

# **COUNTY GOVERNMENT OF BUNGOMA**



**DEPARTMENT OF GENDER, CULTURE, YOUTH AND SPORTS**

## **CHILDREN PROTECTION POLICY 2022**

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## DEFINITION OF TERMS

**Child neglect:** Neglect is the failure to provide for the development of the child in all spheres: health, education, emotional development, nutrition, shelter and safe living conditions in the context of resources reasonably available to the family or caretakers and causes or has a high probability of causing harm to the child's health or physical, mental, spiritual, moral and social development. This is the failure to properly supervise and protect children from harm as much as feasible.

**Child labor:** Any economic exploitation or work that is likely to be hazardous or to interfere with the child's development, or to be harmful to the child's health or physical, mental, spiritual, moral and social development.

**Child abuse:** Involves acts of commission and omission, which result in harm to the child. The four types of abuse are physical abuse, sexual abuse, emotional abuse and neglect.

**Child protection:** Is the process of protecting individual children identified as either suffering, or likely to suffer, significant harm as a result of violence, exploitation, abuse or neglect.

**Child trafficking:** A child is trafficked if he or she has been moved within a country, or across borders, whether by force or not, with the purpose of exploiting the child.

**Child friendly institutions:** the environment and structures of institutions (children's court, waiting room for the courts, child protection units and desks in police stations etc.) should be painted with bright colors, have cartoon drawings, and a room setting that is child friendly such as round table sitting arrangement, provision of a play area and other facilities that engage children in play and leisure. The facility should also provide privacy to enable children to give confidential information.

## EXECUTIVE SUMMARY

The Department of Gender, Youth, Sports and Culture developed the Children Policy 2021. The process aimed at identifying the achievements, gaps, lessons learnt and challenges and proposes policy statements. The results of the review process informed the development of the County Children policy. The development of this policy was spearheaded through an inclusive, participatory and widely consultative process with representation of key stakeholders among them children, ministries, county government departments and agencies, development partners, non-state actors, community and faith based organizations working with and for children. The policy goals stated herein are based on the key pillars of Child Rights as articulated in the (UNCRC), 1989. These are Survival Rights, Development Rights, Protection Rights and Participation Rights. The policy has been aligned to the Constitution of Kenya 2010 and been designed to contribute to the realization of the goals of Kenya Vision 2030. It has also taken into consideration the Sustainable Development Goals (SDGs) that contain a wide range of proposed activities aimed at safeguarding children's rights to survival, development, protection and participation. The policy has also been informed by the Children Act, 2001, recommendations of the ACRWC (2015), Situational Analysis of Children and Women Report 2014, Violence Against Children Report, 2010, the findings of the 2008-09 and 2014 Kenya Demographic and Health Surveys, 2012 and 2015 Economic Surveys, findings from the tools administered to County Children Coordinators and Children, National Children Policy and other relevant documents. The policy provides an operational framework to guide stakeholders and partners in coordinating, planning, implementing and monitoring programmes for the child. In addition, it outlines priorities and interventions necessary for the progressive realization of children's rights in Kenya. These priorities and interventions are designed to address the specific gaps identified by stakeholders. The overall management, oversight and coordination of the policy will be the responsibility of the County Children Affairs Council (CCAC) with support from relevant stakeholders as stipulated in the framework. The policy has defined some priorities and interventions to address the gaps identified as necessary for the progressive realization of children's rights in Bungoma County and Kenya in general. It aims at coordinating and integrating ongoing sector-specific

efforts to avoid any overlap and to ensure optimization of resources and benefits for children and young people in the county and country.

## CHAPTER ONE: INTRODUCTION

### 1.1. Background Information

The Government of Kenya working together with County Governments and non-state actors have over the years made efforts towards child protection systems development and strengthening. The systemic approach aimed at changing perspectives on how the needs of children and families can be effectively addressed through more sustainable and holistic models of governance and service delivery. The 2010 Constitution of Kenya (Article 53) recognizes the right of all children to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhumane treatment and punishment, and hazardous or exploitative labour. The public therefore expects high quality preventive and response services that are well coordinated and delivered by accessible, well trained and competent government staff, professionals and other actors. The role and responsibility of the county government is to provide both statutory and non-statutory guidance and coordination of child protection work as affirmed by this policy. The policy will therefore support government, practitioners, communities and families to each play their part while being accountable to each other for the well-being of the children.

Bungoma County is on the Kenya-Uganda border. The Kenya-Uganda Border was categorized as a high risk to COVID-19 due to the movement of truck drivers transporting goods from Kenya to Uganda and vice-versa. There have been reported cases of poor households living along the borders neglecting their children, with some children subjected to commercial sexual exploitation. Children are faced with many child protection concerns ranging from child labour, commercial sexual exploitation of children, neglect, and child trafficking. While movement across the official border between Kenya and Uganda is restricted, it has emerged that there are illegal routes within the communities that people are using to cross from Kenya to Uganda and vice-versa; a situation that may contribute to increased risk of many children not being registered hence lacking identities. Further to note, cultural practices within communities in Bungoma County also promote child marriage and teenage pregnancies. According to the State of Kenya Population Survey Report of 2020, Bungoma had among



the highest rates of teenage pregnancies in 2019 with 13,920 reported. The increasing cases of teenage pregnancies have led to many children dropping out of school to take care of their children, child marriage, child labour (to fend for the family), stigma and many cases of violence against children. Cheptais and Mt Elgon Sub-counties have not fully recovered from effects of ethnic conflicts that resulted in many families displaced from their homes. The conflicts contributed to increased cases of sexual violence and exploitation with the department of children services receiving an average of 30 cases a month mostly being child neglect, defilement, child marriage and physical violence.

Culturally, children in Bungoma county are subjected to crude traditional rites of circumcision which endanger their health as well as their wellbeing. The boda-boda menace has also been faulted for its involvement in teen pregnancies among girls and also being the reason as to why many boys drop out of school so that they can ride boda-bodas to earn a living. Children have also been identified as the key participants during the night vigils famously known as “Disco Matanga” in the county. All these issues have been identified by the policy drafters and addressed adequately.

