



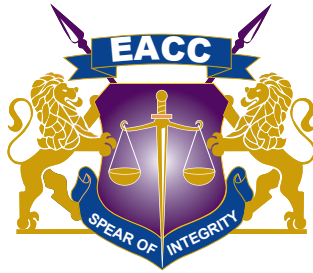
ETHICS AND ANTI-CORRUPTION COMMISSION

A Practical Guide

for Corruption Risk Assessment and Management by Public and Private Entities

May 2025





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A Practical Guide

for Corruption Risk Assessment and Management

by Public and Private Entities

May 2025

Tuangamize Ufisadi, Tuijenge Kenya



Supported by:



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© Ethics and Anti-corruption Commission

Preventive Services Directorate

Corruption Prevention Department

Ethics and Anti-Corruption Commission

P.O. Box 61130-00100

Nairobi, Kenya



MANDATE

To combat and prevent corruption, economic crime and unethical conduct in Kenya through law enforcement, prevention, public education, promotion of standards and practices of integrity, ethics and anti-corruption.



VISION

An integrity and values-driven Kenyan society.



MISSION

To promote integrity and combat corruption through law enforcement, prevention and education.



CORE VALUES

Fidelity to the law
Integrity
Team work
Innovation
Professionalism
Courage



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FOREWORD



Corruption has permeated all spheres of our society. The Government in recognition of this challenge developed the National Ethics and Anti-Corruption Policy through a Sessional Paper No. 2 of 2018. The overall objective of the Policy is to reduce levels and prevalence of corruption and unethical practices in Kenya, by providing a comprehensive, coordinated and integrated framework for the fight against corruption and promotion of ethics. Through the Policy, the Government endeavours to mainstream corruption prevention in both public and private sectors.

The Ethics and Anti-Corruption Commission, being the lead institution mandated to spearhead the fight against corruption in Kenya, has developed this Guideline to facilitate the achievement of the policy objectives. The Guideline is intended to empower entities to mainstreaming corruption prevention in their operations through identification and mitigation of systemic weaknesses and opportunities for corruption and unethical practices.

The Guideline provides a standardized process for Corruption Risk Assessment and Management in public and private sectors. I therefore call upon all entities to use the Guideline, among other strategies in addressing the problem of bribery and other forms of corruption.

David Oginde, PhD, FCS
Chairperson,
Ethics and Anti-Corruption Commission

PREFACE



The Ethics and Anti-Corruption Commission (EACC) is mandated under the EACC Act, Cap 7H to combat and prevent corruption, economic crime and unethical conduct in Kenya through law enforcement, prevention, public education, and promotion of standards and practices of integrity, ethics and anti-corruption.

Under its preventive mandate, the Commission is required to work with other State and public offices in the development and promotion of standards and practices in integrity and anti-corruption. Further, Section 9 (3) of the Anti-Bribery Act, Cap 79B requires the Commission to assist public entities, private entities and any interested person to develop and put in place procedures for prevention of bribery and corruption.

The Commission has developed this Guideline to provide a structured framework for identifying and managing corruption risk exposures in an entity. The Guideline requires involvement of staff and other stakeholders in the risk identification and mitigation process, to ensure informed decision making.

Effective management of risks requires commitment from management and staff at all levels, adequate budgetary allocation and effective communication throughout the organization and with stakeholders to achieve the desired outcomes. I therefore urge every institution to embrace the Guideline to proactively prevent bribery and other forms of corruption to enhance transparency, accountability and integrity.

The Commission expresses gratitude to Mr. Vincent Okong'o, 'ndc' (K), MBS, Director Preventive Services, CPA Neema .K. Mkorori, OGW, Deputy Director, Corruption Prevention, Corruption Prevention Department Staff and the Technical Team consisting of Felix Onjoma, Nelly Kabui, Sophia Muturi, Stanislas Ondimu and John Mwatsuma for their invaluable contributions in the development of the Guideline.

We also acknowledge the support of the UN Global Compact Kenya and their partners for their financial and technical support in developing the Guideline.



Abdi A. Mohamud, MBS
Secretary/Chief Executive Officer
Ethics and Anti-Corruption Commission

LIST OF ABBREVIATIONS AND ACRONYMS

| | |
|------------------|---|
| ACECA | Anti-Corruption and Economic Crimes Act |
| CEO | Chief Executive Officer |
| CRA | Corruption Risk Assessment |
| CRA&M | Corruption Risk Assessment and Management |
| CRAMP | Corruption Risk Assessment and Mitigation Plan |
| EACC | Ethics and Anti-Corruption Commission |
| FRC | Financial Reporting Centre |
| MDAC | Ministries, Departments, Agencies and Counties |
| NEAP | National Ethics and Anti-Corruption Policy |
| PFM | Public Financial Management |
| POCAMLA | Proceeds of Crime and Anti-Money Laundering Act |
| PSIP | Public Service Integrity Programme |
| TI | Transparency International |
| UNCAC | United Nations Convention Against Corruption |
| UNODC | United Nations Office on Drugs and Crime |



GLOSSARY OF TERMS

| TERM | DEFINITION |
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| Assessment | Is a systematic determination of the extent to which an entity has met certain requirements |
| Bribery | Bribery has the meaning assigned to it under section 2 as read with Part II of the Anti-Bribery Act, Cap 79B |
| Code of Conduct and Ethics | The Specific Code of Conduct and Ethics developed by a public body pursuant to Part II of the Leadership and Integrity Act, Cap 185C; the General Code of Conduct and Ethics established pursuant to Part III, of the Public Officer Ethics Act, Cap 185B; or any other similar Codes on Conduct and Ethics developed by an entity. |
| Commission | Ethics and Anti-Corruption Commission |
| Corruption Risk Assessment | A diagnostic tool, which seeks to identify weaknesses within the systems, policies, procedures, processes and practices which may present opportunities for bribery and other forms of corruption to occur in an entity. |
| Corruption Loophole | Vulnerabilities that present opportunities for corrupt practices |
| Corruption Mitigation Strategy | Measure(s) undertaken to prevent occurrence of corrupt practices |
| Corruption Risk | Exposure to a corrupt practice |
| Ethics | A set of moral principles that is generally accepted by society as good or bad. Also defined as the standard of morality that a State, Public or any other Officer of any entity must commit himself or herself to uphold. |
| Top Leadership | Senior Officers in an entity, including the Chief Executive/Accounting Officer and Senior Executive Management Team |
| Risk Mapping | Is a systematic approach to decision-making processes, which helps to evaluate and compare risks within an organization. Risks are evaluated based on likelihood of occurrence and potential impact on the entity's operations |
| Risk Management | Is the treatment of the identified and prioritized risks through the development and implementation of the risk mitigation plan. |
| Stakeholder | A person, group or organization with a vested interest, or stake, in the decision-making and activities of a business, organization, or project. |

1.0 INTRODUCTION

1.1 Understanding Corruption

Corruption poses a great danger to economic growth, reduces economic efficiency and undermines efforts aimed at improving the quality of human life. The United Nations Guide on Anti-Corruption Policies published in 2003 by the United Nations Office on Drugs and Crime (UNODC) point out that there is no single, comprehensive, universally accepted definition of corruption and attempts to develop such a definition invariably encounter legal, criminological and, in many countries, political problems.

Transparency International (TI) on its website (www.transparency.org) defines corruption as the abuse of entrusted power for private gain. In Kenya, the Anti-Corruption and Economic Crimes Act, Cap 65 includes bribery, breach of trust, fraud, abuse of office, embezzlement, Tax evasion, extortion, grabbing of public property and favoritism as some of the offences that constitute corruption and economic crimes. These are stipulated in various sections of the Act, as highlighted in the table below:

Corruption offences under the Anti-Corruption and Economic Crimes Act, Cap 65.

| | |
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| <i>Section 2</i> | <ul style="list-style-type: none"> • Bribery • Fraud • Embezzlement or misappropriation of public funds • Abuse of office • Breach of trust • Dishonesty in connection with taxation or election to public office |
| <i>Section 40</i> | <p>Secret inducements for advice</p> <ul style="list-style-type: none"> • Applies with respect to a benefit that is an inducement or reward for, or otherwise an account of, the giving of advice to a person. • A person is guilty of an offence if the person- <ul style="list-style-type: none"> - Receives or solicits, or agrees to receive or solicit, a benefit to which the section applies if the person intends the benefit to be a secret from the person being advised; or - Gives or offers, or agrees to give or offer, a benefit to which the section applies if the person intends the benefit to be a secret from the person being advised. • Under the section, giving advice includes giving information |
| <i>Section 41</i> | <p>Deceiving principal</p> <ul style="list-style-type: none"> • Where an agent, to the detriment of his principal, makes a statement to his principal that he knows is false or misleading in any material respect; and • Where an agent who, to the detriment of his principal, uses or gives to his |



