

GOVERNMENT OF NAIROBI CITY COUNTY



*Paper laid by
Hon Peter Imwani
on 14/9/2021*

THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

SECOND ASSEMBLY
(FIFTH SESSION)

NCCA/TJ/PL/2021(24)

14th September 2021

PAPER LAID

Hon. Speaker, I beg to lay the following Paper on the Table of the Assembly today, Tuesday 9th September, 2021:

- **THE REPORT OF THE DELEGATION THAT ATTENDED THE POST-PANDEMIC PUBLIC SECTOR PERFORMANCE MANAGEMENT TRAINING HELD IN DUBAI, UNITED ARAB EMIRATES (UAE) BETWEEN 29TH JUNE AND 15TH JULY 2021.**

(Deputy Speaker)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

NAIROBI CITY COUNTY GOVERNMENT



**NAIROBI CITY COUNTY ASSEMBLY
(SECOND ASSEMBLY- FOURTH SESSION)**

**REPORT OF THE DELEGATION THAT ATTENDED THE POST-PANDEMIC
PUBLIC SECTOR PERFORMANCE MANAGEMENT TRAINING HELD IN
DUBAI, UNITED ARAB EMIRATES (UAE) BETWEEN 29TH JUNE & 15TH JULY,
2021.**

**Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
NAIROBI**

SEPTEMBER, 2021

FOREWORD

Thirteen (13) Members of the County Assembly including Members of the Service Board together with five (officers) attended a symposium/training in Dubai, United Arab Emirates (UAE) between 29th June and 15th July, 2021. Due to various Covid-19 containment protocols, the delegation was divided into two (groups). The training covered areas of good governance and management during and post crisis periods. The delegation was trained by experts in management and good governance. In addition, the delegation experienced and observed how public services were being offered by the UAE government. Many lessons worth emulating such as automation of service delivery, efficient public transport system and development of tourist attractions were observed. This report therefore contains the proceedings of the trainings, lessons learned and recommendations. It is therefore my honour on behalf of the delegation to present this report before the County Assembly for noting.



.....
HON. BENSON MUTURA, MP
SPEAKER, NAIROBI CITY COUNTY ASSEMBLY
(Leader of the Delegation)



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1.0. INTRODUCTION

1.1. Invitations and Clearances

01. Thirteen (13) Members of the County Assembly including Members of the Service Board and five (5) Officers were invited to attend a training/symposium on ethics, governance, integrity and post-pandemic Public Sector Performance Management in **Dubai, United Arab Emirates (UAE)** (*Attached and Marked Annex 1 are the invitation letters*).

02. The delegation was cleared by the Ministry of Devolution and ASAL vide letters dated **24th June, 2021**. As part of travel approvals, members of the delegation were also tested for Covid-19 and obtained travel visas (*Attached and Marked Annexures 2&3 are the Ministry of Devolution & ASAL Clearance Letters*).

1.2. The Delegation

03. The delegation comprised of the following:-

No.	Name
1.	Hon. Benson Mutura – Speaker/Chair of the Board (Leader of the Delegation)
2.	Hon. Geoffrey Majiwa, MCA – Deputy Speaker
3.	Hon. Charles Thuo – Vice Chair Board
4.	Hon. Catherine Okoth – Board Member
5.	Dr. Fatuma Affey- Board Member
6.	Mr. Willis Okello – Board Member
7.	Hon. Mellab Atema, MCA – D/Minority Leader
8.	Hon. Waithera Chege, MCA- D/Majority Whip
9.	Hon. Rose Ogonda, MCA
10.	Hon. Benson Mwangi, MCA
11.	Hon. Pius Mbono, MCA
12.	Hon. Samuel Mwangi, MCA
13.	Hon. Wilfred Odalo, MCA
14.	Ms. Adah Onyango – Ag. Clerk
15.	Ms. Pauline Akuku – Deputy Clerk (Administrative Services)
16.	Ms. Nancy Mutai – Principal Human Resource Officer

17.	Mr. Shadrack Makokha – Principal Clerk Assistant
18.	Mr. Paul Kimani – Director, Financial Services

1.3. Training Dates

04. Due to Covid-19 prevention protocols, the delegation was divided into two (2) groups and was trained on diverse dates between *Tuesday 29th June* and *Friday 15th July, 2021*.

1.4. Objectives

05. The training objectives were as follows:-

- i) Gaining knowledge and skills on how to respond to leadership challenges arising during and after a crisis especially the Covid-19 pandemic from a leadership/management and legislative perspective;
- ii) Equip Members with management skills;
- iii) To learn on good governance practices; and
- iv) Expose the delegation to the UAE best practices and environment worth emulation.

2.0. PROCEEDINGS

06. The symposium proceeded as follows:-

2.1. Training sessions

The trainings were conducted by qualified and experienced trainers/experts on issues related to management, good governance, public policy and behavioral change. The facilitators made oral and visual presentations and thereafter the participants reacted to the topics covered by way of questions and answers. The topics covered included:-

i) *Leading through change*

The facilitator defined change leadership as working together to create a shared understanding of change required to execute the strategy, and how best to make it happen. This process entails the following:-

- Proper resource management.
- Creating the enabling legal/policy framework
- Obtaining necessary skills.

- Adopting the right technology.
- Having the right communication strategies.

