income, assets and liabilities is a tool for promoting accountability and transparency and also fighting corruption.

A public officer declares on entry into the service their wealth and liabilities. Every two years they declare what they have accumulated and on exit they state what they have left the service with. It is a tool which is used by agencies investigating corruption in instances where an officer enters service with little wealth but suddenly the net-worth shoots exponentially, disproportionate to the earnings. The survey sought to establish the number of officers who complied with the Public Officer Ethics Act, 2003 on financial disclosures.

#### *Findings*

- (a) Although there were 10,793 appointments, only 684 officers made their initial declarations. Out of the 9,392 officers who exited the service only 1,065 officers made their final declarations. The compliance level was, therefore, 6% and 11% for initial and final declarations respectively.
- (b) Though the compliance levels for both initial and final declarations had gone up slightly compared to the 2018/2019 report, the majority of the officers were still non-compliant. This is a clear indication that many of the officers who joined or exited the service did not file their declarations as required by POEA, 2003.

#### *Every two-year declaration*

Under the Public Officer Ethics Act (POEA) 2003 and Legal Notice No. 53 of 2016, declarations are made every two years. This report captured the declaration for the period 2017/2019.

Out of 219,221 public officers, 214,288 representing 98% complied and 4,933 officers representing 2% did not comply. Administrative disciplinary action was finalized for 403 officers while 3,992 cases were not finalized.

#### *Recommendation*

Authorized Officers to ensure compliance with POEA, 2003 with regard to initial, every two year and final declarations.

##### *(b) Declaration of gifts*

The Leadership and Integrity Regulations, 2015 prescribe the nature and value of gifts a public officer can receive and retain and that which shall be surrendered to the organization. The Regulations also require public organizations to maintain gift registers. The survey sought to establish the existence of gift registers, and the nature of gifts declared.

A total of 68 (23%) institutions confirmed that gifts had been declared by officers. Cumulatively 1,678 gifts were declared by public officers while institutions gave out 2,785 gifts.

A gift is not necessarily a bad thing. Gifts are exchanged all the time in human interactions. However, a holder of a public office must consider carefully the nature of the gift he or she can receive. This is because sometimes gifts are used as a conduit for corruption, aimed at influencing the decision-making process to be in favour of the giver of the gift. For this reason, the giving and receiving of gifts in the public service are regulated.

#### *Finding*

Officers received monetary gifts while others retained non-monetary gifts valued at more than Ksh. 20,000 contrary to Regulations 5(2) of Leadership and Integrity Regulations 2015.

#### *Recommendation*

Public institutions should open and maintain a gift register in the prescribed form as provided for in the Schedules in Form A, B-I and B-II in the LIA Regulations, 2015 and the Public Service Code of Conduct and Ethics, 2016.

#### *4.5.3 Promoting Integrity and Ethical Values*

##### *(a) Managing conflict of interest*

Management of conflict of interest is at the core of good governance. Article 75(1)(a) provides that a State officer shall behave, whether in public and official life, private life, or in association with other persons, in a manner that avoids any conflict between personal interests and public or official duties. Section 16 of The Leadership and Integrity Act 2012 addresses the conflict of interest. It provides inter alia that "A State officer or a public officer shall use the best efforts to avoid being in a situation where personal interests conflict or appear to conflict with the State officer's or public officer's official duties."

Conflicts may arise time and again, what is of importance, and required of a public office holder is full disclosure. This calls for organizations to adopt practices which facilitate disclosure of interest. A total of 38 Institutions had officers who declared conflict of interest. In total 518 Conflicts of interest were declared.

#### *Recommendation*

Public institutions to maintain a conflict of interest register as required under Section 6(11) of the Leadership and Integrity Act, 2012

##### *(b) Measures for Reporting Corruption*

To fight corruption public organizations are required to put in place measures for reporting and to constitute Corruption Prevention Committees whose responsibility is to develop and implement Corruption Prevention Plans. The measures adopted should be such that an individual can report corrupt or unethical practices and at the same time be protected from potential repercussions from the implicated individuals.

A total of 236 (81%) institutions had established Corruption Prevention Committees. In addition, 47 (16%) institutions had

reported cases of corruption while 34 (12%) had officers prosecuted for corruption related offences.

#### Findings

- (a) Corruption undermines government ability to provide basic services such as healthcare and education and leads to wastage of public resources.
- (b) Corruption increases the cost of doing business, discourages foreign and local investments, distorts public expenditures, reduces economic efficiency and slows down administrative processes hence, undermining development and service delivery. If unchecked, it may hinder the achievement of Vision 2030, the Big Four Agenda and other development goals.

#### (c) Prevalence of Corruption Cases

A total of 427 cases of corruption were reported, of which 132 cases were prosecuted and 8 officers were convicted. Two hundred and twenty-two files were referred for administrative action. Further analysis revealed that like the evaluation period 2018/2019 fraud and abuse of office still remained the most prevalent forms of corruption.

Information received from EACC indicated that 92 officers were investigated, out of whom 15 were indicted and convicted. A total of 183 files were recommended for administrative action.

#### Findings

- (a) Like the evaluation period 2018/2019, fraud and abuse of office remained the most prevalent forms of corruption.
- (b) According to EACC, 92 officers were investigated, out of whom 15 were indicted and convicted.
- (c) A total of 183 files were recommended for administrative action.

#### Recommendation

EACC to review the public service integrity programme to align it to the Constitution and relevant laws.

#### 4.5.4 Promoting Transparency and Accountability

Public organizations are accountable to the public for the utilization of the resources entrusted to them. Transparency is promoted by public organizations by among other things, displaying service charters publicly; ensuring ease of access to information by the public; disclosing important information to the public; having transparent and democratic processes; compliance with access to information laws; and submitting reports to Parliament which exercises oversight authority over the Executive.

Accountability is promoted by exercising power and utilizing public resources for the public good, accepting responsibility for decisions, being ready to justify actions, providing reasons for administrative actions, working towards achieving the objectives of an organization in a clear and transparent manner and being responsive to the identified needs of the citizens.

#### (a) Access to Information by Citizens

A total of 77 (26.5%) institutions had developed guidelines on access to information by citizens while majority 214 (73.5%) had not. Instead of uploading the guidelines on access to information, nine institutions uploaded either the ATI Act, 2016 or copies of the quarterly reports earlier submitted to CAJ.

#### Findings

- (a) Citizens have a constitutional right to access information held by public organizations. To facilitate access to information, public organizations are required to develop guidelines.
- (b) Instead of uploading the guidelines on access to information, nine institutions uploaded either the ATI Act, 2016 or copies of the quarterly reports earlier submitted to CAJ.

#### Recommendation

Public institutions should develop guidelines on access to information based on their mandate, constitutional provisions and Access to Information Act, 2016.

#### (b) Channels used by citizens to seek for Information

Citizens are increasingly demanding information from public institutions. The most preferred mode used by citizens to seek information from public institutions was emailing at 35%, followed by telephone calls at 21%, and social media (Facebook, WhatsApp and Twitter) at 16%. Email and social media combined, constituted 51% of the requests. However, the uptake of Instagram and Twitter was still very low. The nature of the information sought by citizens was on delayed or anticipated service delivery and professional advice/guidance.

#### Finding

The uptake of digital platforms by citizens is on the increase.

#### (c) Communication Strategy and Organizational Visibility

A total of 130 (44.7%) institutions had a communication strategy while 161 (55.3%) did not. Seventeen institutions uploaded either draft strategies or obsolete strategies which were not aligned to the institution's strategic plan. This means the new modes of communication which the public prefers such as social media was not addressed in the strategy.

Structured communication with the public is an important means of promoting transparency and accountability. A well-designed communication strategy helps an organization to share its strategic plan with staff, stakeholders and the general public. It ensures that all significant information is dispersed to the correct people at the right time, in the right format and using the right channel.

A communication strategy enables staff to refer to standardized procedures while interacting internally and externally, and ensures that everyone has adequate information. Consistency and flow of information are also maintained in the workplace, among stakeholders and among citizens.

#### Findings

- (a) Seventeen institutions uploaded communication strategies that were obsolete
- (b) It was noted that the new modes of communication which the public prefers such as social media were not addressed in the obsolete strategies.
- (c) Lack of a communication strategy may subject the organization to inconsistent information dispersal or information blockages. This may lead to mistrust by the public or staff. It may also adversely affect service delivery.

#### Recommendations

- (a) Institutions should develop and implement a Communication Strategy that is aligned with the strategic plan.
- (b) Outdated communication strategies should be revised.
- (d) Guidelines on Visibility and Media Engagement

Visibility is about the citizens and stakeholders knowing the organization, what it offers and contributes to the effective delivery of service and operational efficiency. Some institutions that did not have a communication strategy presented guidelines on visibility and media engagement.

A total of 130 (44.7%) institutions had developed guidelines on organization visibility while 161 (55.3%) had not. Similarly, 118 (40.5%) of the institutions had guidelines on media engagement while 173 (59.5%) did not have. An analysis of the uploaded guidelines revealed that most of the guidelines presented had not been endorsed by management of respective institutions.

Existence of guidelines on visibility and media engagement provides an opportunity for stakeholders to partner with the organization and help in achieving its mandate. Brand visibility may be achieved by engaging citizens and stakeholders through both online and offline communication such as social media platforms, media engagement and corporate activities.

#### Findings

Most of the guidelines on visibility presented had not been endorsed by the management of respective institutions.

Overall, good governance is pivotal in enabling an institution to achieve its objectives. For public institutions, the objective is to achieve outcomes which enhance or maintain the well-being of citizens, unlike the private sector where the objective is to generate profits. Observance of the rule of law, equality and fairness is given greater weight than financial performance.

#### 4.6 Performance Management

Performance management aims at improving service delivery. It links individual performance to organizational goals and objectives. For there to be improved performance management institutions need to plan, there has to be a commitment on the deliverables and means to monitor and measure the agreed deliverables. More important is the need to link the budget to deliverables. For improved productivity and enhanced efficiency and effectiveness in the delivery of public services, there is need to ensure continual reskilling by first identifying the skills and competencies required by the institution to achieve its objective and facilitating the officers to acquire those skills. Besides, there is need to motivate officers by recognizing those who excel in service delivery and also putting in place measures to address unsatisfactory performance.

Under this thematic area, the Commission sought to establish whether public institutions had put in place measures necessary for performance management. The performance indicators were-

- (a) Availability of an approved and operational strategic plan,
- (b) Availability of an annual organizational work-plan for the 2019/2020 financial year;
- (c) Availability of signed performance contracts, Performance Contract evaluation score (Composite Score) for the financial year 2018/2019,
- (d) The setting of performance targets and Appraisal of Staff,
- (e) Sponsoring of officers in public institutions for individual training;
- (f) Training Impact Assessment (TIA);
- (g) Disciplinary control,
- (h) Availability of coaching and mentoring policies;
- (i) Availability of a Skills Inventory and Human Resource Plans;
- (j) Exits and modes of exit;
- (k) Exit interviews and analysis of exit interview questionnaires; and
- (l) Compliance with measures on Management of Covid-19.

##### 4.6.1 Institutional Performance

###### (a) *Approved and Operational Strategic Plan*

A strategic plan is an accountability tool through which public institutions commit to deliver specific services to the public by a specified period. It also outlines the required resources to implement the plan.

A review of the uploaded strategic plans revealed that a total of 243 (84%) out of 291 institutions had current operational strategic plans while 48 institutions (16%) did not have. All the Constitutional Commissions and Independent Offices had valid strategic plans. This was followed by State Corporations and SAGAs and public universities that had 167 (88%) and 29 (83%) institutions with valid strategic plans respectively. Thirty-one Ministries and State Departments had the lowest level of compliance at 63%.

A Strategic Plan enables an organization to work towards achieving its objective in an organized manner. Having a strategic plan is a key tenet of good governance. Not having a current strategic plan means the affected institutions are haphazardly implementing programmes. Such programmes may not be aligned to their sector vision and the Kenya Vision 2030. It will therefore be difficult to measure their contribution to the national development agenda.