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| | principal, a document that he knows contains anything that is false or misleading in any material respect. |
| <i>Section 42</i> | Conflict of interest <ul style="list-style-type: none">• Having a direct or indirect private interest in a decision and failing to declare the interest.• Participating in the proceedings and voting on a decision in which one has a direct or indirect private interest.• Being a public officer but knowingly having or holding an interest in a contract (not employment contract) agreement or investment connected with the public body one is working for. |
| <i>Section 43</i> | Improper benefits to trustees for appointments <ul style="list-style-type: none">• Receiving, soliciting or agreeing to receive inducement or reward in order to influence the appointment of a person as a trustee of a property.• Giving or offering, or agreeing to give or offer an inducement or reward in order to influence the appointment of a person as a trustee of a property. |
| <i>Section 44</i> | Bid rigging <ul style="list-style-type: none">• Receiving, soliciting or agreeing to receive inducement or reward with respect to rigging of a tender, proposal, quotation or bid.• Giving or offering or agreeing to give or offer a benefit with respect to rigging of a tender, proposal, quotation or bid. |
| <i>Section 45</i> | Protection of public property and revenue <ul style="list-style-type: none">• Fraudulently or otherwise unlawfully acquiring public property or public service or benefit;• Unlawfully mortgaging, charging or disposing of any public property;• Unlawfully damaging public property;• Failure to pay any taxes or any fees, levies or charges payable to any public body or to effect or obtain any exemption, remission, reduction or abatement from payment of any such taxes, fees, levies or charges;• Fraudulent payment or excessive payment from public revenues for:-<ul style="list-style-type: none">i. Sub-standard or defective goods;ii. Goods not supplied or not supplied in full; oriii. Services not rendered or not adequately rendered;• Willfully or carelessly failing to comply with any law or applicable procedures and guidelines relating to the procurement, allocation, sale or disposal of property, tendering of contracts, management of funds or incurring of expenditures; or• Engaging in a project without prior planning. |

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| Section 46 | Abuse of office <ul style="list-style-type: none"> Using one's office to improperly confer a benefit on self or anyone else. |
| Section 47 | Dealing with suspect property <ul style="list-style-type: none"> Holding, receiving, concealing or using a property that was acquired in the course of or as a result of corrupt conduct, or causing such property to be used; or Entering into a transaction in relation to a property that was acquired in the course of or as a result of corrupt conduct, or causing such a transaction to be entered into. |
| Section 47A | Attempts, conspiracies, etc <ul style="list-style-type: none"> Attempting to commit an offence involving corruption or economic crime; Conspiring with another person to commit an offence of corruption or economic crime; or Inciting another person to do any act or make any omission of such nature that, if the act were done or the omission were made, an offence of corruption or economic crime would thereby be committed. |

Other laws that form part of the legal framework used in the fight against bribery, corruption and unethical practice in Kenya also create offences, which are highlighted as follows:-

Offences under the Anti-Bribery Act, Cap 79B

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| Section 5 | Giving a bribe <ul style="list-style-type: none"> Offering, promising or giving a financial or other advantage to another person, if the person offering, promising or giving knows or believes the acceptance of the financial or other advantage would itself constitute the improper performance of a relevant function or activity. |
| Section 6 | Receiving a bribe <p>A person commits the offence of receiving a bribe if:</p> <ul style="list-style-type: none"> The person requests, agrees to receive or receives a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly whether by that person receiving the bribe or by another person; The recipient of the bribe requests for, agrees to receive or accepts a financial or other advantage and the request, agreement or acceptance itself constitutes the improper performance by the recipient of a bribe of a relevant function or activity; or |



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| | <ul style="list-style-type: none">• In anticipation of or as a consequence of a person requesting for, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly by that person, or by another person at the recipients' request, assent or acquiescence. |
| Section 8 | <ul style="list-style-type: none">• Bribing of a foreign public official with the intention of influencing that official's capacity. |
| Section 9(2) | <ul style="list-style-type: none">• Failure by a private entity to put in place procedures for prevention of bribery and corruption. |
| Section 13 | <ul style="list-style-type: none">• knowingly assisting a person or a private entity to give or receive a bribe by:<ul style="list-style-type: none">- Obtaining property intended for use in bribery;- using , having possession of or transferring property which was obtained as a result of or in connection with bribery; or- acquiring property which was obtained as a result of or in connection with; or- recording property which was obtained as a result of or in connection with bribery in the accounting records of any private entity. |
| Section 14 | <ul style="list-style-type: none">• Failing to report bribery or corruption within 24 hours. |
| Section 21(2) | <ul style="list-style-type: none">• Demoting, admonishing, dismissing from employment, transferring to unfavourable working areas or otherwise harassing, and intimidating a whistleblower or a witness. |
| Section 21(5) | <ul style="list-style-type: none">• knowingly or negligently disclosing information of informants and witnesses, resulting to harassment or intimidation of those informants and witnesses. |

Offences under the Public Procurement and Asset Disposal Act, Cap 412C

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| Section 176 (1) | <ul style="list-style-type: none">• Obstructing or hindering a person carrying out a duty or function or exercising a power under the Act;• Knowingly lying to or misleading a person carrying out a duty or function or exercising a power under the Act;• Delaying without justifiable cause the opening or evaluation of tenders, the awarding of contract beyond the prescribed period or payment of contractors beyond contractual period and contractual performance obligations; |
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| | <ul style="list-style-type: none"> • Unduly influencing or exerting pressure on any member of an opening committee, evaluation committee and disposal committee or on any employee or agent of a procuring entity or the accounting officer to take a particular action which favours or tends to favour a particular tenderer; • Opening any sealed tender, including such tenders electronically submitted and any document required to be sealed, or divulging their contents prior to the appointed time for the public opening of the tender or documents except for tenders inadvertently opened under section 77(6); • Divulging confidential information under section 67; • Inappropriately influencing tender evaluations; • Splitting procurements for the purpose of avoiding the use of a procurement procedure except where prescribed - section 54 of the Act; • Committing a fraudulent act; • Knowingly withholding the notification of award to a successful tenderer; • Knowingly withholding notification to unsuccessful tenderer; • Signing a contract contrary to the requirements of the Act or Regulations made thereunder; or • Contravening a lawful order of the Public Procurement Regulatory Authority given under Part IV or the Review Board under Part XV of the Act. |
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Offences under the Public Finance Management Act, Cap 412 A

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| Section 196 (1) | <i>Offences by public officers</i> <ul style="list-style-type: none"> • Spending public money otherwise than authorised by the Constitution, an Act of Parliament or County legislation; • Raising revenues other than in accordance with the Constitution, an Act of Parliament or an Act of a County Assembly; • Entering into any obligation that has financial implications for the national government budget or a county government budget unless the obligation is authorised by the Constitution, an Act of Parliament or an Act of County Assembly; • Borrowing money, issuing a guarantee, indemnity or security or entering |
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| | <p>into any other transaction that binds or may bind the national government entity or a county government entity to any future financial obligation, unless the borrowing, guarantee, indemnity, security or other transaction is authorized by this Act or by any other written law and, in the case of loans or guarantees, is within the limits provided under the Act;</p> <ul style="list-style-type: none">• Directing another public officer to do an act that constitutes a contravention of, or a failure to comply with the Act, the Constitution or any other written law. |
| Section 197 | <p style="text-align: center;">Offences of financial misconduct</p> <p>A public officer employed by a national government entity commits an offence of financial misconduct by, if without lawful authority:-</p> <ul style="list-style-type: none">• Issuing public government securities, or varying their terms and conditions;• Opening a bank account in the name of the government;• Lending money in the name of the government;• Issuing guarantees or indemnities on behalf of the government;• Issuing securities for loans made to the government;• Disposing of property belonging to or under the control of, that government entity;• Failing to pay into a government bank account any public money entrusted to the officer or received by the officer for or on behalf of that government or that entity;• Failing to provide any information in the officer's possession, or under the officer's control, in relation to the financial management, financial performance, or banking activities of that government or entity or in relation to the management or control of an asset or liability of that government or entity when required to do so, except where such refusal or failure is required or authorised by the Act or any other written law;• Failure to keep proper records or concealing, or wrongfully destroying, information that is required to be recorded;• Intentionally or recklessly obstructing or hindering a person while that person is acting in the performance or exercise of the person's functions or powers under the Act;• Making any statement or declaration, or giving any information or certificate, lawfully required by or under the Act knowing it to be false or misleading in a material respect;• For the purpose of procuring for the public officer or any other person or organization- |

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| | <ul style="list-style-type: none"> - Making improper payment of public money belonging to or entrusted to that government or entity; or - Making improper use of any public property of that government or entity; or • Failing to remit revenue received contrary to the provisions of sections 76(2) and 158(2) of the Act. |
| Section 198 | <p style="text-align: center;">Other offences by public officers</p> <ul style="list-style-type: none"> • Taking possession of public funds or assets without lawful authority; • Misappropriating public funds or assets; • Concealing information on public finances to obtain a financial benefit either for the officer or another person; or • Engaging in a corrupt act. (corrupt act under this section includes soliciting and receiving an inducement) |