This policy defines a child as any person under the age of 18 years. Children hold a special place in society. Their nurture and wellbeing is the responsibility of key stakeholders who include parents, wider family, the state (central and local government) and civil society. Kenya, upon recognition that children rights are human rights, has taken great strides in advancing and advocating for them. In this respect, Kenya is a signatory to various international conventions including the United Nations Convention on the Rights of the Child (UNCRC), the African Charter on the Rights and Welfare of the Child (ACRWC) and The Hague Convention on the protection of children and cooperation in respect of inter-country adoption. The country has gone further and domesticated the same instruments by enacting the Children Act 2001, and participated in the various sessions reporting the progress made in implementing the said instruments. The commitment to the Sustainable Development Goals (SDGs) and the articulation of children issues in Kenya’s Vision 2030 is a demonstration of this obligation.

This County Children Protection Policy has been aligned to the Constitution of Kenya 2010 and been designed to contribute to the realization of the goals of Kenya Vision 2030. It has also taken into consideration the Sustainable Development Goals (SDGs) that contain a wide range of proposed activities aimed at safeguarding children's rights to survival, development, protection and participation. The BCCP 2018 has also been informed by the Children Act, 2001, recommendations of the ACRWC (2015), Situational Analysis of Children and Women Report 2014, Violence Against Children Report, 2010, the findings of the 2008-09 and 2014 Kenya Demographic and Health Surveys, 2012 and 2015 Economic Surveys, findings from the tools administered to County Children Coordinators and Children, National Children Policy and other relevant documents. Coordination ensures that the planned activities run smoothly while M&E helps in improving performance.

## 1.2 Understanding child protection systems

The policy goals stated herein are based on the key pillars of Child Rights as articulated in the (UNCRC), 1989. These are **Survival Rights, Development Rights, Protection Rights and Participation Rights**. The overall purpose of any child protection system is to promote the well-being of children through prevention of and response to violence, discrimination, abuse and exploitation. A child protection system has certain structures, functions and capacities, among other components that have been assembled in relation to a set of child protection goals (Save the Children, 2009, UNICEF, 2008). A child protection systems approach starts with a purpose or goal. This is because both formal and informal actors are joined through a sense of common purpose. A child protection system can be defined as a set of laws, policies, regulations and services, capacities, monitoring, and oversight needed across all social sectors, especially, social welfare, education, health, security, and justice to prevent and respond to protection related risks (UNICEF, 2010). A child protection systems approach moves away from small scale, vertical projects that only target high visibility, at-risk categories of children. The foundations of the Child Protection Systems are premised on the State's human rights obligations to children under the United Nations Convention on the Rights of the Child (UNCRC), the African Charter on the Rights and Welfare of

the Child (ACRWC), both of which Kenya has signed and ratified, together with Chapter 4 of the Constitution of Kenya, 2010. Child protection systems thinking emphasize the need of the different parts of the system to interact with issues within a given social, political and economic context

A child protection system requires a mutual understanding of roles and responsibilities of all actors. It also requires that both formal and informal actors play their part in ensuring a protective environment for children. As such, a systems approach is not prescriptive in nature but rather functions well when there is symmetry between its goals; formal and informal structures; functions and capacities; and the normative context in which it operates (UNICEF, 2010).

### 1.3. Key components of a county child protection system

- **Legal framework:** This includes the laws and policies that are in place and have a direct impact on children and their families.
- **Structures:** How the different formal and informal actors and components interact and relate to each other. Actors include children, families, the community, the state and related departments and line ministries and non-state actors such as CBOs, NGOs, FBOs, and private businesses.
- **Functions:** The multi-sectoral nature of child protection denotes that within the systems thinking there should be clarity of roles among the different actors, clarity on governance and leadership within the system and clarity on how the roles of different actors are enforced.
- **Capacities:** The level of capacity of actors in the system should be commensurate with the child protection system goals. Capacity in this case is broader to include adequacy of the human resources; knowledge, skills, authority, and willingness among the actors; and, infrastructure and financial resources necessary to achieve the set goals.
- **Child protection services:** The main focus should be on prevention but at the same time, the child protection system should be able to identify and respond to children whose rights have been violated.

- **Quality service standards and regulations:** The process of identification and responding to children who have come in contact within the system should be guided by a set of quality service standards that should be put in place to guide the actions of every formal and informal actor.
- **Accountability and transparency mechanisms:** Even with all the above in place and proper functionality of the system, all actors should be held accountable for their implementation. Actors in child protection must be open to scrutiny by different stakeholders and the general public. Proper communication, research, data collection and enforcement of quality standards are important. Where failures and weaknesses are identified, the system should be able to address them and improve.

### 1.5. Principles guiding implementation of county child protection policy systems

The policy is designed by taking into considerations the following principles that will guide actions in the county:

- **Coordination mechanism:** The county government through the relevant department shall be in the lead at all levels within the county in coordinating the efforts of all actors in child protection.
- **Inclusiveness:** The child protection system should serve all categories of children taking into consideration the diversity of backgrounds and circumstances.
- **Prevention:** To avoid, reduce or minimize protection risks, the main emphasis should be on programmes and actions that aim at strengthening the family and the role of parents as the first level of protection.
- **Sustainable services:** The starting point is that government through relevant ministries is responsible for providing child protection services and an adequate, skilled and motivated workforce up to the village level. Civil society works in support of government being able to fulfil their responsibility. The government should also ensure adequate financial resourcing of all the child protection services.

- **Quality services:** Prevention and response services and related processes of care should be culturally sensitive and guided by a set of quality standards and regulations. Meaningful child and youth participation: Children and youth are important actors in their own protection. Platforms to meaningfully engage children and youth should be strengthened at all levels in the county.

### **1.7. Policy Vision:**

To create an environment where the rights of all children in Bungoma County will be fulfilled

### **1.8. Policy Mission**

To provide a framework that facilitates, protects, enhances and promotes the rights of every child in Bungoma County.

### **1.9. Policy Goals and Objectives:**

The policy will act as a comprehensive operational and practical reference document that will give direction to the processes and actions that need to be undertaken to ensure a functional child protection system at the county Government of Bungoma. Therefore, the overall goal of this policy is to realize and safeguard the rights and welfare of the child. The specific policy objectives include:

- I. To provide a framework for addressing issues related to children's rights and welfare in a holistic and focused manner.
- II. To act as a regulatory framework for domestication of both national and international legal instruments that are geared towards the promotion of children's rights.
- III. To provide direction and purpose in establishing social and child protection mechanisms while mobilizing resources for action.
- IV. To act as a criterion for coordination, evaluating and monitoring the implementation of various legislations, policies and programmes on issues related to children.