In order to realize this especially as we navigate through the Covid-19 pandemic, the facilitator advised that leaders should uphold the following:-

- Assess the impact of the pandemic and develop a response strategy
- Embrace remote working.
- Understand and professionally embrace mental -health/well-being.
- Develop data and privacy laws as people embrace technology in communication.
- Institute performance management even as people work from home.
- Continuous learning and development on the new working environment.
- Mitigating against operational challenges.

ii) Crisis management

The presenter defined crisis management as a process designed to prevent or lessen the damage a crisis can inflict on an organization and its stakeholders. Examples of the crisis as given by the facilitator include-

- Food poisoning
- Fire in a building
- Data breach
- Natural disaster
- Terrorist attacks
- Outbreak of a pandemic e.g. Covid-19.

Crisis management can be divided into three phases: namely; pre-crisis, crisis response, and post-crisis. Crisis management should broadly entail-

- A crisis management plan updated annually.
- A designated crisis management team that is properly trained.

- Conducting exercise at least annually to test the crisis management plan and team.
- Pre-draft select crisis management messages including content for dark web sites and templates for crisis statements.
- Spokesperson during crisis/ Reputation repair

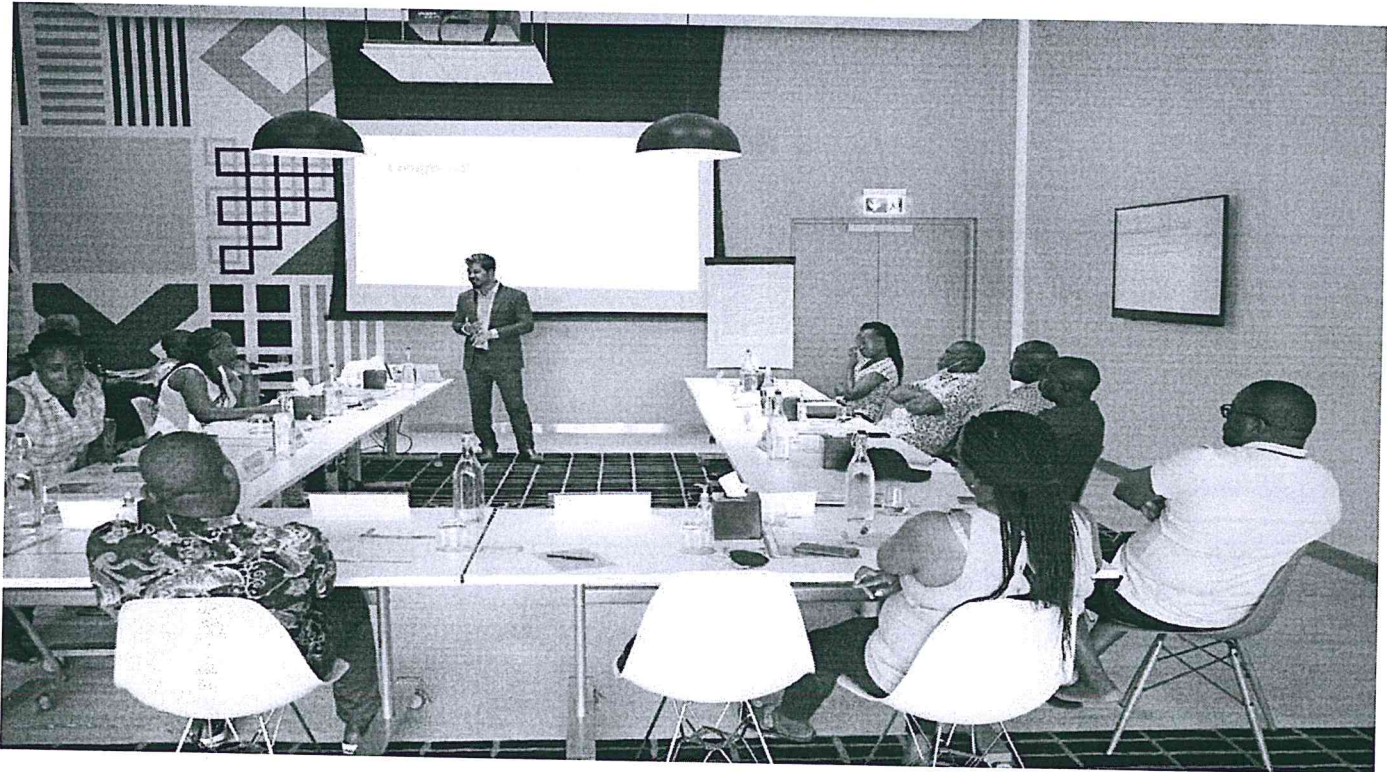


Figure 1: The delegation listening to a presentation

iii) Risk Management

The facilitator first defined a risk as the possibility of something bad happening. Concerning risk management, the facilitator referred to it as the identification, analysis, and response to risk factors that form part of the life of an organization. It means attempting to control, as much as possible, future outcomes by acting proactively rather than reactively. The facilitator noted that effective risk management offers the potential to reduce both the possibility of a risk occurring and its potential impact. It entails an assessment of the likelihood of an adverse event occurring typically conducted within corporate, government and environment. The facilitator categorized sources of risks as follows:-

- External environment (economic trends, regulatory landscape)
- Internal environment (people, process and infrastructure)

iv) Good governance

The presenter informed that good governance refers to the responsible conduct of public affairs and management of public resources. It entails transparency, accountability, rule of law, responsiveness, equity/inclusiveness and consensus building.

v) Personal Health/Physical and mental fitness

The facilitator took through the participants on the need to uphold good personal health especially during the pandemic. The facilitator emphasized on the need of conducting regular physical exercises, laughing and regular medical checkups.