Offences under the Proceeds of Crime and Anti-Money Laundering Act, Cap 59A

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| Section 3 | <p style="text-align: center;">Money laundering</p> <p>A person who knows or who ought reasonably to know that property is or forms part of the proceeds of crime and-</p> <ul style="list-style-type: none"> • Enters into any agreement or engages in any arrangement or transaction with anyone or in connection with that property, whether that agreement, arrangement or transaction is legally enforceable or not; or • Performs any other act in connection with such property, whether it is performed independently or with any other person, whose effect is to:- <ul style="list-style-type: none"> - Conceal or disguise the nature, source, location, disposition or movement of the said property or the ownership thereof or any interest which anyone may have in respect thereof; or - Enable or assist any person who has committed or commits an offence, whether in Kenya or elsewhere to avoid prosecution; or - Remove or diminish any property acquired directly, or indirectly, as a result of the commission of an offence, commits an offence. |
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| Section 4 | Acquisition, possession or use of proceeds of crime <ul style="list-style-type: none">A person who acquires, uses, or has possession of property and who, at the time of acquisition, use or possession of such property, knows or ought reasonably to have known that it is or forms part of the proceeds of a crime committed by him or by another person, commits an offence. |
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Offences under the Penal Code, Cap 63

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| Section 100 | False Claim by a person employed by Public service which to his knowledge is false |
| Section 105 | Personating person employed in the public office to do any act or to attend in any place for the purpose of doing any act by virtue of such employment, |
| Section 116 | Willful destruction of evidence required in a judicial proceedings with intent to prevent it from being used as evidence |
| Section 128 | Neglect of duty by a public officer being a person employed in the public office |
| Section 208 | Stealing by a person employed in a public office, property of the Government/ into his possession by virtue of his employment. |
| Section 317 | Conspiracy by deceit or fraud to affect the market price of public sold shares or to defraud the public. |
| Section 328 | Fraudulent appropriation or accounting by directors or officers with intent to defraud, omits either to make a full and true entry thereof in the books and accounts of the corporation or company. |
| Section 329 | Making, circulating or publishing false statements by officials and directors of the company, which to their knowledge is false. |
| Section 331 | False accounting by public officer charged with the receipt, custody or management of any part of the public revenue knowingly furnishes false statement |

Offences under the Public Officer Ethics Act, Cap 185B

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| Section 30 | <ul style="list-style-type: none"> Any person publishing or in any way making public any information on declaration of income, asset and liability obtained from a responsible commission without prior permission from the responsible commission; or A person knowingly republishing or otherwise disseminating or disclosing to another person information on declarations, where:- <ul style="list-style-type: none"> Such information was disclosed to himself or to some other person; or Where such information was obtained in contravention of the Act. |
| Section 32 | <ul style="list-style-type: none"> Failing to submit a wealth declaration or clarification knowingly and without justification or submitting such declaration or clarification knowing it to be false or misleading |
| Section 40 | <ul style="list-style-type: none"> Obstructing or hindering, without lawful excuse, a person acting under the Act. |
| Section 41 | <ul style="list-style-type: none"> A person who, without lawful excuse, divulges information acquired in the course of acting under this Act |

Offences under the Leadership and Integrity Act, Cap 185 C

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| Section 20 | <p style="text-align: center;">Acting for foreigners</p> <ul style="list-style-type: none"> A State officer shall not be an agent of, or further the interests of a foreign government, organisation or individual in a manner that may be detrimental to the security interests of Kenya, except when acting in the course of official duty. For the purposes of this section— <ul style="list-style-type: none"> An individual is a foreign individual if the individual is not a citizen of Kenya; and An organisation is a foreign organization if it is established outside Kenya or is owned or controlled by a foreign government, organisation or individual. |
| Section 46(1) | <p style="text-align: center;">Obstructing or hindering persons under this Act</p> <ul style="list-style-type: none"> A person shall not— |



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| | <ul style="list-style-type: none">- Without justification or lawful excuse, obstruct, hinder, assault or threaten a person undertaking his or her duties under this Act;- Deceive or knowingly mislead the Commission, a public entity or a person undertaking his or her duties under this Act;- Destroy, alter, conceal or remove documents, records or evidence that the person believes, or has grounds to believe may be relevant to an investigation or proceedings under this Act; or- Provide false information to the Commission, a public entity or a person acting under this Act. |
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1.2 Corruption Prevention in Kenya

Over the years, Kenya has implemented a series of policy, legislative and institutional reforms in the fight against corruption and unethical practice. In 1956 the Prevention of Corruption Ordinance was enacted to spearhead the fight against corruption. The ordinance later became Prevention of Corruption Act (Cap. 65) at independence. During that period, corruption was treated like any other offence under the Penal Code (Cap. 63) and was investigated and charged by the Police. The Act was later repealed in 2003 following the enactment of the Anti-Corruption and Economic Crimes Act (Cap. 65) which established the Kenya Anti-Corruption Commission as the national dedicated agency for the fight against corruption with the mandate to combat corruption through law enforcement, prevention, public education and asset recovery. The Act also provided for appointment of special magistrates to adjudicate on corruption and economic crimes. Other laws that were enacted during this period include the Public Officers Ethics Act, (Cap. 185B) to promote ethics and integrity among public officers ; The Public Procurement and Disposal Act (PPDA) 2005 to establish procedures for efficient public procurement and for disposal of unserviceable, obsolete or surplus stores, assets and equipment by public entities; and The Government Financial Management Act (Cap. 412B) to provide for management of government financial affairs, to make certain provisions with respect to the Exchequer account and consolidated fund, to provide for persons to be responsible for government resources, and to provide for other related matters.

On 27th August 2010, the current Constitution of Kenya was promulgated, ushering in a raft of ethics, integrity and anti-corruption measures. Among the measures were the entrenchment of

a framework for national values and principles of governance under Article 10, values and principles of public service under Article 232 and the requirements for State Officers to uphold certain standards of leadership and Integrity under Chapter 6. Subsequent to promulgation of the Constitution, a number of statutes were enacted by Parliament which currently govern the fight against corruption and unethical conduct in Kenya. These include- The Ethics and Anti-Corruption Commission Act (Cap. 7H); The Leadership and Integrity Act (Cap. 185C); The Public Finance Management Act (Cap. 412A); The Public Procurement and Asset Disposal Act (Cap. 412C); The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A); and The Anti-Bribery Act (Cap. 79B).

The other reforms included the launch of the Public Service Integrity Programme (PSIP) in 2002 as part of government initiative to restore public confidence in the fight against corruption in the Country. A Sourcebook for Corruption Prevention in the Public Service published in March, 2002 recommended various strategies for mainstreaming corruption prevention, which included corruption risk assessment and management.

The reforms implemented by the Government in the period subsequent to 2002, necessitated the review of the Sourcebook in the year 2003 and 2009 to ensure that the reforms could achieve the desired impact. The objective then was to implement various elements of the programme, to restore transparency, accountability and integrity in public service. All public service organisations were required to implement the PSIP programme. Consequently, the Commission has since FY 2007/2008, partnered with now the Public Service Performance Management and Monitoring Unit (PSPMMU) in the State Department for Public Service and the Executive Office of the Head of Public Service to provide advisories to Ministries, Departments and Agencies on mainstreaming corruption prevention. The thrust of the advisories focus on putting in place a framework for sustainable corruption prevention in the public sector. Accordingly, developing and implementing corruption risk assessment and mitigation plans has been a key parameter under the Corruption Prevention Indicator in the Performance Contract and in the advisories provided in partnership with the Executive Office of the Head of Public Service.

The Ethics and Anti-Corruption Commission Act (Cap. 7H) requires the Commission to among others, advise any person on matters relating to its function. Further Section 9(3) of the Anti-Bribery Act (Cap. 79B) requires EACC to assist public entities, private entities and any interested person to develop and put in place procedures for prevention of bribery and corruption.

This Guideline provides a practical approach/ guidance for entities, both in the public and private sectors, on the corruption risk assessment and management process. It provides detailed



guidance on how to undertake corruption risk assessment, develop and implement risk mitigation plan and monitor its implementation.

The Guideline will also be used by officers of the Commission to empower or build capacity of staff in public and private entities to undertake Corruption Risk Assessments and develop Risk Mitigation Plans.

