



ETHICS AND ANTI-CORRUPTION COMMISSION

PUBLIC OFFICER'S SURVEY, 2019

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ACRONYMS

| | |
|----------|---|
| AUCPCC: | African Union Convention on Preventing and Combating Corruption |
| ACECA: | Anti-Corruption and Economic Crimes Act |
| ADC: | Agriculture Development Authority |
| CDF: | Constituency Development Fund |
| EACC: | Ethics and Anti-Corruption Commission |
| ICT: | Information Communication Technology |
| KAA: | Kenya Airport Authority |
| KIST: | Kiambu Institute of Science and Technology |
| KNBS: | Kenya National Bureau of Statistics |
| KNH: | Kenyatta National Hospital |
| KPA: | Kenya Ports Authority |
| KRA: | Kenya Revenue Authority |
| KPLC: | Kenya Power and Lighting Company |
| LIA: | Leadership and Integrity Act |
| LVSWWDA: | Lake Victoria South Water Works Development Agency |
| NCPB: | National Cereals and Produce Board |
| NECS: | National Ethics and Corruption Survey |
| NEMA: | National Environment Management Authority |
| NHC: | National Housing Corporation |
| NHIF: | National Health Insurance Fund |
| NSSF: | National Social Security Fund |
| NTSA: | National Transport and Safety Authority |
| NV&PG: | National Values and Principles of Governance |
| NYS: | National Youth Service |
| POS: | Public Officer's Survey |
| PSC: | Public Service Commission |
| TTC: | Teacher Training College |
| TTI: | Technical Training Institute |
| UNCAC: | United Nations Convention Against Corruption |

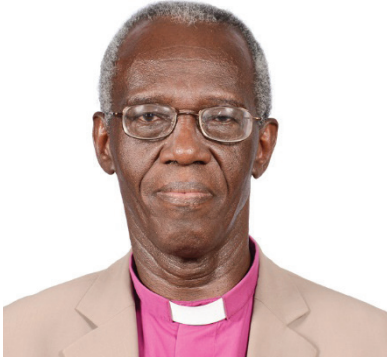
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FOREWORD



The Constitution of Kenya, 2010 envisages a public service guided by values and principles that include high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; accountability and transparency. It is to this end that the government over the years has spearheaded the implementation of various reforms aimed at preventing corruption within the public sector. Some of the changes include employee rationalization, institutionalization of results based management, establish citizen service centers, computerized critical public services such as e-procurement, e-citizen among others. Despite these efforts, corruption levels in the sector remain relatively high. The 2017 National Ethics and Corruption Survey recorded over 62 percent of public seeking government services as having paid bribes.

The high demand of government services coupled with lack of sufficient investment in the service provision infrastructure to meet the ever rising demand has exacerbated the already dire situation. This creates room for corruption in the public service delivery. There is need for more investment in infrastructure necessary for better efficient and effective service delivery in the public service. This also includes more investment in automating government services to reduce the human interactions that bleeds corrupt activities.

One of the main reasons of low levels of corruption in developed countries is the fact that the countries took deliberate efforts to build strong public institutions over the years. From the police to anti-corruption bodies to public institutions offering other essential services, the underlying theme in these institutions are institutions founded on strong professional and moral values. As a Nation, we need to focus and consistently work towards building strong public institutions guided by transparency, accountability, integrity and effective and efficient service delivery to the public. Some institutions offering essentials services such as the police, Judiciary, ports of entry and others need special attention to reform them and reduce instances of corruption.

This study has brought to the fore some of the major challenges facing public service as highlighted by the public officers themselves. The public officers know where the challenges are and thus we need to take a keen interest on this report for us to be able to address public service challenges.



Archbishop (Rtd) Dr. Eliud Wabukala, EBS

Chairman

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PREFACE



Government offer essential services to the public. Such services include security, protection of life and property, vital documentation, health, education among others. Public officers are the vehicle that the government uses to deliver these services to the public. It therefore holds true that the public officers know firsthand the challenges, the unethical issues and the areas needing improvement in public service. Based on this understanding, this study was conceived with the main aim of establishing the

level of corruption and unethical conduct in the delivery of public services from the perspective of public officers.

The study has highlighted serious issues affecting public service. Instances where Public Officers used their offices to improperly enrich themselves or others are rife. The misappropriation of public revenues, land grabbing, illegal acquisition of property, bribery and inflation of tendering prices are some of the more prevalent avenues through which Public Officers improperly enrich themselves. Further, the study revealed that public properties were acquired unlawfully or fraudulently by public officers, the bulk of which are public land. Another worrying trend identified by the study is the extent and impunity in which public properties are damaged due to negligence. Most cases of damage to public property were treated as accidents despite them arising due to negligence which meant the taxpayers were made to shoulder the loss.

The study proposes a number of measures to help reduce unethical conduct in public service. These measures include integrating national values into public service; impose stiffer penalties against damage to public property; protect public land; build strong public institutions; minimize discretion by Public Officers among others.

I call upon all stakeholders to read the Report and implement the findings with the aim of making public service efficient and effective.

I recognize and appreciate public institutions and public officers who participated in the study. In addition, I recognize Nancy Namenge, Collins Aluda, Daniel Kangéthe, Janet Bett, Edward Oyunga and Idris Shidhe for offering technical support; and several Research Assistants for collecting and processing the data.



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Secretary/Chief Executive Officer

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EXECUTIVE SUMMARY

Corruption in the Public Sector involves public officers and private companies and individuals as the main actors. This study sought to establish the level of corruption and unethical conduct, if any, in the delivery of services within the public sector as depicted by the public officers themselves. The following is a summary of the main findings from the study.

i) **National values and principles of governance**

Most Public Officers (72.3%) indicated that they are aware of National Values and Principles of Governance as captured in Article 10 of the Constitution. However, 27.6 per cent of Public Officers interviewed were not aware of these values.

The three national values that were most easily identified by Public Officers include Integrity (72.0%), Transparency and Accountability (50.3%) and Patriotism (23.8%). However, Protection of the Marginalized, Sharing and Devolution of Power and Human Rights were the three least recognized national values.

The easily identifiable values were also identified as the most violated.

ii) **Bribery**

About 16.9 percent of Public Officers interviewed indicated that they were aware of bribery instances in Public Service. They identified the three most likely circumstances under which a person would pay a bribe as during arrest by a traffic Police Officer, seeking for employment and registration and issuance of birth certificates. No action was taken against 84.5 percent of the bribery incidences that were identified by Public Officers.

The study unearthed 381 cases involving bribery amounting to KES 132,377,200 with the highest amount of bribe reported as KES 50,000,000 and the lowest amount as KES 50.

iii) **Abuse of office**

About 29.1 percent of Public Officers interviewed were aware of instances of Abuse of Office. They identified discrimination or favoritism, irregular employment, bribery, unethical behavior and misappropriation of public funds as some of the ways public officers abused their offices. The benefit accrued by the public officers themselves or others from the abuse of office included financial gain (35.8%), securing employment for relatives (30.7%), nepotism (10.4%), promotion (3.6%), award of tenders (3%) among others.

iv) **Illicit enrichment**

Instances where Public Officers used their offices to improperly enrich themselves or others were identified by 12.6 percent of the respondents. The Misappropriation of public revenues, Land Grabbing, Illegal acquisition of property, Bribery and Inflation of tender prices are some of the more prevalent avenues through which Public Officers improperly enrich themselves.

Land grabbing was more prevalent in Nairobi (18.7%), Nakuru (10.7%), Uasin Gishu (8%) and Kirinyaga (8%). In addition, misappropriation of public revenue was prevalent in Kisumu (20.6%), Nairobi (13%), Homabay (10.7%), Uasin Gishu (9.9%) and Busia (7.6%).

Public Officers in the Ministry of Lands were mostly mentioned in either grabbing land for themselves or aiding others. Muhoroni Sugar Company and County Government of Homabay leads in misappropriation of funds.

v) **Conflict of interest**

Instances of conflict of interest among Public Officers totaling 394 were identified by 14 per cent of the respondents. Re-carpeting and construction of roads and bridges, construction and renovation of buildings and supply of computer accessories exhibited the most cases of conflict of interest.

Out of the 394 conflict of interest cases identified, 38.5 percent involved Heads of institutions, senior managers (36.1%), procurement officials (15.3%), middle level managers (5.5%) and technical or support staff (1.9%). It is therefore evident that the higher the position or level of influence one has in an organization, the more likely they are to be involved in conflict of interest. In fact, the average number of cases of conflict of interest involving Head of Institution, Senior Managers and Procurement Officials and where no action was taken was higher than the overall average of cases.

vi) **Public property and revenue**

a) ***Unlawful acquisition of public property***

A total of 253 public properties were acquired unlawfully or fraudulently by public officers. Public Land (53%) constituted the bulk of the types of public property that were unlawfully acquired by public officers.

Out of the 253 public properties that had been unlawfully or illegally acquired by Public Officers, 125 properties were collectively valued at KES 5,401,765,280. In 42 percent of cases where public property was acquired unlawfully, no action was taken.

b) ***Damage to public property***

The Public Officer's Ethics Act and Leadership and Integrity Act requires public officers to take all reasonable steps to ensure that public property in the officer's custody, possession or control is taken care of and is in good repair and condition. About 17.9 percent identified cases where public property was damaged by public officers where motor vehicles constituted the largest proportion.

Most cases of damage to public property were treated as accidents (28.3%) and there was a noteworthy number of cases (16.3%) in which no action was taken. In fact, there is a large proportion of cases of motor vehicle accidents due to alcohol or drug abuse, intentional breakage of furniture/equipment/utensils, unauthorized/improper use of a vehicle/equipment and negligence leading to vehicle damage that were treated as accidents or against which no action was taken.

Recommendations

- i) **Integrate national values into public service:** Sensitize public officers on the national values and principles of governance.
- ii) **Reform the Kenya Police:** Critically examine and reform the Kenya Police Service.
- iii) **Impose stiffer penalties against damage to public property:** Accidents involving government vehicles to be thoroughly investigated, preferably, by an independent office. Stiffer penalties be imposed.
- iv) **Protect public land:** Document and protect all government land. Stiffer legislation on public land grabbing be enacted.

- v) **Build strong public institutions:** There should be deliberate and consistent effort to build strong public institutions by both the national leadership and the institutions management. EACC to strengthen its risk assessment of public institutions.
- vi) **Minimize discretion by Public Officers:** The current efforts to automate government services to continue and cover most, if not all spheres of public service. Measures to monitor the working of public officers to be put in place.
- vii) **Make adequate provisions for government services:** Ensure access and sufficient supply of essential government services.

INTRODUCTION

1.1 Background

A Public Officer is an employee or member of the government, National Assembly, Government Corporation or Co-operative society (Public Officer Ethics Act, 2003). Public Officers are the implementers of government policies and decisions; they offer the essential government services to the public and thus form an integral part of government. This interaction with members of public means that how a public officer conduct himself is of paramount importance. A diligent and ethical public officer ensures essential services are delivered to the public efficiently. On the other hand, a public officer not committed to his work and lack integrity greatly hampers government commitment to efficient service delivery.

Ayee (2002) argues that corruption is the most formidable challenge to the public service in Africa. That corruption has eroded public service established principles such as merit, neutrality, equality, accountability and representativeness but also its legitimacy or public confidence. Corruption is a complex and dynamic phenomenon; it takes on many forms, is perpetrated by various actors and has a detrimental impact on political, social, cultural, institutional and organizational structures, on economic and structural policies, and can affect numerous aspects of everyday life (UNODC, 2018).

Good governance has repeatedly been identified as crucial to achieving sustainable development and inclusive growth, to making governments accountable to their citizens, and to successfully tackling corruption-related challenges. Most countries in Africa have put forward strategies to reform their governance frameworks, most commonly as part of national development plans, and to a lesser extent as part of anti-corruption strategies. Nevertheless, progress has been uneven between countries and challenges remain in several areas: public service delivery, insufficient checks and balances, high levels of corruption and inequality. South Africa and Ghana are two countries that have made progress in the delivery of governance reforms (Schoeberlein, 2020).

The Singapore public service is an efficient, professional and among the least corrupt public service in the World. After gaining independence from the British rule in 1959, the Singaporean public service transformed itself into not only a professional and efficient service but also one that is very versatile. From harnessing technology to delivering government services, the service has gone on to adopt concepts and tools such as scenario planning and horizon scanning to prepare for unforeseen crises that may arise in the future. The Service ability to professionally implement political visions, policies and strategies has been credited to have played a leading role in the country's modernization. (Low, 2016).

Papua New Guinea had a promising start with public sector reforms after independence in 1975. However, this was soon overtaken by policy failure. Politics is blamed for this failure. The Public Service Commission (PSC) was responsible for personnel matters and had an autonomy which could lead it to oppose or obstruct government policy. Reforms in the public service lead to reduction in PSC powers. The cabinet now became responsible for the broad direction of human resource management policy and for appointing heads of department and agencies. The demise of PSC heralded the increased politicization of the public service. Personal connections started to become more significant determinants of who occupied seats on boards of public authorities or filled the higher departmental positions. Service delivery declined and corruption became the norm. (Turner & Kavanamur, 2009).

The war on corruption has been the focus point of most countries in the last two decades as they herald an era of economic prosperity and good governance. As the implementers of government policies and strategies, the public service is thus a critical component in the fight against corruption. Corruption in the public sector involves public officers and private companies and individuals as the main actors. In Kenya, public officers are well versed on how corruption manifests itself in public service, the main perpetrators, the money or favor involved and the system loopholes exploited in the commission of corruption. This study seeks to establish the level of corruption and unethical conduct, if any, in the delivery of services within the public sector as depicted by the public officers themselves.

1.2 Problem statement

The Constitution of Kenya, 2010 envisages a public service guided by values and principles that include high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; accountability and transparency. The question is whether these values and principles are entrenched in public service or not.

A number of studies have indicated that unethical conduct is present in public service. A study by EACC on project implementation showed that Government procurement officers and other County and Constituency Development Fund (CDF) officers were leaking out information on public tenders to companies bidding and these companies ended up having their odds of winning the tenders increased 1.23 times compared to those companies that relied on newspaper adverts. The study further indicated collusion between public officers and companies bidding for public tenders in setting the project cost to quote during the bidding process. A company that quoted market prices but factored in big profit margins had their odds of winning the tenders increased 1.14 times compared to those companies that quoted market price only. Thus projects were overly overpriced, a direct loss to taxpayers. (EACC, 2018). In another study by the Commission, more than 60 percent of government suppliers knew of companies doing business with the government that are owned by public officers. Most of these companies would place bids in public tenders and win. The public officers owning these companies ranged from clerks, procurement officers to cabinet secretaries. (EACC, 2015).

Between July and December 2018, the Commission took up 1,897 reports on corruption and unethical breaches for investigations. Almost all these reports involved misconduct by a public officer.

Over the years, the government has spearheaded the implementation of various reforms aimed at preventing corruption within the public sector. Despite these efforts, corruption levels in the sector remain high. The 2017 National Ethics and Corruption Survey recorded over 62 percent of those seeking government services as having paid bribes (EACC, 2017). In 2016, the bribe payments stood at 46 percent (EACC, 2016).

The Commission undertook the first Public Officer's Integrity Survey in 2007. The 2019 survey sought to build on the first survey by collecting data on corruption and unethical conduct in public service. The 2007 survey focused on public officers in national government, parastatals and local authority. The 2019 survey factored in the current two-tier government by including public officers both in national and county governments and also parastatals. In addition, the 2019 survey introduced corruption and unethical conduct indicators that will allow future tracking and monitoring.

1.3 Objectives of the study

The overall objective of this study was to establish the level of corruption and unethical conduct in the delivery of services from the perspective of public officers. The specific objectives were:

- (i) Determine the status of corruption and unethical conduct within the public service;
- (ii) Assess values, attitudes and respect for the rule of law by public officers on corruption and unethical conduct;
- (iii) Develop and compute corruption and unethical conduct indicators;
- (iv) Identify areas of the public sector that are at greater risk to corruption and unethical conduct; and
- (v) Identify the main challenges that affect public service delivery.

METHODOLOGY

2.1 Introduction

The study used a mixed research design involving both qualitative and quantitative data collection methods. The study used secondary qualitative data of previous studies to triangulate its findings as well as primary qualitative data collected from key informants. Quantitative data was collected by conducting face to face interviews with public officers and exit interviews with members of public. The face to face interviews were conducted using a structured questionnaire. The questionnaire was constructed with the aim of answering the study objectives and had both closed and open ended questions. The data collection tools were pre-tested to check for errors and ensure quality of work. Data collection was undertaken by Research Assistants who underwent a rigorous two-day training. Data collection was undertaken between the months of October and November 2019. Data processing and cleaning was done in January 2020 using CPro software. Data analysis involved the use of SPSS to explore descriptive statistics. An index was computed for each offence. These indices will be used for future tracking of the different offences identified.

2.2 Sample Selection

According to the Kenya National Bureau of Statistics (KNBS) 2018 Economic Survey, there were 790,200 people employed in the public sector. From the 790,200 public officers, 3,734 target respondents were sampled to participate in the study using a 95 percent confidence level and 1.6 percent margin of error. In addition, a random sample of 25 counties to visit, slightly more than half of the 47 counties (53%), was selected. Sample distribution within various categories of public service and counties was based on probability proportionate to size sampling. The sample breakdown is tabulated in Table 1.

Table 1: Sample distribution by category of public service

| Category of Public Service | No. of Public Officers | Sample ¹ | Percent (%) |
|----------------------------|------------------------|---------------------|-------------|
| Civil Service ² | 197,600 | 934 | 25.0 |
| Teacher Service Commission | 302,900 | 1,431 | 38.3 |
| Parastatals ³ | 157,100 | 742 | 19.9 |
| County Governments | 132,600 | 627 | 16.8 |
| Total | 790,200 | 3,734 | 100.0 |

2.3 Sample Distribution

A total of 25 counties were sampled. Table 2 lists the sampled counties and the total number of public officers interviewed in each county. Due to the high concentration of public institutions in Nairobi, the county contributed the highest proportion of public officers at 28.9 percent, followed by Nakuru at 5.2 percent, Uasin Gishu with 5.1 percent and Kisumu at five percent. To ensure representation, public officer working in other sub counties other than the county headquarter were polled. In total 80 sub-counties were visited in the 25 counties. A total of 2,714 public officer were interviewed, a 72.7 percent success rate from the initial target (Tables 1&2).

