

COUNTY GOVERNMENT OF KITUI



THE COUNTY ASSEMBLY

SECOND ASSEMBLY – (SECOND SESSION)

AD HOC COMMITTEE ON MEMBERS WELFARE

REPORT

ON CONSIDERATION OF THE WARD OFFICES OPERATIONS

**CLERK OF ASSEMBLY CHAMBERS
P. O BOX 694
KITUI**

FEBRUARY, 2018

ABBREVIATIONS

CASB	County Assembly Service Board
CEC	County Executive Committee
CGA	County Government Act
CRA	Commission on Revenue Allocation
MCA	Member of County Assembly
PFMA	Public Finance Management Act
SRC	Salaries and Remuneration Commission

INTRODUCTION

Section 13 of the County Assembly Services Act, 2017 empowers the CASB to establish such Committees as it considers necessary for the better carrying out of its functions. Section 45 of the same Act also empowers the CASB to make regulations for the better carrying out of the provisions of the Act.

Section 147 (1)(d) of the Public Finance Management Act, 2012 requires the Accounting Officer of a County Assembly to monitor, evaluate and oversee the management of the public finances, including ensuring proper management and accounting for finances in order to promote the efficient and effective use of budgetary resources.

In line with the above legal provisions, the County Assembly Ad Hoc Committee on Members Welfare was established on 18th January, 2018 to look into possible solutions on matters surrounding the Ward offices operations as proposed by the Members.

The Committee comprised of the following members:

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|----------------------|-------------|
| 1. Hon Stephen Makau | Chairperson |
| 2. Hon Alex Nganga | Member |
| 3. Hon James Munuve | " |
| 4. Dr Musangi Mutua | " |
| 5. Mr Simon Mundu | " |

The Committee was served by:

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|-------------------|-----------------------|
| 1. Charles Nyaga- | Senior Fiscal Analyst |
| 2. Mercy Mbinya- | Procedural Clerk |

The terms of reference of the Committee were as follows:

1. Consider the payment of arrears of the County Assembly Members' Ward offices operation funds for the months of September, October, and November, 2017 with a view to:-
 - i) Establish if the three months arrears is payable.
 - ii) If it is payable, come up with the modalities of discharging the funds.
2. Consider the proposed increase of Ward offices operation fund from Kshs. 60,000 to Kshs. 100,000 with a view to establish whether there is any justification of the proposed increment.
3. Come up with draft guidelines governing the operationalization of the County Assembly Ward offices operation fund covering the following areas:-

PAYMENT OF ARREARS OF THE COUNTY ASSEMBLY MEMBERS WARD OFFICES OPERATION FUNDS FOR THE MONTHS OF SEPTEMBER, OCTOBER, AND NOVEMBER, 2017

The Committee was required to establish:

- i) If the three months arrears is payable
- ii) The modalities of discharging the funds

i. If the three months arrears is payable

In an effort to establish whether the three months arrears is payable, the Committee made the following observations:-

1. In line with Article 74 of the Constitution, MCAs were sworn in on 7th September, 2017, and immediately assumed office. In this case, the Ward office funds for the three months ought to have started being paid immediately since members commenced operations immediately due to high expectations the electorate had on them. However, Ward office funds for the months of September, October and November 2017 were not paid. This was occasioned by the fact that:-
 - i. The ward assistants in office by that time were partisan employees of the outgoing Members and there was some mistrust with the incoming Members. The officers employment contract had been extended from 9th August to 31st December 2017 to take charge of the Assembly assets, facilitate hand over of the office and generally facilitate transition from the 1st Assembly to the 2nd Assembly.
 - ii. Some re- elected MCAs maintained their ward office staff for instance Kanziko, Mutito/ Kaliku, Athi and Kauwi Wards, etc while some new MCAs maintained the old Ward office staff, for instance Kisasi and Kyuso Wards.
 - iii. The County Assembly Service Board (CASB) was not fully constituted and therefore unable to employ the MCAs preferred new ward office staff to access the ward office funds. The CASB could not release the money to the few MCAs who maintained the old staff.
 - iv. MCAs may have personally incurred office expenses as the electorates visited the Ward office often with high expectations on service delivery.

ii. Modalities of discharging the fund

The agreed modalities on discharging the fund are as below:

1. MCAs who may have personally incurred office expenses to claim the three (3) months arrears month by month with valid receipts and/ or supporting documents.
2. Claims for the month of September should be prorated as Members assumed office on 7th September, 2017, hence they were not in office for the whole month.