2.0 POLICY, LEGAL AND REGULATORY FRAMEWORK FOR CORRUPTION PREVENTION

The **Legal and Regulatory Framework for Prevention of Corruption and unethical conduct** in Kenya encompasses a range of laws, policies, institutions, and international instruments aimed at preventing, detecting, and punishing corruption and unethical conduct. These frameworks are designed to promote good governance, accountability, transparency, and integrity within both the public and private sectors. The comprehensive legal structure is reinforced by regulatory and institutional mechanisms to ensure that corruption and unethical conduct is tackled at all levels. The following are the instruments that constitute the legal and regulatory framework for prevention of corruption in Kenya.

a) The Constitution of Kenya, 2010

The Constitution of Kenya, 2010 lays the foundation for preventing and combating corruption. The salient provisions include, among others: Article 10 (National values and principles of Governance), Article 232 (the values and principles of public service) and Chapter Six, which outlines the values, guiding principles of leadership and integrity. These values and principles underpin the overarching objectives and purpose of entrenching sound decision making and good governance.

b) The United Nations Convention Against Corruption, 2003

Chapter II of the United Nations Convention against Corruption (UNCAC) provides for developing and maintaining effective anti-corruption policies, establishing and promoting practices aimed at the prevention of corruption, putting in place relevant legal instruments and administrative measures to facilitate prevention of corruption, and establishing mechanisms to ensure participation of all actors in the prevention of corruption. Kenya, as a signatory, is obligated under Chapter II of UNCAC to put in place legislative, institutional and administrative measures to promote effective practices aimed at prevention of corruption.

c) The African Union Convention on Prevention and Combating Corruption (AUCPCC).

Kenya signed and ratified the Convention on 17th December 2003 and 3rd February 2007 respectively. The Convention requires the state parties to put in place legislative and other measures to promote public education and awareness in the fight against corruption and prevention of corruption in both public and private entities.

d) The Ethics and Anti-Corruption Commission Act, Cap. 7H

The Act empowers the Commission to put in place measures to detect and prevent corruption by undertaking the following, among others :-

- i. Work with other State and public offices in the development and promotion of standards and best practices in integrity and anti-corruption;
- ii. Raise public awareness on ethical issues and educate the public on the dangers of corruption and enlist public support in combating corruption;
- iii. Monitor the practices and procedures of public bodies to detect corrupt practices and to secure the revision of methods of work or procedures that may be conducive to corrupt practices; and
- iv. Advise, on its own initiative, any person on any matter within its function.

e) The Anti-Corruption and Economic Crimes Act, Cap. 65

The Anti-Corruption and Economic Crimes Act (ACECA) is the primary legal instrument for combating corruption in Kenya. The Act sets out the prevention, investigation and punishment of corruption, economic crimes and related offences as its objectives.

f) The Leadership and Integrity Act, Cap. 185C

Some of the salient provisions of the Act aimed at instituting integrity in leadership include:-

- i. Providing the general leadership and integrity codes;
- ii. Providing for the establishment of a specific leadership and Integrity code for the State Officers in each public entity;
- iii. Empowering the Commission to monitor compliance with the integrity requirements;
- iv. Empowering the Commission to give advisory opinions to public entities upon request; and
- v. Collaboration between the Cabinet Secretaries responsible for leadership and integrity, constitutional affairs, and education with EACC and the relevant public entity for the purpose of developing and overseeing the provision of education and training on leadership and integrity to all public officers, all levels of education system and the public.



g) The Public Officers Ethics Act, Cap. 185B.

The Act seeks to advance the ethics of public officers by providing for a Code of Conduct and Ethics for public officers.

The Act also obligates public officers to Declare Income, Assets and Liabilities (DIALs) under **Section 26**. This is an important tool for the detection and prevention of Corruption.

h) The Anti-Bribery Act, Cap 79B

The object of the Act is to provide for the prevention, investigation and punishment of bribery as outlined in the following sections:-

- i. **Section 9(1)**, obligates every public and private entity to put in place procedures appropriate to its size, and the scale and nature of its operation, for the prevention of bribery and corruption;
- ii. **Section 9(3)**, requires the Commission to assist private entities, public entities, and any interested person, to develop and put in the place the procedures;
- iii. **Section 12(1)**, obligates the Cabinet Secretary responsible for matters relating to justice, in consultation with the Commission, to publish guidelines to assist private and public entities in preparation of procedures for prevention of bribery and corruption;
- iv. **Under section 12(3)**, The Commission may provide assistance to public or private entities or any other person in implementation of the procedures;
- v. **Section 20 (1)**, states that the provisions of the Anti-Corruption and Economic Crimes Act (Cap 65) on investigation and prosecution of offences shall apply to the investigation and prosecution of offences under the Anti-Bribery Act;
- vi. **Section 20(1)**, provides that Sections 62 to 66 of the Anti-Corruption and Economic Crimes Act ([Cap. 65](#)) relating to, *inter alia*, the suspension of or disqualification of a person charged or convicted of corruption or economic crime, and obstructing persons, shall apply, with the necessary modifications, to offences under this Act; and
- vii. **Section 21**, provides for the protection of whistle blowers and witnesses.

i) The Proceeds of Crime and Anti-Money Laundering Act, Cap. 59A

The Proceeds of Crime and Anti-Money Laundering Act (POCAMLA) is Kenya's primary legislation for combating money laundering and terrorist financing. The Act was enacted in 2009 and established a legal framework for:

- Preventing money laundering and terrorist financing. POCAMLA aims to deter and prevent these activities. The Act allows for the identification, tracing, freezing, seizure, and confiscation of proceeds of crime;
- Enhancing cooperation between law enforcement and financial institutions;
- Creating reporting requirements. Institutions are required to report suspicious or unusual

financial transactions that may involve proceeds of crime to the Financial Reporting Centre (FRC)

- Monitoring and analysing financial transactions by FRC to identify money-laundering activities.

j) The Public Procurement and Asset Disposal Act, Cap 412C

The Public Procurement and Asset Disposal Act regulates public procurement and asset disposal processes to ensure fairness, transparency, and accountability. This law is essential for reducing opportunities for corruption, especially in the awarding of government contracts and tenders.

k) The Public Finance Management Act, Cap 412 A

The Public Finance Management Act provide for the effective management of public finances by the national and county governments; the oversight responsibility of Parliament and County Assemblies; and the different responsibilities of government entities and other bodies, among others.

l) Witness Protection Act, Cap 79

The Witness Protection Programme established under section 4 of the Act protects witnesses and victims in cases of serious threats/intimidation. It covers the threats that cannot be addressed by other protection measures and where the testimonies of such witnesses are of special significance.

m) Kenya Vision 2030 and Medium Term Plans (MTPs) provide the overarching platform for implementation of the Governance, Justice, Law and Order Sector (GJLOS) strategies. It seeks to secure just, cohesive, democratic, accountable, transparent and conducive environment for a prosperous Kenya.

n) The Sessional Paper No. 2 of 2018: National Ethics and Anti-Corruption Policy (NEAP) is the overarching policy guiding anti-corruption initiatives in the Country. Section 4.1.5 requires the Government to mainstream corruption prevention strategies and measures in both public and private sectors so as to eliminate systemic corruption and enhance ethical standards in service delivery and business environment. Specifically, the strategies include among others:-

- Developing and enhancing capacity of private and public sectors to implement corruption prevention strategies;
- Instituting appropriate structures and mechanisms for corruption prevention in Ministries, Departments, Agencies and Counties (MDACs);



- Instituting systems and structures that promote transparency in public institutions; and
- Mobilising the private sector and other non-state actors to adhere to standards and practices that foster and inculcate ethics, integrity and anti-corruption in the conduct of their business and interaction with the public sector.

o) Kenya Integrity Plan

The Kenya Integrity Plan provides a framework through which the twenty sectors that constitute the Kenya Leadership Integrity Forum (KLIF) come together to fight corruption and promote ethics and integrity amongst its members and society. The twenty sectors which form the key stakeholders include the Executive, Judiciary, County Governments, Labour, Anti-Corruption Agencies, Enforcement, Oversight Agencies, Media, Private Sector, Professional Bodies, Education Sector, Civil Society (Public Benefit) Organizations, Faith Sector, Constitutional Commissions, Development Partners, Transport Sector, Regional and Sub-Regional Bodies, Regulatory Bodies, Financial Services Sector, and Citizens.

p) National Anti-Corruption Campaign Steering Committee

The Mandate of the National Anti-Corruption Campaign Steering Committee is to undertake nationwide public education, sensitization and awareness creation campaign aimed at affecting fundamental changes in the attitudes, behaviour, practices and culture of Kenyans towards corruption.

The core functions of the Committee are to:

- Formulate policies and programmes on anti-corruption campaigns;
- Provide advisory services on corruption reporting;
- Conduct research advocacy programmes;
- Create public awareness and sensitization on anti-corruption;
- Develop a strategic framework for the nationwide campaign against corruption;
- Develop anti-corruption campaign strategies and policies;
- Identify and forge anti-corruption partnerships with stakeholders;
- Monitor and evaluate progress of the campaigns;
- Report publicly on the progress on the campaigns;
- Mobilize resources for the campaign;
- Monitor corruption in the utilization of devolved funds; and
- Receive and respond to public complaints and petitions.

