

NAIROBI CITY COUNTY GOVERNMENT



NAIROBI CITY COUNTY ASSEMBLY
(THIRD ASSEMBLY- SECOND SESSION)

REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE
ON THE INQUIRY REGARDING THE ABSORPTION OF INSPECTORATE
OFFICERS EMPLOYED BY NAIROBI METROPOLITAN SERVICES (NMS)

Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
NAIROBI

APRIL, 2023

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ACRONYMS

PSC Public Service Commission

NMS Nairobi Metropolitan Services

ANNEXURE

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Frame work for the handover of the transferred functions from the National Government to the Nairobi City County Governemnt

1.0 PREFACE

Hon. Speaker,

The Sectoral Committee on Labour and Social Welfare is one of the Sectoral Committees established under Standing Order 209. The Committee is mandated under the 3rd Schedule of the Standing Orders to “*Investigate, inquire into and report on all matters related to labour, trade union relations, manpower or human resource planning; County Public Service; youth, gender and social welfare.*”

MEMBERSHIP OF COMMITTEE

The Committee on Labour and Social Welfare comprises the following Members:

- | | |
|----------------------------------|------------------|
| 1. Hon. Allan Maina Githuku, MCA | Chairperson |
| 2. Hon. Wanjiru Kariuki, MCA | Vice Chairperson |
| 3. Hon. Joyce Muthoni, MCA | |
| 4. Hon. Anthony Kimemia, MCA | |
| 5. Hon. Catherine Okoth, MCA | |
| 6. Hon. Thuo Fiufiu, MCA | |
| 7. Hon. Nancy Mwaura, MCA | |
| 8. Hon. Oscar Lore, MCA | |
| 9. Hon. Kennedy Oyugi, MCA | |
| 10. Hon. Abbas Khalif, MCA | |
| 11. Hon. Absolom Onyango, MCA | |
| 12. Hon. Peter Mwangi, MCA | |
| 13. Hon. Benter Juma, MCA | |
| 14. Hon. Simon Maina, MCA | |
| 15. Hon. Paul Wachira, MCA | |
| 16. Hon. Paul Mathu, MCA | |

- 17. Hon. Joyce Lugonzo, MCA
- 18. Hon. Cicilia Wairimu, MCA
- 19. Hon. Jane Musangi, MCA
- 20. Hon. Jane Muasya, MCA
- 21. Hon. Farhiya Daudi, MCA
- 22. Hon. Evans Nyangicha, MCA
- 23. Hon. Agnes Njeri, MCA

Hon. Speaker,

On behalf of the Members of Sectoral Committee on Labour and Social Welfare, it is my pleasant duty and privilege to present the Committee’s Report on its inquiry regarding the proposed absorption of inspectorate officers employed by the defunct Nairobi Metropolitan Services (NMS). The core objective of the said inquiry is to establish the status of redeployment of the inspectorate officers whose contract expired following the expiry of the NMS in November 2022.

In its inquiry Members looked into structure and the terms used to redeploy the inspectorate /cadet staff, budgetary allocation for the salary for the FY 2022/23.

APPRECIATION

Hon. Speaker,

The Sectoral Committee on Labour and Social Welfare wishes to thank the offices of the Speaker and the Clerk of the Nairobi City County Assembly for the support extended to it in the conduct of this inquiry.

Further, the Committee extends its gratitude to the Secretariat for their contributions during and after the investigation and compilation of this report.

Finally, I sincerely thank the Members of the Sectoral Committee for their commitment during the inquiry which contributed immensely to the compilation of this report.

SIGN.....

DATE.....

HON. ALLAN MAINA, CHAIRPERSON
SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

2.0 INTRODUCTION

Hon. Speaker,

The Committee Members noted with concern that the County Executive was in the process of recruiting the Inspectorate/cadet staff despite the expiry of Nairobi Metropolitan Services contract in November 2022.

The Committee deliberated on the said issue and resolved to conduct an inquiry on the structure, criteria and the terms used to redeploy the Inspectorate/cadet staff and the budget allocated for their salary. The County Public Service Board and the Ag. County Secretary were therefore invited to a Committee meeting to report on the same.

The County Public Service Board attended the meeting on Thursday, 9th March 2023. However, the Ag. County Secretary did not honour the two invitations forwarded to him and there was no written submission to explain his failure to attend.

Hon. Speaker,

The Committee wrote to the County Public Service Board inviting them for meeting to furnish the Committee with responses to the issues inquired about.

The County Public Service Board appeared before the Committee to submit their oral and written responses on Thursday 9th March 2023 and the Committee was dissatisfied with the recruitment given as it appeared that the criteria and the terms used to redeploy the Inspectorate/cadet staff were not legal. It is on this background that the Committee resolved to conduct an inquiry in order to investigate the procedure used to recruit the inspectorate staff.

