

# THE STATE OF THE PUBLIC SERVICE BASELINE SURVEY REPORT, 2012/2013

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- 1. Dr. Paul Chirchir Kipsang' (Lead Consultant)**
- 2. Dr. Mumbi Michera (Consultant)**
- 3. Prof. Albert Muma (Consultant)**
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## Foreword

The Constitution of Kenya placed the primacy of values and principles at the heart of governance. The Constitution is a value laden document from the provisions in Articles 10 and 232, the Bill of Rights, Chapter six on Leadership and Integrity and virtually all the chapters open with objects and principles.

The Constitutional Commissions, where this Commission falls, are mandated by Article 249, to protect the sovereignty of the people; secure the observance by all state organs of democratic values and principles; and promote constitutionalism. The Public Service Commission is mandated under Article 234 (2)(c) and (h) to promote the values and principles in Articles 10 and 232 and evaluate and report to the President and Parliament on the extent to which the Values and Principles are complied with in the public service. This report is submitted annually in the month of December.

The Commission, prior to the promulgation of the Constitution was undertaking the promotion of good governance practices in the public service through the Administration of The Public Officer Ethics Act, 2003. The Act prescribes a general code of conduct for public officers and make requirements for public officials to make financial disclosures of self, spouse and dependent children under the ages of eighteen (18). This was an overt statement of a public officer's willingness to be accountable for the management of public resources entrusted to him or her. This also promoted transparency and accountability.

The 2010 Constitution elevated the statutory provisions into constitutional requirements and raised the bar on integrity for state officers through the leadership and integrity chapter. The standards on which public officials are held to account have never been higher. The Commission has, therefore, through this maiden report decided to assess the state of preparedness in the public service to implement the values and principles in Articles 10 and 232 in the public service. This assessment seeks to provide baseline information and data through which compliance evaluation can be assessed in future in terms of measures put in place, progress achieved and challenges in the promotion of the values and principles. The Commission expects that the findings will inform the President's report on the state of the nation address provided for in Article 132 of the Constitution and inform policy on the promotion of values and principles. It is also expected that this will serve as a foundation to future surveys which are expected to build on the performance standards, indicators and monitoring and evaluation strategy.

I wish to thank all those who contributed to the successful undertaking of this survey particularly Dr. Paul Chirchir the lead consultant and Mr. Wesley Kipngetich, head of the Commission's Ethics unit for the excellent efforts in conceptualizing, designing and undertaking the survey.

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# List of Acronyms and Abbreviations

CD	Compact Disc
CEOs	Chief Executive Officers
FAO	Food and Agricultural Organisation
ILO	International Labour Organisation
ICT	Information Communication and Technology
IEC	Information Education Communication
IPPD	Integrated Pay Payroll Database
KNSPWD	Kenya National Survey for People with Disabilities
MDAs	Ministries, Departments and Agencies
MDGs	Millennium Development Goals
M&E	Monitoring and Evaluation
NCPD	National Council for Persons with Disabilities
PC	Performance Contracting
POEA	Public Officer Ethics Act
PWD	Persons with Disabilities
PSCK	Public Service Commission-Kenya
SPSS	Statistical Programme for Social Scientists
TOR	Terms of Reference
UN	United Nations
UNCAC	United Nations Convention against Corruption

# Executive Summary

## Background

This survey was conducted to determine the state of preparedness in the public service for the purpose of implementing the constitutional values and principles as spelt out in the Constitution. Data was collected and analysed from all ministries, departments, state corporations and local authorities and agencies of government falling under jurisdiction of the Commission to determine the level of preparedness in the implementation of the constitutional values and principles in the public service.

## Methodology

The survey used both quantitative and qualitative methods of data collection. A total of 335 out of the targeted 411 Ministries, Departments and Agencies (MDAs) participated in the survey. Data collected was analysed using the computer based statistical package-SPSS. The data was double checked in the field at the collection stage and during cleaning for accuracy. Database design and development was based on a structured approach that uses procedures, techniques, tools, and documentation aid to support and facilitate the process.

## Overview of Findings

A total of 335 MDAs participated in the baseline survey with the biggest category being state corporations (140), followed by County Councils (64), Town Councils (56), Municipal Councils (45), Ministries (27) and Government Departments (2).

The survey meant to enumerate MDAs that have relevant policies in place to ensure efficiency, effectiveness and economic use of resources in the public service. Findings on these reveal that majority of the MDAs (99.1%) have relevant policies in place while 0.9% lack these policies.

From the findings, majority of the MDAs have implemented effective checks and controls to ensure efficient, effective and economic use of resources as provided. Notably, majority (99.1%) have in existence applicable laws, (97.9%) have tender committees, (97.3%) have functional departmental audits, and (94.3%) have procurement committees. However, only 79.4% of the MDAs have training committees in place.

Most MDAs (98.5%) have in existence Strategic Plans aligned to the Vision 2030 while only 1.5% do not have. 85.6% have cascaded performance contracting (PC) to their employees, 13.8% have partially done so while 0.6% have not cascaded PC. Majority (96.4%) of the respondents indicated that there is existence of audit reports and grievance handling mechanisms within the MDAs while 3.6% indicated lack of such mechanisms. Grievance handling mechanisms are implemented within organisations to enable parties resolve differences in peaceful, orderly and expeditious manner.

The survey also sought to assess the extent to which MDAs adhere to set budgetary ceilings for expenditure and funds disbursement as confirmation of efficiency, effectiveness and economic use of resources. Majority (80.4%) indicated that the MDAs adhered fully, 19.0% adhered partially, while 0.6% never adhered to the set budgetary ceilings.

The baseline survey also sought to find out if MDAs have a responsive client service charter, grievance handling procedures, and customer help desk and help line. Findings reveal that an overwhelming 95.5% of the MDAs conduct annual Customer Satisfaction Surveys, 93.7% carry out Employee Satisfaction Surveys, 96.4% have implemented grievance handling procedures, 94% have customer help desks and (68.7%) have help lines. When respondent MDAs were asked to state how often Corruption Perception Index surveys are carried out in their respective MDA, 57.8% indicated it is done annually, 26.8% sometimes while 15.4% indicated that it is never done. These findings show that most MDAs still do not adhere to Performance Contracting requirements. Findings also indicate that majority of the MDAs (96.7%) have client service charters, 82.9% have public open days, 78.9% have interactive websites and online services, 67.8% have regular publications like brochures and magazines and 67.0% have help lines or short message services (SMS).

Findings of the baseline survey reveal that there is no major impediments to the promotion of values and principles in the public service. However, it is noted that political interference at 41.4% and use of sign language at 41.1% are some of the impediments faced by MDAs in promoting the value of transparency and provision to the public of timely and accurate information is concerned. Similarly, 35.5% of respondent MDAs were in agreement that there are impediments faced as a result of translation of documents from English to Kiswahili.

Appointments of public servants was found to be mostly a fair and transparent process as very few respondents indicated that the appointments are neither done through favouritism, cronyism, nepotism (12.3%), sycophancy (9.6%) and bribery (7.5%). However, it is notable that (29.3%) and (18.4%) of the respondents cited political influence and patronage respectively as resulting into some appointments within MDAs. Majority of the respondents indicated that appointments and promotions were done mostly through open advertisement (92.8%) and competitive interviews (93.4%).

Regarding disability mainstreaming, only 13.9% (MDAs) observed that brailles are available for use within their organizations with 86.1% (MDAs) lacking them. In relation to availability of Sign Language interpreters, 17.4% of the respondents confirmed the availability of this service, while 82.6% indicated lack of this service. On customization of facilities for the PWDs, 66.2% of the respondents agreed that receptions have been set up within their MDAs, 66.0% have ramps, 28.9% have Customized toilets, 21.6% have Lifts, 14.7% have availed wheel chairs and 48.6% have reserved parking bays. It is notable that the biggest challenge facing most MDAs especially the local authorities regards availability of wheel chairs and customised lifts. Further, on the requirement of recruitment of 5% PWDs, 41.3% of the MDAs comply, 28.1% partially comply while 30.6% do not comply with the Policy.

Further findings indicate that 46.8% of the MDAs have implemented the Ethnic Relations Policy, 82.6% have implemented public participation in policy making process, 74.5% have implemented promotion of sustainable development, 82.2% have promoted good governance practices and 78.4% have implemented Gender Policy.

Majority, (92.4%) of the MDAs have a Monitoring and Evaluation (M&E) Framework with only 7.6% lacking. On the effectiveness of the M&E Framework, 35.9% indicated it is fairly effective while 3.2% indicated the Frameworks are not effective.

## **Conclusion**

It is evident that most MDAs have undertaken the promotion of values and principles as espoused in the Constitution and other policies. Nonetheless, there are challenges in the areas of monitoring and evaluation, adequate budgetary provisions and disability mainstreaming.

# Definition of Terms

## Values and principles

There are many definitions and interpretations of the term, “values”. The Oxford English Dictionary refers to values as ‘principles or moral standards of a person or social group’. Values are also defined as those ‘enduring beliefs that influence the choices we make among available means or ends’. The New Zealand State Services Commission defines values as ‘essentially the link between the daily work of public servants and the broad aims of democratic government in New Zealand’. However, values are not only concerned with resource allocation and decisions on public policy as these definitions might imply, but can also inform other features of organization life such as Human Resource policy and interpersonal employee relations. On the other hand, principles are frequently interchanged with the term values. However, while principles can also be values, not all values are principles. Principles represent fundamental beliefs which should not be transgressed, and statements of principles may contain many values. Cooper defines principles as ‘general laws or rules that provide a guide for action’. Examples of principles might include justice, liberty or equality.

In Kenya, Article 232 of the Constitution provides the Values and principles of public service to include: high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; involvement of the people in the process of policy making; accountability for administrative acts; transparency and provision to the public of timely, accurate information; fair competition and merit as the basis of appointments and promotions; representation of Kenya’s diverse communities; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service for men and women; the members of all ethnic groups; and persons with disabilities. Further, the values and principles of public service shall apply to the public service in all state organs at both levels of government; and all state corporations.

A review of literature of other Public Service Commissions reveals that the mandate of the Public Service Commission is not unique to Kenya alone. Public Service Commissions in other countries have been dealing with issues of inclusiveness of people who were previously regarded as minorities and making periodic reports to the government. The Constitution has charged the Public Service Commission with the responsibility of reporting to the President and Parliament on the extent to which national values and principles of governance in Article 10 and values and principles of the public service in Article 232 are complied with throughout the public service and hence the need to understand how other Commissions have been handling such matters.

## Gender

Gender refers to the relations between men and women, both perceptual and material. Gender is not determined biologically, as a result of sexual characteristics of either women or men, but is constructed socially. It is a central organizing principle of societies, and often governs the processes of production and reproduction, consumption and distribution’ (FAO, 1997). Despite

this definition, gender is often misunderstood as being the promotion of women only. However, as we see from FAO<sup>1</sup> definition, gender issues focus on women and on the relationship between men and women, their roles, access to and control over resources, division of labour, interests and needs. Gender relations affect household security, family well-being, planning, production and many other aspects of life (Bravo-Baumann, 2000).

Gender sensitization refers to a process through which individual attitudes, norms and perceptions about men and women are modified by raising awareness to the fact that most societal expectations have historically discriminated against and thus ignoring critical issues which promotes the achievement of gender equality. Gender sensitization therefore, “is about changing behaviour and instilling empathy into the views that we hold about men and women, boys and girls”. Gender sensitization helps people to examine their personal attitudes and beliefs and question gender stereotypes. Thus a gender sensitized person not only acquires new patterns of behaviour towards other people, but is also able to question his/her attitude, beliefs and values as relates to all gender concerns.

Mainstreaming gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programs, in all areas and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.

## **Disability**

The Kenya National Survey for People with Disabilities (KNSPWD)<sup>2</sup> adopted the following as the working definition of disability: “a physical, mental, emotional or any other health condition or limitation that has lasted or is expected to last six or more months and which limits or prevents one from participating in the activities of daily life e.g. work, mobility, schooling, recreation and participating in community activities”.

Persons With Disabilities (PWD) in Kenya live in vicious cycle of poverty due to stigmatization, limited education opportunities, inadequate access to economic opportunities and access to the labour market.

The PWD Act No.14 of 2003 aims to ensure that the PWDs issues and concerns are mainstreamed in all sectors in Kenya.

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<sup>1</sup> FAO-Food and Agriculture Organisation

<sup>2</sup> The National Council for Persons with Disabilities [NCPWD] is a State Corporation which was established in November 2004 following the enactment of the Persons with Disability Act, 2003 to formulate and implement policies that are geared towards mainstreaming Persons with Disabilities to the national economy and to create an enabling environment in which Persons with Disabilities can operate effectively and efficiently in order to contribute positively to the national economy.

# 1.0 Background

The Public Service Commission was established in 1954 with the mandate to advise on the appointments of candidates to posts in the Civil Service. The Commission was subsequently enshrined in the Constitution at independence in 1964. As an independent Constitutional body, the Commission is established under Article 233 of the Constitution. The functions of the Commission are provided for in Article 234. The objects of the Commission are in Article 249 and this gives the Commission powers to protect the sovereignty of the people of Kenya; to secure the observance of democratic values and principles; and to promote Constitutionalism.

The Commission has also been mandated to promote the national values and principles of governance in Article 10 and values and principles of the public service in Article 232. For the Commission to be able to promote these values there has to be sufficient preparedness to do so; which among other things include current baseline information on the state of the public service. Hence the necessity for this project, which provides for the collection, analysis and storage of baseline information about the current state of the public service to facilitate the determination of certain parameters for the measurement of the values and principles as stipulated in the Constitution.

Critical to the Commission functions is the function that establishes an accountability framework to report to the President and Parliament on the extent to which values and principles mentioned in Articles 10 and 232 are complied with throughout the public service. The Commission shall perform this function through provision of credible reports based on an effective monitoring and evaluation framework. The framework can only be developed based on elaborate baseline data on the state of the public service.

The Constitution has also provided for an expanded Bill of Rights under Chapter Four which stipulates many provisions. Of particular importance are the provisions of Article 27 on non-discrimination; Article 31 on privacy; Article 35 on Right to Information; Article 36 and 37 on Freedom of Association, picketing, demonstration, assembly and petition; Article 38 on political rights; Article 41 on labour relations; Article 43 on economic and social rights; Article 44 on language and culture; Article 47 on fair administrative Action; Article 48 on access to justice; and Article 50 on fair hearing.

All these provisions when read with the Commission's mandate require measures to be put in place to give effect to those requirements. It is, therefore, important to determine the state of preparedness of the public service to implement these requirements especially in an environment of heightened awareness by the citizenry of these rights.

Article 254 (g) of the Constitution mandates the Commission to review and make recommendations to the national government in respect of codes of conduct in the public service. The Public officer Ethics Act places on the Commission the responsibility for setting and enforcement of ethical standards in the Public Service. This includes the issuance of the code of conduct and ethics for public officers and the administration of financial disclosures.

It is from the foregoing, among other requirements, that the Commission needs to carry out a Baseline Survey on the State of the Public Service in light of the Values and Principles in Articles 10 and 232 and the enhanced Bill of Rights in the Constitution.

## **1.1 Terms of Reference**

This survey was conducted to determine the state of preparedness in the public service for the purpose of implementing the constitutional values and principles as spelt out in the Constitution. Specifically, the survey was meant to establish the baseline data on:

- a) Number of public officers falling within the scope of the PSC mandate;
- b) Number of public officers with disabilities;
- c) Gender balance of public service;
- d) On ages of public officers;
- e) On county representation of public officers in the service;
- f) Number of officers from different ethnic groups in Kenya, represented in the public service;
- g) Racial representation in the public service;
- h) Religious representation in the public service;
- i) Marital status of officers in the service;
- j) Qualifications of officers in the service; and
- k) Any other information that may be relevant.

### **1.1.1 Objectives of the Consultancy**

The purpose of this assignment was to establish the baseline data for:

- 1. Preparation of the state of the public service report;
- 2. Development of strategies to redress imbalances in the public service;
- 3. Development of effective measures to promote values and principles in the public service;
- 4. Establishment of a data bank to inform policy, planning and research in order to improve public service delivery;
- 5. Establishment of responsive structures and systems for implementation of an enhanced bill of rights; and
- 6. Establishment of an effective M&E framework.

### **1.1.2 Scope of the Survey**

Data was collected and analysed from all Ministries, Departments, State Corporations and Local Authorities and Agencies of government falling under the Commission. These include the 42 ministries, 188 state corporations, 175 local authorities and 6 departments of government such as prison's service, state law office, National Youth Service amongst others. However, 335 MDAs participated in the baseline survey with the biggest category being state corporations (140) followed by County Councils (64), Town Councils (56), Municipal Council (45), Ministries (27) and two government departments. It is hoped that these findings will reflect the true position of the state of public service as at the time of carrying out this study two years after the enactment of the Constitution.

In order to meet the requirements of the assignment, the consultant addressed the basic elements of the project which include, but not limited to the following:

- a) Desk review of secondary data;
- b) Data collection and analysis;
- c) Database development; and
- d) Baseline Survey Report preparation.

## 2.0. Methodology and Work Plan

The Consultant sought to make the baseline survey as participatory as possible through consultation with the client and other key stakeholders in order to utilize existing information. The baseline survey team employed a systematic methodology based on multiple information, data and knowledge sources. The consultant in ensuring reliability, validity, and adequacy used varied participatory methodologies to gather the needed data, including literature/desk review and key informant interviews.

### 2.1 Desk review

Document review provided background and baseline information besides providing an opportunity to assess other activities implemented by PSC. The preliminary appraisal of secondary literature covered among others:

The Constitution;

Sessional paper No. 1 of 2012;

Public Service Commission Act, 2012;

Draft Public Service Commission regulations;

Modalities on implementation of the Constitution (PSCK report);

Relevant treaties and conventions such as ILO and UNCAC; and

Relevant legislation such as labour laws, Public Officer Ethics Act.

The consultant sought relevant information from the following key data bases:

Preliminary secondary data review;

Documented reports including internet research on best practices;

Integrated Pay Payroll Database (IPPD);

Establishment complement control from local authorities;

Extracts of relevant data from payroll data for all State Corporations; and

Municipalities, Town Councils and County Councils.

More specifically, the consultants reviewed and summarized the existing Public Service documents from Australia, New Zealand, South Africa, Canada and United States of America among others.

### 2.2 Primary Data Collection & Analysis

Data collection and analysis was the primary objective of this survey. This covered the entire country as all local authorities were targeted institutions for data collection. A detailed list of the institutions is attached as an annex.

The key custodians of these data bases namely the Head of human resource departments and local authorities clerks were targeted. Data collection was carried out in a structured manner designed to ensure appropriate responses to all questions implied in the TOR.

Appropriate tools and questionnaire were designed for the purpose and utilized by the research assistants to obtain the required data from the target audience following a schedule developed together with the PSC staff.

There are two sets of data that were collected. The first set comprises of personal data which was submitted through a soft copy – by email or on a compact disc (CD). Each data element was converted to a text format prior to writing on the CD. A hard copy of the same where applicable was printed and submitted along with the CD.

The second set of the data was collected through a questionnaire which was completed by the Research Assistants (Enumerators) in the presence of the respondent.

### **2.3. Training and Field pre-test**

The Consultant recruited and trained 50 Research assistants (enumerators), who were selected through a competitive interview.

The research assistants were trained for 2 days. The training was a balanced combination of technical and statistical aspects of the baseline survey. All the survey personnel who were involved in collection, compilation and data entry also underwent training.

The survey tools were pre-tested in the field. After the pre-test, the tools were revised as appropriate.

### **2.4. Data Capture, Analysis and Presentation**

Two sets of data were collected. The data availed through the questionnaire was coded, entered and analysed using SPSS package, cleaned and loaded into the database. The set that was submitted through CDs were also verified and loaded into the database.

While in the database, the data was subjected to various statistical functional programs to get the desired quantitative outcomes and desegregated to meet the requirements of the survey.

### **2.5. Database Design and Development**

The database design and development methodology was based on a structured approach that uses procedures, techniques, tools, and documentation aid to support and facilitate the process. The inputs were derived from the data analysis phase and interacting with the client where necessary.

### **2.6. Study Limitations**

- a) Some data supposed to be submitted in CDs were received in hard copies which made it difficult to utilize.
- b) Very few of the MDAs provided data that meets the requirements and formats that was provided to them. Majority tended to omit some data.
- c) Misconception amongst some of the independent commissions revolving around the thinking that they are not obligated in any way to release information to anybody else.

- d) Reluctance of some of the MDAs in releasing the needed information citing the Secrecy Act, oblivious of Article 35 of the Constitution.
- e) Absence of local authority clerks in most of their stations of work due to Performance Contracting engagements outside office during the time of data collection.
- f) Lack of pertinent data in the data bases of the MDAs such as county of origin, ethnicity, qualifications (both Academic and Professional) and religion and race.
- g) Absence of the critical key informants of the survey mostly the HRM due to engagements outside their offices, being on leave among others, during the field data collection period.
- h) Absence of the CEOs in some MDAs to give authorisation due to leaves and engagements outside the office during the field data collection period.

