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THIRTEENTH PARLIAMENT – FOURTH SESSION

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

FOURTH REPORT ON THE STATUS OF IMPLEMENTATION OF THE
CONSTITUTION BY:

1. THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION; AND
2. THE OFFICE OF THE DATA PROTECTION COMMISSIONER.

 THE NATIONAL ASSEMBLY PAPERS LAID			
DATE: 19 NOV 2025			
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TABLED BY:	Chair, CIO C Hon. Caroli Omandi		
CLERK-AT THE-TABLE:	Mado Miriam		

Directorate of Audit, Appropriations and General Purpose Committees

National assembly

Parliament buildings

NAIROBI

NOVEMBER, 2025

NATIONAL ASSEMBLY
 RECEIVED
 18 NOV 2025
 SPEAKER'S OFFICE
 P. O. Box 41842, NAIROBI.



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ABBREVIATIONS

IEBC	Independent Electoral and Boundaries Commission
ODPC	Office of the Data Protection Commissioner
ROV	Registrar of Voters
RTS	Results Transmission System
CAK	Communications Authority of Kenya
CRMS	Candidate Management Registration System
DPO	Data Protection Officer
DRC	Dispute Resolution Committee
GIS	Geographical Information System
MLA	Mutual Legal Assistance
NRB	National Registration Bureau

CHAIRPERSON'S FOREWORD

The Constitutional Implementation Oversight Committee is established under Paragraph 4 of the Sixth Schedule to the Constitution of Kenya which provides as follows:

There shall be a select committee of Parliament to be known as the Constitutional Implementation Oversight Committee which shall be responsible for overseeing the implementation of this Constitution and which, among other things—

- (a) the preparation of the legislation required by this Constitution and any challenges in that regard;*
- (i) the process of establishing the new commissions;*
- (ii) the process of establishing the infrastructure necessary for the proper operation of each county including progress on locating offices and assemblies and establishment and transfers of staff;*
- (iii) the devolution of powers and functions to the counties under the legislation contemplated in section 15 of this Schedule; and*
- (iv) any impediments to the process of implementing this Constitution;*
- (b) coordinate with the Attorney-General and relevant parliamentary committees to ensure the timely introduction and passage of the legislation required by this Constitution; and*
- (c) take appropriate action on the reports including addressing any problems in the implementation of this Constitution.*

Pursuant to this mandate, the Committee, between September and October 2025, invited one Constitutional Commission and Independent Office with a view to understanding their operations vis-à-vis their constitutional mandates and any impediments in the performance of their roles.

The Constitutional Commission and Independent Office engaged were the **Independent Electoral and Boundaries Commission (IEBC)** and **the Office of the Data Protection Commissioner (ODPC)**.

These interactions provided the Committee with valuable insights into the achievements and challenges facing these institutions.

In conclusion, Honorable Speaker, I wish to express my appreciation to fellow Honorable Members of the Committee, the Office of the Speaker, the Clerk of the National Assembly and the Secretariat for facilitating in the production of this report.

Honorable Speaker, pursuant to Standing Order 199(6), it is my pleasant duty and privilege, on behalf of the Constitutional Implementation Oversight Committee, to lay this report on the Table of the House and urge the House to adopt it and recommendations therein.

HON. CAROLI OMONDI, CBS, MP.
CHAIRPERSON, CONSTITUTIONAL IMPLEMENTATION OVERSIGHT
COMMITTEE

I PREFACE

I.1 Mandate of the Committee

1. The Constitutional Implementation Oversight Committee is established under Paragraph 4 of the Sixth Schedule to the Constitution which provides for the Parliamentary Select Committee as follows-
2.
 - (a) *the preparation of the legislation required by this Constitution and any challenges in that regard;*
 - (i) *the process of establishing the new commissions;*
 - (ii) *the process of establishing the infrastructure necessary for the proper operation of each county including progress on locating offices and assemblies and establishment and transfers of staff;*
 - (iii) *the devolution of powers and functions to the counties under the legislation contemplated in section 15 of this Schedule; and*
 - (iv) *any impediments to the process of implementing this Constitution;*
 - (b) *coordinate with the Attorney-General and relevant parliamentary committees to ensure the timely introduction and passage of the legislation required by this Constitution; and*
 - (c) *take appropriate action on the reports including addressing any problems in the implementation of this Constitution.*

1.2 Committee Membership

3. The Committee membership comprises: -

Chairperson

Hon. Caroli Omondi, CBS, MP

Suba South Constituency

Orange Democratic Movement

Vice-Chairperson

Hon. William Kamket, MP

Tiaty Constituency

KANU - Party

Members

Hon. Sylvanus Osoro, MP

South Mugirango Constituency

United Democratic Alliance

Hon. Mejjadonk Benjamin Gathiru, MP

Embakasi Central Constituency

United Democratic Alliance

Hon. Mary Wamaua, MP

Maragua Constituency

United Democratic Alliance

Hon. Jesica Mbalu Nduku Kiko, CBS, MP

Kibwezi East Constituency

Wiper Democratic Movement

Hon. Charles Nguna Ngusya, MP

Mwingi West Constituency

Wiper Democratic Movement

Hon. Jackson Lekumontare, MP

Samburu East Constituency

KANU

Hon. George Risa Sunkuiya, MP

Kajiado West Constituency

United Democratic Alliance

Hon. Paul Abuor, MP

Rongo Constituency

Orange Democratic Movement

Hon. Peter Oscar Nabulindo, MP

Matungu Constituency

Orange Democratic Movement

Hon. Teresia Wanjiru Mwangi, M.P

Nominated

United Democratic Alliance

Hon. Nimrod Mbithuka Mbai, MP
Kitui East

United Democratic Alliance

Hon. John Murumba Chikati, MP
Tongaren Constituency

FORD-Kenya

Hon. Patrick Osero Kibagendi, MP
Borabu Constituency

Orange Democratic Movement

Hon. Ali Abdisatat Kalif, MP
Nominated Member

United Democratic Alliance

Hon. John Gitonga Mukunji Mwaniki, MP
Manyatta Constituency

United Democratic Alliance

Hon. Umulkher Harun Mohamed, MP
Nominated

Orange Democratic Movement

Hon. Hamisi Kakuta Maimai, MP
Kajiado East Constituency

Orange Democratic Movement

Hon. Geoffrey Ekesa Mulanya, MP
Nambale Constituency

Independent

Hon. Daniel Karitho Kiili, MP
Igembe Central Constituency

Jubilee Party

Hon. Bernard Kitur, MP
Nandi Hills Constituency

United Democratic Alliance

Hon. Lawrence Mpuru Aburi, MP
Tigania East Constituency

NOPEU

1.3 Committee Secretariat

4. The Secretariat facilitating the Committee in executing its mandate comprises of: –

Mr. Oscar Namulanda

Deputy Director

Ms. Hellen Kina

Senior Clerk Assistant

Lead Clerk

Ms. Kafuyai Wamae

Clerk Assistant III

Ms. Emma Essendi

Senior Legal Counsel

Mr. Jillo Yeziel

Sergeant -at- Arms

Ms. Mary Ann Gabow

Public Communications Officer

Mr. Kelvin Lengasi

Audio Officer

Ms. Rinha Saineye

Media Relations Officer

Mr. Alvin Ochieng

Research Officer

Ms. Pauline Sifuma

Hansard Reporter

2 INTRODUCTION

5. The Constitutional Implementation Oversight Committee commenced to apprise itself on the implementation status of the Constitution of Kenya according to Part Four of the Sixth Schedule to the Constitution which requires the Committee to take appropriate actions on the reports/submissions including addressing any problems in the implementation of the Constitution.
6. The report contains the status of implementation as submitted by various commissions between September to October 2025, as follows: -

1) *The Independent Electoral and Boundaries Commission.*

2) *The Office of the Data Protection Commissioner*

3 THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC).

3.1 Establishment and Mandate

7. The Independent Electoral and Boundaries Commission is a Constitutional Commission established under Article 88(1) of the Constitution of Kenya, 2010.
8. Article 88(4) outlines the general mandate of the Commission to conduct or supervise referenda and elections to any elective body or office established by the Constitution and any other elections as prescribed by an Act of Parliament.
9. Under Article 88(4)(c), the Commission is mandated to delimit constituencies and wards as provided for under Article 89 of the Constitution.
10. The mandate of the Commission is further espoused in the Independent Electoral and Boundaries Commission Act, Cap. 7C and the Elections Act, Cap. 7.

3.2 Background

11. The Constitutional Implementation Oversight Committee invited the Independent Electoral and Boundaries Commission on 9th September, 2025 to report on the extent of the Commission's discharge of its mandate pursuant to Article 88 of the Constitution including any impediments to the process of implementing the Constitution and the way forward.
12. Mr. Marjan Hussein Marjan, MBS, Commission Secretary/CEO, accompanied by other officials from IEBC appeared before the Committee on 25th September, 2025. IEBC submitted as follows:

3.3 Submission by the Independent Electoral and Boundaries Commission

On electoral activities and the upcoming by-elections

13. The Commission noted that the conduct and supervision of elections and referenda is the core mandate of the Commission as outlined under Article 88 of the Constitution. Following the receipt of notices of vacancies from the speakers of the assemblies, the Commission published gazette notices for by-elections with timelines covering political party nomination processes, independent candidate requirements, campaign periods and dispute resolution mechanisms.

14. The Commission outlined its comprehensive preparations for conducting by-elections, including training political parties on the use of the Candidate Management Registration System (CRMS), submission deadlines for party primaries and membership lists, and the establishment of clear timelines for candidate nomination and agent registration. The Electoral Code of Conduct applies from the date of publication of the by-election notices until the swearing-in of elected candidates, with every political party, candidate and participant required to subscribe to and observe the Code as per the Second Schedule to the Elections Act, Cap. 7.
15. The IEBC Dispute Resolution Committee and Electoral Code of Conduct Enforcement Committee were established to hear disputes arising during the electoral process, with specific timelines for hearing matters related to candidate registration and code of conduct violations.

On continuous voter registration and revision of the voters register

16. The Commission observed that Articles 38(3) and 83 of the Constitution recognize the rights of eligible citizens to be registered as voters. The Commission noted that under Article 88(4)(a), the Commission is obligated to ensure the continuous registration of citizens as voters.
17. The Commission reported that via ***Gazette Notice No. 12008 – Vol. CXXVII – No. 183***, the Commission *gazetted* the resumption of continuous voter registration slated to commence on 29th September, 2025. The Commission stated that the registration of citizens as voters takes place at the Commission's constituency offices, with the Commission *gazetting* registration officers and assistant registration officers to oversee this exercise, thereby providing the legal basis and accountability framework for the rollout.
18. The Commission noted that following this gazette, they undertook a range of preparatory measures including mapping and review of registration centers across the country, configuration and testing of the Kenya Integrated Election Management System (KIEMS) kits for continuous voter registration purposes, procurement and distribution of election materials, training and deployment of personnel, and public awareness and voter education campaigns.
19. The Commission observed that it has shifted its voter registration target setting approach from relying on Voting Age Population (VAP) to Voter Eligible Population

(VEP), which more accurately reflects the population that is legally registered and votes. The Commission stated that it aims to register 6.3 million new voters in addition to the current 22.1 million registered voters (ROV) ahead of the 2027 General Election.

20. The Commission noted that the traditional reliance on Census data to map the eligible population and estimate voter registration targets by calculating the population of persons who would have attained the voting age of 18 years by the time of the General Election has proven inaccurate, unsustainable and not veritable. The Commission observed that the nature of the Census Report includes persons who are ineligible to register as voters such as non-citizens, undocumented citizens, and refugees, leading to target inflation that does not disaggregate data based on legal eligibility.
21. The Commission stated that Article 83 of the Constitution provides for qualification of one to register as a voter, with the legal requirements being possession of a National Identity Card or a Valid Kenyan Passport. The Commission noted that it is shifting its target setting from Voting Age Population (VAP) to Voter Eligible Population (VEP) which pays attention to the actual number of citizens who possess the requisite documents.
22. The Commission observed that the VEP model utilizes data from the National Registration Bureau (NRB) and the Directorate of Immigration Services, thereby narrowing the target setting on disaggregated ID and passports issued. The Commission stated that this actual National ID/Passport data-driven targeting approach ensures that resources are deployed efficiently, and performance benchmarks are realistic and attainable.

On registration modalities

23. The Commission noted that to achieve its target and ensure no Kenyan is disenfranchised, the Commission intends to adopt several strategies including continuous voter registration at constituency offices, Huduma Centre registration, ward-based enhanced registration drives, conduct of continuous voter registration in institutions of higher learning, and registration of citizens residing outside the country as voters.
24. The Commission stated that constituency offices serve as a service point for registration of citizens as voters, as well as updating of particulars, to facilitate first-time voters to register at any time upon obtaining a National Identity Card. The

- Commission noted that registered voters are able to update or correct their information, while those who lost eligibility either by death, conviction or renouncing citizenship can be purged through formal processes.
25. The Commission observed that the Constituency office is allocated additional kits that facilitate registration across the country, with the kit opened to allow any eligible citizen to visit any constituency office and be facilitated to choose their preferred voting area across the country.
 26. The Commission noted that based on past experiences, the registration of voters during continuous voter registration, especially at the constituency level, has proved to be unfruitful. The Commission stated that as a strategy to address this challenge, the Commission intends to conduct an Enhanced Ward-based Continuous Voter Registration exercise (ECVR) and the update of the register of voters to improve the comprehensiveness of the register. The Commission observed that this strategy is essential for deepening the inclusivity and achieving geographic and demographic representativeness. The Commission noted that the drive, which will be done over a 30-day period, involves the deployment of adequate kits at the ward level with an aim of providing an opportunity to eligible citizens to enroll as voters.
 27. The Commission stated that to enhance continuous voter registration services, the Commission conducts targeted registration in institutions of higher learning in order to offer an opportunity to the eligible youth to register as voters. The Commission noted that it facilitates open kits, allowing students in those institutions to choose their preferred voting area.
 28. The Commission observed that the Constitution of Kenya, 2010, under Articles 38 and 82, guarantees all Kenyan citizens the right to political participation, including voting, regardless of geographic location. The Commission noted that the Policy on Voter Registration and Voting for Citizens Residing Outside Kenya, established in 2015 and reviewed in 2021, provides the framework for operationalizing this right.
 29. The Commission stated that despite progress, only 10,443 diaspora voters were registered in 2022 across 12 countries, with a 58% turnout, highlighting the need for expanded voter registration centers to enhance participation. The Commission noted that the promulgation of the Constitution of Kenya in August 2010 was a turning point in electoral inclusivity, as Article 82(1)(e) guaranteed the progressive realization of voting rights for Kenyan citizens residing outside the Country.

30. The Commission observed that the Elections Act, 2011, and the Elections (Registration of Voters) Regulations, 2012, established the legal framework for diaspora voting, assigning the Commission the responsibility to operationalize these provisions. The Commission noted that in addition, the Policy on Voter Registration and Voting for Citizens Residing Outside Kenya, established in 2015 and reviewed in 2021, provides the framework for operationalizing this right.
31. The Commission stated that the 2013 elections marked the first-ever diaspora voting exercise in Kenya's history, with implementation limited to four East African Community Member States of Uganda, Tanzania, Rwanda, Burundi, and South Africa. The Commission noted that the 2017 polls saw an incremental expansion of diaspora voting to include South Africa, bringing the total number of participating countries to five.
32. The Commission observed that the 2022 elections marked the most significant expansion of diaspora voting to date, with the operationalization of voting rights in 12 countries. The Commission noted that this expansion included the addition of the United States of America, Canada, the United Kingdom, Germany, the United Arab Emirates, Qatar, and South Sudan to the existing list. The Commission stated that registered diaspora voters rose to 10,443, representing a more than twofold increase from 2017, but still a fraction of the estimated millions of diaspora population.
33. The Commission noted that in order to enhance voter registration and voting for citizens residing outside Kenya, the Commission is in the process of reviewing and developing its implementation plan to, among others, expand voter registration centers for Kenyan citizens residing outside Kenya, ensuring progressive realization of their voting rights as mandated by the Constitution.

On voter registration and public outreach programs

34. The Commission reported that it has had a number of engagements enumerated in comprehensive voter education and public outreach initiatives. The Commission stated that these include review and production of voter education materials, development of concept papers for establishing a Paper on Voter Education, partnerships with development partners for extra resource and technical support for voter education, and structured engagement with stakeholders at National, County and Constituency levels.

35. The Commission noted that additionally, it has engaged in collaborations with various partners including the Commission on Revenue Allocation and Communication Strategies, partnerships with the National Assembly, Senate, civil society organizations, the National Commission for Civic Education (NCCC), Political Parties Liaison Committee, the Commission on Administrative Justice, and other stakeholders.
36. The Commission stated that it also held a forum with Mombasa-based civil groups and community society groups, community-based organizations, and signed a Memorandum of Understanding with the Kenya Council of Kenya and the IEBC during a new MoU signing event. The Commission noted that it has released various press releases on topics including voter education, stakeholder engagement, and brand visibility, in addition to establishing a concept paper on Partnerships for grassroot support.
37. The Commission observed that it has also participated in Mombasa International Show and won the Best Independent Commission Award. The Commission stated that in line with the decision of the court in the Maina Kiai case, it trains election officials, enforces the Electoral Code of Conduct, allows agents and observers at polling stations and tallying centers and hears and determines pre-election disputes within the prescribed legal timelines.

On boundary delamination

Status of Constituencies and Wards Boundary Review

38. The Commission observed that Article 88(4)(c) of the Constitution of Kenya as read together with Article 89 of the Constitution confers on the Commission the mandate to review and delimit electoral units and in particular: to review the names and boundaries of constituencies at intervals of not less than eight years, and not more than twelve years; and to review the number, names and boundaries of wards periodically.
39. The Commission stated that the process of review of boundaries was last undertaken in the year 2012 and the report published in the National Assembly Constituencies and County Assembly Wards Order, 2012 – ***Legal Notice No. 14/2012***. The Commission noted that accordingly, the eight-year minimum period began in 2020, and the twelve-year maximum period lapsed on 6th March, 2024.

40. The Commission observed that during this constitutional window, the Commission lacked quorum. The Commission stated that in light of this, the Commission sought guidance from the office of the Attorney General. The Commission noted that on 22nd April 2024, the Attorney General advised that the Commission should seek an advisory opinion from the Supreme Court.
41. The Commission reported that consequently, on 2nd July 2024, the Commission filed a Reference Application before the Supreme Court of Kenya, seeking clarification on key constitutional questions relating to its operations. The Commission stated that the issues raised included whether the Commission can undertake delimitation of electoral boundaries and other electoral functions in the absence of Commissioners or without a quorum; whether the Commission can conduct the review of boundaries beyond the timelines set out under Articles 89(2) and 89(3) of the Constitution; and whether constitutional timelines may be extended, and if so, by whom and under what conditions.
42. The Commission noted that on 5th September 2025, the Court rendered itself on the Advisory Opinion in which it struck out the Reference filed by the Commission. The Commission observed that the court opined, among other things, that only a duly constituted Commission, comprising the Chairperson and other members of the Commission could bring the matter before the Court for its determination.
43. The Commission stated that as such, the Commission is considering its options noting the timelines, competing Commission activities and the necessity of the boundary delimitation exercise.
44. The Commission reported that it had undertaken the following activities in preparation for the upcoming boundaries delimitation:
 - Development of the Delimitation Concept Paper
 - Development of the Boundaries Review Operation Plan (BROP)
 - Conduct of Situational Analysis
 - Conduct of Pilot Study
 - Collection of Administrative Units' Geo-data
 - Digitization of Administrative Geo-data
 - Acquisition of Equipment (Funded by UNDP)
 - Capacity Building
 - Review of Boundaries Delimitation Legal Framework

- Senior Staff Sensitization on Collected Geo-Data in the 47 Counties
 - Appointment and Inaugural meeting for Delimitation Project and Technical Team
 - Development of Delimitation Applications and Map Standardization Manual
 - Boundaries Security Arrangement Plan National Planning Workshop
 - Civic Education and Public Outreach Strategies on Delimitation of Boundaries (Funded by URAIA)
45. The Commission stated that it sensitized its staff stationed at the headquarters and County Election Managers on the outcome of the Geo-data collected in the 47 Counties. The Commission noted that this was followed by deliberation on the way forward which included strategies to validate the collected data and update of the geo-database in preparation for the delimitation exercise.
 46. The Commission observed that it appointed a Project and Technical boundaries delimitation team to manage the delimitation exercise. The Commission stated that this approach enables the Commission to harness and benefit from the wealth of experience and expertise of staff on their respective operational fronts. The Commission noted that the teams deliberated on their respective terms of reference (TOR) and strategized in readiness for the upcoming delimitation tasks.
 47. The Commission reported that it was trained on the new technology which was followed by the development of several applications to be utilized in various phases of the delimitation exercise. The Commission stated that this includes Boundaries Hub with frequently asked questions (FAQs), evolution of electoral boundaries in Kenya story maps, a digital platform to submit memoranda, and a dashboard that gives an overview and summary statistics of the submitted memoranda. The Commission noted that additionally, it also developed a map standardization manual to be used by cartographers when producing the Commission's maps.
 48. The Commission observed that cognizant of the interests associated with Boundary delimitation, a review of the electoral units has the potential to ignite community, sectarian, class and religious conflicts. The Commission stated that it hosted a three-day workshop to develop a Boundaries Security Arrangement Plan (BSAP). The Commission noted that it formed a Technical Committee that will drive and oversee the implementation of BSAP during the envisaged delimitation.
 49. The Commission stated that it organized a meeting to develop public outreach strategies on boundary delimitation. The Commission noted that this was followed by

a workshop with Civic educators which identified key stakeholders and developed targeted messages and communication strategies during the boundaries' delimitation review process.

50. The Commission observed that it has in place a Boundary Review Operational Plan (BROP) which provides guidance on the next review of electoral boundaries. The Commission stated that the plan is anchored on the provisions of section 24B and the Fifth Schedule of the Independent Electoral and Boundaries Commission Act.

