

INDUCTION HANDBOOK FOR THE THIRD SESSION COUNTY ASSEMBLIES



SOCATT (K)

**The Society of Clerks
at the Table in Kenya**



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Table of Contents

| | |
|--|-----------|
| FOREWORD | iii |
| ACKNOWLEDGEMENT | iv |
| PREFACE..... | v |
| BACKGROUND..... | vi |
| STRUCTURE OF GOVERNMENT | 1 |
| Introduction..... | 1 |
| The Constitution..... | 1 |
| Organization of Government..... | 1 |
| National Government..... | 2 |
| Executive | 2 |
| Functions of the President: | 2 |
| Deputy President | 3 |
| The Cabinet | 3 |
| Cabinet secretaries | 3 |
| Principal Secretaries | 3 |
| The Legislature | 3 |
| The National Assembly | 4 |
| The Senate | 5 |
| The Role of the Senate:..... | 5 |
| The Judiciary | 5 |
| The Supreme Court | 5 |
| The Court of Appeal | 6 |
| The High Court | 6 |
| Subordinate Courts | 6 |
| STRUCTURE OF THE COUNTY GOVERNMENT..... | 7 |
| County Governments | 8 |
| County Executive Committee | 8 |
| Functions of the Governor | 8 |
| Functions of the Executive Committee | 9 |
| Decentralized Units..... | 9 |
| County Public Service | 10 |
| County Assembly | 11 |
| Functions of the County Assembly | 11 |
| Functions of an MCA | 11 |
| Relationship between the National and county governments | 12 |
| Functions of the National Government | 12 |
| Functions of the County Governments | 13 |
| Intergovernmental Relations Institutions..... | 14 |
| ORGANIZATION AND WORKING OF THE COUNTY ASSEMBLY | 15 |
| Introduction..... | 15 |
| Financial Procedures..... | 15 |
| Principles Of Public Finance..... | 16 |
| Revenue Sharing | 16 |
| Revenue Raising..... | 16 |

INDUCTION HANDBOOK FOR THE THIRD SESSION COUNTY ASSEMBLIES

| | |
|---|-----------|
| Borrowing | 16 |
| County Budget Cycle | 17 |
| Budget guidelines (circular) | 17 |
| County Integrated Development Plan | 17 |
| Annual Development Plan | 17 |
| C-BROP (county budget review & outlook paper) | 17 |
| Debt management strategy paper..... | 17 |
| County fiscal strategy paper (CFSP) | 18 |
| Budget Estimates | 18 |
| Appropriation Act..... | 18 |
| Finance Act | 18 |
| Audits & PAC report..... | 18 |
| Public Participation And Access..... | 19 |
| ADMINISTRATIVE SUPPORT TO THE MEMBERS OF THE COUNTY ASSEMBLY ... | 20 |
| Introduction..... | 20 |
| The County Assembly Service | 20 |
| The county assembly service board | 20 |
| Composition of the County Assembly Service Board | 20 |
| The Clerk shall be the secretary to the Board..... | 20 |
| The Clerk..... | 21 |
| Offices in the Service..... | 22 |
| SWEARING AND INDUCTION PREPARATORY ACTIVITIES..... | 24 |
| Introduction..... | 24 |
| Critical timelines related to general elections | 24 |
| Pre-swearing activities | 24 |
| Preparation of Departmental Induction Materials (Staff) | 25 |
| Establishment of MCAs transition and induction committee..... | 25 |
| Admission of new MCAs | 26 |
| Checklist 2 – Swearing-In..... | 27 |
| Checklist 3 – Election Of Speaker..... | 27 |
| Checklist 4 – Election Of Deputy Speaker | 28 |
| MEMBER POWERS, IMMUNITIES, PRIVILEGES, CONDUCT& OBLIGATIONS..... | 29 |
| Introduction..... | 29 |
| Public and Members’ expectations..... | 29 |
| Public expectations of MCAs | 29 |
| MCAs Expectations | 30 |
| Member’s Powers, Immunities, and Privileges..... | 30 |
| Limits to Assembly powers, immunities and privileges | 31 |
| Conduct of a Member of County Assembly..... | 31 |
| Leadership and integrity..... | 31 |
| Government protocol, etiquette, and organizational communication | 32 |
| Ethical issues on PFM | 32 |
| Obligations of members of County Assembly | 32 |
| REFERENCES | 34 |

FOREWORD

The 3rd County Assembly induction handbook was commissioned by the Society of Clerks at the Table in Kenyan County Legislatures –SOCATT (K) in response to the urgent need to raise awareness among the incoming Members of County Assemblies in regards to the operations of a devolved legislative unit (County Assembly)

This handbook provides a reliable and simple analysis that will contain reference tools and information for both officers and newly elected members of the 47 County Assemblies. The handbook will guide and standardize the pre and post-induction processes across all the County Assemblies in Kenya. This will ensure that the operations in County Assemblies post a general election are conducted systematically and properly to reinforce their legislative, oversight, and representative mandates and functions as provided for in the Constitution of Kenya 2010 and the County Government Act of 2012.

Kamau Aidi
Chairperson

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The Steering Committee of SOCATT (K) wish to extend its gratitude to the membership of the Society for their unwavering support in the development of this handbook. Special recognition goes to the Executive Committee and the Procedure and Practice Committee of the Society for the financial and technical support that led to the publication of this document.

We further wish to recognize the immense technical support from the following County Assembly Officers

- | | |
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PREFACE

The County Assemblies in Kenya were constitutionally created to represent the people at the ward level, legislate and conduct oversight on the County Executive. Membership in an Assembly is through an election or special seats.

As a matter of practice, newly elected members of a County Assembly ought to be aware of the laws, policies, regulations, and guidelines that steer the operations of a County Assembly. In light of the foregoing, the SOCATT (K) Executive Committee formed a technical Committee to draft this handbook with the aim to standardize the induction processes in all the County Assemblies in Kenya. This handbook has referred to the constitution of Kenya 2010, various and relevant pieces of legislation, standing orders, and the Speaker's rules. It is envisioned that the County Assembly officers will refer to this document when inducting the newly elected members after the general election.

This handbook has been organized in four chapters, covering selected thematic areas that the technical committee considered relevant in line with the objects of devolution. The first chapter introduces the members to the structure of government at both National and County level, the second chapter details the organization and working of a County Assembly while the third chapter outlines the administrative support to the members of the County Assembly and finally the fourth chapter describes the swearing in and induction preparatory activities.

The technical team also developed an implementation matrix that will guide the county assemblies in rolling out the content of this handbook immediately after a general election.