- i. The CASB did not object to the proposed additional allocation, through a designated member by bringing an amendment to this recommendation, as has been the practice before. However, the CASB made representations to the Budget and Appropriations Committee against the additional allocation.
- ii. The Governor did not refer the Supplementary Appropriation Bill back to the Assembly pursuant to the provisions of Standing Order 134(2) with a memorandum outlining any objections to the proposed additional allocation.

i. Justification for the proposed increase

The Committee was tasked to justify the recommended increase from Kshs. 60,000 to Kshs. 100,000 to ensure that there was a solid basis for any additional expenditure.

The Committee observed the following:-

1. Research indicates that the inflation rate in Kenya has been on upward trend averaging 7.95 % from 2017 until 2018.
2. The initially approved expense amounting to Kshs. 60,000 may not reflect the actual reality as far as Ward office expenditure is related. For instance, Members have been allocated tents and chairs for only two (2) public meetings per month, while in reality they may hold more than two (2) public meetings per month. Further, for refreshments, they may spent more than the allocated amount of Kshs. 8,000 due to the high number of electorates visiting their Ward offices. In addition, due to the vastness of the Wards, the MCAs may spent more than the initially allocated amount of Kshs. 6,500 for transport. These additional expenses may call for an increase of the Ward office funds to cushion MCAs.
3. The Committee visited 5 County Assemblies to establish how much they were paying for the ward office operations and the results gave differing positions resulting to the conclusion that county assemblies had domesticated/ customized the CRA ceilings as long as it is not exceeded. There is therefore need for Kitui County Assembly to domesticate its ceiling as long as it is not exceeded. See Annex 2 and 4 on the outcome of the benchmarking exercise.

ii. Proposed expenses and applicable rates

Based on the above grounds of justification for the increase of the funds, the Committee reviewed the currently authorized applicable expenses and rates and recommended that the rates be reviewed upwards as below:

duties and also while coming to the Assembly for official meetings and for the imprest surrender and going back to the office.

As the MCA has three (3) members of staff, either of the staff can be sent to represent him/ her at functions, for at least 3 occasions per week.

Transport to represent the MCA: Kshs. 2,500 per week X 4 weeks=	Kshs.10,000
Transport and accommodation when going to the Assembly for official meetings or the imprest surrender and return fare	= Kshs. 2,000
TOTAL	Kshs. 12,000

Electricity

This will cater for office electricity bills. Only valid receipts on payment of electricity will be accepted, but proof of electronic payment will be accepted. A cash sale receipt on electricity payment will not be accepted.

Tents and Chairs

It was established that Members may hold a maximum of four (4) public meetings per month with each meeting spending 7,000 on tents, chairs and their transportation or the hire of a meeting hall.

100 seater tent with seats plus transport/ hire of meeting hall-	Kshs. 7,000
Kshs. 7000 X 4 public meetings per month=	Kshs. 28,000

The attendance list will only be deemed to be authentic if it can be proved to have valid names, identification numbers and signatures.

Gas refill

This can be replaced by paraffin for those using a cooking stove.
Gas refill can only be done once a month.

Cleaning material

This includes water for office use such as cleaning the office, washing utensils, dustbins, washing detergents, brooms, soaps, scrubbers, mop stick, cleaning buckets, etc.

Some of these items are one off and their expenditure shouldn't be on a monthly basis.

Newspapers

This will cater for three (3) types of newspapers for four (4) weeks in a month in a week of five (5) days at a cost of Kshs 60 per newspaper.