On electoral dispute resolution

Nature and number of election disputes handled

51. The Commission stated that the nature of electoral disputes that the Commission handles and/or is involved in includes Election Petitions, Electoral Code of Conduct violations, Leadership & Integrity Vetting Committee cases, Dispute Resolution Committee complaints on registration of candidates, and Election Offences.
52. The Commission reported that the statistics on the electoral disputes for the 2022 election period indicate that the Commission handled 133 Election Petitions, heard Electoral Code of Conduct violations as outlined in the Nairobi High Court case ***Cons. Pet.E073 of 2022 Sabina Wanjiru Chege Vs IEBC***, dealt with Leadership & Integrity Vetting Committee matters, handled 324 Dispute Resolution Committee complaints on registration of candidates, and addressed Election Offences which is the mandate of the ODPP to prosecute.

Mechanisms used to resolve disputes and outcomes achieved

53. The Commission noted that it has three Committees established to hear pre-election disputes. The Commission stated that the Dispute Resolution Committee hears disputes in relation to registration of candidates. The Commission observed that the Electoral Code of Conduct and Enforcement Committee hears matters in regard to breach of the Electoral Code of Conduct and the Leadership and Integrity Vetting Committee hears matters in relation to enforcement of Chapter Six of the Constitution.

Resource challenges and funding gaps

54. The Commission observed that the deficit in funding of the 2027 General Election will affect the Commission adversely in conducting the Elections. The Commission stated that the main area that will be affected by the inadequate funding is payment of wages to Election Officials totaling to Kshs 7.63Billion.
55. The Commission noted that it has accumulated pending bills totaling to Kshs 5.75 Billion arising from previous General Elections. The Commission observed that these pending bills have been accumulating over time and will adversely affect operations of the Commission in conducting the 2027 General Election. The Commission stated that if these pending bills are not settled, the quantum will not only increase but constrain operations of the Commission.
56. The Commission noted that it will also have to deal with court cases, especially where legal fees will be taxed upwards of the initial fees, and refusal and withdrawal of suppliers of goods and services.

Committee Observations

I. The Committee observed as follows: -

THAT-

57. Kenyans in the diaspora can only vote if they have a valid passport. This limits some since passports have an expiry date. IDs should also be considered as a valid voting document for Kenyans in the diaspora;
58. Inmates are allowed to vote only for presidential candidates and no other elective aspirants;
59. Pseudo accounts need to be regulated and managed especially during campaign season. This is to prevent campaigning after the timeline set for campaigning lapses;
60. The legislative proposals mentioned by the Commission have no specific issues that the National Assembly is to initiate;
61. Boundaries delimitation period has lapsed and it needs to be completed before the general elections in 2027;
62. The youth are the largest percentage of society and IEBC needs to ensure that they are well mobilized so that they take part in voting.
63. The Commission faces a significant budget deficit of Kshs 7.63 Billion for the 2027 General Election, which will adversely affect the payment of Election Officials and the

- overall conduct of elections. This funding gap threatens the Commission's ability to discharge its constitutional mandate effectively;
64. The Commission has accumulated pending bills totaling Kshs 5.75 Billion from previous General Elections, which continues to strain operations and may lead to refusal by suppliers to provide goods and services for future elections;
 65. The persistent late enactment or amendment of electoral laws too close to elections contradicts the Kriegler Commission recommendations that legal reforms should be undertaken at least two years before a General Election, thereby undermining proper planning and implementation;
 66. The representation of Persons with Disabilities (PWDs) in elective and appointive bodies remains below the constitutional threshold of at least five percent as envisioned in Article 54(2) of the Constitution, despite improvements in the 2022 elections;
 67. The validity and accuracy of the 2009 and 2019 census data remains contested in court, creating uncertainty for the boundary delimitation exercise which relies on accurate population data. The matter remains pending before the Court of Appeal with an order of preservation of status quo subsisting.
 68. The Commission's continuous voter registration strategy, including registration at constituency offices, Huduma Centers, institutions of higher learning, and ward-based enhanced registration drives, demonstrates comprehensive efforts to ensure no Kenyan is disenfranchised.

Way Forward

69. IEBC to get back to the Committee regarding:
 - i) The steps it has taken to initiate boundary delimitation process; and
 - ii) How it will combat the issue of ghost primary schools that have been registered as polling stations.
70. The Committee recommends that the National Treasury addresses the budget deficit raised by the IEBC for the 2027 General Election and provides a clear front-loading schedule for the release of funds as requested by the Commission to ensure timely implementation of electoral activities.
71. The Committee recommends that Parliament allocates adequate resources to settle the pending bills of Kshs 5.75 Billion from previous elections to restore supplier confidence and ensure the Commission's operational capacity is not compromised.

72. The Committee recommend the Commission enforce the Kriegler Commission recommendation by ensuring that all electoral legal reforms are completed at least two years before the 2027 General Election, and calls upon the Executive to refrain from introducing electoral amendments within this restricted period.
73. The Committee recommends operationalization of the IEBC Fund as provided in law to strengthen the Commission's financial independence and eliminate reliance on the National Treasury's discretionary disbursement of funds.
74. The Committee recommends that the Judiciary establishes clear timelines for hearing and determining electoral matters to prevent delivery of judgments too close to election dates, which disrupts electoral processes and planning.
75. The Committee recommends that Parliament expedites consideration and passage of legislative proposals to realize the constitutional requirement that at least five percent of members in elective and appointive bodies are persons with disabilities as provided in Article 54(2) of the Constitution.
76. The Committee recommends enhancement of the legal framework to recognize National Identity Cards as valid voting documents for Kenyans in the diaspora, in addition to passports, to expand electoral inclusivity and remove barriers to participation.
77. The Committee recommends legislative amendments to expand voting rights for inmates beyond presidential elections to include other elective positions, in alignment with constitutional rights to political participation.
78. The Commission to provide detailed plans for expanding diaspora voter registration centers beyond the current 12 countries, with specific targets for the 2027 General Election and a roadmap for progressive realization of diaspora voting rights.
79. The Committee recommends that the Commission develops and implements a comprehensive youth voter mobilization strategy, including partnerships with educational institutions, youth organizations, and digital platforms, to increase registration and participation of the youth who constitute the largest demographic.
80. The Commission to provide a detailed security framework in collaboration with relevant security agencies to protect Commission staff and Commissioners from ethnic profiling, intimidation, abduction, and harassment during election periods.

4 THE OFFICE OF THE DATA PROTECTION COMMISSIONER (ODPC)

4.1 Establishment and Mandate

81. The Office of the Data Protection Commissioner is established under the Data Protection Act, Cap 411C as an independent office responsible for safeguarding the constitutional right to privacy under Article 31 of the Constitution and ensuring compliance with data protection principles.
82. The Commissioner's mandate encompasses regulatory oversight of all data controllers and data processors who handle personal data, including those involved in electoral processes. This includes oversight of the Independent Electoral and Boundaries Commission (IEBC), registered political parties, third-party service providers (including contractors, data processors, technology vendors, and analytic firms) that handle voters' or citizens' personal data in the context of elections and related civic processes.
83. Section 18(1) of the Act provides that *no individual or entity shall operate as a data controller or data processor without registering with the Office*. The Third Schedule of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 further lists entities that process personal data for electoral purposes as part of the entities subject to mandatory registration.

4.2 Background

84. The Constitutional Implementation Oversight Committee wrote to the Office of the Data Protection Commissioner (ODPC) vide letter (**Ref No. NA/DAA&GPC/CIOC/2025/18**) on 10th September, 2025 to report on the extent of the office's discharge of its mandate pursuant to the Constitution and its role regarding data protection and safeguarding the integrity of the elections and protecting the constitutional right to privacy.
85. Ms. Immaculate Kassait, MBS, Data Commissioner, appeared before the Committee on 7th October, 2025 and submitted as follows:

4.3 Submission by the Office of the Data Protection Commissioner

On regulatory authority of electoral data processing.

86. The Commission stated that all data controllers and data processors who process personal data for electoral purposes are subject to mandatory requirements and compliance obligations as provided under the Act and the attendant Regulations. The Commission noted that these include but are not limited to registration as either data controllers and data processors, or both, with the Office of the Data Protection Commissioner; and implementing data protection principles in an effective manner, and integrating appropriate technical and organizational measures to ensure data security.

Registration

87. The Commission reported that in line with the mandatory registration provision, the Office issued a letter **Ref. No. ODPC/DPC/10(8)** dated 9th June 2025 to the Office of the Registrar of Political Parties (ORPP), requesting that the ORPP communicates the obligation to register with the Office as either data controllers, data processors or both to all registered political parties and independent candidates.
88. The Commission noted that the Office is subsequently reviewing twenty-one (21) applications for registration, in addition to the seven (7) already registered political parties. The Commission stated that the Office is currently reviewing IEBC's application for registration as both a data controller and data processor.

Audits and assessments

89. The Commission submitted that it faces a critical staffing capacity gap of 45% despite an expanded mandate. The Commission noted that understaffing results from limited budgets while responsibilities have significantly increased. The Commission submitted that its mandate expansion includes senior management positions in public universities, constitutional commissions and statutory bodies.
90. The Commission reported that in the Financial Year 2024/2025, the Office conducted an audit of the ORPP to assess data protection compliance in its operations. The Commission noted that the resulting Audit Report identified gaps that required corrective action to strengthen its data protection compliance.

91. The Commission stated that the Office has also scheduled a compliance audit of the processes and systems of the Independent Electoral and Boundaries Commission (IEBC) in the second quarter of the Financial Year 2025/2026, to assess the Commission's adherence to the requirements of the Act.
92. The Commission noted that additionally, the seven (7) political parties registered with the Office will be assessed to ascertain whether the personal data they process is handled in accordance with the provisions of the Act. The Commission observed that the Office further advises all the registered political parties to consider engaging the Office's prequalified accredited data protection auditors, to conduct data protection compliance.

Data processing agreements (Third party engagements)

93. The Commission stated that Regulation 24 of the Data Protection (General) Regulations require on data controllers such as IEBC and political parties who engage data processors or third-parties in the carrying out of any processing operation to ensure that enter into data processing agreements, outlining the processing details, the subject matter of the processing, the duration of the processing, the nature and the purpose of processing, the type of personal data being processed and the obligations and rights of the data controller.
94. The Commission noted that the Office shall be in a position to establish IEBC's compliance with this provision during the scheduled data protection audit.

Data sharing agreements

95. The Commission observed that Section 25 of the Data Protection Act, Cap. 411C provides that entities may share or exchange personal data collected, upon request, by another data controller, data processor, third party or a data subject. The Commission stated that however, it's the obligation of the data controller or processor to determine the purpose and means of sharing personal data, enter into data-sharing agreements and ensure that requests for sharing data are in writing specifying the purpose, duration and safeguards in place prior to sharing.

On complaints management

96. The Commission reported that the Office has received a total of 8226 complaints and of this 7947 has been resolved and 279 is being processed, translating to 97% resolution rate. The Commission stated that the majority of the complaints are from Digital Lender (68%), Individuals (6%), Private Companies (6%), Financial Institutions (4%), Telecommunications Companies (2%), and Government Institutions (1%).
97. The Commission noted that the Office has also received one hundred and fifty-four (154) complaints in 2021, eleven (11) in 2022 and one (1) in 2024 about the various political parties and ORPP. The Commission stated that the nature of the complaints entailed improper registration to a political party and requesting for them to be deregistered. The Commission observed that the Office directed the complainants to exercise their right of rectification with the ORPP. The Commission noted that on the trends, the Office observes that majority of the complaints were prior to the elections of 2022 and that after ORPP made provisions for the data subjects to be able to check, verify and amend their registration details, no complaints have been filed with the Office.

On investigations and audits undertaken

98. The Commission reported that the Office has received a total of 8226 complaints and of this 7947 has been resolved and 279 is being processed, translating to 97% resolution rate. The Commission stated that to this end, one hundred and fifty-four (155) complaints relate to the various political parties and ORPP, involving requests for deregistration due to improper registration to political parties. The Commission noted that the Office further directed the complainants to exercise their right of rectification under the Act with the ORPP.
99. The Commission observed that on the other hand, the Office conducted data protection compliance audits on forty-six (46) data handlers, comprising thirty-one (31) public entities and fifteen (15) private entities, in the previous financial year (2024/25). The Commission stated that ORPP was among these public entities.
100. The Commission noted that most of the entities were found to be partially compliant on most of the key audit areas including the Record of Processing activities (ROPA), assessment of legal bases, enabling data subjects to exercise their data subject rights

inclusion of data protection clauses in their data sharing and data processing agreements and employee training and awareness.

On enforcement measures Taken

101. The Commission reported that the Office has, to date issued 305 determinations, 129 enforcement notices, 20 penalty notices, 178 compensation orders, 21 referrals for prosecution and settled 74 complaints through Alternative Dispute Resolution (ADR).
102. The Commission stated that the Office has not received any complaints involving political parties, warranting any enforcement measures, after the intervention of ORPP.

On electoral data breaches notifications and incident responses

103. The Commission observed that notification and communication of personal data breaches is one of the key compliance obligations of data controllers and data processors. The Commission stated that the Act specifically requires entities processing electoral data to notify the Data Commissioner of a breach without undue delay, and in any event, within seventy-two (72) hours of becoming aware of it.
104. The Commission noted that in addition, the controller must also communicate the breach to the affected data subject in writing within a reasonably practicable period, where the breach is likely to result in high risk to their rights and freedoms, unless the identity of the data subject cannot be established.
105. The Commission stated that the Office has not received any breach notifications from the Independent Electoral and Boundaries Commission (IEBC) or any other electoral stakeholders, as of the date of the response.

On public awareness and guidance

106. The Commission reported that the Office has published a Guidance Note on the Processing of Personal Data for Electoral Purposes, which is available on the official website. The Commission stated that this Guidance Note is intended to support compliance by election stakeholders by providing clarity on their obligations under the Data Protection Act, 2019, particularly in relation to the lawful, fair, and transparent processing of voters' and other electoral related personal data. The Commission noted

that the Office has additionally conducted capacity building sessions for two hundred and twenty-nine (229) ORPP staff.

On cross border data flows and Third Country hosting

107. The Commission observed that Sections 48 and 49 of the Act outline the conditions for the transfer of personal data out of Kenya. The Commission stated that these conditions include the transfer as a necessity, consent of the data subject or transfer based on appropriate safeguards. The Commission noted that IEBC is subject to the data localization requirements under Section 50 of the Act and Regulation 26 of the Data Protection (General) Regulations.
108. The Commission stated that the Office is currently pursuing adequacy decision with the European Union (EU), which will facilitate ease of cross-border data flows between Kenya and EU members states. The Commission noted that the Office is additionally working on developing Standard Contractual Clauses (SCC) and Binding Corporate Rules (CBRs) to streamline the requirements for cross-border data flows.
109. The Commission observed that the Office will assess compliance with these initiatives through the scheduled audit at IEBC.

On Challenges in Overseeing Electoral Data Processing Legal, Policy & Institutional Challenges

The Commission noted the following challenges:

110. The Commission observed that while the ODPC has issued a Guidance Note on Processing of Personal Data for Electoral Purposes, the same needs to be updated to align with developments in election laws, and election and campaign technologies in order to address specific data protection implications of these new laws and technologies.
111. The Commission stated that there is a lack of Mutual Legal Assistance (MLA) in enforcement and monitoring data protection compliance within different jurisdictions.

Technical Challenges

112. The Commission noted that the use of sophisticated digital tools such as microtargeting, digital canvassing, data analytics, and social media platforms make it difficult to regulate the processing of personal data. The Commission observed that

ODPC lacks the necessary tools to audit such complex systems, including real time monitoring and detection tools.

113. The Commission stated that balancing the right to access information with data protection principles, such as data minimization due to data base sharing leading to repurposing of personal data, presents a challenge.

Resource Challenges

114. The Commission observed that there are capacity gaps, with limited staff and tools within the Office to match the surge of electoral related compliance needs during the election period.
115. The Commission stated that election periods require surge capacity for purposes of awareness creation, monitoring, investigations and enforcement. The Commission noted that however, resources are static and subject to treasury allocation.
116. The Commission observed that there are public awareness gaps, noting that citizens often do not know how to exercise their rights against misuse of electoral data.

Committee Observations

- I. The Committee observed as follows: -

THAT-

117. The Office of the Data Protection Commissioner plays a critical role in safeguarding electoral integrity by ensuring compliance with data protection principles in the processing of voters' and citizens' personal data during elections and related civic processes;
118. Only seven (7) political parties have registered with the ODPC as data controllers or data processors, despite the mandatory registration requirement under Section 18(1) of the Data Protection Act, Cap. 411C. The Office is currently reviewing twenty-one (21) additional applications and IEBC's application for registration as both a data controller and data processor;
119. The ODPC conducted an audit of the Office of the Registrar of Political Parties (ORPP) in Financial Year 2024/2025 which identified gaps requiring corrective action, and has scheduled a compliance audit of IEBC in the second quarter of Financial Year 2025/2026;

120. The Office received 155 complaints in 2021, 2022 and 2024 regarding improper registration to political parties, with the majority filed prior to the 2022 elections. After ORPP made provisions for data subjects to check, verify and amend their registration details, no complaints have been filed with the Office;
121. The Office has not received any breach notifications from IEBC or other electoral stakeholders regarding personal data breaches, despite the mandatory requirement to notify the Data Commissioner within seventy-two (72) hours of becoming aware of a breach;
122. The existing Guidance Note on Processing of Personal Data for Electoral Purposes needs to be updated to align with developments in election laws and emerging election and campaign technologies, including microtargeting, digital canvassing, data analytics, and social media platforms;
123. The ODPC faces significant resource constraints including limited staff and tools to match the surge of electoral-related compliance needs during election periods, with resources remaining static and subject to treasury allocation;
124. There is a lack of Mutual Legal Assistance (MLA) mechanisms in enforcement and monitoring data protection compliance across different jurisdictions, which limits the Office's ability to regulate cross-border data flows and processes; and
125. The alignment of election laws with the Data Protection Act through consequential amendments under the Second Schedule of the Act remains incomplete, creating potential conflicts and compliance challenges for electoral stakeholders.

Way Forward

126. The Committee recommends that all registered political parties that have not yet registered with the ODPC as data controllers or data processors should complete their registration to ensure compliance with Section 18(1) of the Data Protection Act, Cap. 411C;
127. The Committee recommends that IEBC expedites the completion of its registration process with the ODPC and ensures full compliance with all data protection requirements before the 2027 General Election, including entering into appropriate data processing and data sharing agreements with all third-party service providers;
128. The Committee recommends that the ODPC provides a detailed report to the Committee within six months on the findings of the scheduled IEBC compliance audit,

- including specific gaps identified and corrective measures required to strengthen data protection compliance in electoral processes;
- I29. The Committee recommends that Parliament enacts consequential amendments to align election laws with the Data Protection Act as provided under the Second Schedule of the Act, and incorporates Mutual Legal Assistance (MLA) provisions to facilitate cross-border enforcement and monitoring of data protection compliance;
 - I30. The Committee recommends that the ODPC updates its Guidance Note on Processing of Personal Data for Electoral Purposes within six months to address emerging technologies including microtargeting, digital canvassing, data analytics, and social media platforms used in modern electoral campaigns;
 - I31. The Committee recommends that the ODPC develops and implements a comprehensive public awareness campaign to educate citizens on their data protection rights in electoral contexts, particularly regarding the misuse of electoral data, with specific focus on youth and marginalized communities;
 - I32. The Committee recommends that the ODPC invests in technical capacity building, including acquisition of digital forensic tools, real-time monitoring systems, and detection tools necessary to audit complex digital electoral systems and ensure timely detection and response to non-compliance;
 - I33. The Committee recommends that IEBC, ORPP, and all registered political parties designate Data Protection Officers (DPOs) or establish Data Protection Committees within three months, and develop comprehensive data protection policies as part of embracing self-regulation in electoral data processing;
 - I34. The Committee recommends that the ODPC operationalizes the Data Sharing Code within six months to provide clear guidance on sharing of personal data between government departments, public sector agencies, and electoral stakeholders, promoting good practice and minimizing risks to data subjects;
 - I35. The Committee recommends that the ODPC conducts mandatory capacity building and training sessions for all electoral stakeholders, including political parties, IEBC staff, and third-party service providers, before the 2027 election season, focusing on data protection principles, compliance requirements, and best practices in electoral data processing;
 - I36. The Committee recommends that IEBC and all electoral stakeholders fully implement data localization requirements under Section 50 of the Data Protection Act and

Regulation 26 of the Data Protection (General) Regulations, ensuring that electoral data is stored and processed within Kenya with appropriate safeguards for any necessary cross-border transfers;

137. The Committee recommends that the ODPC establishes a mandatory breach notification monitoring system specifically for electoral data, with clear protocols for immediate investigation and response to any data breaches reported by IEBC, political parties, or other electoral stakeholders; and
138. The Committee to review progress on implementation of ODPC recommendations within twelve months and assess the effectiveness of data protection measures in safeguarding electoral integrity ahead of the 2027 General Election.