Table 2: Number of Public Officers Interviewed by County

1 $\{(3,734/790,200) \times \text{No. of public officers}\}$

2 Includes employees of Judiciary and Parliament

3 Refers to Government wholly-owned corporations and those with over 50 percent shareholding

| County | No. of Public Officers Interviewed | Percent (%) |
|--------------|------------------------------------|-------------|
| Kiambu | 78 | 2.9 |
| Kirinyaga | 50 | 1.8 |
| Nyeri | 58 | 2.1 |
| Laikipia | 71 | 2.6 |
| Nakuru | 141 | 5.2 |
| Kajiado | 55 | 2.0 |
| Uasin Gishu | 138 | 5.1 |
| West Pokot | 68 | 2.5 |
| Kakamega | 111 | 4.1 |
| Busia | 61 | 2.2 |
| Kisumu | 135 | 5.0 |
| Homabay | 65 | 2.4 |
| Narok | 106 | 3.9 |
| Kisii | 100 | 3.7 |
| Kericho | 86 | 3.2 |
| Isiolo | 72 | 2.7 |
| Meru | 90 | 3.3 |
| Embu | 80 | 2.9 |
| Machakos | 50 | 1.8 |
| Garissa | 66 | 2.4 |
| Kitui | 59 | 2.2 |
| Taita Taveta | 49 | 1.8 |
| Mombasa | 92 | 3.4 |
| Kwale | 48 | 1.8 |
| Nairobi | 785 | 28.9 |
| Total | 2,714 | 100.0 |

The public officers interviewed came from different categories of public institutions in the country. National government employees contributed 39 percent of the public officers interviewed while 25.5 percent of the public officers were from the 25 county governments, sampled, 25.4 percent from parastatals, 3.2 percent from county hospitals and 1.9 percent from law courts (Table 3). Teachers, who were to contribute 38.3 percent of the initial sample (Table 1), contributed only five percent of the actual public officers interviewed (Table 3), a difference of 33.3 percent. This large difference was attributed to the fact that when the data collection was undertaken most schools had already closed for the long December holidays.

Table 3: Number of Public Officers interviewed by Category of Public Institution

| Category | No. of Public Officers | Percent (%) |
|---------------------|------------------------|-------------|
| National Government | 1055 | 39.0 |
| County Government | 690 | 25.5 |
| Parastatals | 688 | 25.4 |
| Primary School | 40 | 1.5 |
| Secondary School | 96 | 3.5 |
| County Hospitals | 86 | 3.2 |
| Courts | 52 | 1.9 |
| Total | 2,707 | 100.0 |

Public officers interviewed represented the entire spectrum of civil service from support staff to head of institution. However, the bulk of the officers fell in the Technical, middle and senior

management cadre (Table 4). Most of the Public officers interviewed had served for more than 20 years (34.4%). Those who had served between 6 and 10 years constituted 21.7 percent, between 1 and 5 years 17.5 percent, between 11-15 years 13.2 percent, between 16-20 years 9.4 percent and one year and below 3.8 percent. Majority of Public Officers interviewed (80%) were between the ages of 27 – 53 years. Most Public Officers interviewed (65.8%) had been educated up to undergraduate level and above.

Table 4: Categories of Public Officers Interviewed

| Category | No. of Public Officers | Percent (%) |
|----------------------------|------------------------|-------------|
| Support Staff | 128 | 4.7 |
| Clerical Staff | 309 | 11.4 |
| Technical Staff | 456 | 16.8 |
| Middle Management | 899 | 33.2 |
| Senior Management | 487 | 18.0 |
| Head of Department | 361 | 13.3 |
| CEO/MD/Head of Institution | 48 | 1.8 |
| Unclassified | 23 | 0.8 |
| Total | 2,711 | 100.0 |

CHAPTER 3

VALUES AND PRINCIPLES OF GOVERNANCE

3.1 National Values and Principles of Governance

The Constitution of Kenya lists the National Values and Principles of Governance (NV&PG) in Article 10. The values bind all State organs, State officers, public officers and all persons (including non-state actors) whenever they interpret the Constitution, enact any law, and make or implement policies. It is therefore important for public officers to not only know these values but also apply them in their day to day work in the public service. Further, the Constitution mandates the President and the Public Service Commission (PSC) to report on the status of NV&PG on a regular basis.

The Public Officers Integrity Survey (POIS) 2019, sought from Public Officers both in National and County Government their level of knowledge of these values and principles and whether they applied them. Public officers were asked if they were aware about the values and if yes, were further requested to list at least three of the values they know and how they applied them in the course of their duties. Figure 1 highlight the results.

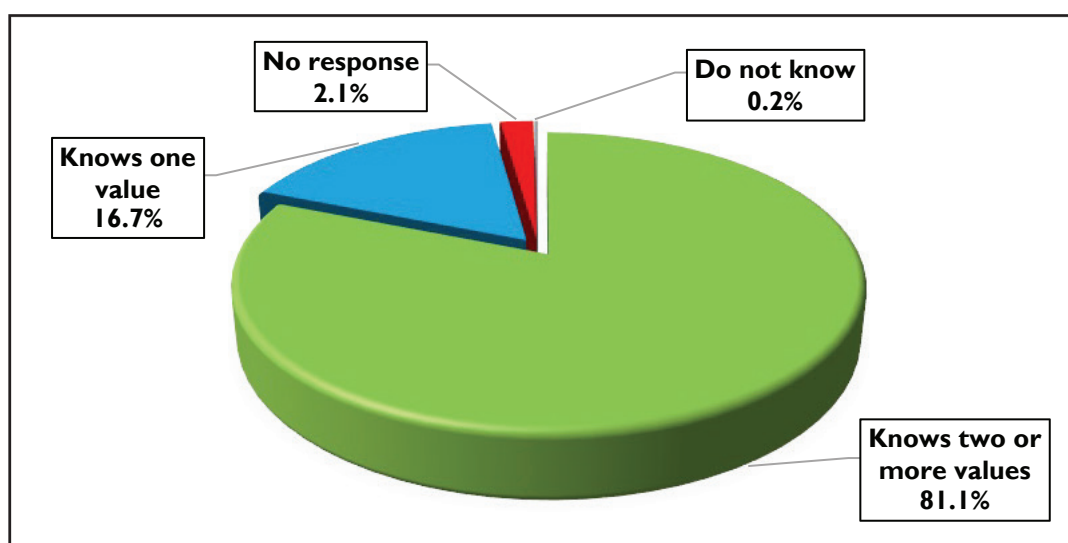


Figure 1: Knowledge of National Values and Principles of Governance

Most Public Officers (72.3%) indicated that they are aware of National Values and Principles of Governance as captured in Article 10 of the Constitution. However, 27.6 per cent of Public Officers interviewed were not aware of these values. Out of the Public Officers who indicated a general awareness on National Values, majority (81.1%) were able to correctly identify two or more National Values while 16.7 percent could only identify one value. However, it is worth noting that 2.3 percent of Public Officers were not able to actually identify any values despite having indicated awareness of the values (Figure 1). Awareness was positively related to education levels with public officers possessing at least university education being more aware of the values (75.3%). Actually, the chi-square test of independence indicates that awareness and level of education are strongly dependent on each other. Male public officers were more aware (65.6%) than female public officers (34.4%). In addition, national government public officers recorded a higher level of awareness (37%) of the NV&PG compared to their county government counterparts (27%).

A baseline study by Kenya Institute for Public Policy Research and Analysis (KIPPRA) indicated similar results where majority (59%) of Kenyans were aware of National Values and Principles of Governance and the level of awareness rising was positively related to the level of education. However, females were more aware than males (KIPPRA, 2015).

The three national values that were most easily identified by Public Officers were Integrity (72.0%), Transparency and Accountability (50.3%) and Patriotism (23.8%). However, Protection of the Marginalized, Sharing and Devolution of Power and Human Rights were the three least recognized national values.

Of all the Public Officers interviewed, 96.5 percent could identify at least one National value and correctly apply it. On the other hand, 3.2 percent of Public Officers who could identify at least one value could not correctly apply the value.

Box 1: Are the national values ingrained in public service?

“Theoretically, the values are ingrained in public service but most public officers do deviate from them.” Key Informant No. 1, Kitui County.

“The values are known but they are not adhered to and it is deliberate because people want to use public resources for their own good.” Key Informant No. 4, Nakuru County.

“Some of the values that are constantly violated include integrity, transparency, equity and accountability. Members of the public service engage in act of corruption on a daily basis, acts that are done in secrecy...” Key Informant No. 10, Kiambu County.

“...When a case on violation is reported, the culprit should not be protected to permit investigations and the law to take its course.” Key informant No. 11, Nyeri County.

3.2 Public Service Values

Article 232 of the Constitution of Kenya lists the values and principles of public service that apply to all state organs in both levels of government and all state corporations. The values 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 and, 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.

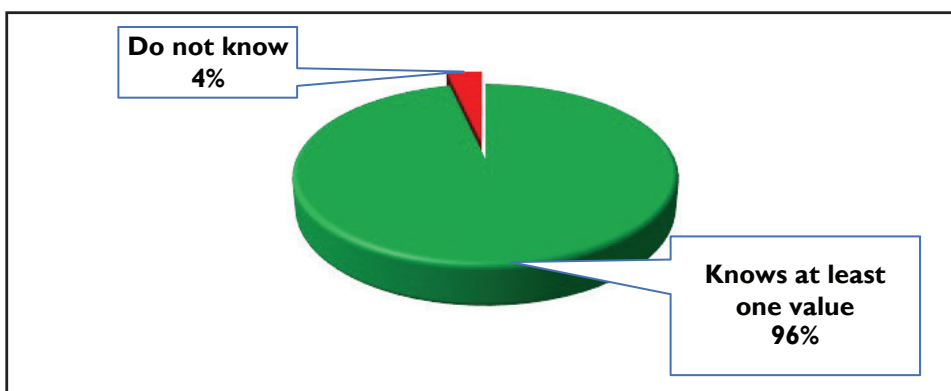


Figure 2: Knowledge of Values and Principles of Public Service

When asked if they were aware of the Values and Principles of Public Service, 67 percent of the

Public Officers were aware while 33 per cent were not aware. Out of those who were aware, 96 percent were able to identify at least one of the values while 4 per cent could not identify any value (Figure 2). High standards of professional ethics (86%), accountability (13.4%) and provision of accurate information (11.8%) were the most easily identifiable values while effective provision of services, economic use of resources and representation of diverse communities were the least identifiable public service values.

Of all the Public Officers interviewed, 94.2 percent could identify at least one Public Service value and correctly apply it in their day to day duties in public service. On the other hand, 3.1 percent of Public Officers who could identify at least one value could not correctly apply the value.

3.3 Violation of Values

To ensure observance of good governance, integrity, transparency and accountability in both private and public sector, the Presidency issued Executive Order No.6 of 2015 on 6th March 2015 that focused on fostering ethics and integrity in public service. A report by the Kenya National Commission on Human Rights (KNCHR) that looked into the status of implementation of national values and principles of governance indicated that the government is far from achieving this objective due to increasing ethnicity and tribalism, inadequate implementation of policies, rampant corruption and unethical conduct allegations involving senior public officers (KNCHR, 2016). This Study sought to find out if public officers are aware of instances where national values or public service values were violated in their institutions.

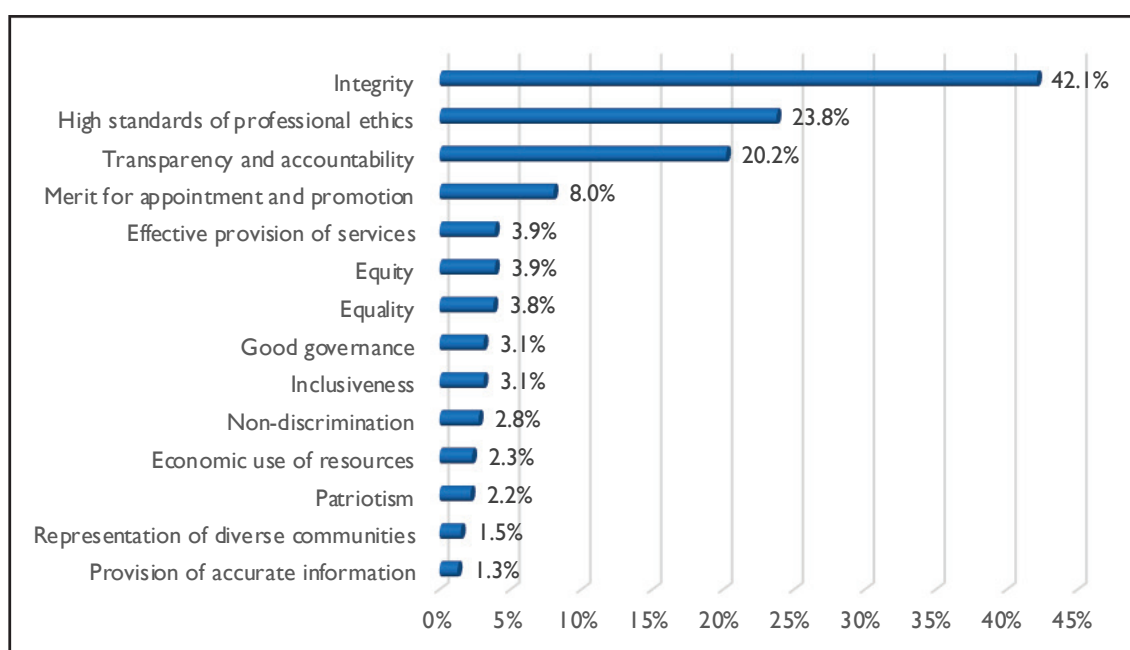


Figure 3: The Most Violated National Values and Principles of Public Service

Public officers interviewed identified integrity, high standards of professional ethics, Transparency and Accountability as the most violated National Values and principles of Public Service (Figure 3). The values were violated through discrimination, unprofessionalism, misappropriation and embezzlement of public funds, giving inaccurate advice, lack of transparency, dishonesty and delay of service delivery.

Further the findings of the study revealed that the national values and principles of public service which were the most easily identifiable were the most violated. The value of integrity, for example, was easily identified by 72 percent of the public officers interviewed but it turned out to be the most violated value. This is also true for transparency and accountability and high standard of professional ethics.

It can thus be concluded that the knowledge of a value or a principle of public service among

public officers is only one critical cog in the wheel of public sector integrity. Equally important is the adherence to those values. The rule of law and good governance values were among the least identifiable by public officers. This suggests adherence to the rule of law and good governance were deemed less important, and consequently, despite public officers' knowledge of values like integrity and high standard of professional ethics, practical application was largely ignored.

CHAPTER 4

BRIBERY

4.1 Introduction

Bribery is defined as money or favor given or promised in order to influence the judgment or conduct of a person in a position of trust. Something that serves to induce or influence (Meriam-webster, 2020).

According to the Bribery Act No.47 of 2016 a person commits the offence of giving a bribe if the person offers, promises or gives a financial or other advantage to another person, who knows or believes the acceptance of the financial or other advantage would itself constitute the improper performance of a relevant function or activity. It shall not matter whether the person to whom the advantage is offered, promised or given is the same person as the person who is to perform, or has performed, the function or activity concerned, or whether the advantage is offered, promised or given by a person directly or through a third party. The general bribery offences include: giving a bribe, receiving a bribe, function or activity to which bribe relates and bribery of foreign public officials. The Act provides for the prevention, investigation and punishment of bribery.

The Act also places obligations on public and private entities to put in place procedures that are appropriate to their size, scale and nature of operations, for prevention of bribery and corruption. Failure to do so is criminalized if it is due to the consent or connivance of a senior officer. The Ethics and Anti-Corruption Commission (EACC) is required under the Act to assist public and private entities to develop and put in place procedures for prevention of bribery. In addition, the Attorney General in consultation with the EACC is required to publish guidelines to assist private and public entities in preparation of procedures required under the Act.

4.2 Bribery Prevalence

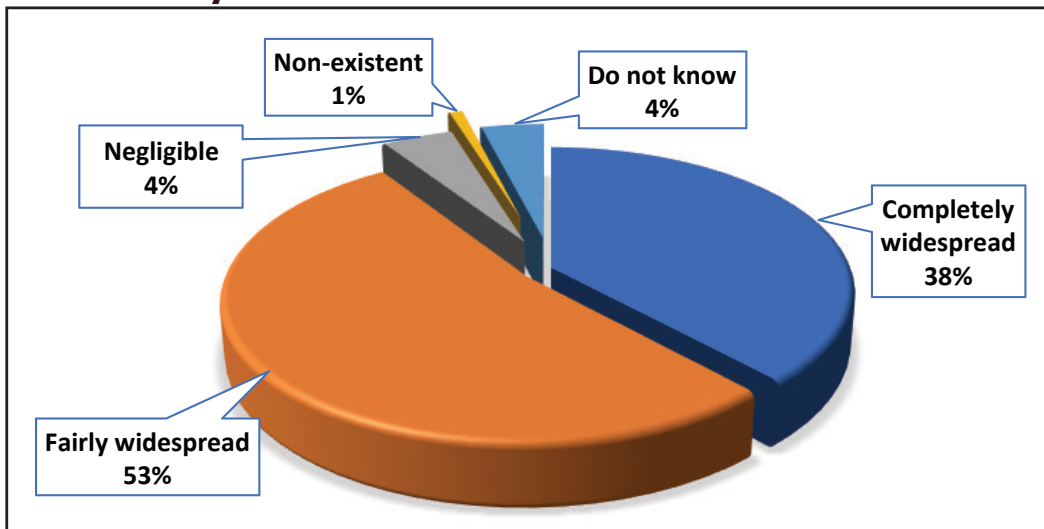


Figure 4: Spread of Corruption in Kenya's Public Service

Public officers were asked their opinion about the spread of corruption in the Public Service (Figure 4). A majority of the public officers (53%) interviewed believe that corruption is fairly widespread in Public Service while only one percent believe corruption is non-existent. This is a clear indictment on the fight against corruption in the country's Public Service.

Bribery prevalence in Kenya has been brought to the fore in a number of studies. EACC's National

Ethics and Corruption Survey (NECS) 2018 revealed that bribery was the most (87.4%) prevalent form of corruption and unethical conduct observed in public offices. In 2018, those who paid bribes to obtain government services increased by 11.9 percent from the previous year to stand at 73.1 percent (EACC, 2018). Further, a study conducted by the Commission evaluating corruption in public procurement revealed that 26.7 per cent of suppliers indicated that during price setting they consider the prevailing market price but add big profit margin and or factor in bribes they will pay in order to win public tenders. From the contracts, an approximate Kenya Shillings 13 million was paid as bribes by suppliers to government officials in order to facilitate the tenders (EACC, 2016).

The Public Officers Integrity Survey (POIS) 2019 sought to find out the existence of bribery in the delivery of services from the perspective of public officers. When asked their awareness of the existence of bribery 16.9 percent of Public Officers interviewed indicated that they were aware of bribery instances in Public Service.