### **1.10. Policy Principles:**

The following are the policy principles;

- To uphold the best interest of the child in all situations.
- To ensure respect for human dignity, accountability, non-discrimination, equity and equality in relation to children.
- To ensure accessibility of services and participation by children
- To commit every individual adult to take responsibility to protect the rights of the child regardless of the individual's relationship with the child.

In addition, the policy acknowledges that there are several pieces of legislation that will need to be developed to be able to anchor the implementation this policy

### **1.11. The Mandates of the Children Services Unit**

This directorate's mandate includes;

- Develop and Implement policies and programmes on child protection and care
- Enforcement of policy, guidelines and standards on child protection, participation, care, rehabilitation and reintegration of children in the County
- Management of children services in the county
- Networking with relevant County government departments, public and private agencies to ensure the efficiency and effectiveness of all social programmes established in the interest of all children in the County.
- Monitoring and Evaluation of all children's programmes in the county.
- Implementing street children programmes
- Collecting, collating and maintaining data on the management of children services in the county
- Sensitization and creation of awareness on child rights and welfare including celebrations of regional and international children days.

### **1.12. Scope of the Policy**

The Policy is organized according to the four pillars of the UNCRC which are; **survival, development, protection and participation**. The policy also covers the regulatory framework for children services, institutional framework, monitoring and evaluation as well as compliance to the policy. Each policy area covers a brief review about the policy issue, key sub themes for each issue, policy statements for each sub issue and strategies for implementing each policy issue. The policy applies to Bungoma County and will address matters related to children within the county.

### **1.13. The rationale of the policy**

Kenya is a signatory to international legal instruments that protect the rights of a child. The relevant legal and policy instruments that guided the development of this policy are the UN Covenant on Economic, Social and Cultural Rights (UNCESCR), the UN Covenant on Civil and Political Rights, the UNCRC Optional Protocols on Sale, Trafficking and Sexual Exploitation of Children and the Protocol on Involvement of Children in Armed Conflicts, the International Labor Organization Conventions 138 and 182, the African Charter on the rights and welfare of the child(ACRWC).

The Constitution of Kenya 2010 specifically article 53, National Plan of Action for Children, Convention on Protection of Children and Co-operation in Respect of Inter Country Adoption, the National Children Policy and other relevant sector-specific policies of the Kenya Government. The development of this policy was conducted through an inclusive, participatory and widely consultative process with representation of key stakeholders among them children, county departments, county government departments and agencies, development partners, non-state actors, community and faith based organizations working with and for children.

#### 1.14. Case for Investing in Children

The case for investing in children is made by a growing body of evidence and researchers. This is done through three powerful arguments or perspectives. As the basis and foundation for matters children, the rights argument is the foremost one made (Save the Children International, 2011). Like all the countries that are signatory to the UNCRC, Article 4, therein obligates Kenya to “undertake such measures to the maximum extent of their available resources and where needed within the framework of international cooperation” to fulfil children’s social and economic rights.

These rights are defined as entitlements that belong to all children regardless of race, ethnicity or social economic class (Nussbaum, 1998: p. 273). The right-based perspective includes children’s rights into development discourse.

According to this perspective, children have inalienable rights to a core minimum level of wellbeing, including the right to proper health, quality education, social protection, and the right to grow up in a family (Semkwiji, 2012). Further, on this argument, Kenya can reach out to development partners and indeed the international community for financial support where need be as these partners are also obligated to assist developing countries. However, the primary responsibility for providing public resources lies with the government as it is the one that can undertake legislative, institutional and administrative actions, provide social services, make policy decisions, and formulate budgets to ensure that children’s rights are realized. The 2010 Kenya Constitution provided two levels of government: national and county. The County government therefore has developed this Children Policy to guide its decision in investing in children and

The second argument is founded on economic logic. One angle is that, investment and development of childhood capacities contribute to improving the quality and productivity of future labor force in a society (World Bank, 2010; Semkwiji, 2012). Public spending on quality education, health service, nutrition, water and sanitation is critical in developing human capital of the population that will in turn result to better outcomes in terms of a healthy and educated population and, ultimately, overall



improvement in their wellbeing as the second angle (Anderson and Hague, 2007; Ibid). Moreover, Save the Children International (2011) note that children are largely dependent on public services and therefore spending in them denotes effective use of public resources. Since children make up about 20 million or half of Kenya's population, it makes economic sense to ensure that public spending benefits this social group.

The third and final argument is both political and social. Social deprivation and indeed child deprivation can diminish participation and solidarity and reduce social mobility channels, which in turn can undermine democratization processes (Marcus et al., 2011). Further, this argument is based on the social contract theory that proclaims rights such as life, liberty and property belong to the individuals and not the society (Offenheiser-Holcombe, 2006). In totality, advancement of this argument will contribute to an inclusive society.

## CHAPTER TWO: LEGAL AND POLICY FRAMEWORK

### 2.1. Right to Survival

Article 6 of the United Nations Convention on the Rights of the Children (UNCRC) recognizes that every child has an inherent right to life and that state parties shall ensure, to the maximum extent possible the survival and development of the child. It further states in Article 24, that children have the right to good quality healthcare, to safe drinking water, nutritious food, a clean and safe environment, and information to help them stay healthy. The article further underscores the right of the child to the enjoyment of the highest attainable standard of health and to facilities for treatment of illness and rehabilitation of health. Health is therefore of central importance because the enjoyment of various other rights is based on the extent to which health is secured.

Article 14 of the African Charter on the Rights and Welfare of the Child (ACRWC) recognizes that every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health. Article 43 (a) of the Kenya Constitution states that “Every person has the right to the highest attainable standard of health, which includes the right to healthcare services, including reproductive health care; access to reasonable standards of sanitation; to be free from hunger and have adequate food of acceptable quality; to clean and safe water in adequate quantities; and a person shall not be denied emergency medical treatment”.