3 newspapers X Kshs.60 X 4 weeks X 5 days	Kshs. 3,600
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DRAFT GUIDELINES GOVERNING THE OPERATIONALIZATION OF THE COUNTY ASSEMBLY WARD OFFICES OPERATION FUNDS

The Committee was tasked to come up with draft guidelines governing the operationalization of the County Assembly Ward offices operations funds covering the following areas:-

- iv) Accessing the funds
- v) Expending the funds
- vi) Accounting for the funds

In execution of this term of reference, the Committee noted the provisions of Section 45(1) of the County Assembly Services Act, 2017 which states that the Board may make regulations generally for the better carrying out of the provisions of that Act.

The Committee was guided by the Parliamentary Service (Constituency Offices) Regulations, 2005 and the findings on its benchmarking exercise to 5 County Assemblies where it emerged that the other County Assemblies had come up with the relevant regulations or guidelines to govern Ward office operations.

The Committee deliberated on this matter at length and came up with the proposed Kitui County Assembly Service (Ward Offices) Regulations, 2018 which are annexed to this Report as **Annex 3**.

CONCLUSION





As noted earlier, despite the CRA recommendations and putting into consideration the unique needs of each County Assembly, each Assembly has customized its Ward operations to suit its specific needs. Further, the CASB is mandated under Section 11(1) (c) of the County Assembly Services Act, 2017 to initiate, co-ordinate and harmonize policies and strategies relating to the development of the Service.

In conclusion, the Committee therefore recommends that:

- i) The three (3) months arrears are payable up to a maximum of Kshs. 42,000 per month where applicable for MCAs who may have incurred office expenses.
- ii) The CASB should increase the Ward office funds from Kshs. 60,000 to Kshs. 100,000 as justified in the Report effective from 1st February, 2018- Hon James Munuve and Hon Stephen Makau.
- iii) This increase from Kshs. 60,000 to Kshs. 100,000 can only be possible if the expenditure is prudent and the availability of funds sustainable. In the current

ANNEX 4:

We Members of the Ad Hoc Committee on Members Welfare do hereby append our signatures to this Report to confirm its accuracy and authenticity:

NAME	DESIGNATION	SIGNATURE
1. Hon Stephen Makau	Chairperson	
2. Hon Alex Nganga	Member
3. Hon James Munuve	“	
4. Dr Musangi Mutua	“	
5. Mr Simon Mundu	“	

ANNEX 2: BENCHMARKING EXERCISE SUMMARY

	MACHAKOS	MAKUENI	NAIROBI	KIAMBU	MURANGA	KITUI
1	No. of MCAs	59	48	123	92	53
	Elected	40	30	85	60	35
	Nominated	19	18	38	32	18
2	No. of staff	3	5	No limit	3	3
Elected MCAs Ward Staff and salaries	1. Personal Assistant- Kshs. 25,000	1. Office manager- Kshs. 18,000	Can employ the preferred no. of staff as long as within CRA salary ceilings	1. Ward office personal assistant	1. Ward office manager- Kshs. 18,000	1. Ward office assistant- Kshs. 20,000
	2. Secretary- Kshs. 17,000	2. Secretary- Kshs. 16,500		2. Office Assistant	2. Secretary- Kshs. 15,000	2. Personal Assistant- Kshs. 20,000
	3. Messenger- Kshs. 13,000	3. Messenger- Kshs. 12,000		3. Ward office security officer	3. Office assistant or watchman- Kshs. 12,675	3. Messenger- Kshs. 18,000
		4. Watchman- Kshs. 12,000				
		5. Driver- Kshs. 15,000 (paid by Board)				
Total	Kshs. 55,000	Kshs. 73,500		Kshs. 50,000	Kshs. 45,675	Kshs. 58,000
Staff Qualifications and Recruitments-	MCAs discretion on qualifications	KCSE Certificate- Secretary and Manager	No qualifications set	CASB advertises & recruits Minimum qualifications set	CASB advertises & recruits in consultation with MCA. Minimum qualifications set	CASB recruit
Gratuity	1 month salary for every year worked	31% of basic salary	No gratuity in First Assembly	No gratuity in First Assembly	No gratuity in First Assembly	No gratuity
Nominated MCAs	No staff and no offices	No offices at Ward level. Offices within Assembly	No offices & no staff	No staff & no offices	No offices and no members of staff	1. Personal Assistant- Kshs. 20,000 2. Messenger- Kshs. 18,000