## 3.0 Literature Review

### 3.1 Introduction

The Constitution entrenched major amendments to the system of governance that had been contemplated by the independence constitution in 1969. The new Constitution explicitly captures the values and principles of public service that should be taken into account by all public servants in their different capacities. The Constitution also introduces new standards of leadership and integrity for public service, including ethics and etiquette.

In order to comply with these changing requirements and effective implementation of the Constitution, there is an urgent need to reshape the mandate, structure and operations of the public service.

This report analyses the various constitutional provisions from the point of view of its implications for the Public Service Commission. It sets out to explore, understand and describe the different legislative instruments touching on, guiding and affecting the operations of the public service as a whole and also relate their provisions with the operations of the public service today.

This report also makes recommendations for the measures that need to be put in place to effectively comply with the legal requirements binding the Public Service Commission.

### 3.2 The Constitution of Kenya

The Constitution gives a list of some essential Values and Principles upon which governance should be based. These National Values and Principles bind all state organs, state officers, public officers and all persons during their interpretation of the Constitution, the enactment, application or interpretation of any law and during the making or implementation of public policy decisions.

Under Article 10 (2) of the Constitution, the National Values and Principles are listed as including:-

- (a) Patriotism, national unity, sharing and devolution of power, rule of law, democracy and participation of the people;
- (b) Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;
- (c) Good governance, integrity, transparency and accountability; and

(d) Sustainable development.

The Constitution under this Article envisages the guiding values and principles that should be taken into account by not only public servants but by all persons. The Constitution aims to reduce incidences of inequality in the distribution of resources in the country, cases of ethnic imbalances, discrimination, and marginalization among other vices in the country.

Under Article 233 of the Constitution, among other things, the Public Service Commission is bound to ensure it implements the provisions of the Constitution that bind its operations. Under Article 234, the Public Service Commission is tasked with the establishment of offices, appointments, and management of human resources in the public service among other duties.

### **3.2.1 Chapter Thirteen on the Public Service**

The Constitution goes further to specify under chapter thirteen dealing with the public service, the values and principles that should be adopted by public servants to include:-

- (a) High standards of professional ethics;
- (b) Efficient, effective and economic use of resources;
- (c) Responsive, prompt, effective, impartial and equitable provision of services;
- (d) Involvement of the people in the process of policy making;
- (e) Accountability for administrative acts;
- (f) Transparency and provision to the public of timely, accurate information;
- (g) subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;
- (j) Representation of Kenya's diverse communities; and
- (k) Affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of—
  - (i) Men and women;
  - (ii) The members of all ethnic groups; and
  - (iii) Persons with disabilities.

(2) The values and principles of public service apply to public servants in—

- (a) All State organs in both levels of government; and
- (b) All State corporations.

The Constitution reflects a commitment to the principles of equity, equality, gender balance, non-discrimination among others as a way of reducing the influence of such vices as ethnicity in the public service and ultimately in the whole country. This is clearly so in the preamble of the Constitution recognizing the ethnic, cultural and religious diversity and the aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law.

### **3.3 The Public Service Commission Act, 2012**

The Public Service Commission Act, 2012 is an Act of Parliament to make further provisions as to the functions and powers, and the administration of the Public Service Commission established under Article 233 of the Constitution. It also makes the provisions for the

qualifications and procedures for the appointment of the chairperson, members and secretary of the Commission, and for connected purposes.

Article 232(3) requires Parliament to enact legislation to give full effect to the provisions of Article 232. Although the Public Service Commission Act, 2012 would have been the logical place in which to elaborate on these provisions, it does not do so, and mainly deals with the establishment of the Commission and its powers and functions.

Under Section 4 of the Act, it is stated that the Commission shall, in fulfilling its mandate be guided by the National Values and Principles of governance in Article 10 and the Values and Principles of Public Service in Article 232. With the establishment of the Counties and setting up of County Public Service boards the Public Service Commission remains in charge of the recruitment of personnel for the national government only. Therefore, there is a need for the Public Service Commission to strive to ensure the Commission gives full effect to the Constitution.

Under Section 31 of the Public Service Act, 2012 the Commission may make regulations for the better carrying out of its functions under the Constitution, the Public Service Commission Act and any other national legislation.

The following constitutional requirements have been identified for further discussion:

- Disability;
- Gender balance;
- Ethnicity;
- Religion;
- Non-discrimination; and
- Fair administrative action.

### **3.4 Gender and the Constitution of Kenya, 2010**

Kenya has put in place several measures to ensure that the achievement of gender equality is accelerated. These include:

- The policy that in elective and appointive positions at least one third of the positions shall be held by persons of the opposite gender, which in regard to elective positions has now been made a constitutional requirement under Article 81(b);
- The requirement with respect to several public offices that the chairman/woman and deputy chairman/woman shall be of different gender;
- The requirement that women's representatives shall be elected from each county to the Senate;
- The entrenchment of the principle of affirmative action in regard to elective positions for women; and
- The establishment of the Kenya National Human Rights Commission and the Equality Commission, both established in Article 59 of the Constitution.

The Constitution provides major gender gains that form a legal framework that ensures equal enjoyment by women and men of development opportunities, resources and rewards. However,

more effort and political will are still needed for the laws to be fully implemented. Some of the important gender equality provisions in the Constitution are outlined below;

Chapters 3 and 4 of the Constitution of Kenya (2010) provide that “Women and men have the right to equal treatment including the right to equal opportunities in political, economic, cultural and social activities” and that “Women and men have an equal right to inherit, have access to and manage property.” In addition, the Constitution prohibits any law, culture, custom or tradition that undermines the dignity, welfare, interest or status of women or men. The Constitution creates an obligation to protect women and their rights’, taking into account their unique status and natural maternal role in society and provides reasonable facilities and opportunities to enhance the welfare of women to enable them realize their full potential and advancement.

### 3.4. International and regional blueprints as well as the Constitution and other Laws that speak to gender:

#### 3.4 a: International commitments

International Commitments	Year and Date Signed, Acceded or Ratified by Kenya
International Covenant on Economic, Social and Cultural Rights (ICESCR).	Accession 01.05.1972
International Covenant on Civil and Political Rights – (ICCPR)	Acceded: 1 May 1972.
International Convention on the Elimination of all Forms of Racial Discrimination (CERD)	Acceded: 13 September 2001.
International Covenant on Civil and Political Rights (ICCPR)	Accession 23.03.1976.
The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	Accession 09.03.1984
International Conference on Population and Development (ICPD) 1995	In compliance since 1994
Beijing Platform for Action on women (BPfA)	In Compliance since 1995
Palermo Protocol: to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (supplementing the United Nations Convention against Trans-national Organized Crime)	Accession 05.01.2005
Agenda 21 on Environment and Sustainable Development	endorsed and adopted since 1992

Kyoto Protocol on Climate Change	Acceded on 25 Feb 2005
The Millennium Development Goals (MDGs)	In compliance since 2000
United Nations Convention on the Rights of the Child	Ratified: 30 July 1990.
International Convention on the Rights of Persons with Disabilities – CRPD	Ratified: 19 May 2008
ILO Convention on labour laws	

### 3.4 b: Regional Commitments

REGIONAL COMMITMENTS	YEAR AND DATE SIGNED, ACCEDED OR RATIFIED BY KENYA
African Banjul Charter on Human and Peoples' Rights	Ratified 23/01/1992
The African Union Gender Policy (2009)	Key Reference document since 2009
Maputo Protocol 2003	Ratified 8 of October 2010
The East African Community Gender and Community Development Framework 2009	In compliance since 2009
Optional Protocol on the Involvement of Children in Armed Conflict	Ratified on 28.01.2002

### 3.4c: National Legal Framework

NATIONAL LEGAL FRAMEWORK	STATUS
The Constitution of Kenya	Promulgated on 27 August 2010
Specific Acts of Parliament (that speak to gender)	
Children Act, 2001 (Act No 8 of 2001)	In Operation
The Sexual Offences Act (No 3 of 2006, revised 2007)	In operation
HIV and AIDS Prevention and Control Act No. 14 of 2006	In operation
Reproductive Health Act	In operation

Employment Act 2007	In operation
Occupational Safety and Health Act, (Act No. 15 of 2007).	In operation
The National Gender and Equality Commission (Act, 2011 No. 15 of 2011)	Effectuated

To give full effect to the policy on gender equality the Public Service Commission needs to among other measures adopt a policy position on gender mainstreaming and carrying out of a baseline survey on the extent of representation of persons of different gender in all categories of employment in the public service.

### **3.4.1 Gender, representation and good practice in governance**

The findings emerging from this survey are in tandem with other constitutional articles which speak to good governance including Article 21 (3) which states that all State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalized communities, and members of particular ethnic, religious or cultural communities.

Article 27 (1) states that every person is equal before the law and has the right to equal protection and equal benefit of the law.

Article 56 states that the State shall put in place affirmative action programmes designed to ensure that minorities and marginalized groups—

- (a) Participate and are represented in governance and other spheres of life;
- (b) Are provided special opportunities in educational and economic fields;
- (c) Are provided special opportunities for access to employment;
- (d) Develop their cultural values, languages and practices; and
- (e) Have reasonable access to water, health services and infrastructure.

Article 100 provides that Parliament shall enact legislation to promote the representation in Parliament of:

- (a) Women;
- (c) Youth;
- (d) Ethnic and other minorities; and
- (e) Marginalized communities

Article 174 states that the objects of the devolution of government is:

To protect and promote the interests and rights of minorities and marginalized communities;

Article 201 states that the following principles shall guide all aspects of public finance in the Republic:

- (i) The public finance system shall promote an equitable society, and in particular,

- (ii) Expenditure shall promote the equitable development of the country, including by making special provision for marginalized groups and areas.

Article 260 in this Constitution, unless the context requires otherwise:

“marginalized group” means a group of people who, because of laws or practices before, on, or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27 (4).

### **3.4.2 Gender and disability**

Article 27 (4) states that, the State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

Article 54 (1) A person with any disability is entitled:

- (a) To be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning;
- (b) To access educational institutions and facilities for persons with disabilities those are integrated into society to the extent compatible with the interests of the person;
- (c) To reasonable access to all places, public transport and information;
- (d) To use Sign language, Braille or other appropriate means of communication; and
- (e) To access materials and devices to overcome constraints arising from the person's disability.

Article 100 provides that Parliament shall enact legislation to promote the representation in Parliament of Persons with disabilities.

Article 260 defines disability to include any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long term effect on an individual's ability to carry out ordinary day-to-day activities.

### **3.4.3 Gender and Employment**

Article 27 (6) stipulates that the State shall take legislative and other measures, including affirmative action programmes and policies, designed to redress any disadvantage suffered by individuals or groups because of past discrimination.

Article 30 (1) (2) provides that a person shall not be held in slavery or servitude; or required to perform forced labour.

Article 32 (3) stipulates that a person may not be denied access to any institution, employment or facility, or the enjoyment of any right, because of the person's belief or religion.

Article 41(1) stipulates that every person has the right to fair labour practices.

Article 41(2) provides that every worker has the right to:

- (a) Fair remuneration;
- (b) Reasonable working conditions;
- (c) Form, join or participate in the activities and programmes of a trade union; and

(d) Go on strike.

Article 41 (3) provides that every employer has the right to:

- (a) Form and join an employers' organization; and
- (b) Participate in the activities and programmes of an employers' organization.

Article 53 (1) (d) provides that every child has the right to be protected from hazardous or exploitative labour.

Article 55(c) stipulates that the State shall take measures, including affirmative action programmes, to ensure that the youth access employment.

Article 56 (c) stipulates that the State shall put in place affirmative action programmes designed to ensure that minorities and marginalized groups are provided special opportunities for access to employment.

Article 162 (2) (a) provides that Parliament shall establish courts with the status of the High Court to hear and determine disputes relating to employment and labour relations.

The Employment Act, No. 11 of 2007 that came into force in December 20, 2007 expressly prohibits discrimination and harassment of actual and prospective employees based on sex. Section 5 (3) (a) provides that; employers should not discriminate directly or indirectly against any employee on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, mental status or HIV status; in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment.

### **3.5 Disability**

Article 54 of the Constitution states that; the State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies, are persons with disabilities.

This is a right to be implemented progressively. The PSC is the principal organ of the national government, which ought to implement this provision with regard to appointive positions and therefore the PSC needs to ensure compliance of MDAs with regard to this provision.

In Kenya this issue has been addressed to some extent in the Persons with Disabilities Act.

The Persons with Disabilities Act, 2003 in Part III discusses the realization of the rights of persons with disabilities especially when it comes to employment. Section 11 calls on the government to take steps to ensure the full realization of the rights of persons with disabilities set out in that part. Section 12 goes further to require the employment of qualified employees with disability subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits, incentives or allowances as qualified able bodied employees.

The National Council for Persons with Disabilities has the mandate of securing the reservation of five percent of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities.

The Public Service Commission needs to come up with ways of ensuring that PWDs interests are taken care of by adopting a policy position on disability; a clear definition of disability, using as a start the definitions set out in the Persons with Disabilities Act, but taking care to ensure fair representation of all categories of disability among other measures.

Article 54 also stipulates that persons with disabilities requires be given reasonable access to all places. The PSC needs to undertake an audit of its buildings to ascertain the extent to which access to persons with disabilities is provided and put in place measures to remedy deficiencies which are identified.

### **3.6 Ethnicity**

Ethnicity is dealt with expressly in the Constitution. So far the public sector in Kenya has not expressly addressed ethnicity. Rather data has been gathered and kept based on district of origin of the public officer. This has since been changed to County of origin under the new Constitution.

District or county of origin is only partly reflective of one's ethnic background and can be totally misleading given the long standing Government policy that Kenyans may live and work in any part of the country. Consequently, in many districts and counties persons of different ethnic groups live side by side, and in some, this is more pronounced than in others.

A further complication is introduced into the issue of ethnicity by the fact that through inter-marriages many Kenyans of the younger generation have mixed ethnicity. There is no clarity as to how Kenyans of mixed ethnicity are to be categorized.

Thirdly, several Kenyans who have grown up and lived in urban centres, such as Nairobi have no real connection with the county of origin of their parents and, yet in terms of ethnicity they would be categorized as belonging to that particular ethnicity. This has been consolidated by the promotion of swahili as the national language. Many such Kenyans do not speak a vernacular language. Yet the Constitution clearly recognizes ethnicity as a category and outlaws discrimination based on ethnicity. The Commission, therefore, needs to give effect to the Constitution's provisions.

Additionally, the Government has established the National Cohesion and Integration Commission set up under the National Cohesion and Integration Act of 2008. Its mandate includes inter alia, elimination of all forms of discrimination based on among ethnic, racial, religious and social origin in Kenya. Among its activities has been to undertake a survey of the ethnic profile of the civil service in Kenya. Its recommendations provide a basis for enhancing ethnic diversity in the public service. A key gap however is the lack of clear criteria and benchmarks for determining ethnicity and ethnic diversity which the Commission must look into among other raft of regulatory, policy and administrative measures.

### **3.7 Religion**

Article 27, outlaws discrimination on grounds of religion. Kenya has persons of diverse religious backgrounds who are represented among public servants.

Whereas, information is gathered on religious affiliation there is no express policy on the use of such information in the public service.

The Commission needs to analyse the information with a view to formulating a policy on the role of religion in recruitment and the work environment in the public service. It is important that all religious groups are provided with a conducive working environment in which some groups do not feel unduly marginalized or overlooked.

### **3.8 Minorities and marginalized groups**

Article 56 deals with minorities and marginalized groups. It states that the state shall put in place affirmative action programmes to ensure that minorities and marginalized groups are provided special opportunities for access to employment.

One of the tasks facing the Commission is to formulate clear criteria identifying for minorities and marginalized groups. Internationally this term is used to describe groups who, on account of historical, geographical, cultural, social or economic factors have not had equal access to opportunities for education, employment and participation in the life of the society. Consequently, they face a disadvantage in competing with other members of the society for employment and other opportunities.

The Commission should develop clear criteria for identifying such groups. Secondly it has to define the nature and extent of affirmative action to be provided. For example, giving preference in recruitment and promotion for members of such groups.

Kenya's policy on affirmative action for marginalized groups is still not well developed. To some extent affirmative action has been applied to persons originating from arid and semi arid lands. At best, this policy has been ad hoc, not well documented and not uniformly or consistently applied. It has therefore tended to exacerbate inequality among marginalized groups with some groups benefiting disproportionately at the expense of others. This is an area that Commission needs to look into with a view to correcting any unfair discrimination against the minorities and marginalized groups.

### **3.9 Fair administrative action**

Article 47 provides for the right to fair administrative action. This requires that persons likely to be adversely affected by a decision be given written reasons for the action. This has been further strengthened by the establishment of the Commission on Administrative Justice set up under the Commission on Administrative Justice Act, 2011.

The Commission will need to review its procedures and rules on discipline and dismissal within the public service to ensure that these provide for fair administrative action as envisaged in the Constitution. This may also call for a revision of the terms and conditions of employment to align them with the new dispensation.

### **3.10: Article 232 1(a) The extent to which the code of Conduct and Ethics is consistent with the constitution of Kenya 2010.**

Kenya is a signatory to the United Nations Convention against Corruption (UNCAC), passed in the eleventh UN conference held in Seoul Korea in 2003. Amongst other things state parties were required to introduce financial disclosures by public officers serving in the public services and to prescribe a Code of Conduct and Ethics for their public services. This was in realisation that it was more important to prevent rather than undo corruption. These requirements were

domesticated by the Kenyan Government through enactment of the Public Officer Ethics Act, 2003.

The Public Officer Ethics Act, 2003 came into force on 2nd May 2003. It requires public officers to make financial declarations of themselves, their spouses and dependent children under the age of 18. There are three types of declarations:

- (i) Initial declaration made by officers within thirty days of entering service;
- (ii) Every two year declaration made every two years while in service by December; and
- (iii) Final declaration made by officers within thirty days of exiting service.

Lessons learnt in the last five years of the implementation of the Act led to the early amendments to the act to accommodate emerging concerns in the declaration process. These concerns were:

- a) The requirement that declaration information is stored for thirty years after the officer leaves service;
- b) The frequency of the declarations;
- c) The storage challenges at the Commission; and
- d) What happens to the declaration information.

In the Statute Law (Miscellaneous amendments) Act, 2007 Kenya Gazette Notice No. 100(Acts No. 7) by Parliament in 2007 these concerns were addressed as hereunder:

- a) Storage period was reduced from thirty years to five years after the officer leaves service;
- b) Frequency of declaration was staggered to every two years;
- c) The Commission was allowed to delegate the administrative process of the declarations to authorised officers to handle declarations of officers up to Job group M or equivalent; and
- d) It allowed for public access to declaration information upon request and demonstration of legitimate interest and good cause in the promotion of ethics and integrity in the public service.

In order to streamline the declaration process the Commission has developed a declaration guide and administrative procedures to enable public officers comply with the requirements under the Act (legal notice number 76 of 2009)

The Act further required all responsible commissions to issue a specific Code of Conduct and Ethics for the officers they are responsible for. The Commission issued a specific Code of Conduct and Ethics for the officers under it in 2003 (Legal notice No 123 of 2003). The code provides ethical standards for public officers to adhere to. An impact assessment was carried out in 2011 to determine the effectiveness of the code in inculcating ethical values on officers in the public service critical to realising good governance. The purpose of this assessment was to establish the impact of Code of Conduct and Ethics on public service delivery.

Drawing from the survey findings the following conclusions and recommendations were made:

The Act had made significant impact in instilling ethics and order amongst public servants. However, the following challenges in the implementation of the Public Officer Code of Conduct and Ethics were noted:

- (i) Non compliance with the Public Officer Code of Conduct and Ethics and the legally stipulated deadlines for submitting wealth declaration by the public officers;
- (ii) Most authorized officers have no budgetary allocation to cater for cost of activities related to mainstreaming and implementation of the Code of Conduct and Ethics as spelt out in the Act;
- (iii) Most authorized officers and link staff do not know what to do with the declaration forms;
- (iv) Storage of declaration forms seems to be a big challenge within most organizations;
- (v) Challenge of prosecution of those who fail to declare their wealth; and
- (vi) There is a feeling that the process of wealth declaration is cumbersome and tedious.

Among the study recommendations were:

- (i) Enhancement of compliance with the Public Officer Code of Conduct and Ethics and the legally stipulated deadlines for submitting wealth declaration by the public officers to be enforced strictly by the Commission and other relevant stakeholders;
- (ii) The purpose and utilization of the declaration forms to be made clear;
- (iii) Adequate budgetary provision to be set aside;
- (v) Issues of Storage of declaration forms within most organizations and the prosecution of those who fail to declare their wealth to be dealt with; and
- (vi) The Commission and other relevant stakeholder to come up with ways of dealing with the negative feeling among many respondents.

### **3.11 Best Practices and Benchmarking from other Jurisdictions**

With the understanding that public services in other Jurisdictions have employed various approaches in the management of, minority rights and marginalized groups; ethnic issues; and public services under devolved governments, this study sought to look at such jurisdictions with a view to contextualising the best practices in the circumstances of the Kenya public service. These jurisdictions include; Australia, South Africa, Canada, USA, New Zealand and India among others.

