

REPUBLIC OF KENYA



THE PRESIDENCY

MINISTRY OF DEVOLUTION AND PLANNING

**MINISTERIAL DISABILITY
MAINSTREAMING WORKPLACE
STRATEGY**

OCTOBER 2016

TABLE OF CONTENTS

FOREWORD	4
ACKNOWLEDGEMENT	6
ACRONYMS	8
DEFINITION OF TERMS	9
1.0 INTRODUCTION	11
2.0 OBJECTIVES	13
3.0 SCOPE	14
4.0 LEGAL AND REGULATORY FRAMEWORK	14
5.0 GUIDING PRINCIPLES	15
6.0 RIGHTS AND RESPONSIBILITIES OF EMPLOYER AND EMPLOYEES	17
6.1 RIGHTS OF EMPLOYER	17
6.2 RESPONSIBILITIES OF EMPLOYER.....	17
6.3 RIGHTS OF EMPLOYEE.	18
6.4 RESPONSIBILITIES OF EMPLOYEE.....	18
7.0 MANAGEMENT OF HUMAN RESOURCE	19
7.1 RECRUITMENT AND PROMOTION.....	19
7.2 HEALTH AND MEDICAL PRIVILEGES	19
7.3 WORKING HOURS	20
7.4 RETIREMENT AND TERMINATION OF EMPLOYMENT	20
7.5 DISCRIMINATION AND STIGMATIZATION.....	20
7.6 SEXUAL HARASSMENT, ABUSE AND EXPLOITATION	20
7.7 DEPLOYMENT AND TRANSFERS	20
7.8 SICK LEAVE	21
7.9 GUIDANCE AND COUNSELLING.....	21
7.10 STAFF DEVELOPMENT	21

8.0	PROGRAMMES AND STRATEGIES TO MAINSTREAM DISABILITY AT WORK PLACE ...	21
8.1	COORDINATION	22
8.2	SENSITIZATION AND AWARENESS CREATION	22
8.3	PHYSICAL INFRASTRUCTURE	22
8.4	TRANSPORT	22
8.5	INFORMATION COMMUNICATION AND TECHNOLOGY (ICT)	22
8.6	NETWORKING AND COLLABORATION	22
8.7	BUDGETING	23
8.8	MONITORING AND EVALUATION	23
9.0	WORKPLACE STRATEGY REVIEW	23
10.0	IMPLEMENTATION FRAMEWORK.....	23

FOREWORD

The Government recognizes the challenges and barriers affecting the full participation of persons with disabilities (PWDs) in the social and economic development of this country. In response to these challenges, the persons with Disabilities (PWDs) Act, 2003 was enacted by Parliament to address the many issues that would otherwise discriminate on the rights, freedoms and full participation of persons with disabilities (PWDs) in nation building.

The Ministry of Devolution and Planning in executing its mandate of Mainstreaming disability issues in its plans and programmes as a key strategy for enabling the participation of persons with disabilities in different levels of society and achieving equal opportunities for them, recognises the need to address the issues and concerns of persons with disability in the workplace. Further, the Ministry appreciates that disability is as old as mankind, its causes are varied and that PWDs face challenges which need to be addressed. This therefore goes without saying that some employees may be PWDs or may become PWDs in the course of employment. Towards this end, the Ministry has developed a Disability Mainstreaming workplace strategy to enable such employees to efficiently and effectively perform their duties.

The strategy provides guidance on how to address day to day issues and problems arising within the work place and also outlines Employees/Employer rights and responsibilities in the work place. The issues outlined in this strategy aim at minimizing the effects of discrimination and stigmatization of PWDs in the workplace and provide the means towards greater efficiency in service delivery.

This strategy therefore emphasizes the need for improved participation of persons with disabilities in the Ministry's programmes and activities and thus I expect that the implementation of this strategy will be mainstreamed in all core functions of the Ministry.

MWANGI KIUNJURI, MGH

CABINET SECRETARY

ACKNOWLEDGEMENT

The Kenya Constitution 2010 being the mother law of the land categorically provides for persons with disabilities (PWDs) under Article 54. The **Persons with Disabilities Act, 2003**, is a comprehensive law covering rights, rehabilitation and equal opportunities for PWDs. It is the main legal instrument concerned with PWDs. The principles that guide the Act are in accordance with the international conventions and the national laws.