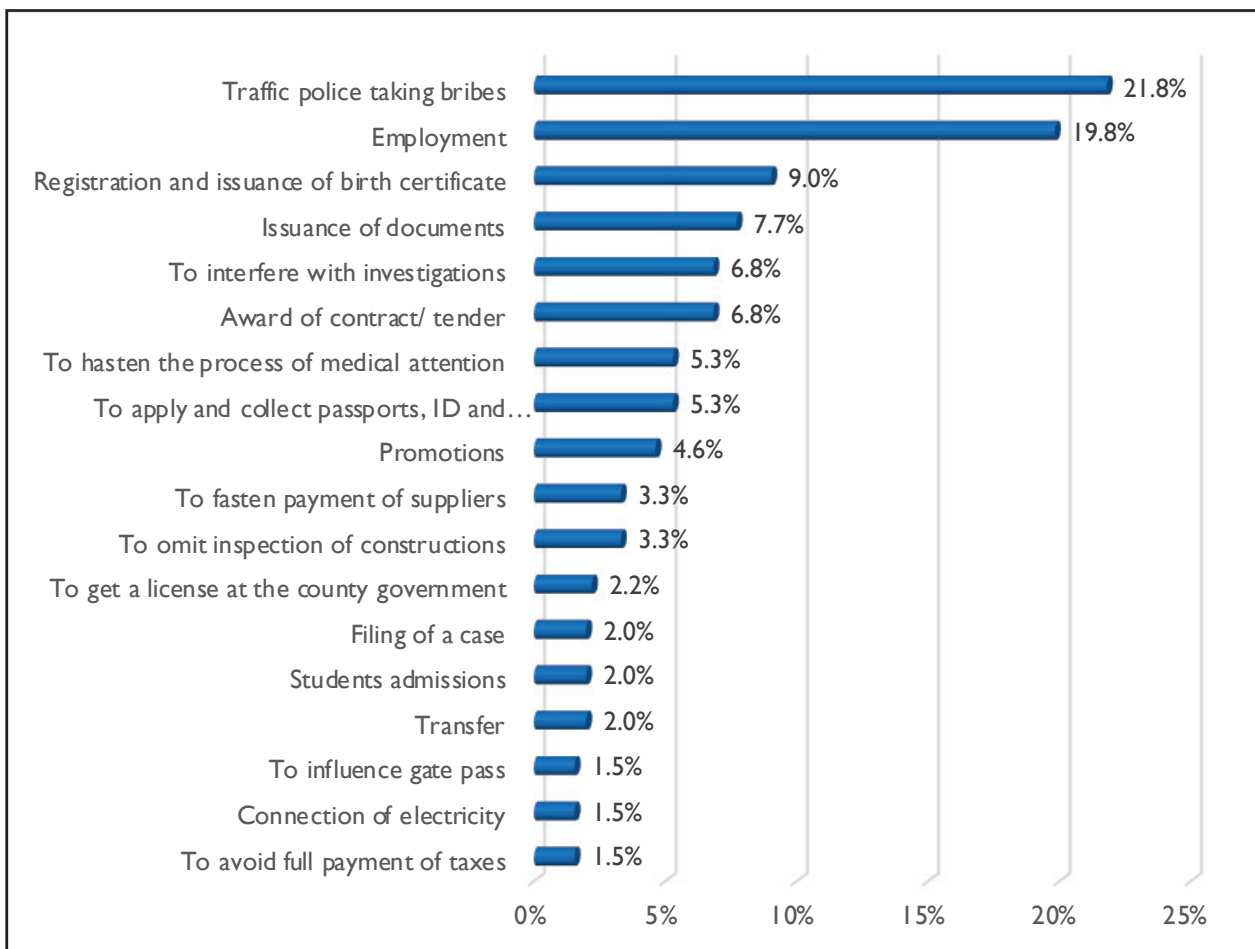


Figure 5: Bribery Circumstances

Public Officers identified the three most likely circumstances under which a person would pay a bribe as during arrest by a traffic Police Officer, seeking for employment and registration and issuance of birth certificates (Figure 5). No action was taken against 84.5 percent of the bribery incidences that were identified by Public Officers. However, in 7.0, 4.0 and 3.4 percent of cases of bribery, investigations were ongoing, contracts were terminated and reports were made to EACC or the Police respectively.

Box 2: What areas/functions are bribery cases prevalent?

“Issues of bribes to avoid adhering to the traffic rules are rampant and so are the cases where recruitment officers during police recruitment ask for lump sum amounts. The practice of bribery is encouraged by the public who very willingly offer with the hope of getting leniency or being given what they want.... Increase snap checks/close monitoring of the public officers to instil the fear of getting caught and hence desist from the act.” Key Informant No. 11, Nyeri County.

“Bribery does occur in the county government. Areas where it’s prevalent: procurement department, billing sections in hospitals, human resource, cash office.” Key Informant No. 1, Kitui County.

“EACC Kisii branch has done a lot of audit and kept on tabs with the activities of the county government. They follow up even on recruitment records. I suggest EACC to be more vigilant and aggressive and put into limelight their success” Key Informant No. 17, Kisii County.

Table 5 list the public institutions where incidents of bribery were noted by the Public Officers interviewed. The Kenya Police recorded 110 incidents constituting 22.6 percent of all the cases reported followed by Civil Registrar of Persons with 6.4 percent and County Hospitals with 6.4 percent.

Table 5: Bribery incidences in public institutions

| | Public Institution | Incidence | Percent (%) |
|----|------------------------------------|-----------|-------------|
| 1 | Kenya Police | 110 | 22.6 |
| 2 | Civil Registrar of Persons | 31 | 6.4 |
| 3 | County Hospitals | 31 | 6.4 |
| 4 | Ministry of Land - Land Registry | 20 | 4.1 |
| 5 | Kenya Prisons | 17 | 3.5 |
| 6 | Immigration Department | 15 | 3.1 |
| 7 | Teacher Service Commission | 15 | 3.1 |
| 8 | KPLC | 12 | 2.5 |
| 9 | Law Courts | 12 | 2.5 |
| 10 | Ministry of Defense | 12 | 2.5 |
| 11 | Ministry of Interior | 10 | 2.1 |
| 12 | County Executive | 9 | 1.8 |
| 13 | Secondary Schools | 8 | 1.6 |
| 14 | Birth and Death Certificate | 7 | 1.4 |
| 15 | Busia County Government | 7 | 1.4 |
| 16 | County Government of Nairobi | 7 | 1.4 |
| 17 | County Government of Nakuru | 7 | 1.4 |
| 18 | County Government of Uasin Gishu | 6 | 1.2 |
| 19 | Homabay County Government | 6 | 1.2 |
| 20 | Ministry of Education | 6 | 1.2 |
| 21 | Muhoroni Sugar Company | 6 | 1.2 |
| 22 | NTSA | 6 | 1.2 |
| 23 | Assistant Chief - Samia | 5 | 1.0 |
| 24 | County Government of Kiambu | 5 | 1.0 |
| 25 | Moi Teaching and Referral Hospital | 5 | 1.0 |
| 26 | University | 5 | 1.0 |
| 27 | County Government of Nyeri | 4 | 0.8 |
| 28 | Kenya Forest Service | 4 | 0.8 |

| | Public Institution | Incidence | Percent (%) |
|----|--|-----------|-------------|
| 29 | KNH | 4 | 0.8 |
| 30 | Ministry of Water | 4 | 0.8 |
| 31 | NEMA | 4 | 0.8 |
| 32 | TTC, TTI, Polytechnic | 4 | 0.8 |
| 33 | County Government of West Pokot | 3 | 0.6 |
| 34 | Embu County Government | 3 | 0.6 |
| 35 | Kerio Valley | 3 | 0.6 |
| 36 | KRA | 3 | 0.6 |
| 37 | Kwale County Government | 3 | 0.6 |
| 38 | Ministry of Finance and Planning | 3 | 0.6 |
| 39 | Ministry of Health | 3 | 0.6 |
| 40 | National Cereal and Produce Board (NCPB) | 3 | 0.6 |
| 41 | National Oil | 3 | 0.6 |
| 42 | 13 institutions with two incidents | 26 | 5.6 |
| 43 | Other institutions with one incident | 30 | 6.0 |
| | Total | 487 | 100.0 |

4.3 Cost of Bribery

Whereas there is no empirical study that has computed the cost of bribery on the economy based on the actual amount of money lost or its adverse implication on service delivery to the Mwana-nchi, the Public Officers' 2019 Survey looked at the amount of money paid out in form of bribes. The study unearthed 381 cases involving bribery amounting to KES 132,377,200 with the highest amount of bribe reported as KES 50,000,000 and the lowest amount as KES 50. The average bribe paid was KES 347,447. The largest amount of bribe was paid to influence the award of a tender in Isiolo County Government in 2018 and to influence promotion in the Public Service in 2018 (Table 6). The motivation to pay bribes can be connected to the desire to have service delivered to the bribe payer and in other instances in order to influence the award of lucrative public contracts. The NECS 2018 illustrated that of those who paid a bribe, 82.1 percent received the service they were seeking compared to 29.3 percent who received the service after refusing to pay a bribe.

Table 6: Highest Bribe Amount Paid

| Bribery Circumstance | Bribe Paid | Year | Position of Public Officer | Action Taken | Public Institution |
|---|------------|------|----------------------------|---------------------|--------------------------|
| Award of contract/ tender | 50,000,000 | 2018 | Head of institution | Nothing was done | Isiolo County Government |
| Promotions | 20,000,000 | 2018 | Senior manager | Nothing was done | Public Service Board |
| Issuance of documents | 15,000,000 | 2016 | Middle manager | Nothing was done | MTRH |
| Land given as a form of bribe to a Police Officer | 5,000,000 | 2017 | Senior manager | Nothing was done | Maralal Police |
| To fasten payment of suppliers | 4,500,000 | 2019 | Senior manager | Contract terminated | ADC |
| Award of contract/ tender | 4,000,000 | 2015 | Head of institution | Nothing was done | West Pokot |
| Employment | 3,000,000 | 2018 | Senior manager | Nothing was done | Kenya Defence Forces |

CHAPTER 5

ABUSE OF OFFICE

5.1 Introduction

According to section 46 of the Anti-Corruption and Economic Crimes Act, 2011, abuse of office is defined as a situation where a person uses his/her office to improperly confer a benefit on himself or herself or another person (ACECA No. 3 of 2003). Abuse of office is one of the components of corruption. Public officers are entrusted with public office by the general public in order for them to deliver services to the public while at the same time managing and taking care of public properties and funds on their behalf. When a public officer thus uses this office for his own gain or that of another, the public trust is compromised.

5.2 Prevalence of Abuse of Office

The Public Officers Integrity Survey 2019 sought to find out Public Officers awareness on instances of Abuse of Office in their institutions. The study revealed that 29.1 percent of Public Officers interviewed were aware of instances of Abuse of Office while 70.9 percent were not. NECS 2018 also showed similar results where Abuse of Office (28.1%) was second after bribery as the most prevalent form of corruption and unethical conduct observed in public offices by citizens (EACC, 2018).

There were various ways in which Public Officers abused their offices including: Discrimination or favoritism, irregular employment, bribery, unethical behavior and misappropriation of public funds (Figure 6).

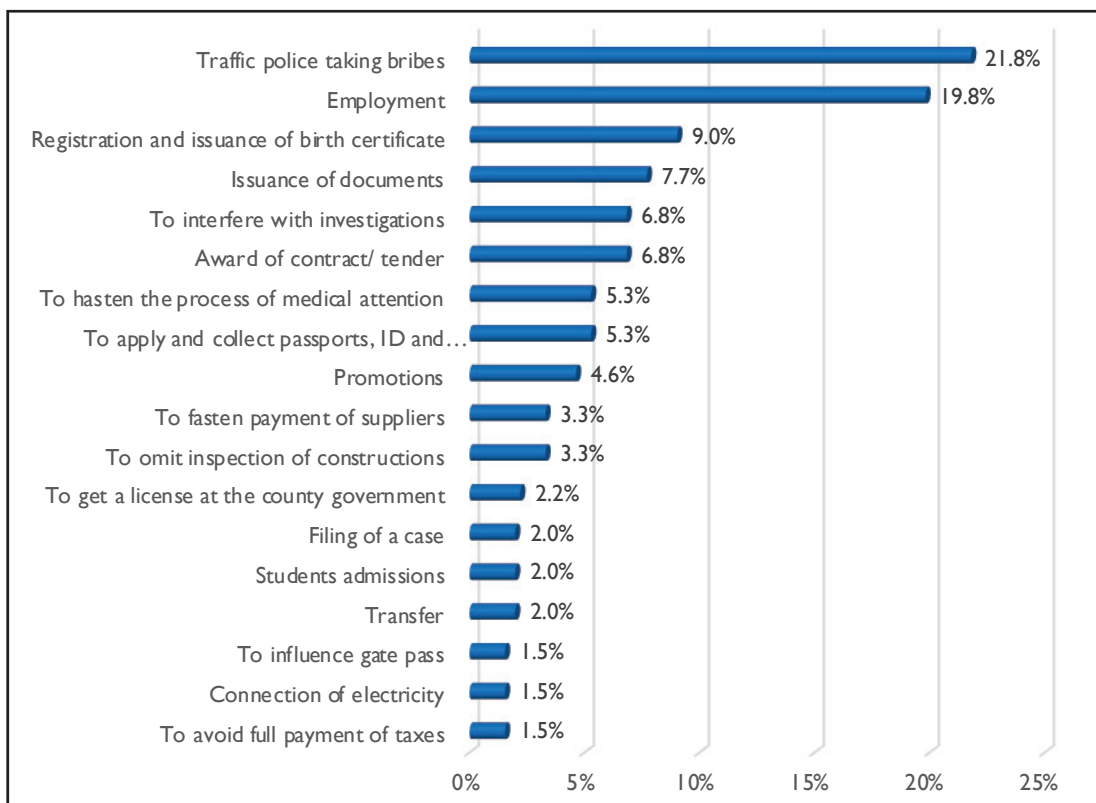


Figure 6: Forms of Abuse of Office

Box 3: Abuse of office and improper enrichment by public officers

“We have had few cases in the county. For example, a county officer colluded with KPLC officers to pocket revenue. KES 2.5 million was lost. We fired five county employees. Lack of professionalism on the part of public officers is what contributes to some of these cases” Key Informant No. 2, Machakos County.

“Cases of abuse of office are rampant with chiefs and police officers who collect fines from members of the public for traffic offenses but the money is never remitted while chiefs demand for money so that they can fill forms for members of public for services that are otherwise free.” Key Informant No.10, Kiambu County.

“The lands survey, County Government, and Procurement ... are hit terribly by abuse of office and improper enrichment by public officers. Corruption in these places has been on the rise. In the land survey the rise is because public officers know that it takes long for the judiciary to resolve a matter on land conflict and hence most people prefer to settle the matter out of court. They would rather endure the loss of a small amount of money. In the case of the county government, proper records are not emphasized and hence the government cannot trace the cooked figures. Moreover, officers in the county government do not observe the financial procedures. In procurement, the officers have learnt tricks that they use to source for services and hence it’s difficult to trace their shortcuts.” Key Informant No. 11, Nyeri County.

The motivation of a public officer abusing his or her office is in order to obtain a benefit either for himself or someone else. Financial gain was the main motivator at 35.8 percent of abuse of office cases reported followed by securing employment for relatives (30.7%), nepotism (10.4%), promotion (3.6%), and award of tenders to relatives or the public officers themselves (3%) (Table 7).

Table 7: Type of benefit accrued by public officers from abuse of office

| | Benefit | No. of Incidence | Percent (%) |
|----|--|------------------|-------------|
| 1 | Cash/Money/Bribe/Financial Gain | 241 | 35.8 |
| 2 | Appointment/Employment of Kin | 207 | 30.7 |
| 3 | Unspecified Favours to Self/Favouritism/Nepotism | 70 | 10.4 |
| 4 | Promotion | 24 | 3.6 |
| 5 | Award of tenders to relatives/self | 20 | 3.0 |
| 6 | Misuse of public property | 12 | 1.8 |
| 7 | Allowances | 10 | 1.5 |
| 8 | Hasten Birth Certificate Process | 10 | 1.5 |
| 9 | Political Gain | 6 | 0.9 |
| 10 | No benefit | 6 | 0.9 |
| 11 | Maintain a job | 5 | 0.7 |
| 12 | Double Salary/Salary Increment | 4 | 0.6 |
| 13 | Improper Benefits | 4 | 0.6 |
| 14 | Sexual favours | 4 | 0.6 |
| 15 | Bursary Funds | 3 | 0.4 |
| 16 | Ploughing Services | 3 | 0.4 |
| 17 | Unfair Project/Resource Allocation | 3 | 0.4 |
| 18 | Training opportunity | 3 | 0.4 |
| 19 | House | 2 | 0.3 |
| 20 | Award of marks | 2 | 0.3 |
| 21 | Benefitting clan members | 2 | 0.3 |
| 22 | Embezzlement | 2 | 0.3 |
| 23 | Family Empowerment | 2 | 0.3 |

| | Benefit | No. of Incidence | Percent (%) |
|----|--|------------------|-------------|
| 24 | Land | 2 | 0.3 |
| 25 | Inflation of prices | 2 | 0.3 |
| 26 | Protection during disciplinary process | 2 | 0.3 |
| 27 | Soliciting | 2 | 0.3 |
| 28 | Special gift | 2 | 0.3 |
| 29 | Other benefits | 19 | 1.9 |
| | Total | 674 | 100.0 |

From the findings of the survey, category of Public Officers who are most likely to abuse their offices are senior management, heads of institutions and heads of departments.

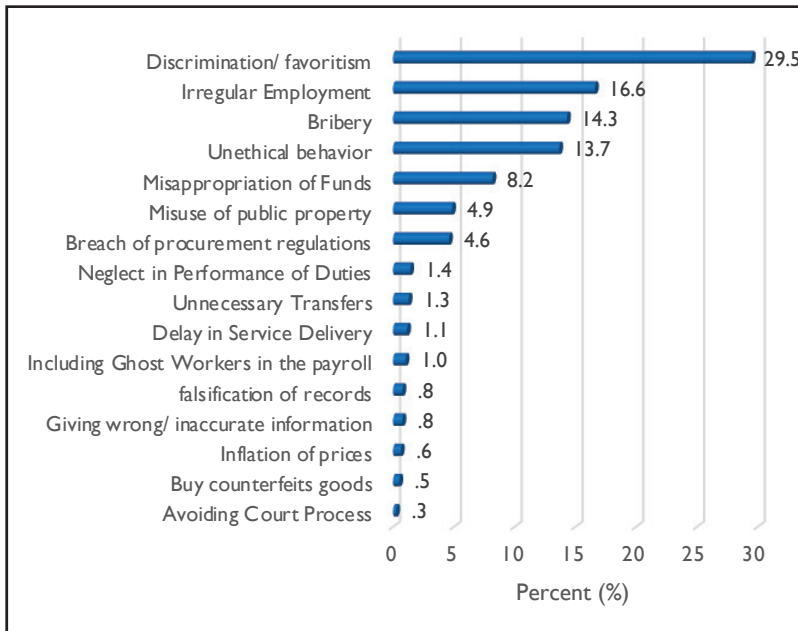


Figure 7: Category of Public Officers involved in Abuse of Office

An analysis of actions taken against instances of abuse of office, indicated that nothing was done to address the situation in 78.4 percent of the cases. Investigations were found to be ongoing in 7.1 percent of the cases while in 6.8 percent, the offending officers were dismissed (Figure 8).

