

Guidelines for Public Policy Development and Review

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THE KENYA INSTITUTE FOR PUBLIC POLICY
RESEARCH AND ANALYSIS

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**Kenya Institute for Public Policy
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KIPPRA in Brief

The Kenya Institute for Public Policy Research and Analysis (KIPPRA) is an autonomous institute whose primary mission is to conduct public policy research leading to policy advice. KIPPRA's mission is to produce consistently high-quality analysis of key issues of public policy and to contribute to the achievement of national long-term development objectives by positively influencing the decision-making process. These goals are met through effective dissemination of recommendations resulting from analysis and by training policy analysts in the public sector. KIPPRA therefore produces a body of well-researched and documented information on public policy, and in the process assists in formulating long-term strategic perspectives. KIPPRA serves as a centralized source from which the Government and the private sector may obtain information and advice on public policy issues.

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1. The Need for a Policy Making Guide

KIPPRA's overall mandate is to provide quality public policy advice to the Government of Kenya and other stakeholders and improve public policy making for the realization of national development goals. KIPPRA does this through economic forecasting, policy analysis and research, and by formulating medium and long-term strategic perspectives for economic and social development. In line with this mandate, KIPPRA has a long history of supporting government Ministries, Departments and Agencies (MDAs) in drafting and reviewing policy documents. However, the devolution of power to Counties has greatly changed the context for policy making in Kenya. Both levels of government are required to formulate policies to meet their diverse needs guided by national goals. This has increased the demand for policy advice and the need for KIPPRA to enhance internal capacity to provide guidance in matters of public policy formulation in Kenya. These guidelines constitute an effort towards this end.

A scan of Sessional Papers and other relevant policy documents in Kenya shows that they differ in terms of structure and process. Some of them lack the key attributes that define a good policy. There are no guidelines to assist policy analysts at KIPPRA (and in Government Ministries) to write such documents when requested by MDAs. The preparation of policy documents has been done without a guiding framework. The purpose of this guide is to help mitigate this problem.

1.1 Who is this Guide for?

This guide has been designed to introduce policy analysts at KIPPRA to the formulation, development and review of public policy. Policy analysts at KIPPRA should consider themselves as players in the policy development process – whether by interpreting government goals, developing options, proposing choices, managing implementation, delivering specific services, reviewing outcomes or terminating programmes. The job of the policy analyst is to provide policy options that are well reasoned, timely and relevant.

This guide explains the basic concepts that are relevant in the public policy process and highlights the importance of understanding the design, structure and content of policy documents. Since policies are written to address specific issues, the structure and components of a policy will differ considerably according to the need. A policy document can be many pages long or it may be a single page with just a few simple statements. Given this fact, this guide is intended to provide suggestions rather than prescriptions.

2. What is Public Policy?

“Public policy” refers to policy by governments. As such, public policy must support the government of the day. Public policy is the expression of what the government wants to achieve, as distinct from the policy of a business or any other organization. It is a statement of government commitment, which articulates basic principles to be pursued to attain specific goals and actions. Governments formulate policies to establish the frameworks within which all citizens must function by deciding the societal goals to pursue and how to pursue them.

2.1 Why does Public Policy Matter?

When writing and reviewing public policies, it is important to remember that public policies are designed to meet political, social and economic ends. On the political front, policies help political leaders to translate party agenda and political visions into public programmes and actions. Therefore, the public policy process provides the platform for the executive authority to steer the processes leading to the achievement of national goals. On the social front, policy is used to bridge inequalities and distortions in the distribution of national resources and wealth to satisfy both allocative and distributive justice. When market inefficiencies that result from monopolies, oligopolies, information asymmetry and externalities penalize market players, governments intervene to correct these failures. This is the economic rationale for intervention in markets. On the economic front, governments also intervene in markets to provide public or collective goods. Given the above motivations for public policy making, public policies should endeavor to address the following guiding questions:

- Does policy capture the political agenda of the governing political party?
- Does policy reflect the societal values of fairness, equity and social justice?
- Do markets and institutions governing their working allow for free competition and efficient operation of markets?