2.2. Experiential learning

The delegation experienced the best governance practices and provision of public services in Dubai by undertaking the following outdoor activities:-

- Dubai City Tour; and
- Desert safari



Figure 2: One of the street in Dubai

From the tours, the delegation witnessed an efficient and working city with magnificent architectural designs and modern infrastructure. In particular, the delegation witnessed the following:-

- (a) Various tourist attractions within the city generating revenue to the country and preserving the local culture;
- (b) Efficient public transport, well maintained roads and dignified and adequate housing. The most commonly used public transport were, BRT buses, trains and digital cabs;
- (c) Exceptional obedience of traffic rules and signs by both motorists and pedestrians. The roads were clearly marked and kept clean.
- (d) Almost every aspect of the resident's lives is automated thus increasing efficiency.
- (e) The government provided efficient services such as disaster and emergency response, traffic management, waste management and an accurate local address system.



Figure 3: Magnificent architectural designs in Dubai

3.0. OBSERVATIONS/CONCLUSIONS

07. The delegation made the following observations:-

- i) The training was critical for the delegation in terms of planning and making strategic decisions as the County Assembly and the County in general emerges from the Covid-19 pandemic.
- ii) A working government in Dubai has improved the residents' quality of lives.
- iii) Despite UAE being a desert, the Government was innovative especially by investing in tourist attraction sites and activities thus supplementing its revenue base.
- iv) Automation of services has made it easy for the Government to provide service. Services that are fully automated include; revenue collection (payment of bills), physical address, traffic management amongst others.
- v) The government has put in place a well-managed integrated public transport system. This includes trains, mass transit buses, taxis and bicycles. Similarly, the public transport is supported with a robust infrastructure that is integrated with technology to improve efficiency.
- vi) There were adequate social amenities such as sports grounds and recreational parks for residents owned and maintained by the Government.

4.0. RECOMMENDATIONS

The delegation recommends the following: -

1. The Nairobi City County Assembly Service Board should continue investing in continuous training for both Members and Staff. Lessons learned during the training/symposium namely; crisis management, leading through change, risk management and physical and mental health should be emulated by other Members and staff of the Assembly and be applied accordingly during the current period of Covid-19 pandemic.
2. The Nairobi City County Tourism Department in collaboration with other national state agencies should map-out and maintain tourist and historical

sites in the City that can be toured by visitors/tourists. In addition, the Department in collaboration with local tourist firms/agents should henceforth initiate the city tour programs.

3. The County Government should embark on serving and improving the quality of lives of the residents by: -

- i) Adoption of an improved public transport system that can transport residents in mass to reduce congestion on roads. This should entail adoption of Bus Rapid Transport (BRT) and a light railway system.
- ii) Adherence to physical development plans.
- iii) Re-designing of County roads to cater for all road users i.e. motorists, pedestrians and cyclists. The roads should be well marked with visible traffic signs and lights/signals. Funds should be set aside in the budget for regular maintenance of road signage and traffic signaling infrastructure.
- iv) Automation in the provision of services
- v) Proper waste management
- vi) Assignment of physical address system.

XXXXENDXXXX



FOREIGN SCOPE
INTERNATIONAL
CONSULTING

June 9th 2021

Ref: FSC/T&C/2021/j00015DBX

The Clerk,
Nairobi City County Assembly,
P.O Box 45844-00100,
Nairobi, KENYA



Dear Sir/Madam,

RE: INVITATION TO THE TRAINING CONFERENCE ON POST-PANDEMIC PUBLIC SECTOR PERFORMANCE MANAGEMENT TO BE HELD AT THE RADISSON BLU HOTEL, DUBAI WATERFRONT, DUBAI, UAE FROM JUNE 27TH - JULY 7TH, 2021

We have the pleasure to invite you and or your nominees to the 2021 Training Conference on Post Pandemic Public Sector Performance Management. The Conference will be held at the Radisson Blu Hotel, Dubai Waterfront, Dubai, UAE, from June 27th to July 7th, 2021.

Background of the Training Conference

The International Training Conference on Post Pandemic Public Sector Performance Management brings together leading experts, public sector managers and policy makers to exchange and share their experiences on all aspects of Public Sector Performance Management in the age of the pandemic. The Conference will primarily focus on examining the new post pandemic work environment in which public sector managers must now operate.

Through interactive sessions, new innovations, recent research, panel speakers, and more, you'll learn how to advance your public sector performance management skills at a time when the stakes have never been higher, and the work of leadership has never been more complex. Never before has leadership played such a critical role in the success of public sector outcomes as it will do in the post pandemic recovery phase.

Who should attend?

This Conference is open to all experts, public sector managers and leaders that work on the implementation of reforms at different levels in their countries and/or are facing the COVID-19 crisis related challenges and contemplating newer strategies for public sector performance management.

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Masaki, Haile Selassie Rd
+255 580 222 111



UGANDA
KAMPALA
P.O Box 20001
Course View Tower, R,7th Flr
+256 (31) 231 4321

We have the pleasure to invite you and the following persons from your esteemed organization for the Conference: -

1. Hon. Geoffrey Majiwa, - Deputy Speaker of the County Assembly.
2. Hon. Benson Mwangi, MCA
3. Hon. Pius Mbono, MCA
4. Hon. Samuel N. Mwangi, MCA
5. Hon. Wilfred Odalo, MCA
6. Hon. Mellab Atema -MCA
7. Mr. Shadrack Makhoha
8. Mrs. Nancy Mutai
9. Mr. Fred Macharia

How Will You Benefit?