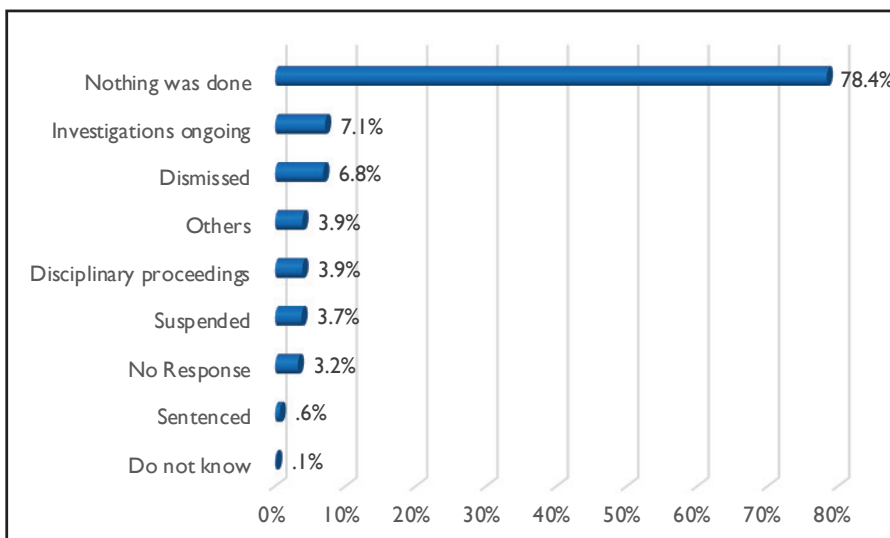


Figure 8: Action against Abuse of Office

Table 8 list the public institutions in which public officers abused their offices. The Kenya Police recorded the highest number of cases with 4.4 percent, Interior Ministry (3.8%) and Public Universities (3.8%).

Table 8: Public Institutions and recorded abuse of office incidences

| | Public Institution | Incidence | Percent (%) |
|----|---------------------------------------|-----------|-------------|
| 1 | Kenya Police | 30 | 4.4 |
| 2 | Interior Ministry | 26 | 3.8 |
| 3 | Public Universities | 26 | 3.8 |
| 4 | County Hospital | 22 | 3.2 |
| 5 | Civil Registrar of Persons | 21 | 3.1 |
| 6 | Prisons | 19 | 2.8 |
| 7 | Teacher Service Commission | 19 | 2.8 |
| 8 | Ministry of Land - Land Registry | 17 | 2.5 |
| 9 | Muhoroni Sugar Company | 17 | 2.5 |
| 10 | KPLC | 15 | 2.2 |
| 11 | County Government of Kisumu | 13 | 1.9 |
| 12 | County Government of Kiambu | 13 | 1.9 |
| 13 | Homabay County Government | 13 | 1.9 |
| 14 | Ministry of Education | 13 | 1.9 |
| 15 | Pyrethrum Board of Kenya | 13 | 1.9 |
| 16 | TTC, TTI, polytechnic | 13 | 1.9 |
| 17 | KPA | 12 | 1.8 |
| 18 | Law Courts | 12 | 1.8 |
| 19 | LVSWWDA | 12 | 1.8 |
| 20 | Ministry of Water | 12 | 1.8 |
| 21 | County Government of Nairobi | 11 | 1.6 |
| 22 | County Government of West Pokot | 11 | 1.6 |
| 23 | Immigration | 11 | 1.6 |
| 24 | County Government of Kajiado | 10 | 1.5 |
| 25 | Moi Teaching and Referral Hospital | 10 | 1.5 |
| 26 | NEMA | 9 | 1.3 |
| 27 | ADC | 8 | 1.2 |
| 28 | Kenya Pipeline Corporation | 8 | 1.2 |
| 29 | KNH | 8 | 1.2 |
| 30 | Ministry of Finance and Planning | 8 | 1.2 |
| 31 | Ministry of Livestock and Agriculture | 8 | 1.2 |
| 32 | County Government of Uasin Gishu | 7 | 1.0 |
| 33 | County Government of Laikipia | 7 | 1.0 |
| 34 | County Government of Busia | 7 | 1.0 |
| 35 | Kenya Forest Service | 7 | 1.0 |

| | Public Institution | Incidence | Percent (%) |
|----|------------------------------------|-----------|-------------|
| 36 | Kerio Valley | 7 | 1.0 |
| 37 | National Cereal and Produce Board | 7 | 1.0 |
| 38 | NHIF | 7 | 1.0 |
| 39 | Secondary Schools | 7 | 1.0 |
| 40 | Sports Kenya | 7 | 1.0 |
| 41 | Assistant Chief Samia | 6 | 0.9 |
| 42 | County Government Nyeri | 6 | 0.9 |
| 43 | County Government of Nakuru | 6 | 0.9 |
| 44 | Garissa County Government | 6 | 0.9 |
| 45 | CAA/KCAA | 6 | 0.9 |
| 46 | Rift Valley Water Services | 6 | 0.9 |
| 47 | County Government of Kitui | 5 | 0.7 |
| 48 | County Government of Kakamega | 5 | 0.7 |
| 49 | Ministry of Health | 5 | 0.7 |
| 50 | Ministry of Petroleum & Mining | 5 | 0.7 |
| 51 | National Assembly | 5 | 0.7 |
| 52 | NHC | 5 | 0.7 |
| 53 | County Government of Vihiga | 4 | 0.6 |
| 54 | Embu County Assembly | 4 | 0.6 |
| 55 | Homabay County Assembly | 4 | 0.6 |
| 56 | Kisumu County Assembly | 4 | 0.6 |
| 57 | Kwale County Government | 4 | 0.6 |
| 58 | Ministry of Sports, Youth & Gender | 4 | 0.6 |
| 59 | Mombasa County Government | 4 | 0.6 |
| 60 | National Oil | 4 | 0.6 |
| 61 | NSSF | 4 | 0.6 |
| 62 | Birth and Death Certificate | 3 | 0.4 |
| 63 | CDF Office | 3 | 0.4 |
| 64 | County Government of Machakos | 3 | 0.4 |
| 65 | County Government of Narok | 3 | 0.4 |
| 66 | Department of Children Services | 3 | 0.4 |
| 67 | Kenya Meteorological Department | 3 | 0.4 |
| 68 | Kericho County Government | 3 | 0.4 |
| 69 | Kirinyaga County Government | 3 | 0.4 |
| 70 | Kisii County Executive | 3 | 0.4 |
| 71 | KNBS - West Pokot | 3 | 0.4 |
| 72 | Meru County Government | 3 | 0.4 |
| 73 | Ministry of Transport | 3 | 0.4 |
| 74 | NTSA | 3 | 0.4 |

| | Public Institution | Incidence | Percent (%) |
|----|---------------------------------------|-----------|-------------|
| 75 | 12 Institutions with two incidences | 24 | 3.6 |
| 76 | Other Institutions with one incidence | 19 | 1.9 |
| | Total | 683 | 100.0% |

5.3 Suggestions to Curb Abuse of Office

Incidents of public officers abusing their offices were reported to be common in public service. The Public Officers interviewed suggested a number of measures to deal with the vice. Sensitization of Public Officers on integrity was suggested as the most effective way to minimize abuse of office cases. This was followed by modeling integrity in public service, law enforcement and transparency and fairness in tendering processes.

Table 9: Suggestions to minimize abuse of office

| Suggestions to minimize Abuse of Office | Percent (%) |
|---|-------------|
| Sensitization of public officers on integrity | 20.5 |
| Modeling integrity in Public Service | 15.4 |
| Law enforcement | 12.7 |
| Transparency and fairness in tendering processes | 11.5 |
| Frequent auditing of Public officers | 6.1 |
| Formulation of better laws | 5.6 |
| Motivation/better remuneration | 5.5 |
| Adherence to the procurement Act | 4.3 |
| Meritocracy in recruitment | 4.2 |
| Oversight by Anti-graft agencies on tenders | 2.7 |
| Salary increment | 2.1 |
| Staff rotation | 1.8 |
| EACC be given prosecutorial power | 1.6 |
| Dismissal/suspension | 1.6 |
| Equality in distribution of resources | 1.6 |
| Surveillance to monitor public officers conduct | 1.5 |
| Digitize processes | 1.1 |
| Declaration of interest by the parties in tendering process | 1.1 |
| Protection of whistle blowers | 1.1 |
| Resignation/ step aside for investigation | 0.8 |
| Be patriotic | 0.4 |
| Withdrawal of some privileges by public officers | 0.2 |

CHAPTER 6

ILLICIT ENRICHMENT

6.1 Introduction

Illicit enrichment is criminalized under Article 20 of the United Nations Convention against Corruption (UNCAC), which defines it as the “significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.” Illicit enrichment is also prescribed as an offense in the Inter-American Convention against Corruption (IACAC) and the African Union Convention on Preventing and Combating Corruption (AUCPCC) under comparable definitions. Despite such broad international recognition, the criminalization of illicit enrichment is not universally accepted as an anticorruption measure. Instead, it continues to generate extensive debate and controversy. (On the Take: Criminalizing Illicit Enrichment to Fight Corruption (2012) by Lindy Muzila, Michelle Morales, Marianne Mathias, and Tammar Berger – Stolen Asset Recovery Initiative. World Bank and UNODC)

In Kenya, the Leadership and Integrity Act states that a State officer shall not accept or solicit gifts, hospitality or other benefits from a person who has an interest that may be achieved by the carrying out or not carrying out of the State officer’s duties and shall not receive a gift which is given with the intention of compromising the integrity, objectivity or impartiality of the State officer. A State officer who receives a gift or donation shall declare the gift or donation to the Ethics and Anti-Corruption Commission (EACC) and the public entity which the State officer represents. (LIA 2012 Section 14(3-5). Against this background, this study sought to shed light on issues related to illicit enrichment within the Public Sector in Kenya.

6.2 Illicit Enrichment

Instances where Public Officers used their offices to improperly enrich themselves or others were identified by 12.6 per cent of the respondents. The Study revealed that misappropriation of public revenues, land grabbing, illegal acquisition of property, bribery and inflation of tendering prices as some of the most prevalent avenues through which Public Officers improperly enrich themselves (Figure 9). The study further revealed that Land grabbing was more prevalent in Nairobi (18.7%), Nakuru (10.7%), Uasin Gishu (8%) and Kirinyaga (8%). In addition, misappropriation of public revenue was prevalent in Kisumu (20.6%), Nairobi (13%), Homabay (10.7%), Uasin Gishu (9.9%) and Busia (7.6%). Public Officers in the Ministry of Lands were mostly mentioned in either grabbing land for themselves or aiding others. Muhoroni Sugar Company and County Government of Homabay recorded the highest number of cases of misappropriation of funds.

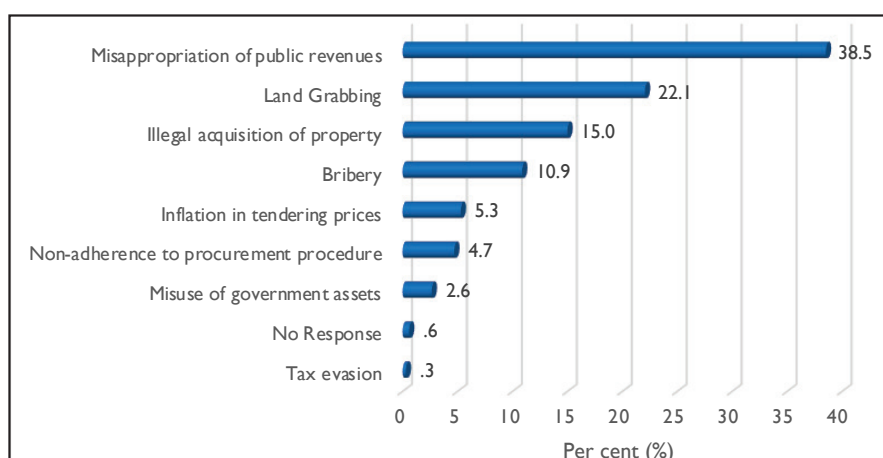


Figure 9: Ways Public Officers improperly enriched themselves

Ministry of Land, Muhoroni Sugar Company, Kerio Valley Development Authority, Prisons and

County Government of Homabay were identified as among the leading public institutions where incidents of illicit enrichment by public officers were recorded (Table 10).

Table 10: Public Institutions where incidents of illicit enrichment were recorded

| | Public Institution | No. of Cases | Percent (%) |
|----|---|--------------|-------------|
| 1 | Ministry of Land - Land Registry | 29 | 10.0 |
| 2 | Muhoroni Sugar Company | 16 | 5.5 |
| 3 | Kerio Valley Development Authority | 10 | 3.5 |
| 4 | Prisons | 10 | 3.5 |
| 5 | County Government of Homabay | 8 | 2.8 |
| 6 | Interior Ministry | 8 | 2.8 |
| 7 | Pyrethrum Board of Kenya/Processing Company | 8 | 2.8 |
| 8 | County Government of Uasin Gishu | 7 | 2.4 |
| 9 | County Government of Kiambu | 7 | 2.4 |
| 10 | TTC, TTI, Polytechnic | 7 | 2.4 |
| 11 | Police | 6 | 2.1 |
| 12 | Secondary Schools | 6 | 2.1 |
| 13 | County Government of Busia | 5 | 1.7 |
| 14 | County Government of Kisii | 5 | 1.7 |
| 15 | County Government of Kisumu | 5 | 1.7 |
| 16 | National Assembly | 5 | 1.7 |
| 17 | County Government of Nairobi | 4 | 1.4 |
| 18 | County Government of West Pokot | 4 | 1.4 |
| 19 | Law Courts | 4 | 1.4 |
| 20 | LVSWWDA | 4 | 1.4 |
| 21 | Ministry of Education | 4 | 1.4 |
| 22 | NSSF | 4 | 1.4 |
| 23 | Office of The Deputy President | 4 | 1.4 |
| 24 | Public Universities | 4 | 1.4 |
| 25 | ADC | 3 | 1.0 |
| 26 | Chief's Office | 3 | 1.0 |
| 27 | Civil Registrar Of Persons | 3 | 1.0 |
| 28 | County Government of Kitui | 3 | 1.0 |
| 29 | County Government Of Kakamega | 3 | 1.0 |
| 30 | County Government Of Kajiado | 3 | 1.0 |
| 31 | County Government of Trans Nzoia | 3 | 1.0 |
| 32 | County Hospital | 3 | 1.0 |
| 33 | Kenya Meteorological Department | 3 | 1.0 |
| 34 | KNH | 3 | 1.0 |
| 35 | KPLC | 3 | 1.0 |

| | Public Institution | No. of Cases | Percent (%) |
|-------|--|--------------|-------------|
| 36 | Ministry Of Water | 3 | 1.0 |
| 37 | National Government | 3 | 1.0 |
| 38 | Rift Valley Water Services | 3 | 1.0 |
| 39 | Teacher Service Commission | 3 | 1.0 |
| 40 | Other Institutions with two incidences | 17 | 11.9 |
| 41 | Other Institutions with one incidence | 36 | 10.8 |
| Total | | 289 | 100.0 |

6.3 Gifts to Public Officers

The Leadership and Integrity Act (LIA) Section 15(3) states that a State Officer shall not accept or solicit gifts, hospitality or other benefits from a person who has an interest that may be achieved by the carrying out or not carrying out of the State officer's duties; carries on regulated activities with respect to which the State officer's organization has a role; or has a contractual or legal relationship with the State officer's organization.

Instances where Public Officers accepted or requested for a gift or favor that influenced their decisions while carrying out their duties were identified by 17.4 percent of the respondents. Most of the gifts that were requested or accepted were in form of cash (88.3%). Other gifts were in form of appointments, houses, cars, land and sexual favors.

The study found that the total amount of money given in the form of gifts was KES 356,122,819 in 296 cases resulting in an average of KES 1,203,118. The most frequently given cash gift was KES 1,000. The cash gifts ranged between KES 50 and KES 200,000,000.

As per LIA Section 15(3), a gift given to a public officer meant to influence their decision as they carry out their public duty ought not to be accepted. Table 12 list the duties that the public officers who received gifts carried out or failed to carry out. Irregular appointment/employment, processing birth and death certificates/National Identification Document (ID), irregular promotion/transfer and award of contract/contract irregularities were the most common affected as a result of gifts.

Table 12: Duties that Public Officers carried out or failed to carry out as a result of being given gifts

| Duty | No. of Cases | Percent (%) |
|---|--------------|-------------|
| Irregular appointment/employment | 82 | 19.1 |
| Processing birth and death certificates/National Identification Document (ID) | 40 | 9.3 |
| Irregular promotion/transfer | 38 | 8.8 |
| Award of contract/contract irregularities | 38 | 8.8 |
| Processing of title deed/land grabbing | 31 | 7.2 |
| Hasten service provision/fail to follow procedure/failed to inspect | 28 | 6.5 |
| Favorable judgement/alter court records/follow up on cases | 20 | 4.7 |
| Allowing un-roadworthy vehicles/traffic offences | 16 | 3.7 |
| Admission of student/hostel allocation/protect student from suspension/grades | 14 | 3.3 |
| Wrongful arrest/avoidance of arrest | 13 | 3.0 |
| Appraisal and approval of works/construction plan/permit issuance | 12 | 2.8 |
| Immigration/border irregularities | 12 | 2.8 |
| Payment processing | 12 | 2.8 |
| Attend to a patient/fake treatment | 10 | 2.3 |

| Duty | No. of Cases | Percent (%) |
|---|--------------|-------------|
| Allocation/avoidance of duties | 9 | 2.1 |
| Failure to carry out investigation/police abstract processing | 9 | 2.1 |
| Defrauding the organization/fake receipts/fake license | 7 | 1.6 |
| Disconnecting/reconnecting electricity | 6 | 1.4 |
| Favoritism | 5 | 1.2 |
| Illegal issuance of mining/health license | 5 | 1.2 |
| Allocate bursaries | 4 | 0.9 |
| Clearance/tax certificate irregularities | 4 | 0.9 |
| Protection from disciplinary proceedings | 4 | 0.9 |
| Avoid revenue collection | 3 | 0.7 |
| Embezzlement/misappropriation | 2 | 0.5 |
| Others | 6 | 1.2 |
| Total | 430 | 100.0 |

The formula for corruption is monopoly together with discretion but without accountability. The higher up a Public Officer goes in the corporate ladder the more likely one is to find these three ingredients. Senior and middle level managers were the Public Officers who most frequently requested or accepted gifts or favors. In fact, Public Officers at middle level management and above accounted for 73.1 per cent of those who solicited for and accepted gifts.

