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*23/3/23*

**REPUBLIC OF KENYA**  
**THE NATIONAL ASSEMBLY**

**THIRTEENTH PARLIAMENT – SECOND SESSION**

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**DEPARTMENTAL COMMITTEE ON LABOUR**

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**REPORT ON –**

**INQUIRY REGARDING SEXUAL HARASSMENT OF FEMALE WORKERS IN TEA  
ESTATES IN KERICHO COUNTY**

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 <b>THE NATIONAL ASSEMBLY</b> PAPERS LAID	
<b>DATE:</b> 23 MAR 2023	<b>DAY:</b> THUR
<b>TABLED BY:</b>	HON. MUCHANGI KAREMBA (CHAIRPERSON)
<b>CLERK AT THE TABLE:</b>	FINLAY MURIUKI

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## **CHAIRPERSON'S FOREWORD**

The Hon. Beatrice Kemei, MP (Kericho County) on 21<sup>st</sup> February 2023 sought a statement from the Chairperson, Departmental Committee on Labour regarding sexual harassment of female workers in various tea estates in Kericho County. The Honourable member reported that the female workers in various tea estates in Kericho County worked and lived in deplorable conditions and had been victims of sexual abuse at the hands of their male bosses.

An expose' by BBC Africa eye documentary by the British Broadcasting Company (BBC) entitled "*sex for work: the true cost of our tea*" was aired on 20<sup>th</sup> February, 2023 in which two companies namely; James Finlay Kenya and Ekaterra Lipton Teas and Infusions (formerly Uniliver) were reported as having incidences of sexual harassment and exploitation. In addition, several anonymous females featuring in the documentary named four male persons, two in each of the companies reported as the perpetrators of the acts.

In view of the foregoing, the Committee resolved to conduct an inquiry into the matter in line with the provisions of National Assembly Standing Order 216(5) (e) which mandates Departmental Committees to investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House. This was besides facilitation of issuance of a response to the Statement request by the Cabinet Secretary for Labour and Social Protection for reporting by the Chairperson to the House.

While conducting the inquiry, the Committee therefore heard evidence from the Hon. Beatrice Kemei, MP (Kericho County), Kericho County Security Team, The management of James Finlay Kenya, Ekaterra Lipton Tea and Infusion Companies, Officials of the Ministry of Labour and Social Protection, victims of the sexual harassment (if they consented to making their submissions to the Committee) and officials of Kenya Planters Cooperative Union and their shop stewards in Kericho.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during the inquiry. Finally, I wish to express my appreciation to the Honorable Members of the Committee, Committee Secretariat and all those who responded to the Committee's invitations to provide information on the matters under the inquiry.

On behalf of the Committee and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the report of the Committee on its findings regarding the inquiry into the sexual harassment of female workers in various tea estates in Kericho County.

**HON. ERIC MUCHANGI KAREMBA, M.P.**

**CHAIRPERSON, DEPARTMENTAL COMMITTEE ON LABOUR**

## PART I

### 1.0 PREFACE

#### 1.1 Mandate of the Committee

1. The Departmental Committee on Labour was constituted on 27th October, 2022 and is established under provisions of S.O 216. Standing Order No. 216(5) grants the Committee amongst other functions to:
  - a) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
  - b) *study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
  - (ba) *on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
  - c) *study and review all legislation referred to it;*
  - d) *study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
  - e) *investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
  - f) *vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
  - (fa) *examine treaties, agreements and conventions;*
  - g) *make reports and recommendations to the House as often as possible, including recommendation of propose legislation;*
  - h) *consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
  - i) *examine any questions raised by Members on a matter within its mandate.*
2. Further, the Second Schedule to the Standing Orders mandates the Committee to consider matters relating to Labour, human capital and remuneration, trade union relations and public service.

#### 1.2 Oversight

3. In line with the assigned subject matter, and in executing this mandate, the Committee oversees the following Ministries, Departments and Agencies (MDAs):
  - a) The State Department for Public Service and its Autonomous and Semi-Autonomous Government Agencies which include;
    - a) Kenya School of Government; and
    - b) Institute of Human Resource Management.

- b) The State Department for Labour and Skills Development and its autonomous and semi-autonomous Government agencies which include;
  - a) National Industrial Training Authority (NITA);
  - b) National Productivity and Competitiveness Centre (NPCC);
  - c) Kenya National Labour Board and the Wages Council;
  - d) National Employment Authority (NEA);
  - e) Migrant Workers Welfare Fund; and
  - f) Department of Labour Migration Management.
- c) Public Service Commission;
- d) Salaries and Remuneration Commission;

### 1.3 Committee Composition

- 4. The Departmental Committee on Labour was constituted by the House on 27th October 2022 and comprises of the following Members:

#### **Chairperson**

Hon. Eric Muchangi Karemba, MP  
Runyenjes Constituency

#### **UDA Party**

#### **Vice-Chairperson**

Hon. Fabian Kyule Muli, MP  
Kangundo Constituency

#### **GDDP**

#### **Members**

Hon. James Onyango K'Oyoo, MP  
Muhoroni Constituency

#### **ODM Party**

Hon. Richard Kiti Chonga, MP  
Kilifi South Constituency

#### **ODM Party**

Hon. George Aladwa Omwera,  
Makadara Constituency

#### **ODM Party**

Hon. Amina Dika Abdullahi, MP  
Tana River Constituency

#### **KANU**

Hon. Ernest Ogesi Kivai Kagesi, MP  
Vihiga Constituency

#### **ANC Party**

Hon. Joseph Samal Lomwa, MP  
Isiolo North Constituency

#### **Jubilee Party**

MP Hon. Catherine Wambiliaga, MP  
Bungoma County

#### **FORD-K**

Hon. Dorice Aburi Donya, MP  
Kisii County

#### **WDM-K**

Hon. Patrick Simiyu Barasa, MP  
MP  
Cherangany Constituency  
**DAP-K Party**

Hon. Peter Irungu Kihungi, MP  
Kangema Constituency  
**UDA Party**

Hon. Lilian Chebet Siyoi, MP  
Trans Nzoia County  
**UDA Party**

Hon. Mangale Munga Chiforomodo,  
Lunga Lunga Constituency  
**UDM Party**

Hon. Leah Sopiato Sankaire, MP  
Kajiado County  
**UDA Party**

#### **1.4 Committee Secretariat**

5. The Committee has the following technical staff, representing the Office of the Clerk:

**Ms. Rose M. Wanjohi**  
**Senior Clerk Assistant /Head of Secretariat**

Mr. Binensa Mabungu  
Clerk Assistant III

Ms. Christine Odhiambo  
Senior Legal Counsel

Ms. Wambui Nyachae  
Research Officer III

Ms. Zainab Wario  
Serjeant-At-Arms

Mr. Samuel Wanjiru  
Clerk Assistant III

Mr. Fredrick Muthengi  
Chief Fiscal Analyst

Mr. Timothy C. Tsungulah  
Research Officer III

Ms. Rehema Koech  
Audio Officer

## **2.0. INQUIRY INTO SEXXUAL HARASSMENT OF FEMALE WORKERS IN TEA ESTATES IN KERICHO COUNTY**

### **2.1 Background Information**

6. The Hon. Beatrice Kemei, MP (Kericho County) on 21<sup>st</sup> February 2023 sought a statement from the Chairperson, Departmental Committee on Labour regarding sexual harassment of female workers in various tea estates in Kericho County. In the Statement request, the Members averred that female workers in various tea estates in Kericho County lived and worked in deplorable working conditions and were victims of sexual abuse in the hands of their male bosses. The Member's prayers in the Statement were as follows-
  - i. Could the Chairperson provide concrete information on the allegations of sexual harassment of female workers in the various tea estates in Kericho County?
  - ii. Could the Chairperson explain what measures the government is putting in place to protect the rights of female workers in these tea estates?
  - iii. Could the Chairperson explain measures the government is putting place to ensure these tea estates adhere to labour laws and implement policy on sexual harassment?
  - iv. Could the Chairperson consider carrying out investigations into the heinous acts to ensure culpable perpetrators are brought to book and justice is served?
7. An expose' by BBC Africa Eye documentary by the British Broadcasting Company (BBC) entitled "*sex for work: the true cost of our tea*" was aired on 20<sup>th</sup> February, 2023 in which two companies namely James Finlay Kenya and Ekaterra Lipton Teas and Infusions (formerly Uniliver) were reported as having witnessed incidences of sexual harassment and exploitation. In addition, several anonymous females featured in the documentary named four male persons, two in each of the companies named as the perpetrators of the acts.

### **2.2 Inquiry into the sexual abuse allegations**

8. Following the request for statement, the Committee resolved to conduct an inquiry into the sexual abuse allegations and table a report in the House with a view to having the report debated, adopted and recommendations forwarded to the concerned agencies for implementation. This was besides facilitating the issuance of a response by the Cabinet Secretary for Labour and Social Protection for reporting to the House by the Chairperson.
9. The decision of the Committee to conduct an inquiry into the matter was informed by Standing Order 216 (5) (e) which mandates Departmental Committees to investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House.
10. The Committee set its terms of reference for the inquiry as follows-
  - (i) To establish if there is concrete information on the allegations of sexual harassment of female workers in the various tea estates in Kericho County.
  - (ii) To establish the measures the government is putting place to protect the rights of female workers in these tea estates.
  - (iii) To establish the measures the government is putting place to ensure these tea estates adhere to labour laws and implement policy on sexual harassment;



- (iv) To establish the status of investigations into the heinous acts to ensure culpable perpetrators are brought to book and justice is served.

### **2.3. Public Participation (Art 118 of the Constitution)**

12. The Committee carried out public participation in accordance with the requirements of Article 118 of the Constitution of Kenya 2010. The Committee identified the following stakeholders whom it requested to make submissions on the matters under inquiry-

- i. The County Security Team of Kericho- included the Directorate of Criminal Investigations, The National Police Service, the National Intelligence Service and the County Commissioner;
- ii. The National Labour Commissioner Office and State Department for Labour and Skills Development;
- iii. The County Labour Officer, Kericho;
- iv. The Management of James Finlay Kenya Limited;
- v. The Management of Ekaterra Lipton Teas and Infusions;
- vi. The Shop Stewards, James Finlay Kenya Limited;
- vii. The Shop Stewards, Ekaterra Lipton Teas and Infusions;
- viii. The Assistant General Secretary, Central Organization of Trade Unions (COTU);
- ix. The Branch Secretaries, Kenya Plantation and Agricultural Workers Union of the Counties of Kericho and Bomet; and
- x. Victims of the sexual harassment (if they consented to make their submissions to the Committee)

### **2.3 Methodology of the Inquiry**

13. The Committee:

- a) Conducted public hearings in Kericho County on 3<sup>rd</sup> and 4<sup>th</sup> March, 2023 during which it held meetings and heard submissions from the aforementioned stakeholders. Both oral and written submissions were made to the Committee by those who testified.
- b) Analyzed the submissions received the outcome of which informed its findings and recommendations.

### **2.4 Challenges**

14. During the conduct of the Inquiry, the Committee faced challenges that included:

- a) The witness who had by the Labour Office to speak in camera to the Committee on the allegations declined and referred to their lawyer
- b) The nature of the allegations made it difficult to receive witness information including from the shop stewards and the union

### **2.5 Definition of Sexual harassment**

15. Sexual Harassment is defined to include;

- a) Any direct or indirect requests for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express:
    - i. promise of preferential treatment in employment;
    - ii. threat of detrimental treatment in employment; or
    - iii. Threat about the present or future employment status of the employee.
  - b) Any behaviour that is unwelcome or offensive, of a sexual nature that includes physical conduct, display of visual material and communication whether written, verbal or non-verbal and includes electronic material.
  - c) Examples of Sexual Harassment Sexual Harassment can take various different forms and may include but not limited to:
    - i. Unwelcome and unnecessary physical contact;
    - ii. Transmission of sexual material including photos, videos, pinups;
    - iii. Making suggestive comments, jokes or taunts with sexual connotations;
    - iv. Unwanted persistent invitations to go out on dates;
    - v. Persistent requests for sex;
    - vi. Unsolicited demands or request for sexual favours;
    - vii. Intentionally exposing your private parts;
    - viii. Sexually explicit letters, faxes, emails, text messages or any other electronic content; or
    - ix. Unsolicited and intrusive comments or questions about a person's body, sexuality, sexual orientation, gender identity or gender expression
16. Kenyan legislative framework developed to counter sexual harassment
- A. Constitution of Kenya**
17. The Constitution of Kenya-
- (i) Guarantees rights and freedoms of every person in Kenya including the right to fair labour practices, the right to freedom and security of the person, the right to human dignity and freedom from discrimination. In accordance with the declaration of international protection and worker rights, the constitution of Kenya under Article 27, prohibits any and all kinds of discrimination in the workplace. It protects every employee working in Kenya from abuse and discrimination from the employer and rights violations. This section exists in line with the fundamental constitutional right of every Kenyan- every citizen is equal before the law and has the right of equal protection and benefit from the law.
  - (ii) Although Article 27 doesn't explicitly mention sexual harassment and punitive measures against such an offense, it forms the basis of workplace rights protection laws.
  - (iii) In the event an employee claims that he/she was sexually assaulted, the employee can institute court proceedings claiming that any of the above rights have been denied, violated, infringed or threatened. In the event the claim is successful, the court has the power to order for just compensation to be paid to

the victim or order for judicial review in the event due process when handling a sexual harassment allegation was not followed.

## **B. Sexual Offences Act**

### **18. The Sexual Offences Act-**

- (i) Under the Sexual Offences Act (the Act), a person may be found guilty of sexual harassment if any person, who being in a position of authority, or holding a public office, persistently makes any sexual advances or requests which he or she knows, or has reasonable grounds to know, are unwelcome. The penalty of the offence is imprisonment for a term of not less than three years or a fine of not less than KES 100,000 (approx. USD 1,000) or both;
- (ii) The Act, however, imposes an obligation on the alleged victim of sexual harassment to prove that their submission or rejection of the sexual advances or requests would be used as a basis of employment or as a decision relevant to the career of the alleged victim; and that the sexual advances or requests by the perpetrator have the effect of interfering with the alleged victim's work; educational performance or have created an offensive working or learning environment for the alleged victim.
- (iii) It follows that a key ingredient to proving or disproving a sexual harassment allegation is determining whether the advances were welcomed. Lack of consent by the alleged victim is, therefore, a critical element of sexual harassment. Consent means a person agrees by choice and has the freedom and capacity to make that choice.

## **C. Employment Act**

- 19. Section 6 of the Employment Act defines sexual harassment as where an employer or a representative of the employer or a co-worker:
  - a) directly or indirectly requests an employee for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express (i) promise of preferential treatment in employment; (ii) threat of detrimental treatment in employment; or (iii) threat about the present or future employment status of the employee;
  - b) uses language whether written or spoken of a sexual nature;
  - c) uses visual material of a sexual nature; or
  - d) shows physical behaviour of a sexual nature which directly or indirectly subjects the employee to behaviour that is unwelcome or offensive to that employee and that by its nature has a detrimental effect on that employee's employment, job performance, or job satisfaction.
- 20. In addition, the Employment Act requires that an employer with twenty or more employees must, after consulting with the employees or their representatives if any, issue a policy statement on sexual harassment. The policy should include: a definition of sexual harassment; a statement that every employee is entitled to employment that is free of sexual harassment; a statement that the employer shall take steps to ensure that no employee is subjected to sexual harassment; and a statement that the employer shall

take disciplinary measures as they deem appropriate against any person who subjects any employee to sexual harassment.

21. In addition to having a sexual harassment policy, the employer must ensure that the policy is implemented. Employers should, therefore, train their employees on the parameters of the policy.

#### **D. Case Law**

Following the changes in the law, there have been several decisions from the Kenyan courts.

22. In the case of *CAS v CS Ltd* the employee disclosed that she was constantly sexually harassed by various staff members, including some who were in management. The employee further explained that the lack of a sexual harassment policy by the employer added to her frustration and harassment. The court found the employer guilty of failing to have a sexual harassment policy in violation of section 6 of the Employment Act.
23. Another issue that was canvassed in the case was the employee's unfair termination stemming from the lodging of the sexual harassment complaint. After making her complaint, the employee was issued with a show-cause letter and later dismissed. The judge held that the reasons given for dismissing the employee were not valid given that she was dismissed for seeking help at the employer's head office. In this matter, the court found that the employee had been summarily dismissed and awarded her a compensation of approximately USD 4,000.
24. Similarly, in the case of *SRM v GSS (K) Limited & another*, the employee disclosed that she was being sexually harassed by an employee in top management. She was dismissed after making her complaint. The court found the employer guilty of failing or ignoring to investigate the claim expeditiously and impartially as required by the company's internal procedures. It was outlined in the business ethics policy, that when an allegation of sexual harassment is made, the same should be raised with the employer's Human Resource Manager who would arrange for the claim to be investigated impartially, confidentially and without delay. The court held that the process outlined within the business ethics policy was not followed by the employer. In this matter, the court found that the employee had been unfairly dismissed and awarded her compensation of approximately USD 60,000.

### **3.0 STAKEHOLDERS SUBMISSIONS**

#### **3.1 COUNTY SECURITY TEAM, KERICHO COUNTY**

Mr. Stephen Orinde, Deputy County Commissioner, Kericho County; Mr. Riko Ngare, County Police Commander, National Police Service; Ms. Rodah Kanyi, Director of Criminal Investigations Officer, Kericho County and Mr. Robert Kisiangani, Intelligence Officer, National Intelligence Service appeared before the committee on Friday, 3rd March 2023 and submitted as follows-

26. Mr. Riko Ngare, County Police Commander, acknowledged receipt of the letters from the committee and submitted that no report had been filed with the authorities or the companies mentioned in regards to the allegations of sexual exploitation in the tea estates.
27. The County Police Commander informed the Committee as follows-
- i. There are fifteen (15) Police Stations within the two tea estates, 3(three) within James Finlay Kenya Tea estates and twelve (12) within Ekaterra Tea estates.
  - ii. There is a gender office in Kericho County whose construction was funded by James Finlay Kenya. The Centre is open to the public and it offers a safe house for children and victims of Gender Based Violence.
  - iii. There are regular patrols by the Security team in the tea estates.
  - iv. There is a Court Users Committee that acts as a forum where parties not satisfied with the decision of the Courts can seek advice on avenues available for appeal. The Committee is composed of the management of the tea estates, labour officers, children's officers, non-governmental organizations and members of the security team.
  - v. There are regular meetings with the management of the Tea estates.
28. Ms. Rodah Kanyi, Director of Criminal Investigations Officer, informed the Committee that a team had been constituted by the Directorate of Criminal Investigations to investigate the matter. The Team was headed by Mr. Francis Wanjau, Regional head of the Directorate of Criminal Investigations. The Criminal Investigations officer further submitted as follows-
- i. On 23<sup>rd</sup> February 2023, her Team visited the two companies mentioned and recorded statements with the management. The management maintained that they had no information in regards to the expose by the BBC network.
  - ii. The investigating team requested for the full information of all the persons mentioned as perpetrators in the expose. Thereafter the team recorded their statements. The team also visited the workstations of the persons mentioned.
  - iii. No formal complaint in regards to the alleged sexual harassment had been made by the victims. Therefore, no arrest had been made.
  - iv. The preliminary investigation findings had been submitted to the Directorate of Criminal investigations awaiting further action.

### **3.2 SUBMISSIONS BY THE LABOUR OFFICE, KERICHO**

Mr. Kephas Odhiambo, Labour Officer, Office of Labour Commissioner, submitted as follows-

29. They were made aware of the allegations of sexual harassment of female tea workers from the social media. The Ministry wrote to the County of Kericho Labour officer instructing him to commence investigation into the allegations as per Section 35 of The Labour



Institutions Act, 2007. The County Labour officer was to engage the tea estates, security agencies and trade unions to get submissions. The Committee awaits detailed and concrete information on the status of investigation into the allegations to enable it report back to the house.

30. In addition the Labour officer submitted as follows-

- i. The interaction with the companies is mainly on the terms of working conditions in accordance with the Employment Act and International Labour Standards.
- ii. Both James Finlay Kenya and Ekaterra Teas have a sexual harassment policy.
- iii. Both Companies have reporting structures as per the Collective bargaining agreement with the trade Union.
- iv. Both have active gender committees to deal with employee welfare and grievances.
- v. James Finlay has outsourced some sections of the labour services to contractors.

32. The labour Officer also emphasized the need for Kenya to ratify the **C190 - Violence and Harassment Convention, 2019 (No. 190)**. The Convention protects workers and other persons in the world of work, including employees as defined by national law and practice. It also protects persons working irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants, and individuals exercising the authority, duties or responsibilities of an employer.

### 3.3 SUBMISSIONS BY JAMES FINLAY KENYA LIMITED

Mr. Daniel Kirui, Human Resources Director, James Finlay Kenya accompanied by Mr. Sammy Kirui, General Manager, Corporate Affairs James Finlay Kenya; Raymond Cheruiyot, General Manager, Tea Estates and Ms. Evelyne Ng'eno, Legal Manager, James Finlay Kenya appeared before the Committee on Friday, 3rd March 2023 and made the following submissions:-

33. Mr. Daniel Kirui, Human Resource Director, submitted that they were unaware of sexual harassment in the farms. The BBC programme broadcasted some deeply shocking and upsetting testimony of sexual exploitation at James Finlay Kenya.

34. Mr. Daniel Kirui, Human Resources Director, James Finlay Kenya submitted as follows-

- i. The Company immediately suspended the two individuals featured in the BBC investigation and barred them from accessing all James Finlay tea estates sites. The Company also terminated the agreement with John Chebochok's Company, Sislo Holdings. All three hundred (300) employees who had been contracted by Sislo Holdings who were working at James Finlay Kenya have been offered direct employment at James Finlay Kenya.



- ii. James Finlay Kenya reported the allegations against John Asava and John Chebochok to the Kenya Police and committed to continue working closely with the police, sharing additional information that results from the investigations.
  - iii. The Company also commissioned a private investigation into the matter. The investigation will cover two key areas, first to examine the cases highlighted by the documentary and secondly areas where the company can improve its approach to prevent and address sexual violence, abuse and harassment.
35. The Company also briefed the committee on its Harassment & sexual offences Policy, Child Protection Policy, Gender equality and Diversity Policy and the grievance handling policy.

### **3.4 SUBMISSIONS FROM SHOP STEWARDS AND GENDER COMMITTEES AT JAMES FINLAY KENYA**

36. The shop stewards and gender committee members appeared before the Committee in Camera. The Chairperson informed the workers the purpose of the visit. He further assured them that they would not suffer any victimization for appearing before the Committee. The trade union representatives of Kenya Planters Cooperative Union confirmed that the shop stewards were their duly elected members.

37. The workers submitted as follows-

- i. The management was aware of the continued harassment of workers in the tea estates. However cases of sexual harassment reported are not acted on and tangible sanctions applied to the alleged perpetrators for instance arrests or dismissal.
- ii. There was a communication gap between senior management and low-level workers.
- iii. The majority of the outsourcing contracts on labour are to former employees of James Finlay Kenya
- iv. There was a pay disparity between directly employed employees and the outsourced contracted workers doing the same kind of work.
- v. There are cases of transfer of female workers from working under female supervisors to male supervisors.
- vi. There is victimization of workers engaged in industrial actions.
- vii. The fear of reporting sexual harassment and exploitation is attributable to fear of being fired and unfair reporting structure where the officers receiving the complaints are the alleged perpetrators.
- viii. Payments made under the premium fair trade by tea buyers in the diaspora which are to be paid directly to low cadre workers have been converted by James Finlay Kenya to fund Corporate Social Responsibility (CSR) without consultations with the workers.

### 3.5 SUBMISSIONS FROM MANAGEMENT OF EKATERRA LIPTON TEAS AND INFUSIONS

Ms. Sylvia Ten Den, Director of Ekaterra, Lipton Teas and Infusions Kenya, Rwanda and Tanzania accompanied by Ms. Irene Ng'ang'a, Welfare Manager; Mr. Chris Chege, Head of Human Resources; Mr. Kenneth Odire, Country General Manager; Ms. Lydia Musili, Head of Legal and Mr. James Kimani, Head of Security appeared before the committee on Saturday 4th March 2023 and submitted as follows-

38. Ms. Sylvia ten Den, Director of Ekaterra, Lipton Teas and Infusions Kenya, Rwanda and Tanzania gave the committee an overview of the history, partner companies and number of plantations in the African region run by the Ekaterra, Lipton Teas and Infusions. The committee was further briefed on the total acreage of land under plantation of Ekaterra, Lipton Teas and Infusions. An overview of the company's organizational, social and environmental strategy including the sexual harassment policy was shared with the Committee (full submissions annexed)
39. Ms. Sylvia ten Den guided the committee through the company's policy on Sexual and Gender based Violence (SGBV) policy quoting 3 points of action which are-
  - i. Prevention- Includes security interventions like CCTV and offering mental health support.
  - ii. Detection- Includes the proper functioning of multiple reporting channels and security interventions.
  - iii. Response- Includes the operation of a safe shelter for the victims of Sexual and Gender Based Violence. The offering of psycho-social counseling to the victims and administration of justice through internal mechanisms are also a part of the response.
40. The company demonstrated that it had already set up women empowerment programmes that were beneficial to its female members of staff. Ms. Sylvia stated that about 43% of the organizational leadership is comprised of female members of staff and she emphasized that she would do all that she can to stomp out sexual harassment in Ekaterra Tea Company, African plantations.
41. The committee was further briefed on the immediate actions that were taken by the company after the expose' by the British Broadcasting Corporation (BBC) Africa eye: -
  - i. The immediate suspension of the mentioned alleged perpetrators, barring them from accessing the company's plantations worldwide and reporting the matter to the police.
  - ii. The company set up an Independent Oversight Committee that would deal with all matters recruitment, promotion to higher cadres of work and performance appraisal.
  - iii. The company set up an anonymous survey platform that they stated, would enhance anonymous reporting by all employees that may need to do so on various matters.
  - iv. The company's management stated that it would increase the situation of gender balance across levels of work in a bid to mitigate occurrences of sexual harassment
  - v. The company launched an independent investigation into the matter of sexual harassment among its workers to try and get the victims to speak up in order to ease

the administration of justice.

42. The management of Ekaterra stated that they purpose to increase the number of women at the supervisory level from 20% after the committee raised concern that the bare minimum quoted in the constitution would not be enough to mitigate cases of sexual harassment in these tea farms. Ms. Sylvia ten Den further briefed the committee that the victims are largely unknown to her and her team as they are not speaking up and out which brought about lack of detection of sexual harassment cases by the management of the company in the country.
43. The Company confirmed that they only outsourced security services and that all other employees were directly employed at Ekaterra.
44. The management of Ekaterra Tea Kenya informed the Committee that the HIV rate among its staff was at 5% and that all the employees were afforded comprehensive health care. The management stated that it educates and trains children within its society offering them guidance on sex education in order to try and keep teen pregnancies at a low level.

### **3.6 SUBMISSIONS FROM SHOP STEWARDS AT EKATERRA TEAS AND INFUSIONS**

The Shop Stewards averred as follows-

45. They expressed concern that the management was not fair in how it handled disciplinary cases among the top-level staff vis-a-vis the lower level staff. They stated that the cases were being handled differently when it comes to the low-level workers and sanctions taken swiftly including dismissal while those of managers can drag on for years.
46. Most workers did not know where the office of the welfare manager is located and therefore found it difficult to air their grievances because of this. The shop stewards further stated that the harassed workers were afraid of reporting their ordeals to the management out of the fear that they would lose their jobs.
47. The management knew of Mr. Jeremiah Koskei's repeated sexual harassment of female subordinates and the management did nothing to stop him. However, the shop stewards did not substantiate this claim before the Committee.
48. The shop stewards alleged that the management was working with the police to frustrate the reporting of sexual harassment cases among the workers in the Ekaterra tea farm. However, the shop stewards did not substantiate this claim before the Committee.

## 4.0 ISSUES FOR DETERMINATION

The issues for determination are as per the terms of reference of the inquiry as set by the Committee under paragraph 10 of this report. Based on evidence on record which is from testimonies from witnesses and stakeholder, the Committee analyzes the testimonies and determines the issues as follows-

**(i) To establish if there is concrete information on the allegations of sexual harassment of female workers in the various tea estates in Kericho County**

49. From their submissions, the County security team had yet to interrogate the BBC reporter who made the expose'. The county security team reported that they had communicated with the DCI headquarters' forensic Laboratory to obtain the full information of the reporter to facilitate his interrogation. The Committee expressed its dissatisfaction with the slow pace this was taking.
50. The victims of sexual harassment cases were not reporting the abuse and the two tea companies reported that they did not have knowledge of the extent of the violations until the expose by the British Broadcasting Corporation (BBC) Africa eye was aired. At the time of the visit by the Committee, there were no incidence reports on the allegations of sexual harassment with the police on the four alleged perpetrators namely Mr. Jeremiah Koskei, Mr Samuel Yebei, (Ekaterra Teas and Infusions) Mr. John Chebochok and Mr. John Asava (James Finlay Kenya).
51. James Finlay Kenya terminated the contract agreement with John Chebochok's company Sislo Holdings. They have also suspended Mr. John Asava. The Company has barred Mr. John Chebochok and Mr. John Asava from entering James Finlay Kenya premises. Ekaterra Teas and Infusions reported that they had suspended Mr. Jeremiah Koskei, and Mr Samuel Yebei, and barred the two named persons from accessing Ekaterra Teas and Infusion premises.
52. There is evidence on record that Ms. Sylvia Den, Regional Managing Director acknowledged that incidences of sexual harassment were happening in the Ekaterra Lipton Teas and Infusions Tea Estates. However, since taking up the post in 2019, she has been putting measures and creating awareness to mitigate the incidences. The Company is working towards a 0.0% rate of gender based violence in the estates. Further, the Company does not outsource labour except for security services.
53. The shop stewards at Ekaterra Teas and Infusions distinguished between incidences of unwelcome sexual harassment and incidences of sex for work, where the sex for work was sought for opportunities for employment, promotions, lighter duties, being graded thus increase in pay. However, no written submissions were presented on the specific incidences or names of persons affected.
54. The shop stewards and the union officials acknowledged that incidences of sexual harassment in Ekaterra Teas and Infusions had decreased since 2019 and that there was raised awareness on how to recognize and report sexual harassment as well as clear policies and sanctions against perpetrators.

55. The Committee observed that although there are sexual harassment policies, trainings and reporting channels available reporting, was minimum which makes it difficult to address the incidences.
56. From the foregoing, the Committee finds that there is credible evidence on record that there is sexual harassment in some tea estates in Kericho County and that though there are sexual harassment policies, trainings and reporting channels available, reporting was minimum which makes it difficult to address the incidences.

**(ii) To establish measures the government is putting in place to protect the rights of female workers in these tea estates?**

57. The Committee noted that there is a gender office within the grounds of the Kericho Police Station, whose independence was in question having been funded by James Finlay Kenya Tea estate. However, the County Security Team informed the Committee that James Finlay Kenya only provided the funds for construction of the Centre. The Centre is fully manned by the Police Officers and is independent from James Finlay Kenya.
58. The Committee heard that Community Policing as an avenue of reporting information relating to sexual harassment and abuse appeared not to be very active as the incidences of sexual harassment continued happening but not reported. The Security team submitted that there is the Community policing and the Nyumba Kumi Initiative at the Ward Level to enable the citizenry report various issues including Gender based violence.
59. James Finlay Kenya was aware of the documentary on allegations of sexual exploitation but failed to act. Mr. Sammy Kirui, General Manager, Corporate Affairs James Finlay Kenya submitted that the company wrote to BBC requesting for more information regarding the allegations but never got a response. The Company further reported to the Directorate of Criminal Investigations because the issues raised were of a criminal nature.
60. The effectiveness of the various channels put in place to deal with sexual harassment and abuse appears to be poor. Both James Finlay Kenya and Ekaterra Teas and Infusion submitted that all employers have access to reporting mechanisms which include welfare committees, toll free anonymous call number, Bulk SMS for mass communication, use of Notice Boards, Use of suggestion Boxes, training of Village Committees on sexual harassment and other forms of abuse among others. The Companies committed to continuously improve the systems.
61. There are few women in leadership positions at James Finlay Kenya. The composition of women in leadership is 29% at lower management level, 19% at high management level, 6% at junior management level and 24% at senior level management. James Finlay management submitted that it conducts gender surveys and that there is continued effort to be female gender inclusive through management trainee programs for women and training of women in ICT.
62. The criteria used to outsource labour services at James Finlay Kenya was unclear. The Company submitted that it conducts a pre-qualification exercise for the services. Services outsourced include labour, maintenance and construction. However, this was disputed by



the Labour Unions who accused the company of directly procuring the services of the accused person's company Sislo Holdings.

63. The Committee observed that the Government has instituted measures to guard against sexual harassment abuses. These include the enactment of Sexual Offences Act and the Employment Act, Community Policing, the presence of Police Stations, Labour and Gender offices in Counties and other initiatives aimed at enabling women seek guidance on their rights and lodge complaints against sexual harassment. The Committee nonetheless noted that many women were not aware of the initiatives and therefore not making use of them.

**(iii) To establish measures the government is putting place to ensure these tea estates adhere to labour laws and implement policy on sexual harassment?**

64. The Committee observed that there is a gap in the frequency in reporting of sexual harassment incidences despite the documented available reporting channels. There is a need for collaborative effort by the stakeholders i.e., Labour department, Trade unions and legislators to come up with a clear and better framework for reporting.
65. The Committee enquired on the role of the Labour office in creating awareness on matters sexual harassment and exploitation. The Labour Officer, submitted that the department conducts annual visits to the tea estates. This is not adequate to create maximum awareness of the issues. In the last labour inspection conducted in July and May of the year 2021 at James Finlay Kenya and Ekaterra Teas and Infusion respectively, there was no sexual harassment case was found to have occurs or was reported at the time. He appealed for more funding to aid field activities including awareness talks.
66. The outsourcing of employees through contracts was a weak link in enforcing the sexual harassment policies. For instance at James Finlay Kenya, the alleged perpetrator, Mr. John Chebochok owes Sislo Holding, a company contracted to provide contracted labour to James Finlay Kenya. The contracted company is in charge of performance and retention of employees. The competition for the available scarce employment opportunities for placement leaves the employees prone to exploitation and harassment. The Committee resolved to initiate legislation to govern Outsourcing of labour services.
67. The Committee heard and noted that the minimum constitutional requirement of the one third gender rule may not be effective enough to mitigate cases of Sexual and Gender Based Violence in the tea farms. There was therefore the need to incorporate more women in the organizational structures especially at supervisory level in order to balance out the gender composition in the organizations.
68. The tea companies have policies on sexual harassment in place but the policies were not effective in combating instances of sex for work among employees and their supervisors/managers. There was a prevalence of instances where workers chose to exchange sex for lighter/ better duties. In many instances, people offered sex in order to secure jobs in these tea farms. However, though the same was presented orally to the Committee no persons were mentioned nor written documents presented on the same.



69. Ekaterina Teas and Infusions has 43% of female supervisors and managers and were working towards increasing the numbers to 50 %. The Committee commended these but cautioned against discrimination against the male gender competing for the same positions. Further it advised that the influence and ability to effect change of the female supervisors and managers should be empowered to effectively root out the vice.
70. The Committee finds that whereas workers acknowledged that there are policies to ensure adherence to labour laws, the same workers cited frustration in reporting cases since the culprits were never brought to book. Consequently, many of them were no longer reporting cases to the authorities.

**(iv) To establish investigations into the heinous acts to ensure culpable perpetrators are brought to book and justice is served**

71. The Committee noted that the investigations by DCI into the allegations of sexual harassment and exploitation were progressing slowly. Further, the Kericho County Security Team reported that they are yet to interview the BBC journalist who made the documentary to receive any evidence on the incidences as reported in the documentary at the time of the visit of the Committee.
72. The four persons named in the documentary as the perpetrators had not been arrested, nor charged in a court of law since no victim had filed complaints against them to the police. The Labour Officer, Kericho County did not report the frequency of their visits to the tea estates on matters sexual harassment. There is one Labour Officer in the whole County and this may affect the quality and quantity of his visits.
73. The Committee observed that without credible evidence, DCI's investigation may not sustain a successful prosecution against suspects and appeals to culprits to record statements and furnish evidence to DCI.