###### *Finding*

Ministries and State Departments had the lowest level of compliance at 63%. The low rate negatively impacts on compliance by downstream institutions and service delivery.

###### *Recommendations*

- (a) The National Treasury to enforce the requirement for institutions to have approved Strategic Plans before loading of institutional budgets.
- (b) Public institutions that do not have current strategic plans to fast track their finalization.
- (c) Public institutions to develop or review strategic plans and align them with MTP III and Vision 2030.
- (b) *Annual Organizational Work-Plans for 2019/2020 Financial Year*

A total of 198 (68%) institutions had relevant annual work plans while 93 (32%) did not have. It is apparent that almost a third of the public institutions operated without annual work plans during 2019/20 financial year.

All the seven (100%) Statutory Commissions and Authorities as well as 132 (69%) State Corporations and SAGAs evaluated had valid annual work plans. Additionally, 34 (69%) Ministries and State Departments, and 6 (60%) Constitutional Commission and Independent Offices had the relevant annual work plans. Public universities had the lowest compliance rate under this category with 19 universities (54%) having relevant annual work plans.

A work plan is an internal framework for holding teams accountable. Through annual work plans organizations can track, measure and evaluate progress and where necessary change course. Unavailability of an annual work plan makes it difficult to measure the performance of an institution.

###### *Finding*

Public universities had the lowest compliance rate regarding having relevant annual work plans.

###### *Recommendation*

Institutions should develop and implement relevant annual work plans to facilitate the achievement of institutional goals.

###### (c) *Performance Contract Evaluation Score (Composite Scores) for Financial Year 2018/2019*

The public institutions that are placed on performance contract are evaluated on annual basis to assess the level of achievement of the set targets. Performance contract evaluation was undertaken for Ministries and State Departments, State Corporations and SAGAs, public universities and tertiary institutions. The performance grading ranges from a performance score of 1.0 (excellent performance) which is the highest a public institution can achieve to 0 (poor performance), the lowest performance score that an institution can record.

Public Universities registered the highest performance index of 0.3558 (very good performance category) followed by State corporations and SAGAs whose performance score was 0.3229 (good performance category) while ministries and departments had the lowest performance score of 0.2945 (good performance category).

###### *Finding*

Public Universities registered the highest performance index of 0.3558 (very good performance category) followed by State corporations and SAGAs whose performance score was 0.3229 (good performance category) while ministries and departments had the lowest performance score of 0.2945 (good performance category).

###### *Comparative performance for 2005/06–2010/2011 Financial Years and 2018/2019 Financial Year*

The overall aggregate performance score for institutions evaluated was 0.3205 - Good performance). This level of performance is lower than the performance level registered in the first six years of introduction of performance contracts in the public service.

###### *Findings*

- (a) The overall aggregate performance score for institutions evaluated was 0.3205. This level of performance is lower

than the performance level registered in the first six years of introduction of performance contracts in the public service.

(b) The performance of the public service declined compared to the previous years.

(d) Signed performance contracts during the 2019/2020 financial year

A total of 162 (56%) institutions signed or had vetted performance contracts while 129 (44%) did not. A total of 127 (67%) State corporations and SAGAs and 22 (63%) public universities had signed performance contracts respectively. Additionally, 13 (27%) ministries and state departments had signed performance contracts. All Constitutional Commissions and Independent Offices as well as Statutory Commissions and Authorities did not provide evidence of signed Performance Contracts. Article 249 of the Constitution provides that Constitutional Commissions and holders of Independent Offices are subject to the Constitution and the law and are not subject to direction or control by any person or authority. This may explain why none signed the Performance Contract which is usually spearheaded by a ministry.

A performance contract is a tool which promotes transparency and accountability. A performance contract should be linked to the strategic plan and the annual work plan for an institution for a particular year. However, not every activity in the annual work plan is escalated to the performance contract. Only the key priority activities which have a direct impact on the lives of citizens are included in the performance contract.

#### Findings

(a) Failure by 44% of the institutions surveyed to sign the performance contract did not augur well in terms of promoting transparency and accountability.

(b) Article 249 of the Constitution provides that Constitutional Commissions and holders of Independent Offices are subject to the Constitution and the law and are not subject to direction or control by any person or authority. This may explain why none of them signed the Performance Contract which is usually spearheaded by a ministry.

#### Recommendations

(a) All public institutions to sign performance contracts.

(b) For Constitutional Commissions and holders of Independent Offices the management to sign a performance contract with the respective Boards/Commission.

(c) Public institutions to undertake annual performance evaluation to facilitate analysis of performance results and utilize the information analyzed to support decision making.

(d) Organizational annual work plan to be included as one of the standard requirements during Performance Contracting signing and vetting

(e) Cascading of Performance Contracts

Public Institutions deliver what they have promised in the signed performance contracts through their officers. It is, therefore, the responsibility of the accounting/ authorized officer to ensure that the contract is signed, cascaded to directorates/departments /units and individual public officers. The public officers are then held accountable for their targets and collectively for the targets of their state departments, Semi-Autonomous Government Agencies, directorates /departments or units etc.

By signing a performance contract, an institution commits to utilizing available resources both human and financial to deliver on the agreed targets. Cascading of performance contracts to the second and third levels enables officers to draw their targets from the cascaded level from which they can be individually held accountable.

#### Finding

All the 162 institutions that had the relevant performance contracts at the first level did not provide evidence that they cascaded the contracts at the second level.

#### Recommendation

Public institutions to cascade performance contract to the lower levels and ensure that all departments are contributing to the execution of institutions' mandate.

(f) *Reasons Given by Institutions for not signing Performance Contract*

Institutions gave the following reasons for failure to sign PCs

(a) Failure to automate vetting of Performance Contracts through GHRIS;

(b) The Performance Contracts were vetted and/or signed by the Chairpersons of the Board/ Council awaiting witnessing by the parent Ministry;

(c) Delay in signing performance contracts forwarded to parent ministries;

(d) Delay or failure to sign the performance contracts for Cabinet Secretaries;

(e) Some relatively new institutions that lacked structures and personnel were exempted from signing PC; and

(f) Delay in appointing members of the Board or Council.

#### Finding

Currently, there is no existing legal framework to guide the performance contracting process. This may explain the fact that there are many public institutions which did not sign the performance contract in 2019/20.

#### Recommendation

Performance management to be anchored in law.

#### 4.6.2 Employee Performance

A performance appraisal is a regular review of an employee's job performance and contribution to the realization of the organization's goals and objectives. This, therefore, requires that public officers set targets against which they will be appraised. The targets can be reviewed on a quarterly, semi-annual or annual basis. Performance appraisal may be used to review progress and reward high achievers as well as make decisions which may include placing an employee whose performance is not satisfactory on a performance improvement plan or even separation.

(a) *Staff Performance Appraisal System*

Out of those appraised, 14,671 (15%) exceeded the agreed performance targets (101% +) while 33,540 (34%) attained all the agreed performance targets (100%). Additionally, 35,086 (35%) attained between 80 – 99%, 14,902 (15.05%) attained between 60 – 79% while 2,380 (2.40%) attained 59% and below of the agreed performance targets respectively.

Overall 49% of staff achieved their set targets while majority did not. About 84% of staff achieved appraisal score of 80% and above.

#### Findings

(a) About 59% of the officers set individual targets leaving out 41% whose performance could not be measured.

(b) Ministries and State Departments and Statutory Commissions and Authorities recorded the lowest compliance levels regarding setting performance targets.

(c) About half of the officers appraised achieved their set targets.

#### Recommendation

Management should enforce the undertaking of the annual Staff Performance Appraisal for all staff.

(a) *Review of the performance appraisal for officers by the Performance Management Committee*

Having individual public officers set targets is just the first step of managing the performance of an employee. For effectiveness the targets set by individual officers should be monitored periodically. In the public sector, this is done through Performance Management Committees.

Performance Management Committees met to review staff performance in 50 (17%) institutions while PMCs in 241 (83%) institution did not meet. The performance review meetings led to the rewarding of 4,376, sanctioning of 203 and 580 being put under performance improvement plans. The PMCs that held meetings increased by 39 (78%) from 11 in 2018/2019 to 5 in 2019/2020 financial year. Similarly the number of officers rewarded increased from 4,137 to 4,376 officers.

For a citizen centric-service to be realized there is a need for all staff to be appraised each year. This will facilitate recognition for high performers to perform even better. Those who are struggling can be put on performance improvement plans and separation for those not willing to improve.

#### *Finding*

The low number of organizations whose performance review committees met is an indication that performance management of staff is not taken seriously. This impacts negatively on productivity and service delivery. The high performers will be demotivated for lack of recognition and the poor performers will have no motivation to improve.

#### *Recommendation*

Performance Management Committees to meet quarterly to review the performance of staff according to the Performance Rewards and Sanctions Framework for the Public Service.

#### 4.6.3 Human Resource Development

##### *(a) The Training Budget*

To keep abreast with citizens' expectations and developments in various fields, there is a need to ensure that the public officers have the necessary skills and competencies. Further, the Constitution requires that all public servants are afforded adequate and equal training opportunities. For institutions to get the best out of the training investment, training should be conducted in a structured and organized manner. Institutions, therefore, need to undertake a training needs assessment, prepare training projections and ensure that adequate budget of not less than 1% of the recurrent budget is provided for human resource development.

#### *Findings*

- (a) A total of 110 (39%) of public institutions set aside a minimum of 1% of the recurrent budget to cater for training.
- (b) Data inconsistency on budget allocation and absorption were noted from 48 institutions.

#### *Recommendation*

Public institutions should comply with the Public Service Human Resource Development Policy, 2016 which requires them to allocate between 1% and 2% of recurrent expenditure to training.

##### *(b) Training Needs Assessment (TNA)*

It was observed that notwithstanding the importance of establishing the training gaps in order to address them for improved job performance, only 94(32%) of the institutions conducted Training Needs Assessment and 197(68%) did not. Out of the 94 institutions that conducted TNA, 78 (83%) based the training projections on TNA and 16(17%) did not.

A TNA can help fix a performance problem; it ensures that the training obtained is relevant for the job performance. A properly conducted TNA followed by actual training will lead to improved performance.

#### *Findings*

- (a) Majority of the public institutions did not conduct training needs assessment despite 17,687 of officers being trained. Therefore, the training projections and subsequently the actual training of officers are not based on the training needs and performance gaps of the officers. This means the training was not necessarily based on identified training needs necessary for the improvement of the performance of the officer and for the institution.

- (b) Further analysis revealed that Institutions used different approaches in conducting TNA. While some institutions used the research-orientated approach others did not.

#### *Recommendation*

A TNA framework to be developed to standardize the process of undertaking TNA by public institutions.

##### *(a) Conducting of Training Impact Assessment (TIA)*

It was observed that only 8(3%) institutions undertook training impact assessment while 283(97%) did not.

Training impact assessment is concerned with assessing the efficiency and effectiveness of the training programme attended by a public officer and its contribution to helping the organization achieve its objectives.

#### *Finding*

Majority of the institutions did not undertake training impact assessment. Therefore, it was difficult to establish the effectiveness of the training programmes towards improvement in performance and productivity.

#### *Recommendation*

A Training Impact Assessment framework should be developed to guide public institutions on how to carry out training impact assessments.

##### *(b) Coaching and Mentorship in the Public Service*

Only 38(13%) institutions had a coaching and mentorship policy, 253(87%) did not. A comparative analysis from the 2018/2019 evaluation revealed that out of the 281 organizations evaluated, a total of 16 institutions representing 6% had a policy on coaching and mentorship, while a total of 265 institutions representing 94% did not have the said policy. From the two-year assessment, it can be observed that there is a slight marginal increase in terms of coaching and mentorship policy developed.