Although the Disability Act is a landmark policy document in the struggle to create a just and equitable Kenyan society, by respecting the right of the most vulnerable members, many barriers still remain. The barriers like attitudinal change, provision of budgets to accommodate the needs and rights of PWDs and creating a culture which recognises gaps to ensure equity. It is clear that the breaking down of many of these barriers require more than just laws, that is why the Ministry is concerned and committed in taking concrete steps in the management of PWDs and also provide a lead role in the development of workplace strategies with regard to PWDs. As a follow up of this, the Ministry of Devolution and Planning has developed this strategy to guide and protect the rights and freedoms of PWDs.

The main objective of the strategy is to provide a framework for mainstreaming disability issues within the Ministry.

It has addressed issues on legal and regulatory framework concerning the PWDs at work place, guiding principles that will guide the ministry in handling cases at the work place, the rights and responsibilities of employers and employees, programmes and strategies to be put in place on the implementation of the strategy.

I wish to thank all the officers involved for their effort and commitment in the development and review of this strategy. In particular, I wish to thank the Disability Mainstreaming Committee members for the immense effort and determination to ensure that the strategy is successfully reviewed.

SAITOTI TORME

**PRINCIPAL SECRETARY/PLANNING &
STATISTICS**

MS. MWANAMAKA A.MABRUKI

PRINCIPAL SECRETARY/DEVOLUTION

ACRONYMS

DMC	-	Disability Mainstreaming Committee
EDCE	-	Economic Development Coordination Directorate
HRM	-	Human Resource Management
ICT	-	Information and Communication Technology.
KNSPWD	-	Kenya National Survey for Persons with Disabilities
NCKK	-	National Council of Churches In Kenya
NCPWD	-	National Council for Persons with Disability
PWDs	-	Persons with Disabilities
SCMU	-	Supply Chain Management Unit
UN	-	United Nations

DEFINITION OF TERMS

Adaptation - Includes redesigning of implements, tools, equipment, machines, workstations, the work environment, or, adjustment in work organization, work schedules, sequence of work and breaking down work tasks to suit the needs of public officers with disabilities;

Affirmative Action - A strategy or programme of taking steps to increase the representation of certain designated groups seeking to redress discrimination or bias. It is usually achieved through discrimination against other groups

Assistive and support devices - Means implements, tools, equipment, and machines of whatever kind for persons with disabilities for their political, economic, socio-cultural, civil or any other well being; assistive services means specialized, expert or any other service provided for persons with disabilities for their political, economic, socio-cultural, civil or any other well being;

Authorized officer - Means a principal secretary in a ministry, a chief executive officer in a Government department or agency or commission or committee or council or any other public body and includes any person or public authority appointed by the Commission as an authorized officer;

Disability - A physical , sensory, mental, or other impairment, including any visual, hearing or physical incapacity, which impacts on social, economic and environmental participation.

Discrimination - Means any accordance of different treatment to different persons solely or mainly as a result of their disability and includes using words, gestures or caricatures that demean, scandalize or embarrass a person with a disability.

Empathy- The ability to understand another person's feeling and experiences

Employee - A person engaged for gainful production of goods or services in return for pay

Employer - A person or Organization that engages person for gainful production of goods or services

Impairment - Means an injury, illness, or congenital condition that causes or is likely to cause a loss or difference of physiological or psychological function;

Mainstreaming - Means a strategy through which concerns, needs and experiences of persons with disabilities are made an integral part or dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that persons with disabilities benefit equally and inequality is not perpetuated;

Person With Disability - Means a person with disability and includes those who have long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Stigma - Employees refusal to work or interact with fellow colleagues on the grounds that they are disabled or perceived to be disabled

Strategy on PWDs - A statement of the intention of the Ministry to address the challenges facing the persons with disabilities, both its employees and the clients

Workplace - Organised set-up, station or places where activities take place for gainful production either in goods or services

1.0 INTRODUCTION

The Ministry of Devolution and Planning is concerned and committed in mainstreaming disability issues in policy and planning processes in line with the ministry's mandate of provision of leadership and coordination of national development, policy formulation, monitoring and evaluation of economic policies and strategies. In regard to this, the Ministry has developed this strategy to guide and protect the rights and freedoms of Persons with disabilities (PWDs).

It is in the same breath that the Kenya Vision 2030 recognizes that PWDs are crucial in economic development. Thus, the flagship Projects in Vision 2030 and its second MTP (2013-2017) include; implementation of the Disability Fund (this fund is inclusive of appropriate budgetary allocations to provide financial assistance to PWDs for their socio-economic empowerment) and representation of PWDs in decision making processes at all levels (this will ensure that issues that directly affect the PWDs are adequately addressed in policies and legal frameworks, programmes and projects).