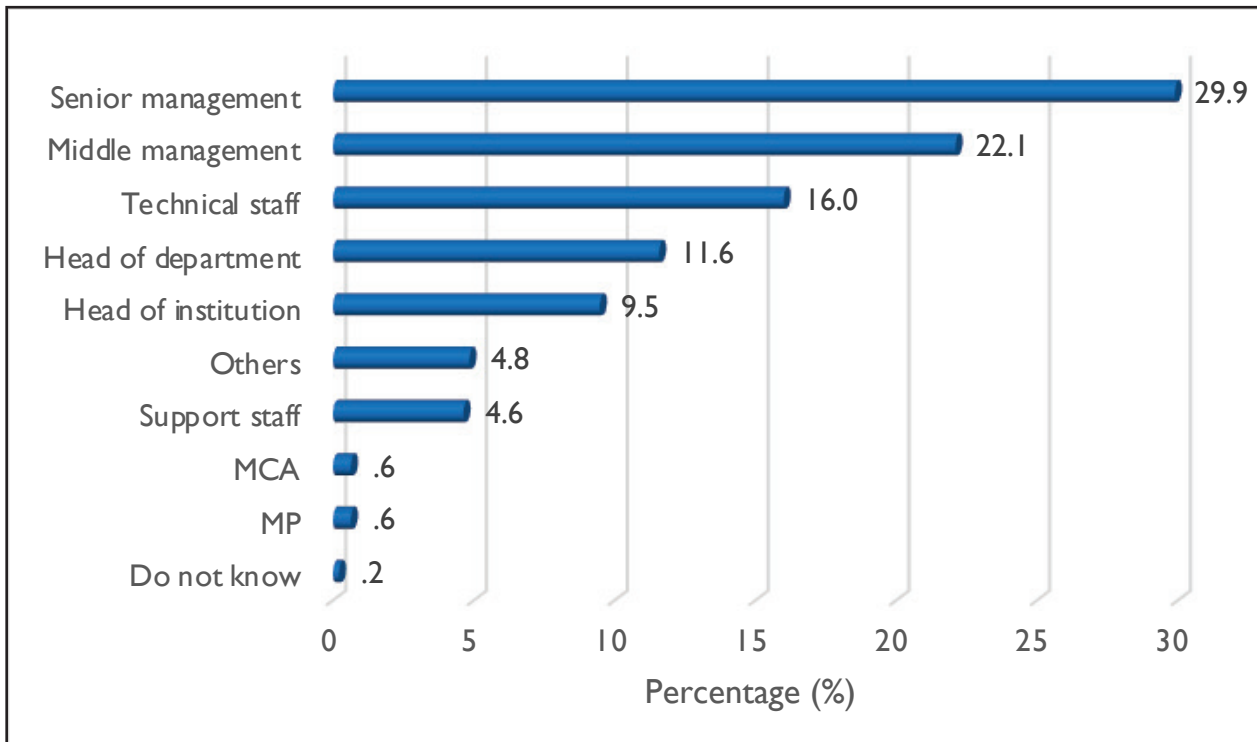


Figure 10: Category of Public Officers requesting or accepting gifts or favors

No action was taken against majority (74.5%) of Public Officers who accepted or requested for a gift or favor. With no consequences for their unscrupulous deeds, Public Officers will become increasingly emboldened in their quest for illicit self-enrichment.

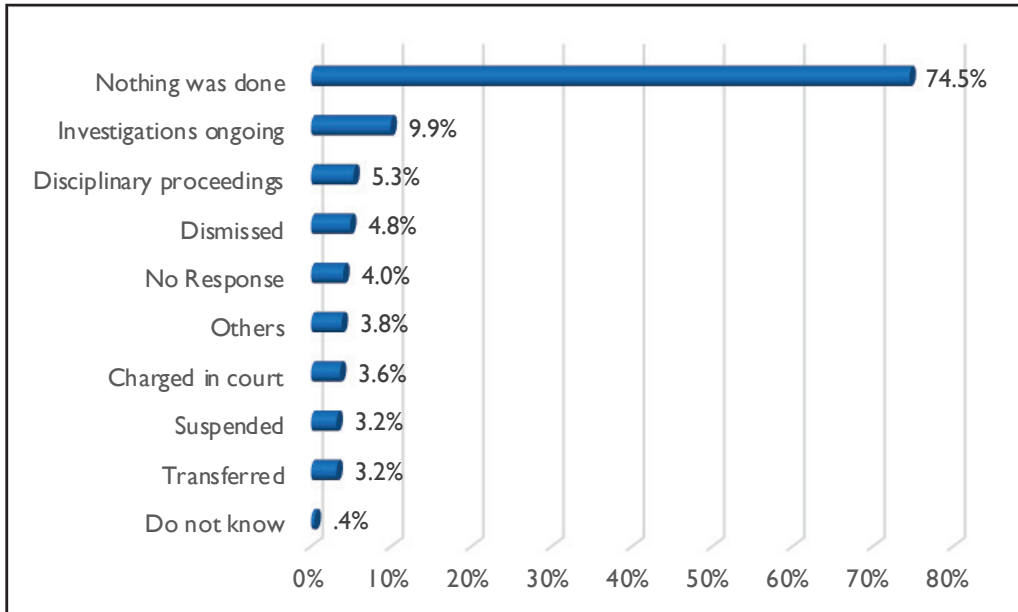


Figure 11: Action against Public Officers who requested or accepted a gift or favor

6.4 Suggestions to Reduce Illicit Enrichment

To prevent illicit solicitation and acceptance of gifts by Public Officers: Sensitization of public officers on integrity (20.4%), law enforcement (17.9%) and modeling ethical behavior (14.8%) were suggested as the most effective remedies (Table 13).

Table 13: Suggestions to minimize gifts or favors

| Suggestion | Percent (%) |
|---|-------------|
| Sensitization of public officers on integrity | 20.4 |
| Law enforcement on culprits | 17.9 |
| No response | 15.7 |
| Upholding high integrity | 14.8 |
| Transparency and fairness in tendering process | 11.7 |
| Formulation of better laws | 8.3 |
| Motivation/better remuneration | 6.5 |
| EACC be given prosecutorial power | 4.3 |
| Frequent auditing of Public officers | 4.0 |
| Digitize processes | 3.6 |
| Oversight by Anti-graft agencies on tenders | 3.4 |
| Meritocracy in recruitment | 2.9 |
| Adherence to the procurement Act | 2.5 |
| Salary increment | 1.8 |
| Declaration of interest by the parties in tendering process | 1.8 |
| Staff rotation | 1.8 |
| Dismissal/ suspension | 1.6 |
| Resignation/ step aside for investigation | 1.6 |
| Protection of whistle blowers | 1.1 |
| Surveillance to monitor public officers? conduct | 0.9 |
| Do not know | 0.9 |
| Equality in distribution of resources | 0.2 |
| Be patriotic | 0.2 |

CHAPTER 7

CONFLICT OF INTEREST

7.1 Introduction

Conflicts of interest represent circumstances in which professional judgments or actions regarding a primary interest, such as the responsibilities of a Public Officer, may be at risk of being unduly influenced by a secondary interest, such as financial gain or career advancement. The secondary interest may be financial or non-financial, and the resultant bias may be conscious or unconscious. The presence of conflicts of interest poses a problem for the Public Officer, citizens seeking services and the public trust in general. Effective means of identifying and managing conflicts are an important element in successfully achieving the goals of Public Service. (Beth Israel Deaconess Medical Center, 2015)

The United Nation Convention against Corruption states that each State Party shall endeavor, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials. (UNCAC Article 9)

A policy paper by Transparency International on public procurement in EU Member States recommends that "conflict of interest" and the means to deal with it throughout the procurement cycle need to be clearly defined in legislation, including with clear guidelines on implementation, monitoring and sanctions. It concludes that current proposals are detailed but that there is scope to tighten these rules in order to strengthen citizens' trust. (Transparency International, 2012)

Conflicts of interest in the public sector are particularly important because, if they are not recognized and controlled appropriately, they can undermine the fundamental integrity of officials, decisions, agencies, and governments. Identifying and resolving conflict of interest situations is crucial to good governance and maintaining trust in public institutions. Conflict of interest is both a straightforward and a complex matter: in the public sector a conflict of interest arises "when a public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities." (OECD, 2005)

In Kenya, the Leadership and Integrity Act (LIA), 2012 states that a State officer or a public officer shall use the best efforts to avoid being in a situation where personal interests conflict or appear to conflict with the State officer's or public officer's official duties. Further, a State officer or a public officer whose personal interests conflict with their official duties shall declare the personal interests to the public entity or the Ethics and Anti-Corruption Commission. (LIA 2012 Section 16 (1) and 3)

7.2 Prevalence of Conflict of Interest

In the study, instances of conflict of interest among Public Officers totaling 394 were identified by 14 per cent of the respondents. Re-carpeting and construction of roads and bridges, construction and renovation of buildings and supply of computer accessories exhibited the most cases of conflict of interest.

Table 14: Conflict of interest areas

| Contract Details | Percent (%) |
|---|-------------|
| Re-carpeting/construction of bridges/roads | 15.6 |
| Construction/renovation of building | 12.7 |
| Supply of computer accessories/stationery/tags | 12.1 |
| Supply of fod stuff/firewood | 11.9 |
| Supply of unspecified goods/service | 11.6 |
| Supply of building/construction materials | 10.8 |
| Supply of hospital equipment/drugs | 5.8 |
| Contract of survey services | 5.5 |
| Cleaning services/land scrapping services | 2.1 |
| Supply of tree seedlings | 1.8 |
| Supply of water | 1.8 |
| Supply of legal services/security/advertisement | 1.8 |
| Supply of uniforms | 1.8 |
| Supply of vehicles/motor cycles | 1.8 |
| Record keeping services | 1.6 |
| Supply of cereals/pesticides | 1.6 |
| Outsourcing of ICT/ Finance services | 1.1 |
| Refinery of gold | 1.1 |
| Maintenance services | 1.1 |
| Clearing and forwarding of goods | 0.3 |

According to the study, conflict of interest involving supply of building/construction materials was most prevalent in Uasin Gishu which recorded 26.8 percent of the cases. Similarly, conflict of interest cases regarding supply of foodstuff or firewood were most prevalent in West Pokot with 17.8 percent. Nairobi recorded the highest prevalence in supply of computer accessories (30.4%), contract for survey services (47.6%), supply of vehicles (85.7%) and contracts for legal services (34.1%).

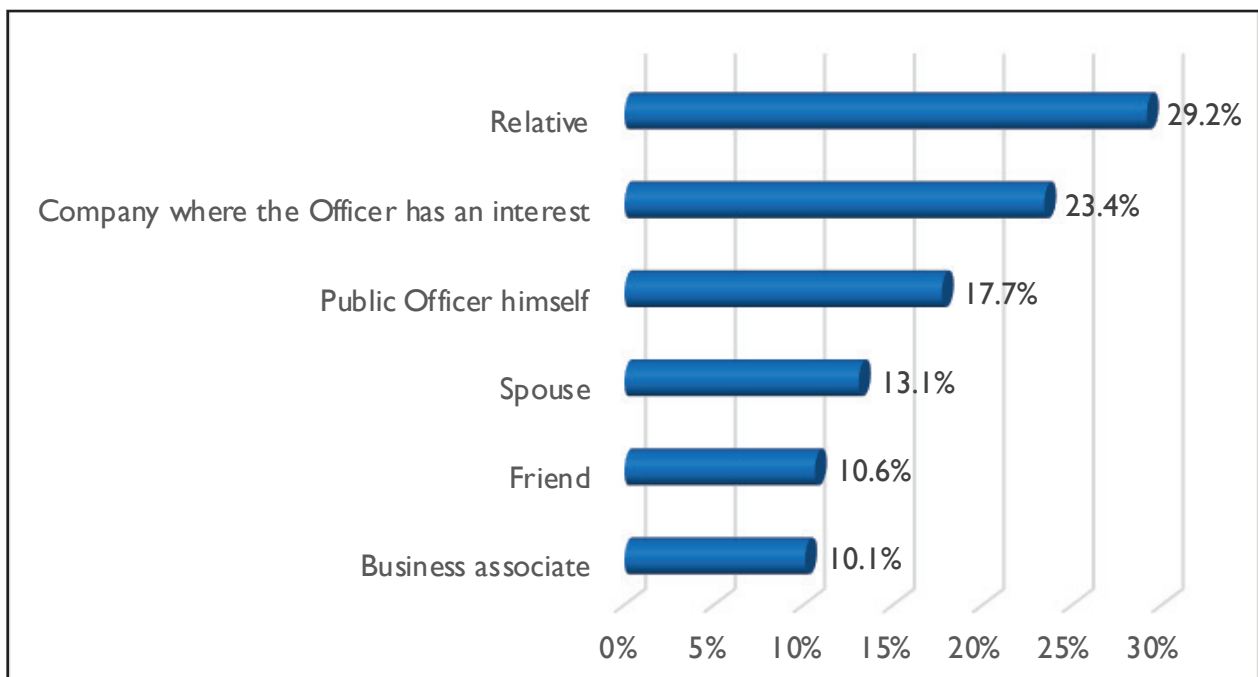


Figure 12: Relationships resulting in Conflict of Interest

Box 4: Conflict of interest

“Conflict of interest is especially rampant in counties because county employees are few thus operate as a family, meaning high likelihood of influencing decisions to favor friends and relatives. This is further exacerbated by the fact that some staff are political appointees or have powerful connections thus are untouchable.” Key Informant No. 2, Machakos County.

“There are several cases where police officers own matatus and hence would not arrest their own employees for violating traffic rules Similarly, chiefs’ have relatives who own drinking dens and other businesses and ... protect them from any kind of prosecutions The government should ensure that civil servants declare any other businesses they have or that are owned by their relatives and business associates to avoid conflict of interest.” Key Informant No. 10, Kiambu County.

Out of the 394 conflict of interest cases identified 38.5 percent involved heads of institutions, senior managers (36.1%), procurement officials (15.3%), middle level managers (5.5%) and technical or support staff (1.9%). It is therefore evident that the higher the position or level of influence one has in an organization, the more likely they are to be involved in conflict of interest. In fact, the average number of cases of conflict of interest involving heads of institution, senior managers and procurement officials and where no action was taken was higher than the overall average. This is demonstrated in Figures 13 and 14.

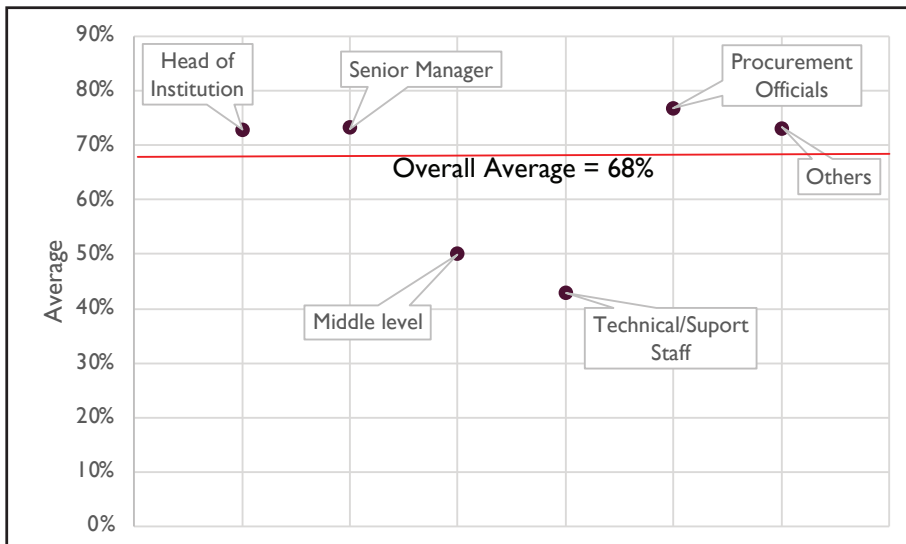


Figure 13: Cases of Conflict of Interest where no action was taken

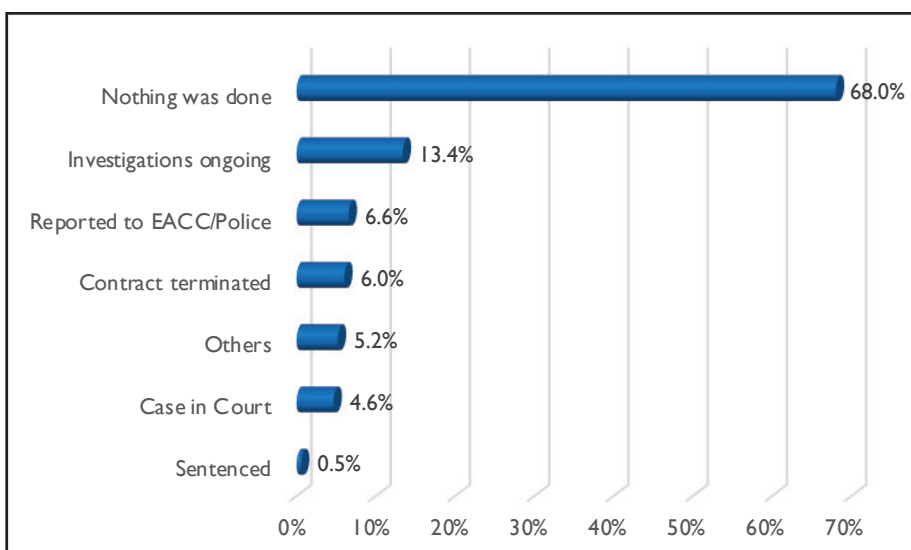


Figure 14: Action against Conflict of Interest cases

Public secondary schools, county hospitals, County Government of Kiambu, Muhoroni Sugar Company, prisons, Homabay County Government and KPLC were some of the leading public institutions with conflict of interest cases (Table 15).

Table 15: Public institutions with conflict of interest cases

| Public Institution | No. of Cases | Percent (%) |
|-----------------------------------|--------------|-------------|
| Public Secondary Schools | 20 | 5.4 |
| County Hospitals | 16 | 4.3 |
| County Government of Kiambu | 15 | 4.1 |
| Muhoroni Sugar Company | 15 | 4.1 |
| Prisons | 15 | 4.1 |
| Homabay County Government | 12 | 3.2 |
| KPLC | 10 | 2.7 |
| Public University | 8 | 2.2 |
| County Government Kakamega | 7 | 1.9 |
| County Government of Busia | 7 | 1.9 |
| KNH | 7 | 1.9 |
| County Government of Uasin Gishu | 6 | 1.6 |
| County Government of West Pokot | 6 | 1.6 |
| Kenya Forest Service | 6 | 1.6 |
| NEMA | 6 | 1.6 |
| TTC, TTI, Polytechnic | 6 | 1.6 |
| County Assembly of Isiolo | 5 | 1.4 |
| County Assembly of Meru | 5 | 1.4 |
| County Government of Machakos | 5 | 1.4 |
| County Government of Nairobi | 5 | 1.4 |
| Isiolo County Government | 5 | 1.4 |
| Ministry of Petroleum & Mining | 5 | 1.4 |
| Rift Valley Water Services | 5 | 1.4 |
| Sports Kenya | 5 | 1.4 |
| CDF Office | 4 | 1.1 |
| County Government Nyeri | 4 | 1.1 |
| County Government of Kajiado | 4 | 1.1 |
| County Government of Nakuru | 4 | 1.1 |
| Interior Ministry | 4 | 1.1 |
| Kericho County Government | 4 | 1.1 |
| Kisii County Executive | 4 | 1.1 |
| Moi Teaching and Referral | 4 | 1.1 |
| National Cereal and Produce Board | 4 | 1.1 |
| National Oil | 4 | 1.1 |
| NSSF | 4 | 1.1 |
| NYS | 4 | 1.1 |
| County Gov of Kisumu | 3 | 0.8 |
| County Government of Migori | 3 | 0.8 |
| County Government of Narok | 3 | 0.8 |
| County Government of Samburu | 3 | 0.8 |
| County Government of Transzoia | 3 | 0.8 |
| Kenya Rural Roads Authority | 3 | 0.8 |
| Kerio Valley | 3 | 0.8 |
| Kisii County Assembly | 3 | 0.8 |
| Kisumu County Assembly | 3 | 0.8 |
| KPA | 3 | 0.8 |
| LVSWWDA | 3 | 0.8 |
| Meru County Government | 3 | 0.8 |

| Public Institution | No. of Cases | Percent (%) |
|---|--------------|-------------|
| NHIF | 3 | 0.8 |
| Nyayo Tea Zones | 3 | 0.8 |
| Public Primary Schools | 3 | 0.8 |
| Pyrethrum Board of Kenya | 3 | 0.8 |
| Teacher Service Commission | 3 | 0.8 |
| Other 20 Institutions with two incidences | 40 | 20.0 |
| Other Institutions with one incidence | 29 | 8.7 |
| Total | 370 | 100.0 |

7.3 Cost of Conflict of Interest and Suggestions

The total value of contracts in which conflict of interest was identified by respondents was KES 4,393,163,000. This resulted in an average value of KES 23,705,809 for each of the 394 contracts identified. The contract values ranged between KES 5,000 and KES 1,000,000,000.