Coaching and mentoring are beneficial to both the employee and the organization. The employee gets to learn from the best and for the organization mentorship instils loyalty in employees and reduces turn over. Mentorship is good for succession planning and ensures business continuity when experienced employees exit an organization.

#### *Findings*

- (a) A comparative analysis from the 2018/2019 evaluation revealed that out of the 281 organizations evaluated, a total of 16 institutions representing 6% had a policy on coaching and mentorship, while a total of 265 institutions representing 94% did not have the said policy. From the two-year assessment, it can be observed that there is a slight marginal increase in terms of coaching and mentorship policy developed.
- (b) Coaching and mentoring are critical in ensuring that an organization addresses the present and future needs of both the individual employee and the organization. To facilitate structured coaching and mentoring, institutions need to have policies to guide the process.
- (c) Six institutions that did not provide a specific date when they intend to develop the coaching and mentorship policies gave various reasons including lack of a fully constituted Board, lack of funding to develop the policy, the merger of state corporations is finalized or the institution in the process of being wound up.

#### *Recommendations*

- (a) Public institutions to develop and implement coaching, mentoring and talent management policies and programmes as required in the Human Resource Policies and Procedures Manual, 2016.
- (b) Public institutions to institutionalize coaching and mentoring for performance improvement and succession management.

#### 4.6.4 Skills Inventory and Human Resource Plans

A skills inventory enables an institution to determine the available skills and whether these skills will enable the institution deliver on its mandate. Where there are skills gaps then remedial measures can be

taken either through redeployment, employment or training existing officers.

Human resource planning is critical in ensuring business continuity, and that there are fewer disruptions to service delivery. An institution can forecast in advance the skills required in the foreseeable future and put in place mechanisms to ensure that those skills will be available. Human resource planning is critical in promoting good governance.

A total of 145 (50%) had undertaken a skills inventory while 146 (50%) had not. Further, 35(12%) institutions had developed human resource plans while 256(88%) had not.

#### Findings

(a) Majority of the institutions provided an inventory of academic and professional qualifications of officers. However, the skills and competencies possessed by officers were not indicated. This finding was consistent with the Human Resource Planning and Succession Management strategy for the Public Service 2017 that indicated that Ministries, Department and Agencies do not maintain comprehensive skills inventories that would adequately inform the correct human resource status. This, therefore, makes it difficult to identify the existing skills gaps and develop appropriate programmes to address the gaps.

(b) As regards Human Resource Plans, institutions submitted career progression guidelines for the various cadres of staff in their institutions and Authorized Establishment. These efforts were not adequate to address all issues in Human Resource Planning.

#### Recommendation

A comprehensive skills inventory framework should be developed to guide in the preparation of institutional skills inventory.

#### 4.6.5 Disciplinary Control in the Public Service

The objective of disciplinary control in the public service is to create a motivated and dedicated Public Service which upholds the rules of conduct and work ethics for optimal service delivery. The law requires the disciplinary process to be procedurally fair and expeditious. In public service, disciplinary cases ought to be finalized within six months. The rationale for this is that when an officer is facing a disciplinary process the levels of anxiety are heightened as the officer is not sure whether he or she is retaining the job or losing it. Performance therefore is affected. The exception to the six-month period is when the discipline case is a result of an on-going court case in which case the court case has to be concluded first before a determination is made.

There were a total of 7,151 discipline cases. Of these, 5,369 (75%) were concluded within 6 months, 1,012 (14%) were not concluded within six months while 340 (8%) were pending.

From the data analyzed, the prevalence of absenteeism stood at 2,575 officers representing 36% while 2,152 representing 30% was due to negligence of duty and those criminal in nature such as fraud, forgery, abuse of office, theft by public servant and bribery accounted for 764 representing (11%).

#### Findings

(a) Absenteeism and negligence of duty accounted for 66% of the discipline cases.

(b) Absenteeism and negligence of duty can affect an officer's productivity leading to inadequate individual and organizational performance. It would be advisable for the human resource to consider the root cause of work place absenteeism and negligence of duty which may be due to disengagement, burn out or a lack of sufficient work or supervision. A closer engagement with the concerned officer(s) or counselling may provide insights on the cause and provide viable interventions for both the public officer and the organization.

(c) Abuse of office, theft by servant and bribery has an impact on service delivery and performance to a great extent. Some of these misdemeanours would proceed on to the Anti-Corruption court, much as administrative action will commence within the specific institution where the offence was committed, the final decision like dismissal will wait for the court's outcome to

avoid a scenario of double jeopardy to the accused officer. Similarly, training on the Public Officer Code of conduct and Ethics would provide the officer(s) with knowledge on what would be tantamount to a breach of the code and even how to report such breach.

(d) Disciplinary cases in the public service are diverse and vary from minor misconducts to serious offences. In several instances, a number of these misconducts are deemed minor, which can either be resolved through counselling, refresher in-house training on human resource policies and codes of conduct and on-the-job retraining for all employees regardless of rank.

#### Recommendation

Discipline cases should be finalized within 6 months as prescribed in the Human Resource Policies and Procedures Manual, 2016.

#### 4.6.6 Compliance with Government Measures on Management of Covid-19 Pandemic

Following the declaration by the World Health Organization on Covid-19 being a global health crisis, the Government formed an inter-agency team including stakeholders from the private sector. The Ministry of Health, taking a lead role, developed Regulations which provided for a legislative framework in the management of Covid-19 as provided for in the Public Health (Prevention, Control and Suppression of Covid-19), 2020.

With the advent of the pandemic, there was a need to adopt new ways of working, to address the spread of the deadly virus. Workplace guidelines were developed and issued by the Head of Public Service to the National and County Governments on how to manage the pandemic at the work place. Several strategies under the guidelines were put across, ranging from the promotion of physical and social distancing at the workplace, to public officers with pre-existing conditions and those aged 58 years and above being asked to work from home. Additional measures included ensuring workplace hygiene by providing face masks, alcohol-based sanitizers, setting up hand washing stations, conducting temperature checks and fumigation of office premises.

The guidelines also provided the protocols to be followed upon return to work after quarantine and isolation. The guidelines were put in place to ensure the safety of public officers while at the same time ensuring that service delivery continued.

#### Finding

Compliance with preventive measures at the workplace was adhered to by a majority (290) of the evaluated institutions.

#### (a) Existence of a Shift Work Schedule

The shift work schedule is where employees succeed one another at work to enable an institution to operate on extended work hours. In certain public institutions shift work hours has been the norm. However, during the period of Covid-19 pandemic, the use of shift work system provided a forum for public organizations to ensure work is done within a set time frame while ensuring compliance with guidelines provided in the management of Covid-19. In implementing the guidelines issued by the head of public service, institutions ought to have created work schedules to facilitate seamless service delivery even in the face of the pandemic.

A total of 246 organizations representing 85% adopted a shift work schedule, 23 organizations representing 8% did not have a shift work schedule while 22 organizations representing 8% provided other initiatives in containing the pandemic which ranged from remote to virtual working and downscaling of staff physically present in the office to a bare minimum.

#### Findings

(a) Covid19 pandemic disrupted the way of doing things. Officers were required to work from home or work in shifts. Adoption of shift work schedule was accelerated during the lockdown.

(b) Other initiatives adopted by institutions to contain the pandemic ranged from remote to virtual working and downscaling of staff physically present in the office to a bare minimum.

- (c) COVID-19 had not been anticipated and so there was no policy to guide the new way of working. It was difficult to assess the performance of officers who were working from home.

#### *Recommendation*

A policy framework for managing performance of employees working remotely or in shifts to be developed.

#### 4.6.7 Exits from the service

A total of 10,093 officers exited the service. Retirement is the leading cause of exits accounting for 6,161 (61%) officers. Generally, it was observed that the ratio of new appointments (10,793) to exits (10,093) was 1:1 therefore the number of officers in the service tend to be constant.

#### *Findings*

- (a) Retirement was the leading cause of exits accounting for 6,161 (61%) officers.
- (b) Generally, it was observed that the ratio of new appointments (10,793) to exits (10,093) was 1:1 therefore the number of officers in the service tend to be constant.

#### *(a) Conduction and Analysis of Exit Interview Questionnaires*

It was observed that 149 (51%) conducted exit interviews and 142 (49%) did not. Out of the 149 institutions that conducted interviews only 49 (33%) analyzed the exit questionnaires, while 100 (67%) did not. This means they missed out valuable feedback from officers who exited their institutions.

An exit interview is an effective tool for obtaining feedback from the officer(s) exiting a public institution. Good practice requires that the exit interview data be analyzed and the findings shared with the management for follow up. The information obtained can be used to improve organizational performance and assist in staff attraction, retention and motivation.

#### *Findings*

- (a) Failure to conduct and analyze exit interviews by the majority of the institutions implied that the institutions missed out valuable feedback from officers who exited their institutions.
- (b) The draft Public Service Commission (Performance Management) Regulations has been forwarded to the Attorney General for publication. Once approved by Parliament, the Regulations will streamline performance management in the public service.

#### *Recommendation*

- (a) Institutions to utilize information received from exit interviews to improve service delivery.
- (b) The Human Resource Policy and Procedures Manual 2016 be reviewed to make it mandatory for public institutions to conduct exit interviews, analyze the questionnaires and implement the recommendations.

#### 4.7 Equitable Allocation of Opportunities and Resources

Article 27 of the Constitution calls for equality and non-discrimination of all persons. Equal treatment does not always result in equal gains. Thus, the Article further introduces the principle of equity to cure this problem by obligating the State to take legislative and other measures including affirmative action programmes and policies designed to redress any disadvantages suffered by individuals or groups because of past discrimination. These may include identification and removal of barriers that have kept some groups in the margins of the society.

In light of the foregoing, the Constitution obligates the government to ensure two-thirds gender representation; at least 5% of appointments in the public service of Persons with Disabilities (PWDs); youth are provided with opportunities to participate in political, social and economic spheres; minority and marginalized communities are provided with special opportunities in education and economic fields and have reasonable access to water, health services and infrastructure respectively; and that older persons live in dignity.

The opportunities in the public service shall constitute training and advancement at all levels as well as appointments and promotions

based on fair competition and merit in cognizance of the diverse communities in Kenya, men and women, PWDs and the youth. Section 10 of the Public Service (Values and Principles) Act, 2015 provides for circumstances under which the principle of fair competition may be waived to provide for affirmative action.

Diversity Policy for the Public Service, 2016 guides on mainstreaming and management of diversity issues in the public service. Under this thematic area, the Commission sought to establish the distribution of resources and opportunities in line with the above constitutional provisions and indicator 16.7.1(a) of Goal 16.7 of the United Nations Sustainable Development Goals. The performance indicators were—

- (a) Distribution of staff by gender, PWDs and ethnicities;
- (b) Distribution of appointments, training and promotions by gender, PWDs and ethnicities;
- (c) Provision and customization of facilities and services for use by PWDs;
- (d) Mode of advertising vacancies;
- (e) Affirmative action programmes;
- (f) Distribution of AGPO opportunities to women, youth and PWDs; and
- (g) Distribution of programmes for marginalized/minorities, vulnerable and special groups.

#### 4.7.1 Distribution of Public Officers by Gender, PWDs and Ethnicities

The Commission sought to establish the total number of officers serving in the public service based on gender, PWDs and ethnicity during the 2019/2020 financial year.

#### *(a) Gender representation in the public service*

Article 27(8) of the Constitution requires that not more than two-thirds of members of elective or appointive bodies shall be of the same gender. The 290 public institutions that presented details on bio-data reported that a total of 215,860 public officers were serving in the public service as at 30th June, 2020, out of whom 140,044 (65%) were male while 75,816 (35%) were female. This therefore was an indication that there was no gender gap across the public service.

#### *Finding*

Analysis of the bio-data revealed that two-thirds gender principle was generally met in all the five sectors across the public service except in 58 institutions. It is however noted that the constitutional requirement of equal representation has not been met. Article 232(1)(i) of the Constitution requires equal representation of both genders at all levels.