## 5.0 COMMITTEE RECOMMENDATIONS

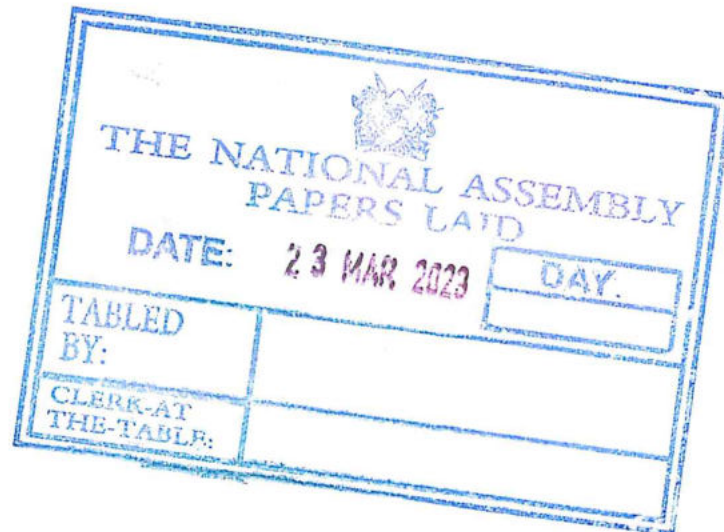
74. Based on the submissions received and having determined issues forming the inquiry subject, the Committee recommends as follow-

- (i) The Directorate of Criminal Investigations should fast track their investigations to identify victims of the alleged sexual harassment and bring those found culpable to book;
- (ii) The victims of the sexual harassment in the tea estates should report the incidences to the police for investigation and criminal prosecution of suspects;
- (iii) The victims of sexual harassment should report the incidences to the County Gender Office and the County Labour Office for investigation and counselling services;
- (iv) The Tea Estates should terminate contracts especially for outsourcing labour in the lower cadre jobs except for exceptional services like security services to mitigate against contractors having opportunities to sexually harass job seekers and contracted employees so as to get and keep their jobs. In James Finlay Kenya, where contracts for outsourcing for labour are prevalent, one of the named contractor Mr. John Chebochok is accused of perpetuating sexual harassment in order for persons to secure and maintain jobs.
- (v) The tea estates should ensure that the duties defined as difficult in the estates are made rotational to prevent workers from undertaking such duties for too long thereby creating an avenue for sexual exploitation in order to be assigned lighter duties;
- (vi) The tea estates should incorporate more women especially at the supervisory role in order to ensure gender inclusivity and further reduce occurrences of male workers harassing their female subordinates in a bid to exchange sexual favours or opportunities for sexual harassment for lighter duties;
- (vii) The tea estates should reduce the number of bureaucratic layers of management in their organizational structure in order to improve flow of information from the low cadres of staff all the way to top level management and vice versa which will improve reporting of incidences;
- (viii) The Tea Estates should re-structure and re-organize their current management team since there were incidences of sexual harassment under their watch and for those reported, there were complaints that there were not much done to remedy the situation nor disciplinary action taken against the alleged perpetrators.
- (ix) The Labour Office, Ministry of Labour and Social Protection and the Gender Office, Ministry of Public Service, Gender and Affirmative Action, Kericho

County should increase the frequency of visits to the tea estates in Kericho County and provide mechanisms through awareness creation that such incidences can also be reported to the government offices for action.

SIGNED:  DATE: 23/02/2023  
HON. ERIC MUCHANGI KAREMBA, M.P.

CHAIRPERSON, THE DEPARTMENTAL COMMITTEE ON LABOUR





# **ANNEXURE 1 : REPORT ADOPTION LIST**







REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTHNEETH PARLIAMENT-SECOND SESSION 2023  
DEPARTMENTAL COMMITTEE ON LABOUR

MEMBERS' ATTENDANCE LIST / ADOPTION LIST

AGENDA: Consideration of the Draft Report on Budget Policy Statement FY 2023 and report on allegations of harassment of Amin for working in Kenya  
DATE: 06/03/2023 VENUE: 4th floor conference room START TIME: 4:00pm. END 6:00pm  
TIME: He

	NAMES	SIGNATURE
1.	Hon. Karemba Eric Muchangi Njiru, MP-Chairperson	
2.	Hon. Muli Fabian Kyule, MP- Vice Chairperson	
3.	Hon. Koyoo James Onyango, M.P.	
4.	Hon. Kagesi Kivai Ernest Ogesi, M.P.	
5.	Hon. Kiti Richard Ken Chonga, M.P.	
6.	Hon. Lomwa Joseph Samal, M.P.	
7.	Hon. Omwera George Aladwa, M.P	
8.	Hon. Wambilianga Catherine Nanjala, MP	
9.	Hon. Abdullahi Amina Dika, M.P.	
10.	Hon. Aburi Donya Dorice, M.P.	
11.	Hon. Barasa Patrick Simiyu, M.P.	
12.	Hon. Chiforomodo Mangale Munga, M.P.	
13.	Hon. Kihungi Peter Irungu, MP	
14.	Hon. Sankaire Leah Sopiato, MP	
15.	Hon. Siyoi Lillian Chebet, MP	

SIGN. DATE 10/3/2023

Ms. Rose M. Wanjohi- Senior Clerk Assistant

SIGN. DATE 13/3/23

Mr. Peter Chemweno - Director, Directorate Departmental Committees



## **ANNEXURE 2 : MINUTES OF SITTING**



**MINUTES OF THE 22<sup>nd</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON WEDNESDAY 8<sup>TH</sup> MARCH 2023 IN THE COMMITTEE ROOM ON THE 4<sup>TH</sup> FLOOR OF CONTINENTAL HOUSE, PARLIAMENT PRECINCTS AT 4:00 PM**

**PRESENT**

1. The Hon. Karemba Eric Muchangi Njiru, M.P. -Chairperson
2. The Hon. Kagesi Kivai Ernest Ogesi, M.P.
3. The Hon. K'Oyoo James Onyango, M.P.
4. The Hon. Kiti Richard Ken Chonga, M.P.
5. The Hon. Lomwa Joseph Samal, M.P.
6. The Hon. Chiforomodo Mangale Munga, M.P.
7. The Hon. Siyoi Lillian Chebet, M.P.

**APOLOGIES**

1. The Hon. Muli Fabian Kyule, M.P. -Vice Chairperson
2. The Hon. Omwera George Aladwa, M.P.
3. The Hon. Wambilianga Catherine Nanjala, M.P.
4. The Hon. Abdullahi Amina Dika, M.P.
5. The Hon. Aburi Donya Dorice, M.P.
6. The Hon. Barasa Patrick Simiyu, M.P.
7. The Hon. Kihungi Peter Irungu, M.P.
8. The Hon. Sankaire Leah Sopiato, M.P.

**COMMITTEE SECRETARIAT**

- |                        |   |                        |
|------------------------|---|------------------------|
| 1. Ms. Rose Wanjohi    | - | Senior Clerk Assistant |
| 2. Mr. Binensa Mabungu | - | Clerk Assistant III    |
| 3. Mr. Samuel Wanjiru  | - | Clerk Assistant III    |
| 4. Mr. Timothy Chiko   | - | Research Officer III   |
| 5. Ms. Rahab Chepkilim | - | Audio Officer III      |
| 6. Ms. Zainabu Wario   | - | Serjeant-At-Arms       |

**AGENDA**

1. Prayers
2. Preliminaries;
3. Confirmation of Minutes.
4. Matters Arising;
5. Pending Business
  - i. Three Bills
  - ii. Statement on the sexual harassment of tea workers on various tea farms in Kericho County
  - iii. Benchmarking visit by the Parliament of the Republic of South Africa.
6. Consideration and adoption of the draft report on the Budget Policy Statement FY 2023/2024
7. Consideration of submissions and the draft report on the Statement request by Hon. Beatrice Kemei, M.P. on allegations of sexual harassment of female tea workers in Kericho County.
8. Any Other Business
9. Adjournment

**MIN. NO.152 NA/LABOUR/2023: PRELIMINARIES**

The Chairperson called the Meeting to order at twenty-five minutes past four o'clock. This was followed by the prayer by the Hon. K'Oyoo James Onyango, M.P.

**MIN.NO.153 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.**

Confirmation of the previous meeting's minutes was deferred to the next sitting.

**MIN.NO.154 NA/LABOUR/2023: MATTERS ARISING**

There were no matters arising.

**MIN.NO.155 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE**

The following items have been committed to the committee

1. The Public Service (Values and Principles) (amendment) Bill no. 46 of 2022 on proposed amendments which seek to establish a mechanism for all state organs in the National and County governments and State Corporations to submit annual reports on details of the human resource in Constitutional Commissions, Independent offices, County Public Service Boards and County Assembly Service Boards
2. Statute Law (Miscellaneous) Amendment Bill no. 60, 2022 on proposed amendments to the Public Service Commission Act, Salaries and Remuneration Commission act and the state department for public service.
3. There is a proposed benchmarking visit by the Parliament of South Africa on matters Diaspora and Migrant Workers proposed for April 2023. This is to be done jointly with the select committee on Diaspora and Migrant workers Welfare.
4. A Statement regarding the sexual harassment of female workers in various tea estates in Kericho County. A statement was sought from the Chairperson of the Departmental Committee on Labour on the allegations of sexual harassment of female workers in various tea estates in Kericho County. An explanation was sought on the measures that the government is putting in place to protect the rights of female workers in the tea estates. Furthermore, an explanation was sought on the measures that have been put in place to ensure tea companies are adhering to labour laws and policy on sexual harassment. In addition, an explanation was sought as to whether there are investigations into these heinous acts.
5. The Public Service Internship Bill no. (National Assembly Bill no. 63) of 2022- The Principal Object of this Bill is to establish a legal framework for the regulation of internship programmes within the Public Service. Article 55 of the constitution provides that the State shall take measures, including affirmative action programmes to ensure that the youth have access to inter alia relevant education, training and employment. The Bill seeks to ensure a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the Internship programme.

**MIN. NO. 156 NA/ LABOUR/2023: CONSIDERATION AND ADOPTION OF THE DRAFT REPORT ON THE BUDGET POLICY STATEMENT FY 2023/2024**

The Secretariat guided the Committee through the draft report of the Departmental Committee on Labour on its consideration of the Budget Policy Statement 2023/2024 which was tabled in the House on Wednesday 15<sup>th</sup> February, 2023 and subsequently referred to the relevant Departmental Committees for consideration pursuant to Section 25(2) of the Public Finance Management Act, 2012 and the National Assembly Standing Order 232(5).

The Committee is mandated to review and scrutinize the BPS for the State Department for Labour and Skills Development (Vote 1184), State Department for Public Service (Vote 1213), Public Service Commission (vote 2071) and Salaries and Remuneration Commission (Vote 2081) as well as the Agencies under the respective votes. The Committee is equally tasked with the responsibility of scrutinizing budget related policies, programmes and their objectives as well as the comprehensiveness and effectiveness of such programmes.

The Committee engaged key stakeholders including the Parliamentary Budget Office and the



relevant Ministries, State Departments and Agencies. Thereafter, the Committee reviewed submissions in consideration of the proposed expenditure (Ceilings) and revenue measures as well as policies, programmes, projects and other measures contained in the 2023 BPS.#

### **Committee Observations**

The Committee observed THAT,

#### **State Department for Public Service**

1. The proposed budget ceiling for the state department in FY 2023/24 is Kshs. 24,259.8 million, comprising of Kshs. 23,181.7 million for recurrent expenditure and Kshs. 1,078.1 million development expenditure.
2. A new programme, Public Service HR Management and Development has been introduced in Budget Policy Statement (BPS) 2023 with initial budget ceiling of Kshs 8,962.0 million.
3. Through the Huduma Kenya Programme, the State Department has been able to increase the accessibility and affordability of public services through the existing Huduma platforms and delivery Channels under the one stop shop model as well as enhance automation and digitization of the services.
4. Through the Huduma Kenya Programme the Government is able to interface with its citizens, to offer uninterrupted sustainable services which is key to development. The Huduma Kenya Centres collect monies on behalf of other agencies including NTSA, Ministry of Lands, Birth and Deaths, Immigration, Kenya Revenue Authority, NHIF, NSSF among others. Huduma Kenya does not keep any of the monies but remits all to the respective agencies. A percentage of the total monies can be appropriated by the Huduma Centres to allow the Centres be self-sufficient reducing their reliance on the exchequer
5. The State Department for Public Service has six (6) projects with a total estimated cost of KSh. 28,614 Million comprising of KSh. 28,214 million from the Government of Kenya and KSh. 400 million of Development Partner's support. In the FY. 2023/2024 the allocation for the projects is KSh. 894 Million from the Government of Kenya and KSh. 100.10 million of Development Partner's support. The Committee notes that the allocation is inadequate for the sustainable and timely completion of the projects.

#### **State Department for Labour and Skills Development**

6. The proposed budget ceiling for the State Department of Labour and Skills Development in FY 2023/24 is Kshs. 4,071.3 million that comprises of Kshs. 3,382.3 million for recurrent expenditure and Kshs. 689 million for development expenditure. The State Department's total resource requirement is estimated at Kshs. 9,962.42 million. This gives a funding shortfall of Kshs .5,891.12 million.
7. The State department's gross recurrent allocation of Kshs. 3,382.3 million, the AIA amount to Kshs. 913.4 million is mainly under the SAGAs (Kshs.855.3 million for National Industrial Training Authority (NITA) and Kshs. 50 million for National Employment Authority (NEA)).
8. The bulk of the recurrent budget ceiling is set aside for Grants to SAGAs (Kshs 1,472.84 million) accounting for 43.5% while salaries and allowances(Kshs 1,018.44 million) account for 30.1%, which leaves minimal allocation for Operations and Maintenance (O&M) at paltry 22.4% of the allocation thus constraining support to achievement of its wide mandate.

9. The Department's development expenditure is heavily reliant on external support. Of the State Department's development allocation of Kshs. 689 million, external financing amounts to Kshs. 397.65 million (57.7%) while the GoK Component amount to Kshs. 291.35 million (42.3%). With the minimal allocation under GoK, most of the projects have not been funded.
10. The current allocation to field stations, which is disbursed on quarterly basis is grossly under-provided for to enable the officers carry out the labour mandate in the counties effectively.
11. The National Industrial Training Authority has a critical role in capacity building, training in trade craft skills and provide accreditation as envisioned in the Kenya Kwanza mandate to increase the skilled population in areas of manufacturing. It's noted that there is a shortage of trade craft skills such as plumbing, masonry, welding among other.
12. To streamline the management of Labour Migration in the country, increase employment opportunities, ensure protection of Migrant Workers and improve provision of consular services the Cabinet directed the Ministry of Labour and Social Protection to develop modalities for appointment of labour attaches' in key labour destination countries namely; United Kingdom, Canada, Australia, Poland, Jeddah and Damman in Saudi Arabia, Kuwait and Oman at a total cost of Kshs. 250 Million. This has not been funded despite the envisaged benefits of foreign exchange earnings.
13. In order to facilitate the monitoring of the welfare of migrant workers at various stages of migration process, there is need to establish and maintain a centralized database for job seekers, recruitment agencies, foreign employers, numbers, location and skills of Kenyan migrant workers. The Ministry of Labour and Social Protection needs to establish a system that will enable the State Department obtain accurate and real time data on Kenyan migrant workers as required.
14. The institutionalization of the National Labour Board (NLB) and Wages Councils (WCs) as provided for in the Labour Institutions Act, 2007 is in jeopardy due to lack of resources. This involves promotion of social dialogue and maintenance of industrial peace, through key advisory bodies to Government by enabling them discharge their public policy function of development and review of labour laws and policies as well as determination of wages, terms and conditions of employment.
15. The State Department is implementing twenty-two (22) Projects at various completion levels. Due to inadequate budget ceiling some projects have not received allocation in the last three years.
16. The state department requires budgetary allocation to complete ongoing projects in the sector.
17. National Employment Authority (NEA) are responsible for registering the recruitment agencies who recruit migrant workers and local employees and charge a registration fee, license fee and renewals per year as outlined in the second schedule of the Labour Institutions Act 2007 . The registration fees for a foreign labour market is Kshs. 500,000 and a renewal payment of Kshs. 250,000 for annual basis. The recruitment agencies who have been issued with licenses are approximately 900, however, those with active licenses are approximately 580. The declaration of the Appropriation- in- Aid is minimal at Kshs. 50 million.

#### **Public Service Commission**

18. The Public Service Commission has five programmes for implementation in the Medium Term Expenditure Framework (MTEF) period with a proposed budget ceiling for FY

2023/24 of Kshs. 2,767.2 million. The ceiling comprises of Kshs. 2,721.9 million for recurrent expenditure and Kshs. 45.3 million development expenditure.

19. The TVET functions were transferred to the Public Service Commission from the Teachers Service Commission in 2018 but the corresponding resources were not transferred to the PSC, previously allocated to the TSC. These functions have remained unfunded to date, and have been competing for the scarce resources allocated to other critical programmes thus affecting the Commission's service delivery.
20. The current Commission's staff count is 243 against an establishment of 434 officers. With the expanded responsibilities, the Commission urgently needs to recruit additional officers to be able to execute its mandate effectively.
21. In order to align the FY 2023/24 budget to accrual basis of accounting by recognizing service gratuity on monthly basis in compliance with International Public Sector Accounting Standard, the Commission requires Kshs. 27.51 million being the accrued staff service gratuity upto 30th June 2023. The amount will be placed in a retention account and monthly applicable amounts paid to this account with effect from 1st July 2023.
22. The Employment and Labour Relations Court in Nairobi (Employment and Labour Petition E161 of 2021), on 25th January 2022, entered judgment that the Commission has full mandate over the human resource management function in the State Corporations. This reinforced the Commission's request for the programme, Administration of Quasi-Judicial Functions, and thus additional resources required to execute its constitutional and statutory mandate.
23. The Commission's recruitment mandate was expanded to include senior management positions in Public Universities, Constitutional Commissions and other statutory bodies. The Commission requires additional resources amounting to Kshs. 60 million for the processing of applications and payment of allowances for gazetted selection panels as approved by the Salaries and Remuneration Commission.

#### **Salaries and Remuneration Commission**

The Commission submitted a resource requirement of Kshs. 987.50 million for the financial year 2023/24. However, the allocation based on the sector's ceiling was Kshs. 612.50 million resulting into a funding gap of Kshs. 375.00 million.

#### **Committee Recommendations**

The Committee having received, scrutinized, and deliberated on both the contents of the 2023 Budget Policy Statement (BPS) and the submissions from various MDAs under its purview, recommends THAT:

##### **Policy Recommendations**

Arising from observations made, the Committee recommended as follows:

1. The State Department for Labour needs to FastTrack a system that will enable accurate and real time data on Kenyan migrant workers.
2. The State Department for Labour needs to enhance a collaborative mechanism with the Ministry of foreign affairs in places where there are no labour attachés to ensure a seamless service delivery.
3. The National Industrial Training Authority needs its funding enhanced and assured to deliver on the government mandate of training in trade crafts to achieve manufacturing sector growth and develop curriculum that will provide the requisite skills the market is in dire need of such as plumbing, masonry, welding, electrician among others

### Financial recommendations for consideration;

#### (a) State Department for Labour and Skill Development

1. That the proposed budget ceiling for the State Department of Labour and Skills Development in FY 2023/24 of Kshs. 4,071.3 million comprising of Kshs. 3,382.3 million for recurrent expenditure and Kshs. 689 million for development expenditure be approved without amendments

#### (b) State Department for Public Service

2. The proposed budget ceiling for the State Department for Public Service in FY 2023/24 of Kshs. 24,259.8 million comprising of Kshs. 23,181.7 million for recurrent expenditure and Kshs. 1,078.1 million for development expenditure be approved without amendments.

#### (c) Public Service Commission

3. The proposed budget ceiling for FY 2023/24 of Kshs. 2,767.2 million for the Public Service Commission that comprises of Kshs. 2,721.9 million for recurrent expenditure and Kshs. 45.3 million for development expenditure be upheld as proposed in the 2023 BPS.

#### (d) Salaries and Remuneration Commission

4. The proposed budget ceiling for FY 2023/24 of Kshs. 612.5 million for the Salaries and Remuneration Commission that that is whole for recurrent expenditure is upheld as proposed in the 2023 BPS.

### Requests for Additional Funding / Wish List

The Committee notes that Ministries, Departments and Agencies (MDAs) within the labour sub sector are grossly underfunded/ unfunded for some of their key priority areas and may negatively affect delivery of services to the citizens. The Committee requests that the Budget and Appropriations Committee considers the budgetary needs for funding for the MDAs under the ambit of the Committee in key underfunded areas highlighted as follows in order of priority;

### Public Service Commission

UNFUNDED KEY PRIORITIES			
	Added Responsibilities/ Key Priorities	Requirement, Kshs. M	Reason for additional Funding
1	Technical & Vocational Education and Training (TVET) functions	170	To enable the Commission to undertake the additional functions towards effective discharge of the TVET functions
2	Recruitment of additional staff	100	With the current expanded responsibilities, the Commission urgently needs to recruit additional officers to be able to execute its mandate effectively.
3	Staff Service Gratuity	27.51	To align the accrued staff service gratuity to 30 <sup>th</sup> June 2023 for FY 2023/24 budget to accrual basis of accounting by recognizing service gratuity on monthly basis in compliance with IPAS.
4	New Programme 5: Administration of Quasi-Judicial functions - Court Litigation & Administration of Appeals	170	The additional programme will support an orderly and effective achievement of the desired outcomes in the powers and functions and ensuring alignment of the Strategic Plan 2019-2024 to the Programme Based Budget
5	Recruitment for Public Universities, Constitutional Commissions & other statutory bodies	60	For processing of applications and payment of allowances for gazetted selection panels as approved by the SRC.
6	Purchase of Motor Vehicles	50	To replace the old ones, and for additional ones to factor the current increased level of transport needs



	<b>Total Requirements for Unfunded Key Priorities</b>	<b>577.51</b>	
<b>UNDERFUNDED KEY PRIORITY</b>			
<b>1</b>	Public Service Internship Programme (PSIP)	800	For the Commission to increase the intake of the interns from the current level to 5,000 each year
	<b>Total for Underfunded Key Priority</b>	<b>800</b>	
	<b>Grand total</b>	<b>1,377.51</b>	

### State Department for Labour and Skills Development

	Added Responsibilities/ Key Priorities	Requirement, Kshs. M	Reason for additional Funding
<b>1</b>	Establishment and expansion of Labour Attaché Offices as per the Cabinet approval	<b>274</b>	To streamline the management of Labour Migration in the country, increase employment opportunities, ensure protection of Migrant Workers and improve provision of consular and to enhance operations of the already existing three Labour attaché offices
<b>2</b>	Enhanced support for field operations	<b>47</b>	To enhance field offices operations since most Officers cover diverse geographical location with diverse economic activities some covering more than one (1) County
<b>3</b>	Labour Migration and Export Programme	<b>100</b>	To facilitate monitoring of the welfare of migrant workers at various stages of migration and to establish and maintain a centralized database for job seekers, recruitment agencies, foreign employers, numbers, location and skills of Kenyan migrant workers. Establish a One-Stop-Centre offering all labour migration services under one integrated system
<b>4</b>	Institutionalization of the National Labour Board (NLB) and Wages Councils (WCs) as provided for in the Labour Institutions Act	<b>60</b>	To Establish secretariat to support the Board and the Councils. To conduct research and surveys in labour and employment matters, and To engage and lobby other policy making bodies
<b>5</b>	Recruitment of Officers Labour Commissioner (LC), Directorate of Safety Health Services (DOSHS), National Human Resource Planning and Development Department (NHRPD), National Productivity and Competitive Centre (NPCC), and National Employment Authority (NEA)	<b>360</b>	To enable effective and efficient service delivery
<b>6</b>	Upgrading of Industrial Training Centres	<b>200</b>	
<b>7</b>	Surveillance Equipment for Work Environment and Workers Health.	<b>80</b>	For acquisition of specialized equipment for sampling, analysis and control of workplace air-borne contaminants and hazardous physical agents, medical examinations of workers, and testing of industrial plants and equipment.
<b>8</b>	Purchase of Motor Vehicles	<b>50</b>	to procure five (5) motor vehicles to replace part of the current fleet, which are uneconomical to service
<b>9</b>	National Employment Promotion Centre, Kabete	<b>70</b>	To serve as a one-stop-shop to promote the creation and accessing of employment information in the country and house NEA Staff.
<b>10</b>	Equipping of the Occupational Safety and Health Institute	<b>120</b>	to serve as a Centre of Excellence in East and Central Africa to spearhead training and research

			on occupational safety and health and to operationalize the Institute and equip it with specialized laboratory and other equipment to offer training in specialized skills in OSH, conduct research and act as a reference laboratory
	<b>Grand Total</b>	<b>1,361</b>	

#### State Department for Public Service

S No.	Programme	Resource Gap (KSh. Millions)	Reason for additional Funding
1.	Upgrade and Maintenance of Huduma Kenya ICT infrastructure and systems.	746	To cater for Upgrade and Maintenance of ICT Infrastructure and Systems
2.	Constructions of 20 new Huduma Centres in the counties.	2,000	To construct Huduma Centres
3.	Development and Implementation of Post-Retirement Medical Insurance Scheme (PRMIS) for civil servants, teachers and disciplined service personnel	1,000	To cater for Post-Retirement Medical Insurance Scheme for civil servants
4.	In-Service Training to equip middle level to lower cadre staff with requisite competencies.	64	To facilitate In-Service Training
5.	Rehabilitation and Maintenance of Huduma Centres.	327	Rehabilitation and Maintenance
6.	Establishment and operationalization of public service psychological centre and wellness programmes.	128	To establish and operationalize the public service psychological centre
7.	Upgrade of Government Human Resource Information System (GHRIS) infrastructure and software.	60	To upgrade of (GHRIS) infrastructure and software.
8.	Constructions and completion of key Infrastructural projects at KSG campuses.	430	For completion of key Infrastructural projects at KSG
	<b>Grand Total</b>	<b>4,755</b>	

The report of the Departmental Committee on Labour on the Budget Policy Statement 2023/2024 was adopted unanimously by the Committee having being proposed by The Hon. K'Oyoo James Onyango M.P. and seconded by The Hon. Siyoi Lillian Chebet M.P.

MIN. NO. 157 NA/ LABOUR/2023:

#### CONSIDERATION OF SUBMISSIONS AND THE DRAFT REPORT ON THE STATEMENT REQUEST BY HON. BEATRICE KEMEI, M.P. ON ALLEGATIONS OF HARASSMENT OF FEMALE TEA WORKERS IN KERICHO COUNTY.

The Secretariat guided the Committee through the draft report of the Committee on the allegation of harassment of female tea workers in Kericho County as requested in a Statement by the Hon. Beatrice Kemei, MP.

The Hon. Beatrice Kemei, MP (Kericho County) on 21<sup>st</sup> February 2023 sought a statement from the Chairperson, Departmental Committee on Labour regarding sexual harassment of female workers in various tea estates in Kericho County. The Honourable member reported that the female workers in various tea estates in Kericho County have deplorable working and living conditions and have been victims of sexual abuse at the hands of male bosses. The Committee received written memoranda from five (5) stakeholders.

In addition, an expose' by BBC Africa Eye documentary by the British Broadcasting Company (BBC) titled "*sex for work: the true cost of our tea*" was aired on 20<sup>th</sup> February, 2023 in which two companies namely James Finlay Kenya and Ekaterri Lipton Teas and Infusions (formerly Unilever) were reported as having incidences of sexual harassment and exploitation. In addition, several anonymous females featured in the documentary named four male persons, two in each of the companies reported as the perpetrators of the acts.



The Committee therefore resolved to meet with the Hon. Beatrice Kemei, MP (Kericho County); Kericho County Security Team, the management of both James Finlay Kenya and Ekaterra Lipton Teas and Infusions; Officials of the Ministry of Labour and Social Protection, victims of the sexual harassment (if they would consent to make their submissions to the Committee) and officials of Kenya Planters Cooperative union and their shop stewards in Kericho. The Committee further wrote to the Cabinet Secretary, Ministry of Labour and Social Protection seeking a statement on what the Honourable member had requested.

During the meetings that were held at the two tea farms in Kericho, and with the Kericho County security team the Committee observed THAT

- i. There were incidences of sexual harassment and sex for work where the sexual harassment was unwelcome but the sex for work was sought to get employed, promotions and grading.
- ii. The victims of these sexual harassment cases were not reporting the abuse and the two tea companies reported that they did not have knowledge of the extent of the violations until the expose by the British Broadcasting Corporation (BBC) Africa eye was aired.
- iii. That the minimum constitutional requirement of the one third gender rule may not be effective enough to mitigate cases of Sexual and Gender Based Violence in the tea farms. There was a need to incorporate more women in the organizational structures especially at supervisory level in order to balance out the gender composition in the organizations.
- iv. The tea companies have policies on sexual harassment in place but the policies were not effective in combating instances of sex for work among employees and their supervisors/managers. There was a prevalence of instances where workers chose to exchange sex for lighter/ better duties. In many instances, people offered sex in order to secure jobs in these tea farms.
- v. The investigations into the allegations of sexual harassment and exploitation were progressing slowly. Further, the Kericho County Security Team reported that they are yet to interview the BBC journalist who made the documentary to receive any evidence on the incidences as reported in the documentary
- vi. The four persons named in the documentary as the perpetrators are yet to be arrested, nor charged in a court of law since no victim has filed complaints against them to the police.
- vii. The Labour Officer, Kericho County did not report the frequency of their visits to the tea estates on matters sexual harassment. There is one Labour Officer in the whole County and this may affect the quality and quantity of his visits.

Based on the submissions received, the Committee recommends THAT

- i. The Tea Estates cease the outsourcing of contracts especially for labour in the lower cadre jobs except for exceptional services like security services to prevent the contractors from having opportunities to sexually harass job seekers and contracted employees so as to acquire and keep their jobs.
- ii. The tea estates ensure that the duties defined as difficult on the tea estates should be rotational to prevent some workers from staying in such duties for too long that they request for lighter duties thus opening up instances of sexual exploitation among the workers.
- iii. The tea estates incorporate more women especially at the supervisory role in order to ensure gender inclusivity and further reduce occurrences of male workers harassing their female subordinates in a bid to exchange sexual favours or opportunities for sexual harassment for lighter duties.
- iv. The tea estates reduce the number of bureaucratic layers of management in the organizational structure in order to improve flow of information from the low cadres of staff all the way to top level management and vice versa which will improve reporting of incidences.

- v. The police, the Directorate of Criminal Investigations and Director of Public Prosecutions puts more effort to identify victims of the alleged sexual harassment and bring those found culpable to book.
- vi. The Labour Office, Ministry of Labour and Social Protection and the Gender Office, Ministry of Public Service, Gender and Affirmative Action, Kericho County need to increase the frequency of visits to the tea estates in Kericho County and provide mechanisms through awareness creation that such incidences can also be reported to the government offices for action.

The Report of the Departmental Committee on Labour on the Request for Statement by The Hon. Beatrice Kemei, M.P on the allegations of sexual harassment of female tea workers in Kericho County was adopted unanimously by the Committee being proposed by The Hon. Siyoi Lillian Chebet M.P. and seconded by The Hon. Chiforomodo Mangale Munga M.P.

**MIN. NO. 158 NA/LABOUR/2023: ANY OTHER BUSINESS**

No other business arose.

**MIN. NO. 159 NA/LABOUR/2023: ADJOURNMENT/ DATE OF NEXT MEETING**

There being no other business, the meeting was adjourned at four minutes past six O'clock. The next meeting will be held on notice.

SIGNED..... DATE.....  
(CHAIRPERSON)

**MINUTES OF THE 21<sup>st</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON SATURDAY 4<sup>TH</sup> MARCH 2023 IN THE INTERNATIONAL TRAINING CENTRE OF EKATERRA TEA KENYA, KERICHO COUNTY AT 10:30 AM**

**PRESENT**

1. The Hon. Karemba Eric Muchangi Njiru, M.P. -Chairperson
2. The Hon. Muli Fabian Kyule, M.P. -Vice Chairperson
3. The Hon. Kiti Richard Ken Chonga, M.P.
4. The Hon. Barasa Patrick Simiyu, M.P.
5. The Hon. Siyoi Lillian Chebet, M.P.

**APOLOGIES**

1. The Hon. K'Oyoo James Onyango, M.P.
2. The Hon. Omwera George Aladwa, M.P.
3. The Hon. Wambilianga Catherine Nanjala, M.P.
4. The Hon. Abdullahi Amina Dika, M.P.
5. The Hon. Aburi Donya Dorice, M.P.
6. The Hon. Chiforomodo Mangale Munga, M.P.
7. The Hon. Kihungi Peter Irungu, M.P.
8. The Hon. Sankaire Leah Sopiato, M.P.
9. The Hon. Kagesi Kivai Ernest Ogesi, M.P.
10. The Hon. Lomwa Joseph Samal, M.P.

**IN ATTENDANCE**

**Honourable Members**

1. The Hon. Beatrice Chepng'no Kemei, M.P
2. Sen. Magoma Gloria Orwoba, M.P

**Witnesses**

1. Ms. Sylvia ten Den - Director African Tea Plantations, Ekaterra
2. Ms. Irene Ng'ang'a - Welfare Manager, Ekaterra
3. Mr. Chris Chege - Human Resource Head, Ekaterra
4. Mr. Kenneth Odire - General Manager, Ekaterra
5. Ms. Lydia Musili - Legal officer, Ekaterra
6. Mr. Livingstone Sambai - Communications Manager, Ekaterra
7. Mr. James Kimani - Head of Security, Ekaterra
8. Mr. Jared Momanyi - Branch Secretary, Trade Union
9. Mr. Henry Omasire - Assistant General Secretary, Kenya Plantation and Agricultural Workers Union
10. Mr. Sang Dickson - Branch Secretary, Kenya Plantation and Agricultural Workers Union

**COMMITTEE SECRETARIAT**

1. Ms. Rose Wanjohi - Senior Clerk Assistant
2. Mr. Binensa Mabungu - Clerk Assistant III
3. Mr. Samuel Wanjiru - Clerk Assistant III
4. Mr. Peter Atsiaya - Media Relations Officer III

- |                      |   |                   |
|----------------------|---|-------------------|
| 5. Mr. Mark Mbuthia  | - | Audio Officer III |
| 6. Ms. Zainabu Wario | - | Serjeant-At-Arms  |

## AGENDA

1. Prayers
2. Preliminaries;
3. Confirmation of Minutes.
4. Matters Arising;
5. Pending Business
  - i. Budget Policy Statement
  - ii. Two Bills
  - iii. Statement on the sexual harassment of tea workers on various tea farms in Kericho County
  - iv. Benchmarking visit by the Parliament of the Republic of South Africa.
6. Meeting with the management of Ekaterra, Lipton Teas and Infusions.
7. Any Other Business
8. Adjournment

### MIN. NO.144 NA/LABOUR/2023: PRELIMINARIES

The Chairperson called the Meeting to order at forty-five minutes past ten o'clock. This was followed by a prayer by The Hon. Kiti Richard Ken Chonga.

### MIN.NO.145 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.

Confirmation of the previous meeting's minutes was deferred to the next sitting.

### MIN.NO.146 NA/LABOUR/2023: MATTERS ARISING

There were no matters arising.

### MIN.NO.147 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE

The following items have been committed to the committee

1. The Public Service (Values and Principles) (amendment) Bill no. 46 of 2022 on proposed amendments which seek to establish a mechanism for all state organs in the National and County governments and State Corporations to submit annual reports on details of the human resource in Constitutional Commissions, Independent offices, County Public Service Boards and County Assembly Service Boards.
2. Statute Law (Miscellaneous) Amendment Bill no. 60,2022 on proposed amendments to the Public Service Commission Act, Salaries and Remuneration Commission act and the state department for public service.
3. There is a proposed benchmarking visit by the Parliament of South Africa on matters Diaspora and Migrant Workers proposed for April 2023. This is to be done jointly with the select committee on Diaspora and Migrant workers Welfare.
4. Statement regarding the sexual harassment of female workers in various tea estates in Kericho County. A statement was sought from the Chairperson of the Departmental Committee on Labour on the allegations of sexual harassment of female workers in various tea estates in Kericho County. An explanation was sought on the measures that the government is putting in place to protect the rights of female workers in the tea estates. Furthermore, an explanation was sought on the measures that have been put in place to

ensure tea companies are adhering to labour laws and policy on sexual harassment. In addition, an explanation was sought as to whether there are investigations into these heinous acts.