3.0 FRAMEWORK FOR CORRUPTION PREVENTION

The framework for prevention of corruption and unethical conduct is set out in The National Ethics and Anti-Corruption Policy and the various statutes / instruments outlined above. This includes, among others:-

- i. The development and implementation of corruption prevention policies and corruption prevention plans;
- ii. Constitution of corruption prevention committees to spearhead the fight against corruption in MDACs;
- iii. Appointment of Integrity Assurance Officers to provide technical support in the fight against corruption;
- iv. Corruption Risk Management, which involves conducting corruption risk assessment and developing and implementing risk mitigation plans;
- v. Establishing sufficient mechanisms to facilitate reporting of corruption;
- vi. Taking appropriate action against reported cases of corruption within respective institutions;
- vii. Establishing mechanisms to encourage and protect whistle-blowers, informants and witnesses to report bribery and corruption; and
- viii. Making provision for effective communication, awareness creation and dissemination to internal and external stakeholders of the measures put in place to prevent bribery and corruption.

4.0 CORRUPTION RISK ASSESSMENT AND MANAGEMENT

Corruption Risk Assessment and Management is a set of procedures and controls in place to detect, assess and mitigate corruption risks within an organisation. It is integral to all decisions and activities of an organisation, from the institutional level to individual programmes within the entity. It is a systematic process of identifying, assessing and mapping out potential risk exposures (loopholes) within the operating environment of an organization with a view to developing and implementing strategies to mitigate against the occurrence of the risks (corrupt practices). The identified risks are evaluated through risk mapping, scoring and assessing likelihood and impact of corruption risks. A plan is then developed for mitigating the identified risks, and continuously monitored to achieve the desired objectives. It seeks to identify weaknesses within the systems in an organization that may present opportunities for corruption to occur. It focuses on the potential rather than the perceived existence or extent of corruption. It identifies institutional vulnerabilities within a system or process which might favour or facilitate corrupt practices.



Individual institutions are expected to undertake self-evaluation assessments to identify potential corruption risk exposures and develop strategies to proactively mitigate against the occurrence of the risks, through strengthening internal control systems.

4.1 Objectives of Corruption Risk Assessment and Management

The objective of Corruption Risk Assessment and Management (CRA&M) is to promote the integrity of the systems by sealing systemic weaknesses that may facilitate corrupt practices.

The specific objectives of the CRA&M are to:

- i) Undertake a systematic identification, analysis, and profiling of potential corruption risks on the strategic objectives of an entity;
- ii) Develop mitigation strategies and measures for the management of the identified risks;
- iii) Provide an environment for engagement with internal and external stakeholders and ownership in corruption prevention; and
- iv) Monitor and report on the implementation of the recommended measures and strategies.

4.2 Importance and Justification of Corruption Risk Assessment and Management

The importance of undertaking corruption risk assessment and management is underscored by the fact that, it:

- i. It is an effective strategy for preventing bribery and other forms of corruption, which is a requirement under the Anti-Bribery Act, Cap 79B and the PSIP;
- ii. Provides a road map in management of corruption risks;
- iii. Provides a linkage with institutional strategic plans and work plans;
- iv. Supports risk awareness and restructured decision making for improved service delivery;
- v. Enhances prudent and optimal use of resources within an entity;
- vi. Promotes efficiency and productivity of an entity; and
- vii. Projects a positive corporate image of the organization.

4.3 Scope of Corruption Risk Assessment and Management

Corruption Risk Assessment and Management can be undertaken by any entity notwithstanding its nature, size and location. The scope of CRA&M may be comprehensive or specific to a function of an entity based on perceived vulnerability of the service, incidences of corruption or during introduction of a new system. This can be:

- National, where a periodic review is undertaken to identify systemic weaknesses in the national anti-corruption framework. The assessment mainly focusses on the efficiency and effectiveness of the policy, legal, regulatory and institutional framework for preventing corruption in a Country;
- Sectoral, where the assessment seeks to identify systemic weaknesses in a given sector. It focusses on the interrelationship between the entities and functions that are domiciled within a sector;
- Institutional, where the assessment seeks to identify systemic weaknesses in a given institution; and
- Functional, where the assessment seeks to identify systemic weaknesses in a given function.

5.0 RESPONSIBILITY FOR CORRUPTION RISK MANAGEMENT

Effective Corruption Risk Management in public and private entities will require the involvement of several parties, as follows:-

a) The Entity

The leadership of the entity will be responsible for corruption risk management in the entity. The various functions to be undertaken by the entity includes:

- i. Establishment of the Institutional Corruption Prevention Framework, including the anti-corruption policy, Corruption Prevention Committee and corruption reporting framework;
- ii. Development of Corruption Risk Mitigation Plan through undertaking a risk assessment and formulating risk mitigation strategies;
- iii. Implementation of Corruption Risk Mitigation Plan;
- iv. Monitoring and evaluation of Implementation of Corruption Risk Mitigation strategies; and
- v. Submission of necessary reports to EACC or other oversight agencies. These include report on the progress made in the implementation of the strategies/ measures outlined in the risk mitigation plan on a quarterly basis or biannually (where applicable /required) , and reports of suspected cases of bribery and corruption with 24 hours, as stipulated in section 14 of the Anti-Bribery Act, Cap 79B.

Please Note

1. Institutions in a given sector may initiate a corruption risk assessment at the sectoral level in order to facilitate development of generic standardised strategies that may enhance integrity.



2. Entities are also encouraged to benchmark with institution of similar size, and the scale and nature of operations as they developed their own Corruption Risk Assessment and Mitigation Plans.

b) The Ethics and Anti-Corruption Commission

The Commission will be responsible for:

- i. Provision of technical guidance through strategies such as capacity building, and development of guidelines on corruption prevention; and
- ii. Monitoring implementation of the corruption prevention strategies by the entities through:-
 - Monitoring of the implementation of corruption prevention advisories by the entities. The Commission will provide guidelines on the monitoring framework;
 - Continuous risk monitoring of strategic programmes and projects implemented by MDACs; and
 - Conducting Systems Reviews to identify corruption loopholes at national, sectoral, institutional and functional levels.

c) Stakeholders

Stakeholders shall be engaged to provide information necessary to facilitate corruption risk assessment and management.

The stakeholders can be categorised as follows:-

- **Internal Stakeholders** - are individuals or groups within the entity who are directly involved in or impacted by the corruption risk management activities;
- **External Stakeholders** - are individuals or organizations outside of the organization but who have a stake (interest) in the organization's anti-corruption efforts. They can include government agencies, regulatory bodies, investors, customers, suppliers and the public; and
- **Public Stakeholders** - The public can also be seen as an important external stakeholder group, especially in public sector corruption risk management.

6.0 PREPARING FOR CORRUPTION RISK ASSESSMENT AND MANAGEMENT

The following factors are crucial for a successful CRA&M process:

a) **Top-Level Commitment and Oversight**

Top-level management commitment is key to effective Corruption Risk Assessment and Management in an entity. The leadership, consisting of the Chief Executive Officer / Accounting Officer and the Executive Management team, should facilitate and steer the process to ensure comprehensive and sustainable risk assessment and management. The leadership in an entity should therefore be responsible for:-

- Ensuring that Corruption Risk Management is captured in the institutional wide plans including the strategic plans, annual work plans, and individual staff targets;
- Assigning clear responsibilities for corruption risk assessment and management. The overall responsibility should be given to a senior executive;
- Allocating adequate resources to conduct a comprehensive corruption risk assessment covering all the functional areas (Departments, units and sections), and to ensure that there is a continuous risk identification and management process. This include appointing the right person(s), and allocating time and budgetary resources for the activity;
- Setting control objectives as a precursor to the corruption risk assessment and management process by recognising how the entity's range of objectives might be affected by corruption risk;
- Deciding the corruption risk approach of zero tolerance to corruption;
- Providing oversight of the corruption risk assessment and management process. This requires appropriate levels of understanding of the corruption risks;
- Ensuring regular sensitization of staff and other stakeholders on the various anti-corruption laws, the manifestation and effects of corruption, and consequences for engaging in corrupt and unethical practices;
- Establishing mechanisms to encourage and protect whistle-blowers, informants and witnesses to report bribery, corruption and unethical conduct. This will encourage reporting without fear of victimization;
- Ensuring that staff sign Code of Conduct and Ethics, and that action is taken for non-adherence of the same ; and
- Ensuring continuous engagement with stakeholders and creating a safe environment and safeguards that enable such stakeholders voluntarily share information that is useful to curb corruption in the entity.



b) Establishing the Scope of the Corruption Risk Assessment.