#### *Recommendations*

Public institutions should work towards achieving equal gender representation in line with Article 232(1)(i) of the Constitution and indicator 16.7.1 (a) of Goal 5 of the United Nations Sustainable Development Goals.

The 58 public institutions which had not complied with the two-thirds gender requirement to address their gender gaps as guided by the respective affirmative action programmes.

#### *(b) Representation by Gender across Job Levels*

It was observed that the female gender was grossly under-represented at senior management and policy levels. The ratio at senior management level was 71% male to 29% female while at policy level the ratios were 79% male to 21% female. This was a decline in female representation from the 2018/19 evaluation when representation stood at 68% male to 32% female and 70% male to 30% female for Senior Management and Policy levels respectively.

#### *Finding*

It was observed that the female gender was grossly under-represented at senior management and policy levels.

#### *Recommendations*

- (a) Public institutions to commit to achieving equal representation at various levels in line with Article 232(1)(i) of the

Constitution and indicator 16.7.1 (a) of Goal 16.7 of the United Nations Sustainable Development Goals.

- (b) Public institutions to develop and implement deliberate affirmative action programmes to ensure gender parity is realized at all job levels.

*(c) Representation of PWDs in the Public Service*

The service had a total of 2,740 PWDs, accounting for 1.3% of the in-post. The performance gap therefore was 3.7% of the constitutional threshold of a minimum of 5%.

*Findings*

- (a) There was a marginal improvement of 0.1% compared to 2018/19 report.
- (b) The PWD representation gap was 3.7% of the constitutional threshold of a minimum of 5%.
- (c) Although the constitutional threshold had not been met by a majority of the institutions, the following 13 organizations had met the threshold—
- (i) National Council for Persons With Disabilities
  - (ii) Intergovernmental Relation Technical Committee
  - (iii) Anti-Female Genital Mutilation Board
  - (iv) Nairobi Centre For International Arbitration
  - (v) Universities Fund
  - (vi) Kenya Education Management Institute
  - (vii) Kenya Institute of Special Education
  - (viii) Ewaso Ngiro North River Basin Development Authority
  - (ix) Lake Victoria South Water Works Development Agency
  - (x) Council of Legal Education
  - (xi) State Department for Post Training and Skills Development
  - (xii) National Water Harvesting and Storage Authority
  - (xiii) National Authority for the Campaign Against Alcohol and Drug Abuse.

*(d) Representation of PWDs at various levels*

Out of a total of 2,740 officers with disabilities, 2,163 (79%) were deployed at operational and technical levels. At policy and management levels, PWDs comprised 359 (13%) of officers. Separately, the National Council for Persons with Disabilities reported that a total of 522,022 PWDs were registered with the Council as at 30th June, 2020. In this regard, only an equivalent of 0.5% of registered PWDs was represented in the public service. The Council, however, did not provide disaggregated data by levels of education and gender.

*Finding*

The constitutional threshold of representation of PWDs at all levels was not met.

*Recommendations*

To achieve the constitutional threshold of a minimum of 5% for PWDs, it is recommended that—

- (a) NCPWD disaggregates the PWDs data by gender and education levels and share with public organizations for consideration during recruitments
- (b) Public institutions to implement affirmative action programmes during recruitment in line with Section 10 of the Public Service (Values and Principles) Act, 2015, and as guided by the affirmative action programmes for PWDs developed during the 2018/19 values compliance evaluation;
- (c) Public institutions to deliberately provide training opportunities for officers with disabilities in line with the Human Resource Development Policy for the Public Service to enable them to acquire qualifications to facilitate their advancement in the service.

*(e) Representation of Ethnic Communities in the Public Service*

*Ethnic Representation*

Forty-three out of 46 ethnic communities as per the 2019 Kenya Population and Housing Census were represented in the public service. None of the institutions evaluated had attained proportionate representation of all the 46 ethnic communities. However, 51 (18%) of the institutions had a representation of at least half of the 46 ethnic communities. Of those with at least half of the ethnic communities, 22 were Ministries and State Departments, 23 State Corporations and SAGAs, three Constitutional Commissions and Independent Offices, two Public Universities and one Statutory Commission and Authority.

The top 10 most representative institutions are Independent Electoral and Boundaries Commission, Ethics and Anti-Corruption Commission, State Department For Interior And Citizen Services, Ministry of Health, State Department For Social Protection, Kenya Wildlife Service, Kenya Prisons Service, Kenya Revenue Authority, Kenya Forest Service and Kenya Medical Training College.

*Finding*

None of the public universities and statutory commissions and authorities was among the top 10 most representative organizations. Additionally, 126 (43%) institutions had an ethnic representation of less than a third (15) of the 46 ethnic communities. These comprised six Ministries and State Departments, 99 State Corporations and SAGAs, 17 Public Universities, two Constitutional Commissions and Independent Offices and two Statutory Commissions and Authorities.

*(i) Normal representation*

A total of 35 of the 46 ethnic communities were within the normal threshold of proportionate representation relative to national population size with a standard deviation of +1 or -1. Generally, proportionate representation for all the 46 ethnic communities was yet to be realized.

*(ii) Underrepresented Communities*

Three communities namely the Turkana, Luhya and Mijikenda were underrepresented when compared to the national population while the Kenyan Somali were grossly under-represented. The Luhya and the Mijikenda were also reported as underrepresented during the 2018/19 evaluation.

*(iii) Overrepresentation*

The Kisii and Luo ethnic communities were over-represented, and that the representation status for the two was the same during the 2018/19 evaluation. The Kikuyu and the Kalenjin communities were grossly over-represented, as was the case in the previous evaluation.

*(iv) Unrepresented Communities*

The Dahalo, Wayyu and Kenyan American were the only non-represented ethnic communities in the public service. It is however noted that the Dahalo and the Wayyu ethnic communities had not been enlisted in the 2009 Population Census report.

The National Employment Authority (NEA) indicated that a database for citizens seeking job opportunities had been developed. The institution committed to continually update the database and disseminate reports to organizations for consideration during recruitment.

*Recommendation*

Institutions affected by imbalances in ethnic representation should endeavour to implement the affirmative action programme on ethnicities that was presented in the 2018/19 evaluation report and as required by Section 10 of the Public Service (Values and Principles) Act, 2015.

*4.7.2 Provision of Reasonable Accommodation for PWDs*

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) provides that, to promote equality and non-discrimination, State parties shall take steps to ensure that reasonable accommodation is provided.

Reasonable accommodation entails any change to the application or hiring process, to the job, to the way the job is done, or the work environment that allows a person with a disability who is qualified for the job to perform the essential functions of that job and enjoy equal



employment opportunities. Accommodations are considered “reasonable” if they do not create an undue hardship or a direct threat. This may include changing job tasks, providing reserved parking, improving accessibility in a work area, changing the presentation of tests and training materials, providing or adjusting a product, equipment, or software, allowing a flexible work schedule, providing aid or a service to increase access or reassigning to a vacant position.

The Public Service Commission Code of Practice on mainstreaming Disability, 2010 provides that public service entities shall implement the principle of universal design and reasonable accommodation in procuring goods, services and works. Reasonable accommodation should commence from the advertising stage to the duration of an employee with a disability is in employment.

*(a) Advertisement of Vacancies as a Mode of Equalization of Employment Opportunities*

The mode of the advertisement has an impact on achieving representation in the public service. Section 5(2) of the Employment Act, 2003 provides that an employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice. It is observed that sometimes under-representation of communities occurs because of the mode adopted by public institutions to advertise vacancies. To ensure that all potential applicants have an equal opportunity to apply for the advertised positions, Section 37(1) of PSC Act, 2017, requires that the advertisement be posted on the website, at least one daily newspaper of nationwide coverage, the radio and other modes of communication.

Further, Section 37(3) of the PSC Act provides that the advertisements shall be conducted efficiently and effectively to ensure that the applicants, including persons who for any reason have been or may be disadvantaged, have an equal opportunity to apply for the advertised positions. Separately, 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 (NCPWD).

Separately, Section 32 (b) of the Public Service Commission Regulations, 2020 requires public institutions to review their recruitment policies to ensure that the mode of advertisement of job vacancies do not in any way disadvantage any particular group.

The Commission sought to establish the modes used by public institutions to advertise job vacancies. A total of 276 (95%) and 234 (80%) institutions used website and social media as the most preferred mode of job advertisement respectively. The other preferred mode by 196 (67%) institutions was use of print media including newspapers and newsletters, which was the most preferred mode during the 2018/19 evaluation year. In addition, 180 (62%) of institutions used Information Education and Communication (IEC) materials to advertise job vacancies. The least preferred mode was the use of broadcast Media (TV & Radio) by 154 (53%) institutions. This is despite the fact that broadcast media, especially the radio, was one of the most effective channels in reaching out to the widest pool of job applicants. Efficacy of broadcast media in advertisement was confirmed by the Kenya Media Landscape Report of July, 2019 produced by Reelforge and TIFA Research that showed that radio was the most consumed media source in the country at 66%.

*Findings*

- (a)* Equality of opportunity has been interpreted to mean the “process through which various systems of society and the environment such as services, activities, information and documentation are made available to all, particularly Persons with Disabilities.”
- (b)* Print media remained the most preferred mode as was reported in 2018/2019.
- (c)* Broadcast media was the least preferred mode as was reported in 2018/2019. This is despite the fact that broadcast media, especially the radio, is one of the most effective channels in reaching out to the widest pool of job applicants. Efficacy of broadcast media in advertising was confirmed by the Kenya Media Landscape Report of July, 2019 produced by Reelforge and TIFA Research that showed that radio was the most consumed media source in the country at 66%.

*Recommendations*

- (a)* All public institutions to comply with Section 37(1) of the PSC Act, 2017 relating to the mode of communication and advertisement of job vacancies.
- (b)* Public institutions to share available job vacancies with the NCPWD and National Employment Authority (NEA).
- (c)* The policy on centralization of job advertisements to be reviewed to align it with Section 37(1) of PSC Act, 2017.
- (b) Customization of Services and Facilities*

It is not sufficient to appoint PWDs into the public sector. Once appointed, the institutions should put in place measures to ensure that an employee with a disability is retained and grows. The ILO Employment (Disabled Persons) Convention (No. 159), encourages the Member States to adopt measures that will provide Persons with Disabilities with equal opportunity to access, retain and advance in employment that is freely chosen in an open labour market. This, therefore, calls for customization of facilities and services. This requirement is embedded in Section 21 of the Persons with Disabilities Act, 2003 which provides that Persons with Disabilities are entitled to a barrier-free and disability friendly environment to enable them to access buildings, roads and other social amenities and assistive devices and other equipment to promote their mobility.

The Commission sought to establish the total number of facilities and services available in public institutions that are customized for use by PWDs. It sought to establish the status of customization of services and facilities for PWDs under the following parameters: personal aides, accessible premises, reserved parking, customized chairs, availability of sign language interpreter, availability of braille, customized sanitary facilities, availability of customized lifts, flexible working hours, and provision of assistive devices.

The most popular facilities or customized services for PWDs was accessible premises and reserved parking with 258 (89%) and 240 (83%) institutions respectively. The facilities which were least provided included personal aides by 76 (26%) institutions, customized chairs by 91 (31%) institutions and customized lifts by 97 (33%) institutions. One hundred and ninety-three (66%) institutions had customized sanitary facilities, 146 (50%) had sign language interpreters, 115 (40%) provided flexible working hours and 110 (38%) provided assistive devices that included wheel chairs-customized software-hearing aids and crutches. In addition, 152 (52%) institutions reported availability of braille services while a total of 160 (55%) reported to have transcribed their documents into Braille. This was an improvement from 33 institutions that reported to have transcribed their documents in the 2018/19 FY. Further, 148 (51%) institutions reported that their institutional customer service charter had been transcribed into braille. Other transcribed documents included product catalogues, organizational mandate, legislations, policies, regulations, procedure manuals, training manuals and strategic plans.

