

COUNTY GOVERNMENT OF NAIROBI CITY



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NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY- SECOND SESSION

*57 c/c
for 217 members
for
testing

REPORT OF THE SECTORAL
COMMITTEE ON HEALTH SERVICES ON THE
SECOND INDUCTION OF THE MEMBERS, HELD FROM 9TH TO 12TH MARCH, 2023 AT
MAXLAND HOTEL, KIAMBU COUNTY

SK [Signature]
DLS
11/5/2023

Clerks Chamber
City Hall Buildings
NAIROBI

May, 2023

1.0. PREFACE

1.1. Committee Mandate

Hon. Speaker,

The Sectoral Committee on Health Services is established under Standing Order No. 209 (1). Its mandate pursuant to Standing Order 209 (6) is to:-

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- b) study the programme and policy objectives of departments and the effectiveness of the implementation;
- c) study and review all county legislation referred to it;
- d) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with its stated objectives;
- e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- f) vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 202 (Committee on Appointments): and
- g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

1.2 Committee Membership

Hon. Speaker,

The Committee on Health Services was constituted by the Assembly on Thursday 27th October, 2022, comprising of the following Members:-

1. **Hon. Maurice Ochieng, MCA - Chairperson**
2. **Hon. Lily Akoth Kidenda, MCA – Deputy Chairperson**
3. Hon. Evans Nyangicha, MCA
4. Hon. Patrick Karani, MCA
5. Hon. Benter Obiero, MCA
6. Hon. Ami Perez, MCA
7. Hon. Dabar Ahmedqadar, MCA
8. Hon. Emily Oduor, MCA
9. Hon. Cyrus Mugo, MCA
10. Hon. Hellen Awuor, MCA
11. Hon. Antony Maragu, MCA

Finally, much thanks to the Members of the Committee and the Secretariat for their dedication, untiring commitment and valuable contributions during the induction workshop.

Hon. Speaker,

It is therefore my pleasant duty and privilege, on behalf of the Members of the Sectoral Committee on Health Services to lay on the Table of the Assembly the report of the Committee on the second induction workshop held from 9th to 12th March, 2023 at Maxland Hotel, Kiambu County.

Signed:

Date:

(CAMMELYNE ANGUCHE, MCA - CHAIRPERSON)

3.0. PRESENTATION ON THE LAW MAKING PROCESS

The Committee was taken through the second induction on various topical areas starting with law making process as follows: -

3.1. The Constitutional Underpinning of the Law Making Process

The Committee was informed that Governance based on Popular Sovereignty: Exercised directly or indirectly through democratically elected representatives in accordance with the supreme constitutional order. The Kenya constitutional order demands Transparency, Accountability, Participation and Inclusiveness in Governance. The Constitution of Kenya, 2010 heralded various changes in the legislative process in Kenya. Among the changes are:

- Bicameral Parliament consisting of the National Assembly and the Senate;
- Creation of 47 County Assemblies in each of the 47 Counties;
- The requirement for public participation in policy making and legislation;

That the basic function of a legislative body is to make, amend or repeal the law. The process of law making or the legislative process, in relation to Parliament may be defined as the process by which a legislative proposal brought before it, is translated into the law of the land. All such legislative proposals are tabled in the form of Bills.

The process of law-making emanates from an idea to serve a particular goal in society, development of an appropriate policy and the decision to transmute the policy into legislation.

The legislative proposal or idea for a Bill can come from several sources: Members, Committees of the Assembly, the Executive, professional organizations, lobbyists or individuals through a petition to the County Assembly.

The Committee was informed that it was important for legislative bodies, policy makers, draftspersons and members of the public to not only sufficiently understand the legislative process, but also have the opportunity to participate meaningfully in the legislative process and have the capacity to analyze and ensure strict adherence to established standards and procedures.

Additionally, the Committee was informed that the ideal and recommended position in the legislative process was that policy precedes the formulation of a Bill or any other legislative instrument. The importance of developing a policy framework first was intended to amongst other salient features allow the executors to determine a clear road map, conduct an assessment of the problem and possible solutions, and define the opportunity to be embraced and the modalities or approaches to realize the benefit prior to proposing the necessary legal framework.

The Committee was informed that in separation of powers, Separation of powers no person to be in more than one organ; different institutions to be charged with the exercise of function of government; and different state organs perform different functions to avoid overlap and repetition. There should be no unprincipled separation of powers, but mutual coexistence, interdependence, checks and balances, collaboration and coordination for effective service delivery.