3. The Public Policy Making Process

Policy development is a process, whose main output is the policy document. The policy making cycle has six stages: (1) problem identification; (2) agenda-setting; (3) policy design; (4) approval; (5) implementation; and (6) monitoring and evaluation.

Problem identification and agenda-setting

The public policy process begins by defining the policy issue or the problem. A problem is said to exist when existing conditions are unsatisfactory, for which relief is sought from the government. Once the problem has been identified, the next step is to get it onto the government's policy agenda by turning it into a policy issue or by making it a higher priority issue if it is already on the agenda. An agenda is a collection of issues that are available for discussion and disposition. Getting the problem onto the political agenda is not straight forward. The relevant government agency and the policy community should be convinced that a real problem exists, and which requires public intervention. Since policy making is a political process, a comprehensive and persuasive argument needs to be made. A good argument will describe the nature and scope of the issue. It will quantify the problem and its effects and analyze the proximate and structural causes. It will also explain how the problem developed and why it needs to be addressed immediately rather than later.

Problems may be identified by a wide variety of political actors, both inside and outside of government. These actors may have competing perceptions of the problem's cause, scope, and severity. Priority-setting occurs when problems are cascaded from the public agenda to the official agenda. Determining which problems are priorities that deserve government's attention is an issue of determining "who gets access?". To demonstrate problem identification and agenda-setting, the following checklist can be used:

- What is the problem faced?
- Where does it exist?
- Who or what is affected?
- How did it develop?
- What are the major causes?
- How might the causes be affected by policy action?

Policy Design

The main task of policy design is to develop alternative strategies to address a problem placed on a government institution's agenda. The output from this stage is the policy draft, which is legitimized via Cabinet and parliamentary approvals and presidential assent (in case of bills). Policy analysis involves the identification and consideration of choices, alternatives and their consequences, implications or impacts. During policy development, the drafters need to respond to the following guiding questions?

- Has research on the policy issue(s) been conducted?
- Has a thorough analysis of the issues been undertaken?
- What are the feasible options and solutions?
- What criteria are most suitable for the problem and the alternatives?
- What are the costs and benefits of actions and inactions?
- Which interventions are most effective in responding to the issues?
- Have recommendations to address the issues been well-reasoned?

Policy instruments

Policy instruments are the ways and means of the policy process. Instruments can take many forms, including but not limited to regulation, public service provision, subsidy, rationing, taxation, spending, contracting out, market incentives, privatization, charging fees, public trusts and education, information and persuasion. They could be infrastructure, such as hospitals, roads, dams, or buildings. Usually, there will be a combination of policy instruments. Policy instrument choice is a significant concern in the policy process.

Implementation

Implementation is the process of executing policy by public servants and other stakeholders. During implementation, the critical aspect is coordination. Coordinating policy is important in ensuring consistency with government's overall strategy, priorities and objectives. It is also about maximizing efficiency so that two separate parts of government are not taking parallel approaches in addressing an issue.

Monitoring and evaluation

Monitoring is the routine collection, analysis, and use of information to assess how well the implementation of a policy is progressing. Evaluation is the systematic process of determining the relevance, efficiency, effectiveness and impact of the policy.

4. Qualities of Good Public Policies

1. *Forward-looking*: Good policies should be based on clear goals and outcomes. Policy drafters should take a long-term or futuristic view as defined by statistical trends and predictions. To demonstrate a forward-looking approach, the following checklist can be used:
 - Have the intended outcomes been identified?
 - Is there a contingency or scenario analysis?
 - Are they consistent with the long-term national strategy?
 - Has there been the use of futuristic forecasts and projections?
2. *Outward-looking*: Policy drafters should recognize regional and international variations and learn from local and global experiences.
 - What are the best practices in dealing with the issue?
 - Has the policy development process looked at how other countries have dealt with the issue?
 - Does it recognize variations in terms of regions, income groups and other sectors?
3. *Evidence-informed*: Evidence from research should be integrated into policy development. Such evidence should be objective, credible, relevant and practical.
 - Has existing research been reviewed?
 - Has any new research been commissioned?
 - Have relevant experts been consulted?
 - Have the options been appraised and costed?
4. *Inclusive*: Open and inclusive policy making ensures that businesses and citizens are active partners in the process and not merely passive recipients of policy decisions. Consultations should be held with implementers of the policy and those affected by the policy. Engagement and consultations provide valuable feedback and securing buy-in and ownership from stakeholders. An inclusive policy development process responds to the following concerns:
 - Have those responsible for service delivery/implementation been consulted or have the details been provided?
 - Have those to be affected by the policy been consulted?