BACKGROUND

The Society of Clerks at the Table in Kenyan County Legislatures - SOCATT (K) is a membership organization of all the County Assembly Services (CAS) across the 47 County Assemblies in Kenya. Our objective is to facilitate the harmonization of procedure and practice while creating platforms that enhance experience sharing, collaboration, and networking for the County Assembly Service. SOCATT (K) also facilitates the enhancement of technical skills and capacities of the CAS through peer learning exchange and capacity development. Registered in the year 2014, our vision is to support the County Legislatures towards their responsiveness, efficiency, and effectiveness. The organization's mission is to strengthen the professionalism of the County Assembly service through enhanced procedural advice and administrative support for efficient and effective discharge of duties.

In light of the foregoing and in line with the SOCATT (K) mandates, the Society envisions taking the facilitative role in the induction process for the newly elected members of the 3rd session County Assemblies. This process will ensure that transition to the third Assembly is seamless and standardized across all the county assemblies in Kenya. This guide, therefore, has been drafted to equip newly elected members on matters of the structure of governance, organization, and working of a County Assembly, Member's rights, duties, conduct, powers privileges as well as member's welfare and support services.

Objectives of the Guide:

- 1) To provide guidelines for induction of newly elected Members of the County Assemblies;
- 2) To standardize the content and process of induction of MCAs;
- 3) To familiarize the newly elected Members of a County Assembly with their mandate, work environment, culture, and behavior; and
- 4) To acquaint newly elected Members on rights, duties, powers, and privileges as state officers

STRUCTURE OF GOVERNMENT

Introduction

In 2010, Kenya passed a new Constitution that among other provisions, saw the introduction of a decentralization strategy known as Devolution. The decentralization process, which took effect in 2013 created two equal governing bodies: the National and County level governments

This chapter, therefore introduces new MCAs to the organization and core functions of National and County Governments, their administrative organization as well as the requisite practices that guide the day-to-day transactions of Government business.

For Government to execute its mandate, it derives its legitimacy from the people of Kenya, both constitutionally and statutorily. The Government and its employees are bound by law just as it binds individuals and other corporate entities.

Adherence to the rule of law and the national values and ethics is the cardinal principle that state officers must guard and observe.

The Constitution

The Constitution of Kenya is the supreme law of the Republic from which all other laws emanate. The Constitution creates and organizes fundamental Government institutions. It provides the structures of Government; Legislature, Executive, and Judiciary. It defines the role of each organ, its sphere of influence, and the scope and limits of its authority. It also defines the inter-relations between these institutions and determines how the conflict between them may be resolved. The Government is organized such that it enhances the separation of powers, guaranteeing a system of checks and balances that guard against either level of Government overstepping its constitutional authority.

Organization of Government

The functions of the Government are exercised at two levels namely; National and County levels of government as stipulated in the Constitution.

National Government

For the effective execution of its functions, the National

Government has three (3) arms, namely:

- Executive
- Legislature
- Judiciary

Executive¹

- The Executive consists of the President, Deputy President, Cabinet Secretaries, and the Attorney-General.
- Is the Head of State and Government;
- Exercises the executive authority of the Republic, with the assistance of the Deputy President and Cabinet Secretaries;
- Is the Commander-in-Chief of the Kenya Defence Forces;
- Is the chairperson of the National Security Council; and
- Is a symbol of national unity.

Functions of the President²:

- The President nominates and, with the approval of the National Assembly, appoints, and may dismiss – the Cabinet Secretaries, the Attorney-General, Secretary to the Cabinet, Principal Secretaries, High Commissioners, Ambassadors, Diplomatic and consular Representatives; and by the Constitution, any other State or public officer whom the Constitution or statute requires or empowers the President to appoint or dismiss;
- Power of Mercy — on the petition of any person, the President may exercise the power of mercy in accordance with the advice of the Advisory Committee.
- Chairs Cabinet meetings;
- Directs and coordinates the functions of State Departments;
- Receives foreign diplomatic and consular representatives;
- Confers honors in the name of the people and the Republic;
- Declares a state of emergency;
- With the approval of Parliament, may declare war; and
- Ensures that the international obligations of the Republic are fulfilled.

¹Chapter Nine of the Constitution of Kenya, 2010.

²Article 132 of the Constitution of Kenya, 2010.

Deputy President³

The Deputy President is the principal assistant of the President and deputizes him/her in the execution of the President's functions. The Deputy President performs the functions conferred by the Constitution or statute and any other function the President may assign.

The Cabinet⁴

The Cabinet consists of the President, Deputy President, the Attorney General, and not less than fourteen (14) and not more than twenty-two (22) Cabinet Secretaries. The Cabinet assists and advises the President in governing the country.

Cabinet secretaries⁵

Cabinet Secretaries (CSs) are state officers and are accountable individually, and collectively, to the President for the exercise of their powers and the performance of their functions. A Cabinet Secretary attends committees of the National Assembly, or the Senate, when required by the committee, and answers any question concerning a matter for which they are responsible. CSs provide Parliament with full and regular reports concerning matters under their control. CSs are appointed by the President with the approval of the National Assembly and are not a Member of Parliament.

Principal Secretaries⁶

Principal Secretaries are in charge of the administration of State Departments. They are appointed by the President after recommendation by the Public Service Commission and with the approval of the National Assembly.

The Legislature⁷

Parliament is the legislative arm of the Government. It consists of the National Assembly and the Senate. Parliament exercises its legislative power through Bills passed by Parliament and assented to by the President to become Acts of Parliament.

³Article 147 of the Constitution of Kenya, 2010

⁴Article 152 of the Constitution of Kenya, 2010

⁵Article 154 of the Constitution of Kenya, 2010

⁶Article 155 of the Constitution of Kenya, 2010

⁷Chapter Eight of the Constitution of Kenya, 2010

The National Assembly⁸

The National Assembly consists of:

- Two hundred and ninety (290) members elected by registered voters of every Constituency.
- Forty-seven (47) women representatives each elected by the registered voters in the respective Counties.
- Twelve members (12) nominated by Parliamentary political parties according to their proportion of members of the National Assembly, to represent special interests including the youth, persons with disabilities, and workers.
- The Speaker, who is an ex-officio member.

The Role of the National Assembly⁹

| | |
|----|--|
| 1. | The National Assembly represents the people of the constituencies and special interests in the National Assembly. |
| 2. | The National Assembly deliberates on and resolves issues of concern to the people. |
| 3. | The National Assembly enacts legislation in accordance with Part 4 of this Chapter. |
| 4. | The National Assembly— (a) determines the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter Twelve; (b) appropriates funds for expenditure by the national government and other national State organs; and (c) exercises oversight over national revenue and its expenditure. |
| 5. | The National Assembly— c reviews the conduct in office of the President, the Deputy President, and other State officers and initiates the process of removing them from office; and (b) exercises oversight of State organs. |
| 6. | The National Assembly approves declarations of war and extensions of states of emergency. |

⁸Article 95 of the Constitution of Kenya, 2010

⁹Article 95 of the Constitution

The Senate¹⁰

The Senate represents the counties and serves to protect the interests of the counties and their governments. The Senate consists of:

- Forty-seven (47) members each elected by the registered voters of the counties.
- Sixteen (16) women members nominated by political parties according to their proportion of members of the Senate.
- Two (2) members, one man, and one woman, representing the youth.
- Two (2) members, one man and one woman, representing persons with disabilities.
- The Speaker, who is an ex-officio member.