The COVID-19 crisis has increased public sector performance recovery uncertainty to unprecedented levels. Existential fears are arising. Reliable data for decision making is scarce. This elevated leadership challenges that in the "usual times" no one would have expected.

This Conference will:

1. Address leadership challenges arising during the COVID-19 crisis, recognizing that the developed solutions might stay for a longer period of time and even become the new normal.
2. Highlight the non-technical factors influencing the decision making on the way forward through and beyond the crisis.
3. Explain the concept of "change agents" and their leadership role in the public sector reform processes.
4. Reflect on the concept of co-operation in the change and reform processes. Does it reflect the active listening, open sharing that are the basis of connection and co-creation?

Conference Registration

This Conference's cost is USD 1200 per delegate, covering the cost of Conference and Training Materials. Delegates will be expected to cater for their travel costs, accommodation costs, travel insurance and airport transfers, as well as PCR tests for Covid-19 on arrival at Dubai International airport and prior to departure from Dubai as per the new Dubai Health Authority regulations.

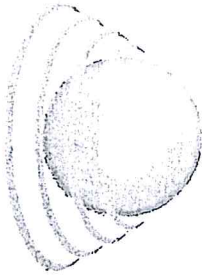
Should this event be of interest to you and should time and resources allow, we shall be happy to host you and your team in the beautiful City of Dubai.

Sincerely,



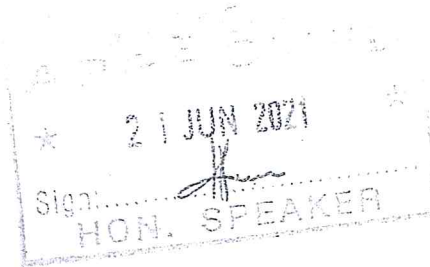
Evalyne Rivers

Director - Programs, FSC-KENYA



The Emirates Training and Consultancy Company
شركة الإمارات للتدريب
والاستشارات ذ.م.م

HONORABLE MR. BENSON MUTURA,
SPEAKER COUNTY ASSEMBLY OF NAIROBI,
P.O BOX 43844-00100,
NAIROBI CITY,
REPUBLIC OF KENYA
REF: LTR/DXB_21051524008AE



27TH MAY 2021

Dear Sir,

**RE: SYMPOSIUM ON ETHICS GOVERNANCE INTEGRITY AND COMPLIANCE FOR DIRECTORS
OF PUBLIC ENTERPRISES JUNE 2021 DUBAI UNITED ARAB EMIRATES**

Greetings from the Dubai United Arab Emirates. On behalf of the organizing committee of our Symposium on Ethics Governance Integrity and Compliance for Public Sector Oversight Leaders and Managers and in line with the visionary leadership of your progressive organization, it is my pleasure to invite members of the Board of County Assembly of Nairobi to attend the subject event that takes place at The Dubai International Convention Center, Dubai, United Arab Emirates with effect from **28th June to 6th July 2021**.

This Symposium creates a context for organization-wide thinking and explores the challenges of building and sustaining an adaptive, innovative ethics, compliance and integrity driven institutional culture that can thrive and prosper in a fast changing and challenging environment. The Symposium will give participants an integrated framework to enhance performance for the individual and organization. Today more than ever before trust has become a key foundation of good governance and this Symposium will focus on enhancing the trust between the different actors in both the private and public sectors.

The Symposium will also extensively address one of the most significant non-market threats organizations confront: culture risk. Keynote addresses by global speakers during the Symposium will provide international perspectives on the theme and its implications for developing nations.

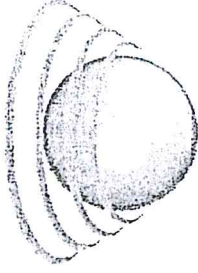
WHO SHOULD ATTEND:

The Symposium Program is designed for Senior Managers and Board Level Executives of both Public and Private Sector Entities and those aspiring to occupy leadership positions in the Public Sector and who have responsibility, either individually or as a member of the top team for steering their organization strategically. Participants in this program are high achievers who should have the desire to enhance an impressive track record, have the hunger to learn and gain exposure to new ideas in order to manage in today's dynamic public sector work environment.

BENEFITS OF ATTENDING THIS EVENT:

At the end of the Symposium, participants should be able to:

- To discover innovative new strategies for promoting the adoption an ethics and integrity-based culture in their Organizations.



The Emirates Training and Consultancy Company

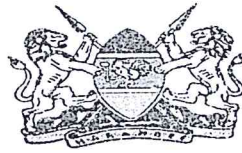
شركة الإمارات للتدريب
والاستشارات م.م.

- The Symposium offers all participants the opportunity to connect with high quality Panelists who are involved in formulation and implementation of Ethics and Integrity Programs throughout public financed establishments.
- The event will help showcase how leaders of public financed entities can make better use of technology to enhance controls and processes, and ultimately create an effective anti-corruption culture within Public Owned Establishments.
- The Symposium provides the Delegates with ample information to ensure they are better placed to communicate effectively on anti-corruption measures and new improved internal controls not only to their management but also to the entire staff in their respective establishments.
- The Panel discussions will ensure delegates will be best placed to utilize adverse reports from their respective Auditor General Offices to institute special fact-finding committees with a view to ensuring such occurrences do not happen again in future.