The review of best practices from other jurisdiction on the management of the devolved government was done with the understanding that structures for engagement for the two levels of government in the Kenyan context are already provided for in Article 189 of the Constitution.

#### **3.11.1 Canadian Public Service**

In Canada, the Public Service Employment Act(PSEA) of 1967 gave the PSC the responsibility for ensuring, either directly or through delegation, that public service staffing was carried out according to merit. Various equal opportunity programs and initiatives were implemented by the PSC, from the 1970s to 2000s, for women, Aboriginal peoples, persons with disabilities and visible minorities. The PSC established the Office of Equal Opportunity for Women in 1971 which coordinated equal opportunity programs for women in the public service while emphasizing that all public service careers were equally accessible to men and women. In April 1972, Cabinet issued a directive calling upon all deputy heads to take steps to encourage the assignment and advancement of more women to middle and senior echelon positions, giving impetus to the drive for equal opportunities for women. The PSEA provides more flexibility for

meeting the government's commitment to increase the representation of the public service. It provides equal employment measures and new options for customizing staffing to meet the needs of organizations, while respecting the guiding values of fairness, transparency, access and representativeness. It also sets a context for managers and HR advisors to form a strategic partnership to help the government move forward.

The Office of Native Employment was established in 1973 by the PSC of Canada to promote job opportunities throughout the public service for Aboriginal peoples. The PSC made it clear to organizations representing Aboriginal peoples that they were welcome to serve on selection boards thus promoting equality of opportunity within the public service through special programs for women, Aboriginal peoples, persons with disabilities and visible minorities as a way of strengthening the important aspect of representativeness in the merit principle.

Further, the Canadian Human Rights Act (CHRA) was enacted by Parliament in 1977 with the aim of protecting Canadians from discrimination based on any of the following ten grounds: race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability and conviction for an offence for which a pardon has been granted. Sexual orientation was added to the list of prohibited grounds of discrimination in 1996. The PSC has also developed an appointment policy framework to ensure the core values of merit and non-partisanship and the guiding values of fairness, transparency, access and representativeness are respected in appointment systems. It also supports a competent public service that respects the linguistic duality of Canada.

The Values and Ethics Code for the Public Sector came into force in April 2, 2012, and all federal public sector employees are required to adhere to the Code as a term and condition of employment. The Code sets forth the values and ethics of public service to guide and support public servants in all their professional activities and serves to maintain and enhance public confidence in the integrity of the Public Service. The Code also serves to strengthen respect for, and appreciation of, the role played by the Public Service within Canadian democracy. The Code further sets out Public Service values as well as Conflict of Interest and Post-Employment Measures.

### **3.11.2 United States**

In The United States, the Americans with Disabilities Act (ADA) was enacted in 1990. The Act prohibits discrimination against People with Disabilities (PWDs) particularly qualified workers with disabilities. It was amended in 2008 to specifically define the classifications of disability as an impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment. Major life activities include walking, reading, bending and communicating, as well as major bodily functions. In light of these, anything that hinders the full enjoyment and realization of the said activities would qualify one to be regarded as a PWD.

### **3.11.3 The European Union**

The European Union has two laws or directives that prevent people from being discriminated against on the grounds of race and ethnic origin (the Racial Equality Directive of 2000), and on the grounds of religion or belief, disability, age or sexual orientation (the Employment Framework Directive of 2000). The two Directives define a set of principles and provide a

common minimum level of legal protection against discrimination. The provisions of these directives are enacted through national law in each Member State. The directives provide a framework for equal treatment in employment regardless of racial or ethnic origin, religion and belief, disability, sexual orientation or age. They require employers in member states to provide workers with disabilities with “reasonable accommodation” to facilitate access to employment, including adapting the workplace to individual workers with a disability.

### **3.11.4 Japan**

In Japan, the Law for the Employment Promotion of Disabled Persons was established in 1960 and amended in 1987 to encourage the employment of workers with physical disabilities and features the employment quota system, the levy and grant system and vocational rehabilitation programs. Under the levy and grant system, companies that fail to comply with the employment quota would be fined and the monies used to cover complying employers’ costs associated with installing or improving facilities and equipment, etc.

### **3.11.5 South Africa**

South Africa is one of the countries which has enacted the Employment Equity Act (EEA). It also has a National Disability Strategy. Their EEA is fairly similar to the one in Canada, although some of the Employment Equity (EE) groups are different. It also contains requirements related to the elimination of discrimination. In South Africa’s EEA, the designated groups are: black people, women and PWDs. “Black people” is a generic term for Africans, Coloureds and Indians.

South Africa’s language policy is a positive model of language policy and planning against the backdrop of the focus on maintenance of linguistic diversity. South Africa is home to a great variety of language and culture groups. The diversity is the result of the influx of various groups of people to that region over the centuries. The very first groups to inhabit the southern African region were the Khoe and San people who lived there for millennia. However, in the 12th century, the Bantu ancestors started to move across the huge continent to its southern extreme and, in about the 17th century, other ancestors began to sail to the shores from Europe (Portuguese, Dutch, French, Germans, and British) and also from the East (Malaysia, Indonesia and India) and hence then diversity of cultures and languages. Some 25 languages are used in South Africa on a daily basis by more than 44.8 million people according to 2003 Statistic. Almost 80% of the population use an African language as their home language. The most commonly-spoken home language is isiZulu, which is spoken by 23.8% of the population, followed by isiXhosa (17.6%) and Afrikaans (13.3%). English is used as a lingua franca across the country, but is the home language of 8.2% of the population (Census 2001).

In line with the liberal, rights-based paradigm of the South African Constitution, the Constitution prohibits discrimination against anyone on the grounds of language; prescribes that everyone has the right to education in any official language(s) of their choice; enshrines the right of linguistic communities to use their cultures and languages; prescribes that every person has the right to access interpretation services during a trial; and arrested and accused persons have a right to information in a language that they understand.

The aim of the National Language Policy (NLPF) is to promote the equitable use of the 11 official languages; facilitate equitable access to government services, knowledge and

information; ensure redress for the previously marginalized official indigenous languages; initiate and sustain a vibrant discourse on multilingualism with all language communities; encourage the learning of other official indigenous languages to promote national unity, and linguistic and cultural diversity; and promote good language management for efficient public service administration to meet client expectations and needs.

The policy targets all government structures (national, provincial and local government) and institutions exercising public power, as well as the national legislature and the nine provincial legislatures (where regional circumstances determine the configuration of languages used). The private sector is not bound by the policy, but government has expressed its intent to encourage and support the development and implementation of language policies by private enterprises. The provisions for language use in the state administration are as follows: Each government department must designate a working language(s) for both intra and interdepartmental communication. Communication with the public via official correspondence must take place in the language of the citizen's choice. Official documents by national government departments must be published in all 11 Languages where the effective and stable operation of government would require such action (e.g. information on government supported HIV/Aids treatment campaigns). In cases where the use of all official languages is not required, documents must be published according to the principle of "functional multilingualism". According to this principle, a selection of languages may be used by government, depending on the intended function or purpose of a document and its target audience. In accordance with this principle, a minimum requirement for government was set: official documents must be published simultaneously in at least six languages: English; Afrikaans; Xitsonga; Tshivenda; At least one language from the Nguni group (isiNdebele, isiXhosa, isiZulu and SiSwati); and At least one from the Sotho group (Sepedi, Sesotho and Setswana). The language from the Nguni and Sotho groups must be selected according to rotation.

### **3.11.6 Australia Public Service Commission**

Australia's legislative and policy framework conditions of engagement are covered under section 22(6) of the Public Service (PS) Act. Under the PS Act, agency heads have all the rights, duties and powers of an employer. Their decisions must comply with the requirements of the Act and the various instruments issued under the Act including the Public Service Regulations 1999 (the Regulations) and the Public Service Commissioner's Directions (the Directions). Employment decisions must also take account of the requirements of the Fair Work Act 2009, administrative law and the common law of employment.

The Act allows an agency head to delegate to another person most of the agency head's powers or functions under the Act. An agency head may choose to delegate powers under the Act relating to recruitment and selection to an Australia Public Service (APS) employee within the agency. These powers can also be delegated, with the consent of the Public Service Commissioner, to an 'outsider'—a person who is not an APS employee. Any delegation of these powers by the agency head must be in writing.

The PS Act is interpreted and applied by all APS agencies. It is therefore, necessary that the Australian Public Service Commission is kept fully informed of current legal thinking on the interpretation of the Act so that this can inform the advice provided by the Commission to agencies. Agencies are therefore requested to liaise with the Commission when obtaining

advice and forward copies of any legal advice that they obtain regarding the PS Act framework to the Commission, in line with Clause 10 of the Legal Services Directions.

Australia Public Service Act 1994 (APSA) provides for a workplace that is free from discrimination, recognizes and utilizes the diversity of the Australian community. Agency heads and Senior Executive Service employees have a specific obligation under the Act to promote and uphold the APS Values and the Code of Conduct. An APS employee, when acting in the course of APS employment must, treat everyone with respect and courtesy; and at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS.

Safety, Rehabilitation and Compensation Act 1986 imposes responsibilities on agency heads in relation to employees who are suffering from injuries 'arising out of or in the course of employment'; the Australian Human Rights Commission provides useful guidance on how employers can meet their legal obligations under anti-discrimination legislation to prevent harassment and bullying.

According to the Australian Public Service Act of 1999, an APS employee must:

Behave honestly and with integrity in the course of APS Employment;

Disclose and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment;

Not make improper use of inside information; or the employee's duties, status, power or authority; in order to gain, or seek to gain, a benefit or advantage for the employee or any other person; and

At all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS.

The APS is apolitical, performing its functions in an impartial and professional manner; has the highest ethical standards; and delivers services fairly, effectively, impartially and courteously to the Australian public.

The Disability Discrimination Act makes it against the law for an employer to discriminate against someone on the grounds of disability. Employers must offer equal employment opportunities to everyone. This means that if a person with disability (PWD) can do the essential activities or "inherent requirements" of a job, they should have just as much chance to do that job as anyone else. If a PWD is the best person for the job, then the employer must make workplace changes or "workplace adjustments" if that person needs them to perform the essential activities of the job.

### **3.11.7 New Zealand Public Service**

The New Zealand State Service Commissions' statutory roles include appointing and managing Public Service chief executives, reviewing the performance of the Public Service departments, providing guidance on integrity and conduct to State servants, and reviewing the machinery of government across all areas of government.

The New Zealand State Service Code of Conduct is issued under section 57 of the State Sector Act 1988, which states that the State Services Commissioner "may from time to time issue a code of conduct covering minimum standards of integrity and conduct that are to apply in the

Public Service". The first principle of the Code is concerned with public servants' obligations to the Government in the performance of their official duties. In broad terms, the first priority for public servants is to carry out Government policy. In doing so, they are expected to act in a manner that will bear the closest public scrutiny.

The second principle of the Code is concerned with the general obligations of public servants to give satisfactory service, to respect the rights of the public and departmental colleagues, and to refrain from conduct that might lead to conflicts of interest or integrity. The third principle of the Code is concerned with the obligation of public servants not to compromise their department or the Public Service through their personal behaviour.

### **3.11.8 Overall observation on experiences and best practices from other jurisdiction**

The literature on the experiences in other jurisdictions has revealed that the Public Service Commission of Kenya has been practicing most of the provisions. The Commission has delegated most of its functions to authorized Officers. Further, the Commission ensures that there is gender balance and equal representation when it comes to employment. With regard to the issues of values and principles and code of conduct for public officers, the Public Officer Ethics Act, 2003 requires public officers to uphold high ethical values and standards. Apparently, most Public Services Commissions in most countries have similar practices and are concerned about the same issues related to values.

## **4.0 Findings and Discussions**

### **4.1. DISAGGREGATION OF VALUES (Article 10 & 232: National and Public Service Values and Principles)**

#### **4.1.1 Article 10: National Values and Principles of Governance**

The National Values and Principles of governance include:

Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;

Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;

Good governance, integrity, transparency and accountability; and

Sustainable development.

#### **4.1.2 Article 232: Values and Principles of Public Service**

The values and principles of public service include:

High standards of professional ethics;

- Efficient, effective and economic use of resources;
- Responsive, prompt, effective, impartial and equitable provision of services;
- Involvement of the people in the process of policy making;
- Accountability for administrative acts;
- Transparency and provision to the public of timely, accurate information;
- Subject to paragraphs and fair competition and merit as the basis of appointments and promotions;
- Representation of Kenya's diverse communities; and
- Affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of (i) men and women; (ii) the members of all ethnic groups; and (iii) persons with disabilities.

## 4.2 The extent to which the Code of Conduct and Ethics is consistent with the Constitution

Kenya is a signatory to the United Nations Convention against Corruption (UNCAC), passed in the eleventh UN conference held in Seoul Korea in 2003. Amongst other things state parties were required to introduce financial disclosures by public officers serving in the public services and to prescribe a Code of Conduct and Ethics for their public services. This was in realisation that it was more important to prevent rather than undo corruption. These requirements were domesticated by the Kenyan Government through enactment of the Public Officer Ethics Act, 2003.

The Public Service Commission Code of Conduct and Ethics provide the ethical framework that underpins the operations of the public service as well as work place relationships. The code of conduct and ethics is in accord with the Constitution as it establishes the professional and personal behaviour of the employees and guides the daily decision-making and behaviour of the public servants. In addition the Impact Assessment Report, (2011) points out that the ethos of the public service, as spelt out in the Code of Conduct and Ethics, is to offer services to the members of the public and successive governments of the Republic of Kenya with loyalty, impartiality, honesty and integrity; and to facilitate the enhancement of peace, socio-economic growth and prosperity.

Similarly, Articles 10 & 232 of the Constitution seeks to promote ethical standards amongst public officers resulting in the realisation of good governance in the management of public affairs.

### 4.3. Findings

From the survey findings, 335 MDAs<sup>3</sup> participated in the baseline survey with the biggest category being state corporations (140) followed by County Councils (64), Town Councils (56), Municipal Council (45), Ministries (27) and Government Departments (2).

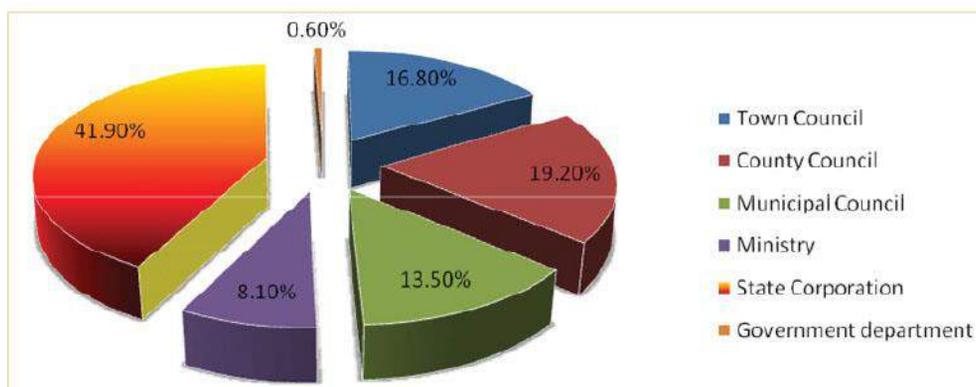
*Table 1: sampled MDAs*

MDA	Frequency
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<sup>3</sup>Out of the 411 targeted MDAs, 335 completed the questionnaires which have been used for the purpose of this draft Baseline Report.

Town Councils	56
County Councils	64
Municipal Councils	45
Ministries	27
State Corporations	140
Government Departments	2
Missing	1
<b>TOTAL</b>	<b>335</b>

Chart 1: Samples MDAs



Source: Baseline survey 2012

#### 4.4. Efficient, Effective and Economic use of Resources

##### a) Institutional and Operational Framework within MDAs

The survey sought to understand whether Ministries, Departments and Agencies (MDAs<sup>4</sup>) have relevant policies in place to ensure efficiency, effectiveness and economic use of resources. The findings reveal that 99.1% have relevant policies in place while only 0.9% indicated that their MDAs lack these policies. All the Town Councils, Ministries, State Corporations; and 96.9% of the County Councils and 97.8% of the Municipal Councils have implemented these policies.

Table 2: Existence of relevant policies within MDAs to ensure efficiency

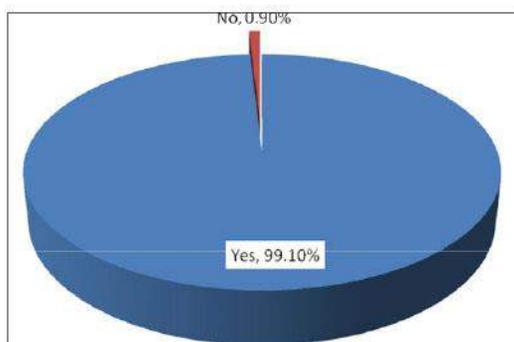
Frequency
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<sup>4</sup> MDA-Ministries, Departments and Agencies

Yes	328
No	3
Total	331
Missing System	4
Total	335

Source: Baseline survey 2012

Chart 2: Existence of relevant policies within MDAs to ensure efficiency, effectiveness and economic use of resources



Source: Baseline survey 2012

#### 4.4.1 Existence of effective checks and controls within MDAs

The survey further sought to understand if MDAs have in existence effective checks and controls as outlined in Article 232. The findings are presented in chart 3 below;

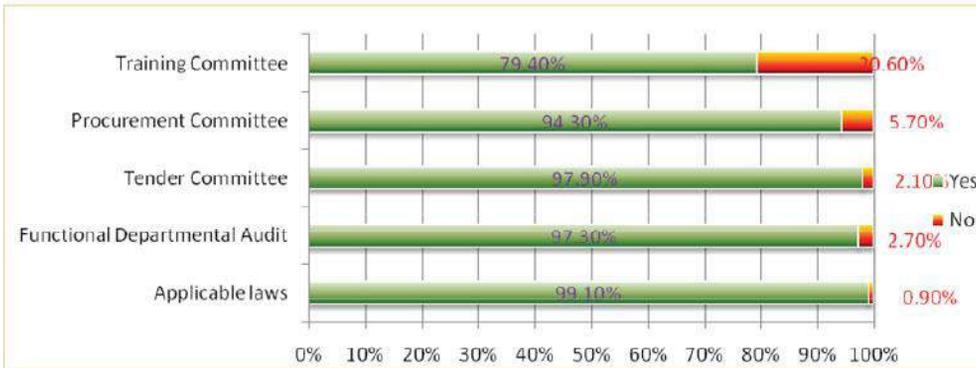
Table 3: Existence of effective checks and controls within MDAs as provided for

	Yes	No
Applicable Laws	328	3
Functional Departmental Audit	328	3
Tender Committee	324	7
Procurement Committee	312	19

Training Committee	262	68
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Source: Baseline survey 2012

Chart 3: Existence of effective checks and controls within MDAs as provided for

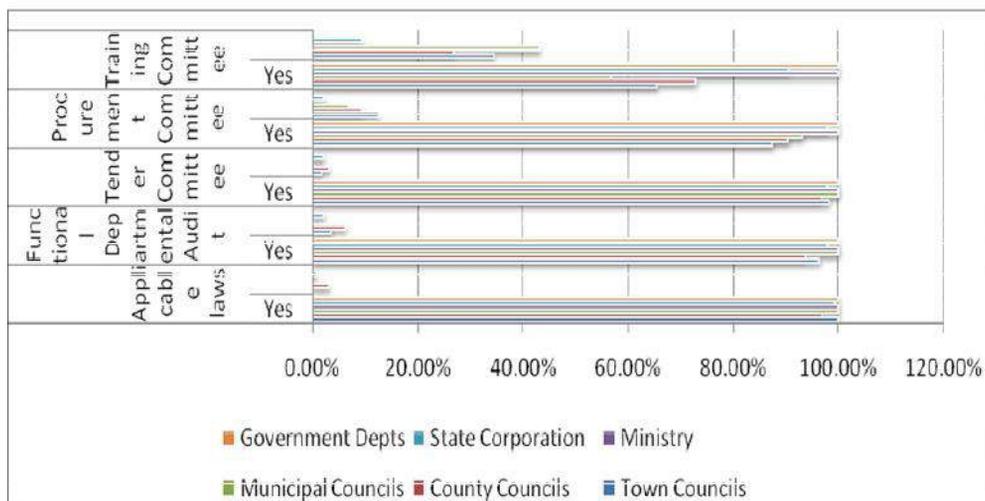


Source: Baseline survey 2012

From the findings presented in chart 3 and 4, it can be deduced that majority of the sampled MDAs have implemented effective checks and controls to ensure efficient, effective and economic use of resources. In addition, 99.1% have in existence, applicable laws; 97.9% Functional Tender Committees; 97.3% Functional Departmental Audits; 94.3% Functional Procurement Committees and 79.4% Functional Training Committees.

Similarly, Municipal Councils were noted to have fully complied with requirements to set up functional departmental audits and tender committees. It can also be deduced that most local authorities have not fully complied with the requirement to set up training, procurement and tender committees.