*Findings*

- (a)* The number of institutions that reported to have transcribed their documents into braille increased from 33 in 2018/2019 to 160, an increase of 80%.
- (b)* Half of the institutions had transcribed their institutional customer service charter into braille.
- (c)* Other transcribed documents included product catalogues, organizational mandate, legislations, policies, regulations, procedure manuals, training manuals and strategic plans.
- (d)* Other facilities or services customized for use by PWDs were customized clients’ service counters for PWDs such as dwarfism, customized websites, disability-friendly buses, customized students’ hostels, non-taxable remuneration, free transport, customized tables, signages, working ramps and sign language interpreters.

The National Council for Children’s Services, National Quality Control Laboratory and Regional Center on Ground Water Resource Education, Training and Research did not comply with any of the above parameters.

Whereas institutions may provide aides, flexible working hours and wheelchairs depending on the nature of disability of their employee(s),

there are services which should be customized regardless of whether there is an employee with a disability in an organization or not. This is because public offices are visited by persons with various needs. There should therefore be 100% compliance by institutions in providing: accessible premises, reserved parking, sign language interpreters and customized sanitary facilities.

#### *Recommendations*

- (a) The National Council for Persons with Disabilities to conduct an audit of premises to determine accessibility for PWDs by March 2021.
- (b) All public institutions to commit to customize their services and facilities to address the diverse needs of PWDs.
- (c) Public institutions to customize their services and facilities to address the diverse needs of PWDs.

#### 4.7.3 Distribution of Appointments, Training and Promotions by Gender, PWDs and Ethnicities

Article 232(1)(i) of the Constitution requires affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of (i) men and women (ii) members of all ethnic groups and (iii) persons with disabilities. The Commission sought to establish the total number of officers appointed, trained and promoted disaggregated by gender, PWDs and ethnicity.

##### 4.7.3.1 Appointments

###### *(a) Representation in Appointments in the Public Service*

A total of 195 institutions representing 67% indicated that they had made appointments in 2019/20. A total of 12,363 public officers from 41 communities were appointed out of which 7,520 officers (61%) were male while 4,843 (39%) were female and hence the two-thirds gender principle was achieved. The two thirds gender principle was realized in all the five sectors with Statutory Commissions and Authorities achieving a 50% gender ratio in the new appointments. Of the 12,363 officers appointed, 139 (1.1%) were PWDs with performance gap of 3.9%.

#### *Findings*

- (a) The two-thirds gender principle was attained in the appointments.
- (b) There was an increase in the ethnic representation from 38 ethnic communities in 2018/2019 to 41 in 2019/2020.
- (c) None of the five sectors achieved the (5%) requirement of representation of persons with disabilities in appointments.

#### *Recommendation*

The institutions with under-representation with respect to the two-thirds gender principle, 5% PWDs and ethnicities to implement the affirmative action programmes developed during 2018/19 financial year to redress the imbalances by June 2021.

###### *(b) Appointment through Head-hunting*

Head-hunting is a form of recruitment and selection which entails conducting a specified search to identify highly-skilled or hard-to-find candidate(s) for a particular role or position, especially for executive and senior-level jobs. The Constitution requires that appointments in the public service be through fair competition. However, some institutions appointed staff through head-hunting. A total of 21 (7%) institutions headhunted 143 suitable persons for diverse positions in the public service. State House had the highest number with 47 (33%) officers, followed by Office of the Deputy President and Kisii University at 28 (20%) and 20 (14%) officers respectively.

#### *Recommendation*

The institutions with under-representations with respect to the two-thirds gender principle, 5% PWDs and ethnicities to implement the affirmative action programmes developed during 2018/19 financial year to redress the imbalances by June 2021.

##### 4.7.3.2 Distribution of Training Opportunities by Gender, PWDs and Ethnicities

Training is necessary for providing officers with requisite skills for job performance. To ensure that officers compete on the same level for promotions, training opportunities should be distributed fairly. The

Human Resource Development Policy for the public service recommends that training should be systematically aligned to the principles of Results-Based Management (RBM) and guided by national values and principles of governance and values and principles of public service.

Besides, the training policy further provides for affirmative action programmes to ensure the marginalized and minority groups and PWDs are granted opportunities for training in the public service and also sponsored for relevant undergraduate degree programmes. The Commission sought to determine the distribution of training opportunities by gender, PWDs and ethnicity.

###### *(a) Representation in Training in the Public Service*

A total of 17,687 officers from 239 institutions were trained individually in short and long courses, workshops and conferences. This constituted 8.2% of the total inpost. This was a decline by 22,484 (56%) from the 40,171 officers trained in 2018/19.

Of the 17,687 trained officers, 7,129 (40%) were male and 10,558 (60%) were female while 173 (2%) were PWDs. The two-thirds gender principle was therefore attained with regard to distribution of training opportunities in general and by all the five sectors.

###### *(i) Distribution of Officers Trained by Gender and PWD Status Across Sectors*

With regard to the distribution of training opportunities by sectors, the findings were as follows: Constitutional Commissions and Independent Offices, 330 (7.7%), Ministries and State Departments, 1,837 (2.0%), Public Universities, 543 (2.2%), State Corporations and SAGAs, 14,687 (15.7%) and Statutory Commissions and Authorities, 290 (19.8%) officers were trained.

###### *(ii) Distribution of Officers Trained by Course Level, Sponsor, Gender, PWDs and Marginalized*

A total of 11,781 officers representing (67%) of the total trained attended long and short courses, while 5,906 (33%) officers attended workshops and conferences lasting one to four days. The training which was funded by the Government of Kenya, development partners and individual officers benefitted 16,766 (94.8%), 799 (4.5%) and 122 (0.7%) officers respectively. The Government spent Kshs. 1.9 billion to sponsor diverse courses for the above officers. Development partners and individual officers spent Kshs. 274 million (12%) and Kshs. 32 million respectively. It is however noted that the decline in the number of officers trained may be attributed to the effects of COVID-19 during the period under review.

#### *Findings*

- (a) There was a decline in the number of officers supported for short and long courses from 40171 in FY 2018/2019 to 17,687 in FY 2019/2020. The decline may be attributed to the effects of COVID-19 during the second half of the financial year.
- (b) Officers from 37 ethnic groups benefited from the training opportunities. There was a decline by 4 (9%) from the 41 ethnic communities that were represented in training during the 2018/19 Financial Year.
- (c) Out of 17,687 officers trained, 2,270 were from the minorities and marginalized groups representing 13%. In addition, though 75% of the minorities and marginalized groups were trained on general certificate courses, 50 (2%) trained for PhD, Masters and Bachelors courses.
- (d) Officers from the Aweer/Waata, Dasenach, Dorobo, Gabra, Gosha, Konso, Walwana/ Malakote ethnic groups did not benefit from the training opportunities.

#### *Recommendations*

Institutions to develop a comprehensive capacity building training programme targeting officers at all levels to equip them with on-job skills and competencies required in the transformation of service delivery.

###### *(a) Training of PWDs*

Of the 17,687 trained officers 173 (1%) were PWDs. Majority of the PWDs trained were from State Corporations and SAGAs with 137 representing 79% of the trained PWDs trained. Ministries and State Departments followed with 17 (10%) officers, public universities with

10 (6%) while Constitutional Commissions and Independent Offices and Statutory Commissions and Authorities had five (3%) and four (2%) officers trained respectively. Also, from the 173 PWDs trained, majority undertook Master's degree that is 109 (63%) while 54 (31%) undertook Bachelor's degrees. Five (3%) officers undertook general certificate while Higher Diploma and PhD courses were undertaken by two (1%) and one (1%) officer respectively. The highest number of PWDs trained was from the Kenya Pipeline Company Limited with 14 (8%) PWDs trained followed by the Kenya School of Government with 10 (6%).

#### *Finding*

Out of the total 2,740 PWDs serving in the public service, only 173 (6%) were sponsored for training during the reporting period.

#### *Recommendations*

Public institutions to comply with the Human Resource Development Policy for the Public Service, 2015 and grant PWDs training opportunities to facilitate their advancement in the public service.

#### 4.7.3.3 Distribution of Promotions by Gender, PWDs and Ethnicities

##### *(a) Representation in Promotions in the Public Service*

A total of 167 institutions promoted 11,484 officers from 43 ethnic communities. Of the 11,484 officers promoted, 7,233 officers (63%) were male, 4,251 (37%) were female while 111 (1%) were PWDs. Whereas the two-thirds gender principle was achieved, the 5% requirement on PWDs was not met as was the case during the 2018/19 evaluation. It was established that the highest number of officers promoted were in the technical cadres with 4,854 officers promoted, representing 42%. It is however noted that the number of ethnic communities represented increased from 35 to 43 towards realizing the principle of ethnic inclusivity.

#### *Findings*

- (a) Whereas the two-thirds gender principle was achieved, the 5% requirement on PWDs was not met as was the case during the 2018/19 evaluation.
- (b) The number of ethnic communities represented in the promotions increased from 35 to 43 towards realizing the principle of ethnic inclusivity.

#### *Recommendation*

It is recommended that the public service institutions with reported cases of under-representation and non-representation of ethnic communities in promotional appointments commit to implementing affirmative action programmes developed during the 2018/19 financial year to redress the gaps.

##### *(b) Promotions Undertaken Without Interviews*

Section 10(1) of the Public Service (values and principles) Act, 2015 states that the public service, a public institution or an authorized officer shall ensure that public officers are appointed and promoted based on fair competition and merit. The Act, however, provides situations where promotions may be conducted without competition if—

- (a) a community in Kenya is not adequately represented in appointments or promotions in the public service or a public institution;
- (b) the balance of gender in the public service or a public institution is biased towards one gender;
- (c) an ethnic group is disproportionately represented in the public service or a public institution; or
- (d) persons with disabilities are not adequately represented in the public service or a public institution.

A total of 74 (26%) institutions promoted 5,833 officers for diverse vacant positions in the public service without conducting interviews. The State Department for Interior and Citizen Services had the highest with 1,799 (31%) officers promoted without interviews. This was followed by KenGen, State House and Kenya Wildlife Service with 1,123 (19%), 588 (10%) and 429 (7%) officers promoted respectively.

#### *Finding*

Whereas the law anticipates that in some instances promotions may be made without the necessity of interviews being conducted the law prescribes circumstances under which such promotions may occur.

#### *Recommendation*

An audit to be undertaken to establish whether the promotions that were conducted without interviews were in line with Section 10 of the Public Service (Values and Principles) Act, 2015.

#### 4.7.4 Implementation of Affirmative Action Programmes

The Public Service Commission Act, 2017 defines affirmative action as the measures designed to overcome or ameliorate an inequity or the systematic denial of opportunities. Section 48 of the Act requires the Commission to make regulations to give effect to the requirements of the Constitution regarding inclusivity in terms of gender, Kenya's diverse communities, persons with disabilities and the youth. In the 2018/19 values report public institutions committed to implement a three-year plan to address diversity gaps in ethnicity, gender and PWDs representation in their institutions. The three-year plans were for FY 2019/20, 2020/21 and 2021/22. This section provides details of implementation of the diversity gaps for the period 2019/20.

##### *(a) Implementation of the Affirmative Action Programmes on Gender Gaps*

The 2018/19 values report indicated that 150 public institutions planned to recruit 1,211 officers, 27 male and 1,184 female to address the gender gaps in their institutions at various levels.

#### *Finding*

- (a) Though the recruitment complied with the two-thirds gender principle across the public service, the principle was not attained at higher levels in the public service.
- (b) Like the FY 2018/2019, more male were recruited than female officers.
- (b) *Implementation of the Affirmative Action Programmes for Persons with Disabilities Gaps*

The 2018/19 values report indicated that 150 public institutions planned to recruit 1,289 PWDs to address the representation of PWD gaps in their institutions at various levels. Out of the 10,793 officers recruited, 99 (0.9%) were Persons with Disabilities across the public service. It was established that the recruitment across all levels did not meet the Constitutional requirement of minimum representation of 5% recruited to be PWDs.