The Kenya Vision 2030 Medium Term Plan (MTP) II states that the Government will put emphasis on universal access to healthcare, preventive and primary healthcare, clean water, management of communicable diseases maternal and child health, and non-communicable diseases. It will also invest in medical research, pharmaceutical production and health tourism as a means of diversifying external revenue sources and serve as a regional hub for health services.

## 2.2. Child Development

The legal framework for child development is anchored in the UNCRC, ACWRC, the Constitution of Kenya 2010, the Children Act 2001 and the National Children Policy 2010. The different line ministries and departments have policies, standards and guidelines that are aligned to these instruments and include:

- The Basic Education Act (2013) specifically the ECDE mandate
- Teachers Service Commission Act (2012).
- The National Special Needs Education Policy framework (2009).
- National School Health Policy (2010).
- The county Health sector policy
- National Early Childhood Development Policy Framework (2006).
- Policy for Alternative Provision of Basic Education and Training (2009).
- The Guidelines for Child Participation in Kenya (2006).
- Guidelines for the Formation and Operation of Area Advisory Council, (2006).
- Training Resource Manual for Area Advisory Councils (2007).
- The Framework for National Child Protection System Kenya (2011).
- Good Practice in Child Care: A Manual for Children Caregivers (2011).
- Safety Standards Manual for Schools in Kenya (2008).
- Kenya Children Policy (2010).
- The National Police Service Act (2011).

The child's right to development is captured in the Children's Act 2001 and the UNCRC. The following articles in the UNCRC highlight the right to development; right to free and compulsory education, parental love and care (Articles 5, 7, 9 and 19), access to appropriate information (Article 17), Social security including social insurance (Article 26) and (Article 28), right to rest, play, leisure and recreation (Article 31). Evidence on country level achievements on child development is minimal with most information concentrating on education with little focus on play, recreation and leisure, parental and family care, and access to information. Despite the existence of numerous policies

and guidelines for children, there is gap in tracking their effects on holistic child development.

### **2.3. Child Protection**

Key developments in the national legislation and policies in child protection: (since 2009) are:

- The UNCRC in various articles further outlines that state parties should protect children from drugs and substance abuse, child labor, child trafficking, sexual abuse and exploitation. Children should also be protected against the negative impact of information and communication technologies and media, retrogressive cultural practices and harm by caregivers. Moreover, there are categories of children requiring special protection including internally displaced children, children living with disabilities, refugees, children in conflict with the law and those in alternative family care.
- Article 39 of the UNCRC States that, parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child. Psychosocial support can offer both proactive measures for protection as well as healing through resilience building. This can be done through empowering children, families and communities on psychosocial care and support.
- Article 53 (1) d of the 2010 Kenya Constitution provides for protection from abuse, neglect, harmful cultural practices, all forms of violence, inhumane treatment and punishment, and hazardous or exploitative labor. Article 19 of the UNCRC states that children have the right to be protected from being hurt and mistreated, physically or mentally. Various articles of the African Charter provide for children's rights to protection and also define responsibilities of various duty bearers.
- The Kenya National Children's Policy 2010 provides that all children especially those with disabilities and those with special needs have a right to be protected

from any harm that may interfere with their growth and development. The policy also proposes actions that ensure that children access birth registration and identity cards when they come of age. It also proposes systematic approaches to child protection.

- The Kenya Citizens and Foreign Nationals Management Service Act enacted in 2011.
- The Counter Trafficking in Persons Act, 2010.
- The 2010 Constitution prohibits marriage of persons under the age of 18. In addition, the Marriage Act 2014 consolidates all marriage laws in Kenya to remove any discriminatory provisions with respect to boys and girls (e.g. different ages for marriage).
- Prohibition of Female Genital Mutilation Act, 2011.
- National Standards on Best Practice in Charitable Children Institutions in 2011.
- The Alcoholic Drinks Control Act was enacted in 2010.
- Standards of Practices for Child Protection Centers in 2010
- Standards for Quality Improvement for OVC services.
- The Guidelines for Alternative Care 2014.

#### **2.4. Child Participation**

- The Constitution (Article 10) allows citizen participation, which includes children.
- Vision 2030: which aims to make Kenya a globally competitive and prosperous nation? In the social pillar, which emphasizes a just and cohesive society, children's issues are addressed in the gender, youth and vulnerable groups' sub-sectors.
- Participation rights are provided for under the various sections and articles in UNCRC and ACRWC as follows:
  - In the UNCRC:
    - Article 12 - Respect for the views of the child.
    - Article 13 - Child's rights to freedom of expression.
    - Article 14 - Child's right to freedom of thought, conscience and religion.
    - Article 15 - Child's right to freedom of association and peaceful assembly.

- Article 17 - Access to appropriate information.
- Article 21(a) - The right to informed consent of the person concerned.
- In the ACRWC, Article 31, responsibilities of the child in the African context are articulated.
- Children Act 2001 (Section 21), duties and responsibilities of the child are spelt out. Further, the Act states that in any matter of procedure affecting a child, the child shall be accorded an opportunity to express his or her opinion, and that opinion shall be taken into account as may be appropriate, considering the age of the child and the degree of maturity (Section 4(4)).
- The National Children Policy that incorporates child participation as an integral component, on its own and as a means to achieving other rights. It recognizes that children are ‘implicit’ participants, beneficiaries and targets in Kenya Vision 2030. The Government has also created institutions with specific mandates to lead the implementation of policies and programmes aimed at fulfilling children’s rights to participation.
- Basic Education Act, 2013, includes a provision requiring a student representative to sit in the school board and election of student leaders (school prefects).
- Guidelines for Child Participation in 2006.

## 2.5. Survival Rights

Every child has a right to life; to be born, nurtured and to grow in a secure and conducive environment. This right is enshrined in both international and national laws. The following are the children survival rights. All children without discrimination on the basis of their economic, political and or socio-cultural status have a right to the highest attainable standard of health and appropriate health facilities and services. This includes mental health services.