In Kenya, activism of PWDs started way back in 1958, with the establishment of the Association for the Physically Disabled of Kenya. The main objective of the association was to provide rehabilitation services and vocational training for people with disabilities, to provide disability awareness, to offer a variety of therapy services, and to serve as a liaison between the government ministries in disability-related issues. Thereafter the Kenya Institute of Special Education under the Ministry of Education was established in 1986 and a year later, in 1987, the Kenya Society of the Physically Handicapped was created in order to increase employment opportunities, provide business training, and to lobby for equal opportunities for people with disabilities. In 1992, Kenya received international attention by

holding the 17th World Congress of Rehabilitation International. Two thousand people from one hundred and ten countries attended this conference.

In order to effectively implement and enforce the disability laws and policies the government established the National Council for Persons with Disabilities (NCPWD) in November, 2004 following the enactment of The Persons with Disabilities Act (PWD) 2003. The National Development Fund was also established under section 32 of the Disability Act 2003, with Clause 2 of that section stating that “The Fund shall be established as a permanent fund and the income there from shall be used for the benefit of persons with disabilities in Kenya”. The National Fund for the Disabled of Kenya was established in 1992 under the Perpetual Succession act Cap 164 of the Laws of Kenya.

According to the Kenya National Bureau of Statistics (2009 Population and Housing Census), 4.6% of Kenyans have some kind of disability. However, this does not give the accurate picture of the actual prevalence of disability in the country. The 2007 Kenya National Survey for Persons with Disabilities (KNSPWD) carried out by the National Council for Population and Development (NCPD) in collaboration with KNBS, established that more PWDs resided in rural areas than in urban areas, 15% of PWDs are likely to be affected by environmental factors on a daily basis and 3% on a weekly basis and 65% of PWDs regard the environment as a major problem in their daily lives.

Years of advocating for disability issues to be mainstreamed into the national development agenda finally paid off for Kenya’s disability movement as the government included disability mainstreaming indicator in its 6th Cycle (2009/2010) of Performance Contracts. “Mainstreaming disability issues in every ministry’s plans and programmes is a key strategy

for enabling the participation of PWDs in different levels of society and achieving equal opportunities for them.

The Ministry of Devolution and Planning is committed to promoting, and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and acceptance of persons with disabilities as part of human diversity and humanity. There is therefore need to equip the Ministry's staff with proper knowledge, skills and attitude to ensure the rights of PWDs in the workplace are addressed. When these challenges are not mainstreamed, discrimination against PWDs is perpetuated.

One of the Performance Contract guidelines target in 2009/10 Financial Year was the establishment of a Disability Mainstreaming Committee (DMC) in all Ministries/public institutions. Apart from quarterly reporting on progress made in mainstreaming disability issues and concerns to the National Council for People with Disabilities (NCPWD), the DMC has also conducted sensitization fora; conducted the disability mainstreaming baseline survey; developed disability mainstreaming brochures and now the development of disability mainstreaming workplace strategy.

2.0 OBJECTIVES

The main objective of the Disability Mainstreaming workplace strategy is to provide a framework for mainstreaming disability issues within the Ministry.

The strategy specifically aims to:

- Develop measures and activities designed to achieve equal opportunities for Persons with Disabilities (PWDs).

- Recommend measures to prevent discrimination against PWDs within the workplace.
- Raise disability awareness within the Ministry.
- Ensure that data on PWDs in the Ministry is collected to inform policy makers for appropriate action.
- Improve employment prospects in the ministry for PWDs by facilitating recruitment, return to work, job retention and opportunities for advancement.
- Facilitate PWDs including learners with special educational needs to access the workplace in the ministry for the purpose of internship and attachment.
- Assure that the needs of PWDs are catered for in the discharge of human resource functions and management in the ministry.
- Assist the PWDs to access procurement opportunities in the Ministry.

3.0 SCOPE

The strategy applies to all employees of the Ministry, its clients and all stakeholders.