The motivation for engaging in a corruption risk assessment and management process is an adoption of a strategy to involve the entire organization to conduct a corruption risk assessment and devise a prevention plan. It is a proactive way for entities to assess their vulnerabilities to prevent corruption risks. The entity will decide if the process will be comprehensive for the entire organization, or target-specific operational area(s). The areas to be targeted may be informed by the following:-

- i. Red flags – these are circumstances that suggest a strong corruption risk that needs to be identified and mitigated through adequate safeguards. Red flags are warning signs on corruption vulnerability of the systems. This could refer to problems with policy, institutional/administrative arrangement, system, process, person, decision, and third party along the chain. This may include; increased customer complaints, unrealistic performance expectations, similarity in bids submitted, incomplete or untimely bank reconciliations, unrestricted access to assets or sensitive data, discrepancies in size, weight and colour of health supplies, existence of black market for school text books, ghost workers etc;
- ii. Media reports;
- iii. Complaints from both internal and external stakeholders; and
- iv. Internal and external audit reports.

c) Initiation of the Corruption Risk Assessment and Management Process

The Accounting Officer/ Chief Executive Officer appoints the Technical Team with representation from critical functional areas (Core and Support functions) to provide the technical support to the entity, to:-

- i. Conduct Corruption Risk Assessment(s) and develop Risk Mitigation Plan(s); and
- ii. Oversee or coordinate implementation of the Risk Mitigation Plan(s).

The composition of the team and its position in the hierarchy of the entity depends on the size, mandate and operational structure of the entity and the cooperative or adversarial nature of its relationship with stakeholders.

d) The Role of the entities' Personnel

The Corruption Risk Assessment and Management process will involve staff from the entity in the identification and management of their own vulnerabilities and the corruption risks created.

e) The Role of Commission

The Commission may provide technical support to assist and guide the working group or Team of an entity in undertaking a self-assessment. For purposes of this section, an entity that feels that they are inadequately prepared to undertake CRA&M on their own without technical support can make a request to the Commission through the Secretary/ Chief Executive Officer. In addition, the Commission will also initiate an empowerment programme where it has established through the complaints received at the report centre, periodic reports submitted to the Commission on the implementation of the risk mitigation strategies, media reports or other avenues that the Corruption Prevention Framework in place at the entity is not effective.

The Commission will endeavour to acquire a strong understanding of the sector and environment in which the entity operates in order to empower entities on how to identify corruption risk exposures.

f) Empowering the Working Group

The entity's leadership shall state clearly the importance of the process, the background that led to the launch of the assessment, and that it has the full support of the management.

The working group members should be empowered to perform their functions by identifying corruption risks and providing mitigation strategies.

g) Creating Feedback Mechanisms

The corruption risk assessment and management process requires continuous feedback through regular communication and consultation with relevant stakeholders. This can help build support for the actions contained in the mitigation plan, and the stakeholders can bring their own experience and insight to the table, providing additional information on corruption risks and what can be done to mitigate them.

To facilitate meaningful engagement and encourage communication, the entities will be required to implement secure, anonymous feedback channels to enable stakeholders report concerns or suggestions without fear of reprisal.



7.0 STEPS FOR CORRUPTION RISK ASSESSMENT AND MANAGEMENT

The following are the steps for undertaking Corruption Risk Assessment and Management

1. Evaluating the operating environment;
2. Identifying the target functional area(s) in the entity;
3. Mapping out the various sub functions/processes of the identified target areas;
4. Identifying existing systemic weaknesses, loopholes and opportunities for corruption;
5. Identifying Potential bribery and Corruption Malpractices;
6. Analysing corruption risks;
7. Evaluating corruption risks;
8. Identifying strategies and activities to mitigate the corruption risks;
9. Preparing the Corruption Risk Mitigation Plan;
10. Approving and adopting the Corruption Risk Mitigation Plan;
11. Implementing the Corruption Risk Mitigation Plan;
12. Monitoring, Evaluating and Reporting on the implementation of the risk mitigation plan.

Step 1 – Evaluating the Operating Environment

Evaluating the operating environment involves understanding the entity's legal and administrative framework and functional areas (policies, laws, structure, strategic plans, size, geographical cover, programs, location, processes, and complexity among others).

This is a process of establishing the context, which includes:-

- i. Understanding the context of an entity's -vision, mission, regulatory framework, strategies, core activities, leadership commitment, ethical culture, etc;
- ii. Understanding the expectation of the top management;
- iii. Identifying External and Internal corruption risk factors;
- iv. Establishing Corruption Risk Assessment and Management Context; and
- v. Identification of stakeholders to be involved in the corruption risk assessment.

It is important for the CRA&M team to understand the entity to facilitate effective design of the risk assessment approach.

Step 2 – Identifying the target functional area(s) in the entity

Identify the major functional areas in the organization - such as the Core mandate; Governance and Operating Environment; Core functions; Institutional support functions such as Financial Management, Supply Chain Management and Human Resource Management; and institutional oversight mechanisms by regulatory bodies, audits, and Monitoring & Evaluation among others.

This may be guided by the organization structure as reflected in the organogram for the entity and or the scoping criteria highlighted in section 6.0 (b)

Step 3 - Mapping out the target functional area(s) in the entity

This involves identifying the key process areas/ sub functions within each functional area. Sub functions/processes in the following sample functional areas may include;

- 1) Human Resource Management – human resource planning, recruitment, promotion, training and development, and disciplinary processes;
- 2) Financial Management – budgeting, revenue collection, expenditure, accounting and assets management; and
- 3) Licensing – application, evaluation and issuance of license.

Step 4 - Identifying systemic weaknesses /and opportunities for corruption

This involves analysing the existing policies, structures, procedures, processes and work practices to identify systemic vulnerabilities that may be exploited to perpetuate corrupt practices. These weaknesses may include; complex operational guidelines, inadequate capacity, uncontrolled discretionary powers, limited supervision, bureaucratic processes, inadequate accountability mechanisms and lack of access to information.

The approaches in systemic risk identification include:

- i. Formal and informal interviews with both internal and external stakeholders;
- ii. Focus group discussions;
- iii. Observation of processes and procedures relating to service delivery;
- iv. Conducting walk-through tests;
- v. Analyzing customer feedback reports;
- vi. Conducting Spot checks on operations;
- vii. Conducting surveys of the members of the public – including customers, service seekers and members of the community in which the entity operates. This will include use of online digital data collection tools to collect the information ; and
- viii. Reviewing Secondary sources of information such as policy documents; operational circulars and manuals; Internal and external audit reports; Reports of other oversight agencies and agencies that champion good governance (such as TI); and other relevant operational documents.



Step 5 – Identifying Potential bribery and Corruption Malpractices

Identification of potential bribery and corruption malpractices involves generating a comprehensive list of systemic risks in each of the identified areas. It seeks to address the following:

- i. What could go wrong?
- ii. Why could it go wrong?
- iii. How could it happen?
- iv. What are the consequences if it went wrong?

See sample risk identification process for selected areas in **appendix i**

Step 6 - Analysing Corruption Risks

For each identified corruption risk:

- a) Examine the effectiveness and adequacy of existing controls if any (existing controls on risks) ;
- b) Assess likelihood and impact (consequences: - Potential losses / harm to the organization); and
- c) Assess time related factors and volatility (possibility of risk changing).

Step 7 – Evaluating Corruption Risks

- 1) Evaluate the risks using either or both qualitative and quantitative tools. Identify the significance of each of the risks, assess the possibility of these risks occurring and undertake a rating by considering factors such as:-
 - i. The amounts of money which may be lost;
 - ii. Non-monetary risks such as time, information and threat to public Safety;
 - iii. Previous history of corruption;
 - iv. The existing internal controls;
 - v. Public attitude; and
 - vi. Legal liabilities.
- 2) Based on the evaluation, rank the risks in order of severity and likelihood of occurrence (High – medium – low). The Impact can be estimated in terms of financial loss or reputational loss in the case of a corruption scandal.

Assess the likelihood and magnitude (impact) of the risks using a risk-ranking matrix as illustrated below.

Table 1 : Risk Ranking Matrix

| | | | | |
|--------------------------|--------------|---------|--------------|----------|
| Impact | High (3) | 3 | 6 | 9 |
| | Moderate (2) | 2 | 4 | 6 |
| | Low-(1) | 1 | 2 | 3 |
| | | Low-(1) | Moderate (2) | High (3) |
| Likelihood / Probability | | | | |

Table 2: Evaluation and Ranking of Corruption Risk

| Situation | Score | Colour | Example |
|-----------|---------|--------|--|
| High | >6; ≤9 | Red | Suit, loss of public funds, reputational damage |
| Moderate | >3; ≤ 6 | Amber | Disciplinary action, Penalty |
| Low | >1; ≤ 3 | Green | Popular complaint that may lead to administrative action |

Step 8: Mitigation Strategies and Activities

- 1) For each identified corruption risk, review existing controls and determine the need for new or additional internal or external control mechanisms. (see **Appendix ii**)
- 2) Prescribe / propose risk mitigation measures (strategies) and activities for each of the identified corruption risk. In selecting the best response to the identified risks, consider the following:
 - i. Relative effectiveness and costs of different options for managing specific risk areas.
 - ii. In some instances, you may only need administrative action.