MIN. NO. 148 NA/ LABOUR/2023:

**BRIEFING BY THE MANAGEMENT OF  
EKATERRA TEA KENYA ON THE  
ALLEGATIONS OF SEXUAL HARASSMENT  
OF FEMALE WORKERS IN THE  
ORGANISATION**

Ms. Sylvia ten Den, Director of Ekaterra, Lipton Teas and Infusions Kenya, Rwanda and Tanzania gave the committee an overview of the history, partner companies and number of plantations in the African region run by the Ekaterra, Lipton Teas and Infusions. The committee was further briefed on the total acreage of land under plantation of Ekaterra, Lipton Teas and Infusions. An overview of the company's organizational, social and environmental strategy including the sexual harassment policy was shared with the Committee (full submissions annexed)

Ms. Sylvia ten Den guided the committee through the company's policy on Sexual and Gender based Violence (SGBV) policy quoting 3 points of action which are

- i. Prevention- Includes security interventions like CCTV and offering mental health support.
- ii. Detection- Includes the proper functioning of multiple reporting channels and security interventions.
- iii. Response- Includes the operation of a safe shelter for the victims of Sexual and Gender Based Violence. The offering of psycho-social counselling to the victims and administration of justice through internal mechanisms are also a part of the response.

The company demonstrated that it had already set up women empowerment programmes that were beneficial to its female members of staff. Ms. Sylvia stated that about 43% of the organizational leadership is comprised of female members of staff and she emphasized that she would do all that she can to stomp out sexual harassment in Ekaterra Tea Company, African plantations.

The committee was further briefed on the immediate actions that were taken by the company after the expose' by the British Broadcasting Corporation (BBC) Africa eye: -

1. The immediate suspension of the mentioned alleged perpetrators, barring them from accessing the company's plantations worldwide and reporting the matter to the police.
2. The company set up an Independent Oversight Committee that would deal with all matters recruitment, promotion to higher cadres of work and performance appraisal.
3. The company set up an anonymous survey platform that they stated, would enhance anonymous reporting by all employees that may need to do so on various matters.
4. The company's management stated that it would increase the situation of gender balance across levels of work in a bid to mitigate occurrences of sexual harassment
5. The company launched an independent investigation into the matter of sexual harassment among its workers to try and get the victims to speak up in order to ease the administration of justice.

The management of Ekaterra stated that they purpose to increase the number of women at the supervisory level from 50% after the committee raised concern that the bare minimum quoted in the constitution would not be enough to mitigate cases of sexual harassment in these tea farms. Ms. Sylvia ten Den further briefed the committee that the victims are largely unknown to her and her team as they are not speaking up and out which brought about lack of detection of sexual harassment cases by the management of the company in the country.

The Company confirmed that they only outsourced security services and that all other employees were directly employed at Ekaterra.



The management of Ekaterra Tea Kenya informed the Committee that the HIV rate among its staff was at 5% and that all the employees were afforded comprehensive health care. The management stated that it educates and trains children within its society offering them guidance on sex education in order to try and keep teen pregnancies at a low level.

#### **MIN. NO. 149 NA/ LABOUR/2023: BRIEFING BY THE SHOP STEWARDS AT EKATERRA TEA COMPANY**

The Chairperson assured the shop stewards that they are protected by the law and would not be victimized for reporting incidences of sexual harassment and intimidation happening at Ekaterra Tea Company.

The shop stewards expressed concern that the management was not fair in how it handled disciplinary cases among the top-level staff vis-a-vis the lower level staff. They stated that the cases were being handled differently when it comes to the low-level workers and sanctions taken swiftly including dismissal while those of managers can drag on for years.

The shop stewards stated that most workers did not know where the office of the welfare manager is located and therefore found it difficult to air their grievances because of this. The shop stewards further stated that the harassed workers were afraid of reporting their ordeals to the management out of the fear that they would lose their jobs.

The shop stewards alleged that the management knew of Mr. Jeremiah Koskei's repeated sexual harassment of female subordinates and the management did nothing to stop him. However, the shop stewards did not substantiate this claim before the Committee.

The shop stewards alleged that the management was working with the police to frustrate the reporting of sexual harassment cases among the workers in the Ekaterra tea farm. However, the shop stewards did not substantiate this claim before the Committee.

#### **Committee Observations**

1. The Committee observed that the victims of these sexual harassment cases were not reporting the abuse and thus the management did not have knowledge of the extent of the violations until the expose by the British Broadcasting Corporation (BBC) Africa eye was aired.
2. The Committee further observed that the minimum constitutional requirement of the one third gender rule may not be effective enough to mitigate cases of Sexual and Gender Based Violence in the tea farms. There was a need to incorporate more women in the organizational structures especially at supervisory level in order to balance out the gender composition in the organizations.
3. The committee observed that the organization has a policy on sexual harassment in place but the policy was not effective in combating instances of sex for work among employees and their supervisors/managers. There was a prevalence of instances where workers chose to exchange sex for lighter/ better duties. In many instances, people offered sex in order to secure jobs in these tea farms.

#### **Committee Recommendations**

1. The Committee recommends that the duties defined as difficult on the tea estates should be rotational to prevent some workers from staying in such duties for too long that they request for lighter duties thus opening up instances of sexual exploitation among the workers.
2. The Committee recommends that the tea farm incorporates more women especially at the supervisory role in order to ensure gender inclusivity and further reduce occurrences of male workers harassing their female subordinates in a bid to exchange sexual favours or opportunities for sexual harassment for lighter duties.



3. The Committee recommends reducing the layers of management in the organizational structure in order to improve flow of information from the low cadres of staff all the way to top level management and vice versa.

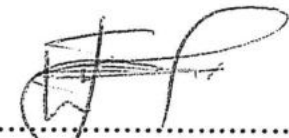
MIN. NO. 150 NA/LABOUR/2022: ANY OTHER BUSINESS

No other business arose

MIN. NO. 151 NA/LABOUR/2022: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at five minutes to three o'clock. The next meeting will be held on notice.

SIGNED.....



(CHAIRPERSON)

DATE .....

16/03/2023



**MINUTES OF THE 20<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON FRIDAY 3<sup>rd</sup> MARCH 2023 AT THE BOARDROOM, JAMES FINLAY KENYA HEADQUARTERS, KERICHO COUNTY AT 4:00 P.M**

**PRESENT**

1. The Hon. Karemba Eric Muchangi Njiru, M.P. -Chairperson
2. The Hon. Muli Fabian Kyule, M.P. -Vice Chairperson.
3. The Hon. Kiti Richard Ken Chonga, M.P.
4. The Hon. Barasa Patrick Simiyu, M.P.
5. The Hon. Chiforomodo Mangale Munga, M.P.
6. The Hon. Siyoi Lillian Chebet, M.P.

**APOLOGIES**

1. The Hon. K'Oyoo James Onyango, M.P.
2. The Hon. Kagesi Kivai Ernest Ogesi, M.P.
3. The Hon. Lomwa Joseph Samal, M.P
4. The Hon. Omwera George Aladwa, M.P.
5. The Hon. Wambilianga Catherine Nanjala, M.P.
6. The Hon. Abdullahi Amina Dika, M.P.
7. The Hon. Aburi Donya Dorice, M.P.
8. The Hon. Sankaire Leah Sopiato, M.P.
9. The Hon. Kihungi Peter Irungu, M.P.

**IN ATTENDANCE**

**Honorable Members**

1. The Hon. Beatrice Kemei, M.P.
2. Sen. Gloria Orwoba, M.P.

**Witnesses**

- |                          |   |  |
|--------------------------|---|--|
| 1. Mr Francis Mitiambo   | - | Director, National Human Resource Planning and Development                   |
| 2. Mr. Kephass Odhiambo  | - | Labour Officer, Ministry of Labour and Social Protection                     |
| 3. Mr. Richard Litaba    | - | County Labour Office   |
| 4. Mr. Daniel Kirui      | - | Human Resources Director, James Finlay Kenya                                 |
| 5. Mr. Sammy Kirui       | - | General Manager, Corporate Affairs James Finlay Kenya                        |
| 6. Mr. Raymond Cheruiyot | - | General Manager, Tea estates James Finlay Kenya                              |
| 7. Ms. Evelyne Ng'eno    | - | Legal Manager, James Finlay Kenya  |
| 8. Ms. Janet C. Ruto     | - | Diversity and Inclusion Manager, James Finlay Kenya                          |
| 9. Mr. Jared Momanyi     | - | Branch Secretary, Trade Union  |
| 10. Mr. Henry Omasire    | - | Assistant General Secretary, Kenya Plantation and Agricultural Workers Union |
| 11. Mr. Sang Dickson     | - | Branch Secretary, Kenya Plantation and Agricultural Workers Union            |

## COMMITTEE SECRETARIAT

1. Ms. Rose Wanjohi	-	Senior Clerk Assistant
2. Mr. Binensa Mabungu	-	Clerk Assistant III
3. Mr. Samuel Wanjiru	-	Clerk Assistant III
4. Mr. Mark Mbuthia	-	Audio Officer
5. Mr. Peter Atsiaya	-	Media Relations Officer
6. Ms. Zainabu Wario	-	Serjeant-At-Arms

## AGENDA

1. Prayers
2. Preliminaries;
3. Confirmation of Minutes.
4. Matters Arising;
5. Pending Business
  - i. Budget Policy Statement
  - ii. Two Bills
  - iii. Statement on the sexual harassment of tea workers on various tea farms in Kericho County.
  - iv. Benchmarking Visit by the Parliament of South Africa
6. Meeting with the management of James Finlay Kenya Tea Estates
7. Any Other Business
8. Adjournment

### MIN. NO.136 NA/LABOUR/2023: PRELIMINARIES

The Chairperson called the Meeting to order at thirty minutes past ten o'clock. This was followed by a prayer by the Hon. Chiforomodo Mangale Munga, M.P. Thereafter self-introductions were made.

### MIN.NO.137 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.

The agenda was deferred to the next sitting.

### MIN.NO.138 NA/LABOUR/2023: MATTERS ARISING

No matter arose.

### MIN.NO.139 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE

The following items have been committed to the committee

- i. The Public Service (Values and Principles) (amendment) Bill no. 46 of 2022 on proposed amendments which seek to establish a mechanism for all state organs in the National and County governments and State Corporations to submit annual reports on details of the human resource in Constitutional Commissions, Independent offices, County Public Service Boards and County Assembly Service Boards.
- ii. Statute Law (Miscellaneous) Amendment Bill no. 60, 2022 on proposed amendments to the Public Service Commission Act, Salaries and Remuneration Commission act and the state department for public service.

- iii. There is a proposed benchmarking visit by the Parliament of South Africa on matters Diaspora and Migrant Workers proposed for April 2023. This is to be done jointly with the select committee on Diaspora and Migrant workers Welfare
- iv. The Committee received a request for statement on 21<sup>st</sup> February 2023 from The Hon. Beatrice Kemei, M.P. with regard to the allegations of sexual harassment of female workers in various tea estates in Kericho County. The Committee resolved to undertake a site visit to meet with affected persons, tour the tea estates and for members to familiarize themselves with the situation on the ground. The Committee is proposing a three (3) day retreat from Thursday 2<sup>nd</sup> March, 2023 to Sunday 5<sup>th</sup> March, 2023.

**MIN. NO. 140 NA/ LABOUR/2023: MEETING WITH THE MANAGEMENT OF JAMES FINLAY KENYA TEA ESTATES.**

Mr. Daniel Kirui, Human Resources Director, James Finlay Kenya accompanied by Mr. Sammy Kirui, General Manager, Corporate Affairs James Finlay Kenya; Raymond Cheruiyot, General Manager, Tea Estates and Ms. Evelyne Ng'eno, Legal Manager, James Finlay Kenya appeared before the Committee.

Mr. Daniel Kirui, Human Resource Director, submitted that they were unaware of sexual harassment in the farms. The BBC programme broadcasted some deeply shocking and upsetting testimony of sexual exploitation at James Finlay Kenya.

Mr. Daniel Kirui, Human Resources Director, James Finlay Kenya submitted that;

- i. The Company immediately suspended the two individuals featured in the BBC investigation and barred them from accessing all James Finlay tea estates sites. The Company also terminated the agreement with John Chebochok's Company, Sislo Holdings. All three hundred (300) employees who had been contracted by Sislo Holdings who were working at James Finlay Kenya have been offered direct employment at James Finlay Kenya.
- ii. James Finlay Kenya reported the allegations against John Asava and John Chebochok to the Kenya Police and committed to continue working closely with the police, sharing additional information that results from the investigations.
- iii. The Company also commissioned a private investigation into the matter. The investigation will cover two key areas, first to examine the cases highlighted by the documentary and secondly areas where the company can improve its approach to prevent and address sexual violence, abuse and harassment.

The Company also briefed the committee on its Harassment & sexual offences Policy, Child Protection Policy, Gender equality and Diversity Policy and the grievance handling policy.

**Committee Observation.**

1. The Committee observed that the company was aware of the documentary on allegations of sexual exploitation but failed to act. Mr. Sammy Kirui, General Manager, Corporate Affairs James Finlay Kenya submitted that the company wrote to BBC requesting for more information regarding the allegations but never got a response. The Company further reported to the Directorate of Criminal Investigations because the issues raised were of a criminal nature.
2. The Committee also questioned the effectiveness of the various channels put in place to deal with sexual harassment and abuse. The company submitted that all employers have access to

reporting mechanisms which include welfare committees, toll free anonymous call number, Bulk SMS for mass communication, use of Notice Boards, Use of suggestion Boxes, training of Village Committees on sexual harassment and other forms of abuse among others. The Company committed to continuously improve the systems.

3. The committee also noted few women in leadership positions at James Finlay Kenya. The composition of women in leadership is 29% at lower management level, 19% at high management level, 6% at junior management level and 24% at senior level management. James Finlay management submitted that it conducts gender surveys and that there is continued effort to be female gender inclusive through management trainee programs for women and training of women in ICT.
4. The Committee also queried on the criteria used to outsource services. The Company submitted that it conducts a pre-qualification exercise for the services. Services outsourced include labour, maintenance and construction. However, this was disputed by the Labour Unions who accused the company of directly procuring the services of the accused.

**MIN. NO. 141 NA/ LABOUR/2023: MEETING ON THE ALLEGATIONS OF SEXUAL HARASSMENT OF TEA WORKERS WITH THE SHOP STEWARDS AND REPRESENTATIVES OF THE TRADE UNION.**

Mr. Henry Omasire, Assistant General Secretary, Kenya Plantation and Agricultural Workers Union accompanied by Mr. Jared Momanyi, Branch Secretary, Trade Union, Mr. Sang Dickson, Branch Secretary, Kenya Plantation and Agricultural Workers Union and several shop stewards and gender committee members in the company made the following submissions: -

The shop stewards and gender committee members appeared before the Committee in Camera. The Chairperson informed the workers the purpose of the visit. He further assured them that they would not suffer any victimization for appearing before the Committee. The trade union representatives of Kenya Planters cooperative union confirmed that the shop stewards were their duly elected members.

The workers submitted that;

- i. The management is aware of the continued harassment of workers in the tea estates. However, cases of sexual harassment reported are not acted on and tangible sanctions applied to the alleged perpetrators for instance arrests or dismissal.
- ii. There is a communication gap between senior management and low-level workers.
- iii. The majority of the outsourcing contracts on labour are to former employees of James Finlay Kenya
- iv. There is pay disparity between directly employed employees and the outsourced contracted workers doing the same kind of work.
- v. There are cases of transfer of female workers from working under female supervisors to male supervisors.
- vi. There is victimization of workers engaged in industrial actions.
- vii. The fear of reporting sexual harassment and exploitation is attributable to fear of being fired and unfair reporting structure where the officers receiving the complaints are the alleged perpetrators.



- viii. Payments made under the premium fair trade by tea buyers in the diaspora which are be paid directly to for low cadre workers have been converted by James Finlay Kenya to fund Corporate Social Responsibility (CSR) without consultations with the workers.

The Committee undertook to interrogate the allegations, reasons behind it, propose mechanisms to end the vice and share the feedback with the employees.

MIN. NO. 142 NA/LABOUR/2023: ANY OTHER BUSINESS

No other business arose

MIN. NO. 143 NA/LABOUR/2023: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at five minutes to nine o'clock in the evening. The next meeting will be held on notice.

SIGNED.....

(CHAIRPERSON)

DATE .....

16/03/2023



**MINUTES OF THE 19<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON FRIDAY 3<sup>rd</sup> MARCH 2023 AT THE BOARDROOM, COUNTY COMMISSIONERS' OFFICE, KERICHO COUNTY AT 10:00 AM**

**PRESENT**

1. The Hon. Karemba Eric Muchangi Njiru, M.P. -Chairperson
2. The Hon. Muli Fabian Kyule, M.P. -Vice Chairperson.
3. The Hon. Barasa Patrick Simiyu, M.P.
4. The Hon. Chiforomodo Mangale Munga, M.P.
5. The Hon. Kihungi Peter Irungu, M.P.
6. The Hon. Siyoi Lillian Chebet, M.P.

**APOLOGIES**

1. The Hon. K'Oyoo James Onyango, M.P.
2. The Hon. Kagesi Kivai Ernest Ogesi, M.P.
3. The Hon. Kiti Richard Ken Chonga, M.P.
4. The Hon. Lomwa Joseph Samal, M.P.
5. The Hon. Omwera George Aladwa, M.P.
6. The Hon. Wambilianga Catherine Nanjala, M.P.
7. The Hon. Abdullahi Amina Dika, M.P.
8. The Hon. Aburi Donya Dorice, M.P.
9. The Hon. Sankaire Leah Sopiato, M.P.

**IN ATTENDANCE**

**Honourable Member**

1. The Hon. Beatrice Kemei, M.P.

**Witnesses**

- |                          |   |   |
|--------------------------|---|---|
| 1. Mr. Stephen Orinde    | - | Deputy County Commissioner, Kericho County                                |
| 2. Mr. Riko Ngare        | - | County Police Commander, National Police Service                          |
| 3. Ms. Rodah Kanyi       | - | Director of Criminal Investigations Officer, Kericho County               |
| 4. Mr. Robert Kisiangani | - | Intelligence Officer, National Intelligence Service                       |
| 5. Ms. Tecla Biwot       | - | Asst. Director, State Department for Labour and Affirmative Action        |
| 6. Mr. Francis Mitiambo  | - | Director, National Human Resource Planning Department, Ministry of Labour |
| 7. Mr. Kephas Odhiambo   | - | Labour Officer, Ministry of Labour and Social Protection                  |
| 8. Mr. Richard Litaba    | - | Labour Officer, Kericho County  |

**COMMITTEE SECRETARIAT**

- |                        |   |                        |
|------------------------|---|------------------------|
| 1. Ms. Rose Wanjohi    | - | Senior Clerk Assistant |
| 2. Mr. Binensa Mabungu | - | Clerk Assistant III    |
| 3. Mr. Samuel Wanjiru  | - | Clerk Assistant III    |
| 4. Mr. Mark Mbuthia    | - | Audio Officer          |

- |                      |   |                         |
|----------------------|---|-------------------------|
| 5. Mr. Peter Atsiaya | - | Media Relations Officer |
| 6. Ms. Zainabu Wario | - | Serjeant-At-Arms        |

## AGENDA

1. Prayers
2. Preliminaries;
3. Confirmation of Minutes.
4. Matters Arising;
5. Pending Business
  - i. Budget Policy Statement
  - ii. Two Bills
  - iii. Statement on the sexual harassment of tea workers on various tea farms in Kericho County.
  - iv. Benchmarking Visit by the Parliament of South Africa
6. Meeting with Kericho County Security team on the issues raised in the statement by Hon. Beatrice Kemei, M.P.
7. Meeting on the allegations of sexual harassment of tea workers with Hon. Beatrice Kemei M.P and the Ministry of Labour and Social Protection.
8. Any Other Business
9. Adjournment

### MIN. NO.128 NA/LABOUR/2023: PRELIMINARIES

The Chairperson called the Meeting to order at thirty minutes past ten o'clock. This was followed by a prayer by The Hon. Siyoi Lillian Chebet, M.P. Thereafter self-introductions were made.

### MIN.NO.129 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.

The agenda was deferred to the next sitting.

### MIN.NO.130 NA/LABOUR/2023: MATTERS ARISING

No matter arose.

### MIN.NO.131 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE

The following items have been committed to the committee

- i. The Public Service (Values and Principles) (amendment) Bill no. 46 of 2022 on proposed amendments which seek to establish a mechanism for all state organs in the National and County governments and State Corporations to submit annual reports on details of the human resource in Constitutional Commissions, Independent offices, County Public Service Boards and County Assembly Service Boards.
- ii. Statute Law (Miscellaneous) Amendment Bill no. 60, 2022 on proposed amendments to the Public Service Commission Act, Salaries and Remuneration Commission act and the state department for public service.
- iii. There is a proposed benchmarking visit by the Parliament of South Africa on matters Diaspora and Migrant Workers proposed for April 2023. This is to be done jointly with the select committee on Diaspora and Migrant workers Welfare

- iv. The Committee received a request for statement on 21<sup>st</sup> February 2023 from The Hon. Beatrice Kemei, M.P. with regard to the allegations of sexual harassment of female workers in various tea estates in Kericho County. The Committee resolved to undertake a site visit to meet with affected persons, tour the tea estates and for members to familiarize themselves with the situation on the ground. The Committee is proposing a three (3) day retreat from Thursday 2<sup>nd</sup> March, 2023 to Sunday 5<sup>th</sup> March, 2023.

**MIN. NO. 132 NA/ LABOUR/2023: MEETING WITH KERICHO COUNTY SECURITY TEAM ON THE ISSUES RAISED IN THE STATEMENT BY HON. BEATRICE KEMEI, M.P.**

Mr. Stephen Orinde, Deputy County Commissioner, Kericho County; Mr. Riko Ngare, County Police Commander, National Police Service; Ms. Rodah Kanyi, Director of Criminal Investigations Officer, Kericho County and Mr. Robert Kisiangani, Intelligence Officer, National Intelligence Service appeared before the committee.

The Chairperson briefed the County security team on the purpose of the visit.

Mr. Stephen Orinde, Deputy County Commissioner, Kericho County welcomed the Committee and invited the members of the security team to make their submissions.

Mr. Riko Ngare, County Police Commander, acknowledged receipt of the letters from the committee and submitted that no report had been filed with the authorities or the companies mentioned in regards to the allegations of sexual exploitation in the tea estates.

**Security measures put in place.**

The County Police Commander, further informed the committee that;

- i. There are fifteen (15) Police Stations within Bomet and Kericho areas, 3 (three) within James Finlay Kenya Tea estates and twelve (12) within Ekaterra Tea estates.
- ii. There is a gender office in Kericho County whose construction was funded by James Finlay Kenya. The Centre is open to the public and it offers a safe house for children and victims of Gender Based Violence.
- iii. There are regular patrols by the Security team in the tea estates.
- iv. There is a Judicial Users Committee that acts as forum where parties not satisfied with the decision of the Courts can seek advice on avenues available for appeal. The Committee is composed of the management of the tea estates, labour officers, children's officers, non-governmental organizations and members of the security team.
- v. There are regular meetings with the management of the Tea estates.

**Investigation status on the allegations of Sexual harassment of female tea workers.**

Ms. Rodah Kanyi, Director of Criminal Investigations Officer, informed the committee that a team had been constituted by the Directorate of Criminal Investigations to investigate the matter. The Team is headed by Mr. Francis Wanjau, Regional head of the Directorate of Criminal Investigations. The Criminal Investigations officer further submitted that;

- i. On 23<sup>rd</sup> February 2023, her Team visited the two companies mentioned and recorded statements with the management. The management maintained that they had no information in regards to the expose by the BBC network.

- ii. The investigating team requested for the full information of all the persons mentioned as perpetrators in the expose. Thereafter the team recorded their statements. The team also visited the workstations of the persons mentioned.
- iii. No formal complaint in regards to the alleged sexual harassment had been made by the victims. Therefore, no arrest had been made.
- iv. The preliminary investigation findings had been submitted to the Directorate of Criminal investigations awaiting further action.

#### **Committee Observations**

1. The Committee queried on the independence of the gender office having been funded by James Finlay Kenya Tea estate. The Security informed the Committee that the James Finlay only provided the funds for construction of the Centre. The Centre is fully manned by the Police and independent from James Finlay Kenya.
2. The Committee enquired on the availability of Community Policing as an avenue of reporting information relating to sexual harassment and abuse. The Security team submitted that there is the Community policing and the Nyumba Kumi Initiative at the Ward Level to enable the citizenry report various issues including Gender based violence.
3. The Committee enquired whether the security team had interrogated the BBC reporter who made the expose'. The county security team reported that they had communicated with the DCI headquarters' forensic Laboratory to obtain the full information of the reporter to facilitate his interrogation. The Committee expressed its dissatisfaction with the slow pace.

#### **MIN. NO. 133 NA/ LABOUR/2023: MEETING ON THE ALLEGATIONS OF SEXUAL HARASSMENT OF TEA WORKERS WITH HON. BEATRICE KEMEI M.P AND THE MINISTRY OF LABOUR AND SOCIAL PROTECTION.**

Mr. Francis Mitiambo, Director, National Human Resource Planning Department, Ministry of Labour accompanied by Mr. Kephass Odhiambo, Labour Officer, Ministry of Labour and Social Protection and Mr. Richard Litaba Labour Officer, Kericho County appeared before the Committee and made the following submissions:-

Mr. Kephass Odhiambo, Labour Officer, office of Labour Commissioner, submitted that they were made aware of the allegations of sexual harassment of female tea workers through the social media. The Officer further submitted that the Ministry wrote to the County of Kericho Labour officer instructing him to commence investigation into the allegations as per Section 35 of The Labour Institutions Act, 2007. The County Labour officer was to engage the tea estates, security agencies and trade union to get submissions. The Committee awaits detailed and concrete information on the status of investigation into the allegations to enable it report back to the house.

Mr. Richard Litaba, County Labour officer submitted that;

1. The interaction with the companies is mainly on the terms of working conditions in accordance with the Employment Act and International Labour Standards.
2. Both James Finlay Kenya and Ekaterra Teas have a sexual harassment policy.
3. Both Companies have reporting structures as per the Collective bargaining agreement with the trade Union.
4. Both have active gender committees to deal with employee welfare and grievances.
5. James Finlay has outsourced some sections of the labour services to contractors.



The labour Officer also emphasized the need for Kenya to ratify the C190 - Violence and Harassment Convention, 2019 (No. 190). The Convention protects workers and other persons in the world of work, including employees as defined by national law and practice. It also protects persons working irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants, and individuals exercising the authority, duties or responsibilities of an employer.

#### Committee Observations

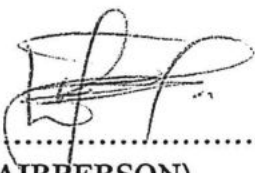
1. The Committee noted a gap in reporting of harassment cases given the available reporting channels. There is a need for collaborative effort by the stakeholders i.e., Labour department, Trade unions and legislators to come up clear and better framework for reporting. The Committee also enquired on the role of the Labour office in creating awareness on matters sexual harassment and exploitation. Mr. Kephas Odhiambo, Labour Officer, submitted that the department conducts annual visits to the tea estates. This is not adequate to create maximum awareness of the issues. He appealed for more funding to aid field activities including awareness talks
2. The Committee noted outsourcing of labour as weak link in enforcing the sexual harassment policies. The contracted company is in charge of performance and retention of employees. The competition for the available scarce employment opportunities for placement leaves the employees prone to exploitation and harassment. The Committee resolved to initiate legislation to govern Outsourcing of labour services.

#### MIN. NO. 134 NA/LABOUR/2023: ANY OTHER BUSINESS

No other business arose

#### MIN. NO. 135 NA/LABOUR/2023: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at six minutes past two o'clock. The next meeting will be held on notice.

SIGNED.......... DATE 16/03/2023  
(CHAIRPERSON)



MINUTES OF THE 17<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
LABOUR HELD ON TUESDAY 28<sup>TH</sup> FEBRUARY 2023 AT TALEK CONFERENCE HALL,  
OLE SERENI HOTEL AT 9.00 AM

**PRESENT**

1. The Hon. Karemba Eric Muchangi Njiru, M.P. -Chairperson
2. The Hon. Muli Fabian Kyule, M.P. -Vice Chairperson
3. The Hon. Kagesi Kivai Ernest Ogesi, M.P.
4. The Hon. Kiti Richard Ken Chonga, M.P.
5. The Hon. Lomwa Joseph Samal, M.P.
6. The Hon. Omwera George Aladwa, M.P.
7. The Hon. Wambilianga Catherine Nanjala, M.P.
8. The Hon. Abdullahi Amina Dika, M.P.
9. The Hon. Barasa Patrick Simiyu, M.P.
10. The Hon. Chiforomodo Mangale Munga, M.P.
11. The Hon. Kihungi Peter Irungu, M.P.
12. The Hon. Sankaire Leah Sopiato, M.P.
13. The Hon. Siyoi Lillian Chebet, M.P.

**APOLOGIES**

1. The Hon. K'Oyoo James Onyango, M.P.
2. The Hon. Aburi Donya Dorice, M.P.

**IN ATTENDANCE**

- |                         |   |   |
|-------------------------|---|---|
| 1. Mr. Geoffrey Kaituko | - | Principal Secretary State Department of Labour and Skills Development   |
| 2. Mr. James Mwenda     | - | Chief state Counsel Ministry of Labour and Social Protection            |
| 3. Ms. Winfred Mwende   | - | Finance officer State Department of Labour and Skills Development       |
| 4. Mr. Kephass Odhiambo | - | Senior Labour Officer State Department of Labour and Skills Development |
| 5. Ms. Dorothy Njeru    | - | Acting Director Human Resource Development                              |
| 6. Mr. Simion Lekishon  | - | Finance Officer the National Treasury                                   |

**COMMITTEE SECRETARIAT**

- |                          |   |                        |
|--------------------------|---|------------------------|
| 1. Ms. Rose Wanjohi      | - | Senior Clerk Assistant |
| 2. Mr. Binensa Mabungu   | - | Clerk Assistant III    |
| 3. Mr. Samuel Wanjiru    | - | Clerk Assistant III    |
| 4. Mr. Fredrick Muthengi | - | Chief Fiscal Analyst   |
| 5. Mr. Timothy Chiko     | - | Research Officer III   |
| 6. Ms. Rehema Koech      | - | Audio Officer          |
| 7. Ms. Zainabu Wario     | - | Serjeant-At-Arms       |

**AGENDA**

1. Prayers

2. Preliminaries;
3. Confirmation of Minutes.
4. Matters Arising;
5. Pending Business
  - i. Budget Policy Statement
  - ii. Two Bills
  - iii. Statement on the sexual harassment of female tea workers on various tea farms in Kericho County
6. Meeting Submissions on the Budget Policy Statement FY 2023 from the State Department for Labour and Skills Development
7. Submissions on the requested Statement from the Hon. Beatrice Kemei, MP regarding the sexual harassment of female tea workers on various tea farms in Kericho County.
8. Consideration on the Draft report on the Budget Policy Statement FY 2023
9. Any Other Business
10. Adjournment

**MIN. NO.111 NA/LABOUR/2023: PRELIMINARIES**

The Chairperson called the Meeting to order at nine o'clock. This was followed by a prayer by the Hon. Wambilianga Catherine Nanjala, M.P.

**MIN.NO.112 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.**

Confirmation of minutes was deferred to the next sitting.

**MIN.NO.113 NA/LABOUR/2023: MATTERS ARISING**

No matter arose.

**MIN.NO.114 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE**

The following items have been committed to the committee

- i. The Public Service (Values and Principles) (amendment) Bill no. 46 of 2022 on proposed amendments which seek to establish a mechanism for all state organs in the National and County governments and State Corporations to submit annual reports on details of the human resource in Constitutional Commissions, Independent offices, County Public Service Boards and County Assembly Service Boards.
- ii. Statute Law (Miscellaneous) Amendment Bill no. 60,2022 on proposed amendments to the Public Service Commission Act, Salaries and Remuneration Commission act and the state department for public service.
- iii. There is a proposed benchmarking visit by the Parliament of South Africa on matters Diaspora and Migrant Workers proposed for April 2023. This is to be done jointly with the select committee on Diaspora and Migrant workers Welfare
- iv. The Committee received a request for statement on 21<sup>st</sup> February 2023 from The Hon. Beatrice Kemei, M.P. with regard to the allegations of sexual harassment of female workers in various tea estates in Kericho County. The Committee resolved to undertake a site visit to

meet with affected persons, tour the tea estates and for members to familiarize themselves with the situation on the ground. The Committee is proposing a three (3) day retreat from Thursday 2<sup>nd</sup> March, 2023 to Sunday 5<sup>th</sup> March, 2023.

**MIN. NO. 115 NA/ LABOUR/2023: BRIEF ON THE 2023 BUDGET POLICY STATEMENT FOR THE FY 2023/24 BY STATE DEPARTMENT FOR LABOUR AND SKILLS DEVELOPMENT.**

*Mr. Geoffrey Kaituko, Principal Secretary, State Department of Labour and Skills Development accompanied by; Mr. James Mwenda, Chief state Counsel Ministry of Labour and Social Protection; Ms. Winfred Mwende Finance Officer State Department of Labour and Skills Development; Kephias Odhiambo-Senior Labour Officer State Department of Labour and Skills Development and Ms. Dorothy Njeru Acting Director Human Resource Development appeared before the committee and made the submissions below.*

Mr. Geoffrey Kaituko, Principal Secretary, State Department for Labour and Skills Development submitted that under the Medium-Term Expenditure Framework (MTEF) Budget, the State Department has five (5) programmes namely:

1. Promotion of Best Labour Practices;
2. Manpower Development, Employment and Productivity Management;
3. Workplace Readiness Services;
4. Post-Training Information Management; and
5. General Administration, Planning and Support Services.

The State Department enumerated Key Programmes, Outputs and Targets in the Medium-Term Budget period as per the table below.