4.0 LEGAL AND REGULATORY FRAMEWORK

The persons with Disabilities Act, 2003 sets out the rights of PWDs. This is the main legal instrument concerned with PWDs in Kenya. This strategy shall therefore be implemented within this framework in tandem with other relevant legislations in place which include but not limited to the following:

- The Constitution, 2010
- Persons With Disability Act, 2003
- UN Convention on the Rights of Persons with Disabilities and Optional Protocol
- National Disability Policy, 2006

- Public Service Commission Regulations
- The Employment Act of 2007
- Kenya Vision 2030 and its Medium Term Plans
- Sustainable Development Goals (SDGs)

5.0 GUIDING PRINCIPLES

5.1 General Principles

These are principles that guide the strategy are in accordance with the international conventions and national laws, policies, guidelines and regulations. They include:

Respect

Respect for inherent dignity and individual autonomy including the freedom to make one's own choices, and independence of persons; and

Respect for difference and acceptance of persons with disabilities as part of diversity and humanity;

Recognition

Persons with disabilities have the right to recognition, protection and equal benefits everywhere as all other persons before the law;

Non - Discrimination

There should be no discrimination on the basis of disability and guarantees should be given to persons with disabilities on equal and effective legal protection;

Participation/equal opportunity

PWDs should enjoy full and effective participation and inclusion in the ministry's activities;

Accessibility

Deliberate measures should be put in place to provide access to persons with disabilities on an equal basis with others, to the physical environment, transportation, information and communication, including other facilities and services open or provided to the public both at the ministry headquarters and field offices.

5.2 Specific Principles

The specific principles guiding the mainstreaming of disability in the ministry include:-

- a) Leaders, managers and individual officers in the ministry shall uphold the conviction that the ministry benefits from the employment of persons with disabilities;
- b) The ministry's practices for mainstreaming disability shall be based on evidence, best practice and experience to enable PWDs to contribute productively to the ministry and to maintain valuable work expertise;
- c) Persons with disabilities make a significant contribution at their place of employment if jobs are matched to their skills and abilities, and, if disability and related issues are properly mainstreamed;
- d) The ministry may gain from the retention of experienced public officers who acquire disabilities if an effective disability mainstreaming strategy is implemented at the workplace;
- e) Positive affirmative action aimed at effective equality of opportunity for and treatment of persons with disabilities in the ministry shall not be regarded as discrimination against other public officers;
- f) The ministry shall implement the principle of universal design and reasonable accommodation in procuring goods, services and works;

- g) Practices for mainstreaming disability are most effective when based on positive cooperation among the directorates and persons with disabilities.

6.0 RIGHTS AND RESPONSIBILITIES OF EMPLOYER AND EMPLOYEES

6.1 Rights of Employer

It is the right of the employer to:

- Enforce existing service regulations and relevant legislations;
- Ensure optimal productivity from the employees;
- Access information on disability of employees;
- Be informed about the nature of disabilities.

6.2 Responsibilities of Employer

It is the responsibility of the Employer to;

- Spearhead the campaign to address the challenges of employees with disabilities;
- Show empathy to Persons with Disabilities;
- Mainstream and sensitize disability issues in the ministry's activities;
- Provide support to activities that address issues of Persons with Disability;
- Ensure fairness in deployment of the person(s) with disability in friendly work stations;
- Keep work environment safe and accessible;
- Implement, display and support the strategy;
- Prevention of occurrence of accidents;
- Identification of disabilities among its employees;
- Provision of free rehabilitation and access to medical services;
- Establish a record of employees with disabilities and encourage them to register with NCPWD;

- Maintain disaggregated data of employees with disabilities;
- Provide guidance and counselling services.

6.3 Rights of Employee.

It is the right of the employee to;

- Register with The National Council for Persons With Disabilities;
- Favourable working conditions, including equal opportunities and remuneration for work of equal value, freedom of association, safe and healthy working conditions;
- Right to form, join or participate in the activities and programmes of a trade union;
- Right to go on strike;
- Develop their talents, creativity, personality and skills to their maximum potential;
- Confidentiality and privacy;
- Protection from harassment, abuse and vulnerability.

6.4 Responsibilities of Employee

It is the responsibility of the Employee to:

- Accept themselves as a PWD;
- Register with NCPWD;
- Comply with existing service regulations and relevant legislations;
- Ensure optimal productivity for the employer;
- Avail information on disability to the employer.

7.0 MANAGEMENT OF HUMAN RESOURCE

7.1 Recruitment and promotion

The Ministry will recognize the right of person(s) with disabilities to work on an equal basis with others in an environment that is accessible to such persons by:

- Promoting access to favorable working conditions, appointments, promotions, training, performance appraisal, career advancement, equal opportunities, remuneration, freedom of involvement and participation.
- Prohibiting discrimination on the basis of disability through appropriate policies and measures, which may include affirmative action, programmes, incentives, deployment and other measures.
- Promoting vocational and professional rehabilitation, job retention and return- to- work programmes for persons with disabilities.
- Ensuring that job vacancies and other communication relating to employment are publicized in a format which is accessible to persons with different disabilities including using established Government channels such as the NCPWD.
- Ensure progressive realization of attaining the 5% of all recruited personnel in appointments, employment and promotions are persons with disabilities.