##### *(c) Implementation of the Affirmative Action Programmes to address Ethnic Imbalances*

The 2018/19 values report indicated that 210 public institutions planned to recruit 2,175 officers from ethnic groups not represented in the institutions. The planning was made with the assumptions that the other communities were represented in the institutions. Therefore, priorities in recruitment were to be accorded to the communities not represented and these were majorly the communities categorized as minorities and marginalized.

#### *Findings*

- (a) Out of the 12,363 officers recruited 2,248 (18%) were from the marginalized and minorities communities and 10,115 (82%) were from communities that were represented in the institutions.
- (b) Majority of institutions that did not plan for any recruitment recruited the marginalized and minorities.
- (c) The institutions did not recruit as planned to bring in the under-represented communities. Without complying to the recruitment plans the representation gaps widened.

#### *Recommendation*

Institutions to implement the affirmative action programmes to bridge representation gaps.

#### 4.7.5 Distribution of Programmes for Vulnerable Groups

Equality of opportunity will only be realized if State Parties adopt a substantive equality approach. This is because, a substantive approach addresses the entrenched inequalities arising from collective

dimensions such as group membership. Any measures adopted to provide substantive equality must be practical and effective and not theoretical and illusory if they are to deliver tangible benefits to the affected individual. For this reason, Articles 54 to 57 of the Constitution provides for rights of special groups that require the State to take deliberate measures to address issues related to the groups.

To facilitate the achievement of these special rights, the government has put in place programmes targeting the vulnerable groups. The programmes include Access to Government Procurement Opportunities (AGPO), the Women Enterprise Development Fund (WEDF), the Youth Enterprise Development Fund (YEDF), the Older Persons Cash Transfer (OP-CT) and the Orphans and Vulnerable Children (CT-OVC) and Persons with severe disability (PWDs-CT) among others implemented by various government agencies.

#### 4.7.5.1 Distribution of AGPO opportunities to Women, Youth and PWDs

Article 227(2) of the Constitution 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 and the protection or advancement of persons and categories of persons or groups previously disadvantaged by unfair competition or discrimination.

In line with this Article, Section 157(10) of the Public Procurement and Asset Disposal Act, 2015 provides that every procuring entity shall ensure that at least 30% of its procurement value in every financial year is allocated to the youth, women and PWDs. To operationalize this provision, the government rolled out the Access to Government Procurement Opportunities (AGPO) programme to enable youth, women and PWDs to participate in government procurement.

For the groups to benefit from the reserved procurement, they are required to register with the National Treasury. By 30th June 2020, 126,356 special groups comprising 53,564 (42%) women groups, 66,742 (53%) youth groups and 6,050 (5%) PWDs groups had registered with the National Treasury.

The women and youth groups took the larger share in accessing the procurement opportunities. The women and youth groups absorbed 91% of the funds allocated at Kshs.19.8 billion (46%) allocated to women groups, and Kshs. 19 billion (45%) allocated to youth groups. PWD groups were awarded the least number of tenders worth Kshs. 3.8 billion (9%). This correlates with the registration of the groups at the National Treasury where PWD groups had registered the lowest number.

Public institutions allocated Kshs.42.7 billion to the vulnerable groups under the AGPO programme.

#### Findings

- (a) Special groups registered with the National Treasury increased by 19,129 (18%) from 107,227 registered in 2018/19 FY to 126,356.
- (b) Institutions that submitted AGPO reports to the National Treasury declined by 22 from 131 during the 2018/19 FY to 109 during the reporting period.
- (c) Concerning compliance with the AGPO Policy, the National Treasury reported that only 22 institutions had complied. These were five ministries and departments, 14 State Corporations and SAGAs, one under Constitutional Commissions and Independent Offices; and two public universities.
- (d) The women and youth groups took a larger share in accessing the procurement opportunities. PWD groups were awarded the least number of tenders. This correlates with the registration of the groups at the National Treasury where PWD groups had registered the lowest number.
- (e) The State Department for Culture and Heritage, Turkana University, National Quality Control Laboratory, Hydrologist Registration Board and Kenya Petroleum Refineries Limited did not allocate any funds for the above special groups.

#### Recommendation

All procuring entities to comply with the requirement to submit AGPO implementation reports to the National Treasury as provided for by the AGPO policy.

#### 4.7.5.2 Programmes for Vulnerable and Marginalized Groups

Article 10 requires all public institutions and public officers to promote human dignity, human rights and protect the marginalized. Public institutions were required to provide the programmes implemented for the vulnerable groups and the total number of beneficiaries. Reporting institutions across all sectors indicated that diverse affirmative action programmes were implemented. These included capacity building and awareness creation; development of legislations, policies and guidelines; provision of clean water and sanitation; healthcare services; customized services and facilities for PWDs; employment opportunities; food and nutrition; renewable energy; and information, communication and technology infrastructure.

Other programmes implemented included the Access to Government Procurement Opportunities (AGPO), education and learning; improvement in road networks; environmental conservation; youth empowerment, gender equality and women empowerment; cash transfers; small and micro-enterprise; peace-building and cohesion; disaster prevention and management; establishment of committees and working groups and agriculture.

#### Recommendation

Public institutions to prioritize and support the implementation of affirmative action programmes for marginalized and minority groups in their respective mandate areas.

#### 4.7.5.3 Programmes for Special Groups

##### (a) Women Empowerment

##### (i) Access to Credit Services

The Government through Women Enterprise Development Fund (WEDF) facilitated loan disbursement to 10,954 women groups with a membership of 121,842 spread across all the 47 counties. The women groups benefitted from loans worth Ksh. 2.7 billion that was meant to facilitate diverse projects and initiatives.

##### (ii) Training

The Government through the Women Enterprise Development Fund facilitated the training of 125,279 women on entrepreneurship and value addition. Specifically, the training focused on principles of entrepreneurship and value-addition for agricultural and industrial goods. It is however noted that none of the training beneficiaries was a Person with Disability.

##### (iii) Accessing Local and International Markets

The Government through WEDF continued to support women groups in accessing both local and international markets for their products. WEDF supported 719 women drawn from 68 women groups across all counties to access local and international markets for their services and products. Out of the 719 beneficiaries, 689 and 356 accessed local and international markets respectively.

##### (b) Youth Empowerment

##### (i) Access to Credit Services

Government has put in place measures to strengthen youth employment and entrepreneurship through credit financial assistance, training and assisting the youth access local and international markets through the Youth Enterprise Development Fund (YEDF). The YEDF is a flagship project under Vision 2030 social pillar to provide loans, business development services and facilitate marketing of products and services of youth owned-enterprises in local and international markets. The Fund is part of the government initiatives to enhance youth employment opportunities.

The Government through the YEDF disbursed over Ksh.450 million to 2,550 youth groups with a membership of 16,248 spread across 45 counties. The loans supported projects in real estate; agriculture; building and construction; energy and water; financial services; manufacturing; mining/quarrying; tourism and hospitality; and transport and communications. It was however noted that no youth groups from Mandera and Marsabit counties benefitted.

##### (ii) Training

The State Department for Youth Affairs facilitated training on core business skills for youths drawn from all the 47 counties. A total of

1,676 youths comprising of 797 (48%) male, 879 (52%) female and 16 (1%) PWDs benefitted from the training programme.

#### *Finding*

The training equipped the youth with skills in entrepreneurship and business opportunity identification. This in the long run will address the issue of youth unemployment.

#### 1. Access to Local and International Markets

The Youth Enterprise Development Fund supported 12 youths drawn from 10 youth groups in Kitui, Nyamira, Kisii, Nakuru, Kilifi, Mombasa and Kisumu to access local and international markets for their services and products. Of the 12 beneficiaries, 7 accessed local markets while 5 accessed international markets.

#### 2. Youth Support Through Strategic Partnerships

The YEDF in collaboration with UNDP supported 737 youths drawn from Baringo, Tana River and Turkana counties to access employment opportunities locally. Of the 737 beneficiaries, 435 (59%) were male and 302 (41%) were female.

#### *Finding*

The numbers of individuals who benefitted from the YEDF and WEDF programmes was low compared to the general population.

#### 4.7.6 Social Protection Programmes

The Sustainable Development Goal No. 1 on “No Poverty” encapsulates the measures that State Parties are required to take to ensure social protection systems are established. Social protection refers to the policies and actions, including legislative measures, that enhance the capacity of and opportunities for the poor and vulnerable to improve and sustain their lives, livelihoods, and welfare. These measures enable income-earners and their dependants to maintain a reasonable level of income through decent work, ensure access to affordable health care, social security and social assistance.

The overall objective of social protection in Kenya is to ensure that all citizens live in dignity and exploit their human capabilities for their own social and economic development. Current delivery instruments of social protection within the social assistance, social security and social health insurance sectors include cash transfers, food distribution, school-based feeding programmes, social health insurance, retirement benefits, price subsidies, public works and microfinance amongst others.

The Government through the State Department for Social Protection continued to implement the Inua Jamii cash transfer programme. The programme comprised three categories of beneficiaries; older persons totaling to 766,424; persons with severe disabilities totaling to 34,089 and; orphans and vulnerable children totaling to 294,360. A total of Ksh. 7.06 billion was disbursed to 294,360 beneficiaries of the Cash Transfer for Orphans and Vulnerable Children (CTOVC) Programme. Of these, 59,703 (20%) were male and 234,657 (80%) were female. Further, the Older Persons Cash Transfer Programme (OPCT) benefitted a total of 766,424 citizens out of whom 297,636 (39%) were male and 468,788 (61%) were female and a total of Ksh. 18.36 billion was disbursed.

In addition, the Cash Transfer for Persons with Severe Disabilities (PWSD) benefitted a total of 34,089 citizens out of whom 27,451 (81%) were male and 6,638 (19%) were female with Ksh. 816.4 million being disbursed. Cumulatively, the social protection programmes disbursed ksh. 26.25 billion to support 1,094,873 million vulnerable persons.

#### *Finding*

Overall, the top beneficiaries by County in the three cash transfer programmes combined were Muranga with 49,663, Kakamega with 44,700, Kiambu with 44,519, Kitui with 39,779 and Nakuru with 38,419 beneficiaries.

#### 4.8 Efficiency, effectiveness, economic use of resources, and sustainable development

To ensure that institutions use the resources allocated to them efficiently and to reinforce the principles of public finance which require that public money be used in a prudent and responsible way Parliament enacted the Public Finance Management Act, 2012 (PFM Act, 2012). The Act seeks to ensure that resources are spent on service

delivery as opposed to recurrent expenditure. The PFM Act therefore prescribes that the development to recurrent expenditure ratio shall be 70:30. This is to ensure resources are directed to programmes that have impact on the citizens. Further, the Act provides that the accounting officer be responsible for the management of the entity's assets and liabilities. For this reason, public institutions are required to maintain asset and liabilities registers.

Parliament also enacted The Public Procurement and Asset Disposal Act, 2015 which sets the standards for efficient procurement and asset disposal by public entities. The number of complaints or disputes lodged with either the Public Procurement Regulatory Authority (PPRA) or the Public Procurement Review Board (PPRB) is a pointer on the levels of compliance with the Public procurement and Asset Disposal Act.

As regards effectiveness, having the intended results, public organizations are expected to implement programmes whose objectives are to better the lives of Kenyans. The programmes fall under the Big Four Agenda which is drawn from the Vision 2030 and also programmes under the United Nations Development Goals. The effectiveness of government investment in various income generating state corporations is evidenced by dividends received by the National Treasury.

The Commission sought to establish the levels of compliance with the PFM, Act 2012 and the PPAD, Act 2015. In addition, it sought to establish the programmes implemented to actualize the Big Four and the SDGs.