	Guidelines, 2015		Offices) Regulations, 2013	Guidelines, 2017	Regulations	
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ANNEX 3

THE KITUI COUNTY ASSEMBLY SERVICE (WARD OFFICES) REGULATIONS, 2018

ARRANGEMENT OF REGULATIONS

PART I- GENERAL PROVISIONS

Regulation

1. Citation and commencement
2. Interpretation

PART II- CONSTRUCTION AND RENTING OF WARD OFFICES

3. Initiating opening of an office
4. Custody of lease agreement
5. Restriction on where to open an office
6. The signage
7. Maximum office space
8. Signing the lease agreement
9. Ensuring security
10. Reporting complaints on misuse of office
11. Construction of a Ward office

PART III- FINANCIAL PROVISIONS

12. Procurement procedures
13. Requisitions
14. Prudence in procurement and expenditure
15. Reimbursement
16. Accounting

PART IV- STAFFING OF WARD OFFICES

17. Ward office staff
18. recruitment of staff
19. Terms of service
20. Custody of contract document

PART I — GENERAL PROVISIONS

1. Citation and Commencement

These Regulations may be cited as the Kitui County Assembly Service (Ward Offices) Regulations, 2018 and shall be deemed to have come into operation on the

2. Interpretation.

In these Regulations, unless the context otherwise requires—

"Assembly" means the County Assembly of Kitui;

"Board" means the Kitui County Assembly Service Board established under section 12 of the County Government Act;

"Chief Officer" means a public officer appointed by the Governor pursuant to section 45 of the County Government Act;

"Clerk" means the Clerk of the County Assembly appointed under section 13 of the County Government Act;

"Direct financial interest" means a case where a Member is part of or co-owner of a building where the ward office is located;

"Member's home" means any place, house, building or shelter which is ordinarily used by the Member within the Ward as his home;

"Member of County Assembly" means a Member of the County Assembly of Kitui;

"Speaker" means the Speaker of the County Assembly of Kitui elected pursuant to Article 178 of the Constitution;

4. Custody of lease agreement

(1) A Member shall, subject to the fulfillment of regulation 3, forward a lease agreement to the Clerk for custody.

(2) The Clerk shall write to Chief Officers from the County Departments of Health and Sanitation and Lands Infrastructure and Urban Development respectively to ensure that the relevant confirmation letters from the are availed to him for safe custody.

5. Restriction on where to open an office

Renting offices shall not be permitted where the proposed office is-

- (a) in a building owned by a member or his close relative
- (b) in a building where a member has a direct financial interest; and
- (c) in the members home

6. The signage

A signage for the ward office shall indicate the name of the wWard first followed by the name of the Member of the County Assembly.

7. Maximum office space and rental value

The rented office space for a ward shall be of such size and may be rented for such maximum rent as may, from time to time be determined by the Board.

8. Signing the lease agreement

The Clerk shall sign a lease agreement with the landlord or agent before the Member of County assembly occupies the office and shall be responsible for the accuracy of all the information contained in the lease agreement.

9. Ensuring security

15. Reimbursement

At monthly intervals, supporting documents for expenditure incurred shall be lodged with the Clerk for reimbursement.

16. Accounting for funds

No reimbursement pursuant to regulation 15 shall be effected before the Ward Office manager properly accounts for the expenditure incurred on the disbursed funds.

PART IV—STAFFING OF WARD OFFICES

17. Ward office staff

- (1) A Member shall be entitled to the following Members of staff:
 - (a) Ward Office manager
 - (b) Secretary/Office Assistant
 - (c) Messenger
- (2) Payment of salaries shall be subject to the ceiling of staff salaries approved by the Board.