The Symposium fee for this event is **One Thousand Five Hundred United States Dollars** per Delegate which fee covers the cost of Tuition and Course Materials. Delegates are expected to cover their costs of travel, accommodation and living expenses while in Dubai. We look forward to hosting your team in the beautiful City of Dubai for this worthwhile event

Thank you
Sincerely Yours,

Jamal Mubarak Al Hossani,
Executive Director



MINISTRY OF DEVOLUTION AND ASAL
STATE DEPARTMENT OF DEVOLUTION

Ref. No: MDP/DD/ADM/6/19/VOL.LXII

24th June, 2021

Ag. Adah Onyango

Clerk

Nairobi City County Assembly

P.O. Box 45844-00100

NAIROBI

**AUTHORITY TO TRAVEL TO UAE – NAIROBI CITY COUNTY
ASSEMBLY**

Reference is made to your letter Ref. CA/PR/CORR./06/2021 (17) dated 23rd June, 2021 on the above subject.

Authority is hereby granted for the under-listed County Assembly Officials to travel to Dubai, UAE from 27th June, 2021 to 7th July, 2021 to attend a training Conference on Post Pandemic Public Sector Performance Management.

S/NO.	NAME	DESIGNATION
1.	Hon. Benson Mutura	Speaker
2.	Hon. Charles Thuo	MCA
3.	Hon. Catherine Okoth	MCA
4.	Hon. Waithera Chege	MCA
5.	Hon. Rose Ogonda	MCA
6.	Mr. Willis Okello	CASB Member
7.	Ms. Fatuma Aden Affey	CASB Member
8.	Ms. Adah Onyango	Secretary CASB
9.	Ms. Pauline Akuku	Deputy Clerk

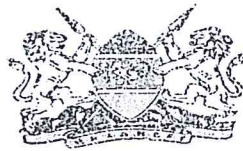
It is noted that the Nairobi City County executive will meet all the expenses pertaining to this trip.

Kindly facilitate travel to UAE.

Julius Korir, CBS

PRINCIPAL SECRETARY

Copy to: **The Director**
Immigration Services
NAIROBI



MINISTRY OF DEVOLUTION AND ASAL
STATE DEPARTMENT OF DEVOLUTION

Ref. No: MDP/DD/ADM/6/19/VOL.LXII

24th June, 2021

Ag. Adah Onyango

Clerk

Nairobi City County Assembly

P.O. Box 45844-00100

NAIROBI

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3.	Hon. Pius Mbono	MCA
4.	Hon. Samuel N. Mwangi	MCA
5.	Hon. Wilfred Odalo	MCA
6.	Hon. Mellab Atema	MCA
7.	Mr. Shadrack Makhoha	Secretariat
8.	Ms. Nancy Mutai	Secretariat
9.	Mr. Paul Kimani	Secretariat

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Kindly facilitate travel to UAE.

Julius Korir, CBS

PRINCIPAL SECRETARY

Copy to: **The Director**
Immigration Services
NAIROBI

Smokers: To Hire or Not? A Human Resources Ethics Issue: Case Scenario and Good Practices for Human Resources-Ethics Consideration

Thomas Corbin, Akram Al Matarneh, and Udo Braendle

American University in Dubai, Dubai UAE

Abstract: This case study attempts to frame the ethical considerations between hiring a known smoker over a non-smoker in today's cultural climate. Referenced data from a parallel project gauging the likelihood of Human Resources representatives to hire smokers and accommodate them in the workforce could help manage the response and critical thinking components of the case scenario. Questions also arise as to whether it is advisable for employers to take particular attitudes toward smoking in the workplace. This is not only in the interest of the health of employees, customers and clients, but is also on the basis of a concern that employers may otherwise expose themselves to lawsuits where employees may, on the basis of illness contracted due to a smoking environment supported by an employer, sue for the costs of care and income.

Keywords: human resources, ethical hiring practices, privacy.

Acknowledgement: The authors would ask that Dr. Micah Robbins, English Division Head and Assistant Professor of English at the American University in Dubai, be recognized for his speedy editing and review of this project.

1. Introduction

Smoking in the workplace is a hot topic and one of modern human resource considerations for practical and fiscal reasons.¹ When it comes to an employing somebody, questions arise as to what approach a company should take toward smoking. Should companies decide to avoid hiring individuals who smoke and create a “no smoking” environment? Or should they take an approach where employees are allowed “smoking breaks” during work-hours, whenever those employees see necessary? Should employers actively encourage current employees to quit smoking outside of work by using positive inducements and

-
1. “Smokers: To Hire or Not? A Human Resource Ethics Issue”, Conference Paper, 2nd International Conference on Emerging Research for Sustainable Economic Development, Manama Bahrain, March 6, 2018.

negative reinforcements, up to and including increased vacation time and sanctioning non-compliant employees, or should they treat every employee the same as long as personal habits are not effecting performance?

2. Case Scenario for Student Discussion

Cameron Clark is the head of Human Resources for Denobula Corporation, a multinational organization dealing in Insurance, Risk Management, Asset Protection, and Corporate Assessment. Denobula has maintain its status as the number two company in the field for a number of years, though it has always preformed behind Tenor Corporation, which is larger and better situated in the market. Denobula is now facing stiff competition from Calgary Claims, a new company that has been able to provide competitive products and services at lower prices. Pressure from senior management and majority stockholders upon Denobula to maintain its status and perhaps overtake Tenor is very high. Denobula is also looking to expand operations and sales into Eastern Europe and the Middle East, and a new Sales Manager will be instrumental in leading this initiative.