The performance indicators under this thematic area were—

- (a) adherence to the development to recurrent expenditure ratio of 70:30;
- (b) adherence to the operation and maintenance to personnel emoluments ratio of 60:40;
- (c) absorption of funds allocated;
- (d) pending bills;
- (e) maintenance of an inventory of assets and liabilities;
- (f) submission of an updated register to the National Treasury
- (g) complaints lodged with the Public Procurement Regulatory Authority;
- (h) no of disputes lodged with the Public Procurement Review Board; and
- (i) the Auditor-General's report.

#### 4.8.1 Compliance with the PFM Act, 2012

- (a) *Compliance with the ratios of development to recurrent 70:30*

Institutions were asked to present their budgets: total allocations of the budget, total allocation for revised development budget, total allocation for revised recurrent budget, actual expenditure on development, actual expenditure on recurrent budget, expenditure on operation and maintenance (O&M) and expenditure on personal emolument (PE).

State Corporations and SAGAs and Ministries and State Departments used up a larger share of the reported budget allocations with shares of 45% and 52% respectively. State Corporation and SAGAs (42:58) and Ministries and State Departments (55:45) met the statutory requirement as stipulated in Section 15(2) (a) of the PFM Act, 2012. However, Public Universities (83:17), Constitutional Commission & Independent Offices (97:3), and Statutory Commissions & Authorities (99.5:0.5) did not meet this requirement. The Constitutional Commissions spent over 99.5% of the budget on recurrent and only 0.5% on development while Public Universities, although improved in allocating more resource to development, spent 83% of their budget on recurrent expenditure up from 88% in 2018/19 FY.

With regard to personnel emoluments (PE) and operations and maintenance (O&M), the institutions reported, on average, a ratio of 63:37.

#### *Findings*

(a) Overall, the 70:30 at recurrent to development ratio was met 50:50 a slight drop from the previous 2018/19 FY which recorded a ratio of 55:45.

(b) The low allocation rates for the CCIOs and Public Universities can be attributed to the nature of their mandates as majority are service-oriented or regulatory agencies.

*(b) Budget Utilization*

*Finding*

Majority of the institutions utilized their budgets above 90%. These funds were reported to have been directed to implement policies and programmes under the "Big Four" agenda, aimed at accelerating and sustaining inclusive growth, creating opportunities for productive jobs, reducing poverty and income inequality, and providing a better future for all Kenyans.

*(a) National Asset and Liabilities*

Government assets and liabilities belong to the citizens. The National Treasury holds them on behalf of the citizens. The PFM Act, 2012 and Regulations requires all institutions to keep and maintain a comprehensive asset register to protect public assets. These registers are submitted to the National Treasury for safe keeping.

*Findings*

(a) A total of 209 (72%) institutions surveyed indicated they had assets and liabilities registers. Of these, 61 (21%) had complied with National Treasury Circular No. 5/2020 dated 5th February 2020 on updating of assets and liabilities registers and submitting the same to the National Treasury. However, data from the National Treasury revealed that only 13 institutions had submitted reports on Assets and Liabilities as required.

(b) The National Treasury indicated that the National Assets and Liabilities Register for all the National Government Assets had not been prepared in line with the PFM Act 2012.

*Recommendations*

It is therefore recommended that—

(a) The National Treasury finalizes the Policy and Guidelines on preparation of Asset and Liabilities Registers;

(b) Accounting Officers of National Government Entities to prepare and submit up-to-date Registers of Assets to the National Treasury; and

(c) The National Treasury to compile an updated National Assets and Liabilities Register for all the National Government Assets in line with the PFM Act, 2015.

*(b) Auditor-General's Reports*

Majority of the institutions reported they did not received audit reports for the F/Y 2018/19. This could be explained by the fact that the Auditor General's office remained vacant for a long time following expiry of the term of the previous office holder. The delay in appointing the Auditor General affected the signing of Audit Reports for the FY 2018/2019 as required by law.

Government assets are at high risk of being misused if their records are not kept properly as per the PFM, Act 2012 and PFM Regulations, 2015.

**4.8.2 Compliance with the Public Procurement and Asset Disposal Act, 2015**

*(a) Procurement related complaints*

A total of 476 procurement-related complaints were lodged with the Public Procurement Regulatory Authority. Compared to the 2018/2019 report, flaws in tender evaluation and specifications remained the most prevalent complaints accounting for 39% of the complaints lodged (185 cases), followed by a delay in payments for goods/services delivered which accounted for 19%, (89 cases), while alleged corruption during procurement proceedings accounted for 15% of the complaints (71 cases).

PPRA determined 132 cases while nine were pending. Besides, the Procurement Review Administrative Board indicated that 177 appeals on procurement were received, out of which 165 were determined and 12 were pending.

*(b) Capacity Building on Procurement related matters*

To build capacity and reskill the procurement personnel, PPRA organized a four-day training for 157 procurement officers in line with the recommendation of the 2018/2019 report. The topics covered included, bodies involved in the regulation of public procurement; internal organizations of procuring entities; procurement methods and consultancies; procurement contract formulation, administration and management; preferences and reservation schemes in procurement; inventory control, assets and stores management; disposal of unserviceable, obsolete, surplus assets; ethics and integrity in procurement and compliance, administration review, offences and sanctions.

**4.8.3 Compliance with Human Resource Policies and Guidelines**

*(a) Staff Secondment*

Secondment is one way of utilizing available human resource for efficient service delivery. From the survey, a total of 1,265 officers were seconded to various public institutions, county governments and other international organizations. Majority of the officers who were seconded were from Ministries and State Departments. This is in line with the fourth schedule of the Constitution which places the duty of building capacity on the national government.

*(b) Staff motivation*

A motivated workforce is the foundation of successful implementation of government programmes. The motivation of staff translates to increased productivity and can contribute to higher levels of output. Motivation can be by way of recognition of an employee for excellent service delivery. Only 140 institutions confirmed they had developed criteria for identifying and recognizing officers for exemplary service delivery. This translates to 48% of the total number of institutions evaluated. Of these, 48 (34%) reported having recognized and awarded staff based on the criteria.

**4.8.4 Effectiveness in the use of Public Resources**

*(a) Dividends/revenue to The National Treasury*

Public organizations are more about enhancing the welfare of citizens as opposed to making profits. However, the government has invested in some income-generating state corporations categorized as commercial state corporations. These corporations engage in income-generating activities through public assets and services. The institutions are expected to generate reasonable returns and should declare (full disclosure of internally generated revenues) and pay dividends to the National Treasury. The effectiveness of these investments can only be seen through dividends received.

A total of 29 (10%) institutions remitted dividends/revenue to the National Treasury amounting to Kshs 69.4 billion. State Corporations and SAGAs and Ministries and State Departments constituted 73% and 27% respectively of the institutions that remitted dividends/revenue.

*Finding*

Management of public assets requires proper accounting. This area can easily be a soft spot for misuse and corruption.

*(b) The Big Four Agenda*

The utilization of public resources should be seen in the transformation of the lives of Kenyan citizens. In June 2008, the government launched the Kenya Vision 2030. Progressive economic performance has been witnessed since the inception of the Vision 2030. In 2017, the government decided that there was the need for a paradigm shift to do more to boost the well-being of Kenyans and to achieve the desired levels of economic growth. The new thinking yielded the Big Four Agenda.

The Big Four Agenda is the government's targeted transformative agenda based on four socio-economic pillars whose aim is to create a level playing field, make the economy more inclusive and ensure shared prosperity.

The Big Four seeks to address the most pressing concerns facing Kenyans whilst creating the best environment for achieving accelerated economic transformation, increase job creation and improve quality of life in general. In all spheres, The Big Four Agenda is tied closely to national development plans, the SDGs and African Union Agenda 2063.

## Findings

- (a) The majority, (74%), of the institutions indicated they were implementing at least one of the 4 pillars of the Big Four Agenda.
- (b) Half, (50%), of the institutions are enablers, providing requisite support and conducive environment for the Big Four Agenda drivers to implement the programmes.
- (c) The low representation of the drivers of the Big Four Agenda is by design, as the programmes are tailored to the four thematic areas.
- (d) State Corporations and SAGAs lead in the implementation of the Big Four across all the 4 pillars with 141 (66%) institutions. This was followed by Ministries and State departments at 17% and public universities at 14%.
- (c) *Beneficiaries of the Big Four*

Implementation of The Big Four Agenda positively impacted many lives, especially in the health sector through the Universal Health Coverage. A total of 2.9 million citizens benefited directly from UHC pilot programme which was rolled out in four (4) counties of Machakos, Nyeri, Isiolo and Kisumu. On manufacturing, industries like RIVATEX, Bedi textiles and other cottage industries and SMEs roared back to life as result of government subsidies, resulting in hundreds of jobs to the youth. Expansion of electricity and improvement of roads and other infrastructure together with investment in security provided the needed conducive environment for many sectors in the economy to thrive.

(d) *Sustainable Development Goals (SDGs)*

The Sustainable Development Goals (SDGs), also known as the Global Goals, are development strategies adopted by all United Nations Member States in 2015. They are aimed at accelerating interventions to end poverty, reduce inequality (including gender inequality) and hunger and ensure access to education, clean water and decent work for all. The SDGs therefore aim to protect the planet and ensure peace and prosperity is enjoyed by all people by 2030. Overall, there are 17 SDGs.

The 2020 Voluntary National Report (VNR) for Kenya shows good progress has been made in most of the 17 SDGs such as poverty reduction, health, education, gender equality, provision of clean water and sanitation, electricity, combating climate change and ensuring sustainable cities. However, several targets are still lagging. These include poverty levels, malaria incidence per 1,000 populations, unemployment and some gender-related indicators.

## Finding

- (a) The majority, (65%), of the institutions implemented at least one of the 17 goals of the SDGs.
- (b) Most programmes implemented aimed at improving the livelihoods, healthy living and wellbeing of Kenyans.
- (c) Other programmes aimed at promoting inclusivity, improving ease of doing business, provision of affordable credit to facilities to potential investors, climate change mitigation and environmental sustainability.

## 4.9 Public participation in the policy-making process

Meaningful public participation requires the establishment of a clear structure and process with clearly defined roles and how public participation will be conducted and how the decision will be made. It calls for identification of stakeholders, transparency supported by strong communication systems and mechanisms for receiving feedback. Public participation requires involving the public in the entire policy-making process and taking their views in decision making.

Under this thematic area, the Commission sought to establish measures which public institutions had put in place to facilitate meaningful public participation. The specific indicators were—

- (a) Availability of public participation guidelines;

- (b) Availability of inventory of stakeholders; and

- (c) Evidence of involvement of the public in policy-making.

## 4.9.1 The Development of Public Participation Guidelines

## Findings

- (a) Few institutions, (12%) developed PP guidelines.
- (b) Public participation guidelines facilitate structured public participation to yield implementable decisions. Lack of guidelines means that the process will be conducted haphazardly manner and there will be a lack of consistency.

## 4.9.2 Policies Developed

The Commission sought to establish whether public institutions had involved the Public in developing policies and the methods used to facilitate public participation. A total of 110 institutions (38%) indicated that they had developed policy documents. For those that involved the public in developing policy documents, the most preferred form of public participation was sending written submissions, with a total of 11,225 written submissions being received by institutions. This was followed by online submissions where a total of 5,204 online submissions were received. Workshops were the least utilized mode for public participation with 1,325 participants attending workshops.

## 4.9.3 Institutions with Stakeholder Inventory

A stakeholder inventory ensures that the right stakeholders are engaged. If the right stakeholders are not engaged the value of the input received may not be much. Majority 205 (70%) of the institutions evaluated had an inventory of stakeholders. This ties with the finding relating to institutions which had strategic plans which stood at 234(84%). Institutions usually provide an inventory of stakeholders in their strategic plans.

## Findings

- (a) The low usage of workshops as a mode of public participation could be attributed to the partial lockdown where in-person engagements were discouraged to reduce the spread of Covid-19 pandemic.
- (b) On the positive side, there was an increase in the uptake of online submissions compared to the 2019/2020 evaluation. Online submissions create traceability, which is important for accountability purposes.