Chart 4: Existence of effective checks and controls within MDAs as provided for disaggregated by MDAs



Source: Baseline survey 2012

#### 4.4.2 Existence of Strategic Plans aligned to the Kenya Vision 2030 within MDAs

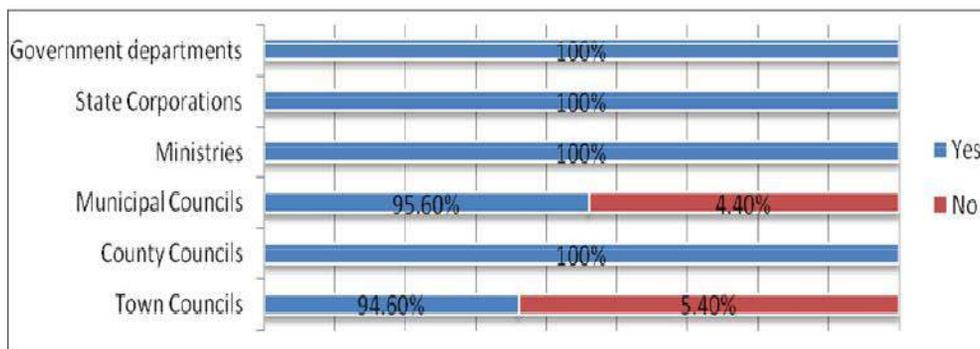
Kenya Vision 2030 is the country's new development blueprint covering the period 2008 to 2030. The Vision was formulated and launched with the goal of making Kenya a globally competitive and prosperous nation. It aims to transform Kenya into a newly industrializing, "middle-income country providing a high quality life to all its citizens by the year 2030". 98.5% of the respondents indicated that their MDAs have Strategic Plans aligned to the Vision while 1.5% have not done so.

Table 4: Existence of Strategic Plans aligned to Vision 2030 within MDAs

	Yes	No
Town Councils	53	3
County Councils	64	0
Municipal Councils	43	2
Ministries	27	0
State Corporations	138	0
Government departments	2	0

Source: Baseline survey 2012

Chart 5: Existence of strategic plans aligned to Vision 2030 within MDAs



Source: Baseline survey 2012

On cross tabulating, the data further reveals that all State Corporations, Government Ministries, County Councils and Government Departments have Strategic Plans aligned to the Kenyan Vision 2030 with the exception of Town and Municipal Councils where 94.6% and 95.6% of the respondents were positive that their Strategic Plans were aligned to the Vision as shown in Chart 5.

#### 4.4.3 Implementation of Performance Contracting

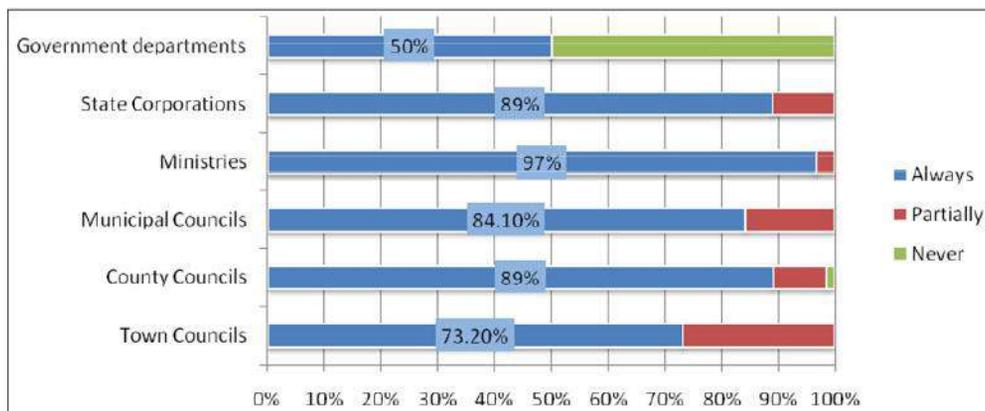
Performance Contracting is a key component of the performance based practices adopted by the Government of Kenya. It is currently being implemented in public institutions. Implementation of performance contracting is overseen by an institutional framework anchored in the executive arm of Government. Respondents were asked the extent to which MDAs had cascaded performance contracting to employees. Findings reveal that 85.6% cascaded, 13.8% partially cascaded, while 0.6% have not cascaded.

Table 5: Extent MDA implements PCs to its employees

	Always	Partially	Never
Town Councils	41	15	0
County Councils	57	6	1
Municipal Councils	37	7	0
Ministries	26	1	0
State Corporations	123	16	0
Government departments	1	0	1

Source: Baseline survey 2012

Chart 6: Extent to which MDAs cascade PCs to employees



Source: Baseline survey 2012

Further, a good number of MDAs have always cascaded PCs to their employees with 97% of respondents from Ministries, 89% from State Corporations and County Councils, 84.1% from Municipal Councils, 73.2% from Town Councils and 50% from Government Departments responding in affirmative.

#### 4.4.4 Existence of Audit Reports and Grievance Handling Procedures

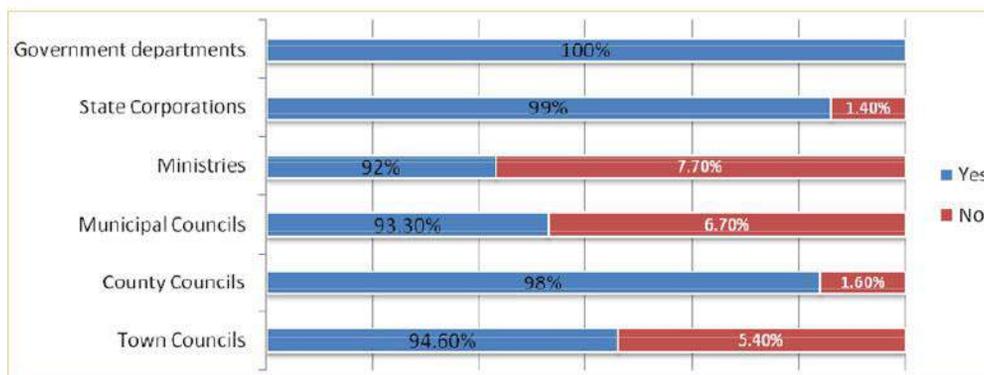
Majority (96.4%) of the respondents agree that there is existence of audit reports and grievance handling mechanisms within their institutions while 3.6% indicated lack of such mechanisms. Grievance handling mechanisms are implemented within organisations to enable parties resolve differences in a peaceful, orderly and expeditious manner.

Table 6: Audit reports and grievance handling procedure exist within MDAs

	Yes	No
Town Councils	53	3
County Councils	62	1
Municipal Councils	42	3
Ministries	24	2
State Corporations	137	2
Government departments	2	0

Source: Baseline survey 2012

Chart 7: Audit reports and grievance handling procedure exist within MDAs



Source: Baseline survey 2012

Chart 7 further reveals that 99% of State corporations, 92% of Ministries, 93.3% of Municipal Councils, 98% of County Councils and 94.6% of Town Councils have in existence Audit Reports and grievance handling procedures.

#### 4.4.5 Existence of Client Service Delivery Charter

97.3% of the respondents confirmed that their MDAs have Client Service Delivery Charter while only 2.7% work in MDAs that do not have a Charter. Client Service Delivery Charter provides a common understanding for employees and customers on the delivery timelines for various services offered by the organization.

Table 7: Existence of client service delivery charters

	Yes	No
Town Council	53	3
County Council	63	1
Municipal Council	45	0
Ministry	27	0
State Corporation	134	4
Government Department	1	1

Source: Baseline survey 2012

Chart 8: Existence of client service delivery charter



Source: Baseline survey 2012

A further analysis of the data reveals that 100% of the Ministries and Municipal Councils, 98.4% of the County Councils, 97.1% of State Corporations, 94.6% of Town Councils and 50% of Government Departments were noted to have client service delivery charter.

#### 4.4.6 Adherence to set Budgetary Ceiling for Expenditure and Funds Disbursement

The survey also sought to understand the extent to which MDAs adhere to set Budgetary ceiling for expenditure and funds disbursement as confirmation of efficiency, effectiveness and economic use of resources. 80.4% indicated that their institutions always adhere, 19.0% indicated that their institutions partially adhere and 0.6% indicated that their institutions never adhere to the set budgetary ceiling for expenditure and funds disbursement.

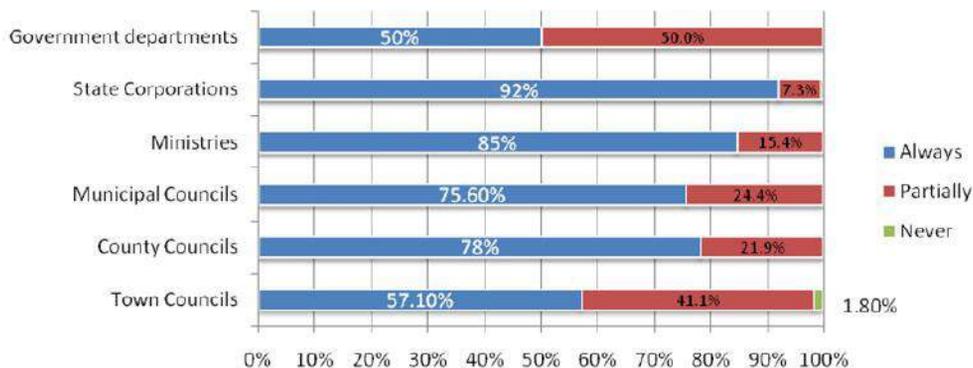
From chart 9, it can be deduced that most MDAs perform badly with regard to adherence to set budgetary ceiling with 92.0% of the State Corporations, 85.0% of the ministries, 78.0% of the County Councils, 75.6% of the Municipal Councils and 50.0% of Government departments indicated that they always adhere to this requirement.

Table 8: Extent to which MDAs adhere to set budgetary ceilings for its expenditure and fund disbursement

	Always	Partially	Never
Town Councils	32	23	1
County Councils	50	14	0
Municipal Councils	34	11	0
Ministries	22	4	0
State Corporations	126	10	1
Government departments	1	1	0

Source: Baseline survey 2012

Chart 9: Extent to which MDAs adhere to set budgetary ceilings for its expenditure and fund disbursement



Source: Baseline survey 2012

#### 4.5 Responsive, prompt, effective, impartial and equitable provision of services

(a) Existence of responsive client service charter, grievance handling procedure, customer help desk and help line

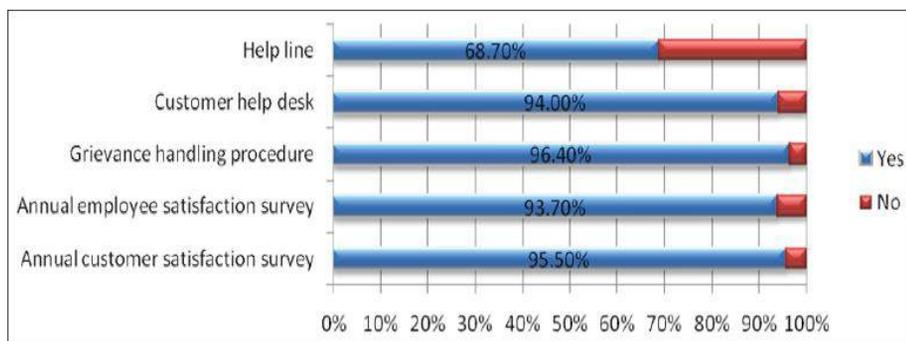
The baseline survey also sought to understand if MDAs have responsive client service charter, grievance handling procedures, and customer help desk and help line. All these are critical in customer satisfaction and improvement of MDAs customer relationships. See chart 10.

Table 9: Existence of responsive client service charter, grievance handling procedure, customer help desk and help line

	Yes	No
Annual customer satisfaction survey (CSS)	317	15
Annual employee satisfaction survey (ESS)	312	21
Grievance handling procedure	322	12
Customer help desk	314	20
Help line	228	104

Source: Baseline survey 2012

Chart 10: Existence of responsive client service charter, grievance handling procedure, customer help desk and help line



Source: Baseline survey 2012

It can be deduced from chart 10 that majority of the MDAs have implemented responsive client service charter, grievance handling procedures, and customer help desks and help lines. It is notable that 95.5% of the MDAs conduct annual Customer Satisfaction Surveys, 93.7% carry out Employees Satisfaction Surveys, 96.4% have implemented grievance handling procedures, 94% have customer help desks and 68.7% have customer help lines.

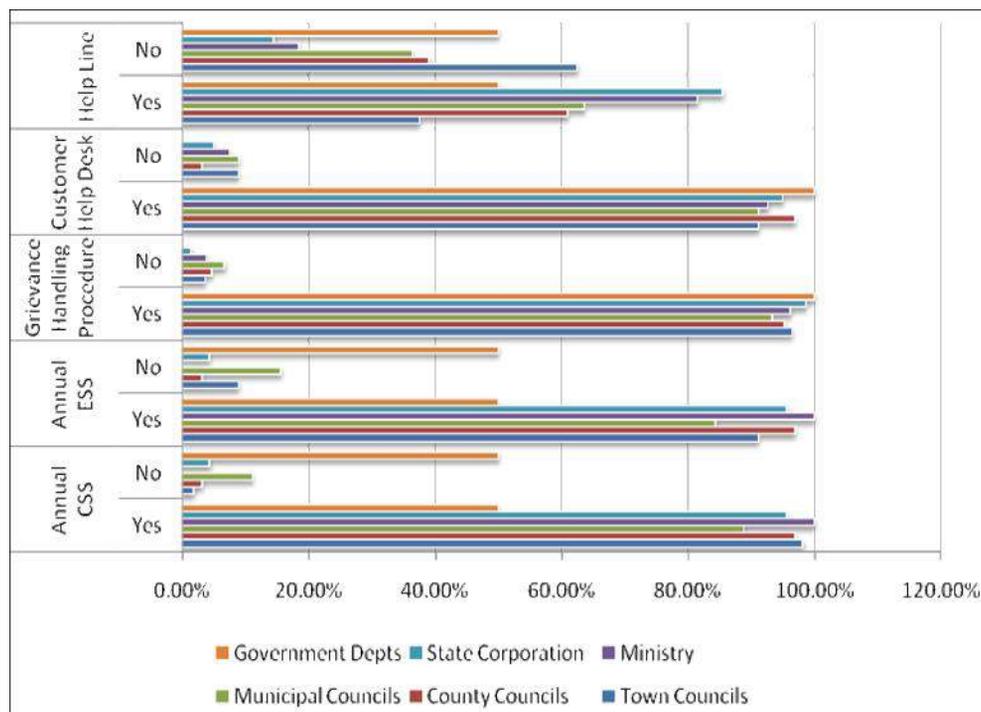
It is concluded that most MDAs still have to put efforts to set up customer help lines as the world is moving fast towards embracing ICT and globalization. Such measure would increase efficient service delivery within MDAs.

Table 10: Existence of responsive client service charter, grievance handling procedure, customer help desk and help line by MDAs

		Town Councils	County Councils	Municipal Councils	Ministry	State Corporation	Government Depts.
Annual CSS	Yes	55	62	40	27	131	1
	No	1	2	5	0	6	1
Annual ESS	Yes	51	62	38	27	132	1
	No	5	2	7	0	6	1
Grievance Handling Procedure	Yes	54	61	42	25	138	2
	No	2	3	3	1	2	0
Customer Help Desk	Yes	51	62	41	25	132	2
	No	5	2	4	2	7	0
Help Line	Yes	21	39	28	22	118	0
	No	35	25	16	5	20	2

Source: Baseline survey 2012

Chart 11: Existence of responsive client service charter, grievance handling procedure, customer help desk and help line by MDAs



Source: Baseline survey 2012

Further desegregation of the data by MDAs reveals that 100% of the ministries, 98.2% of the Town Councils, 96.9% of the County Council, 95.6% of the State Corporations, 88.9% of the Municipal Councils and 50% of the government departments conduct annual customer satisfaction surveys to ensure responsive, prompt, effective, impartial and equitable provision of services.

In addition, 100% of the ministries, 96.9% of the County Councils, 95.7% of the State Corporations, 91.1% of the Town Councils, 84.4% of the Municipal Councils and 50% Government Departments conduct annual employee satisfaction surveys.

Further, 100% of the Government Departments, 98.6% of the State Corporations, 96.4% of the Town Councils, 96.2% of the Ministries, 95.3% of the County Councils and 93.3% of the Municipal Councils have implemented grievance handling procedures.

100% of the Government Departments, 96.6% of the County Councils, 95.0% of the State Corporations, 92.6% of the Ministries and 91.1% of the Town Councils and 91.1% of the Municipal Councils have Customer help Desk.

On whether the MDAs have organisational customer help lines, 85.5% of the State Corporations, 81.5% of the ministries, 63.6% of the Municipal Councils, 60.9% of the County Councils and 37.5% of the Town Councils have help lines, while 50% of government departments lack these lines as shown in Chart 11.

b) Corruption Perception Surveys (CPS)

These surveys are meant to gauge the perception of the public service and its clientele on levels of corruption within MDAs. Corruption has been considered for a long time as one of the most serious socio-economic problems bedeviling most institutions in Kenya. This fact is also documented by several surveys conducted by the Kenya Anti-Corruption Commission between 2005 and 2010. Inclusion of the “Corruption Surveys” indicator in the performance contracts of all public institutions are expected to mainstream anti-corruption strategies in their management systems.

When respondent MDAs were asked to state how often Corruption Perception Index surveys are carried out, 57.8% indicated it's done annually, 26.8% at times while 15.4% never done. These findings show that most MDAs still do not adhere to Performance Contracting requirements as only slightly more than half conduct these annual surveys.

*Table 11a: Frequency of Corruption Perception Surveys*

	Annually	Sometimes	Never
Town Councils	31	16	8
County Councils	38	17	8
Municipal Councils	18	18	9
Ministries	16	10	1
State Corporations	96	23	16
Government Departments	1	0	1
Total	200	84	43

Source: Baseline survey 2012

*Table 11b: Extent to which Corruption Perception Reports recommendations are implemented*

	Annually	Sometimes	Never
Town Councils	31	16	8
County Councils	38	17	8
Municipal Councils	18	18	9
Ministries	16	10	1
State Corporations	96	23	16
Government Departments	1	0	1
Total	200	84	43

Source: Baseline survey 2012

Chart 12a: Frequency of Corruption Perception Surveys

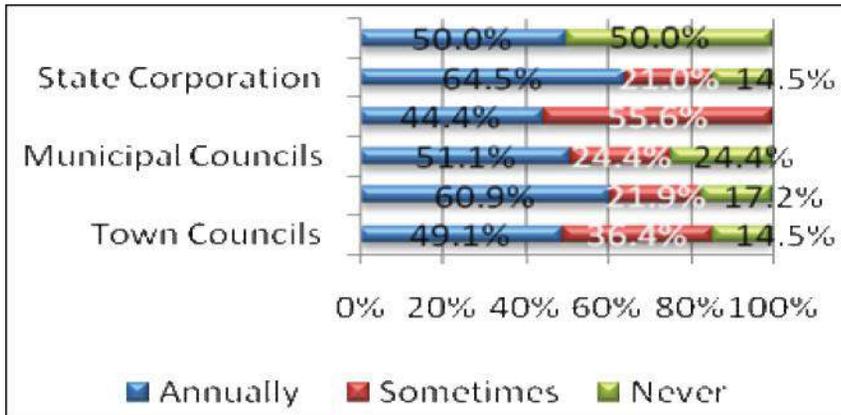
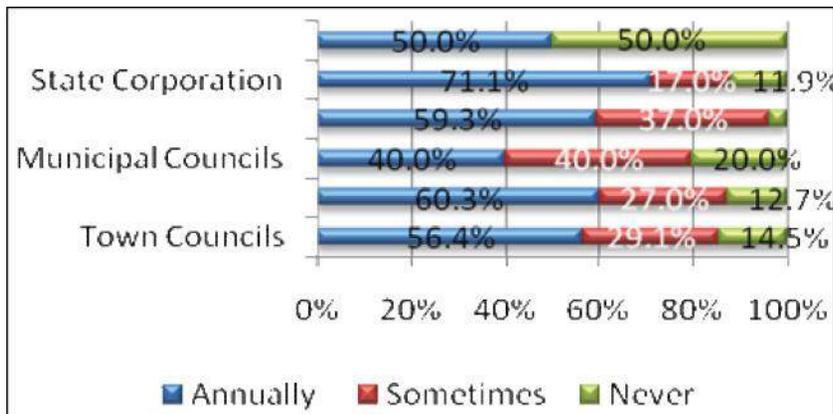


Chart 12b: Extent to which Corruption Perception Reports recommendations are implemented



Source: Baseline survey 2012

Further analysis reveals that 49.1% of the Town Councils, 60.9% of the County Councils, 51.1% of the Municipal Councils, 44.4% of the Ministries, 64.5% of the State Corporations and 50% of the Government Departments conduct Corruption Perception Surveys annually. These findings show that ministries and town councils still have a lot to do in adherence to performance contracting initiated by the government to streamline government operations and enhance efficiency.

The baseline survey also sought to gauge whether recommendations of these surveys are implemented. The findings indicates that 61.0% of the MDAs implemented annually, 25.9% sometimes and 13.1% never implemented.

Thus, the objectives of conducting these surveys are rarely adhered to by the leadership of these MDAs that do not implement the recommendations as findings show that 71.1% of the state corporations, 60.3% of the County Councils, 59.3% of the Ministries, 56.4% of the Town Councils, 50.0% of the Government Departments and 40.0% of the Municipal Councils implement the survey's recommendations annually as shown in Chart 12b.