It shall be the duty of the County government of Bungoma to provide adequate and quality health services to all children. This shall include ante-natal and post-natal periods and throughout the child’s lifetime. The County government shall put special

measures in place to mitigate the impact of health pandemics like COVID 19, HIV/AIDs and other diseases on children. The County government, the private sector, parents and other caregivers have the duty to ensure that children access quality preventive, curative and rehabilitative services. To realize this, the players shall put in place: -

- I. Programmes aimed at the reduction of infant and child mortality.
- II. Measures to prevent and manage childhood illnesses, disabilities, injuries and domestic accidents.
- III. Provision of Information, Education and Communication (IEC) and services on quality family planning, Ante-Natal Care (ANC), safe child delivery, breastfeeding, immunization, Post- Natal Care (PNC), good nutrition, mental health care services, HIV prevention, adolescent health, safe drinking water, environmental hygiene and sanitation.
- IV. Provision of child friendly measures on pandemics like COVID 19, counseling and testing services for HIV and access to age appropriate ARTs.
- V. Measures to reduce micronutrient deficiencies.
- VI. Measures to control practices prejudicial to the health of the child with emphasis on early pregnancies and marriage.

## **2.6. DEVELOPMENT RIGHTS**

Development Rights of children focus on education, play and leisure, access to appropriate information, cultural and artistic activities, parental care and social security.

### **3.2.1. Education**

All children have a right to relevant, quality, accessible, affordable and child friendly education in a secure and safe environment. The County government in supporting the national government and parents/guardians are required to ensure accessibility, utilization of free and compulsory basic education. The County government will ensure accessibility and utilization of the Early Childhood Education (ECE) that is the foundation to basic education. This shall be achieved by among others:

- I. Supporting the national government in the provision of equitable access to quality and adequate educational facilities, with safe drinking water and separate sanitation facilities for boys and girls.
- II. Standardization of the early childhood curriculum while ensuring relevance, quality and responsive school curriculum at all levels.
- III. Elimination of hidden barriers detrimental to accessing free education.
- IV. Provision for free feeding programmes for the needy and vulnerable children in schools.
- V. Promotion of appropriate and child friendly physical education (games, sports) and other types of recreational as well as cultural and scientific activities in schools, community centers and other institutions.

#### **2.5.2. Leisure, Recreation and Play**

All children shall have access to adequate and appropriate leisure, recreation and play for their holistic development for the realization, growth and exploitation of their talents. This shall be provided through among others: -

- I. Provision of child-friendly and well equipped community parks that are universally accessible and suited for all categories children.
- II. Promote and inculcate the importance of play and leisure for the continued holistic development of the child.

#### **2.5.3. Socialization, Parental Care and Access to Information**

Positive socialization is a necessity in the overall development of the child. It is enhanced through inculcation of social norms, values and attitudes gained through parenting, peer association and social interactions. Access to accurate and appropriate information supplements the process of socialization and prepares children for various life experiences and challenges. These shall be enhanced through among others: -

- I. Work with the national government to enactment legislations and policies to regulate the media and ensure that children do not access information that is detrimental to their development



- II. Promote programmes to strengthen family ties so that full potentialities of growth of children are realized within the family, neighborhood and the community environment.
- III. Advocate and promote programmes on effective parenting.
- IV. Enhance provision of age-appropriate and gender responsive information, life skills and materials at all levels of child development.
- V. Encouragement of foster care and adoption as alternatives to loss of parenting.

#### **2.5. 4 Cultural and Artistic activities**

As children grow, they are entitled to understand and identify with their cultural and artistic activities. The County government to encourage positive cultural and artistic development. This shall be achieved through among others:

- I. Encouragement and institutionalization of regular cultural events to foster positive cultural values.
- II. Collaborate with the national government to promote inclusion of cultural and artistic activities in the school curriculum at all levels and for all categories of children.

#### **2.6. Protection Rights**

All children have a right to be protected from any harm that may interfere with their growth and development. This right has to be emphasized in regard to children in need of care and protection. Protection rights are realized through actions that ensure children access birth registration and identity given the uniqueness of Bungoma being a border county. The County government in collaboration with the national government to take systematic measures to guard against alcohol and substance abuse, physical abuse, child labor, trafficking, sexual abuse and exploitation, neglect, displacement, occult and cultism popularly known as devil worship, disasters, wars and conflicts among others.

##### **2.6.1 Identity and Registration**

Every child has a right to identity and registration at birth. Special attention has to be paid to children from Mount Elgon and those with disabilities and those with special

needs. This right is guaranteed through naming, right to nationality and the continued preservation of identity. This shall be ensured through among others:

- I. Promotion of advocacy on the importance of child birth identity and registration at birth.
- II. In collaboration with the national government ensure access to, less bureaucratic and affordable registration procedures for birth and acquisition of identity cards for all children regardless of their status in the society.

### **2.6.2 Drugs and Substance Abuse**

All children in Bungoma deserve to be protected from alcohol, drugs and substance abuse. To actualize this the County government shall among others: -

- I. Strengthen collaboration with national government to enforce existing laws against drug trafficking and abuse.
- II. Through Department of Health built accessible and affordable rehabilitation and rescue centers, equipped with qualified personnel for children who abuse drugs and other substances as well as medical care to children addicted to drugs.
- III. Incorporation of the campaign strategies against drug and substance abuse in the community health programmes
- IV. Work with the national government in promoting recruitment and deployment of specialized staff in all children institutions to detect and deal with drugs and substance abuse.
- V. Provision of more recreational facilities with varied activities to engage children fully during times of leisure especially during the holidays.

### **2.6.3 Physical Abuse**

All children have a right to be protected from physical violence such as hitting, kicking, beating, bites, burns as well as corporal punishment, among others. The County government shall take appropriate measures for protecting children from physical abuse by but not limited to: -

- I. Supporting the national government in the enforcement of laws on corporal punishment and other forms of cruel and degrading punishments.
- II. Promoting campaign on parenting without violence and development of positive child welfare and rearing practices
- III. Lobbying and advocating for alternative forms of promoting discipline among children.

#### **2.6.4 Child Neglect**

All children in Bungoma have a right to be brought up in a conducive environment and should be protected from neglect. Children who are prone to neglect suffer from illnesses and die in some cases especially young children if not prevented. To ensure children in Bungoma are protected from neglect require:

- I. Design and implement programmes aimed at social protection
- II. Identify and support vulnerable parents and families.