3 0 THE INVESTIGATION

3.1 Public County Service Board Submissions

Hon. Speaker,

The County Public Service Board informed the Committee that they were not involved in the recruitment of the inspectorate staff and had intervened through various correspondences to the County Secretary and the Public Service Commission (PSC) advising on the same. The County Public Service Board on **27th January 2022** raised a concern to the Public Service Commission in regards to their continuous recruitment without approved County structure and establishment. In the letter County Public Service Board advised that due to huge wage bill the Nairobi City County would not be able to absorb staff recruited by defunct Nairobi Metropolitan Services (NMS) at the end of their contract.

On 13th October 2022, The County Public Service Board wrote another letter to the County Secretary, requesting for explanation for transition of human resources to the Nairobi City County Government and be provided with :-

1. Recommendation/report from the Intergovernmental Relations Technical Committee (IGTRC) on transfer of functions and human resource from defunct Nairobi Metropolitan Services (NMS) to the County Public Service Board;
2. Referred Public Service Commission letter with terms to deed back to the human resource functions;
3. Request justification, structure and establishment that initiated the recruitment of the proposed officers by defunct Nairobi Metropolitan Services through Public Service Commission;
4. Recruitment process by Nairobi Metropolitan Services that was employed by Public Service Commission during recruitment;
5. List of all officers proposed by Nairobi Metropolitan Services proposed for absorption and their critical and essential services that they are offering and which otherwise cannot be offered by the existing NCCG officers;

6. The justification of recruitment of officers by Nairobi Metropolitan Services through Public Service Commission on contract beyond the term of deed of transfer; and
7. Substantive approved budget for the financial year 2022-2023 and any other document which shall be of essence to the request

The County Secretary responded to the County Public Service Board on **5th October 2022** by stating that following the lapse of the Deed of Transfer of Functions and on assumptions of the Office of the new administration, the Public Service Commission wishes to return Human Resource Functions by the attached terms.

a) **STAFF RECRUITED BY NMS THROUGH PSC (ENFORCEMENT)**

At the time of the transfer of functions, a thousand, hundred and seventy-two (1172) officers were identified for secondment to NMS.

However, this was later reviewed downwards to one thousand and ninety-nine (1099) to take into consideration the enforcement and security functions that were retained at the county. To address these gaps, NMS through PSC recruited two hundred and eighty-five (285) enforcement officers and six hundred and seventy-six (676) constables on a contractual basis to enable deployment to the then-newly created Directorate of Compliance & Service Delivery

No	Designation	Directorate	JG	Ae	In post	Variance	Duration of contract (yrs.)
1.	Enforcement officer II/ Compliance & Delivery officer II	Enforcement/ Compliance & delivery officer II	J	300	285	15	38 No Enforcement officers' Contracts end on 30/11/2022 while 246 contract ends on October 2024
2.	Security Warden 1	Enforcement	G	700	676	25	30/11/2022
Totals				1000	961	40	

Recommendations from the County Secretary as contained in the submission from the Board

- The functions the officers undertake are crucial and essential and they should be absorbed by the county government and their terms of service be translated to permanent and pensionable; and
- Where the establishment has not been taken into account, the County should formalize it due to the expansion of its mandate.

4.0 COMMITTEE FINDINGS

The Committee made the following observations during the said meeting:

1. The Public Service Commission recruited the enforcement officers/cadets under Nairobi Metropolitan Services, yet Security and Compliance Sector was not a transferred function;
2. The County Public Service Board was never involved in the recruitment as the body mandated to recruit officers of the County Executive;
3. The contracts for the said officers expired in the month of November, 2022 following the expiry of the Deed of Transfer of Functions;
4. The County Public Service Board was not aware of the budgetary allocation in the County to cater for salaries of the said officers in the Financial Year 2022-2023;
5. The County is under no obligation to absorb the enforcement officers or any other officers recruited under the defunct Nairobi Metropolitan Services(NMS) unless the user departments have made a request to the County Public Service Board;
6. The County Service Board was not in receipt of the list of all officers recruited by NMS and proposed for absorption;
7. The Cadets were recruited by the Public Service Commission whereas in the County Establishment do not have such cadres; and
8. The Ag. County Secretary did not honour the two invitations forwarded to him and there was no written submission to explain his failure to attend.

5.0 RECOMMENDATIONS

In view of the above investigation, the Committee recommends the following:-

1. That, the Public Service Commission did the recruitment for the Inspectorate/ Cadets on contract and that, the County Public Service Board was never involved in the recruitment as the body mandated to recruit officers of the County Executive. Therefore, the Cadets should be redesignated by the National Government;
2. That, the County is under no obligation to absorb the enforcement officers or any other officers recruited under the defunct Nairobi Metropolitan Services (NMS) whose contract and term expired in November 2022 and without justification of recruitment beyond the term of deed of transfer;
3. That, the Security and Compliance Department as a user department should make their request to the County Public Service Board, on the need to have a recruitment for more inspectorate staff. In this regard, advertisement be placed and interviews done to employ; and
4. That the recommendations of this Committee be implemented with immediate effect.