## 4.6 Accountability for Administrative Acts

The survey sought to establish the extent to which MDAs are exposed in the area of public officers taking responsibility for acts of commission or omission in the discharge of their duties using several parameters

### (a) Disciplinary Reports

Between September 2010 and June 2012, majority (83.2%) of the MDAs had received less than 10 disciplinary reports, 6.8% (10-20 reports), 6.2% (21-100 reports), 2.4% (101-500 reports) and 1.2% had received more than 500 reports. A good number of cases have been concluded within this period (103 reports). However, 79 cases are still pending in addition to several others that may have been carried over outside the reporting period.

Table 12a: No. of Disciplinary reports

Disciplinary reports		Number of reports		Concluded		Pending		No action	
		Frequency	%	Frequency	%	Frequency	%	Frequency	%
1.	Less than 10	134	83.2	103	83.7	68	86.1	11	84.6
2.	10-20	11	6.8	8	6.5	5	6.3	1	7.7
3.	21-100	10	6.2	7	5.7	5	6.3	1	7.7
4.	101-500	4	2.4	3	2.4	1	1.3		
5.	More than 500	2	1.2	2	1.6				
Total		161	100	123	100	79	100	13	100

Source: Baseline survey 2012

### (b) Unresolved Audit Queries

Between the same period (September 2010 and June 2012), 40 MDAs (87.0%) that responded in this survey had less than 10 unresolved audit queries reported, 5 MDAs (10.7%) had 10-20 unresolved audit queries reported and 1 MDA (2.2%) had 101-500 unresolved audit query reports. Thus, 46 unresolved audit queries had been concluded within the period while, 50 unresolved audit queries, in addition to several others where no action has been taken are still pending.

Table 12b: No of Unresolved audit queries

Unresolved	Number of	Concluded	Pending	No action
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audit queries		reports							
		Frequency	%	Frequency	%	Frequency	%	Frequency	%
1.	Less than 10	56	83.5	40	87.0	47	92.2	12	100
2.	10-20	22	15.2	5	10.7	3	5.9		
3.	101-500	1	1.3	1	2.2	1	2.0		
Total		79	100	46	100	50	100	12	100

Source: Baseline survey 2012

### (c) Criminal Investigations

During the same period (September 2010 and June 2012), 26 MDAs reported less than 10 cases, 4 MDAs (10-20 cases) and 2 MDAs (21-100 cases) as being under investigation by the Criminal Investigation Department (CID). It was noted that 15 MDAs have less than 10 concluded cases, while 2 MDAs have between 10-20 and 21-100 concluded cases respectively. On the other hand, it was noted that several criminal cases are still pending and there are instances where no action was taken as shown in Table 12c.

Table 12c: No of criminal investigations

Criminal investigation		Number of reports		Concluded		Pending		No action	
		Frequency	%	Frequency	%	Frequency	%	Frequency	%
1.	Less than 10	26	81.3	15	88.2	20	90.9	2	100
2.	10-20	4	12.5	1	5.9	2	9.1		
3.	21-100	2	6.3	1	5.9				
Total		32	100	17	100	22	100	2	100

Source: Baseline survey 2012

### (d) Convictions and Inquests

Between the same period (September 2010 and June 2012), 8 respondent MDAs had less than 10 reports on convictions and inquests, whereas 4 MDAs indicated they had concluded the cases while the other 4 indicated that the cases are pending.

Table 12d: No Convictions and Inquests

Convictions and inquests	Number of reports		Concluded		Pending		No action	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%
1.	Less than 10	8	100	4	100	4	100	NA
Total		8	100	4	100	4	100	

Source: Baseline survey 2012

### (e) Commissions of Inquiry Reports and Recommendations

On Commissions of inquiry, out of the 7 MDAs that responded, 2 indicated that they had less than 10 inquiries that had been concluded, 3 were still pending and 1 had no action taken.

Table 12e: No of Commissions of Inquiry Reports & Recommendations

Commissions of inquiry	Number of reports		Concluded		Pending		No action		
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	
1.	Less than 10	7	100	2	100	3	100	1	100
Total		7	100	2	100	3	100	1	100

Source: Baseline survey 2012

### (f) Parliamentary committee reports

Out of the 47 MDAs that responded on this question, 20 have less than 10 concluded Parliamentary Committee Reports, while 25 and 2 MDAs have less than 10, and, between 10-20 reports pending respectively. 4 MDAs indicated that no action had been taken on the Parliamentary Committee Reports.

Table 12f: No of parliamentary committee reports & recommendations

Parliamentary committee reports & recommendations	Number of reports		Concluded		Pending		No action		
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	
1.	Less than 10	47	96	20	100	25	92.6	4	100
2.	10-20	2	4.1			2	7.4		

Total	49	100	20	100	27	100	4	100
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Source: Baseline survey 2012

## 4.7 Transparency and Provision to the Public of Timely and Accurate information

The survey also sought to understand the extent to which MDAs have promoted the value of transparency and provision to the public of timely and accurate information and whether there are impediments to the same.

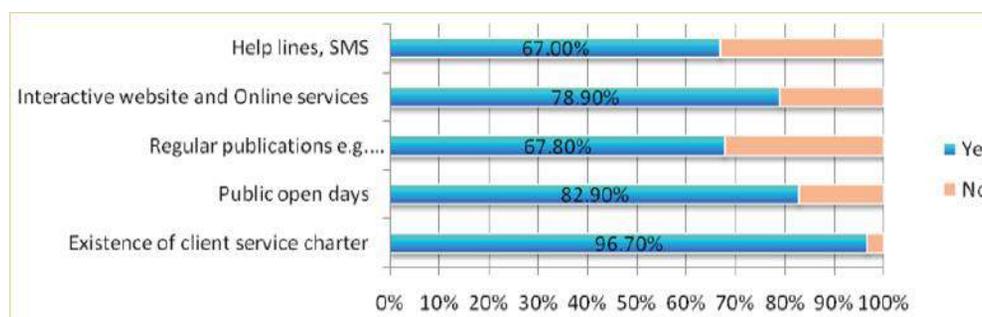
The findings in chart 13 show that majority of the MDAs (96.7%) have client service charter, 82.9% have public open days, 78.9% have interactive websites and online services while 67.8% have regular publications like brochures and magazines and 67.0% have help lines or sms services. All these have been implemented to ensure that the public can easily access information within the public sector.

Table 13: Transparency and provision to the public of timely and accurate information

	Yes	No
Existence of client service charter	323	11
Public open days	276	57
Regular publications e.g. Brochures, Magazines etc	225	107
Interactive website and Online services	262	70
Help lines, SMS	221	109

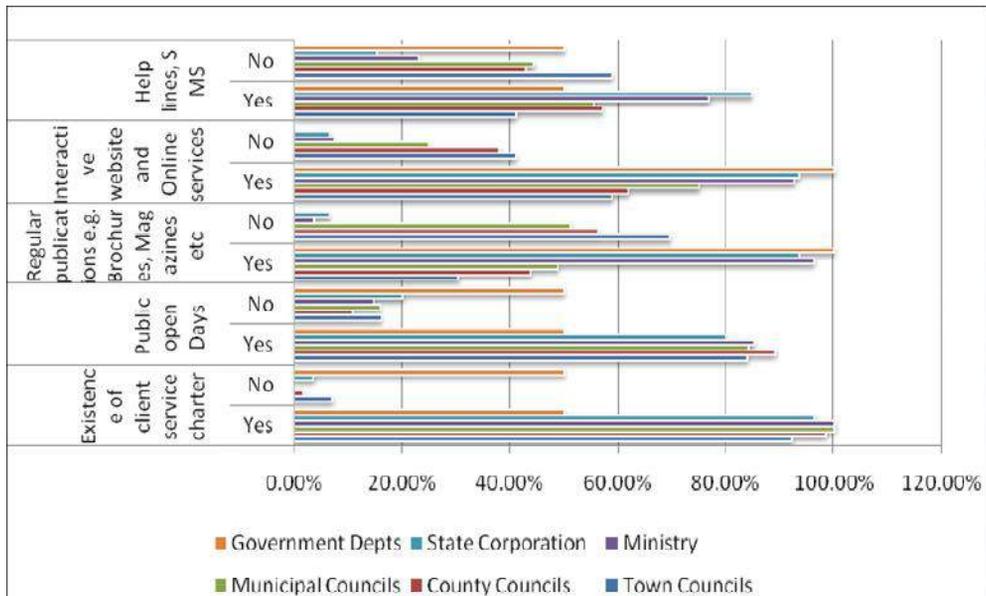
Source: Baseline survey 2012

Chart 13a: Transparency and provision to the public of timely and accurate information



Source: Baseline survey 2012

Chart 13b: Extent to which principles have been accommodated in MDAs



Source: Baseline survey 2012

The findings on desegregated data (Chart 13b), reveal that, all the ministries and Municipal Councils sampled, 98.4% of the County Councils, 96.4% of the State Corporations, 92.9% of the Town Councils and 50% of the government departments have Client Service Charters.

In addition, 89.1% of the County Councils, 85.2% of Ministries, 84.1% of Municipal Councils, 83.9% of Town Councils, 79.9% of State Corporations and 50% of government departments hold Public Open Days.

Regarding regular publication of brochures and magazines to provide the public with timely and accurate information, findings reveal that all the Government departments sampled do so followed by Ministries at 96.3%, State Corporations at 93.5%, Town Councils at 30.4%, County Councils at 43.8% and Municipal Councils at 48.8%.

On providing interactive websites, online services and availing of help lines or SMS for interaction with the clientele, 100% of the Government departments have interactive website followed by State Corporations (93.5%), Ministries (92.6%), Municipal Councils (75.0%), County Councils (61.9%) and Town Councils (58.9%).

However, most MDAs faced challenges in availing help lines and SMS services as only 84.7% of State Corporations and 79.6% of the Ministries have these services, while 57.1% of the County Councils and 55.6% of the Municipal Councils have these services. Far down are the Town Councils at 41.1%, while 50% of the government departments have installed help lines and SMS services. This needs to be scaled up if the Kenyan Vision 2030 is to be attained as information is critical to societal development.

### 4.7.1 Impediments to transparency and Provision to the Public of Timely and Accurate information

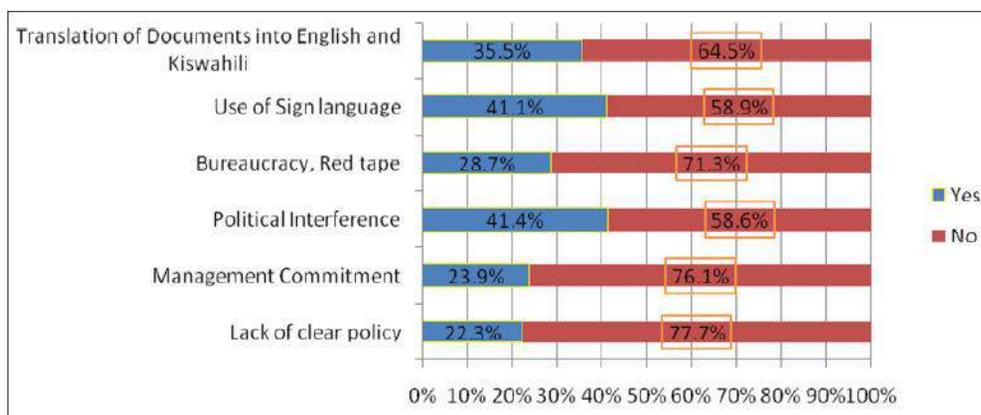
The survey sought to understand if there are any impediments that have been faced by MDAs in regard to promotion of the value of transparency and provision to the public of timely and accurate information.

Table 14a: Impediments to accommodation of principles

	Yes	No
Lack of clear policy	74	158
Management Commitment	79	252
Political Interference	137	194
Bureaucracy, Red tape	95	236
Use of Sign language	137	196
Translation of documents into English and Kiswahili	117	213

Source: Baseline survey 2012

Chart 14a: Impediments to accommodation of principles



Source: Baseline survey 2012

Apparently, there seems not to be major impediments as findings in chart 14a reveal. However, it is noted, that political interference (41.4%) and use of sign language (41.1%) are some of the impediments faced by MDAs far as much as promotion of the value of transparency and provision to the public of timely and accurate information is concerned. 35.5% of the respondents were in agreement that there are impediments faced as a result of lack of translation of documents into English and Kiswahili.

Further, 35.7% of the Town Councils, 38.6% of the Municipal Councils, 33.3% of the Ministries, 27.0% of the State Corporations and 50% and 50.8% of the Government Department and

County Councils respectively felt that translation of documents into English and Kiswahili was a major impediments to the promotion of this value.

Political interference was also identified as another impediment with 71.1% of the Municipals Councils, 63.5% of the County Councils, 62.5% of the Town Councils responded in the affirmative while, 30.8% of the Ministries and 15.9% of the State Corporations and government departments indicated that there was no political interference.

On lack of clear policy as an impediment, 50% of the government departments agreed to this assertion followed by Town Councils (34.5%), Municipals Councils (31.1%) and County Councils (30.2%). 11.5% of the State Corporations and 14.8% of the Ministries also cited lack of clear policy. On the other hand, 38.1% of the County Councils, 33.3% of the Municipal Councils, 19.6% of the Town Councils, 14.8% of the Ministries and 18.2% of the State Corporations felt that management commitment was an impediment.

Another challenge cited was bureaucracy/red tape. This was cited by 41.3% of the County Councils, 33.3% of the Municipal Councils, 30.8% of the Ministries, 30.4% of the Town Councils and 20.3% of the State Corporations. However, government departments did not cite bureaucracy/red tape as an impediment to accommodation of principles by MDAs.

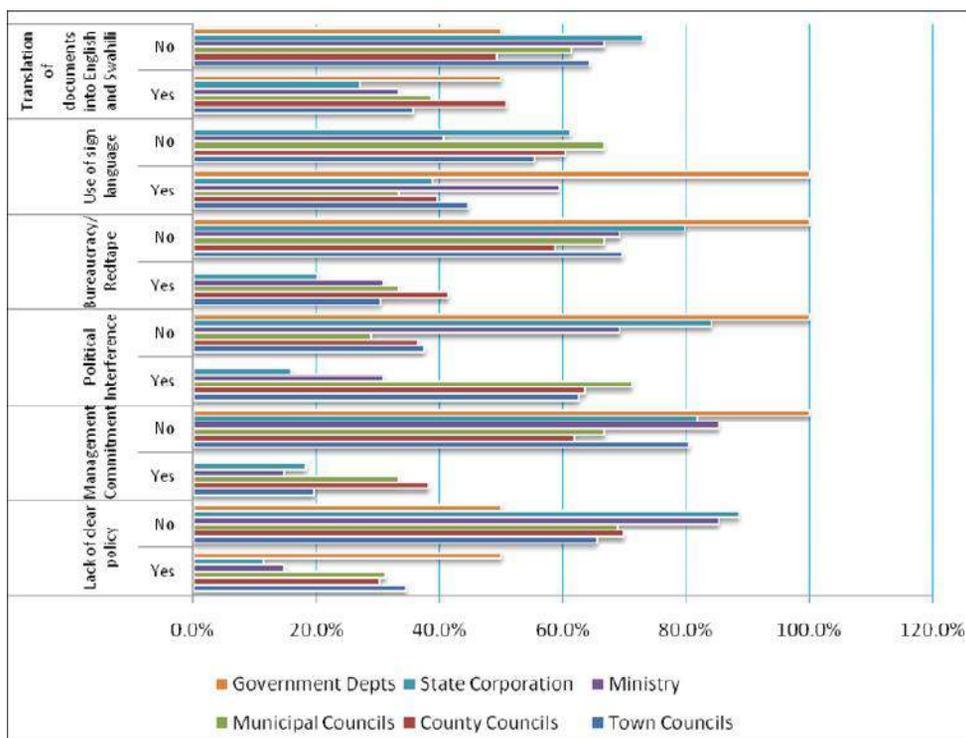
Further, all government departments, 59.3% of Ministries, 44.6% of Town Councils, 39.7% of County Councils, 38.8% of State Corporations and 33.3% of Municipals Councils identified sign language as a big impediment towards promotion of values (Table 14b and Chart 14b).

*Table 14b: impediments to promotion of values by MDAs*

		Town Councils	County Councils	Municipal Councils	Ministry	State Corporation	Government Depts.
Lack of clear policy	Yes	19	19	14	4	16	1
	No	36	44	31	23	123	1
Management Commitment	Yes	11	24	15	4	25	0
	No	45	39	30	23	112	2
Political Interference	Yes	35	40	32	8	22	0
	No	21	23	13	18	116	2
Bureaucracy/ Red tape	Yes	17	26	15	8	28	0
	No	39	37	30	18	110	2
Use of sign language	Yes	25	26	15	8	28	0
	No	31	37	30	18	110	2
Translation of documents into English and Swahili	Yes	20	32	17	9	37	1
	No	36	31	27	18	100	1

Source: Baseline survey 2012

Chart 14b: impediments to promotion of values by MDAs



Source: Baseline survey 2012

## 4.8 Fair competition and merit as the basis of appointments and promotions

### 4.8.1 Appointments or promotion of Public Officers in the MDAs

Article 232 (1) (g) of the Constitution provides for fair competition and merit as the basis of appointments and promotions. This survey therefore, sought to understand how public officers are appointed or promoted in MDAs. Appointments of public servants was found to be fair and transparent with few respondents (12.3%) indicating the appointment is done through favouritism, cronyism and nepotism; sycophancy (9.6%) and bribery (7.5%). Further, political influence and patronage were cited as resulting in some appointments within MDAs as indicated by 29.3% and 18.4% of the respondents respectively. In addition, 92.8% and 93.4% of the respondents indicated that appointments and promotions were undertaken through open advertisements and competitive interviews respectively as shown in Chart 15a.

Table 15a: Appointment and promotion of public officers in MDAs

	Yes	No
Through Open Advertisement	310	24
Through Competitive Interviews	311	22

Favoritism, Cronyism, Nepotism	41	292
Sycophancy	32	307
Bribery	25	307
Political Interference	97	234
Patronage	61	270

Source: Baseline survey 2012

Chart 15a: Appointment and promotion of public officers in MDAs

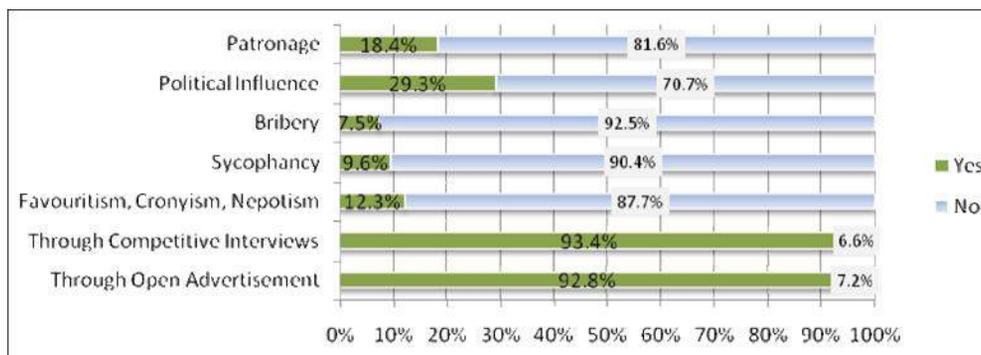
Source: Baseline survey 2012

Desegregation of data as presented in Chart 15c reveals high rates of political interference amongst local authorities with regard to appointments and promotions with 58.1% of respondents from Municipal Councils, 51.8% for Town Councils and 49.2% for County Councils responding in the affirmative. There is little political interference in appointments and promotions in Ministries (23.1%), State Corporations (4.3%) and none at the Government Departments. On a positive note, cross tabulation of the data indicates that appointments and promotions is done through open advertisement within Ministries and Government departments with 100% of the respondents responding in the affirmative, similarly, 99.3% of the respondent in State Corporations, 90.5% of County Councils, 86.7% in Municipal Councils and 80.4% in Town Councils supported this finding as shown in Chart 15b.

Table 15b: Appointments and Promotions within MDAs

		Town Councils	County Councils	Municipal Councils	Ministry	State Corporation	Gov't Depts.
Through Open Advertisement	Yes	45	57	39	27	139	2
	No	11	6	6	0	1	0
Through Competitive Interviews	Yes	47	58	37	27	139	2
	No	9	5	7	0	1	0
Favoritism, Cronyism, Nepotism	Yes	12	14	12	2	1	0
	No	44	48	33	25	139	2
Sycophancy	Yes	8	12	9	3	0	0
	No	48	49	36	24	140	2

Chart 15b: Appointments and Promotions within MDAs



Source: Baseline survey 2012

On cross tabulation of data, it is deducible that competitive interviews are critical in appointments and promotions with 100% of respondents from ministries and government departments, 99.3% from State Corporations, 92.1% from County Councils, 84.1% from Municipal Councils and 83.9% from Town Councils indicating that their organizations conducted competitive interviews.