#### **2.6.5 Child Trafficking**

The County government of Bungoma in collaboration with national government and other players to guarantee protection of all children against all forms of sale, trafficking and abduction. To realize this the following measures shall be put in place:

- I. Rescue and rehabilitate all vulnerable children.
- II. Popularize and support enforcement of the Anti-Trafficking Law.
- III. Promote measures that ensure that families of vulnerable children have access to social protection services.

#### **2.6.6 Child Sexual Abuse and Exploitation**

All children are vulnerable to sexual violence although girls are more affected. Protection against these shall be provided through among others:

- I. Support enforcement of legislations on child sexual abuse and exploitation through popularizing the laws.
- II. Provision of life skills and IEC programs for vulnerable children especially girls in urban and market centers.

- III. Promotion of child protection systems to receive and respond to cases of child sexual abuse including free legal services to most vulnerable victims
- IV. Establishment of temporary shelters for children who have been sexually abused.

### **2.6.7 Child Labour**

All children have the right to be protected from work that threatens their well-being which include health, education, growth and development. Bungoma like any other Western Kenya counties is the source of cheap labour to other regions of the country. Children are the most vulnerable since there are easily lured and trafficked out of the county. Focus should be on taking appropriate measures for this protection such as: -

- I. Lobby and advocate for programmes that prevent and protect children from child labour.
- II. Promote social protection services with emphasis on access to education for all children and relevant and age appropriate life skills.
- III. Work with the national government in the enforcement of laws.
- IV. Ensure appropriate and marketable vocational skills for all school dropouts with provision of educational bursary fund.

### **2.6.8 Children of Internally Displaced Families Especially in Mt Elgon**

All children in Bungoma deserve equal treatment in terms of protection from all forms of threat. To realize this the County government shall take the following measures: -

- I. Support national policies and legislations that address the human rights issues of IDPs.
- II. Promote awareness raising on the rights of children among internally displaced families
- III. Minimize disruption of essential services such as education, water, sanitation, shelter and health for children of internally displaced and refugee families.

- IV. Promote reintegration of children back to their families

#### **2.6.9 Children affected by Disasters, Wars and Conflicts**

During natural calamities and civil unrest, the County has the obligation to guarantee children priority for protection and relief by taking measures that include: -

- I. Provision of disaster preparedness with focus to children, pregnant and nursing mothers.
- II. Enhancement of community awareness and capacity in preparedness, response, rehabilitation and reconstruction, mitigation and management of disasters.
- III. Measures to support and strengthen child protection mechanism for areas prone to conflict especially Mount Elgon.
- IV. Institute and promote post trauma counseling services to children and families affected by conflict.

#### **2.6.10 Children and Law**

All children have right to protection in matters regarding the law. This is regardless of whether they are in conflict with law or require legal assistance. Kenya is a signatory to the African Charter on the Rights and Welfare of the Child. Therefore, in pursuance to article 30 of the African Charter, the County government to support the national government to make all reasonable effort to avoid keeping children in custody under whatever circumstances. Other protective measures shall include among others:

- I. Support the national government in the promotion and provision of child friendly and gender responsive judicial systems in Bungoma County.
- II. Promote measures to re-integrate children in conflict with the law back to the community.

- III. Popularize the use of diversion process for children in conflict with the law.
- IV. Support the provision of and access to free legal aid to all children.

#### **2.6.11 Negative impact of ICT and Media**

Children are susceptible to harmful information through ICT and other media. The social media platforms have become a threat to many children. Betting and other addictive processes are causing negative impact on the growth and development of children. The County government in collaboration with the national government, stakeholders and other key persons in a child's life to ensure that the child is protected against possible harm. The specific steps of protection shall include but not limited to: -

- I. Promoting awareness programs for the duty bearers on the dangers posed by exposure to uncontrolled media and pornographic materials.
- II. Support development of legislation on the use of Internet by children while incorporating clear guidelines and regulations on pornography and other criminal related exposures.

#### **2.6.12 Retrogressive Cultural, Beliefs and Practices**

All children shall be protected from retrogressive and repugnant cultural, beliefs and practices. In Bungoma children keeping vigil in funerals at night and engaging in dances popularly known as 'disco matanga' is a negative practice that is a major contributor to early pregnancies and school drop-out. Cultural and traditional practices constitute one of the major challenges to the full realization of child rights in Kenya. The necessary measures shall include:

- I. Mounting of programs to raise awareness and discourage retrogressive and repugnant cultural beliefs and practices that include pockets of FGM in Mt. Elgon, marriage and motherhood in childhood and son preference.
- II. Enforcement of legislation and Plan of Action against Female Genital
- III. Provision of temporary child friendly shelters for those rescued from retrogressive and repugnant cultural beliefs and practices.
- IV. Mechanisms for ensuring that the property of deceased parents transcends to orphaned children regardless of their age or sex.

### **2.6.13 Negative influences and harm by Caregivers**

All children have a right to quality care, nurture and protection against any dangers posed by those entrusted with their care. This prevalent among girls and children with disabilities. The County government shall take measures to protect children against harm by caregivers through among others:

- I. Promotion of steps to widely disseminate and support implementation of the Persons with Disability Act (2003) and the Sexual Offenses Act (2006).
- II. Promote awareness campaigns including provision of IEC programs on the rights of the children and forms of child abuse by caregivers.
- III. Popularize and support implementation of County Child Protection System
- IV. Strengthen child protection through provision of a free and accessible channel to air complaints of child abuse.

### **2.6.14 Orphans & Vulnerable Children (OVC)**

Orphaned and vulnerable children (OVC) are at a risk and their rights are violated. Though it is known all children have a right to be protected and receive support within the family, community and the wider society, some of the OVC rights are violated. To guarantee these rights, the County government has to take appropriate measures to protect orphans & vulnerable children (OVC). The necessary steps shall include: -

- I. Support for parents, families and care givers
- II. Strengthen and support structures and community system take care of the orphans & vulnerable children (OVC)
- III. Provision of treatment, care and support to children including their parents and caregivers.