5 GENERAL COMMITTEE OBSERVATIONS

139. The Committee's interactions with the *Independent Electoral and Boundaries Commission (IEBC)* and the *Office of the Data Protection Commissioner (ODPC)* revealed several fundamental, cross-cutting challenges that impede the effective conduct of free, fair, and credible elections while safeguarding citizens' constitutional right to privacy. The Committee observes that:

1. Both institutions operate with significant budget deficits that prevent them from fulfilling their constitutional and statutory mandates. This systemic underfunding directly undermines the delivery of credible elections and effective data protection oversight as guaranteed by the Constitution;
2. Operational inefficiencies due to legislative gaps and outdated legal frameworks are prevalent. The persistent late enactment or amendment of electoral laws too close to elections contradicts the Kriegler Commission recommendations that legal reforms should be undertaken at least two years before a General Election. The IEBC's twelve legislative proposals and four bill submissions to Parliament await consideration and passage. The lack of consequential amendments to align election laws with the Data Protection Act under the Second Schedule creates compliance challenges. These legislative gaps lead to confusion, litigation and implementation delays that compromise electoral integrity;
3. Challenges in data validity and electoral infrastructure were noted across both institutions. The validity and accuracy of the 2009 and 2019 census data remains contested in court, creating uncertainty for boundary delimitation. The issue of ghost primary schools registered as polling stations compromises electoral integrity. Only seven political parties have registered with ODPC as data controllers despite mandatory requirements. The IEBC's shift from Voting Age Population (VAP) to Voter Eligible Population (VEP) demonstrates efforts to improve data accuracy, but implementation challenges remain;
4. Independence and political interference emerged as critical concerns. The IEBC's independence is compromised by political interference, inadequate and untimely disbursement of funding at the discretion of the National Treasury, and ethnic profiling of Commission staff during election periods. The persistent demand for disbandment of the Electoral Management Body following disputed elections, rather than

addressing systemic issues, undermines institutional stability. The lack of operationalized IEBC Fund perpetuates financial dependence on treasury discretion;

5. Inadequate capacity and technical tools severely affect both institutions. The ODPC lacks necessary tools to audit complex digital systems including real-time monitoring and detection tools for sophisticated digital campaigning, microtargeting, and data analytics. The IEBC requires investment in technology for enforcement including automated cameras, speed detection, and digital ticketing systems. Both institutions need enhanced capacity building, specialized training, and technical infrastructure to address emerging technologies in electoral processes.

6 COMMITTEE RECOMMENDATIONS

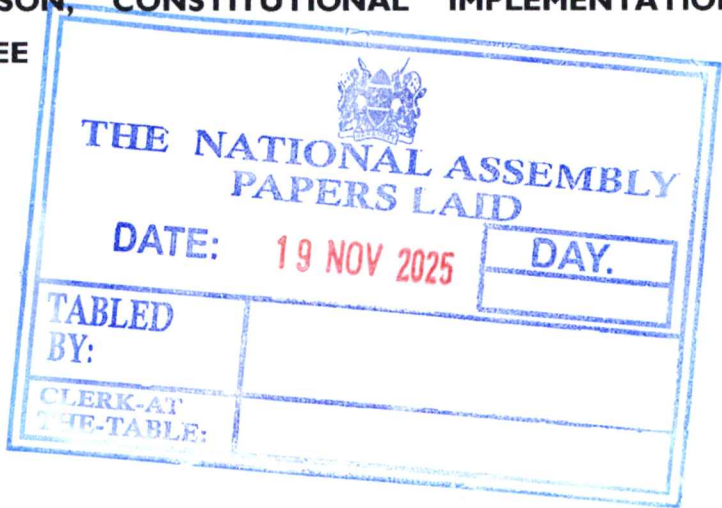
140. In light of the above general observations, the Committee makes the following recommendations to address these cross-cutting challenges:

1. The National Treasury, in conjunction with Parliament to prioritize and ensure adequate budgetary allocations to both the Independent Electoral and Boundaries Commission and the Office of the Data Protection Commissioner;
2. Parliament to operationalize the IEBC Fund as provided in law to strengthen the Commission's financial independence and eliminate reliance on the National Treasury's discretionary disbursement of funds;
3. The Attorney General, in consultation with IEBC, ODPC, and relevant stakeholders, to urgently undertake a comprehensive legislative review to:
 - a) Enact consequential amendments to align election laws with the Data Protection Act as provided under the Second Schedule of the Act; and
 - b) Incorporate Mutual Legal Assistance (MLA) provisions across various data protection authorities and legislation to facilitate cross-border enforcement and monitoring.
4. IEBC to provide detailed plans for expanding diaspora voter registration centers beyond the current 12 countries, with specific targets for the 2027 General Election and a roadmap for progressive realization of diaspora voting rights;
5. Both IEBC and ODPC to develop and implement comprehensive public awareness campaigns to educate citizens on their electoral and data protection rights, with specific focus on youth mobilization, marginalized communities, and diaspora populations.

SIGNED.......... DATE..........

HON. CAROLI OMONDI, CBS, MP

CHAIRPERSON, CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE





THE NATIONAL ASSEMBLY
13TH PARLIAMENT – 4TH SESSION (2025)

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

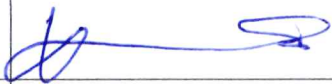




ADOPTION LIST

Fourth Report on the Status of Implementation of the Constitution by;

1. The Independent Electoral and Boundaries Commission; and
2. The Office of the Data Protection Commissioner.

We, the undersigned, hereby affix our signatures to this report to affirm our approval:

	HON. MEMBER	SIGNATURE
1.	Hon. Caroli Omondi, CBS, M.P. - Chairperson	
2.	Hon. William Kamket, M.P. - Vice Chairperson	
3.	Hon. Jessica Mbalu, CBS, M.P.	
4.	Hon. Silvanus Osoro, M.P.	
5.	Hon. Lawrence Aburi Mpuru, M.P.	
6.	Hon. Mejjadonk Benjamin Gathiru, M.P.	
7.	Hon. George Risa Sunkuyia, M.P.	
8.	Hon. Mary Wamaua, M.P.	
9.	Hon. Jackson Lekumontare, M.P.	

	HON. MEMBER	SIGNATURE
10.	Hon. Charles Nguna Ngusya, M.P.	
11.	Hon. Paul Abuor, M.P.	
12.	Hon. Oscar Nabulindo, M.P.	
13.	Hon. Dr John Murumba Chikati, MBS, M.P.	
14.	Hon. Nimrod Mbai, M.P.	
15.	Hon. Bernard Kitur, M.P.	
16.	Hon. Geoffrey Ekesa Mulanya, M.P.	
17.	Hon. Abdisirat, Khalif Ali, M.P.	
18.	Hon. Mwangi, Teresia Wanjiru, M.P.	
19.	Hon. Osero, Patrick Kibagendi, M.P.	
20.	Hon. Karitho, Kiili Daniel, M.P.	
21.	Hon. Mohamed, Umulkher Harun, M.P.	
22.	Hon. John Mukunji Gitonga, MP	
23.	Hon. Hamisi, Kakuta Maimai, M.P.	

2. Operational inefficiencies due to legislative gaps and outdated legal frameworks are prevalent. The persistent late enactment or amendment of electoral laws too close to elections contradicts the Kriegler Commission recommendations that legal reforms should be undertaken at least two years before a General Election. The IEBC's twelve legislative proposals and four bill submissions to Parliament await consideration and passage. The lack of consequential amendments to align election laws with the Data Protection Act under the Second Schedule creates compliance challenges. These legislative gaps lead to confusion, litigation, and implementation delays that compromise electoral integrity;
3. Challenges in data validity and electoral infrastructure were noted across both institutions.;
4. Independence and political interference emerged as critical concerns. The IEBC's independence is compromised by political interference, inadequate and untimely disbursement of funding at the discretion of the National Treasury, and ethnic profiling of Commission staff during election periods. The persistent demand for disbandment of the Electoral Management Body following disputed elections, rather than addressing systemic issues, undermines institutional stability. The lack of operationalized IEBC Fund perpetuates financial dependence on treasury discretion;
5. Inadequate capacity and technical tools severely affect both institutions. The ODPC lacks necessary tools to audit complex digital systems including real-time monitoring and detection tools for sophisticated digital campaigning, microtargeting, and data analytics. The IEBC requires investment in technology for enforcement including automated cameras, speed detection, and digital ticketing systems. Both institutions need enhanced capacity building, specialized training, and technical infrastructure to address emerging technologies in electoral processes.

Committee Recommendations

In light of the above general observations, the Committee made the following recommendations to address these cross-cutting challenges:

1. The National Treasury, in conjunction with Parliament, to prioritize and ensure adequate budgetary allocations to both the Independent Electoral and Boundaries Commission and the Office of the Data Protection Commissioner;
2. Parliament to operationalize the IEBC Fund as provided in law to strengthen the Commission's financial independence and eliminate reliance on the National Treasury's discretionary disbursement of funds;
3. The Attorney General, in consultation with IEBC, ODPC, and relevant stakeholders, to urgently undertake a comprehensive legislative review to:
 - a) Parliament to enact consequential amendments to align election laws with the Data Protection Act as provided under the Second Schedule of the Act; and
 - b) Incorporate Mutual Legal Assistance (MLA) provisions across various data protection authorities and legislation to facilitate cross-border enforcement and monitoring.
4. IEBC to provide detailed plans for expanding diaspora voter registration centers beyond the current 12 countries, with specific targets for the 2027 General Election and a roadmap for progressive realization of diaspora voting rights;
5. Both IEBC and ODPC to develop and implement comprehensive public awareness campaigns to educate citizens on their electoral and data protection rights, with specific focus on youth mobilization, marginalized communities, and diaspora populations.

MIN NO. CIOC/143/2025: ANY OTHER BUSSINESS

The Secretariat was directed to invite the IEBC to a meeting with the committee to apprise the Committee on the following issues:

- a) The steps IEBC has taken initiate boundary delimitation; and
- b) Provide an updated data of all ghost primary schools and primary schools that have been marked as polling stations for the coming general elections in 2027

MIN NO. CIOC/144/2025: ADJOURNMENT

The meeting was adjourned at 1:30PM. The next meeting will be held on notice.

Signed..........Date.....19/11/25.....

Hon. Caroli Omondi, CBS, MP – Chairperson

MINUTES OF THE THIRTY FIFTH SITTING OF THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE HELD AT COMMITTEE ROOM 14, 2ND FLOOR, BUNGE TOWER ON THURSDAY 13TH NOVEMBER 2025 AT 12:00 PM.

PRESENT

1. Hon. Caroli Omondi, CBS, M.P – Chairperson
2. Hon. William Kamket, M.P – Vice Chairperson
3. Hon. Jessica Mbalu, CBS, M.P
4. Hon. Mary Wamaua, M.P
5. Hon. Mejjadonk Benjamin Gathiru, M.P
6. Hon. Oscar Nabulindo, M.P
7. Hon. Patrick Osero Kibagendi, M.P

ABSENT WITH APOLOGIES

1. Hon. Silvanus Osoro, M.P
2. Hon. George Risa Sunkuyia, M.P
3. Hon. Lawrence Aburi Mpuru, M.P
4. Hon. Charles Nguna Ngusya, M.P
5. Hon. Geoffrey Ekesa Mulanya, M.P
6. Hon. Paul Abuor, M.P
7. Hon. Jackson Lekumontare, M.P
8. Hon. Teresia Mwangi Wanjiru, M.P
9. Hon. Kakuta Maimai Hamisi, M.P
10. Hon. Bernard Kitur, M.P
11. Hon. Daniel Kiili Karitho, M.P
12. Hon. Abdisirat Khalif Ali, M.P
13. Hon. John Mukunji Gitonga, M.P
14. Hon. Dr John Murumba Chikati, MBS, M.P
15. Hon. Nimrod Mbithuka Mbai, M.P
16. Hon. Umulkher Harun Mohamed, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

- | | |
|-----------------------|-----------------------------|
| 1. Ms. Kafuyai Wamae | Clerk Assistant III |
| 2. Mr. Alvin Ochieng | Research Officer III |
| 3. Mr. Kelvin Lengasi | Audio Officer |
| 4. Ms. Rinha Saineye | Media Relations Officer III |

MIN NO. CIOC/I39/2025: PRELIMINARIES

The meeting was called to order at 12:00 PM followed with a word of prayer by the Chairperson. He led Members in introduction and briefed them on the agenda of the meeting.

MIN NO. CIOC/140/2025: ADOPTION OF AGENDA

The proposed agenda was adopted having been proposed by Hon. Mary Wamaua, M.P and seconded by the Hon. Jessica Mbalu, M.P.

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of minutes
5. Consideration and adoption of the Fourth Report on the status of implementation of the Constitution by:
 - i. The Independent Electoral and Boundaries Commission; and
 - ii. The Office of the Data Protection Commissioner.
6. Any Other Business
7. Adjournment
8. Date for the next Sitting

MIN NO. CIOC/141/2025: CONFIRMATION OF MINUTES

1. The minutes of the 34th sitting held on Tuesday 11th November, 2025 were confirmed as a true record, having been proposed by Hon. Mary Wamaua, M.P and seconded by Hon. Patrick Osero, M.P.

MIN NO. CIOC/142/2025: CONSIDERATION AND ADOPTION OF THE FOURTH REPORT ON THE IMPLEMENTATION OF THE CONSTITUTION

1. The secretariat took the Committee through the draft Fourth Report on the status of implementation of the Constitution by: The Independent Electoral and Boundaries Commission and the Office of the Data Protection Commissioner.
2. The Committee unanimously adopted the fourth report on the status of implementation of the Constitution by: The Independent Electoral and Boundaries Commission and the Office of the Data Protection Commissioner, having been proposed by Hon.Mejadonk Gathiru, M.P and seconded by Hon. Patrick Kibagendi, M.P.

General Committee Observations

The Committee observes that:

1. Both institutions operate with significant budget deficits that prevent them from fulfilling their constitutional and statutory mandates. ;

MINUTES OF THE THIRTY SECOND SITTING OF THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE HELD AT COMMITTEE ROOM 9,1ST FLOOR, MAIN PARLIAMENT BUILDING ON THURSDAY 25TH SEPTEMBER 2025 AT 10:00 AM.

PRESENT

1. Hon. Caroli Omondi, CBS, M.P – Chairperson
2. Hon. William Kamket, M.P – Vice Chairperson
3. Hon. Jessica Mbalu, CBS, M.P
4. Hon. George Risa Sunkuyia, M.P
5. Hon. Charles Nguna Ngusya, M.P
6. Hon. Bernard Kitur, M.P
7. Hon. Geoffrey Ekesa Mulanya, M.P
8. Hon. Patrick Osero Kibagendi, M.P
9. Hon. Daniel Kiili Karitho, M.P
10. Hon. John Mukunji Gitonga, M.P

ABSENT WITH APOLOGIES

1. Hon. Silvanus Osoro, M.P
2. Hon. Lawrence Aburi Mpuru, M.P
3. Hon. Mejjadonk Benjamin Gathiru, M.P
4. Hon. Mary Wamaua, M.P
5. Hon. Jackson Lekumontare, M.P
6. Hon. Paul Abuor, M.P
7. Hon. Oscar Nabulondo, M.P
8. Hon. Dr John Murumba Chikati, MBS, M.P
9. Hon. Nimrod Mbithuka Mbai, M.P
10. Hon. Abdisirat Khalif Ali, M.P
11. Hon. Teresia Mwangi Wanjitu, M.P
12. Hon. Umulkher Harun Mohamed, M.P
13. Hon. Kakuta Maimai Hamisi, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

- | | |
|-----------------------|------------------------|
| 1. Ms. Hellen M. Kina | Senior Clerk Assistant |
| 2. Ms. Kafuyai Wamae | Clerk Assistant III |
| 3. Ms. Audrey Andala | Legal Counsel II |
| 4. Mr. Alvin Ochieng | Research Officer III |
| 5. Mr. Kelvin Lengasi | Audio Officer |

6. Mr. Jillo Yeziel Sergeant at arms
7. Ms. Mary Ann Gabow Public Communications Officer
8. Ms. Rinha Saineye Media Relations Officer III

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

- | | |
|-------------------------------------|------------------------------------|
| 1. Mr. Erastus Edung EtheKon, HSC | Chairperson |
| 2. Ms. Fahima Araphat Abdallah, OGW | Vice Chairperson |
| 3. Ms. Anne Njeri, CBS | Commissioner |
| 4. Dr. Alutalala Mukhwana | Commissioner |
| 5. Mrs. Marykaren Sorobit | Commissioner |
| 6. Mr. Hassan Noor Hassan, EBS | Commissioner |
| 7. Prof. Francis Odhiambo Aduol | Commissioner |
| 8. Mr. Marjan Hussein Marjan, MBS | Commission Secretary/CEO |
| 9. Ms. Ruth Kulundu
Operations | Deputy Commission Secretary(DCS) – |
| 10. Mr. Obadiah Ketany, MBS | DCS/SS |
| 11. Mr. Chrispine Owiye | DLS |
| 12. Mr. Hillary Kiplagat | PA Chairperson |

MIN NO. CIOC/I24/2025: PRELIMINARIES

The meeting was called to order at 10:00AM followed with a word of prayer by the Chairperson. He led Members in introduction and briefed them on the agenda of the meeting.

MIN NO. CIOC/I25/2025: ADOPTION OF AGENDA

The proposed agenda was adopted having been proposed by Hon. Bernard Kitur, M.P and seconded by the Hon. Charles Nguna Ngusya, M.P.

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of minutes
5. Meeting with the Chief Executive Officer, Independent Electoral and Boundaries Commission regarding the Commission's mandate pursuant to Articles 88 and 89 of the Constitution.
6. Any Other Business
7. Adjournment
8. Date for the next Sitting

MIN NO. CIOC/I26/2025: CONFIRMATION OF MINUTES

This agenda item was deferred to the next sitting.

MIN NO. CIOC/127/2025: MEETING WITH THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

Mr. Erastus Edung, the chairperson, submitted the following:

The Commission has administrative mechanisms in place to ensure it effectively discharges its Constitutional obligations in a bid to ensure free, fair and credible elections and the delimitation of boundaries of constituencies and wards.

The political parties that did not participate in the last general election were required to submit nomination rules to the Commission to review compliance with the law by 29th August, 2025. The Commission reviewed the lists and parties found to be non-compliant directed to amend their rules to ensure compliance.

The Commission conducted training for political parties on the use of the Candidate Management Registration System (CRMS) on 8th September, 2025. Political parties intending to present candidates in the by-elections shall submit the list of persons nominated on or before 2nd October, 2025.

IEBC Dispute Resolution Committee (DRC) will hear disputes arising from registration of candidates from 8th October to 17th October, 2025.

The Commission has completed a comprehensive review and mapping of the Registrations Centers across the country and will soon publish the same vide a gazette notice. This exercise is aimed at improving service delivery by rationalizing center distribution, addressing accessibility gaps, and incorporating changes arising from administrative and demographic shifts.

Based on past experiences, the registration of voter's during CVR, especially at the constituency level has proved to be unfruitful. To address this the Commission intends to conduct Enhanced Ward- based Continuous Voter Registration exercise (ECVR) and the update of the register of voters to improve the comprehensiveness of the register.

On boundary delimitation, the last review was undertaken in the year 2012 and the report was published in the National Assembly Constituencies and County Assembly Wards Order, 2012- Legal Notice No. 14/2012. The eight-year minimum period began in 2020 and the twelve-year maximum period lapsed on 6th March, 2024. The Commission lacked quorum during this period and sought guidance from the AG on 22nd April, 2024 who advised the Commission to seek an advisory opinion from the Supreme Court.

The challenges faced by the Commission are:

- i. Trust deficit on the public

- ii. Highly ethicized and divisive politics
- iii. Incessant litigation
- iv. Delivery of judgements too close to the elections
- v. Late enactment of electoral laws
- vi. Conflict of laws
- vii. Challenges of public participation
- viii. Inadequate and untimely disbursement of funding
- ix. Erosion of Commission's independence through political interference

The Commission has made legislative proposals to various statutory instruments for administrative reforms to strengthen the electoral system. It has also made proposals to the Elections Act, the Election Technology Regulation, 2017 on election technology to ensure accuracy, verifiability, security and transparency of the electoral system.

To safeguard electoral democracy, the Commission intends to strengthen internal democracy within political parties by ensuring enforcement and strict adherence to the law in party process including nominations, member education, internal independent dispute resolution mechanisms and the inclusion and consideration of the youth, women and marginalized groups.

Committee Observations

The Committee observed as follows-

THAT-

Kenyans in the diaspora can only vote if they have a valid passport. This limits some since passports have an expiry date. IDs should also be considered as a valid voting document for Kenyans in the diaspora.

Inmates are allowed to vote only for presidential candidates and no other elective aspirants.

Pseudo accounts need to be regulated and managed especially during campaign season. This is to prevent campaigning after the timeline set for campaigning lapses.

The legislative proposals mentioned by the Commission have no specific issues that the National Assembly is to initiate.

Boundaries delimitation period has lapsed and it needs to be completed before the general elections in 2027.

The youth are the largest percentage of society and IEBC needs to ensure that they are well mobilized so that they take part in voting.


Way forward

IEBC to get back to the Committee in four weeks regarding:

- i. the steps it has taken to initiate boundary delimitation process; and
- ii. how it will combat the issue of ghost primary schools that have been registered as polling stations.

MIN NO. CIOC/128/2025: ADJOURNMENT

There being no other business, the meeting was adjourned at 2:00PM. Next meeting to be held on notice.

Signed..........Date.....11/11/25.....

Hon. Caroli Omondi, CBS, MP – Chairperson



MINUTES OF THE THIRTY THIRD SITTING OF THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE HELD AT COMMITTEE ROOM 4,1ST FLOOR, BUNGE TOWER ON TUESDAY 7TH OCTOBER 2025 AT 12:20 PM.