The Role of the Senate¹¹:

- The Senate participates in the law-making function of Parliament by considering, debating, and approving bills concerning counties (Articles 109 to 113) of the constitution of Kenya.
- The Senate determines the allocation of national revenue among counties (Article 217), and exercises oversight over national revenue allocated to county governments.
- The Senate participates in the oversight of State officers by considering and determining any resolution to remove President or Deputy President from office in accordance with Article 145.

The Judiciary¹²

The Judiciary consists of four levels of courts namely; the Supreme Court, the Court of Appeal, the High Court, and the subordinate courts. It is headed by a Chief Justice, who is assisted by a Deputy Chief Justice. It has judges of the superior courts, magistrates, and other judicial and non-judicial staff. There is a Chief Registrar, who is the chief administrator and accounting officer of the Judiciary.

The Supreme Court¹³

The Supreme Court consists of the Chief Justice, who is the President of the court, the Deputy Chief Justice, and five Supreme Court judges. The function of the Supreme Court is to:

- Hear and determine disputes relating to the election of the President of the Republic.

¹⁰Article 98 of the Constitution of Kenya, 2010

¹¹Chapter Ten of the Constitution of Kenya, 2010

¹²Chapter Ten of the Constitution of Kenya, 2010

¹³Article 163 of the Constitution of Kenya, 2010.

- Hear and determine appeals from the Court of Appeal and any other court or tribunal.
- If required, give an advisory opinion on any matter concerning county governments.

The Chief Justice and the Deputy Chief Justice are appointed by the President on recommendations of the Judicial Service Commission and subject to approval by the National Assembly.

The Court of Appeal¹⁴

The Court of Appeal consists of several judges, no less than twelve as may be prescribed by an Act of Parliament. It has jurisdiction to hear appeals from the High Court and any other court or tribunal.

The High Court¹⁵

The number of High Court judges is set by an Act of parliament. On appointment, the judges elect from amongst themselves, a Principal Judge of the High Court.

The High Court will deal with:

- Criminal and public matters.
- Matters that relate to individual rights.
- Appeals from a decision of a subordinate court or a tribunal.
- Hearing any question concerning the interpretation of the Constitution.
- Questions on whether any law is inconsistent with or contradicts the Constitution.
- Any matter relating to the constitutional relationship between the levels of government.
- Supervision of the subordinate courts.
- Judges of the Court of Appeal and High Court are appointed by the President on the recommendation of the judicial Service Commission.

Subordinate Courts¹⁶

The subordinate courts are:

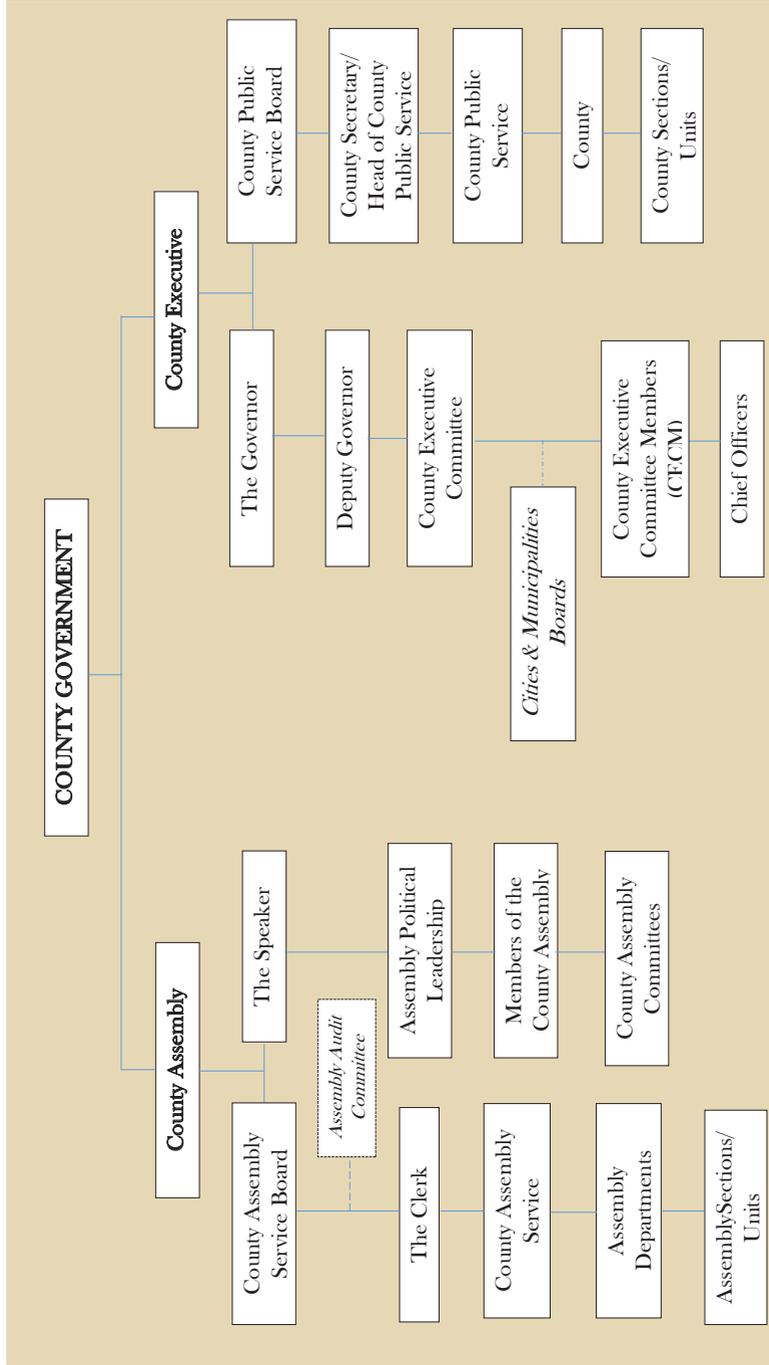
- i. The Magistrates' courts.
- ii. The Kadhis' courts.
- iii. The Courts-Martial.
- iv. Any other court or local tribunal may be established by an Act of Parliament.

¹⁴Article 164 of the Constitution of Kenya, 2010.

¹⁵Article 165 of the Constitution of Kenya, 2010.

¹⁶Article 169 of the Constitution of Kenya, 2010.