7.2 Health and medical privileges

The Ministry recognizes that persons with disabilities have the rights to access the same range, quality and standard of health care services and programmes provided to other employees without discrimination on the basis of disability.

7.3 Working hours

Normal official working hours apply to all employees. However, a more flexible and humanitarian approach will be applied to persons with disabilities in special cases in order to enhance the general principles on the rights of persons with disabilities to achieve full and effective participation in the workplace.

7.4 Retirement and Termination of employment

The minimum retirement age for persons with disabilities shall be sixty five years and the policies and procedures to termination of services apply to all employees. The Ministry will ensure that persons with disabilities are not discriminated against and are treated on an equal basis with other employees during termination.

7.5 Discrimination and stigmatization

All employees have equal rights and obligations as stipulated in the terms and conditions of service irrespective of the various forms of disabilities. The Ministry will endeavour to create awareness to the employees on disability issues so as to reduce stigmatization and discrimination of the PWDs at the workplace.

7.6 Sexual harassment, Abuse and Exploitation

The Ministry will ensure that persons with disabilities are not sexually harassed, abused or exploited at the workplace.

7.7 Deployment and Transfers

The Ministry will take due care and deliberate steps to consult its officers with disabilities on the preferable and conducive duty station, workstation and work environment that caters for their best interests without compromising the interests of the Ministry

7.8 Sick leave

Normal sick leave will be provided for as stipulated in the relevant service regulations. However, the Authorized Officer on a case-by-case basis will grant additional sick leave days for special and deserving PWDs cases.

7.9 Guidance and Counselling

The Ministry will ensure that PWDs at the workplace are adequately counseled. It will also ensure that PWDs cognitive, social and moral needs are addressed through guidance and counselling to support their talents and abilities. The ministry shall undertake reasonable modification or adaptation of instruments and procedures applied in guidance and counseling, grievance management and handling cases alleged misconduct at workplace to suit the different needs of PWDs.

7.10 Staff development

The Ministry will recognize the right of PWDs to further training on the basis of equal opportunity in the development of their personalities, talents and creativity, as well as their mental and physical abilities to their fullest potential.

8.0 PROGRAMMES AND STRATEGIES TO MAINSTREAM DISABILITY AT WORK PLACE

The Ministry needs to review all its programmes and policies so as to incorporate issues of disability. It will therefore mainstream disability at the work place through the following strategies and interventions.

8.1 Coordination

Establish a disability mainstreaming committee with representatives drawn from all the directorates/departments. This committee will play a crucial role in the implementation of this strategy and coordination of disability mainstreaming activities.

8.2 Sensitization and Awareness Creation

Organize regular sensitization forums on disability issues for members of staff through the disability mainstreaming committee. This will foster respect for the rights and dignity of PWDs. It will also nurture receptiveness of the rights and promote positive perception towards PWDs.

8.3 Physical Infrastructure

Endeavor to make all the offices, building and surroundings disability friendly including toilets for the PWDs. This will enable the PWDs have access to buildings, roads and other social amenities, and assistive devices and other equipment to promote their mobility. Some of the strategies undertaken by the Ministry in regard to physical infrastructure are installation of disability friendly elevators and passage ways.

8.4 Transport

Endeavor to have at least one vehicle which is disability friendly.

8.5 Information Communication and Technology (ICT)

Endeavor to provide assistive devices in ICT whenever necessary for PWDs.

8.6 Networking and Collaboration

Encourage networking and collaboration between directorates, employees and stakeholders on disability issues. These will include NCPWD, line Ministries, Development Partners, and International organizations among others.

8.7 Budgeting

Ensure there is a budget line for Disability Mainstreaming Committee's activities.

8.8 Monitoring and Evaluation

The ministry will continuously monitor and evaluate the output and impact of programmes and strategies dealing with PWDs. This will be achieved through the following key result areas:

- Hold quarterly review meetings and submit reports to the NCPWD;
- Awareness creation to all staff in the ministry through sensitization and training;
- Carry out annual surveys to determine the number of PWDs and nature;
- Mainstreaming disability issues in Strategic Plans, Programmes and Projects.

9.0 WORKPLACE STRATEGY REVIEW

This Work Place strategy will be reviewed after every five (5) years or as need arises.

10.0 IMPLEMENTATION FRAMEWORK

The Workplace strategy will be implemented through the Disability Mainstreaming Committee (DMC) work plans which are normally guided by the annual Performance Contract (PC) Guidelines.