PROGRAMME 1: PROMOTION OF BEST LABOUR PRACTICES	
KEY OUTPUTS	TARGETS MEDIUM TERM PROJECTIONS (MTB Period 2023/24 -2025/26)
<b>SUB PROGRAMME 1.1: Promotion of Harmonious Industrial Relations</b>	
Labour disputes resolved	<ul style="list-style-type: none"> <li>• Resolve 80% of all received disputes for improved labour relations in the country.</li> <li>• Apprehend 100% of strikes and lock-outs to ensure harmonious industrial relations.</li> </ul>
Country compliance with labour laws	<ul style="list-style-type: none"> <li>• Carry out inspections on wages, and terms &amp; conditions of employment in 31,700 workplaces for improved labour and employer relations at the workplaces.</li> <li>• Operationalize six (6) Wages Councils annually to guide in the fixation of remuneration and conditions of employment in these sectors.</li> <li>• Establish and operationalize 28 County Child Labour Committees to facilitate elimination of worst forms child labour and forced labour in the country</li> </ul>
Foreign Employment Contracts attested	<ul style="list-style-type: none"> <li>• Conduct attestation of at least 80,000 foreign employment contracts annually to ensure the necessary requirements on terms and conditions of employment</li> </ul>
<b>SUB PROGRAMME 1.2: Regulation of Trade Unions</b>	
Trade Union regulation services	<ul style="list-style-type: none"> <li>• Carry out inspection of 1,650 trade unions books of accounts to ensure proper accountability of the trade union funds</li> </ul>



	<ul style="list-style-type: none"> <li>• Update membership records of 180 trade unions to ensure compliance in filing of annual returns of trade Unions'</li> </ul>
<b>SUB PROGRAMME 1.3: Provision of Occupational Safety and Health</b>	
Safe Working Environment	<ul style="list-style-type: none"> <li>• Carry out medical examination of 390,000 workers in hazardous occupations for early detection of Occupational Diseases symptoms to safeguard their health</li> <li>• Carry out examination of 63,000 Hazardous industrial equipment for early detection and effective mitigation of hazardous conditions</li> <li>• Train 49,500 members of the Health and Safety Committees and other workers on Occupational Safety and Health at workplaces</li> <li>• Carry out audits of 31,000 work places for compliance with Occupational Safety and Health regulations</li> </ul>
Safety culture in workplaces institutionalized	<ul style="list-style-type: none"> <li>• Carry out sensitization of 4, 500 Micro and Small Enterprises (MSE) Operators on Occupational Safety and Health (OSH) for improved productivity through reduction of workplace accidents and cases of ill-health</li> <li>• Carry out sensitization of 370 health care providers in Level 5 Hospitals on Basic Occupational Health Services (BOHS) on collection, analysis and reporting of work injuries</li> <li>• Process as least 46.5 % of all reported work injury claims annually</li> </ul>
Occupation Safety and Health (OSH) institute	<ul style="list-style-type: none"> <li>• Complete the construction of the Occupational Safety and Health Institute currently at 87% completion level</li> <li>• Install 20.5% of the equipment required to operationalize the Institution</li> </ul>
<b>PROGRAMME 2.0: MANPOWER DEVELOPMENT, EMPLOYMENT AND PRODUCTIVITY MANAGEMENT</b>	
<b>KEY OUTPUTS</b>	<b>TARGETS - MEDIUM TERM PROJECTIONS (MTEF period 2023/24 -2025/26)</b>
<b>SUB PROGRAMME 2.1: Human Resource Planning and Development</b>	
Labour market Information	<ul style="list-style-type: none"> <li>• Undertake the Manpower Survey to establish the stock of skills and gaps in the country</li> <li>• Undertake the Survey of Training in Local Training Institution to determine and monitor the types and levels of skills entering the labour market</li> <li>• Prepare 12Job Opportunities Analysis (JOA) to provide structure and dynamics of the labour market at short interval and monitor periodic skills demand in the country.</li> </ul>
Skills inventory in key sectors of the economy	Undertake Skills gap analysis in six (6) key sectors of the economy
<b>SUB PROGRAMME 2.2: Provision of Industrial Skills</b>	
Skilled Manpower for the Industry	<ul style="list-style-type: none"> <li>• Assess and Certify 37,400 persons under Recognition of Prior Learning (RPL) to recognize informally and non-formally acquired skills</li> <li>• Place 126,000 trainees on industrial attachment enable them gain hands-on experience in their areas of training/specialization</li> <li>• Re-skill and up-skill 483,278 workers in relevant industrial skills to enable them adapt to the rapidly changing world of work</li> <li>• Carry out assessment of 540,113 persons in government trade testing in various trades to determine whether a worker can perform duties as per the expected standards at workplace</li> </ul>
Industrial training standards	<ul style="list-style-type: none"> <li>• Accredite and register 3,099 training providers to facilitate provision of industrial training</li> </ul>
<b>SUB PROGRAMME 2.3: Employment Promotion</b>	
Employment promotion services	<ul style="list-style-type: none"> <li>• Place 480,000 job seekers in gainful employment locally and abroad</li> </ul>



	<ul style="list-style-type: none"> <li>• Establish three (3) Job Centres to service as one-stop-shop for all employment services</li> <li>• Carry out an Employment Needs Assessment in five (5) existing and potential labour destination countries with special focus on professional and skilled cadres</li> <li>• Place 60,000 graduates in Internship positions</li> </ul>
Labour migration information	<ul style="list-style-type: none"> <li>Establish an integrated Labour Migration Management Information System (LMMIS) to improve linkages and seamless flow of labour migration information</li> <li>• Establish a centralized database for Kenyan migrant workers</li> </ul>
Orderly, safe and productive labour migration	<ul style="list-style-type: none"> <li>• Vet and register private employment agencies to ensure they operate within the set standards to promote ethical recruitment of migrant workers</li> <li>• Review the Private Recruitment Agencies Regulations and Code of Conduct</li> <li>• Negotiate and sign twelve (12) Bilateral Labour Agreements in key labour destination countries to enhance protection of migrant workers and access to more employment opportunities for the skilled cadre</li> <li>• Overhaul the Homecare Curriculum including Pre-departure orientation Programme</li> <li>• Train 723,000 Kenyan Migrant workers on Pre-departure to acquaint them on their rights obligations and information on the country of destination</li> <li>• Establish a Return and Integration Programme to facilitate migrant workers participation in national development of the country while abroad and upon return</li> </ul>
National Employment Promotion Centre	Complete the construction of the National Employment Promotion Employment Centre, Kabeto
<b>SUB-PROGRAMME 2.4: Productivity Promotion, Measurement and Improvement</b>	
Productivity improvement programmes	<ul style="list-style-type: none"> <li>• Train 500 Public officers on Productivity improvement (Business process re-engineering (BPR) and Continuous Improvement (Kaizen))</li> <li>• Implement Productivity Improvement Programmes in 130 firms including SMEs to enhance their productivity and competitiveness in the country.</li> </ul>
Productivity Statistics	<ul style="list-style-type: none"> <li>• Develop 20 National and Sectoral Productivity indices annually</li> <li>• Implement the National Productivity Measurement Framework in both Public and Private Institutions</li> </ul>
Public Sector Productivity measurement	<ul style="list-style-type: none"> <li>• Train 250 Public Sector Organizations on productivity measurement programs</li> <li>• Train 500 Public officers on productivity measurement</li> <li>• Develop Productivity Indicators in 250 Public Sector Institution</li> </ul>
<b>PROGRAMME 3: WORKPLACE READINESS SERVICES</b>	
Access to work-based Learning Programmes increased	<ul style="list-style-type: none"> <li>• Place 8,700 Volunteer Graduate Assistants on work-based learning programmes</li> <li>• Enroll an average of 7,000 youths annually in entrepreneurship and business mentorship and apprenticeship programme.</li> </ul>
Youth Employability enhanced	<ul style="list-style-type: none"> <li>• Train 10,000 youths annually on online employment skills development, Innovation and entrepreneurship</li> <li>• Facilitate 90,000 Youth with access to affordable business trading spaces and business incubation/innovation services</li> </ul>
<b>PROGRAMME 4: MANAGEMENT OF POST TRAINING INFORMATION</b>	
Management of post Training Information enhanced	<ul style="list-style-type: none"> <li>• Establish a National Skills Management Information System</li> </ul>
<b>PROGRAMME 5: POLICY, PLANNING AND GENERAL ADMINISTRATIVE SERVICES</b>	

KEY OUTPUTS	TARGETS - MEDIUM TERM PROJECTIONS (MTEF period 2023/24 -2025/26)
<b>SUB-PROGRAMME 3.1: Policy, Planning and General Administrative Services</b>	
Policy, legal and legislative framework in place	Review/develop Five(5) labour and employment policies and prepare 3 Bills to strengthen the existing Policy, Legal and Institutional Framework on employment and Labour matters
Collective Bargaining Agreement (CBA) analysed for registration	Analyse 100% Collective Bargaining Agreements (CBAs) for registration by the Employment and Labour Relations Court
Economic disputes referred to the Ministry by Employment and Labour Relations Court investigated	Investigate 100% of Economic disputes referred to the Ministry by Industrial Court.

The Principal Secretary submitted in the FY 2023 the State Department's allocation of Kshs.4,071.30 Million include Kshs.3,382.30 Million under Recurrent and Kshs.689.00 Million under Development, against a total requirement of Kshs.9,962.42 Million as submitted to the SPCR Sector. This gives a funding shortfall of Kshs.5,891.12 Million. The table below shows the status of funding for the Financial Year 2023/2024 and the medium term.

*Table: Summary of Funding Status in the FY2023/24 and the Medium Term*

Expenditure Type		FY 2022/23 (Kshs. Million)	BPS Allocation (Kshs. Million)		
		Printed Estimates	FY 2023/24	FY 2024/25	FY 2025/26
Recurrent	Net	1,997.71	2,468.9	2,521.3	2,575.6
	Appropriation in Aid (AIA)	913.42	913.4	913.4	913.4
	Gross	2,911.13	3,382.3	3,484.7	3,539.0
Development	GoK	205.00	291.4	436.6	286.5
	Donor (Loan Revenue)	367.50	397.6	-	-
	Gross	572.50	689.0	436.6	286.5
Total		3,483.6	4,071.30	3,921.3	3,825.5

## Project information

The state Department reported that it has no stalled projects.

The Principal Secretary informed the Committee that State Department has two (2) new Projects,

- The Labour Migration and Export Programme with an estimated cost amounting to Kshs. 1.5 Billion to cover the 7 years of the implementation of the project and the construction of the Kenya Post Training Institute with an estimated cost of Kshs. 1.51 Billion. The goal of the Kenya Post Training Institute is to provide continuous professional development to Master Craft Persons (MCPs), career counselors and career educators

- ii. The Labour Migration and Export Programme is a Bottom –Up Economic Transformation Priority area for the Government.

### **Request to the Committee**

The State Department appealed for additional support from the Committee in the following areas:

- i. Establishment and expansion of Labour Attaché Offices as per the Cabinet approval – 274M
- ii. Enhanced support for all field Stations (Labour, DOSHs & NEA ) – 47 M
- iii. Labour Migration and Export Programme – BUETA Priority area – 100M
- iv. Institutionalization of the National Labour Board (NLB) and Wages Councils (WCs) as provided for in the Labour Institutions Act – 60M
- v. Equipping of the Occupational Safety and Health Institute – 120M
- vi. Surveillance Equipment for Work Environment and Workers Health – 80M
- vii. Upgrading of Industrial Training Centres – 200M
- viii. National Employment Promotion Centre, Kabete -175.54M

### **Committee Observations**

- i. The committee tasked the State Department to expound on the revenue generation expected from the Labour Migration and Export Programme given its enormous investment requirement of Ksh. 1.5 Billion. The Principal Secretary informed the Committee that the high investment is meant to cover the initial project implementation phase of seven years. The Program seeks to raise the annual diaspora remittances from Ksh. 500 Billion to one Trillion. The program also seeks to open new labour markets for skilled manpower and integrate Labour and Migration systems for real data of migrant workers and people in the Diaspora.
- ii. The Committee also enquired on the State Department's preparedness to deal with industrial actions. The Principal Secretary informed the committee that the Alternative Dispute Resolution Mechanism has no budgetary allocation to facilitate effective handling of disputes. The Principal Secretary appealed to the Committee to prioritize the funding of Institutionalization of the National Labour Board (NLB) and Wages Councils (WCs) as provided for in the Labour Institutions Act.
- iii. The Committee observed there is lack of clear understanding of the role of The National Employment Authority (NEA) by the Citizenry. The key mandate of the NEA is to advise on formulation of employment policies and strategies for national and county governments. The Authority appealed for continued engagement by all stakeholders for the Authority to realize its objectives.

### **MIN. NO. 116 NA/LABOUR/2023: STATEMENT REGARDING THE SEXUAL HARASSMENT OF FEMALE TEA WORKERS ON VARIOUS TEA FARMS IN KERICHO COUNTY BY THE HON. BEATRICE KEMEI, MP**

The Ministry of Labour and Social protection presented the preliminary findings of the ongoing investigations into the allegations. The committee resolved to proceed with the site visit to Kericho in collaboration with the Ministry of Labour and Social Protection and County Security Team, Kericho, Ministry of Interior and National Administration and from Thursday 2<sup>nd</sup> March, 2023 to Sunday 5<sup>th</sup> March, 2023. Thereafter, the committee will report back to the House.

### **MIN. NO. 117 NA/ LABOUR/2023: CONSIDERATION OF THE DRAFT REPORT ON THE BUDGET POLICY STATEMENT FY 2023**

The Committee resolved to have a sitting on Thursday, 2<sup>nd</sup> March 2023, to consider and adopt the Report on the Budget policy statement for the FY 2023/2024.

MIN. NO. 118 NA/LABOUR/2023: ANY OTHER BUSINESS

No other business arose

MIN. NO. 119 NA/LABOUR/2023: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at fifty-six minutes past eleven o'clock. The next meeting will be held on notice.

SIGNED.....

(CHAIRPERSON)

DATE .....

16/03/2023

## **ANNEXURE 3 : WRITTEN SUBMISSIONS FROM STAKEHOLDERS**





*for Deputy Speaker,  
for not approve.  
Kericho LPS  
21/2/23*



REPUBLIC OF KENYA

*Approved  
21/2/23*

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE NATIONAL ASSEMBLY

**REQUEST FOR STATEMENT REGARDING SEXUAL HARASSMENT OF  
FEMALE WORKERS IN VARIOUS TEA ESTATES IN KERICHO COUNTY**

Honorable Speaker, Pursuant to Standing Order 44 2(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Labour regarding sexual harassment of female workers in various Tea Estates in Kericho County.

Honorable Speaker, it is of great concern that female workers in various tea estates in Kericho County have deplorable working and living conditions and have been victims of sexual harassment and abuse at the hands of male bosses. These vulnerable female workers at the estates, with no other source of income, have no choice but to have sex with male supervisors in order to survive. Sex is reportedly demanded by supervisors in return for allocating lighter duties, for help with securing better housing and guaranteeing their meagre wages will not be deducted. It appears as if all the supervisors are male and hence no consideration of gender parity. Female workers who refuse sexual advances from male supervisors pay a high price and are given too much work or allocated work in lonely or dangerous plucking zones. These tea estates do not adhere to the policy on sexual harassment. As a result of these despicable and inhumane treatment, these workers have contracted various sexually transmitted infections, including HIV and AIDS, eventually losing their lives.

Honorable Speaker, it is high time that the rights and dignity of female workers is upheld and respected by male bosses in tea estates and it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Labour on the following –

- (i) Could the Chairperson provide concrete information on the allegations of sexual harassment of female workers in the various tea estates in Kericho County?
- (ii) Could the Chairperson explain what measures the government is putting in place to protect the rights of female workers in these tea estates?
- (iii) Could the Chairperson explain measures the government is putting in place to ensure these tea estates adhere to labour laws and implement policy on sexual harassment?
- (iv) Could the Chairperson consider carrying out investigations into these heinous acts, ensure culpable perpetrators are brought to book and justice is served to the victims?

I thank you, Hon. Speaker.

*RMH*  
HON. KEMEI, BEATRICE CHEPNGENO, MP  
MEMBER FOR KERICHO COUNTY

Date. 21/2/2023





**MINISTRY OF LABOUR & SOCIAL PROTECTION  
STATE DEPARTMENT FOR LABOUR AND SKILLS DEVELOPMENT  
OFFICE OF THE CABINET SECRETARY**

Tel: +254(020)2729800

Website: [www.labour.go.ke](http://www.labour.go.ke)

Email: [cs@labour.go.ke](mailto:cs@labour.go.ke)

When replying please quote

**Ref: ML/LD/LAB/162**

**Mr. Samuel Njoroge**  
Clerk of the National Assembly  
P.O Box 41842 – 00100  
NAIROBI

**Dear Mr. Njoroge,**

**DEPARTMENTAL COMMITTEE ON LABOUR – ENQUIRY INTO  
ALLEGATIONS OF SEXUAL HARASSMENT OF FEMALE TEA  
WORKERS IN VARIOUS TEA ESTATES IN KERICHO COUNTY**

Reference is made to your letter Ref. NA/DDC/LABOUR/2023/014 dated 28<sup>th</sup> February 2023 on the above subject.

This is to forward the response and relevant attachment for your further action.

*Yours sincerely,*

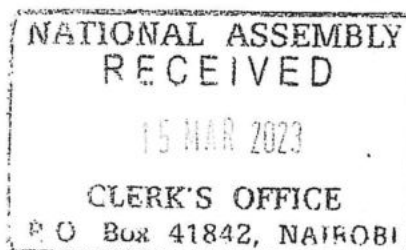
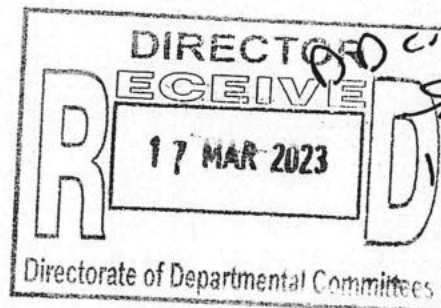
Hon. Florence Bore

**CABINET SECRETARY**

Social Security House,  
Bishops Road Block 'A'  
P. O. Box 403260-00100  
NAIROBI

*Rose Wanjohi*  
*pls facilitate*  
*up with*  
*17/3/23*

**Date: 13<sup>th</sup> March, 2023**





**FACT FINDING VISIT REPORT BY THE PARLIAMENTARY  
COMMITTEE ON LABOUR AND OFFICERS FROM THE  
MINISTRY OF LABOUR AND SOCIAL PROTECTION.**

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**Background**

*Rose Wanjau*  
*to facilitate consideration*  
*by WMA 17/3/23*

Officers from the Ministry of Labour accompanied the Parliamentary select Committee on Labour for a fact-finding visit to the tea sector from 2nd to 5th March 2023. This was in response to the response sought by Hon. Beatrice Kemei, the Honorable Member of Parliament for Kericho County. The Ministry of Labour Officials comprised of Mr Francis Mitiambo, Kephias Odhiambo from Ministry Headquarters and Richard Litaba, the Local County Labour Officer.

The team held a meeting with the Ag. County Commissioner Mr. Stephen Orinde on 3rd March 2023 and was informed that there is anxiety on the ground following the much-publicized expose by BBC Africa on the alleged sexual harassment in the Multinational tea companies. It was reported that the residents of Kericho County are also fearing for their businesses which highly depend on the tea and there was thus panic over the possible ripple effect in the local economy.

The Parliamentary Committee also held a meeting with the Ministry of Labour Officials at the County Commissioner's Boardroom. The Committee particularly interviewed the County Labour Officer who is in charge of both Kericho and Bomet Counties.

The Parliamentary Committee held a closed-door meeting with the Kericho County Security Committee.







who subjects any employee to sexual harassment; explaining how complaints of sexual harassment may be brought to the attention of the employer; among other provisions. It was established that the ODPP has directed the Police to carry out investigations on the matter with a view of bringing to book the perpetrators. It was confirmed that the Multinational Companies have reported the matter to the Police.

When The BBC expose was aired the Ministry directed the County Labour Officer to investigate the allegations. The Investigations confirmed that indeed there had been cases of sexual harassment in the two companies because the culprits mentioned were indeed known to the Management team and workers interviewed. No victim was however available for interview and therefore there was no direct link between the perpetrators and the victims who shared their ordeals in the BBC Africa documentary. One victim identified as Joice Sirange who had earlier accepted to be interviewed declined at the last minute possibly fearing victimization or stigmatization.

At Ekaterra Tea (Unilever), the two alleged perpetrators were employees of the company as a Supervisor and a Unit manager respectively; and at James Finlays Kenya the alleged culprits were a Contractor and an employee of a contractor.

It was also established that the Companies upon receiving the information on the alleged harassment took immediate steps by suspending the alleged offenders from employment/contract and declaring them unwanted in their respective Estates till cleared of the allegations; (that the alleged culprits resigned instead of waiting for further investigations); and further that the matter had been reported to the Police for further criminal investigations and processing.



The team also interacted by the Kenya Plantation and Agricultural Workers Union who represent unionisable staff working in the tea sector.

It was established that the tea Companies are members of the Kenya tea growers Association who negotiate terms and conditions of Employment of the workers through a group CBA with Kenya Plantation and Agricultural Workers Union.

The National and local officials of the trade union were present in the meeting and were given an opportunity to make their submissions. They submitted that they have lost membership due to the mechanization of tea picking which has resulted in poor working conditions while the multinationals reap high profits.

The Union further submitted that issues of sexual harassment are rampant and that the Contractor Mr Chebochok from James Finlays tea mentioned in the exposes has been reported several times in connection with Sexual harassment. The Honorable Chairman demanded any evidence from the union corroborating the allegation and because the same was not substantiated, he ruled that the assertion was not admissible.

## **FINDINGS**

Section six (6) of the Employment Act, 2007 Laws of Kenya defines Sexual Harassment and provides that an Employer who employs twenty (20) workers and above shall issue a policy Statement on sexual harassment. The Act further provides that every employee is entitled to employment that is free of sexual harassment and that the employer shall take steps to ensure that no employee is subjected to sexual harassment;

That the employer shall take such disciplinary measures as the employer deems appropriate against any person under the employer's direction,



It was confirmed that as per the provisions of the Law, the two companies had put in place sexual harassment policies and elaborate structures including informing the workers of how to report and telephone numbers including anonymous numbers provided on pay slips.

The Ministry officials also engaged the workers' representatives (Shop stewards and Gender Committees members) and they confirmed that they had been trained on sexual harassment and were aware of what was expected of them in the event they experienced the harassment or if the same were to be reported to them.

It is a fact that despite the seemingly elaborate and robust structures put in place to prevent and address sexual harassment cases, the vice is still being experienced in the two companies which indicate structural malaise. There seems to be a cloud of fear in reporting to the managers and the tendency of some Managers to cover their colleagues so that the matters do not reach the top leadership.

It was submitted by the County Labour Officer that there has never been any Labour complaint or trade dispute on Sexual harassment reported to his office by individual workers or the trade union in the last seven (7) years

The Ministry of Labour is charged with the responsibility of carrying out labour inspections through Labour Officers stationed in field offices as provided for under the Labour Institutions Act 2007 to check on terms and conditions of employment as provided for in Labour Laws, employment contracts, Employers' Human Resource Policies and Collective Bargaining Agreements.

This is meant to check on employers' compliance with the above provisions and in the process, labour officers can check the Employers'





compliance with their Sexual Harassment Policies. In the last labour inspections conducted at Ekaterra and Finlays, there were no sexual harassment cases found to have occurred or reported at the time.

The Occupational Safety and Health Officers also check on compliance with the health and safety at workplace as provided for under the Occupational Safety and Health Act 2007 alongside other relevant regulations in place.

During inspections and when offering advisory services, the Ministry encourages employers to formwork committees through which employees are advised on the contents of the Sexual Harassment Policy and the reporting structure through which they may report.

The ministry also encourages unions and employers in the Tea sector to include elaborate clauses on sexual harassment in their respective Collective Bargaining Agreements (CBA) to protect workers from harassment at the workplace. Shop stewards are encouraged to go beyond terms and conditions and rights violations and be active in identifying other violations like sexual harassment and gender-based violence cases and escalate them into disputes to be handled under Labour Relations Act.

The Ministry through the County Labour offices shall upscale surveillance in the entire Tea Sector to engage more with the management and the Trade Union officials both at the shop floor and Branch offices to apprehend the occurrence of similar cases; and constant auditing of the systems to identify weak links therein and address them, especially the issue of reporting the breaches.

The Government through the Ministry of Labour and Social Protection has put in place several measures to protect the rights of all workers, including female workers at the tea estates. The measures include:



Promoting implementation of the requirements of section 6 of the Employment Act 2007, which requires an employer who employs 20 or more employees to have a sexual harassment policy and to bring it to the attention of all workers.

### **WAY FORWARD**

The Ministry undertakes to upscale the inspections in the entire Tea sector and not just the two mentioned companies and engage with the Gender Committee members and the shop stewards to empower them to be bold enough to report any breaches both internally and externally to Ministry of Labour officers and Company management.

Due to the complexity of the problem, we'll endeavour to cooperate with the office of Gender and Affirmative action to create awareness and training in the Tea companies, especially as regards change in the attitude of the employees.

The Ministry will encourage initiatives to partner with other agencies to encourage workers to report any negative vices affecting their lives to competent authorities so that remedies can be found.



Hon. Florence Bore

**CABINET SECRETARY**





**Ministry of Labour and Social Protection**  
**State Department for Labour and Skills Development**  
*Office of the Principal Secretary*

**Memo**

**To :** Cabinet Secretary

**From :** Principal Secretary

**Date :** 28<sup>th</sup> February, 2023

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**RE: SUBMISSION OF STATEMENT REGARDING SEXUAL  
HARRASSMENT OF FEMALE WORKERS IN VARIOUS TEA  
ESTATES IN KERICHO COUNTY**

---

Reference is made to the Letter from National Assembly Ref No. NA/DDC/LABOUR/2023/011 dated 23<sup>rd</sup> February, 2023 on the above subject matter.

This is therefore to forward the Ministry's response to the above statement for your perusal, concurrence and onward submission to the National Assembly.

Mr. Geoffrey Kaituko  
**PRINCIPAL SECRETARY**

**Encl:**







**REPUBLIC OF KENYA  
MINISTRY OF LABOUR AND SOCIAL PROTECTION**

**RESPONSE REGARDING SEXUAL HARRASMENT OF  
FEMALE WORKERS IN VARIOUS TEA ESTATES IN  
KERICHO COUNTY**

**BY**

**HON. FLORENCE BORE  
CABINET SECRETARY**

**BEFORE  
(THIRTEENTH PARLIAMENT- SECOND SESSION)  
THE NATIONAL ASSEMBLY**

**TUESDAY, 28<sup>th</sup> FEBRUARY, 2023**



**RESPONSE TO THE REQUEST FOR A STATEMENT BY  
HON. KEMEI, BEATRICE CHEPNGENO, MP MEMBER  
FOR KERICHO COUNTY REGARDING SEXUAL  
HARRASMENT OF FEMALE WORKERS IN VARIOUS  
TEA ESTATES IN KERICHO COUNTY.**

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**QUESTION 1**

**Could the Chairperson provide concrete information on the allegations of sexual harassment of female workers in the various tea estates in Kericho County?**

---

**Response**

On 20<sup>th</sup> February 2023, the BBC-Africa published an article on its website entitled **“TRUE COST OF OUR TEA: SEXUAL ABUSE ON KENYAN TEA FARMS REVEALED”** this article was widely circulated in the mainstream and social media

The media report stated that sexual exploitation has been uncovered on tea farms that supply some of the UK's most popular tea brands including PG Tips, Lipton and Sainsbury's Red label. It was reported that more than 70 women on Kenyan tea farms owned for years by two British companies; Unilever and James Finlays & Co had been sexually abused by their supervisors.

In the video reporting, there appeared some management officials of the tea Companies soliciting for sex for work from female employees. Some of these events were recorded under cover in hotel rooms. The undercover victim in the video, identified as Katy, stated that she had been offered a job on condition that she gives in to sexual advances in order to secure the job and also to be transferred to light duties at the Company tea nursery.



Media reporting also indicated that there was previous sexual harassment by Mr. Jeremiah Kosgey, a Divisional Manager at Unilever.

The Ministry in responding to this public report, initiated investigations through the Office of the Labour Commissioner and the County Labour Offices of both Kericho and Bomet in whose jurisdiction the Tea estates are situated.

The County Labour Officers were informed by the management of **Ekaterre Tea** (formerly Unilever) that Mr. Samuel Yebei and Mr. Jeremiah Koskei were supervisor and Division Manager respectively.

James Finlays (K) Ltd Management stated that Mr. John Chebochok is a former Manager with the Company who had retired and had been on boarded as a Contractor of Labour (Outsourcing) through a Company known as **Solis**.

At Eketerre Tea, investigation revealed that Mr. Daniel Ruto to whom these complaints were reported to by aggrieved employees failed to escalate the complaint to the company Management and instead reported to the BBC undercover investigator. The failure to escalate the complaint is a dereliction of duties.

In the course of investigations, the Ministry learnt that the office of the Director of Public Prosecutions had directed the Directorate of Criminal Investigations to conduct investigation on the allegations. The Companies have also filed complaints with the police to conduct their own investigations.

## **QUESTION 2**

**Could the Chairperson explain what measures the Government is putting in place to protect the rights of female workers in these tea estates?**

---

### **Response**

The Government through the Ministry of Labour and Social Protection has put in place a number of measures to protect rights for all workers, including female workers at the tea estates. The measures include:

1. Promoting implementation of the requirements of section 6 of the Employment Act 2007, that requires an employer who employs 20 or more employees to have a sexual harassment policy and to bring it to the attention of all workers.
2. Following labour inspections carried out at the two firms by the officers from the Ministry pursuant to the provisions of section 35 of the Labour Institutions Act. In the last labour inspection conducted in July and May of the year 2021 at Ekaterra and Finlays respectively, there was no sexual harassment case found to have occurred or reported at the time.
3. There exists a Labour Complaints resolution procedure to assist in resolving all types of labour disputes at the workplace, including sexual harassment.
4. Recognition Agreement (RA) and Collective Bargaining Agreements (CBA) signed between the two firms and the Kenya Plantation Workers Union (KPAWU) also provides for measures to protect workers from harassment at the workplace.



### QUESTION 3

**Could the Chairperson explain measures the Government is putting in place to ensure these tea estates adhere to Labour Laws and implement policy on sexual harassment?**

---

#### **Response:**

The government through the Ministry of Labour and Social Protection intends to work together with social partners to review policies on sexual harassment in the Tea industry alongside Horticulture and Apparel industries.

Review complaint mechanism to ensure it is protective to both female and male workers in the tea industries.

The Ministry will also drive a national programme to raise public awareness on workplace safety, policies against sexual harassment, and violence at workplace. This is with the aim to empower employees on their rights and obligations at the workplace. To raise awareness on the policies, structures and mechanisms of protection. It will also sensitize employers on the obligation and duties, risks and sanctions for non-compliance.

The Ministry will also endeavour to provide psycho-social support to the affected employees.

The Ministry will work towards ratification of **ILO Convention No. 190 on Violence and Harassment**, which will go a long way in assisting build national capacity to address some of these issues. We intend to work together with social partners, the ministries responsible for gender issues, the Office of Attorney General, the Office of the Director of Public Prosecution, the International Labour Organization (ILO) and other international and local agencies.

**QUESTION 4:**

**Could the Chairperson consider carrying out investigations into this heinous acts, ensure the culpable perpetrators are brought to book and justice is served.**

**Response**

The Ministry is already conducting investigations and these are preliminary findings. We will follow due process to ensure that those culpable face the Law.

**Hon. Florence Bore  
Cabinet Secretary  
Ministry of Labour and Social Protection**

## James Finlay Kenya Approach to Welfare

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### CONFIDENTIAL INFORMATION:

This document contains confidential  
information and proprietary  
information belonging to James Finlay  
Limited and its Group of Companies.

Do not copy or circulate.





## Table of contents

1. Introduction
2. Executive Summary
3. Approach to welfare at JFK
4. Approach to preventing sexual violence and harassment
5. James Finlay Kenya welfare data analysis

# Introduction

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Speaking on behalf of the whole Finlays leadership team, we are shocked and deeply concerned by the horrific allegations that have been brought to our attention by the BBC World Service. Our first reaction has been to understand how we can immediately support those affected and safeguard all at James Finlay Kenya. After becoming aware of the allegations, we took immediate action to reinforce the structures and safeguards in place at JFK, and to urgently start an independent investigation into the extent of any sexual abuse, gender based violence and harassment taking place within our business in Kenya.

We have since received various questions – from customers, partners and staff – about the precise nature of the welfare structures and procedures in place at JFK, and the work we have done to combat the issues of gender based violence and sexual violence. The intention of this document is to therefore provide background information on James Finlay Kenya's historical approach in this area and the proactive work it has done over the years to address these issues.

JFK is a unique business for many reasons, but particularly because it's not just a place for business – it's a place where people live as well as work. In addition to tea growing and processing, there are villages, schools, and medical facilities all within the boundaries of JFK. With an area of 10,000 Ha. and 20,000 people living there, JFK is in some ways more akin to a town or a small county than just a business. This arrangement poses particular welfare challenges when it comes to operating JFK as we have a responsibility – beyond our own employees – to the wider community that lives on our farms.

The final section of this document is an analysis of the extensive welfare data at JFK over the past five years. After being alerted to this issue by the BBC, we have undertaken a deep dive of this data to see if there are any trends or issues that have not previously been identified. We have not as yet been able to identify evidence of major systemic failure and it does suggest that the welfare structures we have in place are being used by people across JFK. It does however highlight a number of areas that we believe merit further analysis and investigation. This is something which we are asking Partner Africa, the ethical working practices NGO, to do – in forensic detail – over the coming weeks to establish how robust these structures are in practice.

Regardless of what our own data tells us, we will not shy away from the fact that the allegations put forth by the BBC are deeply concerning and suggest shortcomings in our duty of care to those who live and work at JFK. We are therefore continuing to do everything we can to immediately safeguard all at JFK, and are fully committed to urgently acting on any recommendations which Partner Africa makes, in full.

We'd like to thank you for your time in reading this document, and are happy to answer any questions you may have. I would also like to reiterate my personal commitment to leading an honest and transparent process as we seek to improve our business in the coming months.

**James Woodrow**

**Group Managing Director, Finlays**



# Executive Summary

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1. JFK has clearly defined welfare structures in place, including: a dedicated welfare team, welfare committees, multiple channels through which to report concerns (some anonymous), ongoing engagement on welfare issues, and various policies that govern the behaviour and conduct of all on site.
2. JFK is regularly audited by third party certification bodies such as Rainforest Alliance and Fairtrade. The most recent audits took place in October 2022, and December 2021 respectively. JFK also operates under stringent Group policies.
3. Finlays' welfare structures and provision are available to all JFK employees, as well as the employees of contractors. Over the last year, we have been strengthening our procedures around contractor management, as recommended by an independent report we had commissioned by Impactt, an ethical trade NGO.
4. Since 2014, JFK has been proactive in working to combat the known issues of sexual violence and gender based violence. This has included establishing a dedicated programme called Maintaining Ethical Business and collaborating with external parties on projects and working groups.
5. JFK provides widespread access to medical care to all who live and work on site. This includes testing, treatment and mental health support for those living with HIV.
6. JFK maintains extensive records of welfare concerns and conducts regular analysis to identify any trends. Our most recent analysis has not uncovered any particular patterns in terms of sexual or gender based violence.
7. The data analysis, which covers 2018-2022, has however highlighted some areas that merit further analysis and investigation. A forensic review of this data will be part of the independent investigation led by Partner Africa.