STRUCTURE OF THE COUNTY GOVERNMENT



County Governments¹

The County Government consists of a County Executive and a County Assembly. There are forty (47) Counties as per the First Schedule of the Constitution.

County Executive Committee²

The executive authority of the county is vested in the County executive committee.

The committee consists of:

- The County Governor and the Deputy Governor.
- Members appointed by the County Governor, with the approval of the Assembly, from among persons who are not members of the Assembly.
- The number of members of the committee should not exceed:
- One-third of the number of members of the county assembly, if the assembly has fewer than thirty members.
- Ten, if the assembly has thirty or more members.

Functions of the Governor³

The Governor:

- Represents the county in national and international fora and events
- appoint, with the approval of the county assembly, the county executive committee following Article 179(2)(b) of the Constitution.
- constitute the county executive committee portfolio structure to respond to the functions and competencies assigned to and transferred to each county.
- submits the county plans and policies to the county assembly for approval.
- considers, approves, and assents to bills passed by the county assembly.
- chairs meetings of the county executive committee.
- by a decision notified in the county gazette, assigns to every member of the county executive committee, the responsibility to ensure the discharge of any function within the county and the provision of related services to the people.
- submits to the county assembly an annual report on the implementation status of the county policies and plans.
- delivers annual state of the county address containing such matters as may be specified in county legislation.
- signs and causes to be published in the County Gazette, a notice of all

¹Article 176 of the Constitution of Kenya

²Article 179 of the Constitution of Kenya

³Section 30(2) County Governments Act

important formal decisions made by the governor or by the county executive committee.

- dismiss a county executive committee member at any time.
- appoint an accounting officer for each department, entity, or decentralized unit of the county government.

Functions of the Executive Committee⁴

- Implements County legislation;
- Implements within the County, national legislation to the extent that the legislation so requires;
- Manages and coordinates the functions of the County administration and its department;
- Prepares and proposes legislation for consideration by the County Assembly;
- Provides the County Assembly with full and regular reports on matters relating to the County.
- Supervises the administration and delivery of services in the county and all decentralized units and agencies in the county;
- Carries out any function incidental to any of the assigned functions;
- monitors the process of planning, formulation, and adoption of the integrated development plan by a city or municipality within the county;
- assists a city or municipality with the planning, formulation, adoption, and review of its integrated development plan;
- facilitates the coordination and alignment of integrated development plans of different cities or municipalities within the county and with the plans, strategies, and programs of national and county governments;
- takes appropriate steps to resolve any disputes or differences in connection with the planning, formulation, adoption, or review of an integrated development plan;
- establish, continue or vary any department, and determine the objects and purposes of the department;
- determine the number and nature of departments at the decentralized units;
- abolish any department;
- determine or change the name of any department; designs a performance management plan to evaluate the performance of the county public service and the implementation of county policies.

Decentralized Units

- The law requires that the functions and provision of services by a county government be decentralized to:

⁴Article 183 of the Constitution of Kenya & Section 36 of the County Governments Act

- The urban areas and cities within the county are established in accordance with the Urban Areas and Cities Act (No. 13 of 2011);
- The sub-counties are equivalent to the constituencies within the county established under Article 89 of the Constitution;
- The Wards within the county are established under Article 89 of the Constitution and section 26 of the County Governments Act;
- Such number of village units in each county as may be determined by the county assembly of the respective county; and
- Such other or further units as a county government may determine.

County Public Service⁵

- Each County Government has a County Public Service in accordance with Article 235 of the Constitution.
- County Public Service Board
- The County Public Service Board on behalf of the County Governments:-
- Establishes and abolishes offices in the county public service;
- Appoints persons to hold or act in offices of the county public service including in the Boards of cities and urban areas within the county and to confirm appointments;
- Exercises disciplinary control over, and remove, persons, holding or acting in those offices;
- Prepares regular reports for submission to the county assembly on the execution of the functions of the Board;
- Promotes in the county public service the values and principles referred to in Articles 10 and 232 of the Constitution of Kenya, 2010;
- Evaluates and reports to the county assembly on the extent to which the values and principles referred to in Articles 10 and 232 of the Constitution of Kenya, 2010 are complied with in the county public service;
- Facilitates the development of coherent, integrated human resource planning and budgeting for personnel emoluments in counties;
- Advises the county government on human resource management and development;
- Advises county government on implementation and monitoring of the national performance management system in counties;
- Makes recommendations to the Salaries and Remuneration Commission, on behalf of the county government, on the remuneration, pensions, and gratuities for county public service employees;
- The County Public Service Board has the power to make appointments including promotions in respect of offices in the county public service.

⁵Section 56 of the County Governments Act

County Assembly⁶

County assembly consists of:

- Members elected by the registered voters of the wards in a general election.
- The number of special seats is necessary to ensure that no more than two-thirds of the membership of the assembly is of the same gender.
- Members of marginalized groups, including persons living with disabilities and the youth prescribed by an Act of Parliament.
- The Speaker, who is an ex officio member.
- The members in (ii) and (iii) above are to be nominated by political parties in proportion to the seats received in the election in a particular County.

Functions of the County Assembly ⁷

- Vets and approves nominees for appointment to county public offices as may be provided for in law;
- Performs the roles set out under Article 185 of the Constitution;
- Approves the budget and expenditure of the county government in accordance with Article 207 of the Constitution, and the legislation contemplated in Article 220(2) of the Constitution, guided by Articles 201 and 203 of the Constitution;
- Approves the borrowing by the county government in accordance with Article 212 of the Constitution; (e) approve county development planning;
- Approve conferment of the status of a municipality on a town;

Perform any other role as may be set out under the Constitution or legislation.

Functions of an MCA⁸

- Maintains close contact with the electorate and consults them on issues before or under discussion in the county assembly;
- Presents views, opinions, and proposals of the electorate to the county assembly;
- Attends sessions of the county assembly and its committees;
- Provides a linkage between the county assembly and the electorate on public service delivery; and
- Extends professional knowledge, experience, or specialized knowledge to any issue for discussion in the county assembly.

⁶Article 177 of the Constitution of Kenya, 2010

⁷Section 8 of the County Governments Act

⁸Section 9 of the County Governments Act

Relationship between the National and county governments⁹

At either level is required to:

- Perform its functions in mutual respect to the other, assist, support, and consult, as appropriate.
- Liaise with the other governments to exchange information, coordinating policies and administration, and enhancing capacity.
- Co-operate in the performance of functions and, may also set up joint committees and authorities.