- iii. In others, you may need to design new rules, regulations, and guidelines.
- iv. Responses should be simple and understandable

Step 9– Preparing Corruption Risk Assessment and Mitigation Plan

- 1) Prepare the Corruption Risk Assessment and Mitigation Plan (CRAMP) to include responsibility, resources / budget and timelines. For details of the plan **see appendix iii. a & iii b**
- 2) The plan should be explicitly linked to other organizational plans such as the corporate/strategic plan, Budget, work plans, internal audit plan and other management plans.

Step 10 - Approving and adopting the Corruption Assessment and Risk Mitigation Plan

- 1) The Corruption Risk Assessment and Mitigation Plan should be approved and adopted by the entity ; and
- 2) After the adoption, CRAMP should be publicized internally and externally for ownership and acceptability.

Step 11: Implementing the Corruption Risk Assessment and Mitigation Plan

The management should embark on implementation of the approved CRAMP. The responsible departments to submit regular reports to the Corruption Prevention Committee on the progress made in the implementation of the measures (strategies) in the CRAMP.

8.0 MONITORING, EVALUATION AND REPORTING

Monitoring and evaluation plays a crucial role in assessing the effectiveness of Corruption Risk Assessment and Management. It identifies gaps and weaknesses, and develops evidence-based strategies to prevent and deter corrupt practices.

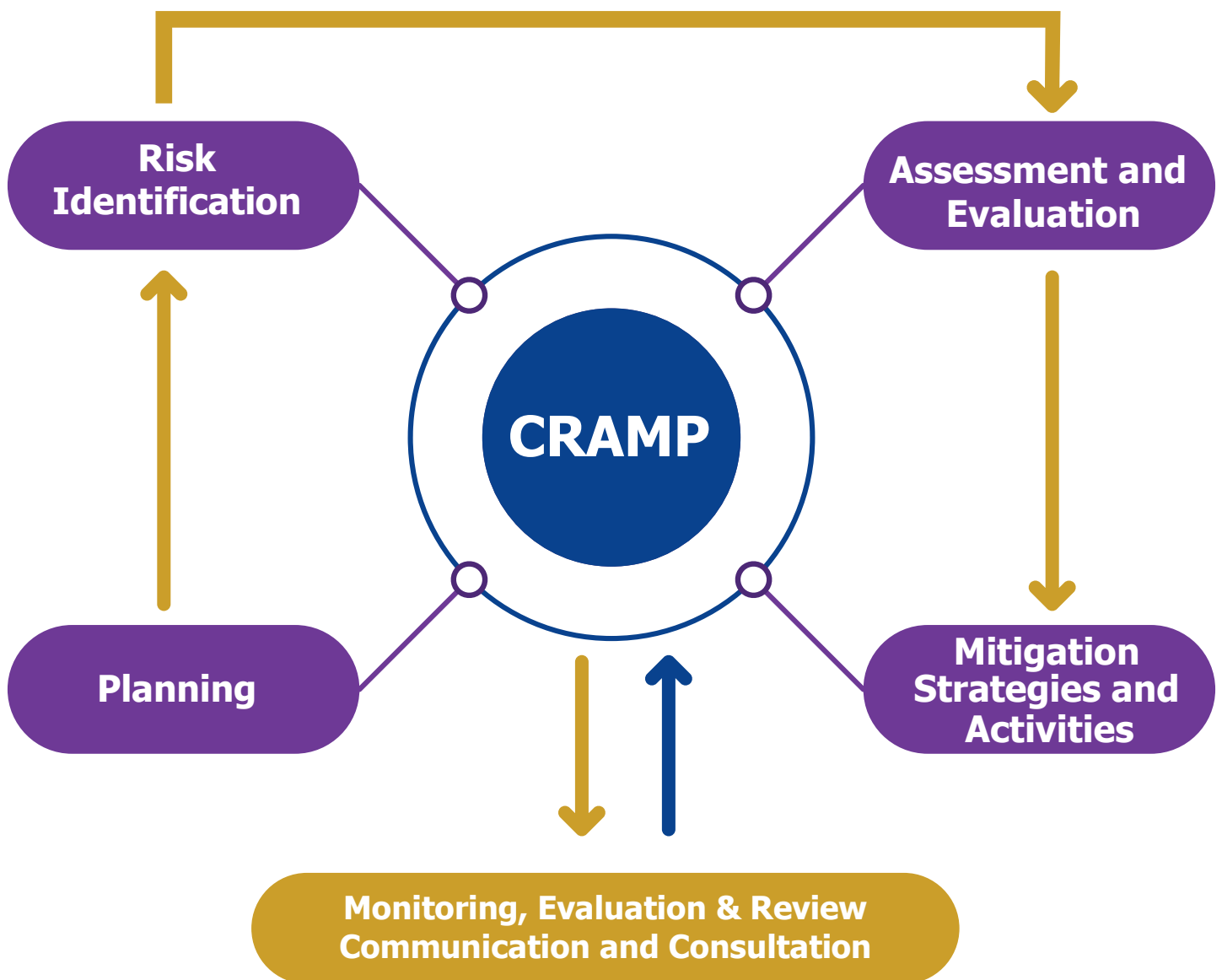
The Entity

- 1) The Entity shall establish a Monitoring, Evaluation, Reporting and Review mechanism to track and assess the effectiveness of corruption prevention strategies, identify gaps and undertake appropriate adjustments as required. This will entail development and implementation of monitoring and evaluation framework that is aligned to the institution's **CRAMP**.
- 2) The Entity shall use the logic framework tool for designing, implementing and evaluating CRAMP outlining the inputs, activities, outputs, outcomes, key performance indicators, resource requirement, key actors and reporting mechanism (see appendix iv).
- 3) M&E reports should be presented to the Board / management to provide independent assurance on the effectiveness of the corruption risk management process.

Monitoring by the Commission

- 1) EACC shall undertake periodic monitoring of the implementation CRAMP through the review of the periodic progress reports submitted using the template indicated in **appendix v**
- 2) EACC may conduct spot checks to assess the progress made on the implementation of the CRAMP by an Entity. Where it is established during the assessment that the entity has not put in place procedures for prevention of bribery and corruption, the Commission shall take appropriate action in line with its mandate to remedy the situation. This may involve providing technical support or recommending alternative action by the regulator, appointing authority or the enforcement unit of the Commission.
- 3) EACC may also undertake a systems examination to provide quality assurance on an institution's risk management programme.

Corruption Risk Management Process (illustrated)



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Appendix i. Sample risk identification process for selected areas in an entity

| S/No. | Risk Area | Systems inadequacy/ vulnerability | Potential bribery/corruption practices | Mitigation strategy |
|-------|------------------------------|---|--|---|
| 1) | Operating Environment | | | |
| a) | Governance instruments | Inadequate dissemination of operational guidelines for implementation | Discretion in decision making leading to abuse of power for private gain | Timely dissemination of operational guidelines |
| b) | Organization structure | Lack of segregation of duties | Difficulties in detecting malpractices | Ensure segregation of duties between departments and staff |
| 2) | Operational Functions | | | |
| 3) | Education | | | |
| a) | Students database | Maintenance of admission registers that are not comprehensive. Missing data may include; date of birth of child, name of parent/guardian and contacts | Admission of learners who do not meet the minimum admission age | Maintenance of comprehensive students registers |
| b) | Disbursement of funds | Delays in disbursements to schools | Delays in payment of suppliers resulting to favouritism | Timely Disbursement of funds |
| c) | Instructional materials | Failure to use authorized learning materials | Ineffective delivery of intended curriculum | Use of the current list of approved publishers and related course materials |

| | | | | |
|----|---------------------------|---|--|---|
| 4) | Project Management | | | |
| a) | Project guideline | Lack of a harmonized guideline for project implementation, with most guidelines being fragmented and disseminated to the stakeholders in piecemeal. | Issuance of conflicting procedures and inconsistency in decision making which may result to waste of resources | Development of a harmonized guideline that covers all project components |
| b) | Project coordination | Lack of a central coordinating unit for various components of a project. | Duplication of roles, and inconsistencies in decision making which may result to waste of resources. | Establish a central unit to ensure coordinating of the various components of a project. |
| c) | Stakeholder engagement | Lack of a structured stakeholders' engagement in the initialization and implementation of the project | Non-cooperation by some stakeholders resulting to poor quality decisions. | Develop a structured framer for managing stakeholders |
| 5) | Estate Management | | | |
| a) | House allocation | Lack of house allocation committees | Creates room for discretion and iits a loophole for bribery and extortion in the allocation of houses. | Constitution of house allocation committees |
| b) | Housing Inventory | Lack of updated housing inventory and building register is maintained and regularly updated | Loss of revenue and theft of Government property. | Maintenance of updated housing inventory and building registers |
| | Health Services | | | |
| a) | Community Health Services | Inadequate training, equipping and oversight over the work of community health workers. | Poor quality and costly health services | Training, equipping and oversight over the performance of the Community health services |