Transparency and fairness during tendering (22.6%), adherence to the Public Procurement and Disposal Act (15.2%) and declaration of interests by the parties in the tendering process (12.3%) were some of the suggestions put forward to curb conflict of interest in the Public Service (Table 16).

Table 16: Suggestions to minimize Conflict of Interest

| Suggestion | Percent (%) of Cases |
|---|----------------------|
| Transparency and fairness in tendering process | 22.6 |
| Adherence to the procurement Act | 15.2 |
| Declaration of interest by the parties in tendering process | 12.3 |
| Law enforcement on culprits | 8.6 |
| Sensitization of public officers on integrity | 8.6 |
| Upholding high integrity | 7.3 |
| Formulation of better laws | 5.5 |
| Oversight by Anti-graft agencies on tenders | 4.9 |
| Frequent auditing of Public officers | 3.3 |
| Digitize processes | 2.7 |
| Motivation/better remuneration | 2.1 |
| Dismissal/ suspension | 1.4 |
| Resignation/ step aside for investigation | 1.2 |
| Meritocracy in recruitment | 1.0 |
| Staff rotation | 1.0 |
| Surveillance to monitor public officers? conduct | 0.9 |
| Equality in distribution of resources | 0.6 |
| EACC be given prosecutorial power | 0.6 |
| Salary increment | 0.4 |
| Protection of whistle blowers | 0.3 |
| Withdrawal of some privileges? by public officers | 0.3 |

PUBLIC PROPERTY AND REVENUE

8.1 Introduction

In its preamble the United Nations Convention Against Corruption calls for establishment of the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law (Preamble UNCAC). In Article 1, Sub-Article (c), UNCAC reiterates the need for the promotion of integrity, accountability and proper management of public affairs and public property. In fact, UNCAC requires that each State Party shall, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability. (UNCAC Article 5 Sub Article 1)

Further, according to UNCAC Article 9 Sub Article 2, each State Party shall take appropriate measures to promote transparency and accountability in the management of public finances. With regard to procurement each State Party in UNCAC shall, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective in preventing corruption. (UNCAC Article 9 Sub Article 1)

Regionally, AUCPCC requires its State Parties to adopt legislative and other measures to create, maintain and strengthen internal accounting, auditing and follow-up systems in the management of public goods and services (AUCPCC Article 5 Sub Article 4).

Locally, the Leadership and Integrity Act prescribes that a State officer or a public officer shall not award or influence the award of a contract to: himself or herself; the State officer's or public officer's spouse or child; a business associate or agent; or a corporation, private company, partnership or other body in which the officer has a substantial or controlling interest. (LIA 2012 Section 16 (5))

In essence UNCAC, AUCPCC and LIA all call for and require the proper management of public affairs and public property, promotion of transparency and accountability in the management of public finances and the establishment of appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, in preventing corruption.

It is therefore not for the lack of legislation that corruption still manifests itself in every segment of Public Service. Corruption continues to thrive mainly because of the human factor and the inability to take whatever action is necessary to punish corrupt acts or prevent corruption before it happens.

8.2 Unlawful Acquisition of Public Property

The Leadership and Integrity Act section 15 state that a State officer shall not use the office to wrongfully or unlawfully influence the acquisition of property. The study sought to find out if there are such incidences in public service. Although a minority of respondents (9.8%) identified cases where public property was acquired unlawfully or fraudulently by Public Officers, the 253 properties identified in the Study still represent a major drain on public coffers. Public Land (53%) constituted the bulk of the types of public property that were unlawfully acquired by public officers. This was followed by public vehicles (18%) and public houses (8%) among others (Figure 15).

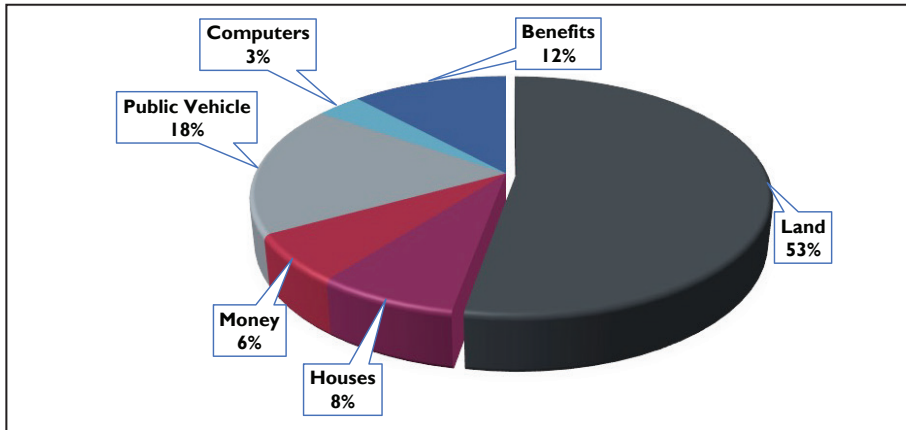


Figure 15: Types of Public Property Acquired Unlawfully

Table 17: Highlights of Public Properties Acquired Unlawfully

| Public Property | Value (KES) | Ownership of Public Property | Action Taken |
|------------------------------|---------------|------------------------------|------------------------|
| 25 Acres of Land | 3,000,000,000 | Pyrethrum Company | No action was taken |
| School Land | 1,000,000,000 | K.I.S.T | Investigations ongoing |
| Land | 325,000,000 | Njoro Soil Conservation | Charged in court |
| Assets Acquired at the Coast | 120,000,000 | Trans Nzoia | Investigations ongoing |
| Land | 100,000,000 | Pyrethrum Company | Do not know |
| Land | 100,000,000 | Lang'ata Primary School | Investigations ongoing |

Out of the 253 public properties that had been unlawfully or illegally acquired by Public Officers, 125 properties were collectively valued at KES 5,401,765,280. The average value per property that was illegally acquired was KES 43,214,122. Specifically, five of the most valuable pieces of public property that were acquired were tracts of land valued at KES 4,645,000,000. It is therefore not surprising that land grabbing (48.6%) was the most prevalent form of unlawful public property acquisition.

Table 18: Highlights of how Public Properties were Acquired Unlawfully

| Method | Percent (%) |
|--|--------------|
| Land grabbing | 48.6 |
| Fraudulent acquisition of government property | 27.0 |
| Use of government vehicles to run personal errands | 9.7 |
| Wrong use of per diem allowance | 3.1 |
| Forging documents | 1.5 |
| Receiving commuter allowances while using government car | 1.5 |
| Fueling personal car with government fuel | 1.2 |
| Giving false information | 1.2 |
| Theft of public property | 0.8 |
| Falsification of government property | 0.8 |
| Use of position to ensure drilling of a borehole at his home | 0.8 |
| Payments for non-existent repairs | 0.4 |
| Use of government funds to build private house | 0.4 |
| Total | 100.0 |

In 42.4 percent of cases where public property was acquired unlawfully, no action was taken. The high level of inaction and lethargy on matters of unlawful acquisition of public property will continue to breed impunity which feeds into the overall levels of corruption. In addition, the more

moderately prevalent actions taken like prosecution in court and investigation have tended to drag through inordinate lengths of time further exacerbating an already dire state of corruption in the Country.

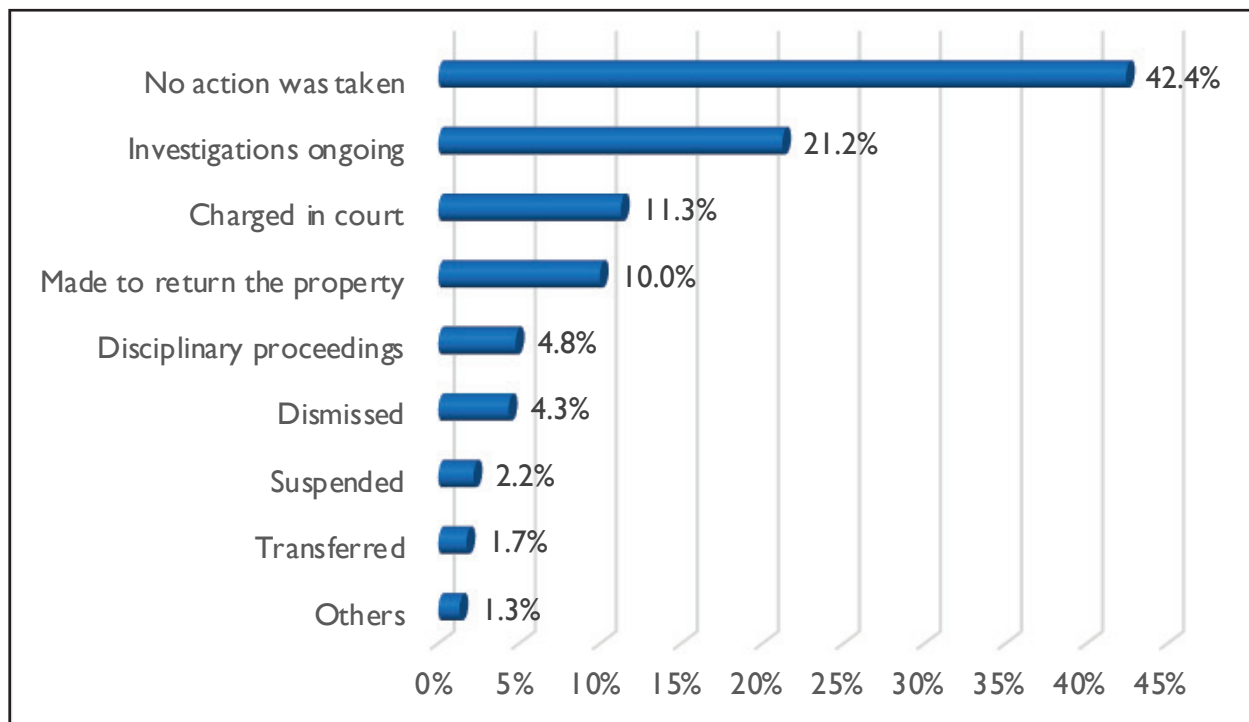


Figure 16: Action against unlawful public property acquisition

Table 19: Public institutions versus illegally acquired public property

| | Public Institution | Institution Public Property Belonged to | | Institution Public Officer Belonged to | |
|----|---------------------------------------|---|-------------|--|-------------|
| | | No. | Percent (%) | No. | Percent (%) |
| 1 | Ministry of Land - Land Registry | 14 | 5.7 | 16 | 8.7 |
| 2 | Ministry of Transport | 9 | 3.7 | - | - |
| 3 | Muhoroni Sugar Company | 9 | 3.7 | 5 | 2.7 |
| 4 | County Hospitals | 8 | 3.3 | 3 | 1.6 |
| 5 | Law Courts | 8 | 3.3 | 6 | 3.3 |
| 6 | Primary Schools | 8 | 3.3 | 2 | 1.1 |
| 7 | County Government of Nairobi | 7 | 2.9 | 4 | 2.2 |
| 8 | Ministry of Agriculture and Livestock | 7 | 2.9 | 1 | 0.5 |
| 9 | TTC, TTI, Polytechnic | 7 | 2.9 | 3 | 1.6 |
| 10 | Ministry of Interior | 6 | 2.5 | 5 | 2.7 |
| 11 | National Cereal and Produce Board | 6 | 2.5 | 4 | 2.2 |
| 12 | Prisons | 6 | 2.5 | 3 | 1.6 |
| 13 | Pyrethrum Board of Kenya | 6 | 2.5 | 4 | 2.2 |
| 14 | County Government of Kisumu | 5 | 2.0 | 6 | 3.3 |
| 15 | County Government of Nakuru | 5 | 2.0 | 3 | 1.6 |
| 16 | County Government of Busia | 5 | 2.0 | 6 | 3.3 |
| 17 | KAA/KCAA | 5 | 2.0 | 3 | 1.6 |
| 18 | KPLC | 5 | 2.0 | 4 | 2.2 |
| 19 | Ministry of Education | 5 | 2.0 | 2 | 1.1 |

| | Public Institution | Institution Public Property Belonged to | | Institution Public Officer Belonged to | |
|----|----------------------------------|---|-------------|--|-------------|
| | | No. | Percent (%) | No. | Percent (%) |
| 20 | County Assembly of Kakamega | 4 | 1.6 | - | - |
| 21 | County Government of Kiambu | 4 | 1.6 | 5 | 2.7 |
| 22 | County Government of West Pokot | 4 | 1.6 | 2 | 1.1 |
| 23 | Kenya Pipeline Company (KPA) | 4 | 1.6 | 3 | 1.6 |
| 24 | NSSF | 4 | 1.6 | 4 | 2.2 |
| 25 | Secondary Schools | 4 | 1.6 | 2 | 1.1 |
| 26 | Sports Kenya | 4 | 1.6 | 4 | 2.2 |
| 27 | ADC | 3 | 1.2 | 2 | 1.1 |
| 28 | County Government of Uasin Gishu | 3 | 1.2 | 2 | 1.1 |
| 29 | County Government of Machakos | 3 | 1.2 | 5 | 2.7 |
| 30 | Kenya Forest Service | 3 | 1.2 | 2 | 1.1 |
| 31 | Kenya Pipeline Corporation | 3 | 1.2 | 1 | 0.5 |
| 32 | Kericho County Government | 3 | 1.2 | 1 | 0.5 |
| 33 | Kisii County Government | 3 | 1.2 | 2 | 1.1 |
| 34 | Meru County Government | 3 | 1.2 | 1 | 0.5 |
| 35 | Ministry of Water | 3 | 1.2 | 3 | 1.6 |
| 36 | NHC | 3 | 1.2 | 1 | 0.5 |
| 37 | Civil Registrar of Persons | 2 | 0.8 | 4 | 2.2 |
| 38 | County Government Kakamega | 2 | 0.8 | 2 | 1.1 |
| 39 | County Government of Kajiado | 2 | 0.8 | 2 | 1.1 |
| 40 | County Government of Narok | 2 | 0.8 | 2 | 1.1 |
| 41 | National Assembly | - | - | 7 | 3.8 |
| 42 | Other public institutions | 47 | 18.8 | 47 | 25.6 |
| | Total | 244 | 100.0 | 184 | 100.0 |

8.3 Damage to Public Property

Both the Public Officer's Ethics Act and Leadership and Integrity Act requires public officers to take all reasonable steps to ensure that public property in the officer's custody, possession or control is taken care of and is in good repair and condition. In addition, the Acts require public officers not to use public property, funds or services that are acquired in the course of or as a result of the official duties, for activities that are not related to the official work of the public officer. The study sought to find out whether proper care of property is taken by public officers. There were 17.9 percent of respondents who identified cases where public property was damaged by Public Officers.

Table 20: Type of public property damaged by public officers

| | Property | No. | Percent (%) |
|---|--|-----|-------------|
| 1 | Ambulance/vehicles/motorcycle | 305 | 61.6 |
| 2 | Office stationery & equipment | 66 | 13.3 |
| 3 | Office furniture & fittings | 56 | 11.3 |
| 4 | Buildings | 26 | 5.3 |
| 5 | Laboratory equipment/drugs | 12 | 2.4 |
| 6 | Construction equipment | 6 | 1.2 |
| 7 | Forest and other agricultural material | 6 | 1.2 |
| 8 | Fence/wall | 5 | 1.0 |
| 9 | Gun/firearms | 4 | 0.8 |

| | Property | No. | Percent (%) |
|----|--|-----|-------------|
| 10 | Transformer and other transmission equipment | 4 | 0.8 |
| 11 | Office cutlery | 2 | 0.4 |
| 12 | Street lights | 2 | 0.4 |
| 13 | Generator | 1 | 0.2 |
| | Total | 495 | 100.0 |

Motor vehicles constituted the largest proportion of public properties damaged by public officers (Table 20). When Public Officers were asked to indicate circumstances under which public property was damaged their responses included negligence, alcohol use, unauthorized use and intentional breakage, among others (Figure 17). It is noteworthy that there were a large number of instances of intentional damage or damage as a result of negligence.

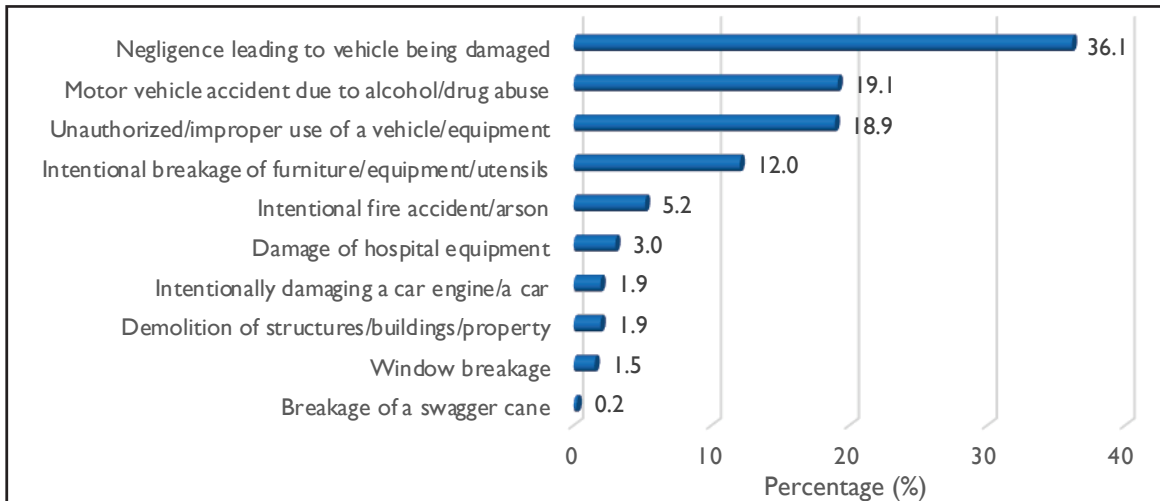


Figure 17: Circumstances under which public property was damaged

Most cases (28.3%) of damage to public property were treated as accidents and there was a noteworthy number of cases (16.3%) in which no action was taken. Despite the fact that offenders were surcharged in 19.2 percent of the cases, there was a combined 44.6 percent of cases that were either treated as accidents or in which no action was taken.