Functions of the National Government¹⁰

The National Government is responsible for the following:

- Foreign affairs, foreign policy and international trade
- The use of international waters and water resources
- Immigration and citizenship
- The relationship between religion and state
- Language policy and the promotion of official and local languages
- National defense and the use of the national defense services
- Police services, including setting of standards for recruitment, training of police personnel, and use of police services; criminal law and correctional services
- Courts
- National economic policy and planning
- Monetary policy, currency, banking (including central banking), the incorporation and regulation of banking, insurance, and financial corporations
- National statistics and data on population, the economy, and society generally
- Intellectual property rights
- Labor standards
- Consumer protection, including standards for social security and professional pension plans
- Education policy, standards, curricula, examinations, and the granting of university charters
- Universities, tertiary educational institutions and other institutions of research and higher learning, primary schools, special education, secondary schools, and special education institutions
- Promotion of sports and sports education
- Transport and communications
- National public works

⁹Article 189 of the Constitution

¹⁰Fourth Schedule Part 1 of the Constitution of Kenya, 2010

- Housing policy
- General principles of land planning and the coordination of planning by the counties
- Protection of the environment and natural resources with a view to establishing a durable and sustainable system of development
- National referral health facilities
- Disaster management
- Ancient and historical monuments of national importance
- National elections
- Health policy
- Agricultural policy
- Veterinary policy
- Energy policy including electricity and gas reticulation and energy regulation
- Capacity building and technical assistance to the counties
- Public investment
- National betting, casinos, and other forms of gambling
- Tourism policy and development

Functions of the County Governments¹¹

The County Governments are responsible for the following:

- Agriculture (crop and animal husbandry).
- County health services.
- Public entertainment and public amenities.
- County transport.
- Trade development and regulation.
- County planning and development.
- Pre-primary education, village polytechnics, home craft centers, and children's facilities.
- Implementation of specific national government policies on natural resources and environmental conservation.
- County public works and services.
- Control of air pollution, noise pollution, other public nuisances, and outdoor advertising.
- Animal control and welfare.
- Fire-fighting services and disaster management.
- Control of drugs and pornography.
- Coordinating the participation of communities in governance.

11

Fourth Schedule Part 2 of the Constitution of Kenya, 2010

Intergovernmental Relations Institutions

The following intergovernmental institutions have been established in statute¹²:

- The National and County Government Co-coordinating Summit
- The Council of County Governors
- The Intergovernmental Relations Technical Committee
- Intergovernmental Budget and Economic Council

Other important institutions include:

- The County Assemblies Forum

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¹²The Intergovernmental Relations Act, 2012

ORGANIZATION AND WORKING OF THE COUNTY ASSEMBLY

Introduction

This chapter introduces newly elected MCAs to:

- Legislative operations and procedures of the County Assembly;
- Financial procedures
- Public participation and public access

Legislative operations and procedures of the county assembly;

Legislative procedures of a County Assembly are informed by the Constitution, Various Statutes, County Assembly Standing Orders, practices, conceptions, traditions, and customs of legislatures.

Legislative tools that MCAs may use in the County Assembly include: Motions, Statements/Questions, Petitions, Bills, Sessional papers, public hearings, and inquiries.

Decisions of the County Assembly in both plenary sittings and committee sittings are in the form of resolutions arrived at through voting.

In the execution of the County Assembly procedures, the County Assembly leadership plays a critical role in providing order, direction, and marshaling of legislative business.

Other important sources for procedural information in both the County Assembly plenary sittings and those of committees include:

- TheSOCATT Procedure and Practice Manual
- The SOCATT Committee Manual
- Erskine May: Parliamentary Practice

Financial Procedures

For effective execution of its mandate and performance of its functions, every County Government requires financial resources that are appropriated by the County Assembly through the extensive budget process. The budget process focuses on expenditure allocation of public funds while taking cognizance of the needs of the citizenry and the views of the stakeholders.

Principles Of Public Finance

Article 201 of the Constitution of Kenya, 2010 provides for the following principles that guide all aspects of public finance in the Republic:-

- Openness, accountability & public participation in financial matters;
- Promotion of an equitable society, and in particular
- fair sharing of taxation burden;
- Equitable sharing of Nationally raised revenues among national and county governments; and
- Promotion of equitable development of the country
- Special provisions for marginalized groups
- Equitable sharing of the burdens (of public borrowing) and benefits (of the use of resources) between present and future generations;
- Prudent and responsible use of public money;
- Responsible financial management
- Clear fiscal reporting

Revenue Sharing

The Division of Revenue Bill divides revenue raised by the national government among the national and county levels of government equitably. The County Allocation of Revenue Bill divides the revenue allocated to the county level of government among the counties. The two bills are enacted by both houses of Parliament.

Revenue Raising

In raising its revenue, a county may impose:

- Property rates;
- Entertainment taxes and levies; and
- Any other tax or levies authorized to be imposed by Act of Parliament.

Borrowing

A county government may borrow only:

- a. if the national government guarantees the loan; and
- b. Respective County Assembly approves

County Budget Cycle

The budget cycle is a series of events and processes in the expenditure of public resources that are interconnected and performed within strict timelines. It involves the process of planning, budgeting, approval, execution, and evaluation of the expenditure of public money.

Budget guidelines (circular)

The Circular is issued not later than the 30th of August in each year by the County Executive Committee member for finance setting out guidelines to be followed by all of the county government's entities in the budget process.

County Integrated Development Plan

This is a five-year plan which has clear goals and objectives; an implementation plan with clear outcomes; provisions for monitoring and evaluation; and clear reporting mechanisms for the County Government.

Annual Development Plan

This is an annual plan that is derived from the County Integrated Development plan. It contains activities, and development programmes to be implemented within the year in question.

C-BROP (county budget review & outlook paper)

This is prepared each year by the County treasury by reviewing the performance of the previous fiscal year and submitted to the County Executive Committee by the 30th September of that year for approval within 14 days and submitted to the County Assembly within 7 days thereafter.

Debt management strategy paper

This is a statement setting out the debt management strategy of the county government over the medium term concerning its actual liability and potential liability in respect of loans and its plans for dealing with those liabilities submitted to the County Assembly by 28th February each year.

County fiscal strategy paper (CFSP)

This sets out departmental ceilings and is submitted to the County Assembly by 28th February for approval without amendments within 14 days.

Budget Estimates

The budget estimates are submitted to the County Assembly by 30th April each year.

Appropriation Act

The Appropriation law is enacted by the County Assembly by 30th June each year.

Finance Act

The Finance Act is enacted by the County Assembly within 90 days after the Appropriation law enactment to ease the collection of revenue.

Budget implementation

The County Assembly oversees the Budget implementation through its committees. The Committees receive periodic reports from the executive on the progress made in budget implementation throughout the year and at the end of the fiscal year.

Audits & PAC report

The Auditor-General audits the accounts of the County Executive, County Assembly, and other county entities within 6 months after the end of the financial year. The reports of the Auditor General are subsequently submitted to the County Assembly who in turn, through the respective public accounts/ investments committee interrogate the various entities under their oversight mandate and table a report in the Assembly.

