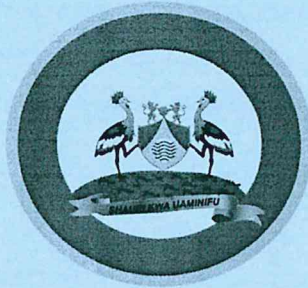


GOVERNMENT OF NAIROBI CITY COUNTY



Paper Laid on
15/10/2024.
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THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(THIRD SESSION)

[Handwritten signature]
15 OCT 2024

NCCA/TJ/PL/2023(54)

15TH OCTOBER 2024

PAPER LAID

SUBJECT: REPORT OF A COMMITTEE

Pursuant to Standing Orders 196, I beg to lay the following Paper on the Table of this Assembly, today Tuesday 15th October 2024:

- i) **THE REPORT OF THE SECTORAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS ON WORKSHOP HELD FROM 5TH TO 8TH SEPTEMBER 2024 AT LAKE NAIVASHA RESORT, NAIVASHA.**

(Chairperson of the Sectoral Committee on Justice and Legal Affairs)

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

COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY–THIRD SESSION

**THIRD REPORT OF THE SECTORAL
COMMITTEE ON JUSTICE AND LEGAL AFFAIRS
WORKSHOP HELD FROM THURSDAY 5TH TO SUNDAY 8TH SEPTEMBER,
2024 AT LAKE NAIVASHA RESORT, NAIVASHA**

**CLERK'S CHAMBERS,
CITY HALL,
NAIROBI**

SEPT, 2024

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1.0 PREFACE

Committee Mandate

Hon. Speaker,

The Sectoral Committee on Justice and Legal Affairs is established pursuant to the Standing Order 209, and is mandated amongst others to:

- i. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- ii. Study the programme and policy objectives of departments and the effectiveness of the implementation;
- iii. Study and review all county legislation referred to it;
- iv. Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- v. 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;
- vi. Vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 196 (Committee on Appointments); and
- vii. Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

Committee Membership

Hon. Speaker,

The Committee on Justice and Legal Affairs comprises of the following Members:-

- 1. Hon. Jared Akama Ondieki, MCA** – **Chairperson**
- 2. Hon. Suleiman Hamisi Maleya, MCA** – **Vice Chairperson**
3. Hon. Anthony Kiragu, MCA – Minority Leader
4. Hon. Fathiya Abdilahi Mohamed, MCA
5. Hon. Peter Oluoch Owera, MCA
6. Hon. Maurice Ochieng, MCA
7. Hon. Perpetua Mponjiwa, MCA

8. Hon. Hellen Awuor, MCA
9. Hon. Ami Perez, MCA
10. Hon. Silas Matara Ong'wae, MCA
11. Hon. Agnes Wambui, MCA
12. Hon. Asli Mohamed, MCA
13. Hon. Emmy Khatemeshi, MCA
14. Hon. Clarence Munga, MCA
15. Hon. Mwaura Samora, MCA
16. Hon. Diana Katile Mwangagi, MCA
17. Hon. Virginia Kang'ethe, MCA
18. Hon. Clement Ng'ang'a, MCA
19. Hon. Deonysias Mwangi, MCA
20. Hon. Joseph Ndungu, MCA
21. Hon. Francis Kimondo, MCA
22. Hon. Doreen Mugambi, MCA
23. Hon. Stephen Kimani Mugo, MCA

The Committee undertook a retreat to deliberate on implementation status on the Acts under the Boroughs and Sub-County Administration Sector from Thursday 5th to Sunday 8th September, 2024 in Naivasha. The participants deliberated on;

- a) Acts under the Boroughs and Sub-County Administration Sector;
- b) considered amendments/ gaps in the said Acts; and
- c) the implementation status of the Acts.

Acknowledgement

Hon. Speaker, I wish to acknowledge with gratitude the offices of the Speaker and the Clerk of the County Assembly for the support extended to the Committee in the execution of its mandate.

I also thank the Secretariat for their input and valuable contribution and advisory where required during the session.

Finally, much thanks to the Members of the Sectoral Committee on Justice and Legal Affairs for their dedication, untiring commitment and valuable contributions which has enabled the Committee to effectively accomplish its Legislative and Oversight role.

Hon. Speaker, it is therefore my pleasant duty and privilege, on behalf of the Committee on Justice and Legal Affairs to present the Committee's report pursuant to the Standing Orders of the County Assembly.

Thank you.