### **2.6.15 Children under Community Care, Adoption, Foster Care and Charitable Children Institutions (CCIs)**

In Bungoma there are children under community care, adoption, foster care and charitable children's institutions. These structures offer viable alternatives for

childcare. However, there cases of violation of rights of children living under these arrangements. The County government in collaboration with the national government have obligation to guarantee protection to these children against any possible abuse and exploitation. Such protection shall be achieved through among others: -

- I. Popularizing legislation on adoption.
- II. Promote the use CCIs to operate as the last resort as such children await appropriate placement and alternative family care within the community.
- III. Strengthen and support the structures and community systems that take care of the orphans and other vulnerable children (OVC).

## **2.7. Participation Rights**

Children in the African society have been known to belong to families. As a result of this perception, the adults speak on behalf of the children. As a result of this socio-cultural perception, children are ignored in key decisions that affect their welfare hence. Participation has become a clarion call because it empowers children and it is also provided for in international laws on rights of the child. As result, it is necessary for all children to participate in all areas relevant to their gender and age. To fulfill this requirement, the County government shall facilitate children participation through such steps as:

- I. Promote provision of appropriate and accurate information at all stages in their growth to enhance their participation in issues that affect them.
- II. Support and enhance appropriate forums like children assembly to promote association and expression of opinion for all categories of children, at all levels, with proper representation by sub-county, age and gender.
- III. Popularize the use of already existing child participation guidelines.



## **2.8. Duties and Responsibilities of Children**

Children are rights holders. In addition, in line with Article 31 of the African Charter, the County government popularize clear guidelines on the duties and responsibilities of children in the application of their rights. The responsibilities shall include: -

- I. All children to work for the unity and cohesion of the family.
- II. Children offer service to the community;
- III. Respect for parents, superiors and elders at all times;
- IV. Strengthen and preserve social and national solidarity including responsible citizenship;
- V. Promote and strengthen positive cultural values of the community.

## CHAPTER THREE: COORDINATION

### 3.0. Introduction

To ensure harmonized and sustainable service delivery for children, the Policy will be coordinated at various levels through the County Children Affairs Council as well as Sub County and Ward Children Advisory Sector Working Groups (CASWGs). This will help to ensure joint government and stakeholder planning, implementation and reporting.

### 3.1. Coordination Levels

The department of Gender, Youth, Sports and Culture, through the directorate of gender, the division of children services will coordinate the implementation of this policy. This policy establishes a county children affair council (CCAC) at the county level, and sub county and ward CASWGs

#### ***a) The County Children Affairs Council (CCAC)***

The Council is composed of the Chairperson and Council Members drawn from line National Ministries, County Departments and Agencies, Non- state actors, Religious Organizations and Representatives from the private sectors. The secretary to the council is the Director of the Children's services. The Council is headed by the chairperson who is appointed by the Governor and the members are appointed by the CECM of the department responsible for gender issues. The council provides leadership to the CASWGs

#### ***b) Children Advisory Technical Working Groups***

The CATWGs operationalizes the Council's mandate for the specific thematic areas. The council has four Technical Working Groups (SWG), one for each thematic area that meets on a quarterly basis to guide service delivery in the children sector. The secretariat provides support to these SWGs:

- Planning, Research and M&E.
- Resource mobilization, management and organizational development.
- Policy development and legal issues.

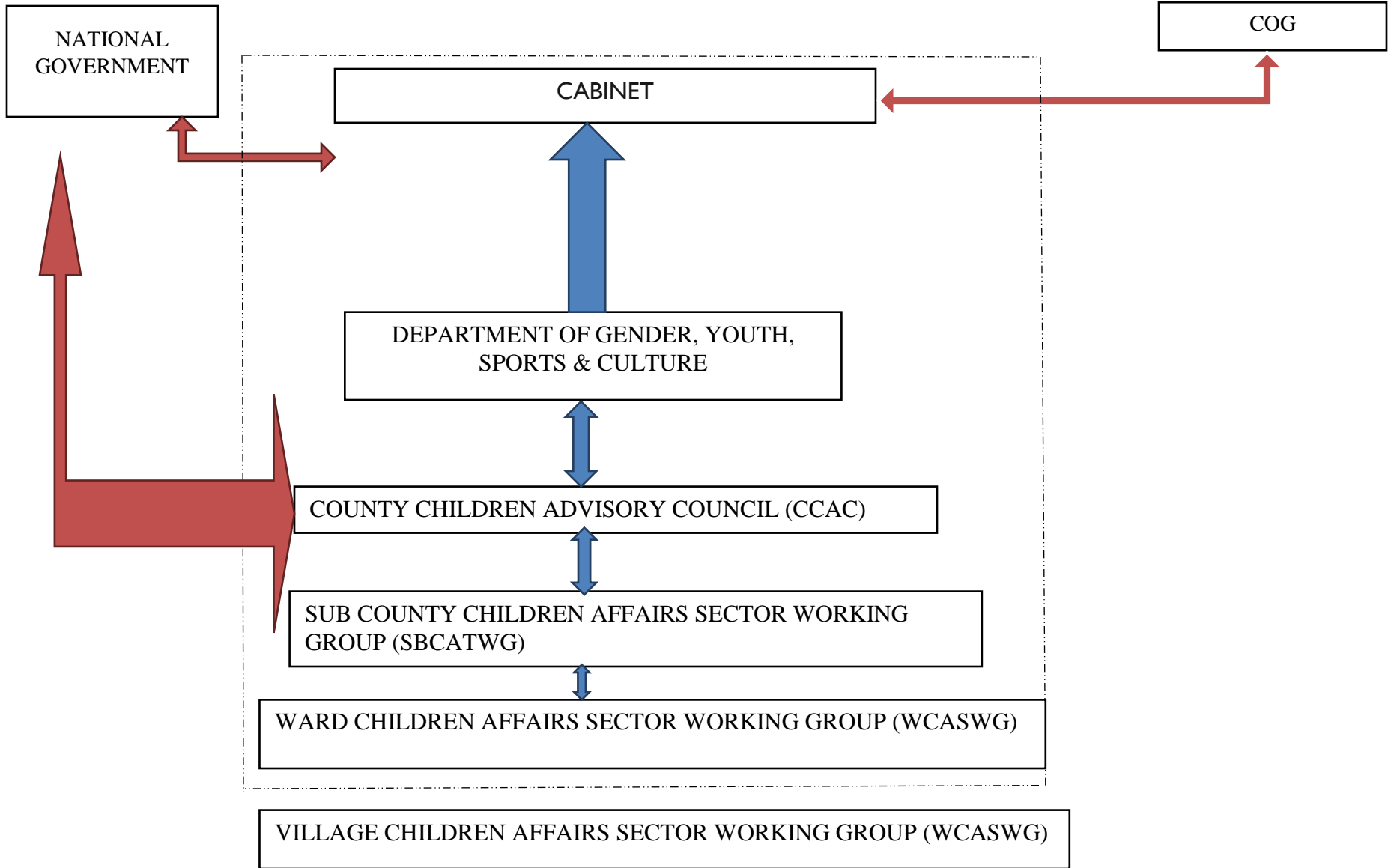
- Advocacy, media, participation and partnerships.