Key Players In The Budget Process

- National treasury;
- Parliament;
- County treasury;
- County assembly;

- County budget & economic forum;
- Controller of budget;
- Commission of revenue allocation;
- Intergovernmental budget and economic council;
- Office of the auditor general;
- The Public.

Public Participation And Access

Public participation and access is ensured in the following ways:

- Holding of County Assembly sitting and those of its committees in an open manner;
- Facilitating public participation and citizen engagement in the processing of Bills, consideration of policies, consideration of petitions, consideration of nominated candidates to various offices; and
- Allowing media coverage of various Assembly proceedings and activities.

It is worth noting that the law allows the County Assembly to hold its business in camera in applicable circumstances.

ADMINISTRATIVE SUPPORT TO THE MEMBERS OF THE COUNTY ASSEMBLY

Introduction

This chapter introduces newly elected MCAs to the County Assembly Service, the organization of the County Assembly Service.

It further outlines the welfare, remuneration, and benefits that accrue to MCAs.

The County Assembly Service¹

Administrative support to the county assembly is the function of the County Assembly Service. The County Assembly Service is established by the County Assembly Services Act which provides for its values and functions.

The county assembly service board

The County Assembly service board is a body corporate with perpetual succession and a common seal.

Composition of the County Assembly Service Board

The Board consists of-

- the Speaker of the county assembly, as the chairperson;
- a vice-chairperson elected by the Board from the members appointed under paragraph (c);
- two members of the county assembly nominated by the political parties represented in the county assembly according to their proportion of members in the county assembly; and
- one man and one woman appointed by the county assembly from amongst persons who are experienced in public affairs, but are not members of the county assembly.

The Clerk shall be the secretary to the Board

Functions and Powers of the County Assembly Service Board

¹The County Assembly Service Act

- (i) The county assembly service board is responsible for
- providing services and facilities to ensure the efficient and effective functioning of the county assembly;
 - constituting offices in the county assembly service, and appointing and supervising office holders;
 - preparing annual estimates of expenditure of the county assembly service and submitting them to the county assembly for approval, and exercising budgetary control over the service;
 - undertaking, singly or jointly with other relevant organizations, programs to promote the ideals of parliamentary democracy; and
 - performing other functions
 - (necessary for the well-being of the members and staff of the county assembly; or
- (ii) prescribed by national legislation.
- directing and supervising the administration of the services and facilities provided by, and exercising budgetary control over, the Service;
 - determining and reviewing the terms and conditions of service of persons holding or acting in the offices of the Service;
 - initiating, coordinating, and harmonizing policies and strategies relating to the development of the Service;
 - Initiating programmes-
 - a. for training and capacity building of members and staff of the county assembly and other persons;
 - b. that promote ideals of parliamentary democracy as set out in Article 127(6)(d) of the Constitution, and No.24 518 County Assembly Service s
 - c. that promote public awareness and participation in the activities of the county assembly; and
 - d. do such other things as may be necessary for the well-being of the members and staff of the county assembly.

The Clerk

In addition to being the Secretary of the service Board, the Clerk -

- a) Serves as the chief executive officer of the Board;
- b) Serves as the accounting officer of the Board;
- c) Serves as the administrative head of the Service;
- d) Is the custodian of the Board's records;
- e) Is responsible for –

- i. the execution of the decisions of the Board; and
- ii. assignment of duties and supervision of the staff of the Board;
- f) Prepares and submits the programmes necessary for the achievement of the Board's mandate for approval by the Board;
- g) Keeps records of the proceedings and minutes of the meetings of the Board and such other records as the Board may direct;
- h) ensures staff compliance with public service values, principles, and ethics; and
- i) Performs such other duties as may be assigned by the Board or any other written law.

The Secretary is also responsible to the chairperson of the Board and the Board for the general working and efficient conduct of the business of the Service.

The County Assembly Service Board may delegate to the Secretary (Clerk) such of its functions as are necessary to carry out the day-to-day management of the Service, and subject to such directions as may be given by the Board.

Offices in the Service

The Board establishes such offices in the Service as it considers necessary or expedient for the efficient performance of the functions of the Service. The offices established by the Board are as set out in the organizational structure established by the Board.

Remuneration, Benefits, and welfare of a Member of the County Assembly – as guided by prevailing SRC circular

- Salary
- Benefits
- Medical Cover
- Other insurances
- WIBA
- Group Life
- Group Personal Accidents

Benefit for Group life and Group personal accident is 3 times annual basic salary

Benefit for WIBA as per WIBA Act (8 times annual basic salary)

- Gratuity - 31% of the basic salary (Basic Salary is 60% of the consolidated salary)
- Allowances

- Sitting Allowances–
- Daily Subsistence Allowance
- Travel/Mileage allowances /car maintenance
 - Special duty Allowance -
 - Car Loan/grant and mortgage scheme
 - Cell phone allowances/Airtime
 - Wellness Assistance Programme
 - MCA Office and Equipment
 - MCA Partisan Staff
 - MCA Office Operations and Management
 - MCA Pigeon Hole - This is for all correspondence directed to the member. The member will be given a key to his pigeonhole
 - Training/capacity building

SWEARING AND INDUCTION PREPARATORY ACTIVITIES

Introduction

This chapter covers detailed activities to be undertaken by an Assembly before the first sitting of a County Assembly, conduct of the first sitting, important timelines, key post swearing activities, and immediate requisite induction for members of the County Assembly. The content of the chapter aims at ensuring that County Assemblies are well prepared to receive and settle new MCAs. Adequate preparation for such activities helps the MCAs to take off quickly in the discharge of their mandates.

Critical timelines related to general elections

- Date of General Elections—every 2nd Tuesday of August following the expiry of the current term.
- Participation in the Assumption of the Office of the Governor Committee - Clerk
- Gazettement of elected and specially elected MCAs
- Gazettement of the first sitting of the Assembly – by the Governor
- 1st sitting of the Assembly within 14 days of gazettement of election results (Sec 136 CGA)
- Gazettement of vacancy in the office of the Speaker.
- Election of House leadership: Majority and minority leaders, majority and minority whips
- Establishment of committees: House Business Committee, Selection and Appointment Committee, and Privileges Committee.
- Election and nomination of two MCA representatives to CASB.
- Signing of leadership and integrity code of conduct for state officers, code of conduct for Public Officers (7 days after swearing-in)
- Wealth declaration (within 30 days after assuming new office)

Pre-swearing activities

These are critical activities that are to be undertaken before ushering in new members of a County Assembly.

Publishing of new standing orders for use by the next Assembly.

This is optional for Assemblies.