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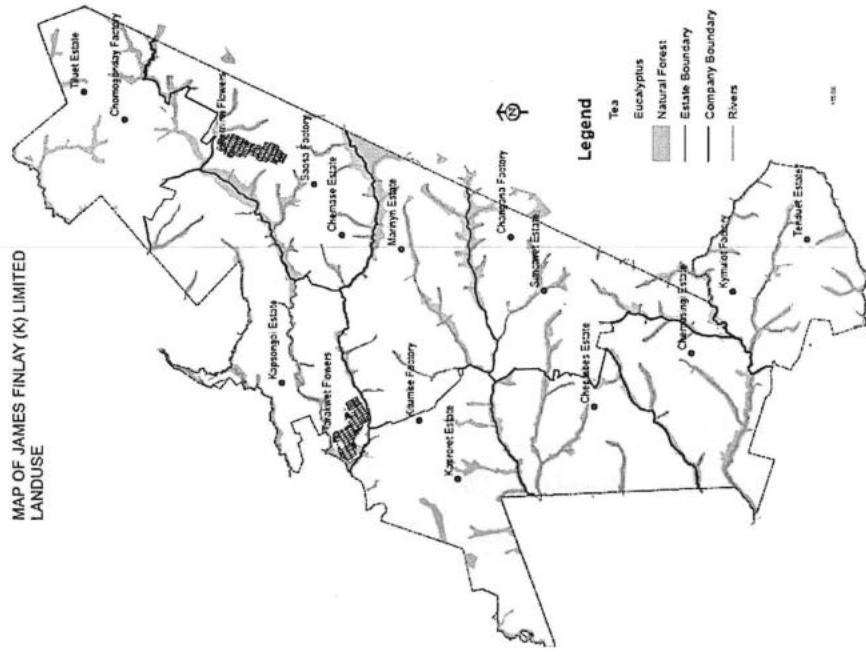
## Understanding the scale of JFK

JFK's operations comprise:

- 10 estates
- 5 factories
- 7 departments
- 4,844 employees
- 1,000-1,500 employees of contractors (most of whom live within JFK)

The wider community (within the boundaries of the business) consists of:

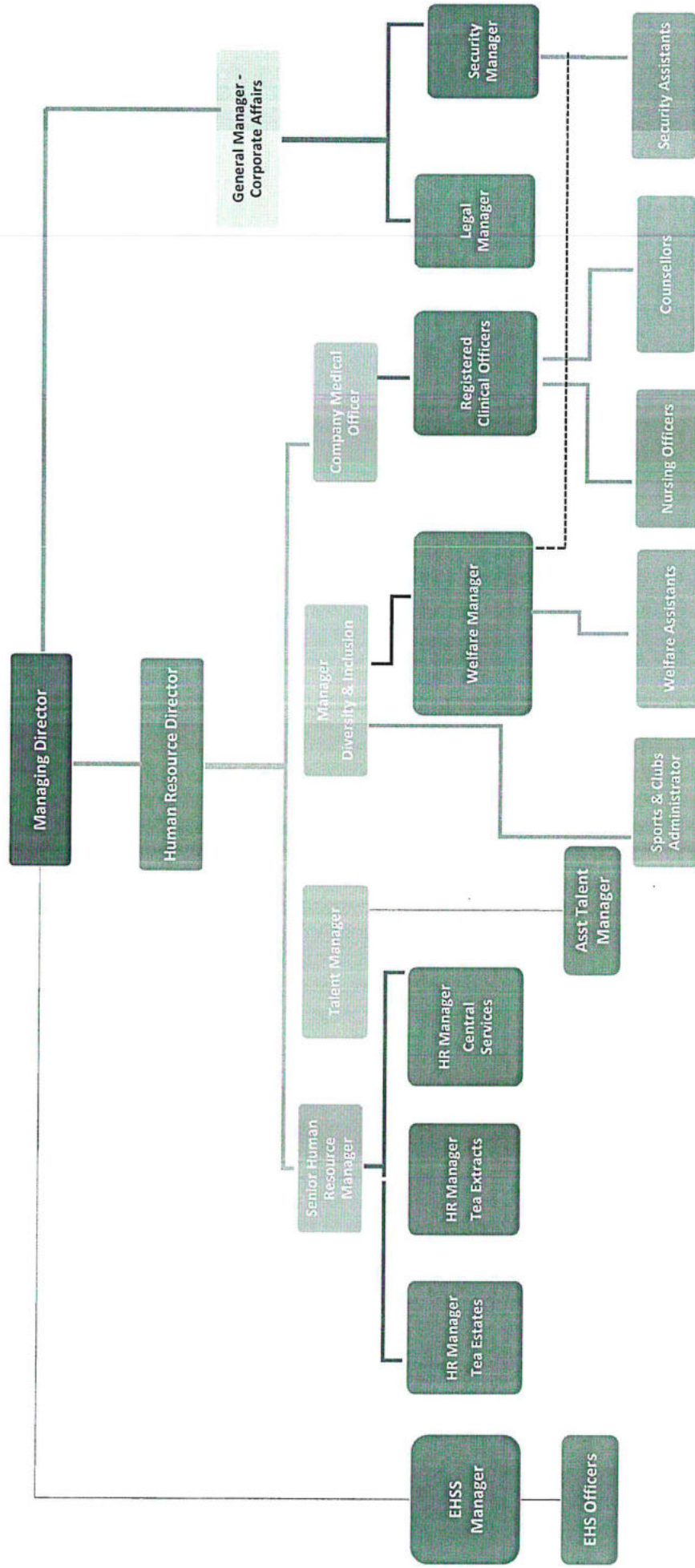
- Circa. 15,000 dependants living at JFK
- Circa. 6,000 households
- Teachers, local and national government officers and their families
- 31 Early Childhood Development centres
- 12 primary schools
- 2 secondary schools
- 13 dispensaries
- 5,000 kitchen gardens



## JFK has an extensive Welfare Team

- Comprehensive employee welfare services at JFK include: Medical, HR, H&S, Welfare (Social work), legal and corporates affairs
- The welfare (social work) section is managed by two female Senior Managers (Welfare Manager & Diversity & Inclusion Manager) who oversee social work across JFK
- The two managers are supported by 8 Welfare Assistants (each covering 2 designated units), Sports officer and 3 counsellors
- Welfare Assistants' telephone numbers are provided to all employees, there is a Welfare Office, and in addition, there is a designated number run by the Welfare Manager
- Employees and workers are encouraged to report issues to reporting officers (village elders, Welfare Assistants/Welfare Manager/HRs/Diversity and Inclusion) or any manager within their unit
- At estate, factory or department level, the Welfare Assistant conducts the investigation and provides recommendation for action. Where the case requires further action, the Assistant escalates to the Welfare Manager for action or refers to internal medical or counselling team
- The welfare team regularly deliver awareness and engagement on key issues such as policies, expectations, rights, which takes place in various settings including within villages, schools and the workplace
- Weekly reports are generated by the Welfare Manager and sent to the JFK Executive team for deliberation and further action
- Empowerment of management and workers to promote and uphold rights for employees through ongoing training

# Understanding JFK's Welfare Structure



# JFK has Welfare Committees at each Unit level

Health and Safety	Gender & welfare	Village Elders	Shop Stewards
<p>Ensure health and safety compliance at the workplace in compliance with OSHA ACT and Finlays group standards.</p> <ul style="list-style-type: none"> <li>Unit level committees consist of 50% managers, 50% workers (also a legal requirement).</li> <li>Workplace inspections at least every 3 months and talk to workers to understand any issues that need to be raised to the committee.</li> <li>Quarterly meetings chaired by Unit Manager</li> <li>Members are trained and proactively promote H&amp;S awareness</li> <li>Where required, committees at unit level escalate to Group level, and ultimately report into central H&amp;S Committee of senior managers chaired by MD – quarterly reviews.</li> </ul>	<p>Safeguard the rights and welfare of employees</p> <ul style="list-style-type: none"> <li>Meet once a month</li> <li>Deliver training and engagement to all employees on human rights, gender, welfare and issues of concern</li> <li>Works with management to identify risks and implement appropriate mechanisms and measures</li> <li>Support inclusion in the workplace</li> <li>Monitoring and reporting</li> <li>Ongoing training on welfare issues</li> </ul>	<p>Safeguard the rights and welfare of employees while maintaining peaceful coexistence at the village level</p> <ul style="list-style-type: none"> <li>Monthly meetings led by village elders. These are documented with minutes provided to unit managers</li> <li>Topics covered include security, abuse, health, education, H&amp;S, and all other welfare concerns</li> <li>Ongoing training on welfare issues</li> </ul>	<p>Represent interest of employees concerning rates of pay and overtime, hours of work, methods of wage payment, paid leave, duration of employment, union dues and other generally accepted terms and conditions of service as stated in the Collective Bargaining Agreement (CBA).</p> <ul style="list-style-type: none"> <li>Meet monthly at unit level and quarterly at Group level</li> <li>Foundations in the industrial relation charter and the law and Finlays policy on freedom of association</li> <li>Represent and present employees' grievances to management including any form of harassment</li> <li>Ongoing training on welfare issues</li> </ul>

## JFK's approach to contractor management

### Onboarding Process

- All contractors are required to attend an initial meeting immediately after prequalification which involves a formal vetting process against a set criteria
- This covers policies and procedures, including sexual harassment, housing, education, code of conduct and anti-bribery, whistle-blowing, and health and safety

### Ongoing management and oversight

- Monthly reports on the performance of contractors which cover areas of concerns including complaints/issues affecting contractors and their employees
- Quarterly meetings are held in the units with a similar agenda as above and includes a section on emerging issues
- Issues/complaints are also addressed during quarterly meetings
- Members of management make spot-checks with follow ups on any issues identified
- Issues identified from the various reports/minutes are discussed during the monthly Finance and Operations meetings
- All owners of contractors are engaged on welfare policies on an annual basis
- JFK has previously stopped working with a number of contractors due to non compliance with its policies and procedures



## Welfare arrangements for employees of contractors

Provision and policies for employees of contractors have been strengthened in line with the Impactt Report remediation plan, with a number of changes implemented over last 12 months.

All employees of contractors are now:

- Provided with free living quarters
- Free Medical care through access to JFK dispensaries
- There is also stricter enforcement of the standard of PPE provided, and contractors are paid to provide PPE to their employees)

**In addition:**

- Training has been rolled out for both contractors and their employees. This covers provision of PPE, changes on policies (Education, housing and Medical)
- A senior manager has been appointed and given specific duties to supervise contractors on a day to day basis

## Understanding grievance procedures at JFK

JFK has an established Grievance Handling Policy which provides employees, workers and those who live at JFK with an easily accessible grievance resolution process. The policy details grievance handling procedures, a summary of which is included below:

- Aggrieved signs a complaint/grievance form/statement
- Aggrieved reports to supervisor/team leader who reviews and feeds back within two days
- If not satisfied, reports go to Employee representative to look into (where applicable)
- Issue is raised with Unit Manager who appoints a grievance committee (must meet the 2/3 gender rule, be gender inclusive, and include at least one workers' representative)
- Committee hearing is convened to discuss and investigate the grievance
- If complaint is upheld, complaint is resolved and goes to Executives
- If complaint is not upheld, there is a right to appeal

## Opportunities to confidentially report concerns at JFK

- The most common channel for issues to be raised is through **committees** such as Health and Safety, Gender and Welfare (“Assess and address”), village committees, or Union representatives
- **“See Hear Speak Up”** is an anonymous, third-party whistle-blowing line – available to all employees across Finlays globally
- Whistleblowing lines are managed by the Welfare Manager
- Via Welfare Officers
- Suggestion boxes are available at the entrance to each unit office
- The Group Internal Audit Manager hosts an email and phone line which workers can contact directly

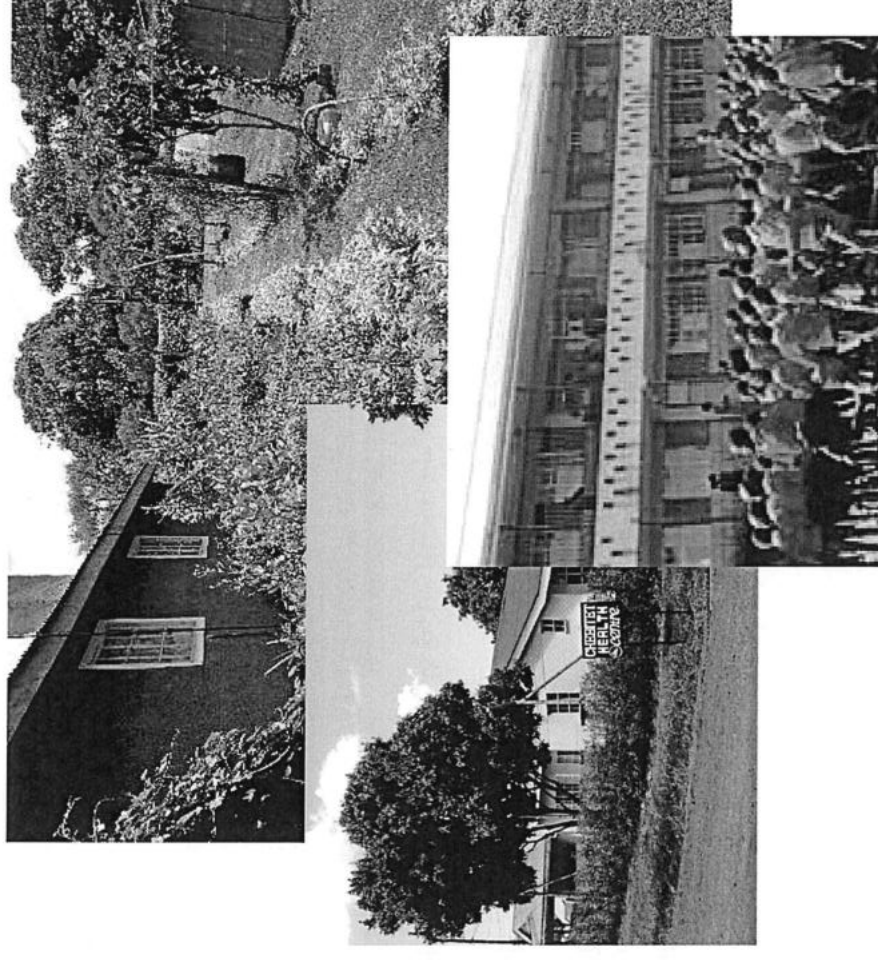
## How JFK engages the community on welfare topics

Engagement and dialogue with employees is achieved through a number of channels:

- L1 meetings – daily team meetings with workers to identify/resolve issues from previous day and plan the day's work
- Bulk SMS messages – to directly share critical and advisory information to all employees
- Noticeboards – in unit offices, dispensaries, villages
- Employee barazas – organised gatherings, led by Unit Managers, to deliver information on a particular topic
- Employee talks - organised through Welfare Assistants
- Hazard reporting system - open to use by everyone, including contractors. Use is frequently encouraged
- Committee meetings - Gender and welfare, health and safety, village committee, shop stewards
- Training – ongoing training at all levels across JFK

## Additional infrastructure to support the JFK community

- **Medical facilities** to provide primary healthcare – 3 zonal dispensaries, and 10 unit dispensaries
- **Education** – 5 day care centres, 31 early development Centres, 12 primary schools, 2 secondary schools (other schools sponsored). 3,798 education places currently provided at company primary schools which were built by JFK and are operated by the Kenyan government.
- Circa 5,000 households have **kitchen gardens** which provide nutritious diet and assist in managing organic kitchen waste
- **The Finlays Community Trust** – an autonomous charity partly run by the community, and funded by Finlays
- **Electrification project.** We installed and continue to maintain electrical infrastructure to all villages at JFK.





## How Finlays oversees welfare at JFK

- JFK Directors provide quarterly welfare updates to Finlays Group
- Finlays has extensive policies which apply to all employees globally
- Group is made up of subject matter experts who supply leadership and assistance to all Business Units
- All Finlays employees are surveyed anonymously through the “OurVoice” engagement survey which takes place every 18 months. This provides a snapshot of sentiment within each of our business units.
- Finlays has monitoring and audition systems in place such Group Internal Audit
- We have a Group Audit Committee which reviews welfare processes at board level

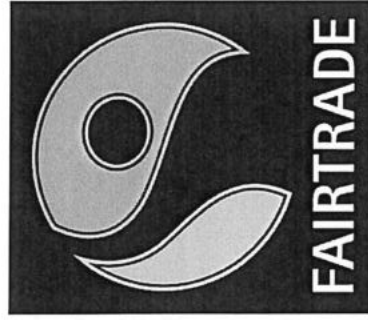


## JFK is regularly audited by third parties



### Rainforest Alliance

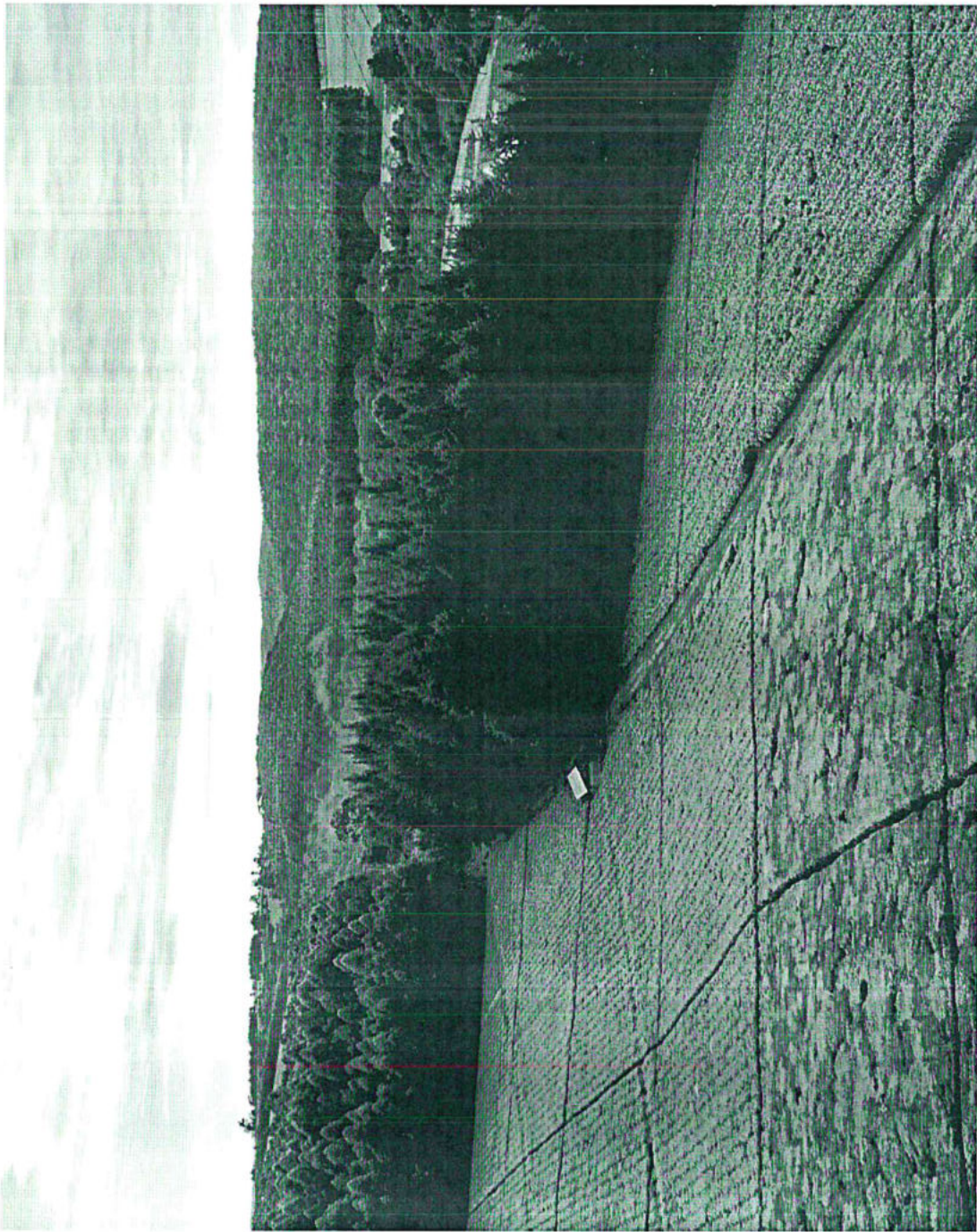
- The whole JFK site is RA certified.
- The last audit physical October 2022. This found no non-conformances related to sexual abuse or grievance systems.



### Fairtrade

- Kitumbe group is Fairtrade certified (Kitumbe factory, three estates: Marinyin, Chemase, Kaproret)
- The last physical audit Dec 2021 and no non-conformances related to sexual abuse or grievance systems.

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# JFK has extensive policies in place outlining its zero tolerance approach to abuse or harassment of any kind

*(Original policy documents are available on request)*

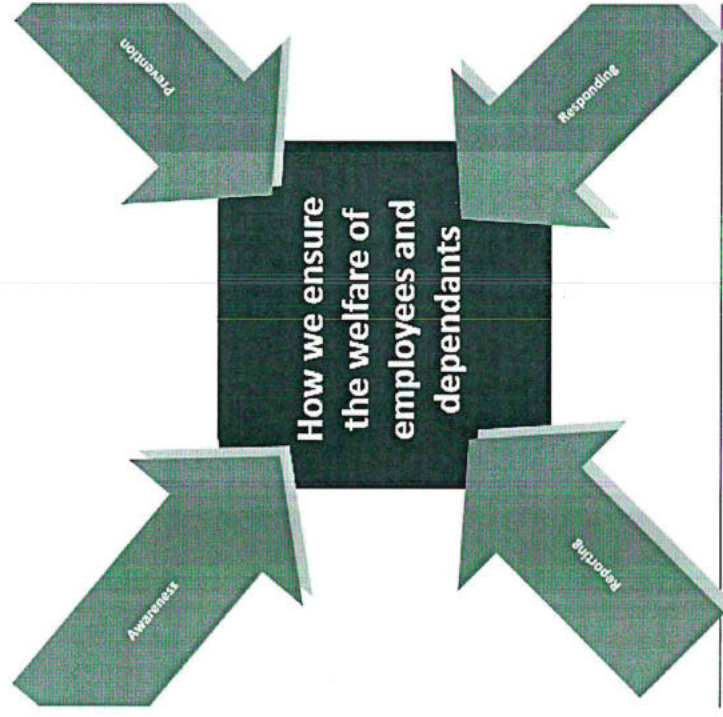
- **Harassment and sexual offences policy.** This details JFK's zero tolerance approach to handling the issues of harassment and sexual offences including, definitions, roles and responsibilities, procedure for dealing with harassment and sexual offences and process for record keeping. This policy is regularly circulated to all units and is reviewed regularly.
- **Child Protection Policy.** This provides a framework for ensuring all children who live at JFK are protected from abuse and exploitation. It includes sections on roles and responsibilities, guidance for reporting and responding to concerns, guidance on disciplinary process for child abuse cases, details of how this policy is communicated across JFK, and a section on monitoring and accountability. This policy is embedded through wide engagement across JFK, including directly with children in villages and schools.
- **Gender Equality and Diversity Policy.** This policy details JFK's approach to promoting gender equality and diversity in all its business endeavours, and eliminating all forms of discrimination. It covers roles and responsibilities, procedure, details on the Central Gender Committee, and an approach to achieving diversity and inclusion at all levels of the business.
- **Grievance Handling Policy.** This provides employees, workers and those who live at JFK with an easily accessible grievance resolution process. The policy details grievance handling procedures, a summary of which is included below earlier in this document.





## Maintaining Ethical Business (MEB) – An innovative approach to Welfare

- In 2014 and in response to media coverage of sexual harassment in the tea industry, JFK proactively launched the Managing Ethical Business (MEB) initiative to help drive cultural change at JFK and demonstrate industry leadership in this area.
- Through this initiative, JFK has built welfare systems to support the maintenance of ethical business (MEB) running business based on ethical behaviour and integrity.
- The goal of welfare work is to promote, protect and fulfil employees' human rights and children/ dependent's rights to protection from abuse, neglect, exploitation and violence.
- This is achieved through an institutional policy framework which includes sexual harassment, housing, schooling, code of conduct and whistleblowing.
- It has also supported the implementation of key government policies such as Sexual offence Act (SOA), Domestic Protection Act, Children's Act and the Constitution.
- Through MEB, JFK has, often in conjunction with third parties, conducted a number of projects such as training on sexual abuse, schools programmes, and analysis and research



# Working with the wider industry through MEB

As part of our Maintaining Ethical Standards initiative, JFK has aimed to be proactive and hands on in tackling the issues of sexual violence, abuse and harassment. This has included:

- Since 2022, JFK has been running **training on sexual and Gender Based Violence** using the ETI (Ethical Trading Initiative) manual with 366 supervisors and junior managers, and 103 managers trained.
- JFK was involved in the **IDH Tea Program for Gender & Gender Based Violence (GBV)** which commenced in 2017 and concluded in 2021. IDH is a sustainable trade initiative. The Project sought to enhance existing programs on gender equality and Gender Based Violence (GBV) with the aim of reducing the occurrence of GBV within JFK. Key deliverables included: building the capacities of internal actors (welfare, security, medical, counsellors) to deliver effective services to victims and survivors of sexual and GBV, enhancing capacity of employees and dependents to protect themselves and speak up against sexual and gender Based Violence through training to adults and children, heightening awareness of the issues and implementation of policies, Economic empowerment for vulnerable workers through entrepreneurship and financial literacy training, and challenging gender inequalities and promoting participation of women in all spheres of employment through apprenticeships and leadership training.
- JFK is a member of **Court Users Forum (CUC)**, chaired by the Kericho Presiding Judge and with members drawn from the Children Department, probation, Kenya Police service, Kenya Prison service, Ministry of Health, religious groups, Directorate of Public Prosecution (DPP), civil organisations (represented by Legal Resource Foundation & Kericho Civic Organisation Network), JFK. The CUC ensures justice is served and awareness is made within the community. JFK supported the CUC to build a safe place for children at Kericho Police station with funding of ksh 4.5 million.
- As part of **Project Athena**, in 2014/15 Finlays undertook a gender analysis and developed a gender equality strategy. This led to the recruitment of Gender Empowerment Manager and start of women empowerment projects, as well as a review of policies and work practices through a gender lens
- Finlays was involved in a **Gender Analysis report, 2017** (by Women Working Worldwide, a founder member of ETI). This identified best practices and recommendations. Women Working Worldwide said at the time, "What comes out of this analysis is that JFK and Finlays have gone beyond looking at gender as a series of activities and are seriously attempting to embed gender within their company ethos."
- **JFK is part of the Kericho Gender Technical Working Group** This is coordinated by state department of affirmative action. They deal with GBV, Women Economic empowerment, Women in decision making and Women in security. The team is expected to meet quarterly.
- JFK implemented a six-month project, through **BSR HerFinance**, a sustainable business network and consultancy. This saw 277 peer educators trained and over 3,000 employees reached on the topic of female empowerment.

## How JFK monitors and evaluates welfare concerns

Records relating to abuse or harassment that occur at JFK are maintained by the Welfare Manager and reports shared with the leadership team on a regular basis. The HR Director for the MEAC region (which includes JFK) provides a weekly and quarterly update on number of incidents, actions taken/closed to the JFK executive team. Serious incidents are logged in the welfare records. This includes analysis of the type of offence to spot patterns and is reported monthly. The records include:

- Complaints/offence sheet
- Investigation report
- Referral forms
- Police Crime report
- Medical forms
- Report from Counsellor
- Welfare reports (Weekly, monthly, Quarterly (and summarised report for JFK board review))
- JFK Directors provide quarterly welfare updates to Finlays Group



## How JFK approaches criminal investigations at JFK

- All allegations reported to JFK are investigated and action is taken as per procedure. Where appropriate, cases are escalated to Government authorities (Kenya Police, children's department etc) for further investigation, prosecution or any other further action as deemed appropriate.
- JFK keeps extensive records of criminal investigations pertaining to crimes of a sexual nature:
  - Between March 2019 and June 2022, five sets of criminal proceedings relating to sexual offences were instigated against individuals living at JFK. Three of these returned a guilty verdict, while two were found not guilty
  - There are currently eight pending cases relating to sexual offences



## A proactive approach to tackling HIV

- HIV is an endemic issue in eastern Africa, and one that James Finlay Kenya takes extremely seriously.
- JFK has run extensive programmes to support people living with HIV which includes a long-running awareness campaign to encourage people to seek support.
- JFK's clinics and dispensaries are trained to dispense Antiretrovirals (ARVs) when people come forward, and in 2022, we had a 99% control rate for clients on treatment (342 individuals with controlled disease out of 345 clients on ARVs).
- JFK also offers:
  - Testing services
  - Counselling
  - Cervical cancer screening for women who have tested positive for HIV
  - Prevention of mother to child transmission
  - HIV testing and treatment.

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## JFK Welfare data analysis



## Introduction JFK welfare data analysis

This section provides an analysis of JFK's welfare data from 2018-2022, with a focus on Welfare concerns reported by adults living at JFK. This data is regularly analysed to help JFK continually improve its welfare provision.

- We ask that the data included in this section is understood in the context of the scale of JFK, and that as well as 4,844 employees and 1,000-1,500 employees of contractors, there are an additional 15,000 people who live there as dependents.
- While the term "concern" is used in this section, this is a broad term to describe any welfare matter that is raised. The majority (59%) relate to advice being sought in relation to general, family, financial, or medical concerns.
- This data will be provided to Partner Africa for a full review as part of the independent investigation.

## How JFK records welfare data

Categories of welfare concern	Method of investigation	Support options for individuals	Actions against perpetrators
<p><i>JFK categorises welfare concerns as follows:</i></p> <ul style="list-style-type: none"> <li>• Family concern</li> <li>• Financial concern</li> <li>• Gender Based Violence</li> <li>• General advice</li> <li>• Malicious allegations</li> <li>• Medical/Mental health concern</li> <li>• Sexual relationship</li> <li>• Sexual Violence</li> <li>• Workplace concern</li> <li>• Child welfare concern</li> <li>• Drug/alcohol</li> <li>• Employment concern</li> </ul>	<p><i>Investigations are carried out by at least one of the following:</i></p> <ul style="list-style-type: none"> <li>• Welfare Team</li> <li>• Security Team</li> <li>• Unit Management</li> <li>• Senior Management</li> <li>• Professional Counsellors</li> <li>• The parent company (James Finlay Limited/Group)</li> <li>• Police</li> </ul>	<p><i>Individuals who raise concerns are offered appropriate support including:</i></p> <ul style="list-style-type: none"> <li>• Psychosocial Support</li> <li>• Medical Support</li> <li>• Professional Counselling Support</li> <li>• Support from the Children's Department</li> <li>• Security Support</li> <li>• Legal Support</li> <li>• Police Support</li> </ul>	<p><i>Possible courses of action against perpetrators include</i></p> <ul style="list-style-type: none"> <li>• Psychosocial support</li> <li>• Caution</li> <li>• Training</li> <li>• Warning issued</li> <li>• Managed by police/courts</li> <li>• Dismissed/exited</li> <li>• Managed by Chief (National Government Administration Officers at local community level)</li> <li>• Other</li> <li>• Imprisonment</li> <li>• Transfer</li> </ul>



# Analysis of welfare concerns at JFK

Welfare concerns at JFK are centrally recorded and analysed according to type of concern raised, method of investigation, action taken against perpetrators and types of support provided to individuals who raise concerns. This data is regularly analysed to help JFK continually improve its welfare provision. After being made aware of the allegations from the BBC, we have undertaken a more in-depth analysis, with a particular focus on sexual and gender based violence. To add context to the data below, please bear in mind that around 20,000 people currently live or work on site at JFK.

## Overall welfare concerns

- In the five years between 2018-2022, JFK recorded 1,527 welfare concerns. The majority of these (59%) were individuals seeking advice in relation to general, family, financial, or medical matters.
- The number of concerns has decreased since 2018, but in proportion to the overall reduction in headcount on the estate.
- 92.6% of all concerns raised resulted in either some form of follow up action or an investigation. The remaining 7.4% mostly comprises cases relating to Family Concerns, General Advice, Financial Concerns, Drug/Alcohol Concerns, Medical/Medical Health Concerns, and Employment Concerns where no investigation was needed.
- The JFK welfare team provided support to 99.4% of the individuals who reported a Welfare Concern.
- Action of some form was ultimately taken against perpetrators in 56% of cases. Of the remaining 44%, the majority (55%) resulted in no action being taken because it was determined that there was no case to be answered following an investigation. A further 33% resulted in no action being taken because the concerns related to general advice and support, 8% withdrew their claims, with the remainder being people who had left the organisation, or cases that are still pending.

## Sexual and Gender Based Violence concerns

- Of the 1,527 total welfare concerns reported at JFK between 2018-2022, 10% related to Gender Based Violence and 1% to sexual violence, equating to 171 cases in these categories over the five year period.
- The number of concerns about Sexual and Gender Based Violence has decreased since 2018, but in proportion to the overall reduction in headcount on the estate
- JFK investigated 100% of these cases, and every individual who raised a concern received at least one form of support from the JFK welfare team
- 75% of perpetrators were either an employee or the dependent of an employee, which is reflective of the fact that 70% of these cases were categorised as Domestic Violence.
- While no major patterns were identified, our new analysis highlights some areas that merit further investigation. This is something that will form part of the independent investigation.



Thank you for taking the time to read this document.

We are continuing to do everything we can to reinforce the structures we have in place to safeguard all at JFK.

Through Partner Africa, we are committed to identifying and understanding in granular detail where our policies and procedures might be falling short, and taking urgent corrective action wherever needed.

If you have any questions on this document, please contact [Ben.Woolf@Finlays.net](mailto:Ben.Woolf@Finlays.net) or [Tamie.Hutchins@Finlays.net](mailto:Tamie.Hutchins@Finlays.net)



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## HARASSMENT AND SEXUAL OFFENCES POLICY

### STATEMENT

James Finlay (Kenya) Limited, as an ethical and socially responsible employer is committed to providing an environment where all may pursue their duties and activities and work in an atmosphere free of any harassment, sexual abuse, threats, verbal, physical or psychological mistreatment at the workplace, Company schools, residential areas and while undertaking Company activities.

This policy shall be guided by the Constitution of Kenya, Employment Act, Sexual Offences Act and any other relevant legislation as amended from time to time. It will be understood and implemented in the context of other relevant company policies and statements, including those related to recruitment, disciplinary and grievance handling process. All Finlay's employees shall uphold and be held accountable to this policy.

Harassment and sexual offences shall not be tolerated by Finlays.

### SCOPE

Finlays will not tolerate any form of harassment or sexual offences within its premises (including schools and villages) whether or not during working hours, social events, business trips, training sessions, conferences and or meetings sponsored by the Company or other stakeholders. This policy shall apply to all Finlay employees, their children and other dependants, contractors and their employees, visitors and all other persons residing in, working and or carrying out any business with the Company.

The policy prohibits retaliation for reporting or opposing harassment and sexual offences or cooperating with related investigation.

Finlays recognizes:

1. The uniqueness of its social environment;
2. That harassment and sexual offences is a manifestation of a power relationship and often occurs within unequal power relationship e.g. supervisor/manager to employee. Any employee, who supervises or in any other way directly affects the terms and conditions of another employee must immediately disclose the existence of a dating or sexual relationship to his/her immediate supervisor.
3. Anyone can be a victim or perpetrator of harassment and sexual offences regardless of the sex, often children and women are more vulnerable.
4. The connection between some sexual offences and the transmission of HIV;
5. That it has a duty of care to ensure a safe working environment for its community, while the criminal justice system aims to uphold the law and protect society generally;

Document Name	Issue date	Revision No	Revision Date	Prepared by	Checked by	Approved by	Approval date
Harassment & sexual offences Policy	14/3/2015	3	1/10/2020	WM/GEM	HRD	Managing Director	1/10/2020
Revision description (What is amended, chapter/page, clause if referring to a standard) Harassment & sexual offences policy review, All pages. Specific clauses on child protection removed and included in child protection policy							

6. There are issues which may cause reluctance of complainants of harassment and sexual offences to report the incident or lay criminal charges. Any person who colludes, interferes with and or compromises with investigations/evidence shall be subject to disciplinary action.
7. That the company has a duty to respond quickly and rigorously to reports of harassment and sexual offences and will do so;
8. That whether or not a complainant chooses to pursue charges with the criminal justice system relating to ; harassment and sexual offences, Finlays has the right to take action, among other reasons because of the substantive difference between the criminal justice system and the procedures created under this policy. This means that even where legal charges of harassment and sexual offence do not result in criminal charges the company is entitled and willing to take appropriate disciplinary measures up to and including dismissal where, after internal due process, it believes there is a just cause. This recognizes that the disciplinary process and legal process whilst they are related are different and may lead to differing outcomes independent of each other.

#### PURPOSE

It is the purpose of this policy to:

1. Deter all forms of harassment and sexual offences by highlighting to all, the seriousness with which Finlays views such conduct and the severe consequences for those found to perpetrate it;
2. Encourage a supportive environment for the reporting of such incidents;
3. Provide for a comprehensive and sensitive handling systems and procedures for all harassment and sexual offences;
4. Regulate procedures for addressing violations of this policy; and
5. Raise awareness amongst the Finlay's community about all forms of harassment and sexual offences, their mitigation and management.

To this end Finlays is committed to;

1. Implement the systems and procedures through which harassment and sexual offences may be reported and dealt with both sensitively, robustly, fairly and consistently;
2. Working with the criminal justice system

#### DEFINATIONS

**Harassment:** means unwelcome and inappropriate verbal or physical conduct, or coercive behavior, where the behavior is known or reasonably ought to be known to be unwanted or welcome and is based on legally protected grounds. This behavior has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

**Sexual harassment or abuse** refers to persistent unwelcome sexual advances, requests for sexual favours and other verbal or physical conduct of a sexual nature. It also refers to sexual

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Harassment & sexual offences Policy	14/3/2015	3	1/10/2020	WM/GEM	HRD	Managing Director	1/10/2020
Revision description (What is amended, chapter/page, clause if referring to a standard) Harassment & sexual offences policy review, All pages. Specific clauses on child protection removed and included in child protection policy							



demands and request for favours that are accompanied by a promise for favourable job treatment, promotion, demotion or threats regarding employment, housing allocation, good medical care and leave of absence etc. Though sexual harassment encompasses a wide range of conduct, some examples include but are not limited to the following

#### Physical Conduct

- Physical contact including patting, pinching, stroking, kissing, hugging, fondling or inappropriate touch.
- Physical violence, including sexual assault.
- Sexual advances

#### Verbal Conduct

- Inappropriate comments on a worker's appearance, age, private life etc
- Sexual comments, stories and jokes
- The use of job-related threats or rewards to solicit sexual favours
- Repeated and unwanted social invitations for dates or physical intimacy
- Insults based on the sex of the worker
- Use of vulgar language

#### Non-verbal conduct

- Display of sexually explicit or suggestive material
- Sexually suggestive gestures
- Sending sexually explicit messages and materials by phone or email

**Legally protected grounds:** These are as defined in the Laws of Kenya and include race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status.

**Psychological harassment** refers to a range of humiliating or abusive behaviour that lowers a person's self-esteem or causes them distress. It can be in the form of verbal, mental or emotional exploitation, oppression and /or abuse.

**Complainant** means any person alleging harassment, rape or sexual assault, whether he or she is an employee of Finlays or not;

**Consent** in this policy context means free and informed prior agreement between the individuals to engage in sexual related activities. The consenting party must have the freedom and capacity to give consent. In deciding whether such agreement was given at the time of the alleged violation of this policy, Finlays will be guided by considerations, which may include, but are not limited to, the following:

1. Consent is invalid if it is withdrawn before engagement.

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2. It is the responsibility of the person who initiates any type of sexual activity to obtain the other person's prior consent.
3. Consent to one type of sexual act does not necessarily imply consent to other forms of sexual activities.
4. Silence does not imply consent. Consent must be clear and unequivocal bearing in mind gestures and non-verbal communication.
5. A previous or present sexual or other relationship between the parties does not imply consent.
6. Consent will not be effective when it is obtained, or perceived to be obtained, from a person whose capacity to consent is diminished. This includes but not limited to being intoxicated or being otherwise vulnerable due to a medical or psychological condition.
7. A Child below the age of 18 does not have a capacity and by law cannot consent.

**Alleged Perpetrator** means a person alleged to have committed harassment, a rape or sexual assault;

**Sexual offences** generally mean a sexual activity that a person has not consented to and includes acts of sexual violence, and it can refer to a broad range of sexual behaviors that make the victim feel uncomfortable, frightened or threatened. It could also lead to physical harm. Sexual offences can include rape (Oral, anal, vaginal penetration or penetration with a foreign object), incest, indecent offence, defilement and sexual molestation.