3.2.3 Powers

The Committee was informed that in terms of powers, the County Assembly has Power to: -

- regulate internal affairs;
- determine own procedures and agenda;
- conduct inquiries: Grand jury of the Nation/County;
- call and examine witnesses (on oath);
- call for documents;
- obtain evidence; and
- deal with contempt.

3.2.4. Rights

The Committee was informed that in terms of rights, the County Assembly has right to: -

- control and discipline members (self-protective and not punitive): Expulsion, Suspension, Censure, Apology / withdrawal, Reprimand / admonishment;
- debate what it wishes;
- debate free from outside control;
- control access to sittings and to reports of proceedings;
- control its own agenda/business and Calendar; and
- make and vary its own procedures- Standing Orders.

3.2.5. Immunities

In terms of immunities, the Committee was informed that the County Assembly has immunities on: -

- Freedom from control and discipline by bodies outside the House;
- Freedom from legal liability for things said or done in the course of parliamentary proceedings;
- Immunity for parliamentary witnesses;
- Qualified immunity from legal process;
- debate what it wishes;
- Right to debate free from outside control; and
- Right to control access to sittings and to reports of proceedings.

Where the Speaker is of the opinion that legislative proposal is a draft money Bill in terms of Section 21(3) the County Governments Act, 2012, direct that the legislative proposal be referred to the County Finance, Budget and Appropriations Committee and the proposal shall be proceeded with only in accordance with the recommendations of the County Finance, Budget and Appropriations Committee after taking into account the views of the County Executive Committee Member responsible for finance.

The County Finance, Budget and Appropriations Committee shall consider only the money-bill or financial aspects of the proposal and submit a report to the Speaker within twenty-one (21) days of receipt of the proposal. The report shall contain the following: -

- ❖ The views of the County Executive Committee Member responsible for finance, if any;
- ❖ A detailed examination of the manner in which the legislative proposal affects the current and future budgets and may include implications on tax measures;
- ❖ A recommendation on whether or not the proposal should be proceeded with; and
- ❖ Any other appropriate recommendation relating to money bill aspects of the proposal.

Upon receipt of the recommendations of the County Finance, Budget and Appropriations Committee, the Speaker may direct that:

- The proposal be subjected to prepublication scrutiny before the relevant Sectoral Committee in case of a legislative proposal not sponsored by a Committee; or
- The proposal be published into a bill, in the case of a legislative proposal sponsored by a committee; or
- The legislative proposal not be proceeded with.

7) Publication of a Bill

Once the Speaker certifies that a draft Bill is ready for publication, the Bill is forwarded for publication by the Government Printer. Once a Bill has been published, the Clerk shall/should avail a copy for each Member. The Bill to be signed by a Member or Chairperson of the Committee depending on the sponsorship of the Bill.

A Bill may only be introduced in the Assembly after a period of seven (7) days in the case of a Budget related Bill or a period of fourteen (14) days in the case of any other Bill beginning from the date of publication.

8) First Reading

A Bill is read a first time by the Clerk, by the reading of the title of the Bill.

9) Committal to the relevant Committee and Public Participation

After the First Reading, the Bill automatically stands committed to the relevant Sectoral Committee. The Committee is required to facilitate public participation and to take into account the views of the public when it makes its report to the Assembly. The Committee

4.0. PRESENTATION ON MANAGEMENT OF COMMITTEES

The Committee was further inducted on the what Parliamentary Committees are; Role of Assembly committees in Legislation, Oversight, Representation and Budget making; Generating Committee business, tracking and effective output; Indicators of an effective Committee and Role of various actors for effective functioning.

4.1. Legal Underpinnings on Assembly Committees

The Committee was informed that a Committee of Parliament is a select group of Members, with fixed membership, that examines, prosecutes and processes specific business. Committees provide for a less formal approach as compared to plenary, by allowing observations, cross-examination, detailed scrutiny and probing. Among thematic areas that define committees are for example matters of health, transport, foreign relations, sports, labour issues, policing & administration, among others. Committees are agents of plenary.

That Article 176 of the Constitution establishes the county government for each county consisting of the county assembly and the county executive; Article 185 of the Constitution sets out the Legislative Authority of a county to the county assembly; Section 14 (a) and (b) of the County Governments Act 2012, provides for the procedures of a county assembly and establishment of committees respectively; and Some Committees are also established by statutes and others by resolutions of a County Assembly.

That Article 195 (1) stipulates that “A county assembly or any of its committee has the power to summon any person to appear before it to give evidence or provide information”. Article 195 (2) – An Assembly has the same powers as the High Court to

- enforce attendance of witness;
- compel production of documents; and
- request to examine witness abroad

Provisions in the Standing Orders;

Practice and Precedence.