Denobula's long-time Sales Manager recently retired after 30 years of service. Denobula now has the immediate need to employ a new Sales Manager. After a lengthy interview and background process, two candidate files are on Cameron Clark's desk. Cameron has been tasked with issuing a final recommendation to the CEO for the position. The CEO's directing request is that Clark's recommendation be for the candidate that will be the best for the position, help Denobula advance financial positions within the industry, and provide a healthy and fresh example for the corporate team. It should be further noted that Denobula recently joined forces with the other companies in the Ameridan Corporate Park and Association (ACPA), a corporate-industrial park, where fifteen other companies are located with state-of-the-art facilities that include a central health and wellness center, as well as eateries to encourage healthy living in industry and community. The park, as such, has recently instituted a smoke and tobacco free policy as part of the association's membership and operating requirements.

Candidate 1: Ahmed Ayoub

- Candidate Ayoub has 15 years of sales and management experience, most notably with Denobula's main competitor, Tenor Corporation, where he served as Assistant Sales Manager. In the previous year, Ayoub was instrumental in securing three multi-million US dollar contracts, where Denobula lost the bid to Tenor Corp. Ayoub's current sales portfolio is estimated to be close to \$3 million dollars.

- Candidate Ayoub has an additional two years of managerial experience from outside the industry.
- Candidate Ayoub also has the ability to carry over with him a sizable client list that would bring immediate business to Denobula and provide useful leads to junior sales associates.
- Candidate Ayoub's reputation precedes him in the market with both clientele and competitors, and he has been recognized five times as Salesman of the Year in the field.
- Candidate Ayoub graduated with a Bachelors of Business Administration from an accredited university.
- Candidate Ayoub is a long-time heavy smoker. He can regularly be seen outside the main door of his current place of employment, which is the location's mandated smoking area, at several times throughout the day. Additionally, Ayoub is expressive and passionate about his membership in a cigar club, and his brother owns and operates a shisha bar in the downtown district. Both his membership in the club and his brother's establishment feature prominently on Ayoub's social media pages.
- Candidate Ayoub would require two weeks' notice to begin employment at Denobula.

Candidate 2: Desiree Bayakli

- Candidate Bayakli has just over three years of sales experience, with eight months of that experience coming as an intern with Schwagger & Loud, a beauty and hair care company. Though her sales experience has been solid and productive, none of her individual contracts have been valued over \$100,000.
- Candidate Bayakli graduated with a Bachelors of Business Administration, with top honors from a prestigious local university. She also holds a Master's Degree in Health Studies.
- Candidate Bayakli has excellent references. Her current employer is extremely reluctant to allow her to leave but is unable to compete with the sales package that Denobula can offer.

- Candidate Bayakli is also active in marathon running and serves on the youth board of the United Cancer Society, a non-profit organization committed to the battling and preventing of heart, lung, and throat cancer.
- Candidate Bayakli's personal commitment to health and her extracurricular activities factor heavily on her social media pages.
- Candidate Bayakli would require two weeks' notice to begin employment at Denobula.

3. Questions for Consideration

1. If you were the Head of Human Resources and responsible for making the decision mentioned above, what additional facts would you consider relevant to this case?
2. If you were the Head of Human Resources or in a leadership position at Denobula, would your answer be different than if you were at another company or entity? Why?
3. What level of scrutiny, if any, would you consider necessary to resolve this issue and come to a decision? What form or accommodations could you suggest to resolve the matter?
4. Do you consider making a decision on hiring an employee based on personal practices such as smoking to be an ethical concern? How do you balance an employee's personal habits against the organization's goals?
5. Some organizations grant incentives such as more vacation² time to employees who change their personal behavior to achieve perceived organizational goals. Do you think it is ethical to grant more vacation time to employees who stop smoking or refrain from smoking during working hours? What about incentives for other activities such as losing weight or getting regular medical check-ups?

2. Ward, M., *CNBC: Make It, This Japanese Company is Giving Employees Who Don't Smoke 6 extra Vacation Days*, <https://www.cnn.com/2017/11/02/this-japanese-company-is-giving-non-smokers-6-extra-vacation-days.html>. Retrieved April 17, 2018 and Ballesteros, C., *Newsweek, You Can Get More Vacation Time in Japan if You Don't Smoke*, <http://www.newsweek.com/japan-smoking-vacation-697499>. Retrieved April 17, 2018.

6. Do you see any perceived benefits to employing a smoker?³ Do you see any perceived benefits to picking a less qualified candidate over a known smoker? How would expanding operations into the Middle East and Eastern Europe impact your decision?
7. Smokers do not enjoy “protected class”⁴ status, legally speaking, because choosing to smoke is a personal issue. Do you think it is an invasion of privacy to ask if a candidate is a smoker on a job application or during an interview?
8. In the case above, would you advocate special allowances or designated areas for the highly-qualified candidate to smoke in contrast with the prevalent company and partnership policies? What if the candidate could sizably and immediately impact the economic success of the company such that it would be able to avoid the layoffs of several other employees?

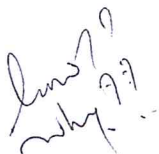
4. Learning Objectives and Solutions Map

Upon completion of this case study students will be able to:

1. Demonstrate an in-depth understanding of cost-benefit (utilitarian) analysis and cultural relativism in the context of ethical human resource practices;
2. Solve this case study in the field of human resource management within the confines of ethical best practices (whether individually or as part of a team); and
3. Make decisions about managerial hiring, ethically manage those decisions in the context of the image of the organization, and prioritize benefits and costs in a final decision.

3. Networking and the Entrepreneur's Mindset, the VO Atlanta Voiceover Conference, voatlanta.me/networking-and-the-entrepreneurs-mindset/.