18. Recruitment of staff

- (1) The Board shall, in consultation with the Member, recruit the Ward office staff and determine their terms of employment and salary scales.
- (2) Notwithstanding the provisions of sub-regulation (1), the staff recruited shall not be paid house allowance, overtime allowance or any honorarium.

19. Terms of service

- (1) Subject to regulation 18(3), the terms of service for ward staff employees shall be a maximum of five years contract and upon termination of such contract a Member of staff shall be eligible for payment of gratuity as SRC circular recommendations.
- (2) On earlier termination of any contract for the Ward staff, the contract gratuity shall be determined in a *pro rata* basis.

- (b) prioritize incoming mail and enquiries;
 - (c) undertake general office management; and
 - (d) maintain a Member's diary at the ward office by recording all major ward events that require the members attention.
- (3) The Secretary and other staff shall perform such duties as shall be assigned to them from time to time by the Member of the County Assembly or the ward office manager.

PART V—HANDING OVER OFFICES

26. Transit period between sitting members

When the office of a Member of the County Assembly falls vacant, the ward office manager shall be responsible for running the ward office until a new member of the County Assembly is elected.

27. Period of vacating office

An outgoing Member of the County Assembly shall vacate the ward office within seven working days after the gazettelement of the new member of the County Assembly.

28. Removing personal effects from the office.

The cost of transporting personal papers and effects of a Member of the County Assembly who has ceased to be the representative of a particular ward shall be the responsibility of the outgoing Member.

29. Assistance during transition

- (1) The Board shall advance an imprest for payment of all expenses including telephone, power and lighting, water and other incidental costs relating to a ward office for one month after a Member leaves office.
- (2) If the Member resigns, all payments to the Ward office shall cease with effect from the date the Speaker receives the letter of resignation from the Member.

ANNEX 4

REPORT ON THE BENCHMARKING EXERCISE TO VARIOUS COUNTY ASSEMBLIES ON WARD OFFICE OPERATIONS

A. INTRODUCTION

In furtherance of its mandate, the Committee conducted a benchmarking exercise to five (5) County Assemblies from 5th to 6th February 2018 to benchmark on how other Assemblies manage their ward office operations.

The County Assemblies visited were Machakos, Makueni, Nairobi, Kiambu and Muranga County Assemblies. The rationale for benchmarking in these Assemblies was the limited time frame the Committee had to execute its mandate, the distance to these Assemblies and the cost involved.

During the exercise, the Committee sought to acquire information on:

- i) Staffing of the Ward offices
- ii) Budgetary allocations
- iii) Mode of distributing the funds for these offices
- iv) Management of Ward office expenses
- v) Accounting and auditing of the funds
- vi) Management of the transition period
- vii) Guidelines/ Regulations/ Policy on administration of the funds

The Committee's findings are as outlined below:

B. FINDINGS

1. MACHAKOS COUNTY ASSEMBLY

There are 59 MCAS, that is 40 elected and 19 nominated.

- i) Ward Office staff

Elected Members:

Elected MCAs have three (3) members of staff namely:

Designation	Salary
a) Personal Assistant/ Ward Office Manager	Kshs. 25,000

Both elected and nominated MCAs are given ipads.

vi) Transition period

In September 2017, Kshs. 20,000 for office operations was not paid because the new Ward offices had not yet been established. Payments were made from October 2017 after establishment of offices.

The Personal Assistant managed the office during the transition period awaiting hand over to the new MCA and new staff.

The CASB paid office rent for August and September.

vii) Regulations on Ward offices

The Machakos County Assembly Service (Ward Offices) Guidelines, 2015 were passed and gazetted. They were meant to establish a framework for operationalization of the Machakos County Assembly Ward Offices.

2. MAKUENI COUNTY ASSEMBLY

There are 48 MCAS, that is 30 elected and 18 nominated.

i) Ward Staff and offices

Elected members

Elected members have five (5) members of staff that:

(a) Office Manager	Kshs. 18,000
(b) Secretary	Kshs. 16,500
(c) Messenger	Kshs.12,000
(d) Watchman	Kshs. 12,000
(e) Driver	<u>Kshs. 15,000</u>

TOTAL

Kshs. 73,500

The salaries are as guided by SRC and the Assembly pays these salaries into the officers accounts.