PRESENT

1. Hon. Caroli Omondi, CBS, M.P – Chairperson
2. Hon. William Kamket, M.P – Vice Chairperson
3. Hon. Lawrence Aburi Mpuru, M.P
4. Hon. Mejjadonk Benjamin Gathiru, M.P
5. Hon. George Risa Sunkuyia, M.P
6. Hon. Charles Nguna Ngusya, M.P
7. Hon. Bernard Kitur, M.P
8. Hon. Patrick Osero Kibagendi, M.P
9. Hon. Daniel Kiili Karitho, M.P
10. Hon. Abdisirat Khalif Ali, M.P

ABSENT WITH APOLOGIES

1. Hon. Jessica Mbalu, CBS, M.P
2. Hon. Geoffrey Ekesa Mulanya, M.P
3. Hon. Silvanus Osoro, M.P
4. Hon. Mary Wamaua, M.P
5. Hon. John Mukunji Gitonga, M.P
6. Hon. Jackson Lekumontare, M.P
7. Hon. Paul Abuor, M.P
8. Hon. Oscar Nabulondo, M.P
9. Hon. Dr John Murumba Chikati, MBS, M.P
10. Hon. Nimrod Mbithuka Mbai, M.P
11. Hon. Teresia Mwangi Wanjiru, M.P
12. Hon. Umulkher Harun Mohamed, M.P
13. Hon. Kakuta Maimai Hamisi, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

- | | |
|-----------------------|-------------------------------|
| 1. Ms. Hellen M. Kina | Senior Clerk Assistant |
| 2. Ms. Kafuyai Wamae | Clerk Assistant III |
| 3. Ms. Audrey Andala | Legal Counsel II |
| 4. Mr. Alvin Ochieng | Research Officer III |
| 5. Mr. Kelvin Lengasi | Audio Officer |
| 6. Ms. Mary Ann Gabow | Public Communications Officer |
| 7. Ms. Rinha Saineye | Media Relations Officer III |

OFFICE OF THE DATA PROTECTION COMMISSIONER

1. Ms. Immaculate Kassait, MBS	Data commissioner
2. Mr. Festus Musyoka	Deputy data commissioner
3. Ms. Susan Waweru	Head Legal counsel
4. Mr. Dalton Bondo	Head Corporate Communications
5. Ms. Rebecca Mayeku	Assistant Data Commissioner
6. Ms. Dorine Wanjeru	Principal Data Protection Officer
7. Ms. Anne Nganga	Deputy Commissioner, Advocacy & Collaboration
8. Mr. Emmanuel Maiyo	Data Commissioner, Complaints & Investigations
9. Mr. Eugene Odhiambo	Legal Counsel

MIN NO. CIOC/129/2025: PRELIMINARIES

The meeting was called to order at 12:20PM followed with a word of prayer by the Chairperson. He led Members in introduction and briefed them on the agenda of the meeting.

MIN NO. CIOC/130/2025: ADOPTION OF AGENDA

The proposed agenda was adopted having been proposed by Hon. George Risa Sunkuyia, M.P and seconded by the Hon. Charles Nguna Ngusya, M.P.

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of minutes
5. Meeting with the Commissioner, Data Protection regarding the implementation of the Constitution
6. Any Other Business
7. Adjournment
8. Date for the next Sitting

MIN NO. CIOC/131/2025: CONFIRMATION OF MINUTES

This agenda item was deferred to the next sitting.

MIN NO. CIOC/132/2025: MEETING WITH THE OFFICE OF THE DATA PROTECTION COMMISSIONER

Ms. Immaculate Kassait, the data commissioner, submitted the following:

Section 18(1) of the Data Protection Act, 2019, provides that no individual or entity shall operate as a data controller or data processor without registering with the Office. The Third Schedule of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021

further lists entities that process personal data for electoral purposes as part of the entities subject to mandatory registration.

In line with this provision, the Office issued a letter Ref. No. ODPC/DPC/10(8), requesting that the ORPP communicates the obligation to register with the Office as either data controllers, data processors or both to all registered political parties and independent candidates. The Office is subsequently reviewing twenty-one (21) applications for registration in addition to the seven (7) already registered political parties. The Office is currently reviewing IEBC's application for registration as both a data controller and data processor.

The Office has received a total of 8226 and of this 7947 have been resolved and 279 are being resolved, translating to 97% resolution rate. Majority of the complaints are from Digital Lender (68%), Individuals (6%), private companies (6%), financial institutions (4%), telecommunications companies (2%) and government institutions (1%).

The Office conducted data protection compliance audits on forty-six (46) data handlers, comprising thirty-one (31) public entities and fifteen (15) private entities in the previous financial year (2024/25).

The Office has not received any breach notifications from IEBC or any other electoral stakeholders. There is a Guidance Note that has been published for the purpose of public awareness and guidance. This Guidance supports compliance by election stakeholders by providing clarity on their obligations under the Data Protection Acts, 2019, particularly in relation to the lawful, fair and transparent processing of voter's and other electoral related personal data.

The Office has faced several challenges in overseeing electoral data processing. These challenges are:

- i. Lack of mutual legal assistance in enforcement and monitoring data protection compliance within different jurisdictions;
- ii. Technical challenges such as balancing the right to access information with data protection principles, such as data minimization due to data base sharing leading to repurposing of personal data; and
- iii. Resource challenges such as financial constraints.

To strengthen electoral personal data protection, the ODPC makes the following recommendations-

- i. Legislative interventions such as the IEBC aligning the election laws with the Data Protection Act, per consequential amendments under the Second Schedule of the Act;
- ii. Policy interventions such as ODPC to operationalize the Data Sharing Code to provide guidance and promote good practice on the sharing of personal data between government departments and public sector agencies;

- iii. ODPC to facilitate investment in technical capacity, including building digital forensic, audit and monitoring tools is key to ensure any non-compliance with the Act is addressed in a timely manner; and
- iv. IEBC and other electoral stakeholders develop and implement data protection policies.

Committee Observations

The Committee observed as follows-

THAT-

The credibility of data protection was challenged during the Gen Z protests as the public got access to information about Members and their families despite them not consenting to this publicity of their personal contacts.

There exists data breach on sensitive personal data by money lenders who share client's information with third parties.

Many Kenyans are not aware of their right to be forgotten especially in international platforms.

ODPC Response

Majority of the challenges being faced currently had not been anticipated by modern technology. These are challenges like the AI interference or breach of personal data.

During the protests period, the ODPC issued an advisory to the public concerning consequences of breaching personal data privacy however, this advisory was shunned upon and ignored by the public.

Kenya needs to build capacity to deal with multinational digital platforms. There exists a regulatory gap and following up multinational digital platforms is futile since they cannot be compelled to delete or forget data.

Data protection is a geopolitical issue and there is no international agreement that is worldwide that governs it. At a global level there is no agreement.

The right to be forgotten is not absolute. This right has not been exercised in Kenya hence it is a novel experience.

Digital lenders who have breached users' data privacy have been fined and the ODPC has further written to CBK to revoke their certificates.

Way forward

ODPC to submit to the Committee proposed amendments to the Data Protection Act, Cap.411C with a view of ensuring that the IEBC aligns its processes and operations with the principles and requirements of data protection.

MIN NO. CIOC/133/2025: ADJOURNMENT

There being no other business, the meeting was adjourned at 1:30PM. Next meeting to be held on notice.

Signed.....



Date.....

13/11/25

Hon. Caroli Omondi, CBS, MP – Chairperson



REPORT OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

TO THE

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

Dated 15TH SEPTEMBER, 2025

Independent Electoral & Boundaries Commission (IEBC)

Anniversary Towers, 6th Floor, Off University Way

P.O. Box 45371 – 00100, Nairobi – Kenya

Telephone: + 254 (0) 20 29925

A. Introduction

1. The Independent Electoral and Boundaries Commission (hereinafter referred to as “the Commission”) is a Constitutional Commission established under Article 88(1) of the Constitution of Kenya, 2010.
2. Article 88 (4) outlines its general mandate to conduct or supervise referenda and elections to any elective body or office established by the Constitution and any other elections as prescribed by an Act of Parliament.
3. Under Article 88 (4)(c), the Commission is mandated to delimit constituencies and wards as provided for under Article 89 of the Constitution.
4. The mandate of the Commission is further espoused in the Independent Electoral and Boundaries Commission Act, Cap 7C, the Elections Act, Cap 7 and the attendant regulations and other enabling legislation.
5. Further, the Commission has administrative mechanisms in place to ensure it effectively discharges its Constitutional obligations in a bid to ensure free, fair and credible elections and the delimitation of boundaries of constituencies and wards.
6. Pursuant to the Committee invitation dated 9th September, 2025, the Commission presents a comprehensive report on the issues highlighted as follows;

1. Electoral Activities and Operations

i) Conduct and supervision of general elections, by-elections and referenda

The conduct and supervision of elections and referenda is the core mandate of the Commission as outlined under Article 88 of the Constitution.

Following the receipt of notices of vacancies from the speakers of the assemblies, the Commission in gazette notices No. Vol. CXXVII—No. 170 dated 11th August, 2025 and Vol. CXXVII—No. 173 dated 15th August, 2025 published timelines for the by-elections as follows;

✓ Political Parties

- Political Parties that did not participate in the last General Election were required to submit nomination rules to the Commission to review compliance with the law by **29th August, 2025**. The Commission reviewed the lists and parties found to be non-compliant directed to amend their rules to ensure compliance.
- The Commission conducted training for political parties on the use of the Candidate Management Registration System (CRMS) on **8th September, 2025**.
- Submission of the names of persons contesting in party primaries and the date of the primaries on or before **17th September, 2025**.
- Political parties to submit their membership lists to the Commission on or before **24th September, 2025**.
- Political parties to conduct primaries between **17th September and 2nd October, 2025**.
- Political Parties intending to present candidates in the by-elections shall submit the list of persons nominated on or before **2nd October, 2025**.
- Political parties and candidates shall submit names of agents to the Commission by **13th November, 2025** to facilitate processing and training.

✓ **Independent Candidates**

- Submit to the Commission clearance from the Registrar confirming that they were not a member of a party at least three months preceding the date of the election as well as their intention on or before **17th September, 2025**.
- Upon approval of the symbols, the Commission will gazette the symbols at least **14 days before** nomination/registration of candidates.

✓ **All Aspirants**

- Pre-Nomination meetings will be on **3rd October, 2025** with the respective Returning Officers.
- Commission registration of candidates will be on **8th and 9th October, 2025** from **8:00 a.m. – 1:00 p.m.** and **2:00 p.m. – 4:00 p.m.**

✓ **Election Campaigns**

- The Campaign Period will be from **8th October, 2025** to **24th November, 2025**.
- Campaign Hours are from **7:00 a.m. – 6:00 p.m.** daily during the campaign period.

✓ **Electoral Code of Conduct**

- The Electoral Code of Conduct applies from the date of publication of the by-election notices until the swearing-in of elected candidates.
- Every political party, candidate and participant must subscribe to and observe the Code (Second Schedule to the Elections Act, 2011).

✓ **Dispute Resolution**

- IEBC Dispute Resolution Committee (DRC) will hear disputes arising from registration of candidates from **8th October, 2025** to **17th October, 2025**.

- IEBC Electoral Code of Conduct Enforcement Committee will hear complaints on breach of the Code from the date of publication of the by-election notice to the date of gazettelement of persons elected.

ii) **Continuous voter registration and revision of the voters' register**

Articles 38(3) and 83 of the Constitution recognize the rights of eligible citizens to be registered as voters. Under Article 88 (4)(a), the Commission is obligated to ensure the continuous registration of citizens as voters. This is further pronounced and operationalized under part II of the Elections Act, Cap 7 and the Elections (Registration of Voters) Regulations, 2012.

The Commission via Gazette Notice No. 12008 – Vol. CXXVII – No. 183 gazetted the resumption of continuous voter registration slated to commence on 29th September, 2025. The registration of citizens as voters will take place at the Commission's constituency offices. Further, the Commission gazetted the registration officers and assistant registration officers to oversee this exercise. This provides the legal basis and accountability framework for the rollout.

Following this gazettelement, the Commission has undertaken a range of preparatory measures. The key activities include;

✓ **Mapping and Review of Registration Centres**

The Commission has completed a comprehensive review and mapping of the Registration Centres across the country and will soon publish the same vide a gazette notice. This exercise is aimed at improving service delivery by rationalizing centre distribution, addressing accessibility gaps, and incorporating changes arising from administrative and demographic shifts.

✓ **Technology Configuration and Readiness**

The Kenya Integrated Election Management System (KIEMS) kits have been configured and tested for continuous voter registration purposes.

✓ Procurement and Distribution of Materials

Procurement and Distribution of Materials

1. Commission undertakes Procurement in strict adherence to the following Guiding Principles;
 - a) The Constitution of Kenya, 2010, Article 227 (1), that informs the whole procurement governance structure and process.
 - b) Public procurement and Asset Disposal Act (PPADA), 2015
 - c) Public Procurement and Asset Disposal Regulations (PPADR), 2020.
 - d) Executive Orders and National Treasury Circulars among other guiding principles.
2. The overarching Objectives of the Guiding principles of procurement for Election Materials is to realize efficiency and accountability. This is attained by ensuring that;
 - a) The right quality election materials are received that meet the required standards. (e.g., durable, tamper-proof, standardized ballot papers).
 - b) The right quantity of material is procured to cover all polling stations without under or over supply.
 - c) Election materials are delivered to the right locations (from national warehouses down to polling stations).
 - d) There is timely procurement and delivery of materials within prescribed electoral timelines.
 - e) There is achievement of value for money through competitive and transparent procurement.
 - f) Credible, vetted, and compliant suppliers who meet legal and quality standards are procured.
3. Procurement process of the election Materials is based on the following;
 - a) Needs Assessment: Based on projected voter population, polling stations, and logistics.
 - b) Procurement Plan: Developed in line with the Public Procurement and Asset Disposal Act.
 - c) Supplier Selection: Competitive bidding, prequalification of suppliers, due diligence.
 - d) Contract execution: Contract is executed through commitment and delivery of goods and services

4. The Commission warehouse and logistic docket performs the following functions in relation to election materials,

- a) Safe custody of materials: Election materials are safely stored at both National and at the county warehouses.
- b) Transportation: The Commission contracts a competitive service provider through competitive procurement process.
- c) Timelines: the Commission ensures timely distribution of material from the — National warehouse → county → constituency → ward → polling station.
- d) Security Measures: The Commission collaborates with law enforcement agencies for escort and safeguarding of election materials while on transit.
- e) Contingency Planning: The Commission ensures deployment of backup suppliers, provision of alternative routes and emergency stocks for election materials.

5. The Commission has assessed the risks associated with procurement and undertakes the following Mitigation measures

- a) Procurement delays: Initiate early procurement & use of framework agreements.
- b) Supply chain disruptions: Ensure premultiple vendors, and adequate buffer stock.
- c) Legal challenges: Strict compliance with Public procurement laws.

6. Expected Outcomes of effective procurement of election materials

- a) Credible and Transparent Elections – Proper materials reduce errors, tampering risks, and enhance trust.
- b) Timely Electoral Processes – Materials delivered on schedule prevent delays in polling and counting.
- c) Value for Money – Efficient use of public funds through competitive and transparent procurement.
- d) Standardization and Consistency – Uniformity of materials across all polling stations ensures fairness.
- e) Enhanced Security – Secure handling and custody of sensitive materials protects election integrity.
- f) Inclusivity – Materials that accommodate persons with disabilities and marginalized groups promote participation.
- g) Operational Efficiency – Smooth distribution and availability of adequate supplies reduces logistical disruptions.
- h) Public Confidence – Voters and stakeholders gain trust in the credibility of the electoral process.

✓ Training and Deployment of Personnel

The Commission has rolled out a structured training programme. Master Trainers and Trainers of Trainers (ToTs) have been trained, and centralized training for County Election Managers, Registration officers, Assistant Registration officers, Senior Election

Officers, ICT Officers, and support staff is underway to guarantee standardization in the application of procedures.

✓ **Public Awareness and Voter Education**

In collaboration with stakeholders, the Commission has initiated targeted communication and voter education campaigns. These focus on encouraging registration among youth, women, marginalized communities, and diaspora populations, emphasizing the constitutional right and responsibility to participate in elections.

✓ **Resource Mobilization and Logistics**

The Commission has allocated resources in the FY 2025/26 budget to facilitate continuous voter registration operations. This includes logistical arrangements for field deployment, provision of transport, and addressing connectivity gaps in the 234 constituencies pending LAN/WAN installation.

✓ **Continuous Voter Registration Target**

Voter Registration Targets are developed to enhance electoral preparedness during the electoral cycle. This provides a strategic overview of the target-setting process, taking into account demographic trends, ID issuance data, and historical voter registration performance.

The Commission aims to register 6.3 million new voters in addition to the current 22.1 million registered voters (ROV) ahead of the 2027 General Election. This target is based on the Voting Age Population.

The Commission has, in the past, relied on Census data to map the eligible population and estimate voter registration targets by calculating the population of persons who would have attained the voting age of 18 years by the time of the General Election.

The above trend confirms that the Commission's strategy of using **Voting Age Population** for target setting, has not been accurate, sustainable and veritable noting the impractical targets on the commission.

The nature of the Census Report includes persons who are ineligible to register as voters such as: Non-citizens, Undocumented citizens, Refugees, among others.

Article 83 of the Constitution provides for qualification of one to register as a voter.

- ✓ The legal requirements for a citizen to be eligible as a voter is possession of a **National Identity Card** or a **Valid Kenyan Passport**.
- ✓ The Commission is shifting its target setting from **Voting Age Population (VAP)** to **Voter Eligible Population (VEP)** which pays attention to the actual number of citizens who possess the requisite documents.

Traditionally, the Commission relied on Voting Age Population (VAP) projections derived from census data to estimate registration targets. However, several limitations have necessitated a strategic shift to Voter Eligibility Population (VEP), which more accurately reflects the population that is legally registered and votes.

It is worth mentioning that VAP includes undocumented or non-citizen populations, leading to target inflation since it does not disaggregate data based on legal eligibility.

The VEP model utilizes data from the National Registration Bureau (NRB) and the Directorate of Immigration Services, thereby narrowing the target setting on disaggregated ID and passports issued.

This actual National ID/Passport data-driven targeting approach ensures that resources are deployed efficiently, and performance benchmarks are realistic and attainable.

✓ **Modalities Of Registration**

To achieve its target and ensure no Kenyan is disenfranchised, the Commission intends to adopt several strategies as follows:

✓ **Continuous Voter Registration at Constituency Offices**

Constituency Offices serve as a service point for registration of citizens as voters, as well as updating of particulars. This is to facilitate first-time voters to register at any time

upon obtaining a National Identity Card. Equally, registered voters are able to update or correct their information.

In addition, those who lost eligibility either by death, conviction or renouncing citizenship can be purged through formal processes. This takes place in all designated Commission Constituency offices except for the areas with by-elections.

The Constituency office will also be allocated additional Kits that will facilitate registration across the Country. The Kit will be opened to allow any eligible citizen to visit any constituency office and be facilitated to choose their preferred voting area across the country.

✓ **Huduma Centre Registration**

To enhance continuous voter registration services, the Commission will leverage on the existing infrastructure and partnerships with Huduma Centres across the Country to facilitate continuous voter registration nationwide through accessible, integrated service points.

The Commission will be establishing a desk at all Huduma Centres to offer voter registration services and expand registration coverage and improve operational efficiency in alignment with constitutional and legal requirements.

The Huduma Centre registration will enable eligible citizens to choose their preferred voting point across the Country.

✓ **Ward-Based Enhanced Registration Drives**

Based on past experiences, the registration of voters during CVR, especially at the constituency level, has proved to be unfruitful. As a strategy to address this challenge, the Commission intends to conduct an Enhanced Ward-based Continuous Voter Registration exercise (ECVR) and the update of the register of voters to improve the comprehensiveness of the register.

This strategy is essential for deepening the inclusivity and achieving geographic and demographic representativeness. The drive, which will be done over a 30-day period,

will involve the deployment of adequate kits at the ward level with an aim of providing an opportunity to eligible citizens to enroll as a voter.

✓ **Conduct of Continuous Voter Registration in Institutions of Higher learning**

To enhance continuous voter registration services, the Commission will be conducting targeted registration in the institutions of higher learning in order to offer an opportunity to the eligible youth to register as voters. The Commission will be facilitating through open Kits, allowing students in those institutions to choose their preferred voting area.

✓ **Registration of Citizens Residing Outside the Country as Voters**

The Constitution of Kenya, 2010, under Articles 38 and 82, guarantees all Kenyan citizens the right to political participation, including voting, regardless of geographic location. The Policy on Voter Registration and Voting for Citizens Residing Outside Kenya, established in 2015 and reviewed in 2021, provides the framework for operationalizing this right.

Despite progress, only 10,443 diaspora voters were registered in 2022 across 12 countries, with a 58% turnout, highlighting the need for expanded voter registration centers to enhance participation.

The promulgation of the Constitution of Kenya in August 2010 was a turning point in electoral inclusivity, as Article 82(1)(e) guaranteed the progressive realization of voting rights for Kenyan citizens residing outside the Country.

The Elections Act, 2011, and the Elections (Registration of Voters) Regulations, 2012, established the legal framework for diaspora voting, assigning the Commission the responsibility to operationalize these provisions. In addition, the Policy on Voter Registration and Voting for Citizens Residing Outside Kenya, established in 2015 and reviewed in 2021, provides the framework for operationalizing this right.

The 2013 elections marked the first-ever diaspora voting exercise in Kenya's history. Implementation was limited to four East African Community Member States of Uganda,

Tanzania, Rwanda, Burundi, and South Africa. The 2017 polls saw an incremental expansion of diaspora voting to include South Africa, bringing the total number of participating countries to five.

The 2022 elections marked the most significant expansion of diaspora voting to date, with the operationalization of voting rights in 12 countries. This expansion included the addition of the United States of America, Canada, the United Kingdom, Germany, the United Arab Emirates, Qatar, and South Sudan to the existing list. Registered diaspora voters rose to 10,443, representing a more than twofold increase from 2017, but still a fraction of the estimated millions of diaspora population.