Where a County Assembly desires to amend the Standing Orders for use by the incoming Assembly, such amendments must be approved by the current Assembly and publishing done before the next Assembly.

Development of the 5years Assembly business report (sessional/ legacy reports)

These reports documents the businesses undertaken and key achievements of the County Assembly over the preceding 5-year period. The content covers inter alia:

- Businesses resolved by the Assembly;
- Committees composition, reports tabled in the house, meetings, and activities undertaken.
- Bills enacted by the House;
- Bills pending before the house;
- Businesses and reports pending in the house;
- County Assembly Business Catalogue

N/B County Assemblies are encouraged to have few pending reports and bills as possible if any.

Clearance of outgoing members of County Assembly.

- Standardized handing over process. (Asset register and/ or Procurement distribution records to guide). Inventory audit of tools issued personally to the MCAs and at ward offices to be factored in.
- To be done by all departments depending on their roles.
- Physical signing and departmental stamps to be used on a standard form.
- Clearance at the Ward offices and designating the partisan staff to be in charge of the Ward office during the transition period.
- County Assembly clearance certificate to be issued.

Preparation of Departmental Induction Materials (Staff)

- Each head of department shall develop an induction manual on their roles in the Assembly. Highlights will be on areas of interaction with Members of County Assembly and other departments.
- The documents will then be consolidated to have one functional service induction manual for the new members.

Establishment of MCAs transition and induction committee

Each Assembly shall establish a transition and induction committee mainly comprising of heads of departments at least 4 months to the general

elections. Preferably, the head of the legislative business should chair the committee.

The committee shall take charge of;

- Oversee preparation and publication of Assembly legacy reports and Assembly business catalog
- Orientation of MCAs within the Assembly precincts before swearing-in
- Mock swearing session and conduct of first sitting.
- Preparations relating to pre-swearing in activities, first sitting of the assembly, the establishment of assembly leadership, and the committee set up.
- Compiling of Bio-data for the new MCAs and support in facilitative and remunerative benefits.
- Preparation of immediate requisite induction training, work, and administrative support for the members.
- Any other task assigned by the appointing authority.

Admission of new MCAs

- A county assembly should be vigilant on the political process and familiarize itself with newly elected and gazetted MCAs. This helps to avoid swearing in the wrong persons or making major oversights. In admitting new MCAs, a county assembly should factor the following activities:
- Have a copy of the Kenya Gazette for MCA elect and specially elected MCAs
- Obtain photos, academic qualifications and contact details from IEBC records or any other credible source.
- After the gazetting of MCAs elect and specially elected MCAs and the gazetting of the date of the first sitting, the clerk to do official invitation to MCAs for pre-swearing orientation in the Assembly.
- During the pre-swearing orientation;
- Carry out due diligence for positive identification; The New Member of County Assembly shall produce National Identification card, KRA PIN,
- New members of the County Assembly shall have their biodata recorded by the office of human resources for purposes of opening personal service files. Obtain details relating to; academic qualifications, awards, and any other state awards, the Curriculum vitae, family members, next of kin, bank details, and any other.
- Ensure officers of the house get to know all the new MCAs
- Take them through a tour of the Assembly precincts and Chamber Business.
- Carry out a mock swearing session
- Take a full-colour and passport photos for each member and group photo while on official tour of the Assembly.

First sitting preparatory activities

- Gazette Notice for Members – elected & nominated
- Preparation of List of Precedence
- Gazette Notice convening the First Sitting
- Publicize the Gazette Notice convening the sitting
- Conducive and secure venue
- Orientation of Members
- Briefing & rehearsal – sitting arrangement, dress code, copy of Oath, CVs for candidates
- Invitation of guests (about 2 per member)
- Order Paper
- Chamber schedule of duty

Checklist 2 – Swearing-In

1. Know your Members – Swear in the right persons
2. Communications by Clerk-
 - Convocation of the Sitting
 - Tabling of the names of Members
 - Procedure on administration of Oath
3. Swearing-in documents-
 - List of members in the Order of Precedence
 - Laminated Oath/Affirmation
 - Religious books (Bible, Quran, Bhavahad Gita)
 - Oath/Affirmation books and Ink Pen
 - Podium
 - PA system at the podium
 - Standing Orders, Constitution; CGA, Powers & Privileges, etc
4. Video & Photography
 - Disability-friendly process – wheelchair, sign language, braille, illiteracy?

Checklist 3 – Election Of Speaker

- Gazette Notice –Notice of vacancy and invitation of candidates
- Receipt, verification & processing of application – sec 21 & 1st Schedule of Elections Act

Publicizing list of qualified candidates

Waiting rooms- candidates

Rubber Stamp; Ballot Papers and Ballot Boxes

Designation of voting booths

Laminated Oath/Affirmation

Oath/Affirmation Book and Ink Pen

Communication by Clerk – election procedure

Introduction of Speaker; Administration of Oath; Mace
Acceptance Speech – 2 sets**

Checklist 4 – Election Of Deputy Speaker

- Communication from Chair – election of DS
- Election of DS
- Administration of Oath – DS
- Custody of Ballot Papers
- Adjournment notes
- Reception for the Speaker, Deputy Speaker and Members

Key post swearing activities

- Immediately after swearing in the new MCAs and the Speaker, the Assembly should ensure that MCAs settle soonest and start dispensing their constitutional mandate. Therefore, the assembly must move fast to establish key requisite structures of the house by undertaking the following activities;
- Establishment of house leadership (majority and minority leaders, majority and minority whips)
- Establishment of the key watchdog committees (HBC, Selection and Appointment Committee, and Powers and Privileges Committees).
- Election and nomination of two MCA representatives to CASB.
- Signing of leadership and integrity code of conduct for state officers, code of conduct for Public Officers (7 days after swearing in)
- Establishment of house committees and meeting schedule/ matrix.
- EACC training and filling in of Wealth declaration forms (within 30days after assuming new office).
- Training of Speakers, Deputy Speakers, and Speakers Panel on parliamentary practice and procedures.
- Training of members on parliamentary practice and procedures.
- Induction training on devolved governance, mandates of county assembly and MCAs and budget making process.
- Respective committee trainings and work plan development.
- Training on Oversight and Monitoring and Evaluation.
- Training of Chairpersons of Committee on the management of Committees, powers and priveledges.
- Facilitating member services and administrative support services.

MEMBER POWERS, IMMUNITIES, PRIVILEGES, CONDUCT & OBLIGATIONS

Introduction

The chapter aims to acquaint new MCAs with the powers, immunities, and privileges of a county assembly provided for in the constitution and statute. It also covers the expected ethical conduct as espoused in the various statutes on leadership and integrity code of conduct of state officers in Kenya. Members of the County Assemblies are state officers and therefore required to conduct themselves with decorum in line with chapter six of the constitution on leadership and integrity.