**Sexual Violence** This is a sexual act (including sexual assault) that is perpetrated against a person's will or without a person's consent, or when a person is incapable of giving consent due to his or her age, family relation to the other person, the ingestion of drugs or alcohol, or the person's intellectual or other disability. Sexual assault is any involuntary sexual act in which a person is coerced or physically forced to engage in sexual acts against their will. It includes rape (such as forced vaginal, anal or oral penetration, penetration with a foreign object

**The Reporting Officer (RO)** means any person, as may be designated by the Management from time to time to handle incidences under this policy;  
These include;

- |  |                                     |
|--|-------------------------------------|
| 1) Village elder                         | 7)                                  |
| 2) Gender Committee Representative       | 8) Security Officer                 |
| 3) Supervisor                            | 9) Medical Personnel                |
| 4) Welfare Assistant/Manager             | 10) Estates/Factory/Department head |
| 5) Counselor                             | 11) Human Resource manager          |
| 6) Head teachers/teachers in our schools | 12) Group Manager                   |
|  | 13) Executives/Managing Director    |

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## ROLES AND RESPONSIBILITIES

### Employees and other stakeholders should:

1. Conduct themselves in a manner consistent with this policy.
2. Report all harassment and or sexual offence, however minor it may seem, to designated reporting officers. Failure to report is a breach of this policy.
3. Provide accurate details on harassment and or sexual offence.
4. Champion the entrenchment of the policy by sharing information and knowledge within their spheres of influence.
5. Always conduct self with dignity and respect to the level and extent that cannot be construed to be contravening this policy.
6. Make their discomfort/disapproval of behaviour explicitly known to the perpetrator.
7. Maintain confidentiality on all cases under investigation.

### The Complainants/aggrieved party should:

1. Report immediately any harassment and or sexual offence to any reporting officer.
2. Secure the evidence; this includes clothing, messages, call logs, photographs etc.
3. Provide all relevant and factual information.
4. Cooperate with relevant persons when dealing with the offence.
5. Maintain confidentiality on all cases under investigation.

### The Reporting Officer should:

1. Receive and promptly initiate action as appropriate on all reported incidences.
2. Immediately notify the Welfare Assistant and Unit Manager, where these two are not the RO.
3. Ensure that any evidence, the scene and witnesses are not interfered with.
4. Maintain strict confidentiality in handling all incidences.
5. Provide the complainant/aggrieved party with relevant information on the company's procedure on dealing with the incident, including the necessity of consent to facilitate further investigation and progression of the case.

### The Welfare Assistant should:

1. Manage and coordinate all cases under this policy.
2. Carry out roles specified under reporting officer.
3. Keep a record of all reported sexual offences using the prescribed form.
4. Prepare and submit monthly reports to the Unit Managers, Group/Divisional Managers and the Welfare Manager.
5. Carry out preliminary investigations and take appropriate action including notifying the Security Assistant (if not already involved) to protect those persons at risk.

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Harassment & sexual offences Policy	14/3/2015	3	1/10/2020	WM/GEM	HRD	Managing Director	1/10/2020
Revision description (What is amended, chapter/page, clause if referring to a standard) Harassment & sexual offences policy review. All pages. Specific clauses on child protection removed and included in child protection policy							

6. Enhance awareness of and compliance to this policy and other relevant policies and procedures through trainings, workshops etc.
7. Facilitate counselling services for those persons requiring counselling services.
8. Provide relevant information and guidance in accessing the Kenyan Justice system.
9. Other responsibilities as appropriate to their role.
10. The above roles shall be carried out under the supervision of the Welfare Manager and the Manager will be responsible for handling all matters relating to senior members of staff.

**Management should:**

1. Ensure awareness of and compliance to of this policy.
2. Work to provide and maintain a conducive environment free of harassment /sexual offences.
3. Take prompt appropriate action to address harassment/sexual offences.
4. Provide the necessary support to the persons dealing with the offence.
5. Ensure that the Reporting Officer (RO) remains accessible to all in need of support services.
6. Endeavour to safeguard the dignity and wellbeing of persons involved in harassment/sexual offence matters by upholding confidentiality and discouraging stigmatization and victimization.
7. Other responsibilities as appropriate to their role.
8. Oversee the application of the company disciplinary policy and procedures in relation to this policy through the Human Resource function.

**Security Team should:**

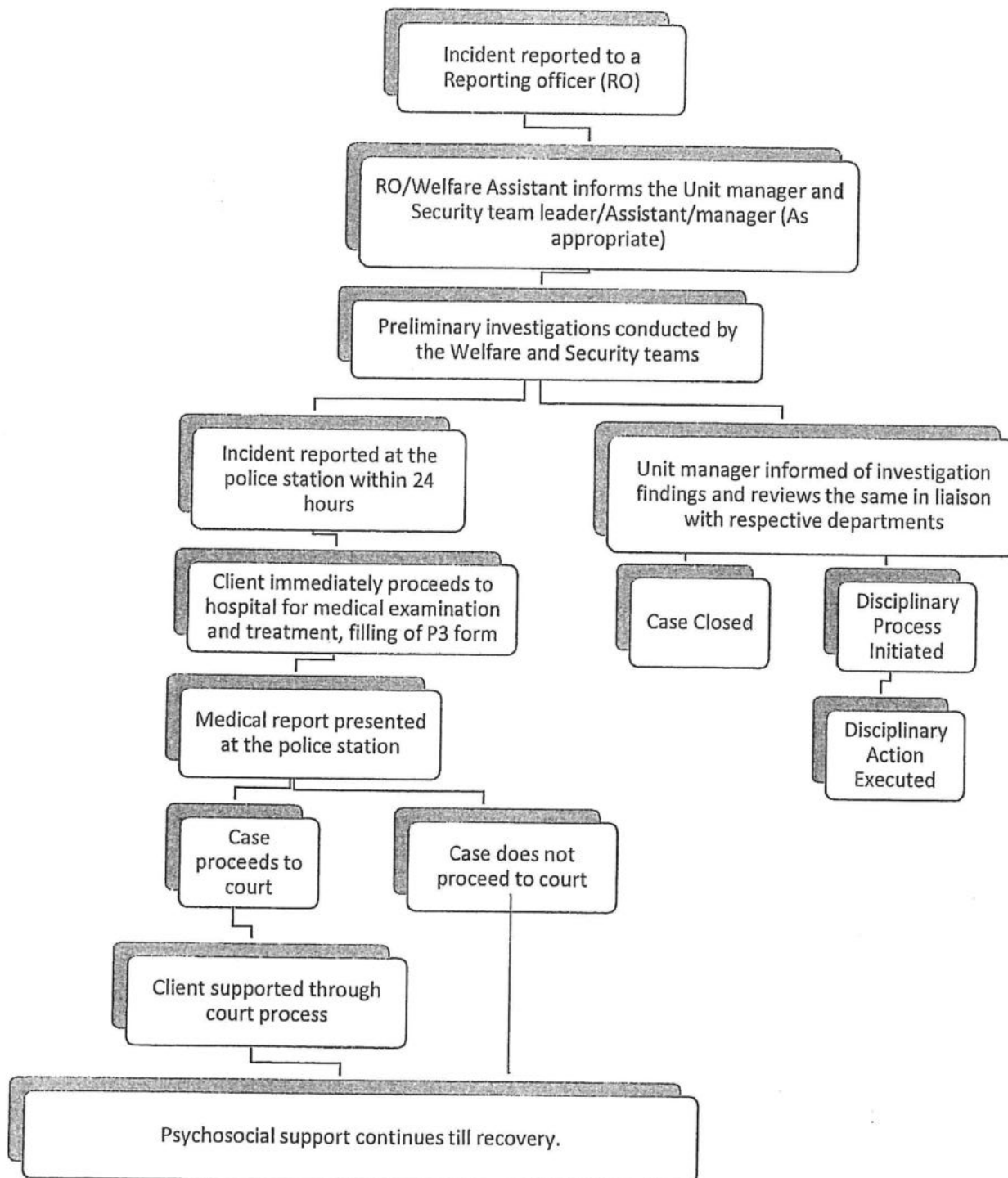
1. Provide security support to ensure a conducive environment free from harassment/sexual offences.
2. Arrest the suspect and submit to the relevant authority.
3. Secure the scene of crime, gather and preserve relevant evidence.
4. Liaise with the Welfare team, management and the police in carrying out investigations and progressing the case to conclusion.
5. Other responsibilities as appropriate to their role.

**Legal Team should:**

1. Provide legal advisory services throughout all the stages of handling harassment/sexual offences.
2. Liaise with the Prosecution in progressing harassment/sexual offence matters that end up in court.

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## PROCEDURE FOR DEALING WITH HARASSMENT AND SEXUAL OFFENCES



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Harassment & sexual offences Policy	14/3/2015	3	1/10/2020	WM/GEM	HRD	Managing Director	1/10/2020
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## HARRASSMENT

If you are being harassed

1. Tell the harasser/perpetrator his/her behavior is unwelcome and ask him/her to stop.
2. Keep a record of incidents (what happened, date, times, locations, possible witnesses, your response). One does not have to have a record of events in order to file a complaint, but a record can strengthen one's case and help you remember details over time.
3. File a complaint. If, after asking the harasser to stop his/her behaviour, the harassment continues, report the problem to any Reporting officer as stipulated in the policy.
4. An investigation will be undertaken immediately, and all necessary steps taken to resolve the problem.
5. If the investigation reveals evidence to support the complaint of harassment, the harasser will be taken through the disciplinary process.
6. If the investigation fails to find evidence to support the complaint, there will be no documentation concerning the complaint placed in the file of the alleged harasser.
7. If an investigation results in a finding that the complainant knowingly made a false harassment complaint, the complainant will be appropriately disciplined up to and including dismissal.

## SEXUAL OFFENCES

1. A complaint of sexual offences made to any member of Finlays Community must be brought to the attention of reporting office (RO). Any member of RO to whom a complaint is made must consult management before proceeding.
2. A sexual offences complaint may be made in person, or through a third party.
3. When an incident of sexual offence has been reported, the complainant shall be informed of the necessity of receiving immediate medical attention, including post-exposure prophylaxis (PEP) for HIV, sexually transmitted infections and pregnancy. All reasonable efforts must be made to transport the complainant promptly and sensitively to the District Hospital or other appropriate medical facility as determined by Management whilst maintaining the dignity of the complainant.
4. Such immediate medical attention does not oblige the complainant to initiate criminal or disciplinary proceedings.
5. Delayed reporting by a complainant should not reduce Finlays duty of dealing with the complaint under this policy.
6. Management will encourage and support the complainant in reporting all incidents of sexual offences to Kenya Police or other relevant government agencies.

## DEALING WITH EMPLOYEES OR AGENTS OF CONTRACTED THIRD PARTIES

Contracted third parties shall ensure that their employees comply with this policy and any breach shall be dealt with in a manner consistent with this policy. The Company will offer information/assistance as necessary to the contracted third party.

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## RECORDS

1. Complaints/offence sheet
2. Investigation report
3. Referral forms
4. Police Crime report
5. Medical forms
6. Report from Counsellor
7. Any other relevant document

## REVIEW

This policy will be reviewed from time to time on need basis.



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MANAGING DIRECTOR

Document Name	Issue date	Revision No	Revision Date	Prepared by	Checked by	Approved by	Approval date
Harassment & sexual offences Policy	14/3/2015	3	1/10/2020	WM/GEM	HRD	Managing Director	1/10/2020
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## Appendix 1

### Checklist for Harassment and Sexual offences

- Demands for sexual favours and threats of firing if the demands are not met, sudden criticism of one's work, assigned no work/too much work, denial of opportunities, inaccurate job appraisal /evaluation or pressure to quit
- Making promises or threats in return for sexual favours
- Unwelcome/uninvited physical contact such as massaging a person without invitation, hugging, pinching, patting, grabbing in a sexual manner
- Staring at a person or parts of their body in a sexually suggestive manner
- Touching or fiddling with a person's clothing including lifting up of skirts or shirts,
- flicking bra straps or putting hands in a person's pocket
- Blocking the victim's path in an aggressive way
- Standing too close to the victim which makes him/her uncomfortable
- Non-consensual kissing or kissing attempts
- Rubbing one's genitals on a person
- Attempt or actual sexual assault (Rape)
- Indecent exposure of one's genitalia
- Stalking with an intention to sexually harass the victim
- Obscene communication and unwanted sexual expressions/ Obscene gestures,
- Groping on a person
- Demeaning references to either the male or female gender
- Comments of sexual nature that are sufficiently offensive to cause discomfort and interfere with work
- Disapproving remarks about one's gender or physical appearance
- Sex based insults, taunts, teasing or name calling
- Verbal sexual abuse disguised as humour
- Requests or demands for sex or repeated unwanted requests to go out on dates after prior refusal /Subtle pressure for sexual activity
- Intrusive questions or insinuations about an individual's private life
- Comments or questions about an individual's social or sexual life
- Suggestive sexually demeaning remarks, comments or jokes
- Dirty jokes or comments about a person's body or clothing
- Whistling, catcalls
- Displaying sexually graphic materials including posters, magazines, cartoons, graffiti or messages left on notice boards, desks or common areas

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- Sending or forwarding sexually explicit emails or text messages or emailing offensive "jokes" and pornographic material
- Inappropriate advances on social networking sites "
- Accessing sexually explicit internet sites, downloading offensive and sharing with colleagues through any media

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## CHILD PROTECTION POLICY.

### 1. STATEMENT & SCOPE

James Finlay (Kenya) Limited (Finlays) is an ethical and socially responsible employer with zero tolerance to all forms of human rights violation including child labour. Finlays is committed to upholding the rights of children and safeguarding them against any practices intended or unintended within our tea value chain that places them at the risk of any form of human rights violation including violence, exploitation and or harm.

Finlays endeavours to continuously audit our work processes and practices, and seeks to address/mitigate any actions and omissions that puts the children we come in contact with directly or indirectly at the risk of any form of child rights violation by either our employees, or other persons who the company is responsible for including contractors, service providers, interns/volunteers/attachés as well as visitors to our premises, workplace, in company schools, in residential areas & company guesthouses.

This policy shall be guided by the Constitution of Kenya, Children's Act Kenya, Sexual Offences Act, United Nations Convention on the Rights of Children (UNCRC), International Labour Law (ILO) convention 182 and 138, and any other relevant legislation as amended from time to time. It will be read, understood and implemented in the context of other relevant company policies and statements, including those related to disciplinary and grievance handling.

All Finlays' employees, contractors, service providers, interns/volunteers and visitors shall uphold and be held accountable to this policy.

### 2. PURPOSE

The purpose of this policy is to provide a framework for ensuring that all children are protected from all forms of abuse and exploitation within our premises. For avoidance of doubt, children here refer to all persons under the age of 18 years including all primary and secondary school going persons who may have exceeded 18 years of age.

As part of its commitment Finlays will: -

- provide systems and procedures to ensure the policy is implemented.
- ensure that all employees, contractors and their employees, service providers and all interns /volunteers will be inducted on child protection as part of their induction and on boarding

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Revision description (What is amended, chapter/page, clause if referring to a standard) Child protection policy extracted from Sexual harassment & offences policy for age of 18 years Directors: Julian Rutherford <sup>a</sup> Catherine Kivai <sup>a*</sup> Daniel Kirui <sup>a*</sup> (*British **Kenyan)							

- c. raise awareness of employees, children and other stakeholders on their responsibilities and enhance their capacities to protect and safeguard children's rights and wellbeing.


### 3. GUIDING PRINCIPLES

- a. Finlays has a **Zero tolerance approach** to human rights violation including any form of child labour, child abuse and exploitation.
- b. **Non-discrimination**- All children have an equal right to protection from abuse and exploitation regardless of age, race, sex and all other protected characteristics as provided for by the constitution- The best interest of vulnerable children including those living with disability and HIV/AIDS shall be paramount in decision making.
- c. **Best Interest of the Child**- In all actions concerning children, the safety and wellbeing of children is the primary consideration.
- d. **Personal and Shared Responsibility** -All employees associated with Finlays have a personal responsibility to promote, protect and safeguard the rights of children. They must understand and promote this policy by preventing, responding and reporting any form of violation.
- e. **Risk Management**- Finlays will undertake continuous assessment of its operations and mitigate any actions that may pose any risks to children while upholding a zero-tolerance approach. This may include termination of contracts /employment of any person(s) or contractor(s) who do not comply with or pose a risk to children.
- f. **Confidentiality** - All sensitive information regarding children shall be protected. All reasonable measures shall be taken to protect the identity of children during and after case management. It shall only be shared on a need to know basis.  
A breach of confidentiality may result in disciplinary action being undertaken.
- g. **Consent**- Children and by extension their parents/guardians cannot give consent for any sexual activity and all other practices/acts criminalised in the Constitution and the Sexual Offences Act,  
**Informed consent** - The participation of children in all activities including taking of videos and photographs must be undertaken only after obtaining consent from a parent/guardian. A Consent form must be signed and filed with the parent/guardian records.

**Note:** All pictures taken of children should be age appropriate and must depict a positive true picture of the child. It shall not serve to demean or degrade the child or their conditions.

### 4. ROLES AND RESPONSIBILITIES

- a. **Employees, Children, Visitors, Interns, Contractors, Service Providers, and other persons residing within Finlay's**

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- i. All should read, understand, and adhere to this child protection policy and the Company's code of conduct.
- ii. Are required to maintain an environment free from all forms of child abuse, violence and exploitation and are encouraged to report breaches against this policy.

#### b. Management

- i. Management at all levels are responsible for ensuring that employees, contactors and service providers are aware of the child protection policy and are supported to implement and work in accordance to the policy guidelines.
- ii. Ensure that no children are engaged on any company jobs in their units. They shall keep database of all employees showing details including dates of birth.
- iii. Ensure outsourced labour (contractors and service providers) do not engage children. That they shall only engage persons who have national identification card and keep register of all their employees and the verified age is specified.
- iv. Ensure enough time and resources where necessary are allocated for child protection within their units including schools and Early Childhood Education centres.
- v. Support child protection activities within his/her unit.
- vi. Support the children's access to necessary services where necessary.
- vii. Ensure that trainings and education programs on child protection are conducted to all employees in his/her unit
- viii. Take appropriate and timely disciplinary action as and when child protection concerns are raised.

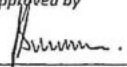
#### c. Parents

- i. Ensure that the best interest of the child is always a priority
- ii. Ensure that children are protected from all forms of abuse including harmful traditional practices.
- iii. Not collude with perpetrator(s) or conceal information that would jeopardize the help that a child requires.
- iv. Ensure that their child below 18 years and all school going children (Both Secondary and Primary) are not engaged in child labour.
- v. Ensure that they provide basic needs to their children within their ability and financial capacity to do so. These includes living conditions, food and clothing, medical care and schooling as provided for by company policies (Schooling policy, Housing Policy, Health and safety Policy and medical Policy)
- vi. Report any incident related to child abuse.
- vii. Comply with company schooling Policy ensuring that school going children are in school at the required time.
- viii. Ensure they comply with the standards as set out in the Company Housing Policy.
- ix. Teach their children good values.

#### d. Child

The child, subject to his or her age and ability shall have the duty to

- i. Say no to any perpetrator(s)

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- ii. Report any form of abuse occurring at home, school and within their social environment
- iii. Work for the unity of the family, perform age appropriate chores within the household.
- iv. Respect his/her parents, teachers, supervisors and elders at all times.
- v. Assist in case management by providing accurate and timely information when required.
- vi. Serve the community through his physical and intellectual ability

**e. Welfare Assistant.**

- i. The first point of contact for all child protection concerns reported within Finlays.
- ii. Reassure the child and provide a safe environment where the child can be interviewed.
- iii. The only officer allowed to interview the child.
- iv. Fill the incident reporting form (Appendix 3) whilst ensuring that the date, time, location and nature of the incident are properly captured.
- v. Ensure that the first action in addressing the case is taken within 12 hours.
- vi. Inform the welfare Manager of the case who in turn will communicate and seek further assistance from the relevant Government agencies (Children Department, Education and Police)
- vii. Inform unit management, on cases of child abuse on a weekly basis, and within 12 hours on incidents of child sexual abuse.
- viii. Conduct and/or facilitate training and sensitization on child rights and Child protection to children, employees, and other stakeholders (contactors and their employees, service providers).
- ix. Maintain confidentiality while ensuring best interest of the child in handling all cases. Inform the child and the parent/guardian of the cause of action to be taken.

**f. Gender Representatives and Village Elders**

- i. Report any cases of child abuse noted within the villages of residence. They should not interview the child.
- ii. Provide support in providing information to village residents on child protection to deter child abuse.
- iii. Ensure that the villages and or environment, children live and play in, is safe.
- iv. Ensure that all children of school going age attend school and report cases of children not attending school to the welfare assistant.

**g. Security Assistant**

- i. Ensure the child is safe.
- ii. Inform the welfare assistant of any child abuse case brought to his/her attention.
- iii. Visit the scene and where necessary secure any evidence by ensuring no persons enter/tamper with the scene.
- iv. Accompany the welfare assistant to the police station and
- v. Apprehend and or facilitate the apprehending of the perpetrator when required.

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#### **h. Medical Officer**

- i. Provide immediate medical attention when required.
- ii. Support in accessing and filling of P3 form.
- iii. Testify in court when required.

#### **i. Teachers**

- i. The Head Teacher /Principal shall ensure that this Child Protection Policy and procedures are implemented and followed by all persons (teachers, subordinate and non-subordinate staff and children) within their school.
- ii. Implement all child protection measures as provided for in the Teachers Service Commission Code of Conduct and Ethics.
- iii. Ensure that their schools are child friendly and children are safe when under their custody.
- iv. Monitor, identify and report any child abuse related incident within their schools.
- v. Provide information to children that will lead to the prevention of child abuse.
- vi. Support Finlays welfare initiatives within the school.
- vii. Ensure all children, undertaking any extra-curricular activities (sports, drama, music) are protected and are able to reach home safely before dusk.

#### **j. Government agencies**

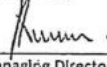
Finlays recognises the role of different government departments and will make referrals and through them seek justice for children experiencing any form of child abuse. Some of the key departments include: Children's Department, Ministry of Education, The Police, Directorate of Public Prosecution, Ministry of Health, Judiciary amongst others

### **5. REPORTING OF CASES OR ALLEGATIONS.**

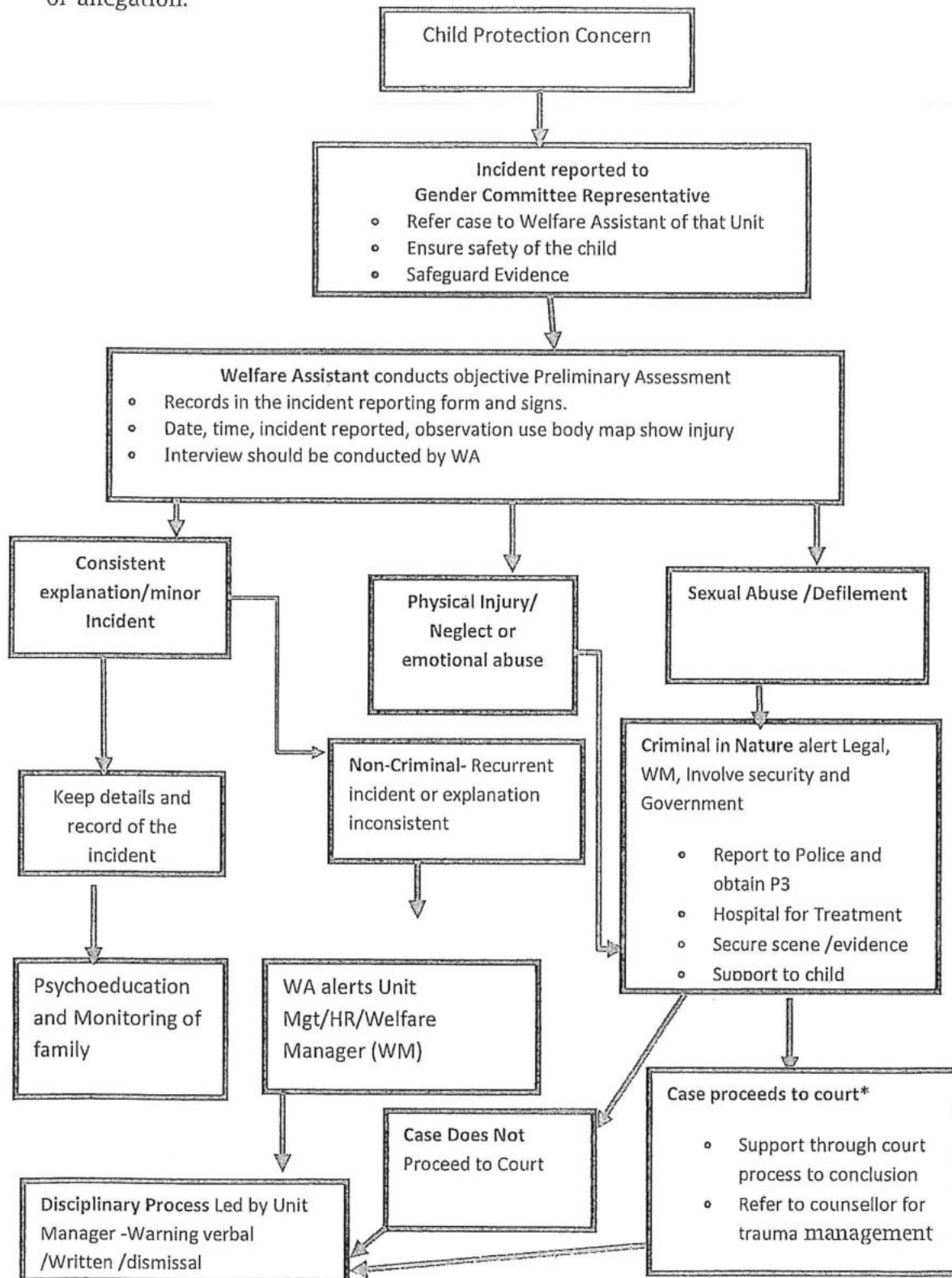
1. Any person who witnesses or suspects a case of child rights violation or concern should immediately report to the Welfare Assistant (WA) of his/her unit or call the welfare Manager (WM) using the following whistle blowing line **0729753080**. The reporting officer must clearly note the date, time and location of the incident.
2. He/ She should not interview the child and must maintain confidentiality hence must desist from calling the colleagues/friends to hear what the child has to say.
3. He/ she has the responsibility to ensure that the child is treated with dignity and is safe from any imminent danger.

### **6. RESPONDING TO CHILD PROTECTION CONCERN**

- i. All reported incidences / cases shall be recorded in the incident reporting form Appendix 4
- ii. The hard copy must be filed in a lockable filing cabinet. Both the child and alleged perpetrator must be treated with dignity throughout the investigation.

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The following pathway will be followed when responding to child protection concern or allegation.



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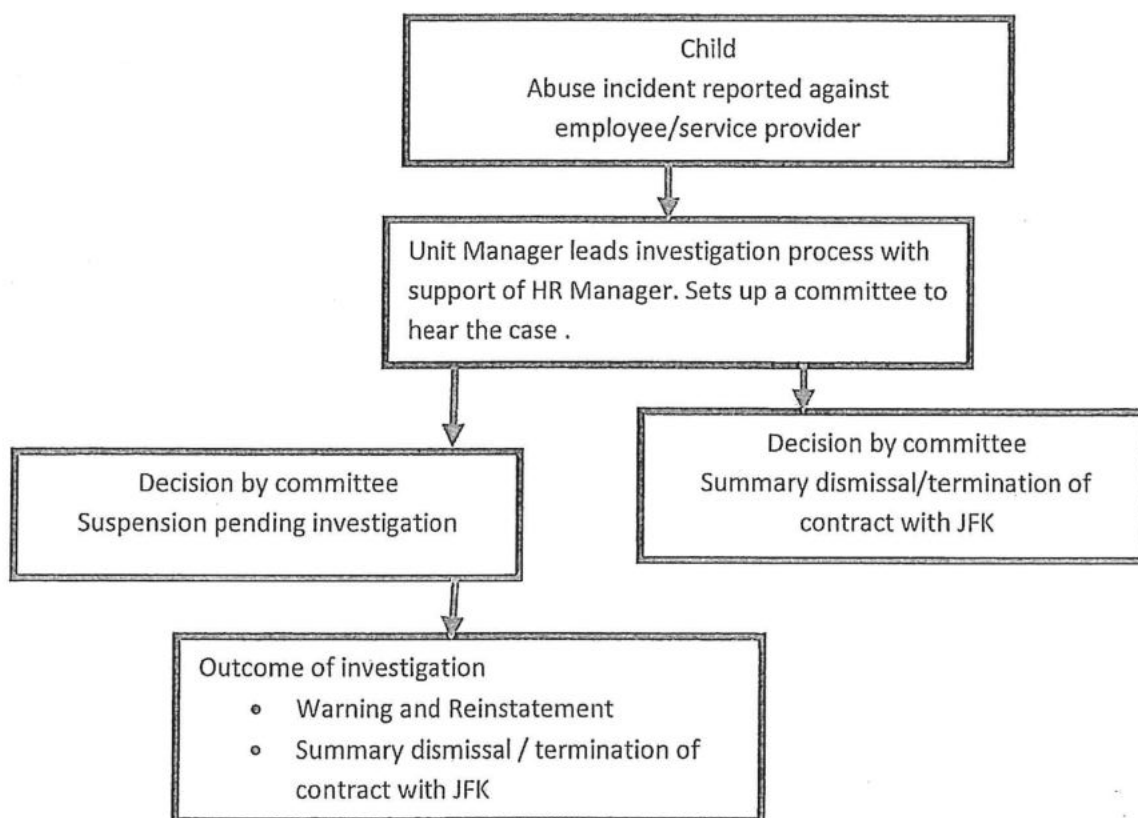
Figure 1 Child Protection Referral pathway

Failure to report a concern, reasonable suspicion or knowledge of misconduct or any form of collusion to defeat justice in accordance with this policy will be treated as a serious infraction and may result in disciplinary action.


## 7. DISCIPLINARY PROCESS -MAKING DECISIONS IN CHILD ABUSE CASES.

Finlays takes a zero-tolerance approach to any form of child abuse. Any employee or other stakeholders who has allegations made against him/her will be informed at an opportune time of the allegations. Investigation process will be explained to him/her.

Any disciplinary measures will be decided upon, in compliance with the Finlays Policy, Collective Bargain Agreement (CBA) and the national laws. Such may include but not limited to termination of contract or service provision and any other available legal remedy.



## 8. COMMUNICATION OF THIS POLICY

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Finlays will ensure that employees, their dependents, contractors and their employees and all service providers are equipped with skills and knowledge on child protection through training and awareness sessions.

The following will apply

- a. Advice, support and training will be provided to all employees, children in schools and all service providers on child Protection.
- b. During induction and onboarding employees, contractors and their employees, interns/volunteers/attachés and all service providers will be taken through the child protection policy and all other social policies.
- c. Training will also be provided to the village committee members and gender committee on their mandate on child protect within the villages.
- d. The policy shall be displayed on all notice boards within all Estate/Factories/Departments (EFDs).
- e. Clear guidelines on reporting and dealing with child protection concern will be widely communicated using all Finlays communication channels.
- f. The welfare team will be expected to conduct trainings to employees on this policy.

## 9. MONITORING AND ACCOUNTABILITY


- a. It is the responsibility of Finlays Executives to ensure effective implementation of this policy and associated procedures and ensuring that all persons associated with Finlays are equipped and supported to meet their obligation on child protection.
- b. Managers are responsible for ensuring all employees, contractors and service providers in their units are aware of the policy and are supported to foster a culture of child protection.
- c. Welfare Manager is charged with overseeing the implementation and evaluation of the processes of implementation periodically.
- d. A protected database on all incidences and allegations reported will be recorded by the designated officer.

## 10. COMPLIANCE

It is mandatory for all employees, contractors and their employees, service providers, interns/volunteers/attachees to report concern, suspicion, allegation or any incident of child abuse or exploitation through Finlays reporting channel(s).

## 11. POLICY REVIEW

This policy will be reviewed from time to time on need basis.

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MANAGING DIRECTOR


## Appendix 1: Statement of Commitment

### Statement of commitment


I .....have read and understood the standards and guidelines outlined in this child protection policy. I accept to promote the practices and procedures contained herein while working with or associated with Finlays.

## Appendix 2: Definition of Terms

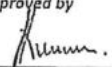
### Definition of Terms

<b>Child:</b>	Any person below the age of 18 years. For the purpose of this policy and in Finlays context a child will also include any person accessing primary and or secondary education whether he or she has attained the age limit of 18 years or not.						
<b>Child Rights:</b>	These are as listed in the Constitution and include amongst others the right to life, survival and development (development include physical, emotional, cognitive, social and cultural development)						
<b>Child Protection &amp; safeguarding:</b>	Prevention of and response to significant harm, abuse, neglect, exploitation and violence against children and includes all proactive measures or actions (policies, procedures, practices) aimed at protecting children from harm, all forms of abuse and exploitation. It also entails promotion of child wellbeing by providing a safe child friendly environment.						
<b>Child abuse:</b>	Involves violation of the children's rights and includes all forms of violence against children (physical, emotional and sexual abuse, neglect or negligent treatment, commercial or other exploitation including sexual exploitation, online child phonography, abduction and child trafficking, early and forced marriage, family violence, child labour) resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power.'						
<b>Physical Abuse</b>	Is the intentional and unreasonable use of violence or threat to injure a child or use of force on a child which may result in						
<b>Document Name</b>	<b>Issue date</b>	<b>Revision No</b>	<b>Revision Date</b>	<b>Prepared by</b>	<b>Checked by</b>	<b>Approved by</b>	<b>Approval date</b>
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	physical injury of the child. This includes and not limited to shoving, shaking hitting, punching, slapping, burning or caning, biting, cutting, strangling etc. It also includes cultural practices which alter physical and cause distress such as female genital mutilation (FGM),
<b>Emotional abuse-</b>	Persistent attack on a child's self-esteem and self-worth. This affects a child's emotional or intellectual wellbeing and may include but not limited to name calling, threatening, humiliating, ridiculing, intimidating, shaming, isolation, uncaring attitudes, absence of praise, , denial of time to play, scolding or rebuking a child in a manner that demoralizes the child etc.
<b>Neglect</b>	Is depriving/ persistent failure, where there is means or deliberate denial to provide the child's basic and emotional needs (food, shelter, education, medical care clothing's & shoes , supervision or care to the extent that the child health and wellbeing are at risk or damaged.
<b>Sexual Abuse</b>	Involves contact and non-contact sexual activities or activities that have a sexual connotation, whereby one person (another child, adolescent, or adult) uses the child for their sexual stimulation or gratification. It includes all forms of sexual violence and coercion, sexual solicitation, manipulation or trickery including incest, early and forced marriage, rape, involvement in or exposure to indecent images/video (pornography), sexual slavery/trafficking, and statutory rape. Sexual abuse may include but is not limited to indecent touching or exposure, explicit sexual language towards or about a child and grooming. Sexual abuse does not always involve touching. Finlays considers all forms of sexual activity with or without the consent of the child is a crime.
<b>Sexual exploitation</b>	Sexual Exploitations include any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes including but not limited to profiting monetarily, socially or politically from the sexual exploitation of another.
<b>Family Violence</b>	This includes verbal, physical and emotional or sexual abuse within the household or family which the child witnesses on a regular basis this has impact on the emotional and cognitive well-being of the child
<b>Child exploitation</b>	is defined as the use of children for someone else's improper advantage, gratification or profit that often results in the unjust, cruel and harmful treatment of the child. These activities are to the detriment of the child's physical and

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	mental health, education, and moral or social-emotional development.
<b>Child labour</b>	<p>Refers to work assigned to persons below 18 years that has an impact of depriving the child of their childhood, their potential and dignity and is harmful to their mental, social and physical development. Extreme cases include slavery, sexual exploitation, forced labour, exposure to hazardous chemical substances and working environment and hard work.</p> <p>For the purpose of this policy, child labour includes work assigned to Secondary and Primary school going children even where they have attained the age of 18 years</p>
<b>Child Work</b>	<p>Child work means any work done by a child in aid of their families that is not likely to be harmful or exploitative and does not affect the normal physical, mental, spiritual or moral development and health of the child and not likely to be detrimental to their attendance at school or vocational training.</p> <p>Child work includes domestic chores such as firewood collection, general household chores and taking care of younger siblings.</p>
<b>Child Trafficking:</b>	This is the recruitment, transportation, receipt of children for the purpose of monetary gain or in kind (exploitation), by means of threat, force or coercion. Such children may be used for child labour, drug trafficking, commercial sexual activities, pornography production, for scientific experimentation and for adoption to unsuspecting or willing adoptive parents.
<b>Child Participation:</b>	Anyone below the age of 18 taking part in a process or playing a role in a process at his/her level, according to their evolving capacities - children and young people thinking for themselves, expressing their views effectively, and interacting in a positive way with other people; involving children in the decisions which affect their lives, the lives of the community and the larger society in which they live.
<b>Child Pornography:</b>	Refers to the act of knowingly displaying, showing, exposing or exhibiting obscene images, words or sounds by means of print, audio, visual or any other media to a child with the intention of encouraging or enabling a child to engage in sexual acts.
<b>Bullying:</b>	Is any action or statement that causes psychological or physical displeasure to a child.
<b>Grooming</b>	Involves and is not limited to behaviours, practices or acts where an offender builds a relation of trust and emotional

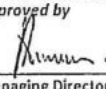
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	connection with the child with the purpose of manipulating, exploiting or abusing the child sexually. Such acts include favouring a child, giving the child excessive attention, buying gifts, isolating the child, threatening, blackmailing, intimidating, or scaring a child by saying the groomer will do something to the child's family or friends, providing the child with intoxicating substances such as alcohol and drugs, showing them sexually explicit pictures and phonographic material including videos and online materials.
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### Appendix 3: Responding to Child Abuse Cases


- All allegations concerning child abuse will be reported/referred to the Welfare Assistant of the unit where the crime has been committed. In the absence of WA then the Unit Management (manager and or assistant manager) should be informed.
- The WA will complete incident/Referral report form Appendix 4, taking down as much information from the refer as possible. This should be within 24 hours.
- Information to be collected include
  - a) The child's name, age and date of birth
  - b) The child's contact details
  - c) The nature of the allegation. This should include the date, time and place of incident.
  - d) Make clear distinction between what is fact and hearsay
  - e) Details regarding witness if available
  - f) A description of any physical injuries or bruises. Also note any indirect signs i.e. behavioural changes.
  - g) Ensure that the child statement is recorded if the abuse was reported by another person.
  - h) Details of alleged abuser, if he/she is known.
- The WA will interview the child as soon as possible and in any case within 24 hours after receiving the referral. During the interview process the child must be treated with dignity. It should be noted that no employee is allowed to interview/investigate a child abuse case.
- If the child is in school at the time of the referral, the interview can take place in school in a safe and confidential environment having obtained consent from the teachers who are the custodian at that time. However, where a teacher is involved informed consent will not be sought.
- The WA will record the referral and send a notification to the Unit Manager.
- If the child is from another department, he/she will inform the relevant WA or HR representative and hand the case over to them for action.