The staff qualifications are:

- Office Manager and Secretary- KCSE Certificate
- Watchman and Messenger- the regulations are silent on their qualifications

- a) At least two desks
- b) Office Seats
- c) A computer and a printer, serviced by the Assembly, and cartridges.

vi) Transition period

In August and September, Kshs. 10,000 per month for office operations was not paid as the office managers were only to keeping custody of the office furniture before assumption of office by the new MCA.

The office managers contracts and office leases were extended by 2 months to facilitate easier transition from the First Assembly to the Second Assembly.

The Assembly also collected its computers and printers to ensure safekeeping.

Some new staff began working October, therefore in September both the old and new staff were paid where applicable.

vii) Guidelines

The Board came up with regulations to govern operation of the Ward offices.

3. NAIROBI CITY COUNTY ASSEMBLY

There are 123 MCAs, that is 85 elected and 38 nominated.

i) Staffing and ward offices

Elected MCAs

The MCA is allowed three (3) members of staff as per CRA requirements but the CASB relaxed this requirement, allowing MCAs to employ their preferred number of staff, provided the CRA ceiling of Kshs. 58,500 on salaries is not exceeded.

The employment contracts are between the MCA and the ward office staff, while the County Assembly, after the statutory deductions, pays the salaries. No gratuity was paid to the First Assembly ward office staff.

Some MCAs have offices in government offices and in such cases, no rent is paid. Where an office is leased, the rent is paid by the Assembly but capped at Kshs. 20,000. The office Valuation is conducted by the County Government valuer and is based on the market value of the area.

4. KIAMBU COUNTY ASSEMBLY

There are 92 MCAs, that is 60 elected and 32 nominated.

i) Office staff and rent

Elected members

They have a maximum of three (3) staff as below:

- a) Ward office personal assistant
- b) office assistant
- c) Ward office security officer

The CASB advertises for these positions and recruits the staff.

The ward office regulations also provide for minimum qualifications of the staff, with the rationale that these officers are in the Assembly service, should be able to account for the imprests and be able to manage the office in the absence of the MCAs.

The staff salaries are subject to the budget ceilings and the statutory minimum wage

No gratuity was paid in the First Assembly as it was not provided in the employment contract.

Maximum office rent is capped at Kshs. 15,000 per month, but exceptional instances are considered on a case to case basis.

Nominated MCAs

They have no offices and no staff.

Physically challenged MCAs are provided with Kshs. 15,000 to employ an aide as per SRC requirements.

ii) Office operations

Kshs. 15,000 is allocated for office operations expenses like water, tea, newspapers, electricity, etc.

iii) Accounting and audit queries

An imprest is given to the personal assistant, and they are required to account for any expenditure through receipts and a reimbursement is given.

c) Office assistant or watchman

Kshs. 12,675

The Board advertises for these positions and competitively recruits the staff in consultation with the MCAs. A valid Certificate of good conduct is a mandatory requirement during the recruitment.

Disciplinary cases are subjected to statutory disciplinary procedures by the Office of the Clerk and the MCA.

Minimum qualifications have also been set for the staff, particularly for the Office manager, Secretary and office assistant on the basis that there are some key responsibilities bestowed on them like preparation of quarterly reports, accounting for the imprests, management of the office among others.

No gratuity was paid to the First Assembly ward office staff as their contracts were between the MCA and the staff, not the Assembly.

Nominated MCAs

They have no offices and no members of staff.

ii) Ward office budgetary allocation and office rent

Kshs. 20,000 is allocated per Ward office for office expenses like tea, stationery, water, etc. The Assembly is discussing increasing the amount to Kshs. 50,000.

The Assembly pays office rent and salaries.

iii) Office equipment

The Assembly provides the following office equipment:

- a) Executive desk and seat for the MCA
- b) Office desk and chair for staff
- c) Two visitors chairs
- d) Bench for visitors
- e) Computers- Serviced by the Assembly
- f) Cooking gas

iv) Accounting for the imprests and audit queries