4.2. Role of the County Assembly

4.2.1. Legislation

A Committee may develop legislation and present the same as a Committee Bill in the name of the Chairperson. Individual Members of the Committee can develop and initiate legislation in their names or once prepared, may relinquish the Bill to the Committee.

- Committees can hold public meetings to disseminate information to the media and public and to gain feedback for legislative decisions;
- Committee hearings allow civil society leaders and experts to present their views;
- Committee hearings can also serve as the forum where members of the executive branch are questioned; and
- Committees provide an opportunity for members of opposition parties to have a say in the policy-making process.

4.3. Committee Business and Effective Output

4.3.1. Factors that determine the effectiveness of a Parliamentary Committee

The Committee was informed that effectiveness of the Parliamentary Committee largely depends on the following factors: -

- 1) A clarity of mandate – clear roles and responsibilities of the Committee;
- 2) Size of the Committee – large vs. small (too large or small it renders it ineffective; large Committees become unwieldy while small numbers limit the quality of ideas needed for effective work);
- 3) The skills of the chairperson in managing activities and meetings of the Committee;
- 4) The quality of support staff and resources available;
- 5) Level of commitment and involvement of Members in Committee matters;
- 6) Public & stakeholder involvement and participation;
- 7) Adequate preparation of the Committee Chair and Members;
- 8) Integrity of Committee membership – declaration of interest & acting above reproach;
- 9) Production of timely and qualitative Committee reports;
- 10) Ability to evaluate or assess its own performance;
- 11) Consensus building – the multiparty nature of legislatures often translates into multiparty Committees that calls for effective consensus building for Committee effectiveness;
- 12) Adequate resources and facilities to carry out assigned mandates;
- 13) Work plan – serves as roadmap to achievement of goals and focuses Committee to mandate;
- 14) Consistency – regular attendance of Members to Committee work;
- 15) Understanding of Procedure – knowledge of rules of procedure in Committees;
- 16) Punctuality – prompt attendance to Committee business; and
- 17) Open communication – builds trust, allows divergence of opinion and enhances teamwork.

4.3.2. Ingredients to effective Committee

4.3.4. Roles of various players for Effective Committees

The Committee was taken through the role various players for an effective parliamentary Committee as follows: -

4.3.4.1. Liaison Committee

The Liaison Committee consists of the Deputy Speaker as Chairperson and the Chairpersons of all Sectoral and Sessional Committees of the Assembly excluding Ad-Hoc Committees.

The Liaison Committee is mandated to-

- a) guide and co-ordinate the operations, policies and mandates of all Committees;
- b) deliberate on and apportion the annual operating budget among the Committees;
- c) consider programmes of all Committees, including their need to travel and sit away from the precincts of the Assembly;
- d) deliberate and decide on which reports of the Committees shall be debated in the Assembly;
- e) ensure that Committees submit reports as required by these Standing Orders;
- f) determine, whenever necessary, which committee or committees should deliberate on a matter; and
- g) give such advice relating to the work and mandate of select committees as it may deem necessary.

The Liaison Committee shall consider reports of Committees that have not been deliberated by the County Assembly and shall report to the County Assembly on the consideration of such reports.

4.3.4.2. Chairperson and Vice-Chairperson

The Chairperson is the Presiding Officer in Committee, as the Speaker is for the Assembly. The Committee Chairperson is the most important personality and is usually responsible for convening meetings and managing the Committee. The Committee Chairpersons require qualities that will enhance effectiveness, such as: -

Competence; Flexibility and adaptability; Firmness and decisiveness; Honesty and dependability; Openness; Fairness; Tolerance; Attentive; Patience; Humility; Stamina; Consensus building; Impartial; Focused.

The chairperson is: -

- Spokesperson of the Committee – he/she presents position of the Committee and talks on behalf of the Committee;

- e. Perennial complainant & critic – always complaining outside meetings;
- f. Uninformed of the committee agenda and mandate;
- g. Unwilling to do background research before committee meetings/activities;
- h. Over assertive - putting people down during committee discussion;
- i. One who arrives at committee meetings with fixed goals (influenced by external forces);
- j. Has secret agenda that he or she is unwilling to share with other Committee members;
- k. Attempt to take over the role of the Chair or is dismissive of the Chair; and
- l. Engages in distractive side shows during Committee work.