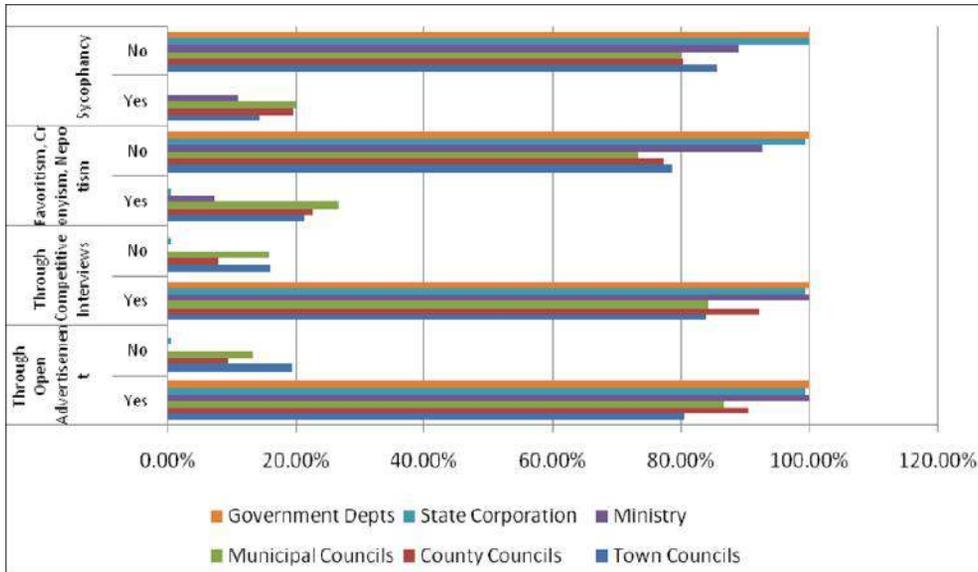
Sycophancy, favouritism, cronyism and nepotism were found to influence appointments and promotions in the local authorities. Sycophancy was highest as Municipal Councils (20%), County Council (19.7%) and Town Councils (14.3%) and low in Ministries (11.1%). On the same note, favouritism, cronyism and nepotism were noted to influence appointment and promotions mostly in local authorities viz 26.7% (Municipal Councils), 22.6% (County Councils) and 21.4% (Town Councils) and to a lesser in Ministries (7.4%) and State Corporations (0.7%)

Table 15c: Appointments and Promotions within MDAs

		Town Councils	County Councils	Municipal Councils	Ministry	State Corporation	Government Depts.
Bribery	Yes	4	10	9	2	0	0
	No	52	52	35	25	140	2
Political Influence	Yes	29	31	25	6	6	0
	No	27	32	18	20	134	2
Patronage	Yes	18	21	15	5	2	0
	No	38	41	28	22	138	2

Source: Baseline survey 2012

Chart 15c: Appointments and Promotions within MDAs



Source: Baseline survey 2012

Bribery was singled out by 20.5% of the respondents in Municipal Councils, 16.1% in County Councils, 7.1% in Town Councils and 7.4% in Ministries as influencing public officers' appointment and promotion. Patronage, just like political interference, was cited as influencing appointments and promotions in local authorities as shown by 34.9% of respondents in Municipal Councils, 33.9% in County Councils and 32.1% in Town Councils as shown in Chart 15c.

#### 4.9 Article 232: Affording Adequate and Equal Opportunities for Appointment, Training and Advancement at all levels of Public Service of men and Women; members of all ethnic groups and Persons with Disabilities

##### a) Number of Employees by MDA

From the table below it can be deduced that majority of employees are in government ministries and departments accounting for 76.8% of the total number of employees in MDAs.

Table 16a: Number of employees by MDA and Gender

NAME OF INSTITUTION	NO. OF EMPLOYE	PROPORTION (%)	
		MALE	FEMALE

ES					
Government Ministries	150,280	92,740	57,540	61.71	38.29
Government Departments	95,903	83,260	12,643	86.82	13.18
State Corporations	57,675	36,317	21,358	62.97	37.03
Municipal Councils	8,860	6,013	2,847	67.87	32.13
Town Councils	2,084	1,356	728	65.07	34.93
County Councils	5,866	3,592	2,274	61.23	38.77
<b>TOTAL</b>	<b>320,668</b>	<b>223,278</b>	<b>97,390</b>	<b>69.63</b>	<b>30.37</b>

Source: Baseline survey 2012

### b) Equity of opportunity in employment

Findings reveals that cumulatively, men form the majority of employees in all MDAs. In Government ministries, male employees comprise (62%) compared to women (38%). A similar pattern follows in government departments, state corporations and local authorities.

Further, gender disparities exist in the appointment of male and female employees with women comprising of one-third (97,390) of all Public Service Commission employees compared to men (223,390) as shown in Table 16a. From a gender analytical perspective, it can be argued that the Public Service is male dominated. These disparities can be attributed to lack of gender responsive considerations in hiring. However, the Constitution aims at closing such gaps by ensuring that future appointments will pay attention to gender equality.

### c) Appointments by ethnicity and gender

Findings reveal that majority of employees across all MDAs are Kikuyu (67,576), followed by Kalenjin (49,772) and Luhya (37,319). Out of the 54 ethnic groups listed during the survey, 8 ethnic groups have the majority of employees in the Public Service (ranging from 9,000 employees and above). However, across the 8 dominant ethnic groups, women are fewer than men. The ethnic group with the highest number of female employees in the service are Kikuyu (39%), followed by Meru (38%) and Luhya (33%). This is shown in Table 16b.

Table 16b: Number of employees by ethnicity and gender

ETHNIC COMMUNITY	NO. OF EMPLOYEES	PROPORTION (%)			
		MALE	FEMALE	MALE	FEMALE
1. Bajun	1,113	929	184	83.47	16.53
2. Embu	5,519	3,442	2,077	62.37	37.63
3. Kamba	29,314	20,609	8,705	70.3	29.7

ETHNIC COMMUNITY		NO. OF EMPLOYEES	PROPORTION (%)			
			MALE	FEMAL E	MALE	FEMAL E
4.	Kikuyu	67,576	41,286	26,290	61.1	38.9
5.	Mbere	1,420	998	422	70.28	29.72
6.	Meru	17,002	10,965	6,037	64.49	35.51
7.	Tharaka	471	383	88	81.32	18.68
8.	Kisii	21,614	15,212	6,402	70.38	29.62
9.	Pokot	3,218	2,717	501	84.43	15.57
10.	Kuria	1,883	1,479	404	78.54	21.46
11.	Luhya	37,319	24,988	12,331	66.96	33.04
12.	Boni	87	72	15	82.76	17.24
13.	Mijikenda	9,690	7,599	2,091	78.42	21.58
14.	Pokomo	1,796	1,325	471	73.78	26.22
15.	Swahili	590	382	208	64.75	35.25
16.	Taita	4,234	2,807	1,427	66.3	33.7
17.	Taveta	493	345	148	69.98	30.02
18.	Suba	873	735	138	84.19	15.81
19.	Luo	30,503	21,451	9,052	70.32	29.68
20.	Kalenjin	49,772	36,847	12,925	74.03	25.97
21.	Teso	2,771	2,174	597	78.46	21.54
22.	Masai	5,426	4,421	1,005	81.48	18.52
23.	Dorobo	138	130	8	94.2	5.8
24.	Njemps	222	205	17	92.34	7.66
25.	Samburu	2,112	1,762	350	83.43	16.57
26.	Turkana	2,832	2,380	452	84.04	15.96
27.	Elmolo	50	41	9	82	18
28.	Boran	3,393	2,770	623	81.64	18.36
29.	Gabra	739	635	104	85.93	14.07
30.	Orma	438	396	42	90.41	9.59
31.	Rendille	480	403	77	83.96	16.04

ETHNIC COMMUNITY		NO. OF EMPLOYEES	PROPORTION (%)			
			MALE	FEMALE	MALE	FEMALE
32.	Sakuye	94	72	22	76.6	23.4
33.	Burji	339	262	77	77.29	22.71
34.	Dasnach-Shangil	11	11	0	100	0
35.	Ajuran	231	211	20	91.34	8.66
36.	Gosha	21	17	4	80.95	19.05
37.	Gureeh	402	373	29	92.79	7.21
38.	Hawiyah	2	2	0	100	0
39.	Ogaden	539	503	36	93.32	6.68
40.	Degodia	365	336	29	92.05	7.95
41.	Somoli-So-State	5,318	4,605	713	86.59	13.41
42.	Murulle	98	95	3	96.94	3.06
43.	Other Kenyan	530	331	199	62.45	37.55
44.	Kenyan Asian	103	53	50	51.46	48.54
45.	Kenyan European	2	1	1	50	50
46.	Kenya Arab	209	107	102	51.2	48.8
47.	Somali	815	613	202	75.21	24.79
48.	Kore	2	2	0	100	0
49.	Ogiek	7	7	0	100	0
50.	Oromo	34	34	0	100	0
51.	Nubian	25	13	12	52	48
52.	Jomvu	1	1	0	100	0
53.	Non-Kenyan	58	39	19	67.24	32.76
54.	Not Identified	8,374	5,702	2,672	68.09	31.91
TOTAL		320,668	223,278	97,390	69.63	30.37

Source: Baseline survey 2012

#### d) County appointments by gender

As shown on table 16c, Nyeri County has the highest number of appointments (16 239) followed by Kakamega and Kisii respectively. All the selected 8 counties have more than 10,000

employees in the service. It is also evident that the disparity pattern is consistent with the other institutions, with more men than women in each of the selected Counties.

Table 16c: County appointments by gender

NAME OF COUNTY	NO. OF EMPLOYEES	MALE	FEMAL E	MALE%	FEMALE %
Baringo	10,882	8,106	2,776	74.49	25.51
Bungoma	10,417	7,600	2,817	72.96	27.04
Kakamega	14,061	9,169	4,892	65.21	34.79
Kisii	13,174	9,390	3,784	71.28	28.72
Machakos	11,576	8,129	3,447	70.22	29.78
Meru	12,233	7,968	4,265	65.14	34.86
Murang'a	10,684	6,679	4,005	62.51	37.49
Nyeri	16,239	9,935	6,304	61.18	38.82

Source: Baseline survey 2012

### e) Representation by Religion

It is apparent that most of the MDAs have not classified their employees on the basis of religion. However, the state corporations have significant number of employees classified, with majority being Christians followed by Muslims as shown in Table 16d.

Table 16d: Representation by Religion

No.	NAME OF RELIGION	NO. OF EMPLOYEES	PROPORTION (%)			
			MALE	FEMALE	MALE	FEMALE
<b>GOVERNMENT MINISTRIES</b>						
1	Unknown	150,280	92,740	57,540	61.71	38.29
	Sub-Total	150,280	92,740	57,540	61.71	38.29
<b>GOVERNMENT DEPARTMENTS</b>						
1	Christian	60	38	22	63.33	36.67
2	Muslim	8	4	4	50	50
3	Unknown	95,835	83,218	12,617	86.83	13.17
	Sub-Total	95,903	83,260	12,643	86.82	13.18

PROPORTION (%)						
No.	NAME OF RELIGION	NO. OF EMPLOYEES	MALE	FEMALE	MALE	FEMALE
<b>STATE CORPORATIONS</b>						
1	Christian	30,340	19,008	11,332	62.65	37.35
2	Muslim	1,330	1,003	327	75.41	24.59
3	Hindu	3	1	2	33.33	66.67
4	Buddhism	11	10	1	90.91	9.09
5	Other	7	6	1	85.71	14.29
6	Unknown	25,984	16,289	9,695	62.69	37.31
	Sub-Total	57,675	36,317	21,358	62.97	37.03
<b>MUNICIPAL COUNCILS</b>						
1	Christian	6,131	3,865	2,266	63.04	36.96
2	Muslim	156	135	21	86.54	13.46
3	Unknown	2,573	2,013	560	78.24	21.76
	Sub-Total	8,860	6,013	2,847	67.87	32.13
<b>TOWN COUNCILS</b>						
1	Christian	1,931	1,245	686	64.47	35.53
2	Muslim	149	109	40	73.15	26.85
3	Unknown	4	2	2	50	50
	Sub-Total	2,084	1,356	728	65.07	34.93
<b>COUNTY COUNCILS</b>						
1	Christian	5,421	3,283	2,138	60.56	39.44
2	Muslim	438	302	136	68.95	31.05
3	Unknown	7	7	0	100	0
	Sub-Total	5,866	3,592	2,274	61.23	38.77
	<b>TOTAL</b>	<b>320,668</b>	<b>223,278</b>	<b>97,390</b>	<b>69.63</b>	<b>30.37</b>

Source: Baseline survey 2012

#### f) Gender and academic qualifications

Classification of academic credentials in government ministries depicts a public service comprising of more non-degree holders (No Certificate to Form 6 A-Level) as shown on the table below. Beyond this level, Bachelor degree holders are the majority followed by Master's and a few Doctoral degree holders. Across the board, women are fewer than men per each category confirming the pattern of gender disparity in the public service. This is shown in Table 16e.

*Table 16e: Appointments by academic qualifications*

ACADEMIC QUALIFICATION	NO. OF EMPLOYEES	PROPORTION (%)			
		MALE	FEMALE	MALE	FEMALE
No Certificate	9,747	7,622	2,125	78.2	21.8
Primary - 7 (CPE)	18,488	15,132	3,356	81.85	18.15
Primary - 8 (KAPE, KCPE)	12,183	9,479	2,704	77.81	22.19
Form - 2 (KJSE)	6,237	4,111	2,126	65.91	34.09
Form - 4 (O-Level)	84,774	56,239	28,535	66.34	33.66
Form - 4 (8-4-4)	111,964	80,261	31,703	71.68	28.32
Form - 6 (A-Level)	10,084	7,533	2,551	74.7	25.3
Bachelors Degree	25,808	18,120	7,688	70.21	29.79
Masters Degree	4,983	3,450	1,533	69.24	30.76
Doctoral Degree	1,238	928	310	74.96	25.04
Post Secondary	11,515	6,286	5,229	54.59	45.41
Post Graduate Diploma	1,689	1,094	595	64.77	35.23
Unclassified	21,958	13,023	8,935	59.31	40.69
TOTAL	320,668	223,278	97,390	69.63	30.37

*Source: Baseline survey 2012*

### **g) Representation of employees by County**

Nyeri County has the highest number of employees (16, 239) followed by Kakamega with 14,061 and Kisii 13,174 while Lamu, Isiolo and Mombasa have less than 2,000 employees in the public service. It is evident that there is a big disparity in the number of employees from each of the counties. The reason may be attributed to population size. However, future appointments should take cognizance of the Constitutional requirements on regional parity.

*Table 16f: Representation of employees by County in MDAs*

COUNTY		NO. OF EMPLOYEES	MALE	FEMAL E	MALE	FEMAL E
1.	Baringo	10,882	8,106	2,776	74.49	25.51
2.	Bomet	4,418	3,574	844	80.9	19.1
3.	Bungoma	10,417	7,600	2,817	72.96	27.04
4.	Busia	7,170	5,186	1,984	72.33	27.67
5.	Elgeyo Marakwet	6,320	4,801	1,519	75.97	24.03
6.	Embu	7,482	4,838	2,644	64.66	35.34
7.	Garissa	2,696	2,339	357	86.76	13.24
8.	Homa Bay	7,888	5,821	2,067	73.8	26.2
9.	Isiolo	1,975	1,525	450	77.22	22.78
10.	Kajiado	3,244	2,440	804	75.22	24.78
11.	Kakamega	14,061	9,169	4,892	65.21	34.79
12.	Kericho	7,679	5,673	2,006	73.88	26.12
13.	Kiambu	13,275	7,778	5,497	58.59	41.41
14.	Kilifi	6,036	4,672	1,364	77.4	22.6
15.	Kirinyaga	6,146	3,831	2,315	62.33	37.67
16.	Kisii	13,174	9,390	3,784	71.28	28.72
17.	Kisumu	7,975	5,615	2,360	70.41	29.59
18.	Kitui	8,559	6,170	2,389	72.09	27.91
19.	Kwale	3,452	2,720	732	78.79	21.21
20.	Laikipia	3,513	2,467	1,046	70.22	29.78
21.	Lamu	1,379	1,058	321	76.72	23.28
22.	Machakos	11,576	8,129	3,447	70.22	29.78
23.	Makueni	6,958	4,838	2,120	69.53	30.47
24.	Mandera	2,369	2,141	228	90.38	9.62
25.	Marsabit	3,417	2,831	586	82.85	17.15
26.	Meru	12,233	7,968	4,265	65.14	34.86
27.	Migori	5,228	4,008	1,220	76.66	23.34
28.	Mombasa	1,476	936	540	63.41	36.59

COUNTY	NO. OF EMPLOYEES	MALE	FEMAL E	MALE	FEMAL E
29. Murang'a	10,684	6,679	4,005	62.51	37.49
30. Nairobi	2,346	1,247	1,099	53.15	46.85
31. Nakuru	8,555	5,838	2,717	68.24	31.76
32. Nandi	7,408	5,443	1,965	73.47	26.53
33. Narok	3,925	3,134	791	79.85	20.15
34. Nyamira	6,420	4,492	1,928	69.97	30.03
35. Nyandarwa	5,549	3,675	1,874	66.23	33.77
36. Nyeri	16,239	9,935	6,304	61.18	38.82
37. Samburu	2,351	1,911	440	81.28	18.72
38. Siaya	9,210	6,303	2,907	68.44	31.56
39. Taita Taveta	4,536	3,058	1,478	67.42	32.58
40. Tana River	2,447	1,959	488	80.06	19.94
41. Tharaka Nithi	3,995	2,731	1,264	68.36	31.64
42. Trans-Nzoia	4,385	3,087	1,298	70.4	29.6
43. Turkana	2,226	1,869	357	83.96	16.04
44. Uasin-Gishu	6,883	4,504	2,379	65.44	34.56
45. Vihiga	6,407	4,139	2,268	64.6	35.4
46. Wajir	2,915	2,516	399	86.31	13.69
47. West Pokot	3,486	2,854	632	81.87	18.13
48. Unknown C.	19,703	12,280	7,423	62.33	37.67
<b>TOTAL</b>	<b>320,668</b>	<b>223,278</b>	<b>97,390</b>	<b>69.63</b>	<b>30.37</b>

Source: Baseline survey 2012

### h) Representation by Job Levels/cadres

From the data given in table 16g, it was not possible to do any analysis as 93% of the total population captured was not classified by job cadre. This is not factual as it is known that public servants are classified in various cadres.

Table 16g: Representation by Job Levels/ Cadres

PROPORTION (%)

JOB CADRE/LEVEL	NO. OF EMPLOYEES	MALE	FEMAL E	MALE	FEMAL E
1. Support Staff	6,356	4,151	2,205	65.31	34.69
2. Clerical	5,189	2,827	2,362	54.48	45.52
3. Technical	6,224	4,117	2,107	66.15	33.85
4. Management	3,741	2,183	1,558	58.35	41.65
5. Senior/Policy Management	852	607	245	71.24	28.76
6. Head of Department	535	400	135	74.77	25.23
7. Chief Executive Officer	327	239	88	73.09	26.91
8. Unclassified	297,444	208,754	88,690	70.18	29.82
TOTAL	320,668	223,278	97,390	69.63	30.37

Source: Baseline survey 2012

## 5.0: Disability Mainstreaming

### 5.1 Existence of Communication Systems for ensuring that Persons with Disabilities (PWDs) have access to information and services

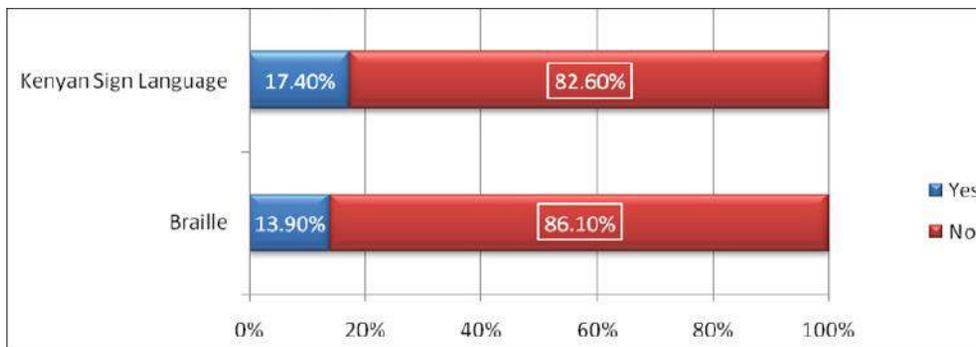
To understand if PWDs have access to information and services respondents were asked about the availability of Braille and Kenya Sign Language within their MDAs. Only 13.9% (MDAs) of the respondents confirmed availability of Brailles<sup>5</sup> within their MDAs with 86.1% (MDAs) lacking them. Also, 17.4% of the respondents agreed that there is availability of Kenyan Sign Language in their MDAs with 82.6% lacking this service as shown in Chart 16a.

Table 17a: Existence of communication system for ensuring that PWDs have access to information services

	Yes	No
Braille	45	278
Kenyan Sign Language	57	270

Source: Baseline survey 2012

Chart 16a: Existence of communication system for ensuring that PWDs have access to information services



<sup>5</sup>Braille is a tactile writing system used by the blind and the visually impaired, and found in books, on menus, signs, elevator buttons, and currency.