4. Thompson Reuters, Practical Law, Glossary-Protected Class: “A group of people with a common characteristic who are legally protected from employment discrimination on the basis of that characteristic. Protected classes are created by both federal and state law.” [https://content.next.westlaw.com/Document/Ibb0a38daef0511e28578f7ccc38dcbee/View/FullText.html?contextData=\(sc.Default\)&transitionType=Default&firstPage=true&bhcp=1](https://content.next.westlaw.com/Document/Ibb0a38daef0511e28578f7ccc38dcbee/View/FullText.html?contextData=(sc.Default)&transitionType=Default&firstPage=true&bhcp=1) Retrieved April 17, 2018.



4. As to the call of the question and a solution map to guide students and make them aware of expectations, a fully developed answer to the call of the questions should include:
 - a. an analysis of the decision-making process;
 - b. evidence of ethical considerations such as those discussed in the case study, including but not limited to cost-benefit analysis and cultural relativism; and
 - c. the ability to vigorously defend their decision with evidence.

The Case of the Crooked Case Worker

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Abstract. Ethics practice is both relative and situational. Perhaps there is an area of no greater demonstration of these realities than where an organization, be it a public governmental entity and/or a quasi-governmental entity with government contracts has the duty of care owed to a vulnerable constituency as well as to other community stakeholders. These agencies have the public trust as well as the ethical caretaking concerns to master. In the following fact scenario and discussion, one would consider a situation where the care of the vulnerable constituency is the paramount concern and the facilitation of that care is also in question. Human Resource and leadership teams need to be cognizant of not only impropriety of members within their organization but also the appearance of impropriety as well. The following case study attempts to put into perspective the need for managers and HR representatives to monitor practice and perception of ethical behavior.

Keywords: conflict of interest, appearance & avoidance, professional impropriety & public service.

1. Case Scenario for Student Discussion

In an unnamed medium sized jurisdiction there is a local municipal agency that deals with elderly and mentally infirm citizens that are in need of both nursing home care and administration of finances under court ordered guardianships/conservatorships. Upon petition to the court, the court will order that agency to aid in the placing of the petitioned individual with a conservator or guardian as necessary.

The financial and personal well-being care of mentally infirm and aged individuals are generally a question of guardianships and conservatorships. A guardianship is generally for individuals with developmental disability and should be utilized only when necessary to promote and protect the well-being of the individual, including protection from neglect, exploitation, and abuse. A conservatorship is an appointed individual by the court to manage the estate, property, or other business affairs of an individual whom the court has determined is unable to properly take care of themselves, because of incapacity, disability or age. Generally, the conservator of an estate may also expend or distribute estate income or principal without court authorization or confirmation for the support, education, care, or benefit of the protected individual or the protected individual's dependents or relatives. A guardian or conservator is, as stated above, appointed by the court and after the appointment is monitored by either the court office itself or in larger municipal settings an agency with skill and resources to manage the

caseload. The actual conservator or guardian may be a relative of the infirm citizen in question or it maybe someone else that has the expertise to monitor the financial and physical well-being issues that may arise. These conservators and guardians may also be private, professional for-profit organizations that monitors and cares for a multitude of infirm citizens as the law in several jurisdictions allow for the conservator to charge a fee for services rendered in the action of conserving the financial assets and cares for the physical well-being issues. This can include nursing and care homes for guardianships as well as accounting and other financial entities for conservatorships. Whether, the conservator or guardian is a relative or a business entity, the court and municipal agencies will look into the character, fitness and capability of the guardian/conservator and once approved they can undertake actions and conduct necessary to fulfill their duties. In the case of professional organizations in the business of caring for a number of client-patients, a list of approved agencies can be kept on hand and when a case of a new individual with need arises the court, upon petition and after assuring that a family member cannot or will not act in accordance of the rules will simply go down the list to appoint an appropriate and approved agency for the conservator/guardianship.

A guardian and/or conservator is entrusted with a number of powers and responsibilities in the Municipal Probate Code¹ and entails the following:

- to invest or reinvest funds in accordance with the Michigan Prudent Investor Rule;
- to retain assets in which the conservator has a personal interest;
- to exercise powers and duties relating to stock ownership;
- to hold stock in the name of a nominee;
- to continue and participate in the operation of the protected individual's business;
- to open a bank account;
- to acquire or lease real estate;
- to repair, erect, or demolish real estate improvements;

1. MCL 700.5423(2) as displayed by Patterson Courie, P., Michigan Guardianship and Conservatorship Handbook Chapter 10: Operation of a Conservatorship, current as February 5, 2015. <http://www.icle.org/modules/books/chapter.aspx?chapter=10&book=2000556550&lib=probate-estate§ions=1&from=store>

- to purchase insurance;
- to pay or settle claims by or against the estate;
- to employ professionals; and
- to respond to environmental concerns.

It should be further noted that the law implies upon the conservator the duty of care. The undertaking of the duty of care is an objective test into evaluating the decisions taken by the agent to enquire if the actions had the best interests of the client in mind as opposed to the measured worth of success in their actions. Additionally the law requires a conservator or guardian to avoid conflicts of interest.² This municipal jurisdiction³ requires licensure for the professional exercise of “professional fiduciaries”. Such licensure also includes a professional conduct and ethics code.⁴ Such codes contain regular language calling for the avoidance of conflicts of interest and avoidance of activities that would be adverse to the client’s fiduciary or physical state. Professional conservators/guardians are allowed to charge a fee for their services as long as this fee is reasonable and sanctioned by the court.⁵

The municipal agency acts as a monitor of the responsible party and also as both a resource to the appointed conservator/guardian in the event that the appointment is made to a family member and as selection agent in the event that the conservatorship or guardianship needs to be placed with a professional agent. For efficiency sake, the municipal agency, under the guidance of the court has a list of no less than fifteen approved “professional fiduciary agents” that are appointed when the conservatorship and/or guardianship is necessitated. The list of vetted agents are investigated and licensed as required by state and local authorities and are granted new petitions on a listed base. Which agency gets which petition depends on the last appointment and whether contact by the municipal agency is able to contact the lead official at the professional agency. Other factors to consider in placement may include capacity of current workload, capability to manage the workload and other special circumstances that would dictate to whom the petitioned guardian/conservatorship should be placed. This list includes all four of the nursing homes in the jurisdiction in question as well as eleven professional entities that practice in part, fiduciary services for clients in the jurisdiction.