Further, the chapter introduces members to government organizational communication, protocol, and general etiquette. Limitations on powers, immunities, and privileges of members are also covered.

Public and Members' expectations

Leadership in a public office comes with certain responsibilities for the officeholder and expectations for the followers/ governed by the leader. MCAs being state officers are assigned leadership authority which is a public trust to be exercised in a defined and codified manner.

Public expectations of MCAs

Article 73 (1) of Kenya Constitution, 2010 outlines the responsibilities of leadership (expectations) which should manifest in the conduct of public officers. They include;

- Conduct themselves in a manner that is consistent with the purpose and objects of the Constitution;
- Behavior that demonstrates respect for the people;
- Conduct themselves in a manner that brings honor to the nation and dignity of the office;
- Conduct that promotes public confidence in the integrity of the office;
- Demonstrate being a servant of the people than a ruler; and
- Exude life to the principles of leadership and integrity as espoused in Art. 73 (2) of the Constitution.
- Effective discharge of the roles of a member of a county assembly as provided for in Sec. 9 of the County Governments Act, 2012.

In addition, the newly elected members of the County Assembly should be inducted on the national values and principles of governance (Art. 10) as well as values and principles of public service (Art. 232).

MCA's Expectations

Whereas various individuals come with varying expectations, certain expectations that help members effectively and efficiently discharge their duties cut across. These include:

- Facilitation with resources and tools to undertake their constitutional mandate;
- Respect for leaders by the constituents and those in other leadership positions;
- Respect for separation of powers and the independence of the Assembly; and
- Entitlement to powers, immunities, and privileges accorded to the office of MCA.

Member's Powers, Immunities, and Privileges

To ensure smooth discharge of their roles and mandate, MCAs are entitled to certain powers, immunities, and privileges as highlighted in the various statutes.

Powers, immunities, and privileges of members of the County Assembly

MCAs derive their powers from the powers, immunities, and privileges of the County Assembly.

- Article 185 of the Constitution vests the legislative authority and its exercise on the county assembly.
- The power to make laws necessary for, or incidental to the effective performance of the functions and exercise of the powers of the county government.
- The power to oversight the county executive committee and county executive organs while respecting the separation of powers.
- Article 195(1) gives the county assembly or its committees powers to summon any person before it for the purpose of giving or providing information.
- The power to exercise the roles of a county assembly as provided for in Sec. 8 of the County Government Act, 2012.

Further, The County Assemblies Powers and Privileges Act, 2017 accords MCAs well-defined powers, immunities, and privileges. Key among them include:

- Freedom of speech and debate;
- Postponement of disqualification to enable appeal;
- Proceeding of the Assembly not to be questioned in courts;
- Immunity from legal (Civil or criminal) proceedings for words spoken or written in a report or committee to a county assembly.
- Immunity from arrest while within the Assembly precincts.
- Establishment of a powers and privileges committee for each county assembly

Limits to Assembly powers, immunities and privileges

Some of the limits to powers, immunities, and privileges of a member of a County Assembly include:

- Section 16 and 17 of The County Assemblies Powers and Privileges Act, 2017 define conduct(s) constituting breach of immunities and privileges and applicable sanctions.
- Members are not immune to civil and criminal proceedings relating to their conduct as private citizens.
- Conducts resulting into misappropriation of public finance.
- Conducts resulting into a conflict of interest.

Conduct of a Member of County Assembly

The county assembly is a house of order while the government runs through a bureaucracy. MCAs being state officers and public officers must conduct themselves in a manner that brings honor and dignity to the nation and the office they hold. Preferably, County Assemblies should induct members on the following four (4) broad areas that influence their conduct while in public office:

- Leadership and integrity
- Government protocol, etiquette, and organizational communication
- Ethical issues on PFM
- Obligations of members of the County Assembly

Leadership and integrity

MCAs hold public office and therefore need to be inducted on provisions of key statutes relating to leadership and integrity i.e.

- Chapter Six (6) of the constitution on leadership and integrity;
- Leadership and Integrity Act, 2012
- Public Officers Ethics Act, 2013
- Leadership and Integrity Code of Conduct for state officer
- Code of Conduct for Public Officers

Government protocol, etiquette, and organizational communication

MCA's whether in their official or private capacity must conduct themselves in decorum. Particularly, MCAs must familiarize themselves with certain protocols, etiquette, and official communication while attending official government functions or while in a government delegation. Key among the issues MCAs should be inducted under include;

- National and county government's order of precedence;
- Government protocol procedures;
- The art of speech writing and public speaking;
- Official dress code and grooming;
- Business and social etiquette;
- Dining and table manners;
- Etiquette in giving and receiving gifts;
- VIP Visits, official itineraries, sitting arrangements (boardroom and events), and travels abroad;
- Globalization and handling cultural differences
- Handling technology in events

Ethical issues on PFM

Key considerations in inducting MCAs include;

- Caveat on MCAs on the discharge of county executive functions as set out in Sec 9 (2) of the County Government Act, 2012.
- Issues of financial impropriety.
- Conflict of interest especially in procurement
- Management and accountability of Ward Office Kitty and accounts.
- Misuse and abuse of allowances and benefits

Obligations of members of County Assembly

MCAs need to be aware that they are solely responsible for:

- Filing of PAYE tax returns annually (Before 30th June for the following year)

- Filling returns on Ward Office operations expenditure (Monthly)
- Complying with employment legislations in the management of the ward office staff (During recruitment, signing of employment contract, termination and general management of staff during the life of employment)
- Employment Act, 2007
- Work Injury Benefits Act, 2007
- Occupational Safety and Health Act, 2007
- Labour Relations Act., 2007
- Labour Institution Act, 2007
- National Hospital Insurance Fund
- National Social Security Fund
- Ensuring proper care of the Ward Office, tools and equipment at their disposal
- Signing and complying with the Gazetted Code of Conduct for State Officers
- Declaration of Income, Assets, and Liabilities (wealth declaration)
- Initial Declaration – on the day of Joining the Assembly
- Bi-Annual Declaration – Every two years
- Final/Exit – within 30 days of leaving the Assembly
- Exit Clearance with the Office of the Clerk at the expiry of the term

REFERENCES

1. County Assembly Standing Orders
2. The Constitution of Kenya, 2010
3. County Governments Act, 2012
4. County Assembly Services Act No.24 of 2017
5. Public Finance Management Act 2012
6. County Governments PFM Regulations, 2015
7. Public Appointments (County Assemblies Approval) Act No 5 of 2017
8. Petition to County Assemblies Procedure Act No 15 of 2020
9. Statutory Instruments Act No.23 of 2013
10. Salaries and Remuneration Act, 2011
11. The Intergovernmental Relations Act, 2012









SOCATT (K)

**The Society of Clerks
at the Table in Kenya**

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