Source: Baseline survey 2012

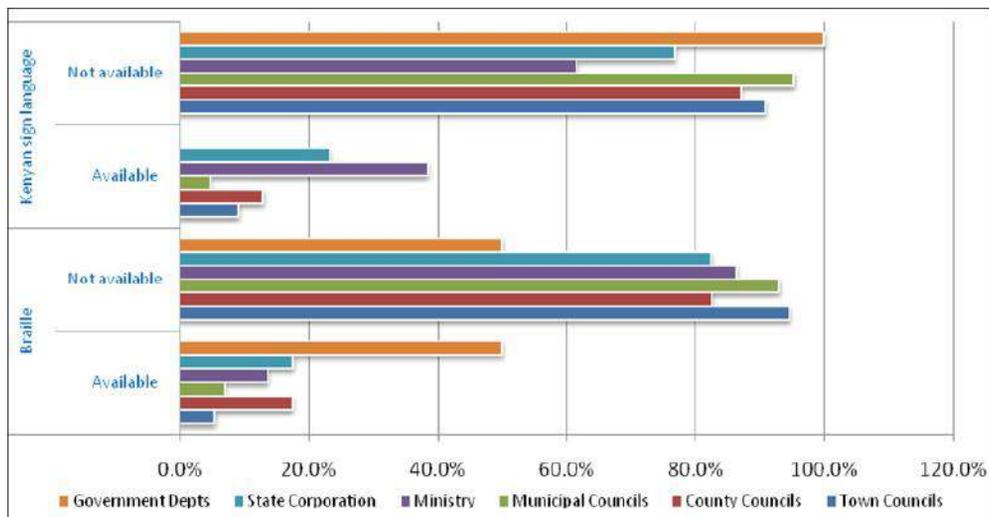
Desegregation of data further reveals that 50.0% of government departments have Brailles followed by State Corporations (17.6%), County Councils (17.5%) and Ministries (13.6%) while only 5.4% of Town Councils and 7.0% of Municipal Councils have Brailles as shown in Chart 16b. It can be deduced that even though MDAs have tried to mainstream disability, more still needs to be done.

Table 17b: Existence of communication system for ensuring that PWDs access information and services

		Town Councils	County Councils	Municipal Councils	Ministry	State Corporation	Government Depts.
Braille	Available	3	11	3	3	24	1
	Not available	53	52	40	19	112	1
Kenyan sign language	Available	5	8	2	10	32	0
	Not available	50	54	41	16	106	2

Source: Baseline survey 2012

Chart 16b: Existence of communication system for ensuring that PWDs access information and services



Source: Baseline survey 2012

On availability of Kenyan sign language within MDAs, 38.5% of Ministries confirmed availability followed by State Corporations (23.2%), County Councils (12.9%), Town Councils (9.1%), 4.7% (Municipal Councils) while the Government Departments lack the Kenyan Sign Language.

## 5.2 Establishment of structures that ensure that service points for PWDs are environmentally friendly

The 2009/2010 Performance Contract guidelines require all public institutions to implement the Government Policy on Affirmative Action for PWDs. In this regard, the study sought to confirm availability of measures and actions aimed at mainstreaming disability in MDAs.

More than half of the respondents (66.2%) confirmed that receptions have been set up within their MDAs, 66.0% confirmed availability of ramps; 28.9% and 21.6% confirmed existence of Customized toilets and lifts respectively; 14.7% availability of wheel chairs and 48.6% existence of parking bays for use by PWDs as shown in Chart 17a.

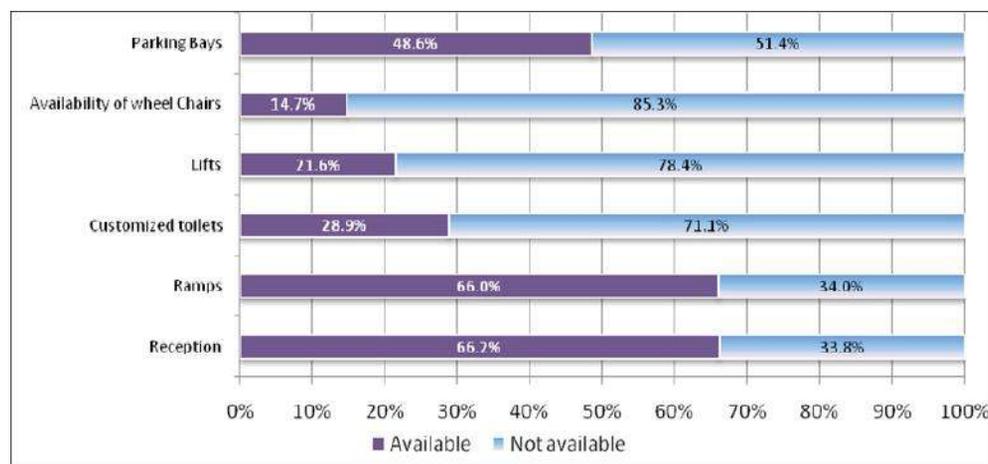
Table 18a: Establishment of structures that ensure that service points for PWDs are friendly

	Available	Not available
Reception	215	110
Ramps	215	111
Customized toilets	94	231
Lifts	69	251
Availability of wheel	48	279

Chairs		
Parking Bays	159	168

Source: Baseline survey 2012

Chart 17a: Establishment of structures that ensure that service points for PWDs are friendly



Source: Baseline survey 2012

Desegregating of data on establishment of structures within MDAs reveals that all government departments, 69.4% of State Corporations, 68.3% of County Councils, 66.7% of Ministries, 62.8% of Municipal Councils and 57.1% of Town Councils have receptions. On availability of ramps, findings reveal that 76.2% of the County Councils have installed ramps<sup>6</sup> followed by 72.9% (State Corporations), 63.0% (Ministries), 56.8% (Municipal Councils), 50% (Government Department) and 46.4% of town councils as shown in Chart 17b.

Table 18b: Establishment of structures that service points are environmentally friendly vs MDA categories

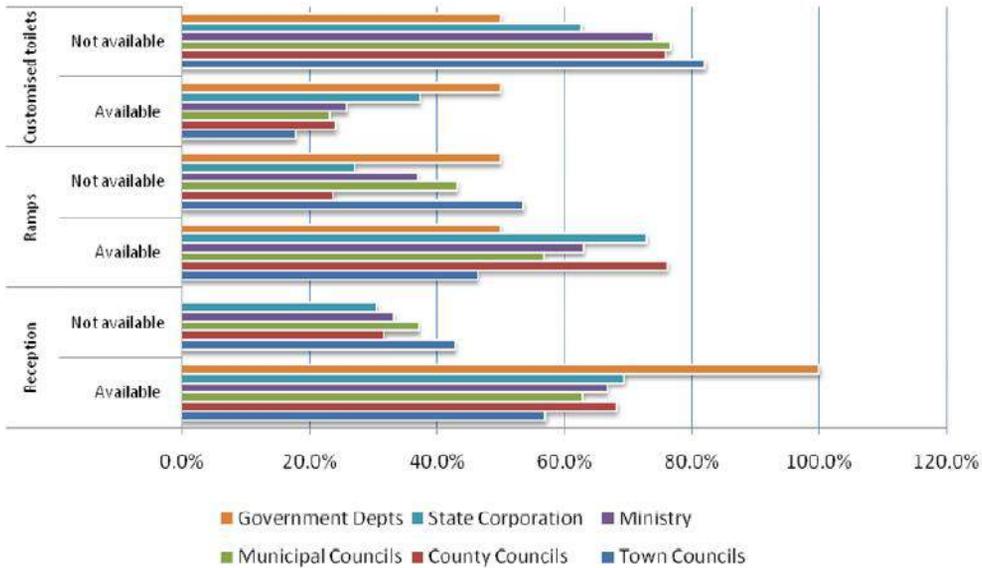
		Town Councils	County Councils	Municipal Councils	Ministry	State Corporation	Government Depts.
Reception	Available	32	43	27	18	93	2
	Not Available	24	20	16	9	41	0
Ramps	Available	26	48	25	17	97	1

<sup>6</sup>A wheelchair ramp is an inclined plane installed in addition to or instead of stairs. Ramps permit wheelchair users, as well as people pushing strollers, carts, or other wheeled objects, to more easily access a building.

	Not Available	30	15	19	10	36	1
Customised toilets	Available	10	15	10	7	50	1
	Not Available	46	47	33	20	84	1

Source: Baseline survey 2012

Chart 17b: Establishment of structures that service points are environmentally friendly vs MDA categories



Source: Baseline survey 2012

Further, 50.0% of the Government departments, 37.3% of the State Corporation, 25.9% of Ministries, 24.2% of County Councils, 23.3% of Municipal Councils and 17.9% of Town Councils have customised toilets for PWDs.

50% of Government departments, 51.9% of Ministries, 38.8% of State Corporations and 1.9% of Town Councils confirmed availability of lifts. On availability of wheel chairs, 50% of the respondents from government departments, 24.3% from State Corporation, 12.7% from County Councils, 11.1% from Ministries and 5.5% from Town Councils responded in the affirmative, while no Municipal Council has in its possession a wheel chair. On the other hand, 69.1% of State Corporation, 50% of government department, 48.1% of Ministries, 35.5% of County Councils and 23.2% of Town Councils have parking bays as shown in Chart 17c.

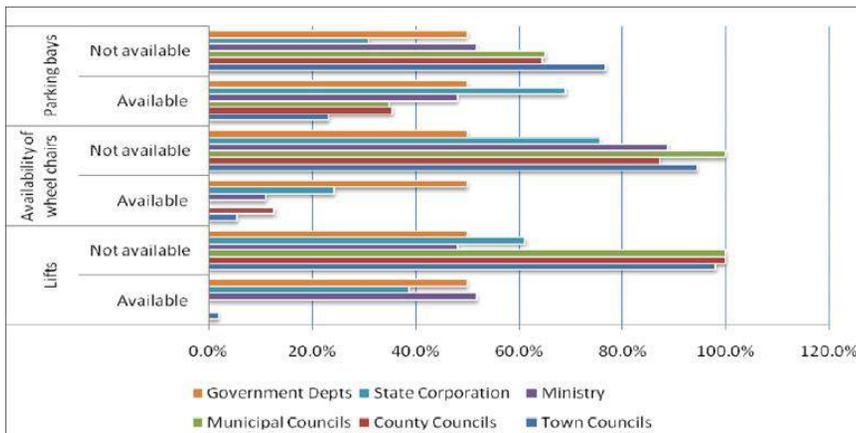
The slow pace of implementation of mainstreaming disability measures and policies within MDAs present a challenge to realization of the Kenya Vision 2030 and implementation of the Constitutional requirements.

Table 18c: Establishment of structures that service points are environmentally friendly vs MDA categories

		Town Councils	County Councils	Municipal Councils	Ministry	State Corporation	Government Depts.
Lifts	Available	1	0	0	14	52	1
	Not Available	52	60	43	13	82	1
Availability of wheelchairs	Available	3	8	0	2	33	1
	Not Available	52	55	43	24	103	1
Parking bays	Available	13	22	15	13	94	1
	Not Available	43	40	28	14	42	1

Source: Baseline survey 2012

Chart 17c: Establishment of structures that service points are environmentally friendly vs MDA categories



Source: Baseline survey 2012

The survey also sought to determine whether MDAs comply with the 5% recruitment policy for PWDs, 41.3% of the MDAs confirmed compliance with the policy, 28.1% partially complied while 30% do not comply.

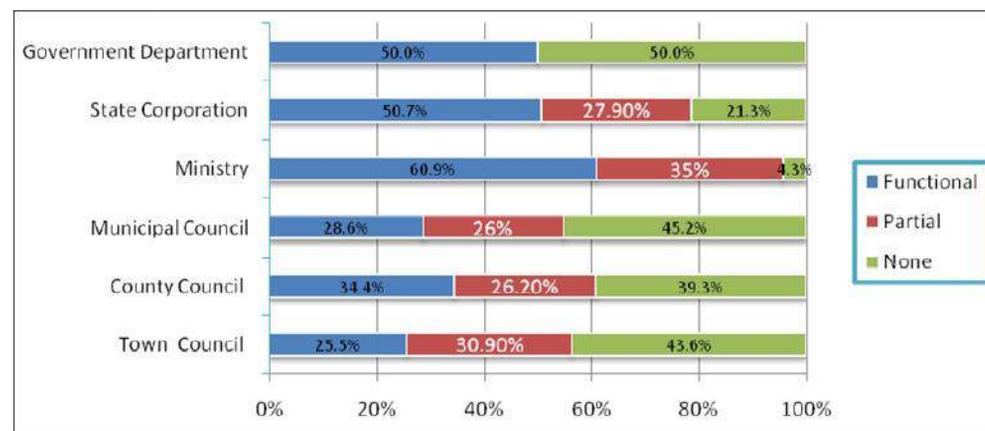
Desegregation of data reveal that 50% of government departments, 50.7% of State Corporations, 60.9% of Ministries, 34.4% of County Councils, 28.6% Municipal Councils and 25.5% of Town Councils confirmed compliance with the 5% Recruitment Policy for PWDs as shown in Chart 17d.

Table 18d: compliance with 5% recruitment policy for PWDs within MDAs

MDAs	Functional	Partial	None
Town Council	14	17	24
County Council	21	16	24
Municipal Council	12	11	19
Ministry	14	8	1
State Corporation	69	38	29
Government Department	1	0	1

Source: Baseline survey 2012

Chart 17d: compliance with 5% recruitment policy for PWDs within MDAs



Source: Baseline survey 2012

On operationalization of Disability Mainstreaming Committees, 70.3% of the responded indicated that the committees are functional while 29.7% indicated that they are not functional. Where Disability Mainstreaming Committees are operational, 56.3% of the respondents revealed that PWDs are included in the committees while 43.7% indicated they are not.

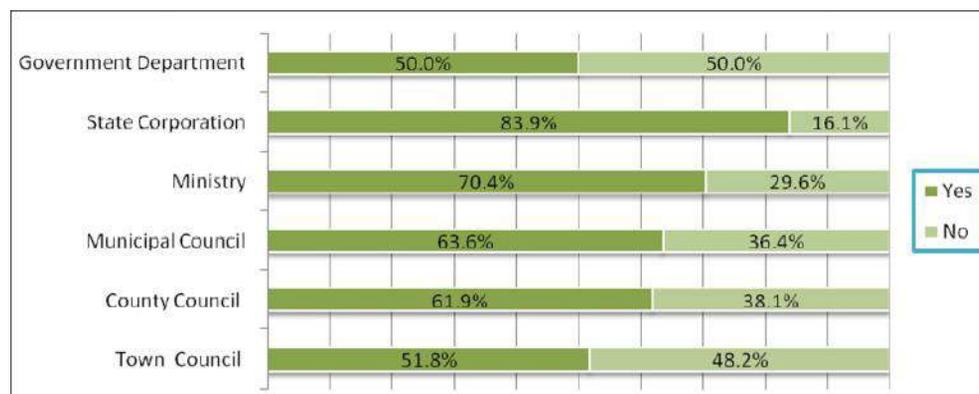
On desegregation the data findings reveals that 50% of the of the government department, 83.9% of State Corporations, 70.4% of Ministries, 63.6% of Municipal Council, 61.9% of County Councils and 51.8% of Town Councils have operationalized Disability Mainstreaming Committees as shown in Chart 17e. While these figures may look impressive, the committees, however, seem not to be doing much to mainstream disability in the MDAs as shown from earlier findings above.

Table 18e: Operationalization of disability mainstreaming committees

	Functional	Not functional
Town Council	29	27
County Council	39	24
Municipal Council	28	16
Ministry	19	8
State Corporation	115	22
Government Department	1	1

Source: Baseline survey 2012

Chart 17e: Operationalization of disability mainstreaming committees



Source: Baseline survey 2012

On inclusion of PWDs in the Disability Mainstreaming Committees, respondents from all government departments, 60.9% from State Cooperations, 65.4% from Ministries, 56.1% from Municipal Council, 57.1% from County Councils and 39.2% from Town Councils confirmed inclusion of PWDs in the committees as shown in Chart 17f.

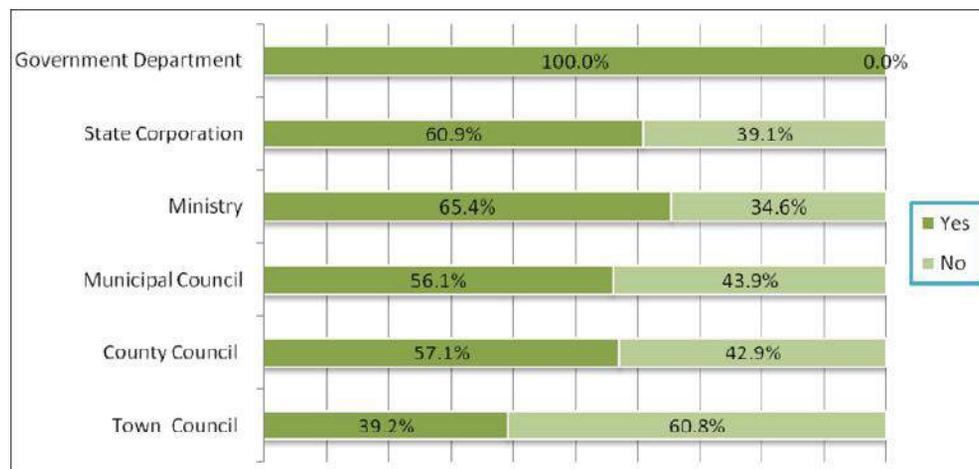
Table 18f: Inclusion of PWDs the committees

	Yes	No
Town Council	20	31
County Council	32	24
Municipal Council	23	18

Ministry	17	9
State Corporation	81	52
Government Department	1	0

Source: Baseline survey 2012

Chart 17f: Inclusion of PWDs the committees



Source: Baseline survey 2012

### 5.3 Sensitization and Training of Staff on Service Provision for PWDs

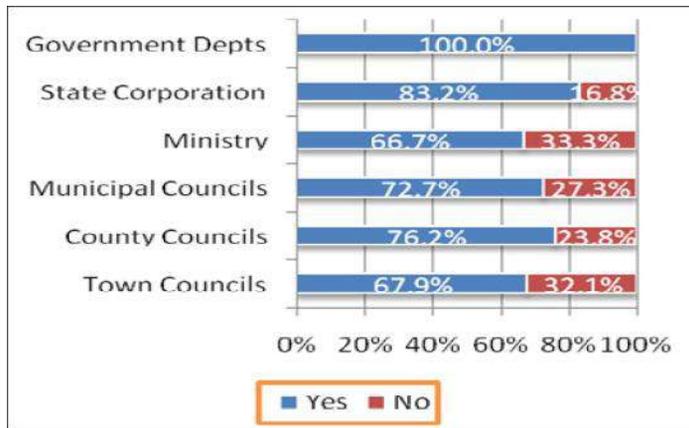
The findings show that awareness trainings have been conducted on service provision to PWDs as 76.6% (251 MDAs) of the respondents concurred that they had been sensitized and trained on service provision for PWDs while 23.4% (75) had not been sensitized or trained on the same.

Table 19: Sensitization and training on PWDs & Submission of Quarterly Reports to NCPD

		Town Councils	County Councils	Municipal Councils	Ministries	State Corporations	Government Depts.
Sensitization and training of staff on service provision for PWDs	Yes	38	48	32	18	114	1
	No	18	15	12	9	23	0
Submission of Quarterly reports to National Council for PWDs (NCPD)	Yes	17	33	22	20	108	1
	No	38	29	22	7	29	0

Source: Baseline survey 2012

Chart 18a: Sensitization and training on Service Provision for PWDs



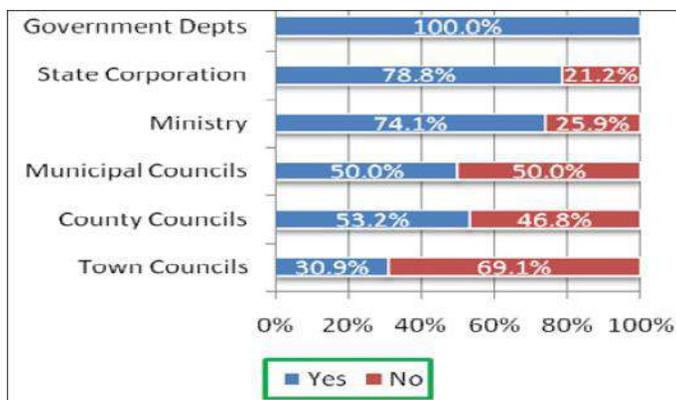
Source: Baseline survey 2012

From the desegregated data presented in chart 18a, 83.2% of State Corporations, 100% of the government departments, 76.2% of County Councils, 72.7% of Municipal Councils, 67.9% of Town Councils and 66.7% of Ministries have sensitized and trained staff on service provision for PWDs.

#### 5.4 Submission of Quarterly reports to National Council for PWDs (NCPD) using prescribed format

61.8% of the respondents from the MDAs submit quarterly reports to NCPD in the prescribed format while 38.2% do not. Further, it can be deduced that 100% of the government departments and 78.8% of State Corporations submit their quarterly Reports to NCPD while all categories of Local Authorities do not perform well regarding this requirement as presented in Chart 18b.