## Recommendations

- (a) Public institutions to customize and implement the Public Service Commission guidelines for public participation in policy formulation; and
- (b) Parliament to fast track the enactment of the Public Participation Bill 2018. This will guide institutions in developing institutional public participation guidelines.

## CHAPTER FIVE—RECOMMENDATIONS

## 5.1 Introduction

Over the years, the public service has focused more on improving efficiency, effectiveness and economy (3Es). However, the Constitution 2010 incorporates values and principles as a critical element in achieving the 3Es and citizen-centric public service. The centrality of citizens in service delivery as envisaged in the Constitution requires going beyond publication of the values and principles in the promotional efforts. It calls for putting in place specific strategies for promotion to facilitate implementation, collection of data for evidence-based decision-making and capacity building initiatives for the realization of the ultimate goal of a professional, value-based and ethical service.

This report has highlighted the measures the Commission has put in place to promote values and principles, the status of implementation in terms of progress made and the challenges realised. A value-based and professional public service is a prerequisite for an efficient and effective public service, which in turn is necessary for ensuring equitable service delivery to citizens. Establishing an ethical and value-based public service is a dynamic process requiring active participation of all key stakeholders.

The public service to a very large extent determines the performance of the economy. The ultimate objective is therefore to strengthen public service institutional capacity to deliver services and to foster citizen focus and inclusive sustainable growth within the framework of overarching values and principles of the public service.

Towards this end, notable progress has been realized regarding entrenching a value-based culture in the public service as demonstrated by the attainment of the two-thirds gender principle, increase in representation of PWDs in the service, increased representation of ethnic composition in the public service, improvement in service delivery, and implementation of social protection programme for the vulnerable groups. To sustain the momentum, the following recommendations grouped under each thematic area are to be implemented:

*(a) Overview of Human Resource in the Public Service*

- (i) Public institutions to mainstream values and principles in recruitment/ interview tools;
- (ii) Public institutions to comply with HRD Policy on the induction of newly appointed officers and include content on values and principles;
- (iii) The recruitment and selection interview score sheet be reviewed to include a weighted score on values and principles for use by public institutions;
- (iv) The structure of public institutions that were over-established be reviewed;
- (v) Officers serving on secondment beyond 6 years be recalled;
- (vi) Section 42 of the PSC Act be amended to provide for secondment beyond 6 years in instances where officers are seconded to international organizations or public-private partnerships; and
- (vii) Public institutions to comply with the provisions of Internship Policy for the Public Service, 2015 on payment of stipend for interns.

*(b) Service delivery Improvement and Transformation*

- (i) The policy on centralization of procurement of ICT equipment be reviewed;
- (ii) Public organizations that are yet to translate their service charters into Kiswahili to do so for a wider readership;
- (iii) Public organizations that are yet to sensitize staff and clients on the provisions of the service charters to create awareness on the charters;
- (iv) Public institutions to create awareness on their services among citizens with clear indicators for monitoring and evaluating outputs and outcomes;
- (v) Government through the relevant state agencies to develop a policy framework to guide public institutions on social media engagement;
- (vi) A policy to guide public institutions in utilizing or engaging on social media to improve service delivery be developed;
- (vii) Public institutions to train staff on modalities of constructive engagement with citizens on social media;
- (viii) Public institutions to adopt innovative ways of enhancing service delivery especially through digital technology platforms to facilitate ease of access to public services;
- (ix) Institutions to take advantage of Huduma platform to enhance access to their services by citizens across the country (where applicable);
- (x) Public institutions to document and analyse client feedback, prepare and implement reports;
- (xi) Guidelines for client feedback analysis to be developed;
- (xii) Public institutions to use available platforms to create awareness to citizens on the complaint filing procedures in their institutions;

- (xiii) Public institutions to maintain complaints registers, and develop systems of flagging out recurrent complaints, to find lasting solutions;
- (xiv) Public institutions under the jurisdiction of the Commission to develop reward criteria to enable outstanding officers to get recognized and awarded for excellence in service delivery;
- (xv) Public officers to be facilitated with the ICT resources and be re-skilled;
- (xvi) Public institutions to improve their online presence; and
- (xvii) Public institutions to adopt remote working as a service delivery strategy.

*(c) High standards of professional ethics in the public service*

- (i) Public institutions to periodically sensitize staff on the provisions of the Public Service Code of Conduct and Ethics, 2016 and submit quarterly reports to PSC; and
- (ii) Public institutions to support members of respective professional bodies to attend courses for continuous professional development.

*(d) Good governance, transparency and accountability*

- (i) Appointing authorities to stagger appointments of Boards or Council members following Section 1.14 of the Mwongozo Code of Governance to ensure a seamless transition, and also replace board members whose terms have expired in the respective institutions;
- (ii) Public institutions to comply with Regulation 23 of the Public Service Commission Regulations 2020 regarding acting appointments;
- (iii) Authorized Officers to ensure officers comply with POEA, 2003 regarding the initial, bi-annual and final declarations;
- (iv) Public institutions to open and maintain a gift register in the prescribed form as provided for in the Schedules in Form A, B-I and B-II in the LIA Regulations, 2015 and the Public Service Code of Conduct and Ethics, 2016;
- (v) Public institutions to maintain conflict of interest registers as required under Section 16(11) of LIA, 2012;
- (vi) EACC to sensitize MDAs on the National Ethics and Anti-Corruption Policy, 2020 and also review the Public Service Integrity Programme and align it with the Constitution and relevant laws;
- (vii) Public institutions to develop guidelines on access to information based on their mandate as guided by the Access to Information Act, 2016;
- (viii) Public institutions to develop or review the respective communication strategies to be in sync with their strategic plans; and
- (ix) Out-dated Communication strategies to be reviewed.

*(e) Performance management*

- (i) The National Treasury to enforce the requirement for institutions to have approved Strategic Plans before loading of institutional budgets;
- (ii) The public institutions that do not have current strategic plans should expedite the process and finalize the same in 6 months to avoid the inconvenience brought by such delay;
- (iii) The State Department of Planning to ensure that strategic planning period for institutions is aligned to the MTP period;
- (iv) Public institutions to develop annual work plans to facilitate the achievement of institutional goals;
- (v) All public institutions to sign performance contract;
- (vi) The management of Constitutional Commissions and holders of Independent Offices to sign a performance contract with the respective Boards/Commission;



- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>(vii) Public institutions to cascade performance contracts to the lower levels and ensure that all departments are contributing to the execution of institutions' mandate;</li> <li>(viii) Public institutions to undertake annual performance evaluation to facilitate analysis of performance results and utilize the information analysed to support decision making;</li> <li>(ix) Organizational annual work plan to be included as one of the standard requirement during performance contracting and vetting;</li> <li>(x) Performance management to be anchored in law;</li> <li>(xi) Management to enforce the undertaking of the annual Staff Performance Appraisal for all staff;</li> <li>(xii) Performance Management Committees (PMCs) to meet quarterly to review the performance of staff as provided in the Performance Rewards and Sanctions Framework for the Public Service;</li> <li>(xiii) A Training Needs Assessment (TNA) framework be developed to guide public institutions in conducting TNA;</li> <li>(xiv) Adequate funding of between 1% and 2% of recurrent expenditure be set aside for capacity building in line with Public Service Human Resource Development Policy, 2016;</li> <li>(xv) Training Impact Assessment framework be developed to guide public institutions on training impact assessment procedures;</li> <li>(xvi) A coaching and mentoring policy framework be developed for use by public institutions;</li> <li>(xvii) Public institutions to institutionalize coaching and mentoring for performance improvement and succession management;</li> <li>(xviii) The Public Service Commission to develop a comprehensive skills inventory framework;</li> <li>(xix) Public institutions to expedite discipline cases within the timelines stipulated in the HR policies;</li> <li>(xx) A policy framework for managing performance of employees working remotely or in shifts to be developed; and</li> <li>(xxi) Public institutions to utilize information received from exit interviews to improve service delivery.</li> </ul> <p><i>(f) Equitable allocation of opportunities and resources</i></p> <ul style="list-style-type: none"> <li>(i) Parliament to fast track enactment of legislation on Article 27(8) on 2/3rd Gender Rule;</li> <li>(ii) Public institutions to commit to achieving equal gender, and representation at various levels in line with Article 232(1)(i) of the Constitution and indicator 16.7.1 (a) of Goal 16.7 and Goal 5 of the United Nations Sustainable Development Goals;</li> <li>(iii) Public institutions to work towards achieving the 50/50 representation which is a requirement under the UN Convention on the elimination of all forms of discrimination against women;</li> <li>(iv) Public institutions to implement affirmative action programmes during recruitment in line with Section 10 of the Public Service (Values and Principles) Act, 2015 and as guided by the affirmative action programmes developed during the 2018/19 Values compliance evaluation;</li> <li>(v) Public institutions to provide training opportunities for officers with disabilities in line with the Human Resource Development Policy for the Public Service to enable them to acquire qualifications to facilitate their advancement in the service;</li> </ul> | <ul style="list-style-type: none"> <li>(vi) Public institutions affected by imbalances in ethnic representation to endeavour to implement the affirmative action programmes on ethnicities that was presented in the 2018/19 Evaluation report;</li> <li>(vii) Public institutions to implement affirmative action programmes to ensure gender parity at all job levels;</li> <li>(viii) Public institutions to customize their services and facilities to address the diverse needs of PWDs;</li> <li>(ix) The National Council for Persons with Disabilities (NCPWD) to undertake an audit on the accessibility of premises for PWDs;</li> <li>(x) NCPWD to disaggregate national data for PWDs by gender and education levels and share the same with public institutions;</li> <li>(xi) PSC to direct the 58 public institutions which have not complied with the 2/3<sup>rd</sup> gender requirement to implement their respective affirmative action programmes;</li> <li>(xii) PSC to conduct an audit on the organizations that headhunted for various positions so as to ensure compliance with Article 232(1)(g) on fair competition and merit as the basis of appointments and promotions;</li> <li>(xiii) The policy on centralization of job advertisements be reviewed to align it with Section 37(1) of PSC Act, 2017;</li> <li>(xiv) Public institutions to comply with Section 37(1) of PSC Act, 2017 relating to the mode of communication and advertisement of job vacancies;</li> <li>(xv) Public institutions to share available job vacancies with the NCPWD and National Employment Authority (NEA);</li> <li>(xvi) Public institutions to comply with the Human Resource Development Policy for the Public Service, 2015 and grant PWDs training opportunities to facilitate their advancement in the public service;</li> <li>(xvii) Public institutions to develop a comprehensive capacity building training programme targeting officers at all levels to equip them with on-job skills and competencies required in the transformation of service delivery;</li> <li>(xviii) Public institutions with reported cases of under-representation and non-representation of ethnic communities in promotional appointments be required to implement affirmative action programmes developed during the 2018/19 FY to redress the gaps;</li> <li>(xix) Public institutions to implement affirmative action programmes developed during the 2018/19 FY to bridge representation gaps on gender, ethnicities, PWDS, marginalized and minority groups; and</li> <li>(xx) Procuring entities to comply with the requirement to submit AGPO implementation reports to the National Treasury as provided for by the AGPO policy.</li> </ul> <p><i>(g) Efficiency, effectiveness and economic use of resources and sustainable development</i></p> <ul style="list-style-type: none"> <li>(i) The National Treasury to finalize the policy and guidelines on preparation of asset and liability registers, and also compile an updated National Assets and Liabilities Register for all the National Government Assets in line with the PFM Act, 2015; and</li> <li>(ii) Accounting Officers of National Government Entities to prepare and submit up to date Registers of Assets to the National Treasury.</li> </ul> <p><i>(h) Public participation in policy-making process</i></p> <ul style="list-style-type: none"> <li>(i) Parliament to fast-track the enactment of the Public Participation Bill, 2019; and</li> <li>(ii) Public institutions to customize and implement the Public Service Commission guidelines for public participation in policy formulation.</li> </ul> |
|--|---|