- Are there open feedback and feedforward flows of ideas and information between implementers and recipients?
 - Are there any elements of the population that have been excluded from meaningful political social or economic participation using religion, ethnicity, gender, geography or income status?
 - If specific consultation is required under any Act, have these statutory requirements been outlined? Has the consultation process been described? Have any controversial aspects been highlighted?
5. *Cross-cutting*: Good policy making looks beyond thematic and institutional barriers by setting objectives that are cross-cutting and establishing joint working arrangements across departments and organizations. This can be demonstrated by responding to the following questions:
- Are cross-cutting objectives clearly defined?
 - Are inter-departmental and inter-sectoral working arrangements been clearly defined and well understood?
 - Have inter-departmental and inter-sectoral synergies and conflicts been identified? Has a strategy been prepared to mitigate against these?
6. *Evaluation*: Helps us to know if the implementation of the policy has been closely monitored and whether any outcomes and impacts are evident. Usually, monitoring and evaluation focuses on the questions: Are we doing things right? Are we doing the right things? To demonstrate that monitoring and evaluation has been integrated in policy, the following checklist is helpful:
- Has a clearly defined purpose for the evaluation been given?
 - Have the indicators and policy targets been defined?
 - Have the means of evaluation been defined?
 - Have the baselines been identified?
 - How shall we determine whether we achieved what we set out to achieve?
 - How shall we determine if the policy had any effect? for whom? how, and why?
 - How will the results be presented? And to whom?
7. *Communication*: This should be integral to policy development and not an afterthought, as has been the practice in the past. Policy development and plans for its communication to the public should be developed in parallel

rather than sequentially. This requires that a communication strategy is prepared and implemented.

- Has a communication strategy been prepared?
 - Has a press statement been prepared?
8. *Lessons learnt*: Policy piloting is a vital tool in policy development and delivery and the identification of what works. A pilot allows for the phased introduction of major government policies or programmes.
- Has information on lessons learnt and good practice been disseminated?
 - What were the responses to the lessons learnt?
 - Have policy pilots been applied to influence final outcomes?
 - Is there a distinction between the failure of the policy to impact on the problem it was intended to resolve and managerial/operational failures in implementation?
9. *Innovative and creative* – This involves questioning established ways of dealing with things, encouraging new ideas, being open to the comments and suggestions of others.

5. Guiding Principles in the Drafting of a Policy

In drafting any policy, the following important guiding principles must be adhered to:

1. Any policy should have a logical and coherent structure and presented in a way that makes the policy understandable and easy to read and interpret.
2. The content should be clear and concise. Use language that can be readily understood by the intended audience.
3. Use strong action words (will, must, are responsible for, etc) to express the authoritative actions by the government. Policy is not an intention, promise or a gamble. It is an authoritative decision by the government on what should be done or what should not be done. Do not use “shall” in the policy statement. Use active voice (instead of passive voice) and everyday words.

For example: *“The Government of Kenya will empower local communities and the private sector to participate in conservation of biological resources”* is written in active voice

The same statement, written in passive voice, will read, *“Local communities and the private sector will be empowered to participate in conservation of biological resources”*.

4. Clearly indicate whether any matter or action prescribed in the policy is mandatory or discretionary by using the words “must” or “may”.
5. Make use of purpose clauses. Since policy is based on clear goals and objectives, policy drafters should make use of statements that express the desired outcomes. This can be achieved by using “to”, “in order to”, “so as”.