In order to enhance voter registration and voting for citizens residing outside Kenya, the Commission is in the process of reviewing and developing its implementation plan to, among others, expand voter registration centers for Kenyan citizens residing outside Kenya, ensuring progressive realization of their voting rights as mandated by the Constitution.

iii) Regulation and oversight of political party nominations

Article 88(4)(e) mandates the Commission to regulate the process by which parties nominate candidates for election. In this regard and pursuant to the provisions of sections 27 – 37 of the Elections Act, the Commission reviews political parties' nomination rules that are used in party primaries and party list nominations, party membership lists and ensures that parties adhere to the provisions of the law in its primaries and party list nominations.

iv) Registration of candidates and political parties for electoral purposes

Pursuant to its mandate under 88(4)(f), the Commission registers candidates for election.

v) Voter education and public outreach initiatives

The Commission has had a number of engagements enumerated in the table below;

S/O	ACTIVITY	STATUS	REMARKS
1.0.	Review and Production of voter education materials and messages	<ul style="list-style-type: none"> ✓ The Commission has developed Information Education and Communication (IEC) materials for the Continuous Voter Registration exercise and the Nov 27th 2025 by-elections. ✓ The information fliers have been approved by Management 	<ul style="list-style-type: none"> - Production /printing has been slowed down due to incomplete onboarding of E-Government Procurement services - Distribution of materials is pending
2.0.	Concept papers developed	<ul style="list-style-type: none"> ✓ Concept paper on Voter Education, partnerships and Communication Strategies for CVR and by-elections ✓ Concept paper on Establishment of the Customer Experience Centre ✓ Concept paper on Establishment of IEBC Choir ✓ Concept paper on Leveraging on Sports for voter education, stakeholder engagement and brand visibility ✓ Concept paper on Partnerships with Institutions of learning for grassroots support for electoral processes 	<ul style="list-style-type: none"> - All adopted at the Management and Committee levels - Awaiting presentation to the Commission plenary for approval
3.0.	Conduct of voter education for By-elections and CVR at the national, county and constituency levels	<ul style="list-style-type: none"> ✓ Guidelines on engagement of voter educators and mobilizers have been developed ✓ Transfer of funds for voter educators' wages and training to Counties for CVR and By-elections has been initiated 	<ul style="list-style-type: none"> - The Commission will engage voter mobilizers at the Constituency level for due to budgetary constraints, - The Commission will engage voter educators at the County, Constituency and Ward level where the by-elections will be

S/O	ACTIVITY	STATUS	REMARKS
			<p>happening on 27th November 2025</p> <ul style="list-style-type: none"> - Information on the CVR and by-elections have been shared on social media platform - Funds transfer for engagement of voter educators/ mobilizers for CVR and by-elections is pending due to lack of exchequer - Engagement of voter educators pending - Engagement of Tvs and local community radio stations pending due to incomplete onboarding E-GP services
4.0.	Accreditation of voter education Providers, Long-term observers, short term observers and media	<ul style="list-style-type: none"> ✓ The Commission's Technical Working Group on Accreditation has been established ✓ A call for applications for voter educators, observers and media through adverts in newspapers and social media platforms has been done ✓ A requisition for printing of certificates and badges has been initiated 	<ul style="list-style-type: none"> - Production of accreditation certificates and badges for voter education providers, election observers and media is on-going - The accredited partners will be trained accordingly.
5.0.	Stakeholder Mapping and updating of Databases	<ul style="list-style-type: none"> ✓ County Stakeholder mapping tool and guidelines developed and shared with CEMs ✓ National stakeholder database updated on a continuous basis 	Stakeholder mapping exercise on-going Funds transfer for stakeholder engagement at the county and constituency level is the process

S/O	ACTIVITY	STATUS	REMARKS
6.0.	Partnerships with development partners for extra Resource and Technical support for VE	<p>✓ The Commission has held meetings and paid courtesy calls to development partners including the British High Commissioner, by UN Resident Coordinator Dr. Stephen Jackson and UNDP Deputy Resident Representative.</p>	<p>- Talks with Development Partners on priority areas not funded by GoK are on-going</p>
7.0.	Structured Stakeholder Engagement forums at the National, County and Constituency levels	<p>✓ The Commission has held consultative meetings with several stakeholders including The National Assembly, Security agencies, civil society organizations, the National Treasury, the Senate, the media, the National Cohesion and Integration Commission (NCIC), Political Parties' Liaison Committee (PPLC) among others.</p>	<p>- Structured Stakeholder Engagements done at the Commission level</p> <p>- More Stakeholder Engagement at the grassroots levels are scheduled for PPLC, Religious organizations, Media,</p>
8.0.	Collaborations with Partner and Stakeholders	<p>✓ The Commission's MoU and Partnerships Agreements Technical Working Group has been established</p> <p>✓ The Commission has active MoUs with National Council of NGOs, The Office of the Director of Public Prosecutions and The General Elections Commission of The Republic of Indonesia.</p> <p>✓ A new MoU was signed with the Media Council of Kenya.</p> <p>✓ The Commission has received several requests for partnerships and MoU requests and are currently being processed by the Technical Working Group</p>	<p>On -going</p>

S/O	ACTIVITY	STATUS	REMARKS
9.0.	Diaspora Stakeholder Engagement for planned electoral activities.	<ul style="list-style-type: none"> ✓ The Commission paid a courtesy call to the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs ✓ The Commission held a virtual meeting with Diaspora Technical Working Group (DTWG) to discuss modalities of conducting voter registration for Kenyans in the Diaspora 	Continuous basis
10.0.	Forums organized by other Stakeholders and Partners	<ul style="list-style-type: none"> ✓ The Commission has attended forums held by stakeholders including: Technical Workshop on Developing Guidelines for Artificial Intelligence (AI) in Elections convened by Yiaga Africa and the National Assembly among others 	As when invited to attend
11.0.	Media briefs, Communiques and Press Releases	<ul style="list-style-type: none"> ✓ The Commission since July 2025 has issues 12 Media briefs, Communiques and Press Releases on various topics including Continuous voter registration, by-elections, Re-allocation of Vacant Seats through Party Lists and dispelling of fake news. 	As when required
12.0.	Media appearance	<ul style="list-style-type: none"> ✓ The Commission has appeared in at least 3 TV and radio stations. ✓ The Commission, in partnership with Citizen TV, held an X-Space to inform Kenyans on planned activities and how they can participate. 	The Commission has scheduled more media appearances for information sharing around by-elections and CVR
13.0.	Engagement of social media and Influencers (Opinion Shapers)	<ul style="list-style-type: none"> ✓ Held a forum with Mombasa based civil society groups, community based 	Similar engagements required

S/O	ACTIVITY	STATUS	REMARKS
		organizations, special interest groups and social media influencers	
14.0.	ASK Shows	✓ Participate in the Mombasa International Show and won the Best Independent Commission Stand Award	-The Commission engaged members of the public and school going children during this period The Nairobi ASK Shown is planned for October 2025
15.0.	Use of Social Media Platforms for Information sharing	✓ The Commission has shared various topics including Continuous voter registration, by-elections, Re-allocation of Vacant Seats through Party Lists, qualifications for candidates for by-elections and dispelling of fake news.	The Commission fights against Fake news on an on-going basis

vi) **Monitoring compliance by political parties with electoral laws**

In reviewing the documents as required by law from the parties, the Commission ensures that they adhere to the requirements of the law. Where deficient, the Commission has authority to decline the documents which in certain instances means that the affected political party may be barred from taking part in the elections.

2. Boundary Delimitation

i) **Status of constituencies and wards boundary review**

Article 88(4)(c) of the Constitution of Kenya as read together with Article 89 of the Constitution confers on the Commission the mandate to review and delimit electoral units and in particular: -

1. To review the names and boundaries of constituencies at intervals of not less than eight years, and not more than twelve years.
2. To review the number, names and boundaries of wards periodically.

The process of review of boundaries was last undertaken in the year 2012 and the report published in the National Assembly Constituencies and County Assembly Wards Order, 2012 – Legal Notice No. 14/2012. Accordingly, the eight-year minimum period began in 2020, and the twelve-year maximum period lapsed on 6th March, 2024.

During this constitutional window, the Commission lacked quorum. In light of this, the Commission sought guidance from the office of the Attorney General. On 22nd April 2024, the Attorney General advised that the Commission should seek an advisory opinion from the Supreme Court.

Consequently, on 2nd July 2024, the Commission filed a Reference Application before the Supreme Court of Kenya, seeking clarification on key constitutional questions relating to its operations. The issues raised include:

1. Whether the Commission can undertake delimitation of electoral boundaries and other electoral functions in the absence of Commissioners or without a quorum.
2. Whether the Commission can conduct the review of boundaries beyond the timelines set out under Articles 89(2) and 89(3) of the Constitution.
3. Whether constitutional timelines may be extended, and if so, by whom and under what conditions.

On 5th September 2025, the Court rendered itself on the Advisory Opinion in which it struck out the Reference filed by the Commission. The court opined, among other things that only a duly constituted Commission, comprising the Chairperson and other members of the Commission could bring the matter before the Court for its determination.

As such, the Commission is considering its options noting the timelines, competing Commission activities and the necessity of the boundary delimitation exercise.

Below are activities that the Commission had undertaken in preparation for the upcoming boundaries delimitation.

✓ **Development of the Delimitation Concept Paper**

The Commission developed and approved the delimitation concept paper and the timelines therein for the execution of the delimitation of electoral units

✓ **Development of the Boundaries Review Operation Plan (BROP)**

Following the approval of the Concept paper, the Commission went further and developed the BROP 2019 -2024 as the guiding document on the criteria of delimitation based on Article 89 of the Constitution of Kenya.

✓ **Conduct of Situational Analysis**

The Commission conducted an analysis of KNBS 2009 Census data against the 2019 data in order to compare the same in terms of administrative units that formed the basis for descriptions of electoral units

✓ **Conduct of Pilot Study**

A pilot study was necessitated by the situational analysis outcome. This was conducted in 4 counties (Nakuru, Kwale, Isiolo and Turkana County) which were rich in their diversity and were to inform the Commission on the probable logistical issues to attend to.

✓ **Collection of Administrative Units' Geo-data**

With the Commission having conducted the pilot study, it rolled out successful Geo-data Collection in 47 counties.

✓ **Digitization of Administrative Geo-data**

The Commission has digitized the Administrative Geo-data to generate updated shape files awaiting final consolidation post validation.

✓ **Acquisition of Equipment (Funded by UNDP)**

Adequate resourcing is critical for the success of any project. Based on this consideration, the Commission has tirelessly strived to ensure that the Boundary GIS lab is up and running. Through the Office of the Commission Secretary, the Commission has been able to fast track the acquisition of Equipment from both internally and externally.

✓ **Capacity Building**

The Commission has managed to secure training for several staff. Key amongst those trained and sensitized are senior management of the Commission and line staff on delimitation in the past few months. Further plans are underway to increase the number of staff trained on delimitation procedures to ensure that there is adequate Constituency reach.

✓ **Review of Boundaries Delimitation Legal Framework**

The Commission reviewed the legal framework on boundary delimitation and;

- Made proposals for amendment of laws on boundary delimitation,
- Reviewed the Rules and Procedure for the delimitation of boundaries
- Reviewed the delimitation timelines
- Developed boundaries delimitation FAQs and checklist to expose stakeholders to the delimitation process

The enactment of the IEBC (Amendment) Act is a step in the right direction as obsolete provisions were deleted and substantive provisions enacted for boundary delimitation.

✓ **Senior Staff Sensitization on Collected Geo-Data in the 47 Counties**

The Commission sensitized its staff stationed at the headquarters and County Election Managers on the outcome of the Geo-data collected in the 47 Counties. This was followed by deliberation on the way forward which included strategies to validate the collected data and update of the geo-database in preparation for the delimitation exercise.

✓ **Appointment and Inaugural meeting for Delimitation Project and Technical Team**

The Commission appointed a Project and Technical boundaries delimitation team to manage the delimitation exercise. This approach enables the Commission to harness and benefit from the wealth of experience and expertise of staff on their respective operational fronts. The teams deliberated on their respective terms of reference (TOR) and strategized in readiness for the upcoming delimitation tasks.

✓ **Development of Delimitation Applications and Map Standardization Manual**

The Commission was trained on the new technology which was followed by the development of several applications to be utilized in various phases of the delimitation exercise. This includes Boundaries Hub with frequently asked questions (FAQs), evolution of electoral boundaries in Kenya story maps, a digital platform to submit memoranda, and a dashboard that gives an overview and summary statistics of the submitted memoranda. Additionally, the Commission also developed a map standardization manual to be used by cartographers when producing the Commission's maps.

✓ **Boundaries Security Arrangement Plan National Planning Workshop**

Cognizant of the interests associated with Boundary delimitation, a review of the electoral units has the potential to ignite community, sectarian, class and religious conflicts. The Commission hosted a three-day workshop to develop a Boundaries Security Arrangement Plan (BSAP). The Commission formed a Technical Committee that will drive and oversee the implementation of BSAP during the envisaged delimitation.

✓ **Civic Education and Public Outreach Strategies on Delimitation of Boundaries (Funded by URAIA)**

The Commission organized a meeting to develop public outreach strategies on boundary delimitation. This was followed by a workshop with Civic educators which identified key

stakeholders and developed targeted messages and communication strategies during the boundaries delimitation review process.

The Commission has in place a Boundary Review Operational Plan (BROP) which provides guidance on the next review of electoral boundaries. The plan is anchored on the provisions of section 24B and the Fifth Schedule of the Independent Electoral and Boundaries Commission Act.

ii) Challenges encountered in implementing Article 89 of the Constitution

The Commission has reviewed the legal framework on delimitation of electoral boundaries in preparation for the second review and identified emerging concerns:

- i. The constitutional crisis and possible consequences of failure to undertake boundary delimitation within the prescribed constitutional timelines.
- ii. The place of the 27 constituencies which were protected in the first review under the Constitution of Kenya, 2010.
- iii. Unavailability of sufficient/accurate information and data. The Commission needs to establish from the KNBS whether it has a legal population census for the year 2019 and to determine the validity of the 2009 census. This is following the decision of the court in *Garissa High Court Petition No. 4 of 2020 (consolidated with Nairobi High Court Petitions No. 102, 103, 106, 107, 110 and 111 & H.C. Petition No. 3 of 2020) – Hon. Abdullahi Bashir Sheikh & 24 Others –V- KNBS, IEBC, AG & 2 Others* where the court found the census data to be inaccurate. The matter is presently before the Court of Appeal for hearing of an appeal filed by the Kenya National Bureau of Statistics (KNBS). It is noteworthy that an order of preservation of status quo subsists pending final determination of the appeal.
- iv. Emerging variation in population and area
- v. Inadequate budgetary allocation
- vi. Staff deficit

- vii. Conflicting memoranda by various parties from the same region;
- viii. Postponement of public hearings due to lack of consensus
- ix. Unpredictable court cases and decisions;
- x. Possibility of animosity or violence
- xi. Historical boundary injustices.
- xii. Non-alignment of Administrative and Political units and challenges of getting the correct information in some counties

3. Electoral Dispute Resolution

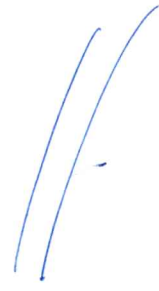
i) Nature and number of electoral disputes handled

The nature of electoral disputes that the Commission handles and/or is involved in includes:

1. Election Petitions
2. Electoral Code of Conduct violations
3. Leadership & Integrity Vetting Committee cases
4. Dispute Resolution Committee complaints on registration of candidates
5. Election Offences

The statistics on the electoral disputes for the 2022 election period are as outlined below:

S No.	Nature of Disputes	Number of electoral disputes handled	
1.	Election Petitions	133	
2.	Electoral Code of Conduct violations	In Nairobi High Court Cons. Pet.E073 of 2022 Sabina Wanjiru Chege Vs IEBC, the court declared several sections of the Electoral Code of Conduct unconstitutional. Thereby barring the Commission's Code of Conduct Committee from conducting any proceedings. Therefore, the Commission did not listen to any matter. The Commission appealed the Decision	

		<p>at the Court of Appeal and Supreme Court, and the Supreme Court in its decision affirmed the mandate of the Commission to enforce the code of conduct. The Commission thus intends to apply the code of conduct beginning with the by election to be held on 27th. November, 2025 and subsequent elections.</p>	
3	<p>Leadership & Integrity Vetting Committee matters</p> 	<p>In <i>High Court Petition No. E385 of 2021 Chama Cha Kazi, Milton Mwenda V. IEBC and Another</i>, the Court declared that the Commission's Leadership and Integrity Vetting Committee was unconstitutional.</p> <p>As a result, the Commission did not conduct any hearings in this Committee in the 2022 General Election. However, the matter is pending before the Court of Appeal.</p>	
4	<p>Dispute Resolution Committee complaints on registration of candidate</p>	<p>In the year 2022, the Commission heard and determined 324 disputes relating to registration of candidates.</p>	
5	<p>Election Offences</p>	<p>It is the mandate of the ODPP to prosecute election offences and</p>	

		hence where the data is resident.	
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ii) **Mechanisms used to resolve disputes and outcomes achieved**

The Commission has three Committees established to hear pre-election disputes. The Dispute Resolution Committee hears disputes in relation to registration of Candidates. The Electoral Code of Conduct and Enforcement Committee hears matters in regard to breach of the Electoral Code of Conduct and the Leadership and Integrity Vetting Committee hears matters in relation to enforcement of Chapter Six of the Constitution.

4. Compliance with Constitutional Principles

i) **Measures taken to ensure adherence to Articles 81 and 86 (free, fair, transparent, verifiable and accountable elections)**

The Commission acknowledges the right of every eligible citizen to exercise their political rights as outlined under Article 38 of the Constitution which includes the right to form and participate in a political party, the right to register as a voter, to vote, to stand for office and to free and fair elections.

In the spirit of universal suffrage, the Commission ensures fair distribution of voters when reviewing electoral boundaries. Further, the Commission also facilitates prisoners, citizens living outside the country and marginalized groups to exercise their political rights.

The Commission is also in the process of developing a framework for special voting to include those not able to vote on the voting day such as Commission staff, security personnel among others.

The Commission discharges its mandate under Article 90 of the Constitution to supervise the election for party list seats for the nominated positions in Parliament and the County Assemblies. There is a mechanism to ensure the implementation of the not more than two thirds gender principle in the County Assemblies in the Constitution but none for the National Assembly and the Senate. The Commission has made proposals under its raft of legal reform proposals to realize this principle in Parliament.

In High CP No. 19 of 2017. Katiba Institute v IEBC, the court issued orders directing political parties to take measures to formulate rules and regulations for purposes of actualizing the not more than two thirds gender principle during nominations. Following this judgement and in line with the direction of the Court, the Commission in the 2022 General Election required parties to submit lists that were compliant with the not more than two thirds gender principle. However, in Nairobi High Court Constitutional Petition E211 of 2022. Cliff Ombeta and Adrian Kamotho v IEBC, the court granted orders suspending the implementation of the principle in the nomination list for candidates in the 9th August, 2022 General Election.

In discharging its mandate under Article 90, the Commission encourages parties to prioritize Persons with disabilities (PWD) candidates in their marginalized lists. This is in view of the fact that as provided in the Constitution, the Commission can only administer the lists in the order of priority as provided by the political parties.

There was an improvement in the representation of PWDs in the 2022 election but there is still more to be done. In fact, the Commission was incisive in its submissions to Parliament on the Bill that seeks to amend the Elections Act in a bid to realize the provisions of Article 54(2) of the Constitution on progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities.

To guarantee free and fair elections, the Commission employs secure ballot papers and private voting booths, deploys security personnel, conducts voter education, and enforces a strict code of conduct to prevent violence, intimidation, and corruption.

The Commission has also incorporated technology into its operations to improve transparency and accuracy within the electoral process. Additionally, the Commission provides training for election officials, collaborates with various stakeholders including election observers, and conducts audits and reviews of its procedures after each election.

In line with the decision of the court in the Maina Kiai case, the results at the polling station are final. Counting of votes at the polling stations begins immediately after the close of voting and results are publicly announced by the Presiding Officers. Returning officers collate the results from the polling stations and announce them.

ii) **Safeguards put in place for electoral integrity, transparency and use of technology**

The Commission uses KIEMS kits for biometric voter registration and identification and electronic results transmission system (RTS) to ensure results are accurate and verifiable. There is a Candidate Registration Management System (CRMS) used to manage the candidate registration process. Before deploying technology, the Commission performs simulations to test the effectiveness and weaknesses. Cyber security measures such as firewalls, encryption and restricted access to sensitive electoral data are also employed to enhance the integrity of the electoral process.

Registered voters are able to inspect and verify their details and an Audit of the voter register is usually done to clean up the register.

As earlier outlined, the Commission also trains election officials, enforces the Electoral Code of Conduct, allows agents and observers at polling stations and tallying centers and hears and determines pre-election disputes within the prescribed legal timelines. In

everything the Commission does, it ensures strict adherence to the legal and regulatory framework necessary for a democratic election.

5. Financial Statements and Resource Utilization

- i) Budget allocation and expenditure during the reporting period.

Table 1: EXPENDITURE FOR FINANCIAL YEAR 2024/25

Description	Approved Budget 2024/25 '000	Expenditure 2024/25 '000	Balance '000
General Administration Planning & Support Services	3,096,787	3,084,090	12,697
Voter Registration and Electoral Operations	208,958	200,111	8,847
Voter Education and Partnerships	38,400	34,921	3,479
Electoral Information & Communication Technology	430,541	417,737	12,804
Delimitation of Electoral Boundaries	36,047	35,619	428
TOTAL	3,810,733	3,772,478	38,255

The Commission prepared budget estimates for the 2027 General Election at an estimated cost of Kshs 57.38Billion. The National Treasury allocated a total of Kshs 49.75Billion which is not adequate and that translates to a deficit of Kshs 7.63Billion as reflected in the table 2 below.

Table 2: GENERAL ELECTION BUDGET SUMMARY

Description	2025/26	2026/27	2027/28	Total GE
	Kshs	Kshs	Kshs	
GE Resource requirement	9,008,406,586	27,628,310,795	20,741,450,208	57,378,167,589
Resource Allocation	4,731,569,019	14,999,990,000	30,017,168,289	49,748,727,308
GE Shortfall	-4,276,837,567	-12,628,320,795	9,275,718,081	-7,629,440,281

This deficit of Kshs 7.63Billion takes into account that the excess funds reflected in the 2027/28 Financial year will be front loaded to cater for the scheduled activities in 2025/26 and 2026/27 Financial years. A request to front load the budget has been made vide our letter Ref IEBC/40/BR/3/2 Vol. III/(54) dated 28th July, 2025. For clarity, the front loading in the referenced letter is to be reflected as indicated in table 3 below.