4.3.4.4. The Secretariat

- a) Procedural and technical advisor;
- b) Makes administrative arrangements for meetings, public hearings, and visits;
- c) Prepares notices and programme of meetings and facilitate their circulation;
- d) Prepares briefing materials for the Committee;
- e) Prepares minutes of meetings and draft reports;
- f) Assists Chairperson in conducting meetings;
- g) Ensures that Committee documents are filed and circulated ahead of the meeting;
- h) Provides information, advice and support to Assembly Committees;
- i) Manages communication/correspondences;
- j) Planning, coordination and budgeting of Committee activities;
- k) Provides independent research, drafting and impartial procedural support to Committees;
- l) Communication link between committee and stakeholders;
- m) Administers of oath to witnesses;
- n) Generally, ensures execution of Committee resolutions;
- o) Prepares documents for tabling in the Assembly adoption in the House; and
- p) Prepares talking notes for motions sponsored by or relating to the Committee.

5.0. PRESENTATION ON THE BUDGET MAKING PROCESS

On the second day of the workshop, the Committee was taken through the parliamentary budget making process and the Budget Cycle. During the induction, the Committee was briefed on the legal underpinning on budget making, role of the County Assembly in the budget making process, the various budget documents necessary, consideration of the same and the timelines, key public revenue allocation, role of the Committee in budget implementation and finance management institutions framework.

The Committee was informed that Public Finance Management Cycle involves planning (macro fiscal), formulation and approval, budget implementation and audit and evaluation. The County Assembly is to offer oversight at every stage of the cycle.

- Budget Execution – implementation of the Budget as approved by the Legislature;
- Audit – preparation of accounts – evaluation on the implementation of the budget.

5.3. Budget Making Process, Budget Documents and timelines

The Committee was taken through key budget documents and the role of the Committee in the budget making process. The Committee was briefed on key budget documents such as: -

- Sectoral plans (Section 109 of the County Governments Act, 2012);
- County Integrated Development plan (Section 108 of the County Governments Act, 2012) – a five-year development plan to be considered by September;
- Annual Development plan (Section 126 of the Public Finance Management Act, 2012) – one-year development plan to be considered by September of each year;
- County budget review outlook paper – to be submitted to the County Assembly by 30th of September;
- Debt Management Strategy – to be submitted to the County Assembly by 28th of February;
- County Fiscal Strategy Paper (Section 117 of the Public Finance Management Act, 2012) – to be submitted to the County Assembly by 28th of February and considered within 14 days.
- County Fiscal Strategy Paper contains Medium-term plans of the County Government, indicate resource envelope for the County Departments and the Fiscal Responsibility Principles;
- The Budget Estimates – to be submitted to the County Assembly together with the Appropriation Bill by 30th of April;
- Supplementary Budget; and
- Vote on Account

5.3.1. Scrutiny of the County Fiscal Strategy Paper

The Committee was informed that while scrutinizing the County Fiscal Strategy Paper, the Assembly should consider the following: -

Whether the document is aligned with the National objectives in the Budget Policy Statement;

Whether the County Government revenues, expenditures and borrowing for the coming financial year and over the medium term in a good state of health;

Whether there are strategic priorities as proposed by the county treasury in line with the expectations of the County Assembly;

5.3.2. Specific issues to examine in the County Budget Review and Outlook Paper

- f) County Government Additional Allocation Acts;
- g) Procurement laws and regulations; and
- h) County Governments Act, 2012 (county planning Sections 100 to 115).

5.5. Some of the Terminologies used in Parliamentary Budgeting

The Committee was briefed on some of the following terminologies as used in parliamentary budgeting: -

- **Incremental Budgeting** – budget for the base year or the actual expenditure is used to give additional resources to spending agencies;
- **Zero Based Budgeting** – technique utilizing a zero base at the beginning of every budgeting. Comes with level of complexity and the absence of credible and recent baselines expenditure;
- **Budget Deficit and Balanced Budget** – Shortfalls in budget where expenditure exceeds available resources. Counties are expected to pursue balanced Budget;
- **Discretionary and Non-Discretionary Expenditure** – Non discretionary expenditure relates to mandatory expenditure that must be incurred such as compensation to employees whereas discretionary expenditure is based on needs and prioritization that can be varied;

5.6. Role of the County Assembly in Budget Implementation

The Facilitator outlined the following as the role of the County Assembly in the budget implementation: -

- a) Examine reports by both the Auditor General and the Controller of Budget;
- b) Examine (any) Supplementary Budgets; and
- c) Monitor revenue receipts and releases to inform the next budget.

5.7. Key Public Finance Management Institutional Framework

The Committee was briefed on the following key public finance management institutional framework: -

- National Treasury;
- County Treasury;
- County Budget Economic Forum (PFM provision);
- Controller of Budget;
- Legislature -Parliament (National Assembly & Senate), County Assembly;
- Central Bank of Kenya;
- Auditor General – *What is the audit opinion for the County in the last 10 years and which programmes are affected most;*
- Salaries and Remuneration Commission;