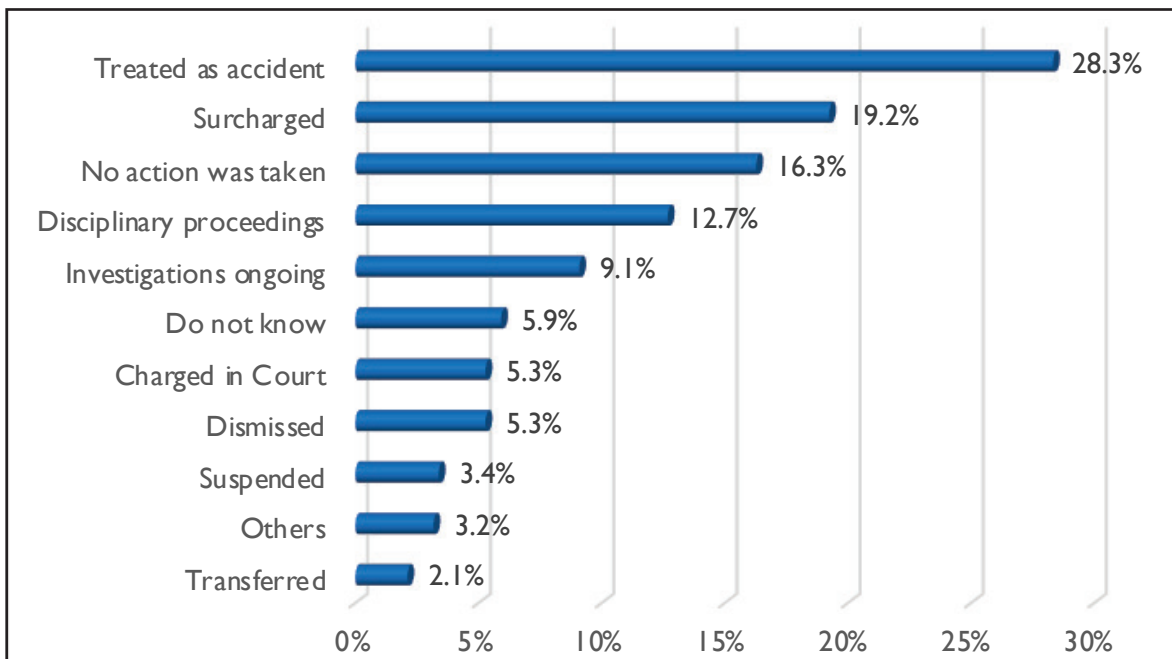


Figure 18: Action against damage to public property

Table 21: Public institutions where public property was damaged by public officers

| | Public Institution | Total | Percent (%) |
|----|---------------------------------------|-------|-------------|
| 1 | County Hospitals | 28 | 6.6 |
| 2 | Ministry of Agriculture and Livestock | 17 | 4.0 |
| 3 | Prisons | 14 | 3.3 |
| 4 | County Government of Homabay | 12 | 2.8 |
| 5 | County Government of Uasin Gishu | 12 | 2.8 |
| 6 | Police | 12 | 2.8 |
| 7 | Public Secondary Schools | 12 | 2.8 |
| 8 | County Government of Busia | 11 | 2.6 |
| 9 | Ministry of Interior | 10 | 2.3 |
| 10 | Kenya Forest Service | 10 | 2.3 |
| 11 | LVSWWDA | 9 | 2.1 |
| 12 | Public Universities | 9 | 2.1 |
| 13 | County Government of Kiambu | 8 | 1.9 |
| 14 | County Government of Laikipia | 8 | 1.9 |
| 15 | County Government of Nairobi | 8 | 1.9 |
| 16 | Law Courts | 8 | 1.9 |
| 17 | Ministry of Water | 8 | 1.9 |
| 18 | Moi Teaching and Referral | 8 | 1.9 |
| 19 | ADC | 7 | 1.6 |
| 20 | County Government of West Pokot | 7 | 1.6 |
| 21 | Muhoroni Sugar Company | 7 | 1.6 |
| 22 | County Government of Kirinyaga | 6 | 1.4 |
| 23 | KPLC | 6 | 1.4 |
| 24 | TTC, TTI, Polytechnic | 6 | 1.4 |
| 25 | County Assembly of Kisii | 5 | 1.2 |
| 26 | County Government of Kitui | 5 | 1.2 |
| 27 | County Government of Nakuru | 5 | 1.2 |
| 28 | County Government of Narok | 5 | 1.2 |
| 29 | Kenya Pipeline Corporation | 5 | 1.2 |
| 30 | KNH | 5 | 1.2 |
| 31 | Ministry of Education | 5 | 1.2 |
| 32 | National Oil | 5 | 1.2 |
| 33 | NHIF | 5 | 1.2 |
| 34 | Nyayo Tea Zones | 5 | 1.2 |
| 35 | County Assembly of Busia | 4 | 0.9 |
| 36 | County Assembly of Kisumu | 4 | 0.9 |
| 37 | County Government of Kericho | 4 | 0.9 |
| 38 | County Government of Kwale | 4 | 0.9 |
| 39 | County Government of Nyeri | 4 | 0.9 |
| 40 | KAA/KCAA | 4 | 0.9 |
| 41 | Kerio Valley | 4 | 0.9 |
| 42 | KPA | 4 | 0.9 |
| 43 | Ministry of Finance and Planning | 4 | 0.9 |
| 44 | Pyrethrum Board of Kenya | 4 | 0.9 |

| | Public Institution | Total | Percent (%) |
|----|------------------------------------|-------|-------------|
| 45 | County Assembly of Isiolo | 3 | 0.7 |
| 46 | County Assembly of Kakamega | 3 | 0.7 |
| 47 | County Assembly of Meru | 3 | 0.7 |
| 48 | County Assembly of Uasin Gishu | 3 | 0.7 |
| 49 | County Government Kakamega | 3 | 0.7 |
| 50 | County Government of Isiolo | 3 | 0.7 |
| 51 | County Government of Kisumu | 3 | 0.7 |
| 52 | County Government of Machakos | 3 | 0.7 |
| 53 | County Government of Meru | 3 | 0.7 |
| 54 | Ministry of Devolution | 3 | 0.7 |
| 55 | Ministry of Environment & Forestry | 3 | 0.7 |
| 56 | Ministry of Health | 3 | 0.7 |
| 57 | NEMA | 3 | 0.7 |
| 58 | Other public institutions | 54 | 12.0 |
| | Total | 426 | 100.0 |

It is noteworthy that inertia, lethargy and inaction seem to be the common themes characterizing the war against corruption. In fact, there is a large proportion of cases of motor vehicle accidents due to alcohol or drug abuse, intentional breakage of furniture/equipment/utensils, unauthorized/improper use of a vehicle/equipment and negligence leading to vehicle damage that were treated as accidents or against which no action was taken, this aggravates an already bad situation (Table 22).

Table 22: Action taken versus circumstances leading to public properties damage

| | Sur-charged | Transferred | Dismissed | Charged in Court | Treated as accident | Suspended | Disciplinary proceedings | Investigations ongoing | No action was taken | Do not know | Others | Total |
|--|-------------|-------------|-----------|------------------|---------------------|-----------|--------------------------|------------------------|---------------------|-------------|--------|-------|
| Motor vehicle accident due to alcohol/drug abuse | 13 | 2 | 7 | 5 | 26 | 2 | 16 | 3 | 11 | 14 | 4 | 88 |
| | 14.8% | 2.3% | 8.0% | 5.7% | 29.5% | 2.3% | 18.2% | 3.4% | 12.5% | 15.9% | 4.5% | |
| Window breakage | 0 | 0 | 3 | 3 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 7 |
| | 0.0% | 0.0% | 42.9% | 42.9% | 14.3% | 14.3% | 14.3% | 14.3% | 0.0% | 0.0% | 0.0% | |
| Intentional breakage/destruction of furniture/equipment/utensils | 14 | 0 | 2 | 3 | 18 | 3 | 3 | 5 | 11 | 2 | 0 | 56 |
| | 25.0% | 0.0% | 3.6% | 5.4% | 32.1% | 5.4% | 5.4% | 8.9% | 19.6% | 3.6% | 0.0% | |
| Damage of hospital equipment | 1 | 2 | 0 | 1 | 1 | 0 | 1 | 2 | 5 | 0 | 2 | 15 |
| | 7.1% | 14.3% | 0.0% | 7.1% | 7.1% | 0.0% | 7.1% | 14.3% | 35.7% | 0.0% | 14.3% | |
| Intentional fire accident/arson | 3 | 2 | 3 | 3 | 0 | 1 | 1 | 8 | 2 | 2 | 0 | 24 |
| | 12.5% | 8.3% | 12.5% | 12.5% | 0.0% | 4.2% | 4.2% | 33.3% | 8.3% | 8.3% | 0.0% | |
| Unauthorized/improper use of a vehicle/equipment | 19 | 0 | 4 | 2 | 13 | 2 | 26 | 8 | 20 | 4 | 3 | 84 |
| | 22.6% | 0.0% | 4.8% | 2.4% | 15.5% | 2.4% | 31.0% | 9.5% | 23.8% | 4.8% | 3.6% | |
| Demolition of structures/buildings/property | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 3 | 2 | 1 | 9 |
| | 0.0% | 11.1% | 0.0% | 11.1% | 11.1% | 0.0% | 0.0% | 0.0% | 33.3% | 22.2% | 11.1% | |
| Intentionally damaging a car engine/a car | 2 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 3 | 1 | 1 | 9 |
| | 22.2% | 0.0% | 0.0% | 11.1% | 0.0% | 11.1% | 0.0% | 0.0% | 33.3% | 11.1% | 11.1% | |

| | Sur-charged | Transferred | Dismissed | Charged in Court | Treated as accident | Suspended | Disciplinary proceedings | Investigations ongoing | No action was taken | Do not know | Others | Total |
|---|-------------|-------------|-----------|------------------|---------------------|-----------|--------------------------|------------------------|---------------------|-------------|--------|-------|
| Negligence leading to a car engine/ vehicle being damaged | 31 | 3 | 5 | 5 | 67 | 6 | 12 | 15 | 21 | 3 | 4 | 163 |
| | 19.0% | 1.8% | 3.1% | 3.1% | 41.1% | 3.7% | 7.4% | 9.2% | 12.9% | 1.8% | 2.5% | |
| Total | 83 | 10 | 24 | 24 | 127 | 16 | 60 | 42 | 76 | 28 | 15 | 454 |

8.4 Procurement Irregularities

The Public Procurement and Disposal Act Section 66 prohibits all public procurement parties not to be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceedings. The section further stipulates that anybody who contravenes the provision commits an offence. However, this has not acted as a deterrent of parties involved in public procurement from engaging in corruption and other unethical conducts. For instance, the Ethics and Anti-Corruption Commission (EACC) received 313 reports relating to public procurement irregularities in 2018/19 financial year, representing 9 percent of all reports taken up for investigation. This is a rise of 167 percent from the 117 reports taken up in the 2013/14 financial year that represented 6 per cent of all reports. By both measures, the effect of corruption on procurement has evidently been on the rise.

The Study sought to explore instances of payment for goods, service or works that were substandard, defective, partially delivered not delivered altogether. About 15.7 percent of respondents were aware of these irregularities. There were 255 instances where payments or excessive payments amounting to KES 1,780,284,400 were made from public revenues for substandard, defective, and partial or non-delivery of goods, services or works. The average payment per contract was KES 6,981,507 with the highest valued contract being KES 80,000,000.

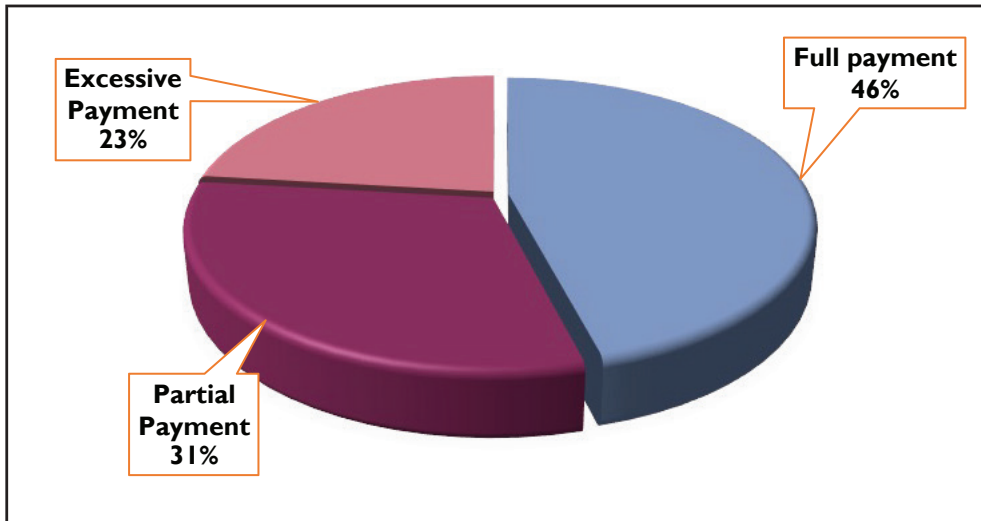


Figure 19: Types of payments in instances where there were procurement irregularities

Figure 19 shows how payments were done in cases where goods, services or works were sub-standard, defective, inadequate or not supplied. Despite these irregularities, payments were still made in full in 46 percent of the cases while in 23 percent of the cases, payments were made in excess. Excessive payment of contracts was mostly witnessed in construction, supply of equipment, supply of food stuff and purchase/repair of vehicles.

Supply of substandard goods (48.7%), inadequately rendered services (19.3%) and supply of defective goods (15.0%) were the most identifiable procurement irregularities.

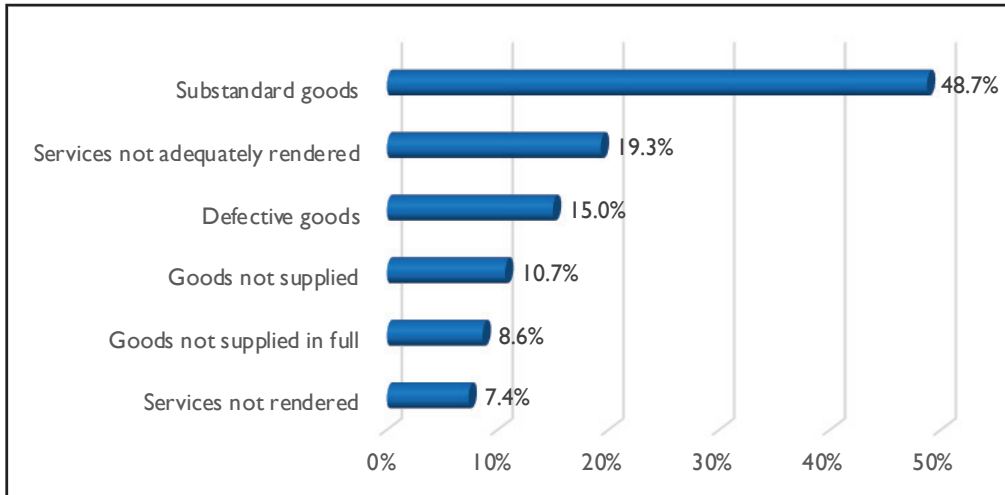


Figure 20: Offences in procurement of goods and services

Goods, services and works that were substandard, defective, inadequate or not delivered were primarily witnessed in construction (29.7%), supply of equipment (24.0%) and supply of stationery (10.7%). The public officers interviewed observed majority of these procurement irregularities in county hospitals (25 cases), Muhoroni Sugar Company (17 cases), public secondary schools (16 cases) and Sports Kenya (12 cases) (Table 23 & 25).

Table 23: Type of goods and services that were substandard or defective

| Type of Goods | Percent (%) |
|--|-------------|
| Construction of offices/classrooms/fence/roads/dams/tanks/market stalls | 29.7 |
| Supply of equipment e.g. printers, telephone, computers, laptops, solar lamps, electronics, and CT scans | 24.0 |
| Supply/buying of stationery | 10.7 |
| Supply/maintenance of office furniture | 5.6 |
| Supply of food stuff/water/meat | 5.6 |
| Did not state | 5.1 |
| Supply of drugs or medicine/hospital accessories | 4.3 |
| Purchase/repair of vehicles/tires | 4.1 |
| Supply of beddings/uniforms/boots | 3.8 |
| Supply of raw materials | 3.8 |
| Supply of toiletries | 2.6 |
| Supply of Pesticides, fertilizers and insecticides/chemicals | 2.3 |
| Supply of fuel | 2.3 |
| Legal services/insurance service | 1.8 |
| Installation of CCTV cameras | 1.5 |
| Upgrading data system | 1.3 |
| No Response | 1.0 |
| Drilling of boreholes/water pans | 0.5 |
| Purchase of office utensils | 0.3 |
| Inadequately furnished ambulance | 0.3 |
| License | 0.3 |

There was mostly no action taken against occurrences of substandard, defective, partial delivery or non-delivery of goods, services and works with 69.8 percent of respondents saying so (Figure 21 & Table 24). Investigations were ongoing in 12.9 percent of the cases while contracts were terminated in 10.3 percent of occurrences.