Signed 

Hon. Jared Akama, MCA
(Chairperson)
Sectoral Committee on Justice & Legal Affairs

2.0 OPENING REMARKS BY THE CHAIRPERSON

The Workshop was officially opened by Hon. Jared Akama, MCA Chairperson of the Committee on Justice and Legal Affairs. He welcomed and thanked the participants for availing themselves for the workshop. In his remarks, he noted that at the end of the workshop, the Committee would understand the subjects and implementation status of the Nairobi City County Office of the County Attorney Act, 2017 and the Nairobi City County Inspectorate Act, 2017.

3.0 PRESENTATIONS

3.1 An overview of the Nairobi City County Office of the County Attorney Act, 2016

The presentation focused on general overview of the aforementioned Act:

- **Part I** of the Act sets out the preliminary matters with regards to the Act. Clause 1 sets out the short title. Clause 2 sets out the definition of terms used in the Act, while Clause 3 sets application of the Act.
- **Part II** of the Act provides for administration of the Office of the County Attorney. Section 4 and 5 provide for establishment of office of the County Attorney and his/her qualifications and Section 7 and 8 provide for functions and powers of the County Attorney respectively. Section 13 provides for resignation of the County Attorney whereas Section 14 provides for his/her removal from office.
- **Part III** of the Act details the performance of functions of the County Attorney i.e. engagement of consultants and the power to issue directives and practice notes.
- **Part IV** of the Act sets out the appointment and terms and conditions of service of county legal counsel. Section 19 provides for the recruitment of the County Solicitor, Section 20 appointment of County Legal Counsel, Section 21 Terms and conditions of service of and Section 22 provides for secondment of the County Legal Counsel.

— **Part V** details the miscellaneous provisions which includes prohibition of unauthorized disclosure of information and depository of laws and agreements.

Section 32. provides that;

(1) The County Attorney shall, on or before the 15th day of July in each year, prepare and furnish to the Governor a report of the operations of the Office of the County Attorney during the year that ended on thirtieth June. (2) The report prepared under subsection (1), shall, in respect of the year to which it relates, contain—

(a) the financial statements of the Office of the County Attorney;

(b) a description of the activities of the Office; and

(c) such other information relating to its functions that the Office may consider necessary.

(3) The County Attorney shall submit to the Clerk of the County Assembly a copy of the report furnished under subsection (1) for tabling before the County Assembly within fifteen days after the day on which the Governor receives the report.

(4) The County Attorney shall submit quarterly reports on the operations of the Office of the County Attorney to the Clerk of the County Assembly for tabling before the County Assembly.

Section 33 provides that the County Attorney may develop regulations, not inconsistent with this Act, prescribing all matters required or permitted to be prescribed, or necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

— Schedule one and two of the Act provide the oath of office for the County Attorney and code of ethics of County Legal Counsel respectively.

— The Committee noted the following as key provisions in the ACT for implementation

| Section | Provision | Actor |
|---------|---|--|
| 4 (2) | Provides that the Office of the County Attorney shall consist of; (a) the County Attorney, (b) the County Solicitor and, (c) such other number of County Legal Counsel as the County Attorney may, in consultation with the CPSB, consider necessary. | County Secretary and the County Public Service Board and the Ag. County Attorney |

| | | |
|-------|---|--|
| 19(1) | Provide that there shall be a County Solicitor who shall be competitively recruited and appointed by the CPSB & Sec. 19 (3) Provides that the County Solicitor shall be the accounting officer of the County Attorney. | Ag. County Secretary and the County Public Service Board and the Ag. County Attorney |
| 32(1) | The County Attorney SHALL on or before 15th July each year prepare and furnish to the Governor a report of the operations of the Office of the County Attorney. Sec. 32 (3) copy of the same report shall be submitted to the Clerk of the County Assembly for tabling 15 days after the day on which the Governor receives the report. | Ag. County Secretary and the County Public Service Board and the Ag. County Attorney |
| 32(4) | The County Attorney shall submit quarterly reports on its operations to the Clerk of the County Assembly for tabling in the Assembly. | Ag. County Attorney and the Ag. County Secretary |

3.2 An overview of the Nairobi City County Inspectorate Service Act, 2017

The presentation focused on general overview of the aforementioned Act:

- **Part I** of the A sets out the preliminary matters with regards to the Bill. Clause 1 sets out the short title. Clause 2 sets out the definition of terms used in the Bill, while Clause 3 outlines the object and purposes of the Act.
- **Part II** of the Act provides for the establishment of the Inspectorate Service, functions of the Inspectorate, training institutions, limitation of rights and fundamental freedoms of inspectorate officers amid other provisions.
- **Part III** of the Act focuses on designation of Inspectorate posts. Section 19 details the duties and powers of inspectorate officers, Section 21 gives inspectorate officers the power to arrest without a warrant and Section 23 states that Inspectorate officers shall perform the functions and exercise the powers conferred by this Act by use of non-violent means.
- **Part IV** details the offences i.e. Prohibition against torture or cruel treatment (Section 29), impersonation of inspectorate officer or wearing inspector

uniform (Section 30), assault in execution of duty (Section 31) and the general penalties (Section 32).