Each thematic area has a SWG that meets quarterly and guides service delivery in that department.

**c) Sub-county and Ward levels**

The Sub County CASWGs are chaired by the Sub County Administrator and the secretary is the Sub County Gender and Culture officers. All the four thematic areas will be replicated at the county and sub county levels and each area will be chaired by the relevant line department staff. Members of the SWG will be drawn from CSOs and other County and national government agencies. The SWGs will meet on a quarterly basis and will draw their roles from the county guidelines.

CCAC will streamline service delivery through promoting a harmonized standards and regulatory system that enhances; regulation of the child protection workforce and providers, mainstreaming quality assurance and improvement, standardization of child protection service delivery and supporting research and evidence base for child protection.



### 3.2. Resource Mobilization

The CCAC resource mobilization strategy guides all resource mobilization initiatives and links with child sector service providers to support resource mobilization for the council. The SWGs will form an inter-agency coordinating committee that will steer fundraising for CCAC activities. **The county government of Bungoma shall set aside not less than 2% of its annual budget towards children affairs.**

### 3.3. Capacity Building

To guarantee successful coordination and implementation of this policy, the Council, the CASWGs and its affiliates should ensure that human resources management and development provide for these conditions:

- Capacity building for the child sector workforce through needs-based training is undertaken regularly during the plan period at all levels.
- Results-based management is adopted at all thematic areas of the SWGs and the department's section levels.
- The Council will be expected to develop and implement work plans in line with Policy.
- Enhanced Supervision for providers through the - development of a child sector supportive supervision checklist and guidelines for cross learning.

## CHAPTER FIVE: MONITORING AND EVALUATION

### 5.0. Introduction

The Constitution of Kenya 2010 articles 10, 56, 174, 195, 201, 203, 225, 226 and 227 stipulate that monitoring and evaluation is an important part of operationalizing government activities. This is to ensure transparency, integrity, and information access and accountability principles.

One of the flagship projects under the Kenya Vision 2030 is the development of an integrated data management system for children, which will collect sex disaggregated data that will guide policy, planning, budgeting, programming and reporting. In this regard The National Council for Children Services has developed and is rolled out a National Children database that gives real time status on the situation of children in Kenya. The database enables service providers to continuously report on activities they are undertaking to improve the welfare of children. The service providers include the Department of Children's Services (Child Protection Management Information System), Kenya Police, Ministry of Health, and Civil Society Organizations (CSOs) among others.

**Policy Statement:** the department shall conduct a prefeasibility study on children issues in the county and document a data base on the findings for effective decision making.

### 5.1. Monitoring and Evaluation Framework

The Monitoring and Evaluation Framework (M&EF) is a critical component of this policy which will provide quality performance information for decision making. The framework shall standardize the data collection, analysis, and storage and dissemination process. The ultimate responsibility of implementing the M&E framework for the policy lies with CCAC supported by line departments and agencies. Entry point for reporting will be through the SWGs starting at the ward-sub-county county levels. The Technical Working Group on M&E will support CCAC in operationalization of the Framework.

The County Advisory Council for Children Services, County government departments and development partners shall put in place the necessary infrastructure and capacity enhancement for monitoring, evaluation and reporting of the policy.

#### **5.1.1 Information sharing and Dissemination**

Information sharing will be two way starting from ward, sub-county and county level. The children officers at different levels are tasked with coordinating and collecting information from service providers using a standardized reporting format. The data will feed into the County children database.

#### **5.1.2 Monitoring**

The ward and sub county coordinator for Children shall work in collaboration with the county monitoring and evaluation SWGs to monitor the implementation of the policy at the sub county and ward level. The CCAC will conduct quarterly monitoring and support supervision to the counties to ascertain implementation of the policy.

#### **5.1.3 Evaluation**

Internal and external evaluation of the policy will be done after every three years. The findings of the evaluation shall inform the review and update of the policy.

#### **5.1.4 Research**

In order to promote evidence-based interventions, CCAC shall put in place structures for conducting thematic and operational research as and when required. CCAC will also work the KNBS and National Council of Science and Technology (NCST) to establish a data resource for all research that has been done on children to improve accessibility and reduce duplication.

## **CHAPTER SIX: COMPLIANCE WITH THE POLICY AND STANDARDS & POLICY REVIEW**

### **6.1. Compliance**

All stakeholders shall comply with this Policy to ensure effective implementation of this programme. Compliance in this Policy is adhering to guidelines, standards, operating procedures and regulations. All Public Sector Institutions, Civil Society and Private Organizations that are registered with Government and handle public funds will be required to comply with the provisions of this Policy. Standards set out in this Policy document that guide the implementation processes shall be applicable across the County Government structures.

### **6.2. Compliance Requirements and Obligations Shall Include: -**

- I. Reporting obligations according to agreed formats;
- II. Abiding by the principles of the policy
- III. Abiding by the agreed quality, quantity, time and standards. (These shall be defined and agreed with stakeholders)

### **6.3. Non-Compliance**

Non-compliance to this Policy shall be managed in accordance with the relevant legal and regulatory provisions.

### **6.4. Review of Policy**

This Policy establishes a framework for management of children service in the county. The practice, approach and tools for implementation will continue to evolve with time. As such this Policy will be reviewed through a participatory process after every 3 years in line with the implementation period for the MTPs for Vision 2030 and CIDPs, so as to capture relevant developments and emerging practices and approaches. There shall however be a continuous review process of the Policy.