For example: *“The Government will establish and strengthen national curriculum for biodiversity biosecurity training courses in order to foster responsible code of conduct with increased accountability and mutual trust.”*

6. Use policy statements to provide guidelines for action. Policy reflects aspirations, values, commitments and priorities of government. These are usually buttressed in an elaborate approach rather than a single decision, action or reaction.
7. Policy can be expressed as a “means” or as an “end”. Policy development presupposes a theory of change by assuming causality between policies and outcomes. For example:

As an end, policy can be stated to read – *“The Government’s policy towards early childhood development is that it should encompass consideration of*

health and education and social skills” (in the form of principles)

“It is this Government’s policy that 15% of all major new housing developments be designated as “affordable housing”, including a 5% component for “high needs” housing”.

Stated in terms of means – “The Governments’ policy on road safety is that we need to reduce deaths from road accidents to less than 90 per year by 2020, and to achieve this by a combination of driver education on speed and safety precautions, e.g. wearing of safety belts, with fines for failure to do so, and improvements to signage and roads where accidents most often occur e.g. through the “black spots’ programme”

“It is this Government’s policy that all newborn babies be visited by a health professional at their mother’s home at least once”.

8. Since public policy is about the long-term, policy statements should be futuristic and long-range rather than have a short-term perspective. Unlike development plans which have 4–6 years range, public policy documents should have a scope of over 15 years. For example, the Kenya Vision 2030 (with a scope of 23 years) is a public policy document, whereas the Medium Term Plans (with a scope of 5 years) are development plans.
9. Public policy statements should be consistent with the political vision of the political party in power as enshrined in the party manifesto.
10. Gender-neutral language should be used, for example: “Chairperson” rather than “Chairman.”
11. Provisions in a policy should be numbered numerically.
12. Acronyms may be used if spelt out completely the first time the phrase is used (for example, principal investigator (PI) or Government of Kenya (GoK).

6. Recommended Steps in the Development of Policies

The following steps summarize the key stages involved in developing policies:

1. Identify the issue/problem to be addressed
2. Using a relevant technique, undertake a causal analysis by identifying the core problem (policy issue), the causes and effects
3. Collect information - Undertake desk research to understand the policy, legal and regulatory framework
4. Undertake policy analysis
5. Draft the policy in line with the proposed format contained herein
6. Make a presentation in a KIPPRA-Wide Internal Seminar (KWIS) and ensure that the Ministry or Government Agency commissioning the work is represented
7. Incorporate the comments received during KWIS presentation and prepare a stakeholder draft
8. Distribute the policy draft to key stakeholders
9. Make a presentation to stakeholders and document the comments
10. Incorporate all stakeholder views and concerns
11. Transmit the draft to the respective Government Ministry through the Office of the Executive Director
12. Prepare a Cabinet Memorandum (see appendix 2)

7. Elements of a Policy Document

Title

The title needs to be concise, informative and descriptive so that it is self-explanatory to the readers of the policy.

Foreword

This is usually done by the person commissioning the policy (such as the Cabinet Secretary) and is intended to give more authority or credibility to the policy document.

Preface

This is usually written by the author of the policy document (usually the Principal Secretary). In writing the preface, the following questions are addressed: Why the policy? Why now? What process was used? What were the sources of information? Which organizations and individuals deserve to be thanked and mentioned?

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List the numbered sections in the policy document and their page numbers

Introduction

When writing the introduction, the following must be clearly stated:

- Is it clear what the fundamental problem being addressed is?
- Is the magnitude of the problem identified?
- Is there a case for why government action is needed?
- Is there a clear articulation of the policy objectives sought by the government action?
- Have the outcomes, goals or targets of the proposed government action been reflected in the policy objective?
- What is the policy goal?
- What are the guiding principles, values and philosophies?
- Have we defined technical, unfamiliar words or terms with special meanings?

Situation Analysis

This chapter describes the current status, reviews trends and applies the two to highlight any unusual patterns. It also reviews the policy, legal and regulatory framework, and regional and international benchmarks. The chapter must isolate policy and institutional gaps that could be used to motivate the current policy development process.

Policy Statements

Policy statements express what the government has committed to do or not to do.