| | | | | |
|----|--------------------------------------|--|---|--|
| b) | Management of Referrals | Lack of adequate mechanisms to discourage self-referrals to referral hospitals | Overburdening of the referral facilities leading to delays in provision of services. This may result to bribery | Establishment of adequate mechanisms to discourage self-referrals to referral hospitals |
| 6) | Financial Management | | | |
| a) | Revenue collection | i. Lack of configuration of all sources of revenue in the system ii. Use of manual receipts on already automated streams iii. Lack of county laws to support some of the revenue streams iv. Lack of 100% banking of revenue collected v. Unauthorized bank accounts for revenue collections | Revenue leakage and use of parallel receipts and theft. Potential misappropriation of cash at hand Misuse of unmonitored/unreported revenue in unauthorized bank accounts | i. Ensure the revenue management system is fully automated. ii. Enacting of county finance bills to support all revenue streams iii. Ensure 100% banking of revenue by close of business each day iv. Opening of all bank accounts to be authorized by the CEC Finance. |
| b) | Databases for traders and businesses | Lack of comprehensive databases for traders and businesses operating in a County | Difficulties in mapping out revenue sources and estimate revenue collection, and is also a loophole for bribery and extortion | Ensure that databases for traders and are developed and updated. |
| c) | Payment | Payment vouchers not supported by any document or not properly supported | Potential payment for goods not delivered or service not rendered | Ensuring; i. Examination of support documents to ensure they are genuine |



| | | | | |
|----|------------------------------------|--|---|---|
| | | Payment vouchers that not authorized or fully authorized | Payment of unauthorized expenditures Forgery that may lead to pilferage and loss of funds through fictitious payments | ii. All payment vouchers are sufficiently supported iii. Payment vouchers and evidence are stamped paid after payments are done. iv. Payments are properly authorized by relevant heads of the department |
| 7) | Supply Chain Management | | | |
| a) | Treasury Policy Repository | Failure maintain a central repository for filing all the policy guidelines, circulars and instructions issued by the National Treasury and County Treasury | Lack of awareness of existing policy requirements resulting to difficulties in complying with procurement policies and irregularities | Ensure that a central repository is maintained and updated every time a policy guideline is issued by the National Treasury or County Treasury |
| b) | Tendering | Inadequate instructions in bid document. | Engagement of suppliers who are not eligible | Provision of adequate information in bid documents |
| c) | Minutes of procurement proceedings | Inaccurate minutes of proceedings of committees such as tender opening and evaluation committees. | Manipulation of minutes to provide the wrong representation of committee deliberations | Ensure that accurate minutes of committees deliberations are maintained |
| 8) | Records Management | | | |
| a) | Records Management | Unauthorized access to records | Manipulation and theft of records | Ensure that records of are adequately secured and access restricted to authorized personnel. |

| | | | | |
|----|------------------------------|--|---|---|
| b) | Storage space and facilities | Inadequate storage space and facilities | Loss of documents and difficulties in retrieval creating avenues for malpractices in the movement of records. | Provision of appropriate records storage space and facilities |
| 9) | Oversight functions | | | |
| a) | Audit of automated Systems | Lack of access rights to automated systems | Perpetration of irregularities, malpractices and embezzlement of funds through the systems without prompt detection | Ensure that automated systems are audited. |
| b) | Audit Recommendations | Failure to implement audit recommendations | Failure to institute adequate controls leading to continuous perpetration of malpractices and loss of resources | Ensure audit recommendations are implemented. |



Appendix ii. Examples of control mechanisms in an entity

| Factors that comprise an organization's internal control environment |
|---|
| <ol style="list-style-type: none">1. Personal and professional integrity of personnel, including support for internal controls2. Commitment to competence3. Management's philosophy and style (tone at the top)4. Organizational structure5. Organizational culture.6. Human resource policies and procedures |
| Assessing how external factors affect an organization's corruption mitigation plan |
| <ul style="list-style-type: none">• What are the laws governing the organization's operations and what powers do they grant to the organization?• Which government bodies oversee the organization? The parliament, County Assembly, Office of the Auditor General, the courts?• How do these bodies react to reports of corruption?• Who investigates corruption allegations? An internal inspector, the police or an anti-corruption body?• Who are the organization's stakeholders?• Are the stakeholder's interests aligned with those of the organization?• Which civil society groups monitor its behaviour?• How much media coverage does the organization receive?• To what extent are formal rules and institutions adhered to?• Do informal institutions influence the organization's operations or the behaviour of its stakeholders? |

Appendix iii: (a). Template for Developing Corruption Risk Assessment and Mitigation Plan

NAME OF INSTITUTION

a. CORRUPTION RISK ASSESSMENT

| S. No | Identified Risk (what could go wrong) | Risk source (why would the risk event occur) | Ranking | | |
|-------|---------------------------------------|--|---------------------------------|-----------------------------|----------------------------------|
| | | | Probability (Pr) Scale 1to 5 | Impact (IM) Scale 1 to 5 | Score (Pr X Im) Scale 1 to 25 |
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |

Appendix iii: (b). Template for Developing Corruption Risk Assessment and Mitigation Plan

NAME OF INSTITUTION

b. CORRUPTION RISK MITIGATION PLAN

| S.No | Identified Risk (what could go wrong) | Mitigation strategy (mechanisms, policies and procedures to address the risk) | Activities | Output | Indicators (KPI) | Resources (e.g. Budget) | Timeframe | Responsibility |
|------|---------------------------------------|---|-------------------------------|-------------------------------|-------------------------------|-------------------------|-----------|----------------|
| 1. | | | a. b. c. | a. b. c. | a. b. c. | | | |
| 2. | | | | | | | | |
| 3. | | | | | | | | |
| 4. | | | | | | | | |

Appendix iii: (c). Template for Developing Corruption Risk Assessment and Mitigation Plan

NAME OF INSTITUTION:.....

CORRUPTION RISK ASSESSMENT AND MITIGATION PLAN

| S.No | Identified Risk | Risk source | Ranking | | | Mitigation Strategy | Activities | Output | Indicator (KPI) | Resources (e.g. budget) | Timeframe | Responsibility |
|------|-----------------|-------------|------------------|-------------|---------------|---------------------|------------|--------|-----------------|-------------------------|-----------|----------------|
| | | | Probability (pr) | Impact (im) | Score (pr*im) | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |



Appendix iv. Monitoring, Evaluation and Reporting Template

MONITORING AND EVALUATION LOGIC FRAMEWORK

| | | | | | | | | | |
|---------------------------|--------------------|---------------------------|-----------------------|-------------|----------|--------|-------------|----------------|--|
| NAME OF INSTITUTION | | | | | | | | | |
| Functional Area 1 | | | | | | | | | |
| Identified Risk | | | | | | | | | |
| Mitigation Strategy | | | | | | | | | |
| Design Elements | Description | Key Performance Indicator | Periodicity/Frequency | Data Source | Baseline | Target | Achievement | Responsibility | |
| Outcome | | | | | | | | | |
| Output | | | | | | | | | |
| Activities | 1. 2. | | | | | | | | |
| Functional Area 1 | | | | | | | | | |
| Identified Risk | | | | | | | | | |
| Mitigation Strategy | | | | | | | | | |
| Design Elements | Description | Key Performance Indicator | Periodicity/Frequency | Data Source | Baseline | Target | Achievement | Responsibility | |
| Outcome | | | | | | | | | |
| Output | | | | | | | | | |
| Activities | 1. 2. | | | | | | | | |

Appendix v. Template for submitting implementation progress reports

Name of Ministry/Institution: Quarter: FOR FY /

| S.No | Identified Risks – (as per the CRAMP) | Mitigation/Prevention Measure - (as per the CRAMP) | Activities implemented –as per the CRAMP) | Outputs achieved | Emerging issues and challenges noted during implementation | Actions to address the issues and challenges |
|------|---|--|---|------------------|--|---|
| | FUNCTIONAL AREA 1 | | | | | |
| 1. | | | | | | |
| 2. | | | | | | |
| 3. | | | | | | |
| 4. | | | | | | |
| | FUNCTIONAL AREA 2 | | | | | |
| 1. | | | | | | |
| 2. | | | | | | |
| 3. | | | | | | |
| 4. | | | | | | |



NOTES

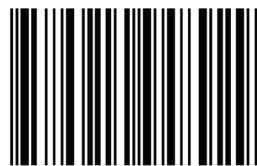
NOTES

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