2. See for example: MCL 700.5421(1).

3. <http://www.fiduciary.ca.gov/licensees/faq.shtml>

4. http://www.fiduciary.ca.gov/licensees/code_ethics.pdf

5. Geller B. (2012), *Michigan Long Term Care Ombudsman Program, Handbook for Conservators of Adults*, 8th Michigan Ed. p. 75 http://www.michiganlawcenter.com/images/Conservators_Handbook.pdf

Mr. Clarence Front, a licensed social worker, has been with the municipal agency for fifteen years and has a senior position within the agency where decisions on where to house the at-risk citizens as well as who should be chosen as agency approved conservator of the citizen's finances. Mr. Front's record has been noted by other senior officials as being efficient in his placements and quick to place the citizens in appropriate care facilities as well as making sure the finances of the patients are properly placed with judicial and agency approved guardians. Recent accusations have arisen however, that Mr. Front's placements of the patients into homes and the assignments of the financial caretaking, both of which are paid guaranteed governmental fees for their services, have been to favored agents rather than the next available agent on the approved list. It is an undisputed fact that Mr. Front's ex-brother-in-law, Dennis Mens, is an accountant that heads one of the private companies, Mens & Rea Financial Services, that operates a for-profit management of senior and court appointed conservatorships and that Mr. Front's sister, Beatrix Front-Mens, is the deputy director and chief economic officer of one of the nursing care facilities, Comfortable Care, in the jurisdiction. Both Mr. Mens and Ms. Front-Mens are in positions of power where they receive communications about current and future placements of new or continuing conservator/guardianships. The firm that Mr. Mens works with is a for-profit operating model with both public and private contracts. The facilitation of these contract and the continuation of the firm's profitability are dependent upon maintaining of new clients and having a steady revenue stream of those new clients coming into the firm. The nursing home, Comfortable Care, is also a private entity that receives only state funds from Medicare/Medicaid placements but relies mainly upon the payment of rental fees and the billing of tenants that have elected to be in their care for their budgetary operations. Both Comfortable Care and Mens & Rea Financial are well respected pillars in both the senior care market and hallmarks of the community at-large. Both businesses are noted for their success and waiting lists of clients who are privately petitioning to become clients of their services. There is an average wait time for new clients to privately petition the companies for their services but no such wait time for emergency or court ordered conservatorships or guardianships.

These facts, coupled with recent well visible and extravagant purchases by Mr. Front has led to a pronounced level of acrimony within the municipal agency and a few complaints have arisen from approved agents that they are being passed over for placement in favor of agents that have a close working relationship with Mr. Front. The local newspaper has also received an anonymous tip about possible mishandling of client assignments and has contacted the municipality for comment. So far municipal management has not returned the solicitation for comment. It should be noted that in spite of these complaints and the rumors, there has been no complaints by the citizens, their family or anyone else about the care of the citizens or the management of their finances. Furthermore, a recent state audit of the cases under Mr. Front's care showed no abuse of the patients nor mismanagement of the funds.

2. Questions for Consideration:

1. As member of a Human Resource Management Team responsible for the administration of the municipal entity administering the services mentioned above what additional facts would you consider relevant to this case?
2. If you were an HR or in leadership at Mens & Rea or Comfortable Care would your answer differ than if you were with the government entity? Why?
3. What level of scrutiny would you consider necessary, if any, to resolve these issues? What form of investigation should be taken if any?
4. The Society of Human Resource Management Code of Ethics suggest that as an HR professional, steps should be taken to minimize “conflicts of interest or the appearance thereof”.⁶ The National Association of Social Workers Code of Ethics calls for “[S]ocial workers behave in a trustworthy manner”.⁷ With this in mind, what steps would you recommend for the actors of this scenario to be in harmony with these philosophies?
5. Does the fact that there are no complaints about the citizens’ care or administration of the finances matter in the decision making process? How and why?
6. Assume that it is discovered that Mr. Front is giving the case assignments to favored agents rather than approved agents but is not receiving any form of bribe or kickback for the placements. Should the agency take any action?
7. Again assume placement is discovered based on favor rather than order, further assume that favored agents in turn give compensation to Mr. Front, what should be done in this case? Can any discrepancy in action or severity of punishment be justified?
8. Can any suggestions be made as to how to make the placement protocol language less ambiguous and whether it can avoid both unethical behavior as well as the appearance of unethical behavior?

6. *Society of Human Resource Management: Code of Ethics*, available at <http://www.shrm.org/about/pages/code-of-ethics.aspx>.

7. *National Association of Social Workers: Code of Ethics*, available at http://www.jsu.edu/socialwork/career/NASW_Code_of_Ethics.html.

9. Could you see any alternative explanations for the placements and can you provide a “devil’s advocate” defense for the actors in the scenario?