The budget movement and deficit is as indicated table 3 Budget details:

Table 3 Budget details

S. No	Activity	General Elections - 2027 Funding Requirements - Kshs				General Elections - 2027 Revised Funding Requirements - Kshs				General Elections - 2025 Funded - Kshs	
		2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	2026/27	2027/28	Total Budget Requirement	2025/27	Unfunded
1	Recruitment/ Transfer and Team Building	26,850,000	-	182,560,000	209,410,000	38,030,000	200,778,000	92,100,000	330,908,000	19,187,753	18,842,247
	Staff Welfare				-	83,580,000	84,710,000	91,833,000	260,123,000	40,807,244	42,772,756
2	Maintenance of Motor Vehicle	104,000,000	176,000,000	212,000,000	492,000,000	37,880,000	121,000,000	168,280,000	327,160,000	13,511,854	24,368,146
3	Purchase of Motor Vehicle	-	408,000,000	890,000,000	1,298,000,000	-	241,945,400	-	241,945,400	-	-

Table 3 Budget details

S. No	Activity	General Elections - 2027 Funding Requirements - Kshs				General Elections - 2027 Revised Funding Requirements - Kshs				General Elections - 2025 Funded - Kshs	
		2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	2026/27	2027/28	Total Budget Requirement	2025/27	Unfunded
4	Media Campaign			1,050,000,000	1,050,000,000	75,300,000	1,324,098,000	77,000,000	1,476,398,000	43,040,000	32,260,000
5	National Elections Conference (NEC)			732,000,000	732,000,000	-	49,230,000	-	49,230,000	-	-
6	Bulk SMS	150,000,000	100,000,000	200,000,000	450,000,000				-		-
7	Stakeholder Engagements	1,482,745,690	154,565,000	1,517,077,940	3,154,388,630	904,741,390	1,452,450,740	142,297,200	2,499,489,330	450,555,500	454,185,890
8	Legal Petitions	86,400,000	386,400,000	580,800,000	1,053,600,000	49,546,000	355,288,000	3,500,000	408,334,000	32,500,000	17,046,000

Table 3 Budget details

S. No	Activity	General Elections - 2027 Funding Requirements - Kshs				General Elections - 2027 Revised Funding Requirements - Kshs				General Elections - 2025 Funded - Kshs	
		2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	2026/27	2027/28	Total Budget Requirement	2025/27	Unfunded
9	Legal Reforms	195,165,000	133,390,000	4,223,000	332,778,000	166,685,000	50,600,000	835,942,000	1,053,227,000	56,691,626	109,993,374
10	Elections Disputes Resolution -EDR	7,550,000	441,750,000	111,577,000	560,877,000	-	53,795,000	124,072,000	177,867,000	-	-
11	Data Protection	28,760,000	106,490,000	203,408,000	338,658,000				-		-
12	Corruption Prevention Protection	-	34,870,000	39,233,000	74,103,000				-		-

Table 3 Budget details

S. No	Activity	General Elections - 2027 Funding Requirements - Kshs				General Elections - 2027 Revised Funding Requirements - Kshs				General Elections - 2025 Funded - Kshs	
		2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	2026/27	2027/28	Total Budget Requirement	2025/27	Unfunded
13	ESAP & Risk Registration	103,580,000	919,648,000	27,881,500	1,051,109,500	73,261,500	328,622,000	24,227,500	426,111,000	2,508,679	70,752,821
14	Boundaries – GPS	-	60,572,000	-	60,572,000	-	32,763,100	-	32,763,100	-	-
15	Research & PEE	86,658,600	39,250,000	137,600,000	263,508,600	68,892,500	28,350,000	135,390,000	232,632,500	51,173,697	17,718,803
16	Disposal /Tendering Process	76,260,000	102,596,000	56,291,000	235,147,000	69,155,600	76,787,600	52,405,000	198,348,200	22,273,851	46,881,749
17	CVR/VV	3,365,568,330	3,633,777,914	-	6,999,346,244	2,964,306,915	5,041,087,050	-	8,005,393,965	2,337,262,924	627,043,991

Table 3 Budget details

S. No	Activity	General Elections - 2027 Funding Requirements - Kshs				General Elections - 2027 Revised Funding Requirements - Kshs				General Elections - 2025 Funded - Kshs	
		2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	2026/27	2027/28	Total Budget Requirement	2025/27	Unfunded
18	Election Materials		3,609,442,130		3,609,442,130	-	3,576,615,580	-	3,576,615,580	-	-
19	Ballot Papers		5,962,263,720		5,962,263,720	-	5,962,263,720	-	5,962,263,720	-	-
20	Training	66,256,000	318,357,370	2,343,045,870	2,727,659,240	55,151,500	129,661,000	2,867,102,320	3,051,914,820	40,889,900	14,261,600
21	Meals/		243,406,108	939,289,600	1,182,695,708	-	-	1,161,182,000	1,161,182,000	-	-
22	Tallying Centres			201,585,000	201,585,000	-	389,159,750	361,472,750	750,632,500	-	-

Table 3 Budget details

S. No	Activity	General Elections - 2027 Funding Requirements - Kshs				General Elections - 2027 Revised Funding Requirements - Kshs				General Elections - 2025 Funded - Kshs	
		2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	2026/27	2027/28	Total Budget Requirement	2025/27	Unfunded
23	Nominations		488,111,200		488,111,200	-	426,585,200	-	426,585,200	-	-
24	Transport		457,407,840	3,360,309,940	3,817,717,780	118,640,000	935,458,400	3,083,251,520	4,137,349,920	-	118,640,000
25	Wages	1,002,621,975	6,740,806,615	7,849,799,063	15,593,227,653	-	-	9,822,831,910	9,822,831,910	-	-
	Electoral Activities (Diaspora, Airtime Security Financial Services etc)				-	40,565,000	571,324,000	1,001,135,300	1,613,024,300	-	40,565,000

Table 3 Budget details

S. No	Activity	General Elections - 2027 Funding Requirements - Kshs				General Elections - 2027 Revised Funding Requirements - Kshs				General Elections - 2025 Funded - Kshs	
		2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	2026/27	2027/28	Total Budget Requirement	2025/27	Unfunded
26	KIEMS Replacement	6,792,621,500	243,732,000	-	7,036,353,500	3,283,952,160	4,124,466,311	281,887,500	7,690,305,971	749,870,347	2,534,081,813
27	Upgrade/Maintenance of Systems	1,747,659,548	515,915,350	301,500,000	2,565,074,898	978,719,021	1,138,287,921	290,517,848	2,407,524,790	871,295,644.00	107,423,377
28	Simulation	25,381,300	105,842,940	66,199,152	197,423,392	-	932,984,023	125,022,360	1,058,006,383		-
	Total	15,348,077,943	25,382,594,187	21,006,380,065	61,737,052,195	9,008,406,586	27,628,310,795	20,741,450,208	57,378,167,589	4,731,569,019	4,276,837,567

ii) **Resource challenges and funding gaps**

✓ **Deficit in funding**

The Deficit in funding of the 2027 General Election will affect the Commission adversely in conducting the Elections. The main area that will be affected by the inadequate funding is payment of wages to Election Officials totalling to Kshs 7.63Billion.

✓ **Pending Bills**

The Commission has accumulated pending bills totalling to Kshs 5.75Billion arising from previous General Elections. These pending bills have been accumulating over time and will adversely affect operations of the Commission in conducting the 2027 General Election. If these pending bills are not settled, the quantum will not only increase but constrain operations of the Commission.

The Commission will also have to deal with:

- i. Court cases, especially where legal fees will be taxed upwards of the initial fees; and
- ii. Refusal and withdrawal of suppliers of goods and services.

6. Achievements and Challenges

i) **Key achievements in implementing constitutional and statutory mandates**

The Commission has:

1. Successfully deployed the use of technology in elections for voter registration, identification, results transmission, candidate registration and other processes to ensure accuracy, verifiability, security, accountability and transparency of the electoral system.
2. Successfully conducted the 2013, 2017 and 2022 General Elections and several by-elections in achieving the core mandate to conduct or supervise referenda and elections to any elective body or office established by the Constitution and any other elections as prescribed by an Act of Parliament.
3. Completed the first review of electoral boundaries as per Article 89 of the Constitution carried under Legal Notice No. 14 of 2012.
4. Enabled registration of citizens living outside the country as voters and their voting. The numbers have progressively increased from 4 countries in East Africa in 2013 to 12 countries in 2022. The number of registered voters has also increased from 2,637 in 2013, 4,224 in

2017 and 10,443 in 2022. The Commission hopes to increase the number in the upcoming General Election and subsequent elections.

5. Voter registration and education

The Commission has noted a gradual increase in the number of registered voters to 22,102,532 voters as at 2022. With the continuous voter registration set to commence on 29th September 2025, and possible enhanced continuous voter registration subsequently, the numbers will certainly go up. The Commission continues to conduct extensive voter education campaigns in partnership with civil society organizations.

6. Stakeholder engagement

The Commission has been able to successfully engage various stakeholders that have made reasonable contribution towards the enhancement of electoral governance and democracy.

7. Electoral legal reforms

In line with its legal reform agenda, the Commission has been at the fore of initiating electoral legal reform and realized a number of reforms that have enhanced efficiency in the electoral process.

ii) Challenges faced, including legal, operational, financial or political

1. Trust Deficit and High Turnover of Commissioners and staff

There has been a trend of incessant demand for disbandment of the Electoral Management Body (EMB) and/or its leadership (Commissioners) following disputed elections, instead of identifying the real issues affecting the management of elections in Kenya.

2. Highly Ethicized and Divisive Politics

In Kenya, the combination of highly competitive elections and negative ethnicity always leads to divisive elections which often results into political tensions. As a consequence, enormous political pressure bears on the Electoral Management Body replete with ethnic profiling of Commission staff during elections.

3. Incessant Litigation

During the election season, numerous cases some trivial are filed in courts thereby delaying Commission processes and operations taking into account the strict nature of electoral timelines.

4. Delivery of Judgments too close to the elections

Further to the incessant litigation, there are instances in which judgments are delivered too close to the elections. An instance is on 8th August, 2022, in which on the eve of the 2022 General Election, the Court rendered a ruling on the use of the manual Register of Voters. Such judgments and Court pronouncements have the effect of throwing the Commission and indeed the electoral space into disarray.

5. Late Enactment of Electoral Laws

The persistent late enactment or amendment of electoral laws too close to elections undermines planning and implementation of electoral activities within the set electoral timelines. This tendency upsets the recommendations of the Kriegler Commission that legal reforms ought to be undertaken at least two (2) years to the General Election.

6. Conflict of Laws

For instance, section 26 of the County Governments Act outlines;

(1) There shall be not more than one thousand four hundred and fifty electoral Wards for purposes of the election of county assembly members.

(2) For purposes of the first general elections under the Constitution, the Independent Electoral and Boundaries Commission (in this Part referred to as the "Commission") shall ensure that each county comprises at least fifteen Wards.

*(3) The Commission shall review the names and boundaries of Wards at intervals of not less than eight years, and not more than twelve years, but any review shall—
(a) ensure that no county shall comprise less than twenty-five Wards; and (b) be completed at least twelve months before a general election of county assembly members.*

The said section is **contrary to Article 89(3)** of the Constitution of Kenya, 2010 which clearly confers upon the Commission the power to review the number, names and boundaries of wards periodically. The legislation cannot therefore purport to usurp powers clearly ordained by the Constitution.

7. Challenge of Public Participation

The Commission has suffered the misfortune of the election regulations being declared unconstitutional by the Court on account of lack of Public Participation. However, there is no sufficient legal framework on public participation as well as inadequacy of resources for the Commission to conduct effective public participation. We nonetheless reckon that the Public Participation Bill has been introduced in Parliament and is going through the motions of legislation.

8. Inadequate and Untimely Disbursement of Funding

The Commission is often underfunded. The decision to allocate budget and release exchequer to IEBC is at the discretion of the National Treasury which negatively impacts the independence of the Commission. Funding is usually provided during the election year but is also necessary in subsequent phases.

9. Erosion of Commission's Independence through Political Interference

The Constitution of Kenya, 2010 in Article 88 as read together with Article 249 (2)(b) lays great emphasis on the independence of the Commission, both in decision making as well as operations. Despite these clear legal provisions, politicians and political parties often attempt to undermine the independence of the Commission during elections.

10. Profiling, abduction and harassment of Commission staff

During the election season, staff and Commissioners of IEBC are usually subjected to ethnic profiling making them insecure and susceptible to attacks.

7. Recommendations to Parliament (CIOC)

i) Proposed legislative, policy or administrative reforms to strengthen the electoral system

The Commission has identified gaps in the electoral legal framework and generated a raft of proposals carried in the following statutory bills and their accompanying statutory instruments;

1. The Elections (Amendment) Bill, 2022
2. Rules of Procedure for Settlement of Disputes;
3. Draft Election Campaign Financing (Amendment) Bill, 2020;
4. Draft Election Campaign Financing Regulations, 2020;
5. Draft Referendum Bill, 2020;
6. Draft Referendum Regulations, 2020
7. Rules of Procedure on delimitation of Boundaries, 2021.
8. Election (Voter Registration) (Amendment) Regulations, 2022;
9. Election (General) (Amendment) Regulations, 2022;
10. Election (Voter Education) (Amendment) Regulations, 2022;
11. Elections (Party Primaries and Party Lists) (Amendment) Regulations, 2022 and
12. Elections (Technology) (Amendment) Regulations, 2022.

The Commission has also made its comments and submissions on the following bills before Parliament;

1. The County Governments Election Laws (Amendment) Bill, 2024 (Senate Bills No. 2 of 2024);
2. The Political Parties (Amendment) (No. 2) Bill, 2024 (Senate Bills No. 26 of 2024);
3. The Election Offences (Amendment) (No. 2) Bill, 2024 (Senate Bills No. 28 of 2024) and
4. The Elections (Amendment) (No. 2) Bill, 2024 (Senate Bills No. 29 of 2024).

ii) Recommendations on capacity building, technology and institutional reforms

The Commission has made legislative proposals referenced in (i) above in the Elections Act, Cap 7 and the Election Technology Regulations, 2017 on election technology to ensure accuracy, verifiability, security and transparency of the electoral system. There are also proposals in the drafts referenced on institutional reforms.

The Commission also continues to build the capacity of its staff, election officials and other relevant stakeholders.

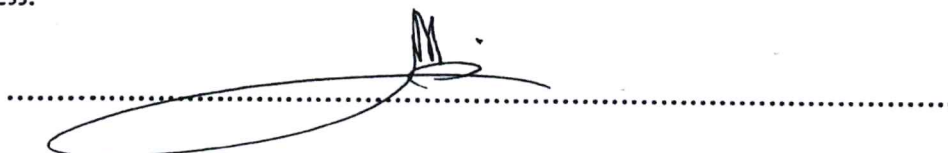
iii) **Suggestions for long term strategies to safeguard electoral democracy**

1. Strengthening the independence of the Commission by operationalization of the IEBC Fund and ensuring timely and transparent appointment of Commissioners and staff that is free from political influence.
2. Regular review and harmonization of electoral laws to address the gaps and challenges in the electoral system.
3. Continuous and structured voter education throughout the election cycle to promote the understanding of citizens of their political rights and importance of voting and taking part in electoral processes. This also helps in promoting confidence in the Commission in discharging its mandate.
4. Enhanced Stakeholder Engagement with Parliament, Political Parties, Civil Society, Media, Judiciary, Security Organs and all relevant institutions to cover all aspects of electoral democracy.
5. Strengthening internal democracy within political parties by ensuring enforcement and strict adherence to the law in party processes including nominations, member education, internal independent dispute resolution mechanisms and the inclusion and consideration of the youth, women and marginalized groups.

CONCLUSION

The Commission appreciates the invite and opportunity to appear before you to discuss matters central to the realization of electoral democracy in our country.

God bless.



MARJAN HUSSEIN MARJAN, MBS
COMMISSION SECRETARY/CEO

Table 3. Budget details

S.No	Activity	General Elections - 2027 Funding Requirements - Kshs				General Elections - 2027 Revised Funding Requirements - Kshs				General Elections - 2025/6 Funding - Kshs	
		2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	Unfunded
1	Recruitment/ Transfer and Team Building	26,850,000	-	182,560,000	209,410,000	38,030,000	200,778,000	92,100,000	330,908,000	19,187,753	18,842,247
2	Staff Welfare	-	-	-	-	83,580,000	84,710,000	91,833,000	260,123,000	40,807,244	42,772,756
3	Maintenance of Motor Vehicle	104,000,000	176,000,000	212,000,000	492,000,000	37,880,000	121,000,000	168,280,000	327,160,000	13,511,854	24,368,146
4	Purchase of Motor Vehicle	-	408,000,000	890,000,000	1,298,000,000	-	241,945,400	-	241,945,400	-	-
5	Media Campaign	-	-	1,050,000,000	1,050,000,000	75,300,000	1,324,098,000	77,000,000	1,476,398,000	43,040,000	32,260,000
6	National Elections Conference (NEC)	-	-	732,000,000	732,000,000	-	49,230,000	-	49,230,000	-	-
7	Bulk SMS	150,000,000	100,000,000	200,000,000	450,000,000	-	-	-	-	-	-
8	Stakeholder Engagements	1,482,745,690	154,565,000	1,517,077,940	3,154,388,630	904,741,390	1,452,450,740	142,297,200	2,499,489,330	450,555,500	454,185,890
9	Legal Petitions	86,400,000	386,400,000	580,800,000	1,053,600,000	49,546,000	355,288,000	3,500,000	408,334,000	32,500,000	17,046,000
10	Legal Reforms	195,165,000	133,390,000	4,223,000	332,778,000	166,685,000	50,600,000	835,942,000	1,053,227,000	56,691,626	109,993,374
11	Elections Disputes Resolution - EDR	7,550,000	441,750,000	111,577,000	560,877,000	-	53,795,000	124,072,000	177,867,000	-	-

S.No	Activity	General Elections - 2027 Funding Requirements - Kshs				General Elections - 2027 Revised Funding Requirements - Kshs				General Elections - 2025/6 Funding - Kshs	
		2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	Unfunded
12	Data Protection	28,760,000	106,490,000	203,408,000	338,658,000	-	-	-	-	-	-
13	Corruption Prevention Protection	-	34,870,000	39,233,000	74,103,000	-	-	-	-	-	-
14	ESAP & Risk Registration	103,580,000	919,648,000	27,881,500	1,051,109,500	73,261,500	328,622,000	24,227,500	426,111,000	2,508,679	70,752,821
15	Boundaries – GPS	-	60,572,000	-	60,572,000	-	32,763,100	-	32,763,100	-	-
16	Research & PEE	86,658,600	39,250,000	137,600,000	263,508,600	68,892,500	28,350,000	135,390,000	232,632,500	51,173,697	17,718,803
17	Disposal /Tendering Process	76,260,000	102,596,000	56,291,000	235,147,000	69,155,600	76,787,600	52,405,000	198,348,200	22,273,851	46,881,749
18	CVR/VV	3,365,568,330	3,633,777,914	-	6,999,346,244	2,964,306,915	5,041,087,050	-	8,005,393,965	2,337,262,924	627,043,991
19	Election Materials	-	3,609,442,130	-	3,609,442,130	-	3,576,615,580	-	3,576,615,580	-	-
20	Ballot Papers	-	5,962,263,720	-	5,962,263,720	-	5,962,263,720	-	5,962,263,720	-	-
21	Training	66,256,000	318,357,370	2,343,045,870	2,727,659,240	55,151,500	129,661,000	2,867,102,320	3,051,914,820	40,889,900	14,261,600
22	Meals/	-	243,406,108	939,289,600	1,182,695,708	-	-	1,161,182,000	1,161,182,000	-	-
23	Tallying Centres	-	-	201,585,000	201,585,000	-	389,159,750	361,472,750	750,632,500	-	-
24	Nominations	-	488,111,200	-	488,111,200	-	426,585,200	-	426,585,200	-	-
25	Transport	-	457,407,840	3,360,309,940	3,817,717,780	118,640,000	935,458,400	3,083,251,520	4,137,349,920	-	118,640,000
26	Wages	1,002,621,975	6,740,806,615	7,849,799,063	15,593,227,653	-	-	9,822,831,910	9,822,831,910	-	-

S.No	Activity	General Elections - 2027 Funding Requirements - Kshs				General Elections - 2027 Revised Funding Requirements - Kshs				General Elections - 2025/6 Funding - Kshs	
		2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	2026/27	2027/28	Total Budget Requirement	2025/26	Unfunded
27	Electoral Activities (Diaspora, Airtime Security Financial Services etc)	-	-	-	-	40,565,000	571,324,000	1,001,135,300	1,613,024,300	-	40,565,000
28	KIEMS Replacement	6,792,621,500	243,732,000	-	7,036,353,500	3,283,952,160	4,124,466,311	281,887,500	7,690,305,971	749,870,347	2,534,081,813
29	Upgrade/Maintenance of Systems	1,747,659,548	515,915,350	301,500,000	2,565,074,898	978,719,021	1,138,287,921	290,517,848	2,407,524,790	871,295,644.00	107,423,377
30	Simulation	25,381,300	105,842,940	66,199,152	197,423,392	-	932,984,023	125,022,360	1,058,006,383		-
	Total	15,348,077,943	25,382,594,187	21,006,380,065	61,737,052,195	9,008,406,586	27,628,310,795	20,741,450,208	57,378,167,589	4,731,569,019	4,276,837,567



OFFICE OF THE DATA PROTECTION COMMISSIONER

When replying please quote
Ref: ODPC/ADM/CON/30

Britam Towers
P.O. Box 30920 - 00100
NAIROBI

Email: info@odpc.go.ke

6th October, 2025

Mr. Samuel Njoroge
Clerk of The National Assembly
Main Parliament Buildings
P.O. 41842-00100
NAIROBI

Dear *Clerk,*

**RE: MEETING WITH THE CONSTITUTIONAL IMPLEMENTATION
OVERSIGHT COMMITTEE.**

Reference is made to the letter received from the Clerk of the National Assembly, Ref No. NA/DAA&GPC/CIOC/2025/18 dated 10th September, 2025. This response provides clarifications sought on the various aspects raised in the letter on the role of data protection in safeguarding the integrity of elections and protecting the constitutional right to privacy under Article 31 of the Constitution and the Data Protection Act, 2019 (the Act).