Implementation Framework

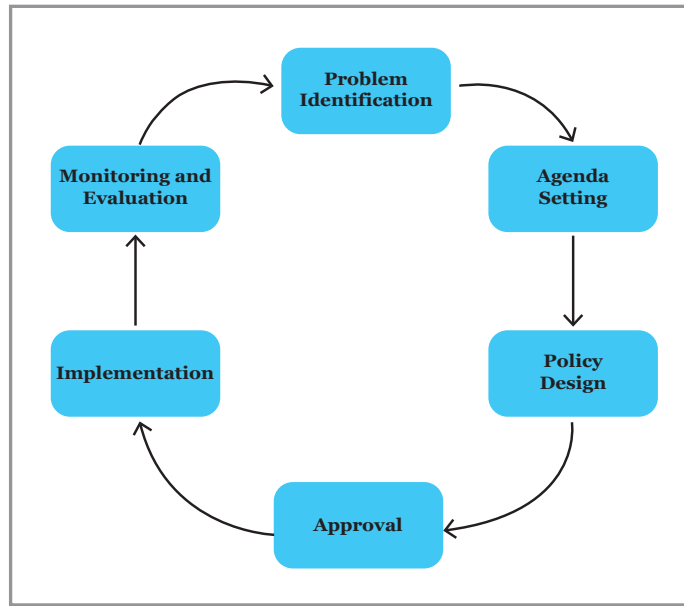
This chapter provides coordination and administration mechanisms for policy implementation. It may also highlight any institutional, legal and regulatory reforms that must be undertaken for successful implementation of the policy.

Monitoring and Evaluation

This chapter must explain how the monitoring and evaluation plan will capture the following:

- Identify policy stakeholders
- Identify the monitoring questions
- Identify the indicators and data sources
- Choose data collection methods and tools
- Identify who is responsible for data collection, analysis and timelines
- Define the evaluation questions and evaluation methods to use and when
- Select evaluation methods to use
- Define reporting system, utilization and dissemination of results

Appendix 1: The Policy Cycle



Appendix 2: Format of the Cabinet Memo

Part	Content
1	Purpose/Objectives
2	Background Information
3	Analysis of the Problem
4	Options and the Way Forward
5	Financial Implications
6	Legal Implications
7	Request to the Cabinet

PART 1: PURPOSE AND OBJECTIVE

- This is usually a summary of the primary decision being sought from Cabinet
- There are two types of papers:
 - FOR DECISION: This one states the issue and the decisions sought
 - FOR INFORMATION: This one gives information and explains why that information has been given

PART 2: BACKGROUND INFORMATION

- This section provides a background to the issue
 - What is its origin?
 - Who and what was involved?
 - What previous resolutions were attempted?
 - Why does the issue warrant government attention?
 - Why is it coming before Cabinet now?
- NB: Take into account how much Cabinet members already know
- NB: Extensive information can be annexed

PART 3: ANALYSIS OF THE PROBLEM

- This section identifies the issue to be addressed by the Cabinet
- It attempts to identify the What, Who, Where, When and How
- May identify the drivers and the effects

PART 4: OPTIONS ON THE WAY FORWARD

- This section is an integral part of the advice to the Cabinet.
 - It builds on the background to explain the issue - but without repetitions
 - It outlines the key considerations which the Cabinet will need to take into account in reaching a decision – consequences
 - Identify the possible options and the pros and cons of each option
 - Outline a recommended course of action or the decisions which the Cabinet needs to make building on the above

PART 5: FINANCIAL IMPLICATIONS

- In case the subject matter has financial implications, this section has to outline:
 - The cost
 - The period and phasing of expenditure
 - Arrangements for new sources of funds (where the proposals involve new expenditure)
- The content in this section has to be discussed and agreed with the National Treasury unless the financial implications relate to expenditure which falls within the provided budget

PART 6: LEGAL IMPLICATIONS

- Where the subject matter has legal implications, this section should
- Outline such consequences

- Identify all laws and regulations that may be affected or may affect implementation of the recommendations
- The content in this section has to be discussed and agreed with the Attorney General unless there are no known legal implications

PART 7: REQUEST TO THE CABINET

- If the Cabinet Memo is FOR DECISION, this section should state:
 - All decisions sought
 - Give a firm recommendation on the course of action to be followed
 - The decisions should be set out point by point
 - The Cabinet is invited to
 - Note that
 - Approve
- If the Cabinet Memo is FOR INFORMATION, this section will distill the key facts and invite the Cabinet to “note” or “comment” on the information provided

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