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- The WA will open a file on the child to record all information collected in the course of their investigation. The file must be protected, this includes encryption or storage in lockable cabinet.
- The WA shall fill Consent Form Appendix 5 and have it dully signed by parent /guardian
- The WA should do an assessment and determine the nature of child abuse.
- If the abuse is criminal in nature, then the WA should contact the Security Assistant to accompany them to the scene. The scene and evidence must be secured.
- If the child has sustained any injuries or the allegation is of a criminal nature, the WA should, in the company of a Security Officer
  - Contact the police and report the crime. The Security Officer needs to ensure that the incident is recorded, and they are given a crime report number (OB) and P3 form obtained.
  - The WA will accompany the client to the police station.
  - Immediately take the child to be treated and examined by a doctor and a doctor's report obtained (P3 form dully filled)
- The Welfare Manager shall contact the Children's Department and the Education Department where practicable and work with them until the case concludes.
- The WA and where practical the counsellor should visit the Childs family and let them know what is happening.
- If the violation/abuse has been perpetrated by a member of the family, then it is essential that the child is not allowed to return to the family home. The WA will liaise with the children's department to find a safe place where the child can stay.
- Family support and counselling should be offered to the child and their family. If the child is staying with a different family they are to be returned to their family if the travelling is within reasonable distance, the WA should do their best to accompany the child home and give some advice to the family regarding the abuse that has happened to their child and advise them that the matter has been reported to the police and children's department.
- Should the matter proceed to court, the WA should support the child and attend court with them. Where necessary the WA should liaise with the Children's Department who will take the lead in the case.
- The WA will write a full report to be submitted at the Divisional Head or their representative with a comprehensive conclusion outlining any further action to be taken on the matter.

#### Appendix 4. Incident Report Form


##### Incident Report Form

Document Name	Issue date	Revision No	Revision Date	Prepared by	Checked by	Approved by	Approval date
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**Sexual Assault/Assault/Child abuse**

*In rape/defilement cases or where there is an injury, please ensure victim receives medical treatment immediately. Never interview a victim in the same room as the alleged perpetrator.*


Date (referral received)		EFD where incident occurred		Manager's name		Manager's contact	
<b>Victim's details</b>							
Last name		First name(s)		Date of Birth		Gender Male /Female	
Employee	Yes	No - (give details of employee related to)					
Employee no.	Job			Estate			
Contacts - (house number, Village and Phone number)							
Manager				Manager's contact			
<b>Incident</b>							
Type of Incident		Date, time and place of Incident					
Number of assailants				Relationship to victim - e.g. Family member, co-worker, stranger etc.			
Name(s)/age of assailants							

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Employee (Yes/No)/ Contractor (Yes/No)	Employee number / Contractor details	EFD	Job title
Manager	Manager's contact		Manager informed Yes/No
<b>Medical</b> (a medical consent form must be completed for details of medical examination to be shared)			
Injuries sustained Yes/ No		Medical intervention required Yes/ No	
		Dispensary attended	
Treatment given Yes/ No	Medical consent signed Yes/No		
Medical report			
<b>Statements</b>			
Circumstances surrounding the incident (victim's account) remember to record details (how, where, what was used?)- <i>if not enough space, please use and attach separate sheet</i>			
Witness statement - Circumstances surrounding the incident - <i>if not enough space, please use and attach separate sheet</i>			
Reporting officer's statement - please indicate the state you found the victim in (demeanour/level of anxiety, calm or not) - <i>if not enough space, please use and attach separate sheet</i>			

I verify that I have read this report and confirm that the information contained is accurate to the best of my knowledge. I further confirm that I have read the statement and it is an accurate record of my account of events.

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Victim's signature

Date

Date incident reported to Manager

Manager's signature/name

Date referral sent to Social worker

Social worker's signature/name

<b>Incident report assessment:</b> <i>To be completed by Social Worker</i>
<b>Outcome of Investigation</b> - <i>attach any relevant statements and documentation to support decision making.</i>
<b>Recommendation</b>  Progress to: Child assessment Comprehensive assessment Close case
<b>Management Action taken:</b>

Date assessment completed:

Name of social worker:

Signature:

Manager's signature:


Date:

Welfare Manager's signature:

Date:

## Appendix 5. Consent Form

### Consent Form.

Document Name	Issue date	Revision No	Revision Date	Prepared by	Checked by	Approved by	Approval date
Child Protection Policy	01/07/2020	1	01/10/2020	Welfare Mgr/GEM	HR Director	 Managing Director	01/10/2020
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I.....hereby grant permission to.....to interview my child for the purpose of providing necessary social welfare support. I acknowledge that the information provided by my child may require the involvement of other parties to enable my child to be adequately supported.

Name of Child.....

Age.....

Parents Signature.....


Contact.....

Date.....

#### Appendix 6: Guideline on Behaviour towards Children.

The following behaviours/acts towards children is prohibited.

- i. Intimate relationships between any persons associated with (employees, contractors, contractor employees, interns/attachee, and children.
- ii. Inviting children, sharing of room alone including bed or hosting child/children in their house. All children must have their own bed and bedding as provided for in the housing policy.
- iii. Any form of inappropriate touching including grooming or any abnormal attention/closeness with a child/child.
- iv. Making any sexually suggestive comments and or gestures that have a sexual connotation to a child is prohibited.
- v. Having a child or children stay at home unsupervised
- vi. Act in ways intended to shame, humiliate and or degrade children.
- vii. Exposure of children to hazardous work
- viii. Indecent exposure this includes taking of nudes or showing nude pictures of children or expose children to phonographic literature /materials including magazines, pictures, and videos.
- ix. Condone or take part in behaviour of children that is illegal, unsafe or abusive this include exposing children to alcohol or substance abuse or sale of the same.
- x. To send children to run errands before 6.00 a.m. or after 6.00 pm.

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**Gender Mainstreaming:** Involves the incorporation of gender considerations into all the policies, programmes, and practices so that at every stage, an analysis is made on the effect of the policies on women and men.

**Gender Quotas:** Achievable, time framed objectives which are set on a regular basis to focus management on the efforts on achieving improved outcomes.

**Gender Stereotype:** Preconceived ideas whereby males and females are arbitrarily assigned characteristics and roles determined and limited by their sex. Sex- stereotyping can limit the development of natural talents and abilities of women/girls and men/boys as well as their educational experience and life opportunities.

**Prejudice:** An unfavourable feeling or attitude based on partial, faulty or no knowledge which may result in hostility towards certain individuals or groups.

**Sex Disaggregated Data:** For Gender analysis all data should be separated by sex in order to allow differential impacts on men and women to be measured.

**The Managing Director** is the key accounting officer on gender equality and diversity. Together with the company executives he will: -

- Provide leadership on the equality and diversity strategy.
- Be accountable for the implementation and monitoring of the policies, strategic deliverables and ensuring adequate resources (human and capital) are allocated to support gender equality work.
- Communicate the strategy and policy.

- Provide guidance to line managers and staff on the implementation of gender equality and diversity policy.
- Accountable for progress towards gender parity between women and men and equality of opportunity and equal treatment within JFK.
- Strengthen the capacity of staff within JFK to mainstream gender and promote equality and diversity.
- In-depth analysis of all the HR procedures to determine the bottlenecks to gender equality and women empowerment
- Support managers in investigating issues relating to potential discrimination, including those matters concerning prospective employees
- Ensure regular review and updating of this policy.
- Ensure promotion of health and safety in all processes thus encouraging women to take up the roles
- Be aware of and manage, unconscious biases and work practices which may lead to exclusion of various groups or unintended discriminatory consequences.
- Ensure compliance and monitoring of HR policies, procedures and practices.

[illegible]



[illegible]

## Manager Diversity and Inclusion

- Together with the Human Resource Department develop and review policies thus ensuring gender responsive policies.
- Play a catalytic and supportive role to the Estates, Factories and Departments and ensure effective promotion of the gender equality measures
- Annually assess the existing gender diversity objectives and the progress in achieving them, as well as reviewing the gender diversity objectives themselves to ensure that, as a whole, those objectives remain appropriate for JFK.
- Design and carry out periodic analysis that would inform the strategic direction.
- Provide interface between women and the management team hence ensuring their concerns and strategic needs are taken into account in organizational development.
- Challenge the status quo on various practices within the company
- Ensure the company commitment to upholding human rights measures is met, perform regular audits of the workplace to identify any human rights risks, ensure efficiency and effectiveness in handling all cases of human rights violation.
- Ensure justice and fairness is observed in all processes including inquiry into malpractices and dispensing of justice.
- Engage with all stakeholders both internal and external and ensure prevention, mitigation and remedy measures are in place.
- With support from Human Resource Department ensure enforcement of policies that promote respect of human rights.

### Management at all levels

- Ensure all the staff at their units are trained on gender equality and diversity
- Implement this policy as part of their day-to day management of their units. These include
  - Ensure selection, appointment, performance management, promotion of staff development and disciplinary actions are fair and consistent
  - Accountable for gender parity within their unit
  - Prompt and effective management and investigation of issues relating to potential discrimination,
  - Fair application of flexible work patterns and ensure provision of gender inclusive support such as childcare in liaison with employees.
  - Ensure all policies or service decisions that will change provision, practices or affect the workforce are assessed.
  - Ensure all the policies on health and safety are adhered to thus encouraging women and men to take up jobs that were initially deemed to be high risk.

## Employees

- Each staff has responsibility to guard against any form of discrimination and avoid any action which goes against the spirit of this gender equality and diversity policy. Employees at all levels must ensure that there is no discrimination in any of their decisions or actions/non-action. All staff must ensure they do not harass abuse or intimidate others.

## Gender Committee Structure, Roles and Responsibilities

[illegible]

Member  
Member  
Member

[illegible]

- ## Gender Champions

- ## Policy review

[illegible]

GENDER NUMBERS PER CATEGORY - JANUARY 2023

Committee Composition

	Graded										Ungraded				Seasonals		Jnr Mngt				Snr Mngt				Total JFK		Village	Gender			
	Supervisors					Others																									
	M	F	%F	M	F	%F	M	F	%F	M	F	%F	M	F	%F	M	F	%F	M	F	%F	M	F	%F	M	F			%F		
TEA ESTATES																															
Tilulet	0	0	0%	132	34	20%	2	0	0%	22	6	21%	7	5	42%	2	0	0%	165	45	21%								yes	1/3	
Kapsongoi	0	0	0%	123	46	27%	3	1	25%	14	8	36%	8	2	20%	1	1	50%	149	58	28%								yes		
Chemase	0	0	0%	72	33	31%	3	0	0%	14	4	22%	4	1	20%	2	0	0%	95	38	29%								yes		
Chepgolben	10	6	38%	49	17	26%	0	0		6	4	40%	3	2	40%	1	0	0%	69	29	30%								yes		
Kaporet	0	0	0%	160	57	26%	2	0	0%	30	8	21%	8	6	43%	3	0	0%	203	71	26%								yes		
Marinyi	28	16	36%	127	46	27%	2	0	0%	18	9	33%	9	3	25%	2	0	0%	186	74	28%								yes		
Simotwet	0	0	0%	120	38	24%	1	0	0%	12	9	43%	9	1	10%	0	1	100%	142	49	26%								yes		
Chemasingi	1	0	0%	123	56	31%	4	1	20%	19	6	24%	7	6	46%	2	1	33%	156	70	31%								yes		
Cheptabes	0	0	0%	148	27	15%	3	0	0%	14	4	22%	8	4	33%	2	0	0%	175	35	17%								yes		
Tenduet	0	0	0%	97	44	31%	1	1	50%	17	7	29%	5	4	44%	1	0	0%	121	56	32%								yes		
Kymulot	0	0	0%	101	71	41%	5	0	0%	32	5	14%	14	3	18%	2	1	33%	154	80	34%								yes		
Kitumbe	1	0	0%	148	106	42%	5	1	17%	32	13	29%	14	3	18%	3	1	25%	203	124	38%								yes		
Changana	11	11	50%	84	80	49%	2	3	60%	24	7	23%	16	3	16%	4	0	0%	141	104	42%								yes		
Chomogonday	14	20	59%	126	73	37%	4	6	60%	30	5	14%	15	3	17%	4	1	20%	193	108	36%								yes		
ARD/Special projects	2	4	67%	28	12	30%	3	0	0%	12	4	25%	13	0	0%	4	1	20%	62	21	25%								yes		
Tea Estates HO/outg	0	1	100%	26	2	7%	0	0	0%	19	22	54%	14	5	26%	7	4	36%	66	34	34%								Refer Engineering		
Sub total TE	67	58	46%	1,664	742	31%	40	13	25%	315	121	28%	154	51	25%	40	11	22%	2,280	996	30%								yes		
CENTRAL SERVICES																															
HR Admin& Chepkembe	0	0	0%	72	9	11%	5	1	17%	53	20	27%	14	5	26%	11	6	35%	155	41	21%								partly		
Eng Depart	2	1	33%	47	3	6%	30	1	3%	202	21	9%	33	5	13%	8	0	0%	322	31	9%								partly		
Forestry	4	0	0%	43	10	19%	4	1	20%	84	10	11%	16	5	24%	1	1	50%	152	27	15%								yes		
FinanceMM/ICT/IA	0	0	0%	41	9	18%	0	0	0%	23	4	15%	13	16	55%	14	3	18%	91	32	26%								Refer Engineering		
Medical	0	0	0%	9	2	18%	0	0	0%	8	5	38%	5	3	38%	2	1	33%	24	11	31%								yes		
Sub total CS	6	1	14%	212	33	13%	39	3	7%	370	60	14%	81	34	30%	36	11	23%	744	142	16%								partly		
Flowers Lemolitt			0%										0	0		0	0												0		
Botanical	0	0	%	102	38	27%	18	5	22%	14	6	30%	3	2	40%	3	3	50%	140	54	28%								partly		
Tea Extracts	27	10	27%	75	16	18%	24	5	17%	152	32	17%	23	7	23%	16	5	24%	317	75	19%								yes		
Grand Total	100	69	41%	2,053	829	29%	121	26	18%	851	219	20%	261	94	26%	95	30	24%	3,481	1,267	27%								partly		
				2,053	829	29%	121	26	18%	851	219	20%	261	94	26%	95	30	24%	3,381	1,198	26%									(minus seasonals)	

Summary of gender movement since August 2014

Division	Seasonal	Ungraded	Graded	Junior Mgt	Snr Mgt	Overall
TE (Jul 2014)	42%	27%	16%	22%	13%	28%
TE (Jan 2023)	46%	31%	26%	25%	22%	30%
JFK (Jul 2014)	39%	31%	17%	22%	21%	29%
JFK (Jan 2023)	41%	29%	19%	26%	24%	27%





## COMPANY POLICY ON RECRUITMENT AND SELECTION

### 1. Policy Statement, Purpose and Scope

James Finlay Kenya Limited ('the Company') is committed to equality of opportunity in all its forms.

Finlays does not discriminate, directly or indirectly, against persons or categories of persons in respect of recruitment, training & promotion and will rigorously enforce equality of opportunity regardless of race, pregnancy, marital status, colour, ethnic or social origin, gender, nationality, political or other opinion, disability, HIV status, and religion or as prescribed by the Employment Act. Finlays will not tolerate discrimination and or harassment on any of these grounds and will, where necessary, take robust action to redress breaches, to the full extent of its internal policies and Kenyan law. Soliciting for bribes or eliciting sexual favours will not be tolerated and perpetrators would be dismissed from employment.

Finlays will recognise, accept, promote and encourage workforce diversity and this includes taking affirmative action consistent with promotion of equality or elimination of discrimination in the workplace. The policy recognises that it is not discrimination to distinguish, exclude or prefer any person on the basis of an inherent requirement of a job, as long as those requirements are themselves non discriminatory. This policy sets out the minimum requirements of the Company's recruitment process that will attract and select the best possible applicants to vacancies, ensure gender equity, workforce diversity and treat all applicants fairly.

This policy applies to all positions in Tea Estates, Tea Extracts, Central Services and Finlay Flowers Divisions.

In as much as it is the Company policy not to enter into contracts with third parties in order to directly avoid hiring workers or related obligations; Contractors will be hired from time to time to undertake specialized and/or temporary services. Company employees are prohibited from taking paid employment during their annual leave by either providing services to the contractors, sub-contractors or directly to the Company.

### 2. INTERPRETATION

In the event of a dispute, the final interpretation of this policy shall rest with the Managing Director.

### 3. RECRUITMENT AND SELECTION PROCEDURES

Finlays shall recruit and select people according to the competencies required for each position. Competencies are defined as a combination of behaviours, knowledge, skills and personality attributes.

The selection process normally involves the assessment of competencies by more than one method. These include amongst others structured interviews, ability tests and work samples that may sometimes be given to candidates. Periodical work performance assessment for internal candidates will also form part of the competencies used for suitability. Other methods could also be used depending on the competencies to be tested.

#### 3.1. Staff Requisition and Approval

All recruitment shall be undertaken in line with existence of vacancy for which financial provision has been made. All vacant positions shall be declared by respective Line Managers / Group Managers / Heads of Department and a staff requisition form filled in and submitted for approval as follows:

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Recruitment and Selection Policy	27/04/2015	3	10/08/2018	HRMs/GEM	HR Director	Managing Director	10/08/2018
Revision description (Revision of entire document) : Appendices numbers Guy Chambers* Simon Hutchinson Julian Rutherford* Catherine Kivai** Daniel Kirui** (*British **Kenyan)							

- i. **Management Positions:** The Human Resource Manager / Administration Manager/ Group Manager / Head of Department shall fill in the staff requisition form (appendix 3) and submit it for approval by the Executive in charge / Human Resource Director and the Managing Director.
- ii. **Unionisable Positions:** The Line Manager shall fill in the staff requisition form (appendix 4) and submit it the divisional Human Resource Manager & the Group Manager or Head of Department, for their recommendation and thereafter to the Executive in charge of the Division and HR Director for approval.
- iii. **Temporary Employees:** Temporary employment refers to seasonal employment and term contracts not exceeding 6 months. The Line Manager shall originate the staff requisition form and submit it divisional HR Manager for recommendation and thereafter to Group Manager / Head of Department /Divisional Head for approval.

### 3.2. Advertisement of Vacant Positions

#### 3.2.1. Permanent Positions

The HRD shall advertise the following positions either as internal or external advertisements:

- Management positions.
- Unionisable employee positions.

Internal advertisement shall be posted in the notice boards within the Company and also circulated to other Finlays businesses.

External advertisements shall be made through at least one (1) of the most widely read national newspapers. This may also be made through the website of the company or through a selected recruitment agency.

All advertisement(s) shall state the position, job and employee specifications. A caveat clause on affirmative action may be included in the advertisements where there is need to promote diversity.

The deadline for submitting applications shall be stated in the advertisement; this ordinarily will be not be less than 7 calendar days from the date of the advertisement for internal advertisements and 14 for external. Any employee shall be allowed to apply for the position without prejudice to his/her contract at the time.

Human Resource Management in liaison with respective unit management will invoke due diligence to ensure the most appropriate option regarding internal transfers, promotions from within, external recruitment or head hunting is chosen in all recruitments. The option chosen for recruitment will be subject to executive's approval.

#### 3.2.2. Temporary Positions

Line Managers/HRD shall advertise approved vacant temporary positions within the company. All advertisements shall be displayed in conspicuous places and notice boards. The advert should state amongst others:

- Name of unit advertising
- Vacant position (title)

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- Job specifications
- Employee specifications
- Deadline if applications are required.
- Date, time and venue to report to / submit applications will be indicated on the advertisement.

At the first instance, the advertisement for temporary positions shall be posted on conspicuous places and notice boards for at least 7 calendar days before stated deadline. However, in case of emergency situation a shorter time notice may be given with approval of the Executive in Charge.

The following procedures will guide recruitment for temporary positions:

- As part of affirmative action, the number of vacancies reserved for each gender will be announced.
- On the day of recruitment, applicants will be screened based on the requirements of the job, employee specifications and records from the database of those previously employed. Records to be looked include; performance, experience, conduct and discipline. Those meeting the requirements that have been set out will be shortlisted and asked to remain while those who do not will be excused.
- All shortlisted candidates will thereafter be subjected to a ballot. Balloting will be done separately for women and men.
- Results of the interview shall be communicated at the end of process by way of publishing in the notice boards.
- All successful candidates shall fill in personal data capture form with all details and provide supporting documents (including PIN, NSSF, NHIF, ID, Valid Certificate of Good Conduct, etc)
- A member of management staff in the Unit / HRD shall post employee personal details in the system and the Head of Department /HRD will sanction.
- The Unit Managers/HRD shall maintain a master record of all contracts detailing among others, the date of employment and end date of the contract. No temporary employee shall be issued with a contract exceeding the maximum period stipulated in the Collective Bargaining Agreement.
- A break of at least three months should separate any two contracts.

### 3.3. Shortlisting of Applications

Following the advertisement deadline, all applications shall be screened and short listed as follows at the end of the closing period.

- **Management Positions:** Short listing of applicants will be done by HRD / Line Managers in liaison with the Head of Department /Executive in Charge of the Division / Managing Director as the case maybe. The minimum requirements for the position shall be the basis of short listing the applicants.
- **Unionisable Positions:** Short listing of applicants will be done by HRD / Line Managers in liaison with the Head of department / Executive in Charge of the Division. The requirements stated in the advertisement for the position shall be the basis of short listing the applicants.

Short listing of candidates shall be guided by the principles of gender equity in addition to other job requirements.

- **Temporary Employees:** Short listing of applicants will be done by the Line Managers in liaison with the HRD. The requirements stated in the advertisement for the position shall be the basis of short listing

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Revision description ( Revision of entire document) ; Appendices numbers							

the applicants as explained in 3.2.2 above. For avoidance of doubt clerical and other unionisable staff will not be involved in the short listing and selection process.

### 3.4. Selection and Appointments

Interviews shall be conducted for advertised unionisable and management positions. Appointments shall be based entirely on merit. In certain situations, affirmative action may be applied during appointments to promote equitable representation of men and women in employment. Wherever possible, the composition of the interview panel should be gender inclusive.

The following procedures shall guide interviews, selection and appointments for unionisable and management positions:

- i. The Managing Director's position shall be determined by the James Finlay London Board of Directors.
- ii. The Executive positions will be interviewed by a panel consisting of at least 3 Executives, one of whom should be a Director and in any case will include the HR Director. The final selection shall be made by the Managing Director.
- iii. The senior Management positions will be interviewed by a panel consisting of at least 3 Senior Management staff one of whom should be the Executive responsible for the department. The interviews may be carried out in two levels, the first level for all short listed candidates and the second level for the most qualified candidates from the first interview. The panel's recommendation shall be sent to the Human Resource Director for appointment.
- iv. The Junior Management positions will be interviewed by a panel consisting of at least 3 Senior Management staff, one of whom should be the manager responsible for the department. The interviews may be carried out in two levels. The panel's recommendation shall be sent to the Human Resource Director for appointment.
- v. The unionisable graded position shall be interviewed by a panel consisting of 3 Management staff one of whom should be a management staff from the department and an HR Manager. The final selection shall be made by the HR Manager and the Line Manager.
- vi. The unionisable ungraded staff shall be selected by a panel consisting of 3 management staff one of whom should be a management staff from the department and HRD representative.
- vii. Potential candidates must declare any family relationships they have with employees of the Company at the time of interviews. Each candidate will be issued with a pre-interview declaration form (appendix 5) for this and other purposes.
- viii. Management staff who bears a relationship with a potential or shortlisted employee shall disqualify himself or herself from participating in the recruitment / interview process, reviewing the interview results or participating in any administrative decision touching on the interviewed candidate.
- ix. After selection, reference checks and authentication of qualifications to verify information shall be done by HRD where necessary.
- x. All selected candidates shall undergo pre-employment medical examination.

### 3.5. Offer of Appointment

- i. The Managing Director shall be appointed by the Board of Directors of James Finlay Limited.

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Recruitment and Selection Policy	27/04/2015	3	10/08/2018	HRMs/GEM	HR Director	Managing Director	10/08/2018
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- ii. The successful candidate(s) shall be offered appointment(s) in writing; Senior Management by the managing Director, Junior Management by Human Resource Director and unionisable staff by Human Resource Managers or Heads of Department . An offer of appointment shall contain such terms as the period of contract, grade, remuneration, conditions of service, fringe benefits, provisions for termination and a specific date within which to indicate acceptance of the offer. All internal appointment letters must be sent per favour of the manager, head of department or executive responsible for the department as the case may be.
- iii. All appointments shall be subject to medical clearance by a medical practitioner designated by the company who will duly complete the standard medical examination entry form (Refer to medical examination policy & its appendices) and submit to Human Resource Director (for management) and unit Managers for unionisable staff.
- iv. Acceptance of an offer of appointment shall be made in writing by the appointee. An offer that has not been accepted within the time specified in the letter of offer shall be deemed to have been rejected, and the next qualified candidate may then be considered for the position, otherwise the position may be re-advertised.
- v. The appointment of an employee shall take effect from the date of reporting to work.
- vi. A recruited employee who bears to another employee the relationship of either: husband, wife, father, mother, son, daughter, brother or sister, should not be assigned to a position that is superior or subordinate to the line of authority to that employee to whom he/she is related. He/she shall disqualify themselves from participating in the process of reaching or reviewing an administrative decision affecting the employee to whom he/she is related. The marriage of one employee to another employee shall not affect the contractual status of either spouse, but their entitlements and other benefits shall be modified in consequence.
- vii. All recruited staff will be taken through an induction process.

### 3.6. Headhunting

Head hunting may be used as method of recruitment. Where this is used, sensitivity of headhunting directly from customers and competitors should be considered to avoid potential conflict. After potential candidate(s) have been identified they will be taken through interview process prior to being appointed as explained in 5.4 and 5.5 above.

### 3.7. Direct Promotions

The Company may fill vacant position through internal promotions. In such situation, the approved minimum skills, education, training and competencies for the position shall be considered. Previous performance ratings shall also be considered. The Executives shall approve all direct promotions. All grading and promotion criteria and procedures will be applied consistently, equitably and free from prejudice.

## 4. CONFIRMATION OF EMPLOYEES

Confirmation of employees shall be done in writing after receiving his/her assessment report from the immediate supervisor using the standard assessment forms at least one week prior to the end of the probation period.

For unionisable employee positions (including temporary employee positions), an employee's assessment rating shall be documented by the line manager using approved standard assessment form.

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## 5. RE-EMPLOYMENT

A former employee may be re-employed provided that the reasons for his/her separation from service are not incompatible with his/her re-appointment i.e. previous dismissal or other issues of concern relating to performance or conduct. For avoidance of doubt former employees whose contracts were terminated shall not be offered re-employment in the company. Prior service shall not prevent competition for a position by a former employee.

A re-employed staff member shall be given the terms and conditions applicable to the role and at the time of re-employment, without regard to any period of prior service.

## 6. INTERNAL TRANSFERS

Internal transfers shall be done objectively in the best interest of the company in line with the provisions in the CBA and transfer guidelines given in (Appendix 6) of this policy.

## 7. INDUCTION

Newly recruited employees will be taken through orientation and induction program in order to help them settle down as soon as possible. A formal program will be followed and supervised in line with the training and development policy. Job descriptions and performance parameters will be provided by the supervisor and discussed in detail with the newly recruited employee.

## 8. UPDATING OF PERSONAL RECORDS

The company maintains records on each employee. To keep our records as current as possible, each employee is required to ensure that their unit managers (for unionisable staff) and Human Resource Director (for management) are advised when changes occur using the prescribed personnel data capture form.

## 9. RECORDS

- a. Staff requisitions.
- b. Copies of advertisements.
- c. Pre-interview details for each candidate.
- d. Interview results.
- e. Offer letter.
- f. Reference letters.
- g. Medical examination report.
- h. Duly filled personal data capture form.
- i. Induction program.
- j. Employee assessment reports.

## 10. REVIEW

This policy may be reviewed from time to time as need arise.

  
Managing Director

Document Name	Issue date	Revision No	Revision Date	Prepared by	Checked by	Approved by	Approval date
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## Appendix 1: Definitions

### 1. DEFINITIONS

- **Recruitment and Selection:** - This is the process of attracting and choosing suitable candidates for employment.
- **Gender Equity:** Refers to the process of being fair both to women and men during recruitment and selection.
- **Temporary Jobs:** This refers to seasonal, term contract or casual jobs. These are jobs whose appointment or term is for a defined period stipulated in the letter of appointment (employment contract).
- **Affirmative action:** This refers to measures put in place to ensure equity in employment and may include setting quotas for women and people living with disabilities etc.
- **E/F/D:** Refers to Estates, Factories and Departments.
- **Interval medical examination:** This refers to medical examinations undertaken during an employee's period of service.
- **Diversity:** Refers to any characteristics that can be used to differentiate groups or people from one another such in terms of race, colour, nationality, gender, ethnic or social origin, religion, and disability.
- **Senior Management staff:** shall mean any person employed at Finlays in grades 9 and above.
- **Junior Management staff:** shall mean any person employed at Finlays in grades 5 to 8SR.
- **Management staff:** shall mean any person employed at Finlays in grades 5 and above.
- **Unionisable staff:** Shall mean any person employed at Finlays and covered by respective Collective Bargaining Agreements. These are graded and ungraded employees.
- **Relationship :** Refers to personal relationships such as husband, wife, father, mother, son, daughter, brother and sister

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Revision description ( Revision of entire document ) ; Appendices numbers							

## Appendix 2: Responsibilities

### 2. RESPONSIBILITIES

#### 2.1. Managing Director

The Managing Director shall:

- Be the principle/accounting officer of this policy.
- Approve staff requisitions and employment for management staff positions.
- Issue of appointment and confirmation letters for senior management positions.

The Managing Director may delegate some of the above responsibilities to the Human Resource Director.

#### 2.2. Human Resource Director

In addition to responsibilities listed under Human Resource Department, the Human Resource Director shall:

- Be responsible for all employment processes in the company and ensure compliance with the policy
- Issue appointment and confirmation letters for junior management positions or as directed by the Managing Director.

#### 2.3. Human Resource Department (HRD)

The HRD will be responsible for:

- Development, review and implementation of guidelines for recruitment
- Approving all staff requisitions and/ or ensuring staff requisitions are approved by the Executives.
- Development of job descriptions for all vacant unionisable and management positions.
- Advise the Executives on availability of internal candidates to fill vacant positions directly through promotions.
- Advertising of vacant positions either internally or externally. However, E/F/D managers in Tea Estates Division shall advertise vacant positions for seasonal employment.
- Headhunting candidates as approved by the Executives
- Ensuring principles of diversity are mainstreamed during the entire recruitment process.
- Short listing of potential candidates in liaison with:
  - Line managers, Group Managers and Heads of the Divisions in recruitment for unionisable positions.
  - Heads of Divisions in recruitment for junior management positions (grades 5 to 8SR).
  - Heads of Divisions and Managing Director in recruitment for Senior Management positions.
- Development and review of required interview documentation recruitment forms.
- Organize and participate in interviewing of all short listed candidates.
- Maintaining a data base of all applicants for unionisable employees and management positions.
- Preparation of interview reports for unionisable employees and management positions.
- Maintenance of interview records and data for unionisable employees and management positions.
- Undertake background reference checks for potential candidates. This include authentication of qualifications at final stage of interviews.

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- Issuance of appointment and confirmation letters for unionisable graded employees and management positions.
- Development and ensuring employee induction programmes are implemented.

#### 2.4. Line Managers

The line managers will be responsible for:

- Declaring and making staff requisitions for all vacant positions.
- Participate in interviewing and / or selecting candidates.
- Mainstreaming the principles of diversity in employment in their units.
- Maintaining a data base of all applicants for advertised positions in liaison with HR Managers.
- Preparing interview reports.
- Maintenance of interview records and data.
- Approving (sanctioning) employees on the ERP system ensuring only correct information checked against originals are entered into the system. Details are as provided in personnel data capture forms.
- Appraising employees during probation period and advice on their performance to facilitate confirmations.
- Development and implementation of employee induction programmes.

#### 2.5. Heads of Departments/Divisions

The Heads Departments /Divisions will be responsible for:

- Approving all unionisable staff requisitions in liaison with Divisional HR Managers.
- Making staff requisitions for Management positions.
- Ensuring employee induction programmes are implemented.
- Appraising management staff during probation period and provide advice to Human Resource Director / Executive In Charge on their performance to facilitate their confirmation to the positions or any other appropriate action.

#### 2.6. Medical Department

The Medical Department shall be responsible for pre-employment, interval and exit medical examinations.