1.0 Regulatory oversight of the Independent Electoral and Elections Commission (IEBC), registered political parties, and third-party service providers (including contractors, data processors, technology vendors, and analytic firms) that handle voters' or citizens' personal data in the context of elections and related civic processes.

All data controllers and data processors who process personal data for electoral purposes are subject to mandatory requirements and compliance obligations as provided under the Act and the attendant Regulations. These include but are not limited to: registration as either data controllers and data processors, or both, with the Office of the Data Protection Commissioner (the Office); and implementing data

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protection principles in an effective manner, and integrating appropriate technical and organisational measures to ensure data security.

1.1. Registration with the Office

Section 18(1) of the Act provides that no individual or entity shall operate as a data controller or data processor without registering with the Office. The Third Schedule of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 further lists entities that process personal data for electoral purposes as part of the entities subject to mandatory registration.

In line with this provision, the Office issued a letter Ref. No. ODPC/DPC/10(8) dated 9th June 2025 to the Office of the Registrar of Political Parties (ORPP), requesting that the ORPP communicates the obligation to register with the Office as either data controllers, data processors or both to all registered political parties and independent candidates (**Annex 1**). The Office is subsequently reviewing twenty-one (21) applications for registration, in addition to the seven (7) already registered political parties.

The Office is currently reviewing IEBC's application for registration as both a data controller and data processor.

1.2. Audits and assessments

In the Financial Year 2024/2025, the Office conducted an audit of the ORPP to assess data protection compliance, in its operations. The resulting Audit Report identified gaps that required corrective action to strengthen its data protection compliance.

The Office has also scheduled a compliance audit of the processes and systems of the Independent Electoral and Boundaries Commission (IEBC) in the second quarter of the Financial Year 2025/2026, to assess the Commission's adherence to the requirements of the Act.

Additionally, the seven (7) political parties registered with the Office will be assessed to ascertain whether the personal data they process is handled in accordance with the provisions of the Act. The Office further advises all the registered political parties to

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consider engaging the Office's prequalified accredited data protection auditors, to conduct data protection compliance.

1.3. Data Processing Agreements (third party engagements)

Regulation 24 of the General Regulations requires on data controllers such as IEBC and political parties who engage data processors or third-parties in the carrying out of any processing operation to ensure that enter into data processing agreements, outlining the processing details, the subject matter of the processing, the duration of the processing, the nature and the purpose of processing, the type of personal data being processed, and the obligations and rights of the data controller.

The Office shall be in a position to establish IEBC's compliance with this provision during the scheduled data protection audit.

1.4. Data Sharing Agreements

Section 25 of the Act, provides that entities may share or exchange personal data collected, upon request, by another data controller, data processor, third party or a data subject. However, it's the obligation of the data controller or processor to determine the purpose and means of sharing personal data, enter into data-sharing agreements and ensure that requests for sharing data are in writing specifying the purpose, duration and safeguards in place prior to sharing.

The Office shall be in a position to establish IEBC's compliance with this provision during the scheduled data protection audit.

2.0 Complaints Management-number and nature of complaints received (by category and period), determinations made and any trends observed.

The Office has received a total of 8226 and of this 7947 has been resolved and 279 is being processed, translating to 97% resolution rate. The majority of the complaints are from Digital Lender (68%), Individuals (6%), Private Companies (6%), Financial Institutions (4%), Telecommunications Companies (2%), and Government Institutions (1%).

The Office has also received one hundred and fifty-four (154) Complaints in 2021, eleven (11) in 2022 and one (1) in 2024 about the various political parties and ORPP. The nature of the complaints entailed improper registration to a political party and requesting for them to be deregistered. The Office directed the complainants to exercise their right of rectification with the ORPP. On the trends, the Office notes that majority of the complaints were prior to the elections of 2022 and that after ORPP made provisions for the data subjects to be able to check, verify and amend their registration details, no complaints have been filed with the Office.

3.0 Investigations and audits undertaken, key findings, compliance gaps and any risk assessments conducted

The Office has received a total of 8226 and of this 7947 has been resolved and 279 is being processed, translating to 97% resolution rate. To this end, one hundred and fifty-four (155) complaints relate to the various political parties and ORPP, involving requests for deregistration due to improper registration to political parties. The Office further directed the complainants to exercise their right of rectification under the Act with the ORPP.

On the other hand, the Office conducted data protection compliance audits on forty-six (46) data handlers, comprising thirty-one (31) public entities and fifteen (15) private entities, in the previous financial year (2024/25). ORPP was among these public entities.

Most of the entities were found to be partially compliant on most of the key audit areas including the Record of Processing activities (ROPA), assessment of legal bases, enabling data subjects to exercise their data subject rights inclusion of data protection clauses in their data sharing and data processing agreements and employee training and awareness.

4.0 Enforcement measures taken (warnings, enforcement notices, administrative fines/penalties, compliance orders) including status of implementation and any appeals or reviews

The Office has, to date issued 305 determinations, 129 enforcement notices, 20 penalty notices, 178 compensation orders, 21 referrals for prosecution and settled 74 complaints through Alternative Dispute Resolution (ADR).

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The Office has not received any complaints involving political parties, warranting any enforcement measures, after the intervention of ORPP.

5.0 Electoral data breaches notifications and incident response: reported breaches, timelines of notification, remedial measures directed and residual risks

Notification and communication of personal data breaches is one of the key compliance obligations of data controllers and data processors. The Act specifically requires entities processing electoral data to notify the Data Commissioner of a breach without undue delay, and in any event, within seventy-two (72) hours of becoming aware of it.

In addition, the controller must also communicate the breach to the affected data subject in writing within a reasonably practicable period, where the breach is likely to result in high risk to their rights and freedoms, unless the identity of the data subject cannot be established.

The Office has not received any breach notifications from the Independent Electoral and Boundaries Commission (IEBC) or any other electoral stakeholders, as of the date of this response.

6.0 Public awareness and guidance: Outreach initiatives, advisories/guidance issued to election stakeholders, and capacity-building activities

The Office has published a Guidance Note on the Processing of Personal Data for Electoral Purposes, which is available on the official website (**Annex 2**). This Guidance Note is intended to support compliance by election stakeholders by providing clarity on their obligations under the Data Protection Act, 2019, particularly in relation to the lawful, fair, and transparent processing of voters' and other electoral related personal data. The Office has additionally conducted capacity building sessions for two hundred and twenty-nine (229) ORPP staff.

6.0 Cross-border data flows and third country hosting relating to electoral data and any safeguards applied (e.g adequacy, appropriate safeguards, contractual clauses)

Sections 48 and 49 of the Act, outlines the conditions for the transfer of personal data out of Kenya. These conditions include the transfer as a necessity, consent of the data subject or transfer based on appropriate safeguards. IEBC is subject to the data localization requirements under Section 50 of the Act and Regulation 26 of the Data Protection (General) Regulations.

The Office is currently pursuing adequacy decision with the European Union (EU), which will facilitate ease of cross-border data flows between Kenya and EU members states. The Office is additionally working on developing Standard Contractual Clauses (SCC) and Binding Corporate Rules (CBRs) to streamline the requirements for cross-border data flows.

The Office will assess compliance with these initiatives through the scheduled audit at IEBC.

7.0 Challenges In Overseeing Electoral Data Processing

7.1 Legal, Policy & Institutional Challenges

- a) While the ODPC has issued a Guidance Note on Processing of Personal Data for Electoral Purposes, the same needs to be updated to align with developments in election laws, and election and campaign technologies in order to address specific data protection implications of these new laws and technologies; and
- b) Lack of Mutual Legal Assistance (MLA) in enforcement and monitoring data protection compliance within different jurisdictions.

7.2 Technical Challenges

- a) Use of sophisticated digital tools: Microtargeting, digital canvassing, data analytics, and social media platforms make it difficult to regulate the processing

of personal data. ODPC lacks the necessary tools to audit such complex systems, including real time monitoring and detection tools; and

- b) Balancing the right to access information with data protection principles, such as data minimization due to data base sharing leading to repurposing of personal data.

7.3 Resource Challenges

- a) Capacity gaps: Limited staff and tools within the Office to match the surge of electoral related compliance needs during the election period;
- b) Financial constraints: Election periods require surge capacity for purposes of awareness creation, monitoring, investigations and enforcement. However, resources are static and subject to treasury allocation.
- c) Public awareness gaps: Citizens often do not know how to exercise their rights against misuse of electoral data.

8.0 Lessons Learnt

1. Early engagement: Proactive advisories and stakeholder sensitization ahead of elections.
2. Inter-agency collaboration: It is important to build multi-stakeholder collaboration with IEBC, ORPP, political parties, CAK, and law enforcement to help bridge institutional silos and to maintain the integrity of the elections.
3. Emphasis on transparency and accountability of personal data: The electorate must see both the regulator and electoral actors as being accountable in handling their data.

9.0 Recommendations

To strengthen electoral personal data protection, the ODPC makes the following recommendations –

1. Legislative interventions

- a) The IEBC aligns the election laws with the Data Protection Act, per the consequential amendments under the Second Schedule of the Act.

- b) Incorporating MLA provisions across various data protection authorities and legislation.

2. Policy interventions

- a) ODPC updates the existing guidance notes on electoral personal data processing by providing tailored guidance on processing and management of voter registers, political advertising, and microtargeting to strengthen regulatory action in the context of emerging technologies.
- b) ODPC operationalizes the Data Sharing Code to provide guidance and promote good practice on the sharing of personal data between government departments and public sector agencies.
- c) ODPC, IEBC and all electoral stakeholders facilitate inter-agency collaboration frameworks to ensure transparency, minimize risks to data subjects and enable joint action and interventions where necessary.
- d) ODPC ensures that electoral data controllers and data processors to fully implement data localization requirements.

3. Administrative interventions

- a) ODPC to mobilize electoral sector players to register with the ODPC to facilitate oversight over their processing operations and mandate compliance with principles such as lawfulness, fairness, transparency, purpose limitation, data minimization, and security;
- b) The National Assembly and the National Treasury to facilitate resource mobilization ahead of elections, particularly special budgetary allocations for effective oversight;
- c) ODPC to facilitate capacity building before the election season, including specialized trainings and setting up internal ad hoc structures to handle election-specific matters.
- d) ODPC to facilitate investment in technical capacity, including building digital forensic, audit and monitoring tools is key to ensure any non-compliance with the Act is addressed in a timely manner.

- e) IEBC and other electoral stakeholders designate Data Protection Officers (DPOs) or Data Protection Committees as part of embracing self-regulation;
- f) IEBC and other electoral stakeholders develop and implement data protection policies;
- g) Implement targeted awareness programs to ensure citizens are aware of their rights and redress mechanisms, and electoral actors are aware of their obligations under the Act.

Yours

Immaculate Kassait, MBS
DATA COMMISSIONER

Copy to: Eng. John Tanui, CBS
Principal Secretary
State Department for ICT and Digital Economy
Ministry of Information, Communication and the Digital Economy
NAIROBI



ANNEX 1



OFFICE OF THE DATA PROTECTION COMMISSIONER

**When replying please quote
Ref: ODPC/DPC/10 (8)**

Britam Towers
P.O. Box 30920 - 00100
NAIROBI

Email: registration@odpc.go.ke

9th June, 2025

Ann N. Nderitu, CBS
Office of the Registrar of Political Parties
Lion Place, 1st, 2nd & 4th Floors
Karuna Close, Waiyaki Way
Westlands
NAIROBI

By email:
info@orpp.or.ke

Dear *Registrar,*

RE: STATUS OF DATA PROTECTION COMPLIANCE BY POLITICAL PARTIES AND INDEPENDENT CANDIDATES

The Office of the Data Protection Commissioner (the "ODPC") is a regulatory office established according to the Data Protection Act ("the Act"). The Office has the mandate of regulating the processing of personal data; ensuring that the processing of personal data is carried out in line with the principles outlined in section 25 of the Act; protecting the privacy of individuals; establishing both legal and institutional mechanisms to protect personal data and providing data subject with rights and remedies to protect personal data from processing that is not carried out in line with the Act.

Section 18 of the Act, and the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 (the "Regulations"), place a statutory obligation on entities that process personal data to register with ODPC. Specifically, the Third Schedule to the Regulations identifies "**canvassing political support among the electorate**" as a purpose of personal data processing that is subject to **mandatory** registration. Accordingly, entities regulated by your Office, namely political parties and independent candidates, fall within this category and are therefore required to register with ODPC as data controllers and data processors.

To this end, ODPC wishes to provide an update on the current status of data protection registration compliance within the political sector. As of the date of this letter, only two (2) political parties had registered with ODPC. This is against a total of ninety-one (91) and seven (7) political parties that your Office has fully and provisionally registered, respectively. The two parties are;

- United Democratic Alliance (UDA) Party – registered as a Data Processor, and
- Universal Unity Party (UUP) – registered as a Data Controller.

With the country approaching the electioneering period, the processing of personal data by political stakeholders is expected to intensify. It is therefore imperative that such processing be conducted in full compliance with the provisions of the Act and the Regulations. Registration as data controllers and processors is a foundational step toward achieving this compliance.

In view of the above, and in light of the long-standing collaboration between our two Offices, we kindly request your support in the following:

1. Note that political parties and independent candidates qualify to register as both data controllers and data processors under the Act;
2. Notify all registered political parties and independent candidates of their legal obligation to register with ODPC; and
3. Expand the due diligence mechanisms applied to political parties and independent candidates to include verification of their compliance with data protection requirements.

We appreciate your continued partnership and look forward to your support in ensuring that personal data processing in the political domain aligns with the national data protection legal framework.

Thank you for your continued support and collaboration.

Yours *Sincerely,*



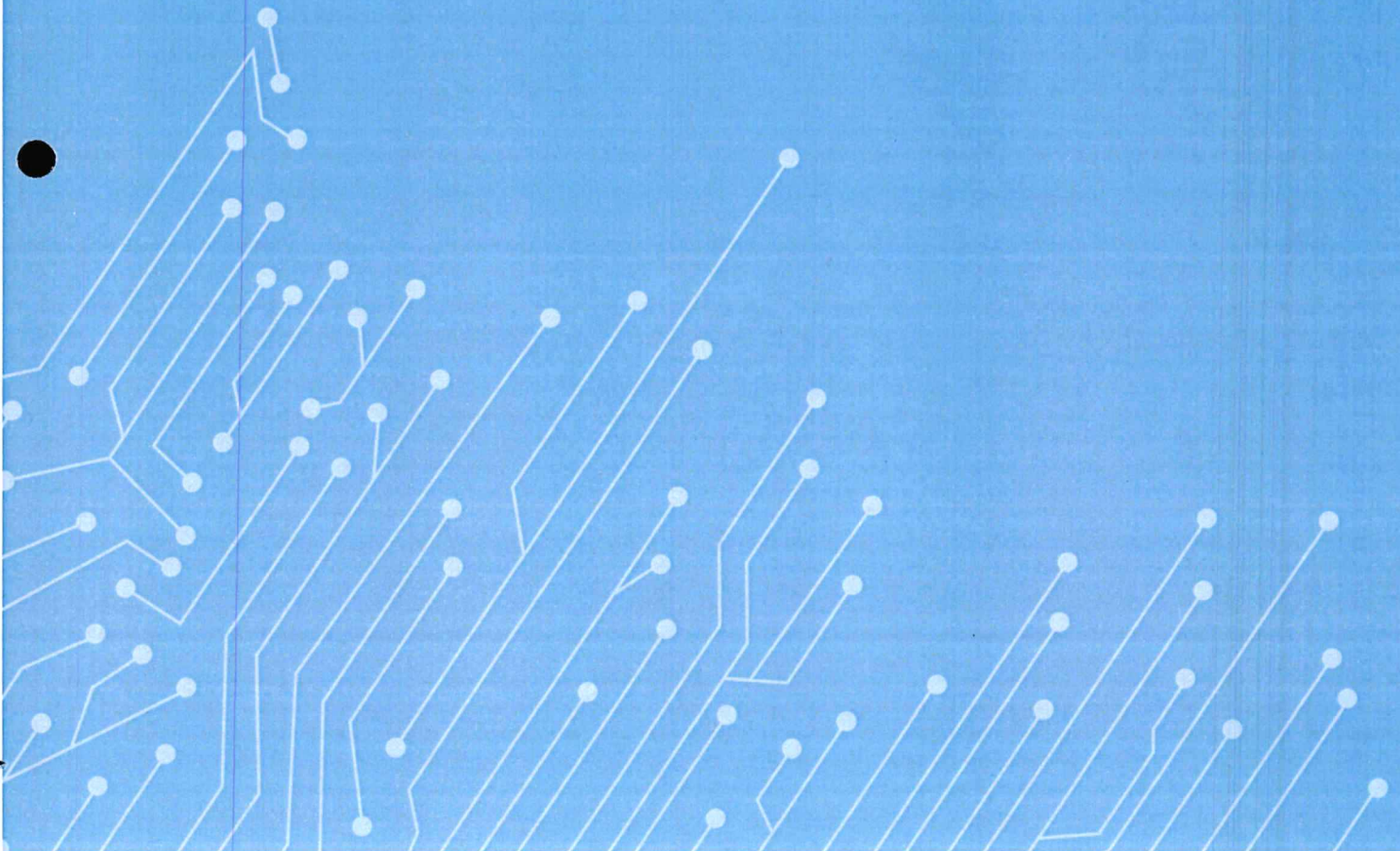
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DATA COMMISSIONER

ANNEX 2



**OFFICE OF THE DATA PROTECTION
COMMISSIONER**

GUIDANCE NOTES FOR ELECTORAL PURPOSES



DEFINITIONS

"Act" means the Data Protection Act, No 24. of 2019.

"Commission" means the Independent Electoral and Boundaries Commission as established in Article 88 of the Constitution of Kenya, 2010.

"Consent" means any manifestation of express, unequivocal, free, specific and informed indication of the data subject's wishes by a statement or by a clear affirmative action, signifying agreement to the processing of personal data relating to the data subject.

"Constitution" means the Constitution of Kenya, 2010.

"Data Commissioner" means the person appointed pursuant to section 6 of the Act.

"Data Controller" means a natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purpose and means of processing of personal data.

"Data Processor" means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the data controller.

"Data Subject" means an identified or identifiable natural person who is the subject of personal data.

"Election" means the act of selecting a vote of a person or persons from among a number of candidates to fill an office or to a membership of any political party and includes a presidential, parliamentary or county election.

"Member" means a registered member of a political party as required under the Political Parties Act No. 11 of 2011.

"Member register" means a list of the names, addresses and identification particulars of members of a political party as required under Section 7(2)(f)(i) of the Political Parties Act No. 11 of 2011.

"Office" means the Office of the Data Protection Commissioner as established in section 5 of the Act.

"Office of the Registrar of Political Parties" means the Office of the Registrar whose bearer is the Registrar of Political Parties as established in Section 33 of the Political Parties Act No. 11 of 2011.

"Personal Data" means any information relating to an identified or identifiable natural person.

"Governance Organisation" means all stakeholders and entities involved in elections and the collection of voter data including the Office of the Registrar of Political Parties, Political Parties, Civil Society Organisations, volunteers, observers.

"Political Party" means an association contemplated in Part 3 of Chapter Seven of the Constitution.

"Processing" means any operation or sets of operations which is performed on personal data or on sets of personal data whether or not by automated means, such as:

- (a) collection, recording, organisation, structuring;
- (b) storage, adaptation or alteration;
- (c) retrieval, consultation or use;
- (d) disclosure by transmission, dissemination, or otherwise making available; or
- (e) alignment or combination, restriction, erasure or destruction.

"Register of Voters" means a current register of persons entitled to vote at an election prepared in accordance with [section 3](#) of the Elections Act No 24 of 2011 and includes a register that is compiled electronically (Section 2 Elections Act No 21 of 2011).

"Registrar" means the Registrar of political parties appointed under [section 33](#) of the Political Parties Act No. 11 of 2011.

"Sensitive Personal Data" means data revealing the natural person's race, health status, ethnic social origin, conscience, belief, genetic data, biometric data, property details, marital status, family details including names of the person's children, parents, spouse or spouses, sex or the sexual orientation of the data subject.

"Voter" means a person whose name is included in a current register of voters (section 2 Elections Act No 24 of 2011).

1. INTRODUCTION

The Office of the Data Protection Commissioner (herein referred to as 'the Office' or 'ODPC') is a State Office in accordance with Article 260 (q) of the Constitution. The Office was established under Section 5(1) of the Data Protection Act No. 24 of 2019 (herein referred to as 'the Act'). The Act was introduced to give effect to Article 31(c) and (d) of the Constitution.

2. MANDATE OF THE OFFICE

The mandate of the Office of the Data Protection Commissioner derived from the Act and includes, *inter alia*:

- (a) regulate the processing of personal data;
- (b) ensure that the processing of personal data of a data subject is guided by the principles set out in section 25 of the Act;
- (c) protect the right to privacy of individuals resident in Kenya;
- (d) establish the legal and institutional mechanism to protect personal data; and
- (e) provide data subjects with rights and remedies to protect their personal data from processing that is not in accordance with the Act.

3. VISION

To enhance public trust and be an effective personal data protection regulator.

4. MISSION

Safeguarding data protection rights through provision of oversight, public awareness and promotion of self-regulation.