— **Part V** provides for development of regulations by the County Executive Committee upon recommendation by the County Chief Commandant and the prior approval of the County Assembly.

— The Committee noted the following as key provisions in the ACT for implementation

| Section | Provision | Actor |
|---------|---|--|
| 4 (4) | Provides for ranks of the Inspectorate. | County Public Service Board |
| 4(7) | Officers or employees of the City Inspectorate SHALL undergo vetting by the CPSB to assess their suitability and competence to continue in service with regard to compliance with the requirements of Chapter 6 of the COK, 2012 on Leadership and Integrity and any other law applicable to public officers. . | County Public Service Board |
| 5 | The recruitment and composition of the Inspectorate in line with Gender, ethnic and regional balance | County Public Service Board |
| 10(1) | The Inspectorate shall establish and maintain an inspector training institution for purpose of training and re-training of its officers. | Ag. County Secretary |
| 10(4) | The CPSB shall develop guidelines on the curriculum, examination and certification of the Inspectorate trainees. | County Public Service Board and the Ag. County Secretary |

4.0 CLOSING OF THE WORKSHOP AND WAY FORWARD

At the end of the workshop the Committee resolved as follows:

- i. The Committee to do an inquiry on recruitment in the Office of the County Attorney (County Legal Counsels)/ Advocate for the County Executive to hire legal representatives and cease outsourcing legal services to reduce legal pending bills which have accrued immensely;
- ii. The Committee to be at the forefront to advocate for empowerment of the Prosecution department in the County;
- iii. Enquire on the revenue generated by the City Courts, possible challenges in revenue collection and ways to ease the challenges. The Committee to have a meeting with the relevant offices regarding operations of the County courts;
- iv. Request the Ag. County Attorney to submit to the Clerk of the County Assembly a copy of the report on the operations of the Office of the County Attorney Pursuant to Section 32 of the NCC Office of the County Attorney Act, 2017;
- v. Invite the Ag. County Attorney to a meeting of the Committee to deliberate on the implementation status of the aforementioned Act for the FY 2020/21, 2021/22, 2022/23 and 2023/24;
- vi. The County Public Service Board and the Inspectorate sub-sector to furnish the Committee with a detailed report on recruitments in the Sector (fresh recruitments and all promotions/ confirmations of officers within the Sector);
- vii. The Committee to seek to establish the fate of the officers in Acting capacities within the Sector, including the Ag. County Secretary and the Ag, County Attorney;
- viii. The Committee to map out the Sector's projects and programs for implementation in the 1st,2nd 3rd and 4th quarter FY 2023/2024 and conduct site visits to assess status of the projects. A schedule for inspection visits to be developed and the Committee to agree on the time to undertake

- such visits i.e. Dagoretti Training School, CBK Tower, City Hall Annex, Clay City Ward (Boroughs Offices construction);
- ix. The Committee to do a follow up on the revision of County laws by the Ag. County Attorney pursuant to Section 7(f) of the NCC Office of the County Attorney Act, 2017;
 - x. Regular engagements with the Sector County Executive Committee Member & Chief Officers to enable Members understand challenges of the Sector, extent of implementation of existing Acts, Capital projects and programmes. As such, Committee to insist to be furnished quarterly reports as part of oversight and monitoring performance of the Sector;
 - xi. The Committee to do a follow up on the development of regulations of all legislations under the Sector;
 - xii. The Sector do forward Policies and legislative proposals for consideration by the Assembly;
 - xiii. The Committee to evaluate and amend the NCC Inspectorate Service Act, 2017. Similarly, the Committee to advocate for drafting and operationalization of Service Standing Order;
 - xiv. Undertake a benchmarking visit at the Senate with the Counterpart Committee; and
 - xv. Map out and engage relevant stakeholders, e.g. Transparency International, for capacity building of the Committee.

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