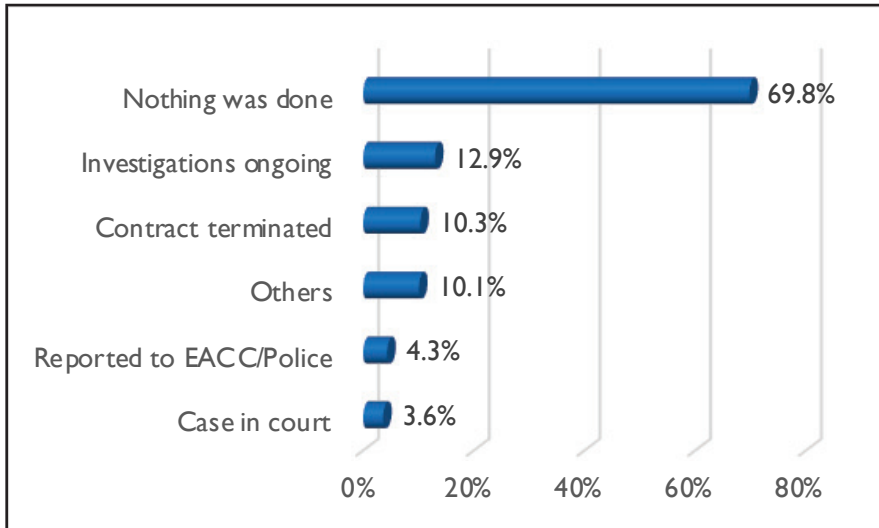


Figure 21: Action against offences in procurement of goods and services

Table 24: Procurement offences versus action taken

| Action/Offence | Reported to EACC/Police | Investigations ongoing | Case in court | Contract terminated | Nothing was done | Others | Total |
|----------------------------------|-------------------------|------------------------|---------------|---------------------|------------------|--------|-------|
| Substandard goods | 9 | 20 | 7 | 16 | 157 | 19 | 189 |
| | 4.8% | 10.6% | 3.7% | 8.5% | 83.1% | 10.1% | |
| Defective goods | 1 | 2 | 3 | 6 | 51 | 11 | 59 |
| | 1.7% | 3.4% | 5.1% | 10.2% | 86.4% | 18.6% | |
| Goods not supplied | 3 | 7 | 0 | 3 | 36 | 5 | 40 |
| | 7.5% | 17.5% | 0.0% | 7.5% | 90.0% | 12.5% | |
| Goods not supplied in full | 2 | 9 | 1 | 9 | 16 | 2 | 34 |
| | 5.9% | 26.5% | 2.9% | 26.5% | 47.1% | 5.9% | |
| Services not rendered | 1 | 9 | 0 | 3 | 27 | 1 | 29 |
| | 3.4% | 31.0% | 0.0% | 10.3% | 93.1% | 3.4% | |
| Services not adequately rendered | 4 | 10 | 4 | 10 | 56 | 2 | 74 |
| | 5.4% | 13.5% | 5.4% | 13.5% | 75.7% | 2.7% | |
| No Response | 0 | 2 | 1 | 0 | 1 | 0 | 3 |
| | 0.0% | 66.7% | 33.3% | 0.0% | 33.3% | 0.0% | |
| Do not know | 0 | 0 | 0 | 1 | 1 | 0 | 2 |
| | 0.0% | 0.0% | 0.0% | 50.0% | 50.0% | 0.0% | |
| Total | 17 | 52 | 15 | 42 | 271 | 35 | 387 |

Table 25: Public institutions in which procurement irregularities were observed by public officers

| Public Institution | Total | Percentage (%) |
|---|------------|----------------|
| County Hospitals | 25 | 5.5 |
| Muhoroni Sugar Company | 17 | 3.7 |
| Public Secondary Schools | 16 | 3.5 |
| Sports Kenya | 12 | 2.6 |
| KNH | 11 | 2.4 |
| Kenya Forest Service | 10 | 2.2 |
| Kenya Rural Roads Authority | 10 | 2.2 |
| Moi Teaching and Referral Hospital | 10 | 2.2 |
| TTC, TTI, Polytechnic | 10 | 2.2 |
| Public Universities | 10 | 2.2 |
| Ministry of Interior | 9 | 2.0 |
| County Assembly of Kisii | 8 | 1.8 |
| County Government of Kakamega | 8 | 1.8 |
| County Government of Kericho | 8 | 1.8 |
| County Government of Nairobi | 8 | 1.8 |
| Kenya Pipeline Corporation | 8 | 1.8 |
| KPLC | 8 | 1.8 |
| National Oil | 8 | 1.8 |
| Pyrethrum Board of Kenya | 8 | 1.8 |
| County Government of Homabay | 7 | 1.5 |
| County Government of Kajiado | 7 | 1.5 |
| County Government of Narok | 7 | 1.5 |
| County Government of Kiambu | 6 | 1.3 |
| County Government of Kisii | 6 | 1.3 |
| County Government of Kisumu | 6 | 1.3 |
| County Government of Uasin Gishu | 6 | 1.3 |
| Department of Registration of Persons | 6 | 1.3 |
| Ministry of Health | 6 | 1.3 |
| Ministry of Water | 6 | 1.3 |
| NHC | 6 | 1.3 |
| NHIF | 6 | 1.3 |
| 65 other public institutions with less than five incidences | 175 | 38.4 |
| Total | 454 | 100.0 |

CHAPTER 9

UNETHICAL CONDUCT

9.1 Introduction

The Leadership and Integrity Act (LIA) of 2012 and the Public Officers Ethics Act (POEA) of 2003 prescribe the moral and ethical requirements of both State and Public Officers. LIA section 8, 9, 13, 30 and 34 list some of these moral requirements. They include: demonstrating honesty in the conduct of public affairs; accurately and honestly representing information to the public; not discriminating against any person; not falsifying any record or misrepresenting information to the public; not bullying any person; performing his duties to the best of his ability and ensuring the services he offers are provided efficiently and honestly; observing official working hours; and treating the public and fellow public officers with courtesy and respect, among others. Section 34 defines bullying as repeated offensive behavior which is vindictive, cruel, malicious or humiliating and is intended to undermine a person.

Whereas the law is clear on these moral requirements by state and public officers, instances of public officers conducting themselves in unprofessional manner abound. The Public Officers' Integrity Survey, 2019 sought to quantify these instances of unethical conduct by public officers as witnessed by fellow public officers who are in a better position to identify such instances.

9.2 Type of Unethical Conduct

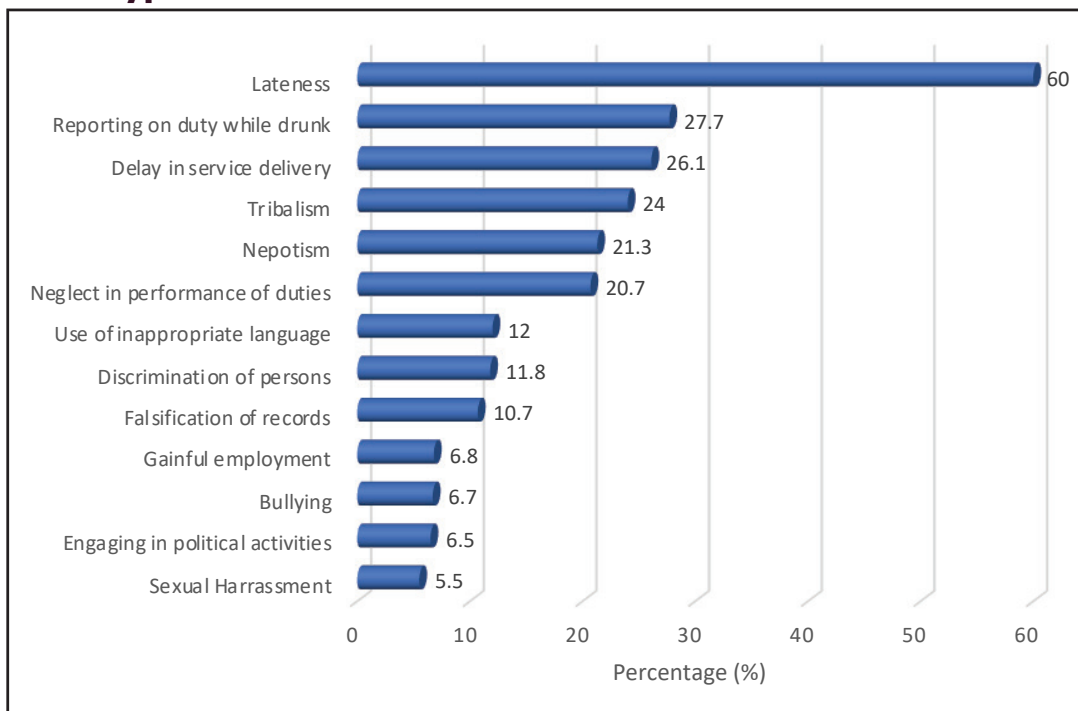


Figure 24: Types of unethical conduct observed by public officers

Figure 24 lists some of the cases of unethical conduct that were observed by public officers amongst themselves. They identified cases where public officers report to duty late as the most rampant among public officers. For every 10 public officers we interviewed, six indicated to have witnessed fellow public officers reporting to work late. Reporting on duty while drunk came in

second with 27.7 percent of the public officers interviewed witnessing such incidents. Delay in service delivery came in third with 26.1 percent of public officers witnessing such incidents while tribalism, one of the biggest problem we face in the country, come in fourth with 24 percent. Sexual harassment at public offices was the least observed with only 5.5 percent of public officers witnessing such incidents.

9.3 Action Taken Against Unethical Conduct

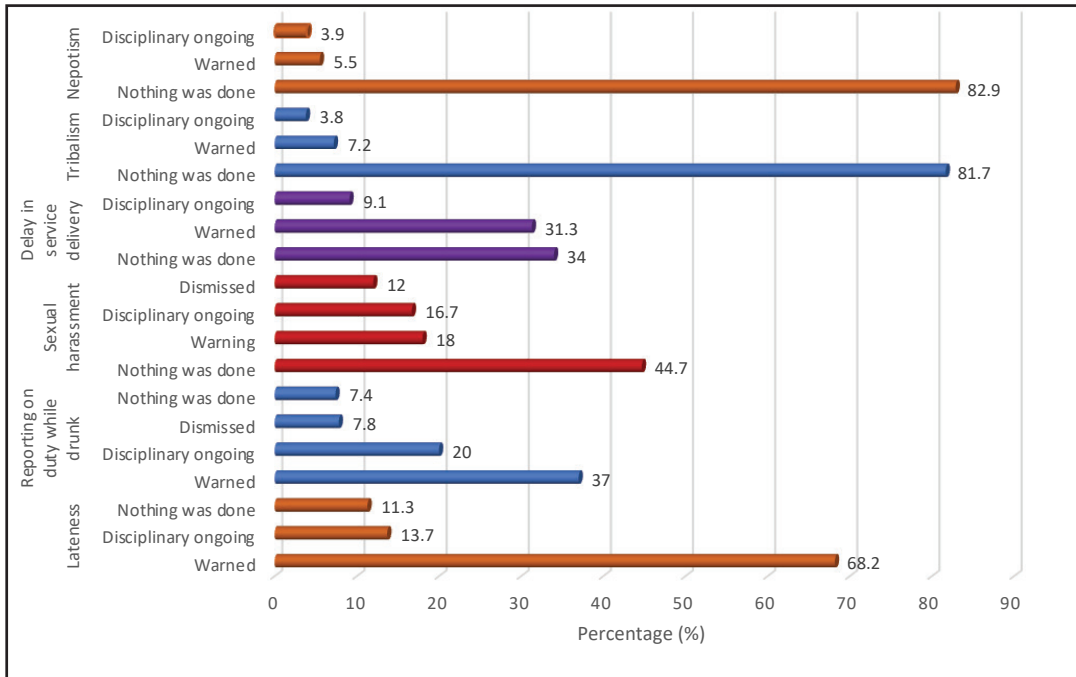


Figure 25: Action against public officers found engaging in unethical conduct

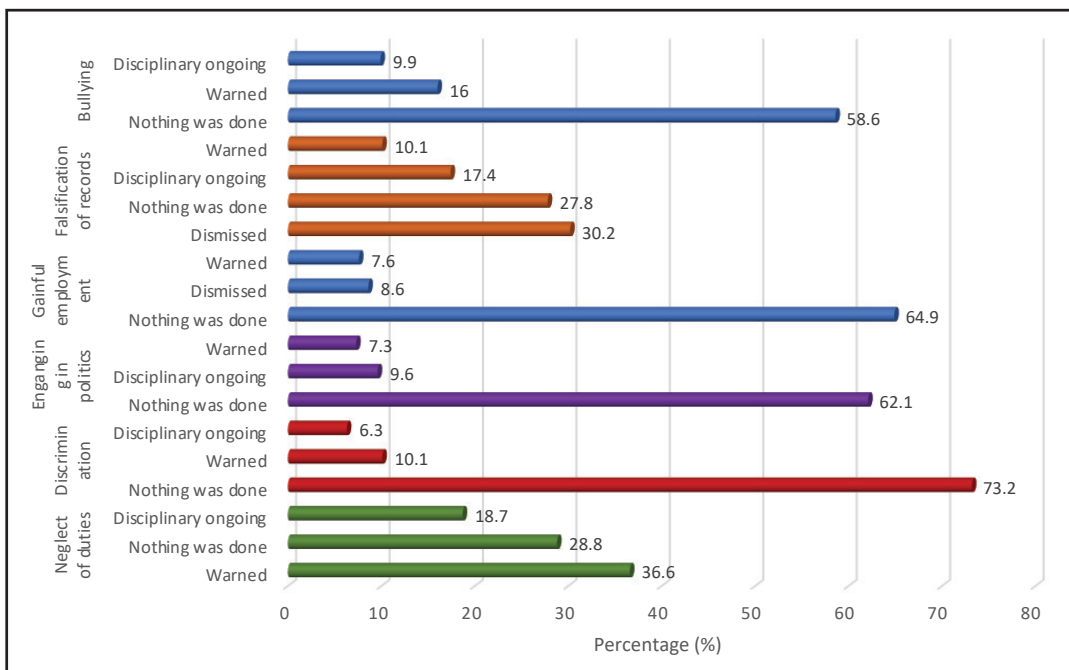


Figure 26: Action taken against public officers found engaging in politics, discrimination, falsification of records, bullying, gainful employment or neglecting their official duties

Figures 25 and 26 highlight the action that was taken against public officers who engaged in unethical conduct. Lateness which was the most rampant, had most of its culprits (68.2%) only given warning. This could be one of the reasons why it remains the most common unethical conduct amongst public officers as one is likely not to face serious consequences. It is also noteworthy that no action was taken against public officers who engage in tribalism, nepotism and discrimination, some of the biggest challenges we face as a country today.

Whereas instances where public officers engaged in other gainful employments and politics were witnessed by few public officers (6.8% and 6.5% respectively), it is worth noting that most of these incidences went unpunished (Figure 26). Engaging in these activities result in conflict of interest situations that affect a public officer's professionalism and efficacy in service delivery to the public.

RECOMMENDATIONS

The Constitution of Kenya, 2010 envisages a public service guided by values and principles that include high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; accountability and transparency. However, the study brings to the fore integrity issues that muddle service delivery in the public service. The issues include bribery, abuse of office, illicit enrichment, conflict of interest, unlawful acquisition of public property, damage to public property, procurement irregularities among others. When the very tenets that constitute a professional public service are disregarded then there is an urgent need to reexamine the system and try change the course of action. The following are policy recommendations derived from the results of this study.

10.1 Integrate national values into public service

The study revealed that some public officers are not aware about both the national values and public service values. On the other hand, the values that were most easily identifiable by public officers were the most violated in public service.

There is need to sensitize public officers on the national values & principles of governance and the public service values. Most importantly, the Public Service Commission need to develop mechanisms of integrating the values into public service. The values need to be ingrained into the very fabric that constitutes public service.

10.2 Reform the Kenya Police

The Kenya Police has rank among the top on bribery for many years. This study was no exception. The Police appeared prominently in bribery incidence, abuse of office and illicit enrichment. Whereas there have been marginal improvements on service delivery by the Police, previous attempts to professionalize the service have not been very successful. There is need for the government to critically examine and reform the Kenya Police with a focus on eradicating corruption within its file and rank and improving service delivery to the public.

10.3 Impose stiffer penalties against damage to public property

Motor vehicles constitute the largest proportion of public properties damaged by public officers. The study unearthed a large proportion of cases of accidents involving government vehicles that were caused by alcohol or drug abuse, intentional breakage, unauthorized/improper use of the vehicle and negligence leading to vehicle damage that were treated as accidents or against which no action was taken. This basically meant that the tax payer is let to incur the heavy losses occasioned by these accidents. Accidents involving government vehicles need to be thoroughly investigated, preferably, by an independent office such as National Transport and Safety Authority (NTSA) or Government Check Unit. Further, there is need to impose stiffer penalties against intentional/negligent damage to public property.

10.4 Inaction bleeds impunity

In almost all the offences identified in this study, there were numerous incidents where no action was taken either against the propagator of the offence or the circumstances that allowed the offence to occur. Inaction is a fertile bleeding ground for impunity. When people get away with a crime, it emboldens them to commit the crime again and encourages others to commit crime. For us as a country to be able to address the serious issue of corruption that has continued to be a big challenge, there is need for dedication and commitment to deal with most, if not all, corruption and unethical cases without giving special treatment to any person based on their social standing in society, ethnicity or gender.

10.5 Protect public land

Grabbing of public land in Kenya has been almost the norm. The act has been perfected over the years. Finding public toilets, playground, social halls and other public places is almost impossible. Gazetted public forests are not spared either. This study has highlighted a number of public land grabbing incidence. There is need to document and protect all government land. Previously grabbed public land need to be reverted to the public. Stiffer legislation on public land grabbing to be enacted.

10.6 Build strong public institutions

One of the main reasons of low levels of corruption in developed countries is the fact that the countries took deliberate efforts to build strong public institutions over the years. From the police to anti-corruption bodies to public institutions offering other essential services, the underlying theme in these institutions are institutions founded on strong professional and moral values. The institutions have minimized, if not completely eliminated weaknesses and opportunities for corruption and unethical acts. Inefficiency in service delivery is completely eliminated. Whereas most of our public institutions are relatively robust, inefficiency in service delivery still exists, weaknesses and loopholes for unethical conduct to thrive are present, and the institutions face political interference by politicians making them unable to deliver on their mandate effectively. The political interference sometimes goes to the extent of disbanding the institutions or reducing their budget allocations for those institutions that rub the political class the wrong way. There should be deliberate and consistent effort to build strong public institutions that take pride delivering efficient service to the public without fear or favor. This effort should emanate from both the national leadership and the institution's own management. In addition, the Ethics and Anti-Corruption Commission need to strengthen its risk assessment of public institution's vulnerability to corruption and backed by legislation ensure compliance.

10.7 Minimize discretion by Public Officers

Most bribery incidents arise when public officers solicit for bribes or are offered bribes in order for them to act or fail to act. Automating processes is one of the ways that eliminates the opportunity by public officers to extract bribes from members of public. The current efforts of automating government services need to continue to cover most, if not all spheres. In situations where automation is not possible, measures to strictly monitoring the working of public officers need to be put in place.

10.8 Make adequate provision for government services

When public services are not enough for everyone, the high demand creates a fertile bleeding ground for people to corrupt the public officers offering the service. For example, when there is a long queue to obtain a passport, many people would rather pay a bribe than spend many man hours waiting to be served. Increasing the supply of essential government services such as education, health care among others will reduce the desire for both public officers and citizens to engage in corruption and other unethical practices. Further, the continued computerization of public services to minimize public officers and citizen interactions should continue and the computerized services need to be efficient and effective.

10.9 Streamline employment and promotion in public service

Tribalism and nepotism is rampant in employment and promotion across the public sector, as reported by the public officers themselves. Employing the wrong people for either the right or wrong positions is one of the key ingredients that contributes to poor public service delivery. The Public Service Commission is the lead agent mandated to employ public service employees. The Commission is further mandated to Promote the values and principles referred to in Articles 10 and 232 throughout the public service. One of the public service principle in Article 232 of the Constitution is affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service. The Commission needs to come up with measures and stop guards to ensure fairness and equality in appointments and promotion of public servants. When the right people are employed for the right positions, motivated; effective and efficient public service is promoted.

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