5. CORE VALUES

- (a) To uphold Values of Public Service as set out in Article 10, and in Chapter Six of our Constitution;
- (b) To act lawfully consistent with our Constitution, and within duties and responsibilities set out in the Data Protection Act 2019;
- (c) Be consultative in style, transparent and responsive to all stakeholders;
- (d) To observe the highest standards of impartiality, integrity and objectivity in leading data processing business while maintaining its independence at all times;
- (e) To cause to have in place effective systems of internal controls for effective economical and proper performance of the functions of the Office.

6. OVERVIEW

The Data Protection Act, 2019 ("the Act") and Data Protection and Privacy Policy 2019 espouses the seven data protection principles, namely:

- (i) Lawfulness, fairness and transparency - All personal data needs to be processed fairly and lawfully, and in a way that is completely transparent. Simply put, an entity is responsible for informing data subjects (natural persons) that they intend to collect data, how the data will be used and whether the data is to be passed on/disclosed to a third party and who the said third party is.
- (ii) Purpose limitation - Data collection must be for a reason that is lawful and transparent, it must not be processed in a way that is at odds with the original purpose.
- (iii) Data minimisation – Entities which collect data must make sure that the information collected is not excessive, given the purpose of collection. Therefore, the personal data should be adequate, relevant and not excessive.
- (iv) Accuracy – Entities collecting data are required to ensure that information held is up-to-date and accurate, which requires a regular review of data held for the purpose of amending any out dated or inaccurate information. Individuals have the right to have inaccurate data about them erased.
- (v) Storage Limitation – Data relating to a data subject must be deleted or anonymised once it has served its purpose, subject to the entity having any other grounds for retaining the information.
- (vi) Integrity and confidentiality- Entities collecting or processing data have a responsibility to ensure that reasonable steps have been taken to implement security safeguards. This includes ascertaining the integrity of all employees authorised to access an individual's personal information,
- (vii) Accountability – Entities collecting and/or processing data must ensure that their practices are compliant with the other principles.

Engagement and communication with voters is crucial for any democratic society. There are a number of legislative frameworks that detail the requirements and importance of registering voters for the , electoral processes, including the maintenance of registers of voters, voter identification, results transmission and maintaining party membership registers. Electoral laws, which include Elections Act, Independent Electoral and Boundaries Commission Act, Political Parties Act and other subsidiary regulations, permit the processing of personal data (including name, address and polling station) and, in the case of the Commission, biometric data (sensitive personal data) which is contained on the Register of Voters or political party member registers for electoral purposes. The various entities permitted to collect personal data in accordance with the aforementioned electoral laws include the Independent Electoral and Boundaries Commission, Office of the Registrar of Political Parties and the various registered Political Parties. Additionally, electoral laws mandate the Commission to make the Register of Voters available to the public for inspection, and use voter identification during elections. Similarly, the Office of the Registrar of parties is required under the Political Parties Act to

The rights afforded by the Data Protection Act are not absolute in nature and are recognised as such in the Act. Therefore, public interest in ensuring the effective operation of a democratic society must be balanced with a data subject's right to data protection. Further, there is a right to recognise that an individual's rights may be limited or restricted by certain legislative provisions or other overarching interests in statute. The Act recognises these exemptions or restrictions, as they apply to processing of personal data.

7. SCOPE AND PURPOSE OF THIS GUIDANCE NOTE

The Constitution of Kenya in Article 31 provides that "*Every person has the right to privacy, which includes the right not to have—*

- (c) information relating to their family or private affairs unnecessarily required or revealed;*
- or*
- (d) the privacy of their communications infringed."*

A number of international instruments such as the International Covenant on Civil and Political Rights also give universal recognition to the importance of safeguarding the right to privacy. The Act provides a legislative framework that promotes the protection of the right to privacy.

It is key, for the integrity of elections and democracy, that all organizations and institutions involved in electoral processes including; voter registration, inspection of the Register of Voters, recruitment of members by political parties and political campaigning, process personal data and/or sensitive personal data, as the case may be, in a manner that is compliance with the Data Protection Act. The Act is the overarching law on the right to privacy and data protection in Kenya and, therefore, applies to all entities and persons processing any personal data of persons resident in Kenya.

Therefore, Data Protection Legislation is applicable to all stakeholders engaged in the election process including, but not limited to the Commission; and Political Parties, the Office of the Registrar of Political Parties, Civil Society organisation, Faith based organisation, observers and volunteer (hereafter collectively referred to as "**governance organisations**"). All governance organisations and the Commission should process personal data lawfully, fairly, only for specified legitimate purposes. The data processing shall be proportionate in relation to the legitimate purpose pursued and reflect at all stages of the processing a fair balance between all interests concerned, and the rights and freedoms of data subjects.

This Guidance Note was developed to assist data controllers and data processors dealing with voters personal data, including sensitive personal data, members of political parties personal data to understand their obligations under the Act. This Guidance Note applies solely to the processing of personal data on voters (or potential voters) and the processing of personal data for the purposes of creation and maintenance of member registers. This Guidance Note takes account of:

- The Act; and
- The Data Protection and Privacy Policy; and

- International best practice.

8. LAWFUL BASIS

The Act provides for eight lawful bases for processing personal data. Section 30 of the Act requires that personal data shall only be processed if at least one of eight legal grounds listed in that Section apply. In particular, personal data shall only be processed (a) based on the data subject consents to the processing for one or more specified purposes; or if the processing is necessary —

- (b) for the performance of a contract to which the data subject is a party or in order to take steps at the request of the data subject before entering into a contract;
- (c) for compliance with any legal obligation to which the controller is subject;
- (d) in order to protect the vital interests of the data subject or another natural person;
- (e) for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
- (f) the performance of any task carried out by a public authority;
- (g) for the exercise, by any person in the public interest, of any other functions of a public nature;
- (h) for the legitimate interests pursued by the data controller or data processor by a third party to whom the data is disclosed, except if the processing is unwarranted in any particular case having regard to the harm and prejudice to the rights and freedoms or legitimate interests of the data subject; or
- (i) for the purpose of historical, statistical, journalistic, literature and art or scientific research.

Broadly, the collection of data for fulfilment of mandates and obligations enumerated in the electoral laws that relate to voter's and member personal data include:

1. Legal obligation:

This lawful basis would arise where a data controller or data processor is obliged to process personal data so as to comply with an existing law, including any obligation under common law.

Governance organisations and the Commission should be able to identify the obligation in question, either by reference to the specific legal provision or else by pointing to an appropriate source of advice or guidance that sets it out clearly. A Governance organisation or the Commission will then have the onus to ensure that the overall purpose of the processing must be to comply with a legal obligation which has a sufficiently clear basis in either common law or statute.

2. Public task:

This lawful basis covers mandates of public institutions that are set out in legislations, including subsidiary legislation, in Kenya. This lawful basis also covers the performance of specific functions and powers as provided for and set out in Kenyan legislation. For

example: Section 4 of the Elections Act No. 24 of 2011 sets out a requirement for the Independent Electoral and Boundaries Commission ("Commission") to compile and maintain the Register of Voters , which is to contain "*such information as the Commission shall prescribe*".

The processing of personal data by the Commission is likely to fall under the 'lawful basis' that it is 'necessary for the performance of a task carried out in the public interest or in the exercise of the official authority vested in the controller' pursuant to the electoral laws. The Commission has an overall statutory duty to maintain the Register of Voters and to administer elections in accordance with the Elections and its mandate under the Constitution and the Independent Electoral and Boundaries Commission Act, No. 9 of 2011(the "IEBC Act"). It is important to note that section 25 of the IEBC Act was amended with the passage of the Data Protection Act to provide that '*the principles of personal data protection set out in the Data Protection Act shall apply to the processing of personal data of voters.*'

The Commission and Governance organisations will need to consider the appropriate lawful basis for the processing of personal data not covered by electoral laws, and be able to demonstrate to the Office, that relevant the Commission or governance organisation has the requisite lawful basis.

3. **Legitimate interests:**

The processing is necessary for your legitimate interests or the legitimate interests of a third party unless there is a good reason to protect the individual's personal data which overrides those legitimate interests. (This cannot apply if you are a public authority processing data to perform your official tasks).

4. **Consent:**

Consent can only be an appropriate lawful basis if a data subject is offered control and is offered a genuine choice with regard to accepting or declining the terms offered or declining them without detriment. Consent as defined in Section 2, details the minimum criteria; namely that it must be:

- a. Any manifestation of express, unequivocal, free, specific;
- b. informed indication of the data subject's wishes; and
- c. by a statement or by a clear affirmative action, signifying agreement

The Act further provides that a data controller or processor bears the burden of proof for establishing a data subject's consent to the processing of their personal data for a specified purpose and, unless otherwise provided under this Act, a data subject shall have the right to withdraw consent at any time.

For further information see the Office's Guidance Note on Consent (available on www.odpc.go.ke).

5. Sensitive personal data:

Section 44 and 45 of the Act provide for instances in which it is acceptable to process sensitive information. The Act prescribes as follows:

Section 44: *"No category of sensitive personal data shall be processed unless section 25 applies to that processing.*

Section 45: *"Without prejudice to section 44, sensitive personal data of a data subject may be processed where —*

- (a) the processing is carried out in the course of legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim and on condition that —*
 - (i) the processing relates solely to the members of the body or to persons who have regular contact with it in connection with its purposes; and*
 - (ii) the personal data is not disclosed outside that body without the consent of the data subject.*
- (b) the processing relates to personal data which is manifestly made public by the data subject; or*
- (c) processing is necessary for—*
 - (i) the establishment, exercise or defence of a legal claim;*
 - (ii) the purpose of carrying out the obligations and exercising specific rights of the controller or of the data subject; or*
 - (iii) protecting the vital interests of the data subject or another person where the data subject is physically or legally incapable of giving consent."*

The conditions set out in Section 44 and 45 do not replace or override the usual rules on having a lawful basis for processing. Instead, they operate as an additional layer of conditions for processing sensitive personal data.

Where the Commission or a governance organisation is processing sensitive personal data, they will still be required to identify a lawful basis for the processing in exactly the same way as for any other personal data. Further, the commission or the governance organisation will need to be able to demonstrate that the processing has been done in accordance to the principles set out in Section 25 of the Act.

In addition to the above, processing of sensitive personal data is considered to be high risk or *"likely to have a high risk to the rights and freedoms of a data subject"*. Therefore, the Commission and any governance organisation permitted under law to collect biometric data must conduct Data Protection Impact Assessments (discussed below). Further, Commission and any governance organisations that collects sensitive personal data will need to put in place more robust safeguards to mitigate any impact or risks to the data subject.

The Register of Voters

The Elections Act and the IEBC Act require that the Commission maintain a Register of Voters. Further, the Commission is mandated to make the Register of Voters accessible to the public

and published in accordance with the provisions of the Elections (Registration of Voters) Regulations, 2012.

The Elections Act and the Independent Electoral and Boundaries Commission Act do not provide for statutory opt-out mechanisms for voters registered on the Register of Voters. Therefore, processing personal data for inclusion on the Register of Voters, other than the collection of same, is done on the lawful basis that it is necessary to perform a public task.

The Elections Act does not give a statutory right for the collection of voter's personal data or sensitive personal data without obtaining of consent from the data subject. The data protection conditions for consent will be required for the collection of personal and sensitive personal data, as registration of as a voter is not a mandatory obligation. However, statutory obligations will govern other aspects of the processing and use of the personal data (and sensitive personal data) contained in the Register of Voters and maintained in accordance with the Elections Act.

The Register of Members

The Political Parties Act under section 7(2)(f)(i) requires that political parties submit to the Registrar a list of the names, addresses and identification particulars of all its members. Additionally, the same Act requires that the Registrar of Political Parties to "*verify and make publicly available the list of all members of political parties*".

The Political Parties Act does not give a statutory right for the collection of member's personal data without obtaining of consent from the data subject. However, the aforementioned Act does give political parties the duty to transfer such personal data to the Registrar and provides that the Registrar has a statutory duty to verify and publish the member register.

Therefore, in obtaining member data, Political Parties must also rely on consent prior to collecting member's personal data for the purpose of inclusion in, and maintaining, a member register and transferring same to the Registrar of Political Parties.

9. DUTY TO NOTIFY

One of the key principles of data protection is transparency. The personal data processed by the Commission and governance organisations or other electoral stakeholders shall be processed fairly and in a transparent manner. At the time of collection, the Commissioner, representatives of governance organisations and electoral stakeholders must comply with the obligations under Section 29 of the Act which states that data controllers and data processors have a duty to notify data subjects of the following prior to the collection of personal data, in so far as is practicable:

- (a) the rights of data subject specified under section 26;
- (b) the fact that personal data is being collected;
- (c) the purpose for which the personal data is being collected;
- (d) the third parties whose personal data has been or will be transferred to, including details of safeguards adopted;
- (e) the contacts of the data controller or data processor and on whether any other entity may receive the collected personal data;

- (f) a description of the technical and organizational security measures taken to ensure the integrity and confidentiality of the data;
- (g) the data being collected pursuant to any law and whether such collection is voluntary or mandatory; and
- (h) the consequences if any, where the data subject fails to provide all or any part of the requested data.

The above information should be provided to data subjects to enable them to understand how their personal data is used, this can be achieved by a **privacy notice**. It is advised that the information in a privacy notice must be provided in clear plain language and be provided free of charge. The privacy notice must be kept up to date to meet any changes in your approach to processing data.

10. RIGHTS OF A DATA SUBJECT

The Data Protection Act affords a number of rights to a data subject. These are:

- (a) to be informed of the use to which their personal data is to be put (*section 26*);
- (b) to access their personal data in custody of data controller or data processor; to object to the processing of all or part of their personal data (*section 26*);
- (c) to object to processing of all or part of their personal data (*section 26*);
- (d) to correction of false or misleading data (*section 26*);
- (e) to deletion of false or misleading data about them (*section 26*);
- (f) the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning or significantly affects the data subject (*section 35*);
- (g) to data portability (*section 38*);
- (h) to request rectification of their personal data or erasure (right to be forgotten) (*section 40*).

A. Right to be informed

Voters and members are entitled to be informed how their personal information was obtained, and from what source. This is in addition to the duty to notify under Section 29 of the Data Protection Act.

B. Right to access their personal data

Voters and members should be able to obtain on request and without excessive delay, confirmation of the processing of personal data relating to him or her, and access to their personal data in an intelligible form.

C. Right to object to processing, correct false or misleading data, deletion of false or misleading data

Voters and members should be able to object to the processing of data on him or her by an electoral organisation, and to request rectification or erasure/ deletion, as the case may be, if the data is inaccurate, obsolete, incomplete, false or misleading.

The Act provides for the "right to object" in section 26. This means that the data subject can object to the processing of their personal data. This right **does** apply when processing is required for the performance of a public task (such as maintaining the voter register or publishing of a member register).

The right to object to processing cannot however be applied to information where the collection of or the nature of the processing is specified in electoral laws. For example in relation to the Register of Voters, the data subject can object to the processing of their email or telephone contact details but not to the use of their name, identification, address or such other personal data as the Commission deems necessary, within reason, for the purpose of maintaining and publishing the Register of Voters, if the data subject is a registered voter. The same would apply for the publication of a member register by the Office of the Registrar of Political Parties.

D. Right not to be subject to automated decision making

Voters or members have the right not to be subject to decision significantly affecting him or her based solely on an automated processing of data without having his or her views taken into consideration or without human intervention, if such decision is likely to have produce legal effects or other affects that could significantly affect the voter or member. **Where voters receive or subjected to automated delivery of digital political advertising, the voters have the right to know why they are receiving such advertising material or receiving the "ads".**

E. Right to rectification of personal data or erasure

Voters and members are entitled to know about the reasoning underlying the processing of their personal data by political campaigns. This may be particularly important where a voter is contacted by a political party with whom they have not had a prior relationship.

Voters and Members who object to data processing for political marketing purposes are entitled to the unconditional erasure or removal of the personal data covered by that objection.

The Act gives data subjects the right of erasure. This right is commonly referred to as the "right to be forgotten". This provision means that a data subject can request that their personal data be erased or deleted without undue delay. The right to be forgotten **does not** apply when processing is required for the performance of a public task (such as the maintaining of Register of Voters by the Commission or public member register by the Registrar) or where it is necessary for archival in the public interest. However, it can apply to the deletion of certain aspects of personal data such as email or other contact information that is not required for the maintenance of a Register of Voters or Member Register.

The right to be forgotten **does** apply for processing of member data carried out by Political Parties. The Political Party then has a duty to inform the Registrar of Political Parties to delete any personal data held by the Registrar including that which is contained in the public member register.

11.PRIVACY BY DEFAULT OR DESIGN

The Act, in section 41, provides that *“every data controller or data processor shall implement appropriate technical and organisational measures which are designed —*
(a) to implement the data protection principles in an effective manner; and
(b) to integrate necessary safeguards for that purpose into the processing.”

Further the Act states:

“(3) A data controller or data processor shall implement appropriate technical and organisational measures for ensuring that, by default, only personal data which is necessary for each specific purpose is processed, taking into consideration

(a) the amount of personal data collected;

(b) the extent of its processing;

(c) the period of its storage;

(d) its accessibility; and

(e) the cost of processing data and the technologies and tools used.

(4) To give effect to this section, the data controller or data processor shall consider measures such as —

(a) to identify reasonably foreseeable internal and external risks to personal data under the person's possession or control;

(b) to establish and maintain appropriate safeguards against the identified risks;

(c) to the pseudonymisation and encryption of personal data;

(d) to the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;

(e) to verify that the safeguards are effectively implemented; and

(f) to ensure that the safeguards are continually updated in response to new risks or deficiencies.”

Data protection by design is an approach that ensures data controllers and data processors consider privacy and data protection issues at the design phase of any system, service, product or process and then throughout the lifecycle. Data protection by default requires data controllers and processors ensure that only data that is necessary to achieve your specific purpose is processed. Data protection by default means data controllers and processors need to specify this data before the processing starts, appropriately inform individuals and only process the data needed for the specific purpose.

The Commission and governance organisations are usually involved in processing voters' data on a large-scale. Applying appropriate security measures to voter and member data, and its processing environments both at rest and in transit, is vital to ensure voters' and members'

data are protected to the highest standards. Security measures should take into account the current state of the art data-security methods and techniques in the field of data processing. Their cost should be commensurate with the seriousness and probability of the potential risks.

The Commission and governance organisations often engage in the sharing of data on voters and members with large numbers of campaign volunteers, contractors and employees. The Commission and governance organisations should take appropriate security measures to ensure against accidental or unauthorised access to, destruction, loss, use, modification or disclosure of personal data. These measures include: training in privacy and security; access controls; confidentiality agreements; and physical controls.

Where data is processed by third party service providers, the Commission and governance organisations must remain aware of their ongoing responsibilities as data controllers. Controllers must demonstrate due diligence to establish the third party's ability to protect personal data confidentiality.

Risk assessment prior to processing must assess whether data is protected against unauthorised access, modification and removal/destruction. Risk assessment should seek to achieve outcomes that embed high standards of security throughout the processing. Such an assessment must be informed by considerations of necessity and proportionality, and the fundamental data protection principles across the range of risks including physical accessibility, networked access to devices and data, and the backup and archiving of data.

The Commission and governance organisations should train all workers, including employees and temporary volunteers, on the importance of privacy and security measures. Each employee or volunteer should sign confidentiality agreements.

12. DATA PROTECTION IMPACT ASSESSMENT

The carrying out of a DPIA is only mandatory where processing is "*likely to result in a high risk to the rights and freedoms of data subjects*". In cases where it is not clear whether a DPIA is required, it is recommended that a DPIA is carried out nonetheless as a DPIA is a useful tool to help data controllers and/or data processors comply with data protection law. In addition to the aforesaid, the Act requires that all data controller and processors implement appropriate technical and organisational measures and integrate appropriate safeguards to ensure the adequate protection of personal data of data subjects.

The Office has published a Guidance Note on Data Protection Impact Assessments on www.odpc.go.ke. The Guidance Note includes the form which a Data Protection Impact Assessment should be submitted and guidance on when it should be submitted.

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Appendix 1 – Summary checklist of actions

This checklist summarises the actions highlighted throughout this Guidance Note for your reference.

#	Action	Y/N	Comment
1.	Contact the Office to support you in meeting your obligations and utilise the available material on www.odpc.go.ke		
2.	Review your processing activities. How can you demonstrate you are processing data in accordance with section 25?		
3.	Determine the lawful basis on which you are collecting/processing all personal data (in accordance with sections 25 and 30. If collecting sensitive personal data in line with sections 25, 30, 44 and 45 of the Act.		
4.	When seeking consent ensure that you do so in line with the Act (see www.odpc.go.ke for Guidance Note on Consent)		
5.	If you are processing data for the performance of a public task, determine and record what the basis for that public task is.		
6.	If you are processing data for compliance with a legal obligation, determine, record and be able to demonstrate what the basis of the legal obligation is.		
7.	Review your own forms and letters to check they contain appropriate data protection notices		
8.	Ensure you are not using personal data for unrelated purposes		
9.	Review your existing privacy notices to ensure they remain compliant with your organisation's Duty to Notify and detail the lawful basis you are relying on for processing		
10.	Undertake a Data Protection Impact Assessment (DPIA) as a matter of best practice when you undertake a new process (see Guidance Note on DPIAs on www.odpc.go.ke)		
11.	Review existing DPIA		

#	Action	Y/N	Comment
12.	Ensure that all staff training (core team, canvassers, polling station staff) reflects current data protection requirements		
13.	Understand that a data subject is entitled to see personal information that is held about them		
14.	Ensure that there are provisions and mechanisms put in place to allow data subjects to exercise their rights under the Act		
15.	Ensure that you have put appropriate data protection/ privacy by design and default safeguards as prescribed in section 41 of the Act		
16.	Understand the penalties for failure to comply with data protection legislation		
17.	Ensure your plans and risk registers highlight the safeguards you have to avoid a data breach		
18.	Ensure you have procedures to detect, report and investigate a data breach		



OFFICE OF THE DATA PROTECTION COMMISSIONER

P.O. BOX 30920-00100

NAIROBI

info@odpc.go.ke | www.odpc.go.ke