Chart 18b: Submission of Quarterly Reports to NCPD



Source: Baseline survey 2012

## 6.0 State of Preparedness of the MDAs

### 6.1 Supportive measures and systems for Implementation of the Values and Principles.

The findings show that, 46.8% of the MDAs, have implemented the Ethnic Relations Policy, 82.6% have implemented Public Participation in policy making, 74.5% have implemented promotion of sustainable development, 82.2% have promoted good governance practices and 41.3% of the MDAs have implemented Diversity Management Policy.

Desegregation of the data further reveals that Diversity Management Policy has fully been implemented by 64.2% of the State Corporations, 57.7% by Ministries, 50% by Government Departments, 48.1% by Town Councils, 45.9% by County Councils and 35.7% by Municipal Councils.

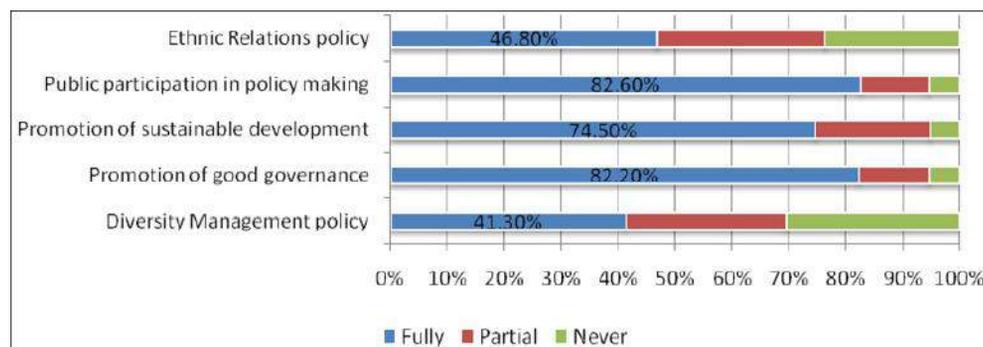
Table 20a: Supportive structures and systems within MDAs for implementation of the values and principles

	Fully	Partial	Never
Diversity management policy	171	90	59

Promotion of good governance	273	41	48
Promotion of sustainable development	243	66	17
Public participation in policy making	271	39	18
Ethnic relations policy	154	97	78

Source: Baseline survey 2012

Chart 19a: Supportive structures and systems within MDAs for implementation of the values and principles



Source: Baseline survey 2012

It also emerges that all MDAs, 89.2% of the state corporations, 82.1% of Town Council, 78.1% of County Councils, 73.1% of Ministries and 70.5% of Municipal Councils promote good governance.

On sustainable development, 78.1% of State Corporations, 76.4% of Town Councils; 75% of Ministries, 65% of the municipal councils and 50% of Government Departments fully promote sustainable development.

On public participation in policy making, 90.9% of Municipal Councils, 89.1% of Town Councils, 84.6% of Ministries, 82.8% of County Councils, 77.2% of State Corporations and 50% of Government Departments have done so.

On the implementation of the Ethnic Relations Policy, 57.7% of Ministries, 51.1% of State Corporations, 50% of County Councils, 41.1% of Town Councils and 32.6% of Municipal Councils have fully implemented it.

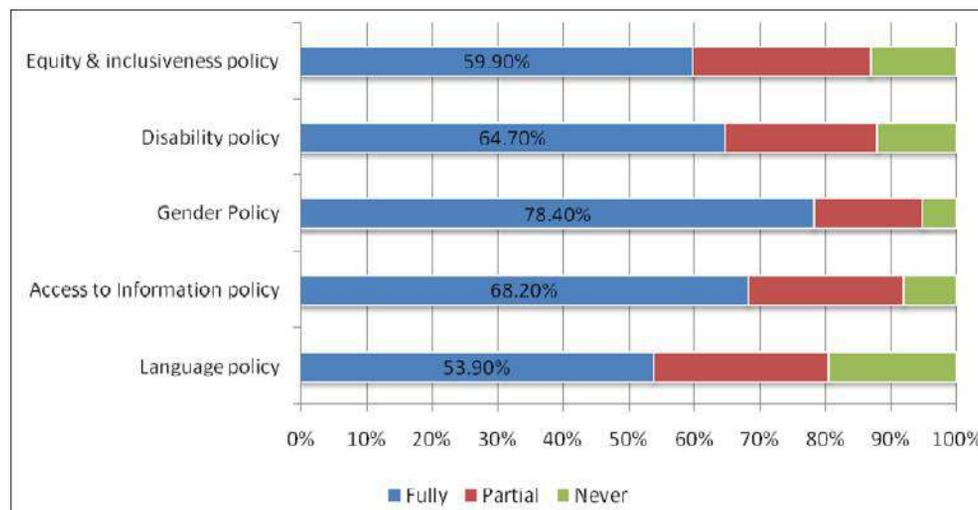
Table 20b: Supportive structures and systems within MDAs for implementation of the values and principles

	Fully	Partial	Never
Language policy	178	88	64
Access to Information policy	223	78	26
Gender Policy	258	54	17

	Fully	Partial	Never
Disability policy	214	77	40
Equity & inclusiveness policy	197	89	43

Source: Baseline survey 2012

Chart 19b: Supportive structures and systems within MDAs for implementation of the values and principles



Source: Baseline survey 2012

Other measures that have fully been implemented by MDAs include Gender Policy at 78.4%, Access to Information Policy at 68.2%, Disability Policy at 64.7%, Equity and Inclusiveness Policy at 59.9% and Language Policy at 53.9%.

Additionally, desegregated data reveals that 61.5% of the ministries, 60% of the Town Councils, 58.7% of the State Corporation, 48.4% of the County Councils and 38.6% of the Municipal Councils have fully implemented Language Policy. None of the government department has fully implemented a language policy as shown in chart 19b.

On access to Information Policy, findings show that 76.9% of Ministries, 76.3% of State Corporations, 64.1% of County Councils, 61.8% of Town Councils, 52.3% of Municipal Councils and 50.0% of Government Departments have fully implemented it.

On the implementation of the Gender Policy, 87.0% of the State Corporations, 76.9% of the Ministries, 76.4% of the Town Councils, 73.4% of the County Councils, 62.8% of the Municipal Councils and 50% of the Government Departments have fully implemented the policy.

Also, desegregated data shows that, 78.3% of the State Corporations, 61.5% of Ministries, 60.9% of County Councils and 50% of the government departments and Municipal Councils have fully implemented the Disability Policy.

On implementation of Equity and Inclusiveness Policy, 69.2% of the Ministries, 65.7% of the State Corporations, 55.8% of the Municipal Councils, 55.4% of the Town Councils, 51.6% of the County Councils have fully implemented while none of the government departments have fully implemented this policy.

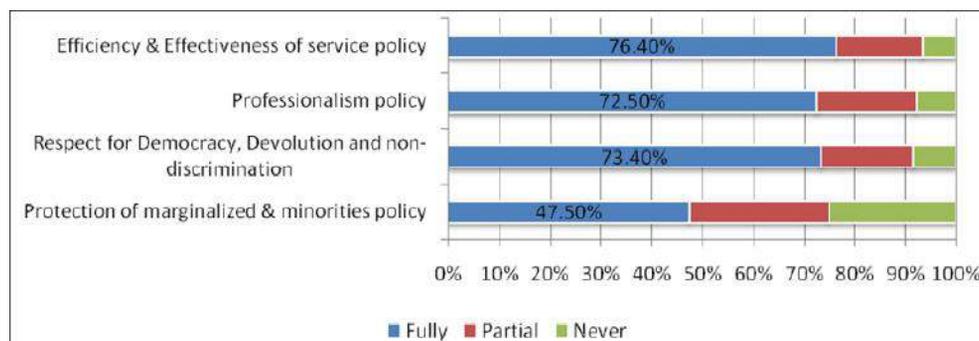
On the implementation of other supportive structures and systems within MDAs to implement the values and principles, 47.5% of the MDAs have implemented the marginalized and minorities policy, 76.4% have implemented Efficiency and Effectiveness Policy, 72.5% have implemented Professionalism Policy and 73.4% have implemented Respect for Democracy, Devolution and Non-Discrimination Policy as shown in Chart 19c.

*Table 20c: Supportive structures and systems within MDAs for implementation of the values and principles*

	Fully	Partial	Never
Protection of marginalized & minorities policy	154	89	81
Respect for Democracy, Devolution and non-discrimination	243	60	28
Professionalism policy	240	65	26
Efficiency & Effectiveness of service policy	253	56	22

Source: Baseline survey 2012

*Chart 19c: Supportive structures and systems within MDAs for implementation of the values and principles*



Source: Baseline survey 2012

On supportive structures and systems for implementation of the values and principles put in place by the MDAs, the survey also sought to establish the extent to which protection of marginalized and minorities policy has been implemented within various MDAs and it emerged

that 64% of the Ministries, 50.9% of then Town Councils, 50% of the State Corporations, 44.4% of the County Councils, 34.1% of the Municipal Councils have fully implemented this policy.

Desegregated data shows that 76.1% of State Corporations, 72.7% of Municipal Councils, 71.9% of County Councils, 71.4% of Town Councils, 69.2% of Ministries and 50% of government departments fully show respect for democracy, devolution and nondiscrimination.

On the implementation of Professional Policy, 84.1% of the State Corporations, 76.9% of the Ministries, 68.2% of the Municipal Councils, 64.3% of the Town Councils, 56.3% of the County Councils and 50% of the government departments indicated to have fully implemented this policy. On the other hand, on the implementation of efficiency and effectiveness of service policy, 85.5% of the State Corporations, 75.0% of the Town Councils, 73.1% of the Ministries, 70.5% of the Municipal Councils, 64.1% of the County Councils and 50% of government departments have fully implemented this policy. Only 10% of them have never implemented this policy.

## 6.2 Monitoring and Evaluation

The survey sought to establish whether the MDAs have established monitoring and evaluation frameworks. The findings indicate that, 92.4% of MDAs have Monitoring and Evaluation Frameworks while 7.6% lack them. Further, for those MDAs where Monitoring and Evaluation Frameworks exist, 63.0% of the respondents indicated that these Monitoring and Evaluation Frameworks are effective, 35.9% fairly effective and 3.2% not effective.

*Table 21a: Existence of M&E framework*

	Yes	No
Town Council	47	9
County Council	61	3
Municipal Council	41	3
Ministry	22	3
State Corporation	134	5
Government Department	1	1

*Source: Baseline survey 2012*

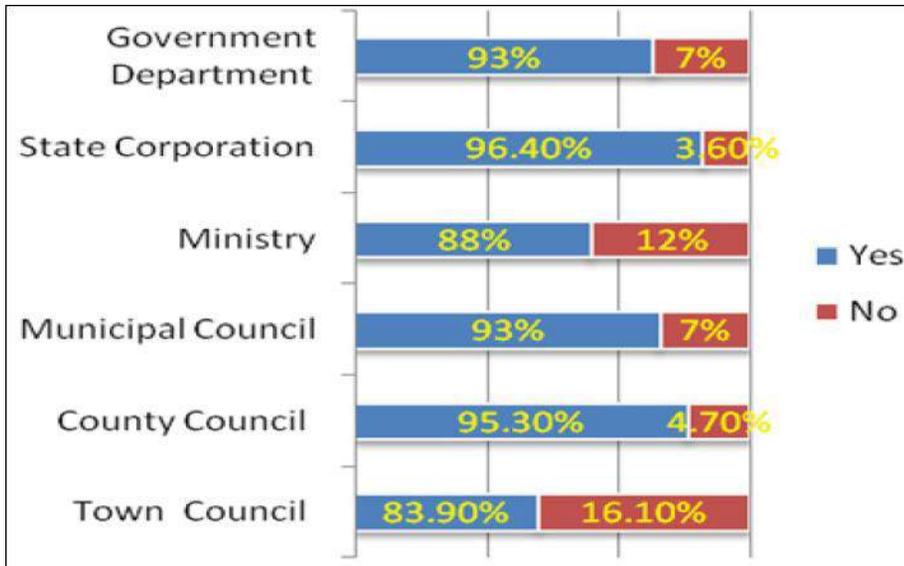
*Table 21b: Effectiveness of M&E framework*

	Effective	Fairly effective	None
Town Council	25	22	4
County Council	36	24	2
Municipal Council	20	21	1
Ministry	16	7	2

State Corporation	101	33	1
Government Department	1	0	0

Source: Baseline survey 2012

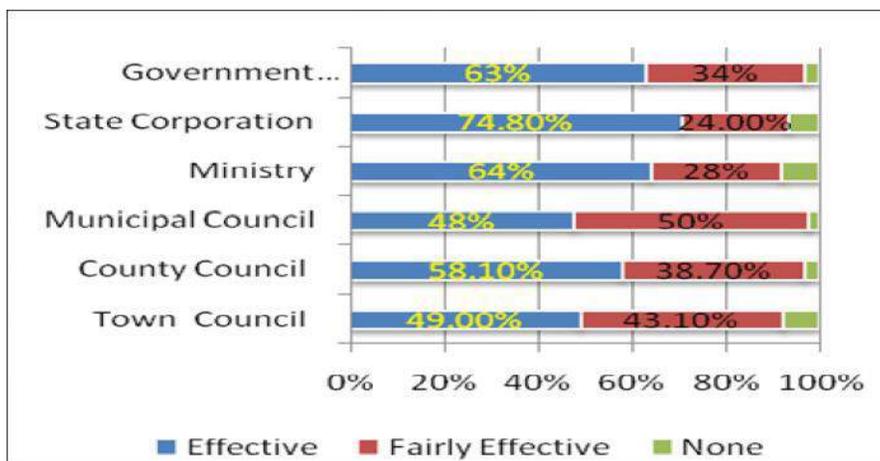
Chart 20a: Existence of M&E framework



Source: Baseline survey 2012

Desegregation of data shows that, 96.4% of the State Corporations, 95.3% of County Council, 93% of government department and 93% of Municipal Councils have Monitoring and Evaluation Frameworks. On effectiveness of the monitoring and evaluation frameworks in MDAs, 74.8% of the State corporations, 64% of the ministries, 63% of government departments, 58.1% of County Councils and 49% of Town Councils also agree that monitoring and evaluation is effective as shown in Chart 20b.

Chart 20b: Effectiveness of M&E framework



Source: Baseline survey 2012

### 6.3 Budgetary provision for the implementation of the requirements of the values and principles and enhanced Bill of Rights

Since implementation of these policies and guidelines requires money, the survey sought to establish whether budgetary provision for the implementation of the requirements of the values and principles and enhanced Bill of Rights is adequate.

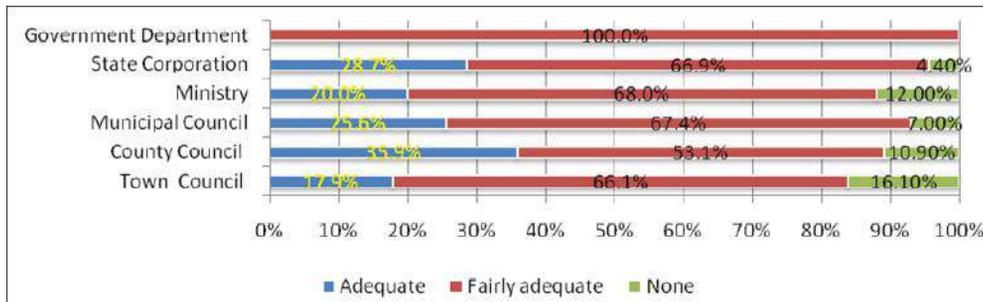
The findings show that 26.9% of the MDAs have adequate budgetary allocation, while 64.2% have fairly adequate budgets with 8.9% having no budgetary allocation for these policies.

Table 22: MDAs budgetary allocation for implementation of the requirement of the values & principles and enhanced Bill of Rights

	Adequate	Fairly adequate	None
Town Council	10	37	9
County Council	23	34	7
Municipal Council	11	29	3
Ministry	5	17	3
State Corporation	39	91	6
Government Department	0	2	0

Source: Baseline survey 2012

Chart 21: MDAs budgetary allocation for implementation of the requirement of the values & principles and enhanced Bill of Rights



Source: Baseline survey 2012

Desegregated data by MDAs indicates that, all of the government departments, 68.0% of the Ministries, 67.4% of the Municipal Councils, 66.9% of the State corporations, 66.1% of the Town Councils and 53.1% of the County Councils have fairly adequate budgetary allocations as shown in Chart 21. This desegregated data findings further reveal that, 35.9% of the Municipal Councils, 28.7% of the State Corporations, 25.6% of the Municipal Councils and 17.9% of the Town Councils have adequate budgets for implementation of these values and principles. It is notable that, 16.1% and 10.9% of town and county councils respectively felt that their budget for support to implementation of the requirements of the values and principles was nil.

## 6.4 Public Perception of the Public Servants' Ethical and Service Orientation

Concerning the public perception of the public servants' ethical and service orientation, an in-depth analysis of the Customer Satisfaction Survey reports conducted in the past two years within the MDAs reveals that, 80% of the customers give an overall rating of their satisfaction level as either satisfactory or highly satisfactory. However, there is no uniformity in the way the surveys are conducted as methodologies, TORs, and data analysis are varied.

Some of the positive trends mentioned by both the MDAs walk in and corporate customers are; improved, quality service, customer care, transparency and accountability, communication and information dissemination; enhanced professionalism on part of public service personnel; and enhanced ICT.

Some of the vices mentioned include, delays in responding to enquiries, lack of complains handling mechanisms; unfriendly user points and entries to the MDA premises; and unfair charges levied by the local authorities among others.

There is need to develop clear guidelines on how surveys are to be conducted to ensure that findings inform policy implementation and service delivery improvement within MDAs.

# 7.0. Conclusion and Recommendations

It is evident that most MDAs have undertaken implementation of values and principles as espoused in the Constitution and other policies. Nonetheless, there is still a challenge in monitoring and evaluation, mainstreaming disability and low budgetary provisions.

## 7.1. Cross cutting Recommendations

### 7.1.1 Short term recommendations

- i. Increase budgetary allocation to MDAs that are under funded for implementation of various survey recommendations.
- ii. Sensitize public officers within the MDAs on the Values and Principles.
- iii. Sensitize MDAs, especially the independent commissions, on the role and mandate of the PSC in the new dispensation to curtail misconception.
- iv. Strengthened Monitoring and Evaluation of MDAs for effective delivery of outputs and monitoring of projects.
- v. Put in place the necessary legal framework, mechanisms and structures to address the concerns raised in the Impact Assessment Report on Ethics and Integrity in the public service of 2011.
- vi. Introduce standardized parameters to ensure that variables are standardized and indices determined for ease of measurement and comparison across all MDAs annually.

## **7.2. Component specific Recommendations**

### **7.2.1. Gender Component Recommendations**

To give full effect to the policy on gender equality the Public Service Commission needs to address the following short and long-term recommendations:

#### **7.2.1.1. Short term**

- i. Adopt and implement a policy position on gender mainstreaming within the service.
- ii. Monitor the institutionalization of gender mainstreaming in all MDAs.
- iii. Carry out a baseline survey on gender representation in all categories and levels of employment in the public service.
- iv. Put in place a sexual harassment and equal opportunities policies.

#### **7.2.1.2. Long-term**

Liaise with the National Gender Equality Commission to ensure that gender based discrimination is eliminated in the public service.

Conduct regular monitoring and evaluation exercises focusing on gender representation at all levels of the service.

### **7.2.2. Disability**

In the area of disability mainstreaming in the public service, PSC needs to do the following:

#### **7.2.2.1 Short Term**

Develop a policy on disability mainstreaming to guide the service.

Adopt a clear definition of disability, using, as a start, the definitions set out in the Persons with Disabilities Act, while ensuring fair representation of all categories of disability.

Monitor the implementation of the provisions of the Persons with Disabilities Act, in particular the requirement that at least 5% of employees be persons with disabilities.

#### **7.2.2.2. Long-term**

Counties and MDAs to continuously monitor and review policies on extent of representation of persons with disability in the public service.

Undertake an audit of MDA buildings to ascertain the extent to which access to persons with disabilities is provided and put in place measures to remedy any deficiencies identified.

### **7.2.3. Ethnicity**

To give effect to ethnic diversity in the public service, the Commission needs to:

#### **7.2.3.1. Short Term**

Develop a policy on diversity in the public service.

Stop using “County of origin” as a proxy for ethnicity.

Carry out a baseline survey on representation of different ethnic groups in the public service.

#### **7.2.3.2. Long-term**

Monitor the implementation of Diversity Policy across the service to ensure a representative public service.

### **7.2.4. Religion:**

#### **7.2.4.1. Short Term**

Develop a policy on the role of religion in recruitment and the work environment in the public service.

### **7.2.5. Minorities and Marginalized groups**

#### **7.2.5.1. Short Term**

Introduce affirmative action programmes to address the inclusion of minorities and marginalized groups in the public service.

#### **7.2.5.2. Long Term**

Monitor the effectiveness of affirmative action programmes for the minorities and marginalized groups.