Appendix 3: Management staff requisition form

Appendix 4: Unionizable staff requisition form

Appendix 5: Pre-interview data capture form

Appendix 6: Staff Transfer Guidelines

Appendix 7: Entry medical examination form

Appendix 8: Unionizable employee assessment form

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Recruitment and Selection Policy	27/04/2015	3	10/08/2018	HRMs/GEM	HR Director	Managing Director	10/08/2018
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## APPENDIX 3: MANAGEMENT STAFF REQUISITION FORM (Grade 5 and above only)

- |  | Division | Unit/Department | Job Title | Job Grade |
|--|----------|-----------------|-----------|-----------|
| 1) Division  |          |                 |           |           |
| 2) Number of personnel required  |          |                 |           |           |
| 3) If Promotion requested, please fill in the details on the table below |          |                 |           |           |

Name	Current grade/Position	Previous salary	Current Salary	Proposed grade	Proposed Salary	Remarks /Comments

- |  |   |
|--|---|
| 4) Desired qualification(\$.....)  | When required (Date of Reporting) ..... |
| 5) Preferred number of years of experience.....  |   |
| 6) This requirement is to fill up the vacancy/promotion arising due to:- (tick as appropriate) |   |
| i. Transfer  | v. Termination                          |
| ii. Resignation  | vi. Death                               |
| iii. Retirement  | vii. Growth needs (additional work)     |
| iv. Dismissal  |   |
| viii. Any other needs (specify) .....  |   |
| 7) Please justify the need for additional personnel,   |   |
| 8) Does budgetary provision exist? Yes/No.....   |   |
| If no, give comments .....   |   |

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Requisition approved /not approved

Originating Manager: \_\_\_\_\_ Name ..... Signature \_\_\_\_\_ Date \_\_\_\_\_

Recommended by \_\_\_\_\_  
Name ..... Signature \_\_\_\_\_ Date \_\_\_\_\_

Recommended by HR Director \_\_\_\_\_

Name ..... Signature \_\_\_\_\_ Date \_\_\_\_\_

Managing Director/Approval by Executives

Name ..... Signature \_\_\_\_\_ Date \_\_\_\_\_

Document Name	Issue date	Revision No	Revision Date	Prepared by	Checked by	Approved by	Approval date
Appendix 5 Mgt Staff Requisition Form	30/08/2015	3	01/08/2018	HRMs	HRD	Managing Director	01/08/2018

Date: \_\_\_\_\_

APPENDIX 4: UNIONISABLE STAFF REQUISITION/PROMOTION/ SALARY REVIEW FORM

- 1) Division \_\_\_\_\_ Group \_\_\_\_\_ Unit/Department \_\_\_\_\_
- 2) Number of personnel required \_\_\_\_\_ Job Title \_\_\_\_\_ Job Grade \_\_\_\_\_
- 3) Desired qualification (s) \_\_\_\_\_
- 4) Preferred number of years of experience \_\_\_\_\_ When required (Date of Reporting) \_\_\_\_\_
- 5) If Promotion/ salary review is requested , please fill in the details on the table below;

[illegible]

- 6) This requirement is to fill up the vacancy/promotion arising due to:- (tick as appropriate)


- |  | i.       | ii.         | iii.       | iv.       | v.          | vi.   | vii.                              |
|--|----------|-------------|------------|-----------|-------------|-------|-----------------------------------|
|  | Transfer | Resignation | Retirement | Dismissal | Termination | Death | Growth needs<br>(additional work) |

- viii. Any other needs (specify) \_\_\_\_\_
- 7) Please justify the need for additional personnel. \_\_\_\_\_
- 8) Does budgetary provision exist? Yes/No \_\_\_\_\_  
If no, give comments \_\_\_\_\_

**FOR OFFICIAL USE ONLY**

## Requisition approved /not approved

Originating Manager	Name _____	Signature _____	Date _____
Recommended by Division HR Manager	Name _____	Signature _____	Date _____
Recommended by Head of Department/ Group Manager	Name _____	Signature _____	Date _____
Recommended by General Manager/ Executive	Name _____	Signature _____	Date _____
Approval by HR Director/ Executives	Name _____	Signature _____	Date _____

Document Name	Issue date	Revision No	Revision Date	Prepared by	Checked by	Approved by	Approval date
Appendix 4 Staff Requisition Form	30/08/2015	3	01/08/2018	HRMs	HRD	Managing Director 	01/08/2018
Date: _____							

## Appendix 5: PRE-INTERVIEW DECLARATION / DATA CAPTURE FORM

Date of interview: -----

(a) Position applied for: -----

(b) Personal Details:

Name: ----- Permanent Address: ----- Office Address: -----

----- Telephone/Cell Phone: ----- Date of Birth: ----- Place of birth: -----

Location/Address of current residence: -----

Name(s) and age(s) of child(ren): -----

-----

Spouse: (i). Name: ----- (ii) Current employer: ----- (iii) Telephone/Cell Phone: -----

(c) Educational/Professional Qualifications:

Institution	Name	Date completed	Certificate/Diploma/Degree	Grade
Primary School				
Secondary School				
College(s)				
University(ies)				

(d) Career details:

Period of employment	Employer	Position	Key Responsibilities/Tasks	Achievements and Awards

Document Name	Issue date	Revision No	Revision Date	Prepared by	Checked by	Approved by	Approval date
Recruitment and Selection Policy- Pre-Interview form	27/04/2015	3	10/08/2018	HRMs/GEM	HR Director	Managing Director	10/08/2018
Revision description (Revision of entire document) Pre-interview form, document control feature- Appendix 5							



Period of employment	Employer	Position	Key Responsibilities/ Tasks	Achievements and Awards

(e) Additional employment details:

- (i) State Current employer: \_\_\_\_\_
- (ii) If not employed, state last employer : \_\_\_\_\_
- (iii) Give reasons for change of job/ employer: \_\_\_\_\_

(f) Conflict of interest

- (i) Do you have a relative working for this company? Yes/No \_\_\_\_\_
- (ii) If yes, give his/her name and position: \_\_\_\_\_
- (iii) What is your relationship? \_\_\_\_\_
- (iv) Are you associated with an organization that has dealings with this company? Yes/No \_\_\_\_\_
- (v) If (iv above) is yes, please give details on nature of conflict \_\_\_\_\_

(g) Certificate of good conduct/ clearance

- (i) Do you have valid certificate of good contact Yes/no: \_\_\_\_\_

(h) Please give names of three referees and their addresses/telephone.

- (i) Name \_\_\_\_\_ Address \_\_\_\_\_ Tel \_\_\_\_\_
- (ii) Name \_\_\_\_\_ Address \_\_\_\_\_ Tel \_\_\_\_\_
- (iii) Name \_\_\_\_\_ Address \_\_\_\_\_ Tel \_\_\_\_\_

(i) Declaration:

I \_\_\_\_\_ ID No \_\_\_\_\_ declare that the information I have provided is correct.

Sign \_\_\_\_\_ Date \_\_\_\_\_

Document Name	Issue date	Revision No	Revision Date	Prepared by	Checked by	Approved by	Approval date
Recruitment and Selection Policy- Pre-Interview form	27/04/2015	3	10/08/2018	HRMs/GEM	HR Director	Managing Director	10/08/2018
Revision description (Revision of entire document) Pre-interview form, document control feature- Appendix 5							

## Appendix 6: Staff Transfer Guidelines

### STAFF TRANSFER GUIDELINES

Finlays is endowed with a variety of work locations, units and departments which are varied and are unique in their nature of operations. In line with this vast and diverse nature of the company operations, employees may be deployed to various locations from time to time. It is therefore the management's prerogative to review its human resource pool in terms of available skills, talents & competencies and distribute them across the organization appropriately.

As stipulated in the recruitment policy and the respective CBAs, employees may be transferred from one unit to another. Business needs shall be the primary basis of internal transfer decisions.

#### **1. Objectives for employee transfer**

Transfer of employees presents a variety of benefits to both employees and the company. The following are some of the main objectives;

- i. For employee's growth and development
- ii. To expose employees to new challenges
- iii. Staffing needs and succession planning
- iv. To reduce complacency and negative familiarity
- v. To support Individual employee requests aligned to personal goals
- vi. Management recommendations and affirmative action
- vii. Temporary transfers and lent labour

#### **2. Procedure for transfers**

##### **i. Responsibilities**

###### **a) Unit Manager**

Where transfer is initiated by unit management; Unit Manager will originate the proposal through the Group Manager/ head of department who in liaison with Human Resource Manager will give appropriate recommendation.

Upon approval and receiving of transfer letters, Unit Managers will notify the employee and provide the necessary support towards relocation to the new station.

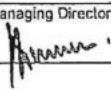
Update or cause the records to be updated by effecting the changes caused by the transfer in the HR management system appropriately.

###### **b) Human Resource Manager**

Human resource Manager for respective division is responsible for instituting and coordination of transfers to ensure objectives are achieved. HR will review transfer requests in line with policies and the existing staff needs/ budget prior to approval of the transfer.

Scheduled/ rotational transfers will be instituted and coordinated centrally through HR office in liaison with unit management.

HR Manager will issue transfer letters with copies circulated to unit management of the affected units and payroll office for information and respective actions.

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Recruitment and Selection Policy	27/04/2015	3	10/08/2018	HRMs/GEM	HR Director	Managing Director 	10/08/2018
Revision description (Revision of entire document) Transfer guidelines New- Appendix 6							

## Appendix 6: Staff Transfer Guidelines

### c) Executives

Approval of transfers - Executive for respective divisions will provide guidance on the transfer requests/proposals and approve transfers. Junior and Senior Management levels of staff will be subject to approval by the Division Executive, the Human Resource Director and Managing Director.

### d) Payroll team

It is the responsibility of payroll assistant to ensure payroll changes initiated by the transfers are effected appropriately in the payroll.

### ii. Temporary transfers and Lent labour

Where business units or divisions require temporary deployment of staff in line with skills and other workforce needs, Unit managers will initiate the request for approval by the Head of department / Group Manager in consultation with HR Manager.

Temporary transfers and lent labour should not exceed three months continuous period however if the job requirements require extension it will be subject to executive approval otherwise the transfer should be formalised.

Lent labour should be on temporary basis only.

### iii. Notification and Notice period

For purposes of planning and psychological preparedness, scheduled transfer of employees will be notified one month prior to the effective date of transfer in line with the CBA. In case of emergency and other urgent circumstances where the notice period is not practicable, shorter notice will be given however the transferee will be facilitated to ensure smooth transition is realised and minimize disruption.

Where Union shop stewards are affected, the branch secretaries will be notified for purposes of planning for representation in the area left by the representative.

The employee must handover his/her work and company items in their possession using standard clearance forms prior to relocation.

### iv. Relocation and housing

Management will facilitate movements for employees who have been transferred. Housing will be organized by management to facilitate a faster and smooth settling down of the employee transferred.

### v. Documentation

All transfers will be in writing directly to the employees affected. Employee's personal and employment record/files will be moved to their new station. Any changes arising from the transfer will be stated in writing and kept in the personal file.

### vi. Non-compliance

Violation of this guideline is subject to disciplinary measures as per the disciplinary policy.

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Recruitment and Selection Policy	27/04/2015	3	10/08/2018	HRMs/GEM	HR Director	Managing Director	10/08/2018
Revision description (Revision of entire document) Transfer guidelines New- Appendix 6							



## GRIEVANCE HANDLING POLICY

### 1. Introduction

The James Finlay (K) Limited (Finlays) Grievance handling policy aims to reinforce the company's commitment to being an ethical and socially responsible organization that endeavors to continually provide a conducive working environment where all persons can pursue their duties and activities to the best of their potential, in an environment characterized by peaceful coexistence free from any form of coercion, unfair treatment, violence, harassment, bullying, intimidation, sexual abuse, threats, verbal, physical or psychological mistreatment.

This policy provides employees and third parties with an easily accessible structured grievance resolution process thus ensuring that fairness and promptness is applied equitably in all cases.

This policy shall be read, and guidelines applied in conjunction with the Code of Conduct, Collective Bargaining Agreements (CBA), disciplinary policy, Harassment and Sexual Offences Policy and all other policies and procedures passed by the company from time to time.

### 2. Scope and Purpose

This policy shall apply to all employees of Finlays and third parties.

The purpose of this policy is to provide a mechanism for aggrieved employees and third parties to seek redress for any form of perceived grievance. This includes the process of reporting and closing the grievance, confidentiality, monitoring and taking disciplinary action where applicable.

This policy alongside the disciplinary policy shall provide a procedural framework to be applied consistently and equitably to all employees and third parties

This policy shall not apply to rules, disciplinary decisions, grievances, or procedures relating to health and safety in the workplace.

The policy prohibits retaliation for reporting a grievance or cooperating with related investigation provided that the grievance is reported in good faith and where the aggrieved reasonably believes that the allegations are substantially true. If a grievance is made recklessly, maliciously or is raised for personal gain then the same may constitute a disciplinary offence and the disciplinary policy shall be invoked.

### 3. Definitions

For the purpose of this policy the following definitions shall apply:

**Grievance:** Any concern, problem, complain or feeling of personal injustice and/ or unfair treatment / discrimination, harassment, or any form of sexual offences on any ground, including work-related race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, disability, or birth whether real or imagined raised by an employee or any third party.

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Grievance Handling Policy/Procedure	27/04/09	5	18/08/2022	MDI, HRMs & MLS	HR Director	Managing Director	7.9.2022
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Julian Rutherford<sup>a</sup> Darren Edwards<sup>a</sup>  
Daniel Kirui<sup>a</sup>  
(<sup>a</sup>British <sup>\*\*</sup>Kenyan)

A grievance may be because of an act of omission, commission or situation or decision that an employee perceives as unfair, discriminatory, or unjustified.

Grievances can arise out of unlawful termination/dismissal, heavy handedness by management, favoritism, bribery, unfair suspension, or failure to pay rightful dues.

**Aggrieved party** A person feeling wronged due to an act of omission or commission which results from perception of unfair or undignified treatment or unwelcome sexual advances or acts of sexual nature.

**Community** A group or groups of people living around the Company both in Kericho and Bomet Counties.

**Employee Representative** Include either/or a Union Representative, Gender and Welfare Committee Representative or any other person within the organization nominated by the employee to represent them.

**Reporting officer** Any person as may be designated by management from time to time to handle any incidence/grievance under this policy. These may include employee representatives, supervisors, Welfare Assistant, Estate/Factory/Department managers, Head of Department, Human Resource Manager.

**Supervisor** A person who in a work structure, an employee reports to directly and/or has authority over the employee.

**Third parties** Include but are not limited to dependents of employees, clients, suppliers, contractors, contractor employees, students on attachment at Finlays, volunteers, service providers, business community, visitors and all other persons working and/or carrying out any business with Finlays.

#### 4. Guiding Principles

**Fairness and non-discrimination** as provided for in the Gender Equality and Diversity Policy shall be upheld when dealing with all forms of grievances. The following shall be considered.

**Mutual Respect and Dignity** Finlays takes note of the fact that a formal grievance procedure can be stressful and upsetting hence shall endeavor to treat all employees and third parties involved with respect and dignity. Finlays in turn expects all persons who make a complaint to communicate their concern fairly and appropriately.

**Confidentiality** Complaints shall be kept as confidential as practicable during the whole process from registering of report, investigation to closure, it shall be communicated only on a need-to-know basis.

**Timeliness** All cases shall be acted upon promptly and appropriately. Feedback to the complainant shall not exceed 14 days upon receipt of the complaint.

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**Accessibility** Multiple channels of registering/reporting complaints shall be provided, these include telephone call, short message system (SMS), email, letters, or verbally through the Estate / Factory / Department (EFD). Manager or Welfare assistant or village/gender committee.

**Conflict of interest** A member shall disqualify self from sitting in the grievance committee where the relation or involvement will compromise their judgement such conflict must be declared in the provided conflict declaration form, Appendix III.

## 5. Responsibility

- a. The aggrieved is responsible for:
  - Reporting the complaint or grievance to the Reporting officer within their EFD.
  - Providing all the relevant factual information to the Reporting Officer.
  - Cooperating with whoever is assigned to handle the matter
- b. The Reporting Officer is responsible for
  - Accepting and promptly investigating the grievance.
  - Depending on the nurture of the complaint, organize mediation meeting with appropriate parties in consultation with the Human Resources Department
- c. The Executive / Head of EFD /Unit Manager / HR Manager is responsible for:
  - Chairing the committee constituted to listen to the grievance.
  - The appointment of an adhoc grievance committee consisting of at most 5 members,
    - The committee must have technical knowledge on the grievance at hand as well as technical knowledge on grievances.
    - The committee must sign confidentiality agreement and declare conflict of interest before commencing the grievance process.
    - The committee shall endeavor to meet the 2/3 gender rule in their composition and must be gender inclusive in all their deliberations and decisions.
    - The Grievance committee shall include at least one workers' representative.
  - Provision of feedback to the aggrieved about what can, and cannot be done to resolve the grievance, and give recommendation for further action or follow up.
  - Maintenance an accurate record of the grievance
- d. The Grievance committee is responsible for:
  - Ensuring that grievances are dealt with effectively and efficiently while ensuring fairness, no bias or prejudice, confidentiality and treatment with dignity and respect.
  - Depending on the nature of the complaint and in consultation with the Human Resource Department, the grievance committee Shall implement the corrective or preventive measure/action and communicate to the aggrieved the resolution/action taken.
  - While maintaining confidentiality investigate and analyze the facts and surrounding circumstances and come up with a practical solution to the complaint at hand.
  - The remedial process shall be free, fair, and impartial.
  - The Committee shall adhere to the following principles.
    - Providing a conducive environment for the aggrieved to present their grievance/complaint
    - Remain firm and impartial in all undertakings.

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- Ensure dignity and respect of all persons is upheld throughout the process.

## 6. Grievance Handling Procedure

### Filing a complaint

The Aggrieved party can file complaints / grievances through the following channels freely:

- Directly in person/as a group.
- Through a signed letter / memorandum.
- Filling in of complaint /grievance form (Appendix I)
- Anonymously (whistle blowing)

### a. Informal Complaints

Will be resolved initially through a mediation process, where this fails then a formal process shall be invoked this involves the aggrieved filling in the complaint/grievance form (Appendix I) or signing a written statement

### b. Formal Complaints

The following is the standard procedure for resolving a formally reported complaint/grievance: The complaint may be reported individually or by a group through a signed letter/ memorandum/signed grievance/complaint form.

## A. INDIVIDUAL GRIEVANCE PROCEDURE

At all stages of the Grievance Handling Procedure, the aggrieved/accused party may be present at the request of either party.

### Stage 1

The aggrieved party wishing to put forward grievance(s) in which he/she is directly concerned will take up the matter in the first instance with his/her immediate Supervisor or, alternatively with the immediate manager of the EFD. The immediate

Supervisor will review the matter causing the grievance and give his/her feedback/decision to the aggrieved within two (2) days.

### Stage 2

If the aggrieved party is not satisfied with the feedback/decision of his/her immediate Supervisor or manager, he/she will report the matter to the Unit's Employee Representative within one (1) day where applicable. The Employee Representative will investigate the grievance. This does not apply for management staff; they report their dissatisfaction to the next supervisor as provided for in stage 3,4 &5.

If the Employee Representative finds that the grievance is not genuine, he/she will advise the employee accordingly and the matter will end there.

If, however he/she finds merit in the grievance, he/she will lodge the issue with the aggrieved 's immediate Supervisor or manager within two (2) days for re-evaluation of his/her earlier decision. The immediate/Supervisor manager will communicate his/her decision to the Employee Representative and the aggrieved party within two (2) days.

### Stage 3

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If the aggrieved party is not satisfied with the decision of the immediate Supervisor/manager, he/she will report the complaint to the Head of Department/Group Manager/Human Resource Manager within one (1) day of receipt of the decision. The Group Manager/Head of department will investigate the grievance and institute an adhoc Grievance Committee consisting of five members depending on the technicality of the issue /problem who will listen to the grievance. The Group Manager/Head of Department shall then communicate their decision to the employee in the presence of the Employee representatives and or Union representative (where applicable) within two (2) days.

#### Stage 4

If the aggrieved party and the employee representatives are not satisfied with the decision of the Group Manager/Head of Department/Human Resource Manager and by extension the Grievance Committee, the aggrieved party will report the matter to the General Manager/ Executive in Charge/ Human Resources Director within two (2) days of receipt of the decision. The General Manager/Executive in Charge/Human Resources Director will investigate the grievance and communicate the decision to the aggrieved party in the presence of a witness appointed by the aggrieved party or employee representatives, within five (5) days.

#### Stage 5

If the aggrieved party is not satisfied with the decision of the General Manager/ Executive in Charge / Human Resource Director, the employee will report the grievance to the Managing Director who will investigate the grievance and communicate the final decision on the matter.

#### Timelines to resolve grievances:

The aim of specifying timelines is to enable efficient process of resolving grievances however, in case the feedback/ solution is not ready within the provided timeframe, the supervisor will advise the employee of the same citing reasons and agree on a reasonable timeline respectively.

In addition to an employee's individual grievances, there may arise collective grievances or claims directly affecting entire group of employees.

#### **B. COLLECTIVE GRIEVANCE PROCEDURE**

Grievances involving a single company department, or a single section will be handled through as explained below.

#### Stage 1

In such cases if the matter affects only a single Company Department or a single section the matter shall be reported to the employees' representatives of the unit. If Employees' Representatives deem the grievance to be genuine, then the representatives shall take up the matter with the Unit Manager/Head of Department, / Group Manager / Human Resource Manager who shall investigate the grievance and where practicable institute an adhoc Grievance Committee to listen to the grievance. The Unit Manager/Head of Department, / Group Manager/Human Resource Manager or Grievance committee shall then communicate to the Employee representatives (within 5 days or receipt of the

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grievance) who will in turn communicate the feedback to the concerned group of employees within two (2) days of receiving the feedback.

### Stage 2

If the employees concerned and the relevant Employee Representatives are not satisfied with the decision of the Unit Manager/Group Manager/Head of Department/ Human Resource Manager / Grievance committee the matter shall be reported to the Executive in Charge of the Division who will investigate the grievance and will communicate the decision to the concerned employees through the Unit Manager/Group Manager/Head of Department/Human Resource Manager within three (3) days

### Stage 3

In the event of failing to reach a settlement through the above stages, the employees and their representatives shall report the matter to the Human Resource Director/ Managing Director who shall investigate the issue and communicate the final decision through the Executive in Charge/Group Managers /Head of Human Resources/Heads of Departments within seven days (7).

Alternatively, if the matter affects the Company as a whole, the Employee Representatives shall take up the matter with the Human Resources Director who will investigate the matter or constitute a grievance committee to deliberate on the issue. Whichever the case, the decision will be communicated by the Human Resources Director within 5 days.

If the matter is not resolved, the issue shall be referred to the Managing Director and communicated to the aggrieved employees within five (5) days. The Managing Director's decision shall be final.

In the event of failure to resolve the grievances through the internal grievance handling machinery the aggrieved employee/employees may refer the matter to the Branch Secretary of the union and /or the Ministry of labor and Social Protection.

### C. ANONYMOUS COMPLAINTS / GRIEVANCE PROCEDURE

Employees are at liberty to submit complaints / grievances anonymously to any authority in the company or through anonymous line 0717744149/ whistleblowing line as provided for in the Whistleblowing Policy and Procedure/suggestion / complaints boxes. All anonymous complaints / grievances will be documented, verified through investigations and appropriate action taken (See Flowchart - Appendix I: Grievance Procedure Flowchart)

### D. COMMUNITY GRIEVANCE PROCEDURE

The community are at liberty to report any complain /concern regarding Company activities or operations which may be deemed to have a negative impact on the community through either writing/ verbal communication to the corporate affairs office.

The Executive in charge of the corporate affairs will report the same to the Managing Director and an Executive committee deliberation will be undertaken within 2 weeks of receipt of the report.

The Executive in charge of Corporate Affairs will communicate the Executive Committee's feedback to the concerned individual or community within 3 weeks of receipt of the report. Where the aggrieved community are not satisfied with the resolution offered by

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the Company, the Company shall engage with the respective government department/agency in charge of the area where the concern/complaint arose and undertake a joint assessment on the issue raised.

The assessment report and recommendations therein shall form the basis of the final resolution offered to the community.

### Records

The unit manager/grievance committee must ensure that the following set of records is kept for any matter attended to.

- Written grievance statement
- Complaint/grievance form (appendix II)
- Anonymous complaint summary.
- Action taken with reasons.
- A written statement of the decisions

Human Resources department shall be responsible for proper filing and safe keeping of records.

### Confidentiality

All persons/members involved in handling grievances including employees, HR managers, welfare Assistant, unit managers, record keeping/filing clerks etc. must always be bound by the duty of confidentiality. They must not discuss the case or disclose any information/materials/documentation they hold in confidence with any other persons who are not directly involved in the grievance.

### Learning and Improving the Practice

A key part of the grievance process is to identify any issues that needs to be addressed in our business operation so that similar problems /situation do not arise. It is the responsibility of the Unit Manager to conduct a root cause analysis and bring to the attention of the EFD head the learnt outcomes.

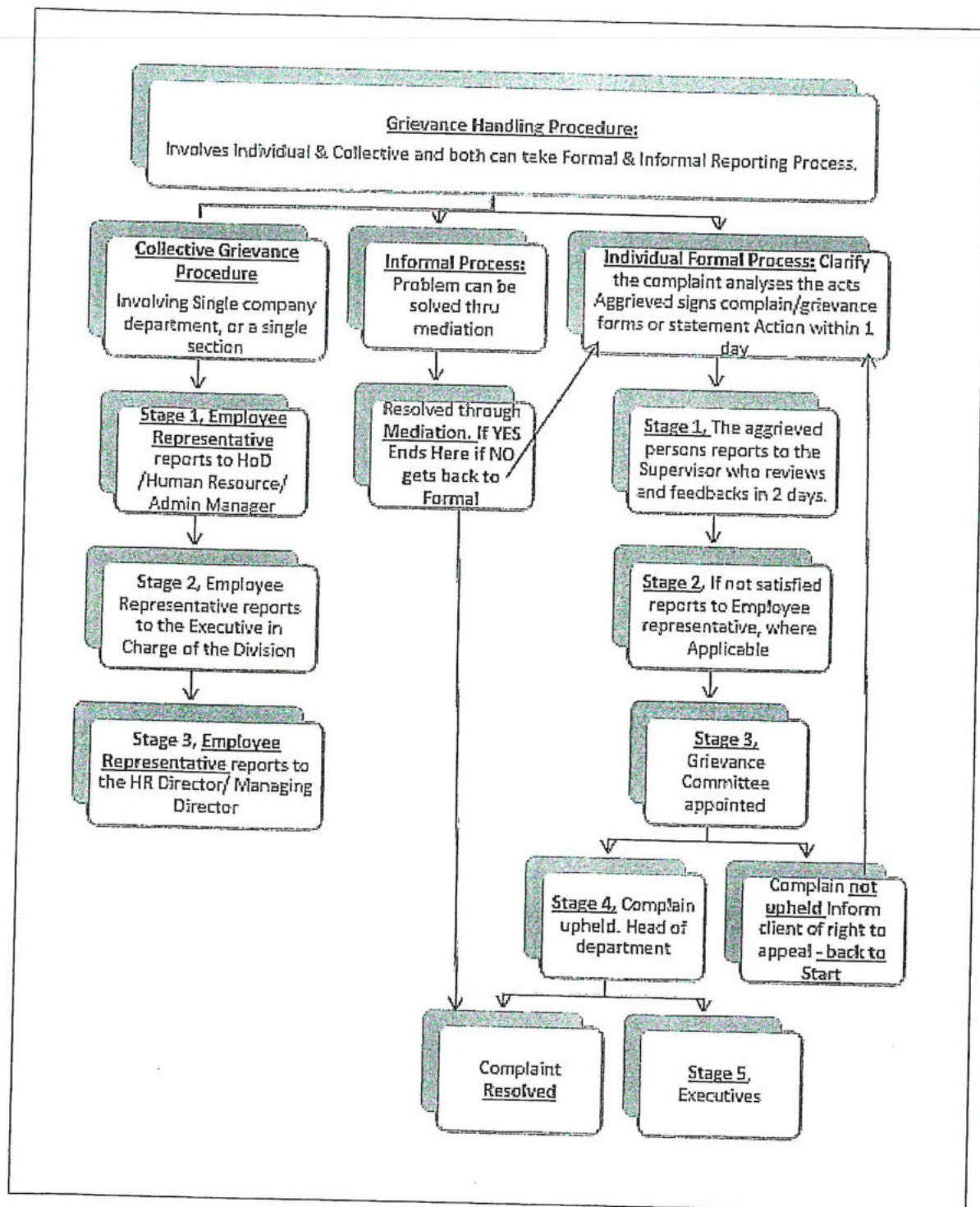
### Review

This policy will be reviewed from time to time on a need basis.

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## APPENDIX I: GRIEVANCE PROCEDURE FLOWCHART



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## APPENDIX II: GRIEVANCE / COMPLAINT FORM

Name of aggrieved party.....

Employee/Third party ..... Business Unit:

Date: .....

Aggrieved party's manager (where applicable) .....

Aggrieved party's representative (where applicable) .....

Nature of grievance.....

.....

Requested settlement .....

.....

.....  
Signature of Immediate Superior

.....  
Signature of Employee

.....  
Signature of Representative

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### APPENDIX III: CONFLICT DECLARATION FORM

Employee's name : .....

Date: ..... Business ..... Unit: .....

Employee's manager .....

Employee's representative.....

I, ..... (employee's name) ..... declare that I have no/ I have **familial relationship**, or I have no/I have **actual bias** against the aggrieved nor interest in the outcome of the aggrieved case. (Tick as appropriate)

No.	Counter Party	Nature of Conflict
1.		
2.		
3.		

.....  
Signature of Immediate Superior

.....  
Signature of Employee

.....  
Signature of Representative

**NOTE:** This form is to be filled in by the members of the grievance committee prior to handling a grievance.

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Gender Committee		
NAME	PR.NO.	UNIT
Eric Cheruiyot	HR Manager	Central Services
Edward Rotich	Welfare assistant	Central Services
George Oketch	Artisan	Central Services
Sharon Cherotich	Clerk	Central Services
Winnie Chebet	Operator	Central Services
Failleth Mayore	Jmgt	Central Services
Agnes Chemutai	General Worker	Central Services
Richard Ngetich	Clerk	Central Services
Erick Cheruiyot	Mechanic	Central Services
Hillary Bett	Mechanic	Central Services
Caroline Chemutai	Driver	Central Services
Paul Chepkwony	Clerk	Central Services
Sileh Kibet	Security	Central Services
Nahum Jepkoech	Clerk	Central Services
Joyce Langat	Electrician	Central Services
Nelson Siele	Security	Central Services
Peter Tonui	HR Assistant	Tea Extracts
George Awiti Oyareh	Welfare Assistant	Tea Extracts
Margaret Tuei	Security supervisor	Tea Extracts
Benjamin Koech	Packaging	Tea Extracts
Julius Owino	Operator	Tea Extracts
Hellen Chesiele	Driver	Tea Extracts
Joyce mwango	Clerk	Tea Extracts
Harrison Lee	Operator	Tea Extracts
Kipyegon Mibei	Clerk	Tea Extracts
Jacob Bosuben	Lab analyst	Tea Extracts
Phoebe Manono	Operator	Tea Extracts
Raphael Odongo	Supervisor	Tea Extracts
Amos Kirui	Artisan	Tea Extracts
Betty Kibaliach	Senior Human Resource	Botanicals
Edward Rotich	Welfare	Botanicals
Benard Korir	Admin Asst.	Botanicals
Hassan Rotich	HR- Security	Botanicals
Evaline Chelangat	Production	Botanicals
Benard Maswari	Production	Botanicals
Margaret Koskei	Withering	Botanicals
Eucabeth Nyagaka	Production	Botanicals
Willy Tonui	Factory Manager	Tea Estates
Lorna Chelangat	Welfare Assistant	Tea Estates
Joseph Mursi	Factory Assistant Manager	Tea Estates
Betty Cheptonui	Quality Assurance	Tea Estates
Roselyne Cherop	General worker	Tea Estates
Mercy Cheron	General worker	Tea Estates
Benard Chepkwony	General worker	Tea Estates
Evanson Chepkuto	General worker	Tea Estates
Evaline Chepngeno	General worker	Tea Estates
David Koskei	General worker	Tea Estates
Samwel Ouma	General worker	Tea Estates
Astone Mboiya	General worker	Tea Estates
Danish Opiyo	General worker	Tea Estates
Patrick Opama	General worker	Tea Estates
Vincent Rono	General worker	Tea Estates
Sammy Koech	Senior Estate Manager	Tea Estates
George Awiti	Welfare Assistant	Tea Estates
Alice Chepkwony	Driver	Tea Estates
David Rono	TMH Operators	Tea Estates
Tom Onsando	TMH Operators	Tea Estates
Lily Cheron	TMH Operators	Tea Estates
Winnie Chepkemai	TMH Operators	Tea Estates
Evans Ngeno	Loaders lorry/tractor	Tea Estates
Peter Nyongesa	TMH Operators	Tea Estates
Joshua Obukosia	Supervisor	Tea Estates
Victor Sikowo	General Worker	Tea Estates
Evans Kanisa	General Worker	Tea Estates
Shadrack Limo	General Worker	Tea Estates
Linner Korir	General Worker	Tea Estates
Margaret Mosobo	General Worker	Tea Estates
Askah Chepkemai	Supervisor	Tea Estates

Beatrice Kayi	General Worker	Tea Estates
Mercy Chepkorir	General Worker	Tea Estates
Hassan Wawire	Estate Assistant	Tea Estates
Oscar Too	Estate Assistant	Tea Estates
Samwel Sang	Senior Estate Manager	Tea Estates
Patrick Korir	Assistant Manager	Tea Estates
Cherono Joyce	Office Assistant	Tea Estates
Simotwo Winnie	Leaf Sorters TMH	Tea Estates
Nahashon Too	Senior Estate Manager	Tea Estates
Daniel Rono	Ass. Estate Mgr	Tea Estates
Hellen Tirop	Estate Assistant	Tea Estates
George Gesora	Estate Assistant	Tea Estates
Leonard Kiprono	Nurse	Tea Estates
Margaret Jebet	Welfare Assistant	Tea Estates
Rose Chepkoech	Office Asst	Tea Estates
Jared Agwenyi	TMH	Tea Estates
Eunice Olukutukei	SORTER	Tea Estates
Margaret Moraa	SORTER	Tea Estates
Benard Onderi	TMH	Tea Estates
Margret Kerubo	SORTER	Tea Estates
Stephen Okayo	TMH	Tea Estates
Caroline Chelangat	SORTER	Tea Estates
Dennis Mutai	TMH	Tea Estates
Vincent Ochieng	TMH	Tea Estates
Jonathan Makerer	Senior Estate Manager	Tea Estates
Andrew Kilach	Ass. Estate Mgr	Tea Estates
George Gesora	Estate Assistant	Tea Estates
Hellen Tirop	Estate Assistant	Tea Estates
Susan Beteta	Welfare Assistant	Tea Estates
Sammy Sang	Senior Estate Manager	Tea Estates
Sammy Mutai	Factory Manager	Tea Estates
Kenneth Chepkwony	Assistant Manager	Tea Estates
Wesley Ngetich	Assistant Manager	Tea Estates
Victoria Cherotich	Welfare Assistant	Tea Estates
Milka Musasula	Discharging	Tea Estates
Sammy Rugut	Electrical	Tea Estates
Thomas Karanja	Withering	Tea Estates
Edna Sigei	Graded	Tea Estates
Philomena Wanyoike	Welfare Rep.	Tea Estates
Dickson Kibanze	Quality Control	Tea Estates
Kipsang Rono	Packing	Tea Estates
Wycliffe Otunga	Boiler/Driers	Tea Estates
Dorothy Chebet	CTC	Tea Estates
Richard Rugut	Sorting	Tea Estates
Patrick Keter	Village Elder	Tea Estates
David Rutto	Security	Tea Estates
Jonathan Makerer	Senior Manager	Tea Estates
Susan Bateta	Welfare Assistant	Tea Estates
Francis Kiplagat	Assistant Manager	Tea Estates
Kenduiyo Bett	Counsellor	Tea Estates
Gloria Chebet	QCS	Tea Estates
Rose Chepkoech	General worker	Tea Estates
Jacob Nyabuto	General worker	Tea Estates
Jedidah Andati	Competent Person	Tea Estates
Benard Rono	General worker	Tea Estates
Japheth Rono	General worker	Tea Estates
Everlyne Ombati	General worker	Tea Estates
Beatrice Choge	Manager	Tea Estates
Victoria cherotich	Welfare Assistant	Tea Estates
Bernard Sigei	A/Manager	Tea Estates
Diana Jerop	Acting Driver	Tea Estates
Caleb Akoth	TMH Operator	Tea Estates
Beatrice Chepkoech	TMH Operator	Tea Estates
Joseph Cheruiyot	E/Assistant	Tea Estates
Mark Ochieng	Chemical Spray	Tea Estates
Dominic Kirui	TMH Operator	Tea Estates
Francisca Barasa	Wachman	Tea Estates
Nixon Cheruiyot	Plumber Mate	Tea Estates
Henry Abuta	Factory Manager	Tea Estates
Sharon Chirchir	Assistant Factory Manager	Tea Estates
Susan Bateta	Welfare Assistant	Tea Estates

Kenduiywo Bett	Counsellor	Tea Estates
Vivian Chelagat	Quality Control Assurance Assistant	Tea Estates
Risper Achieng	Driers	Tea Estates
Bernard Mumali	Sorting	Tea Estates
Joan Matsisa	Rolling	Tea Estates
Moses Koech	Packing	Tea Estates
Jackline Cherotich	Boiler	Tea Estates
Winnie Chepkemoi Koech	Rolling	Tea Estates
Sophia Miriam	Discharging	Tea Estates
Charles Kirui	Rolling	Tea Estates
Margaret Kadesa	Withering	Tea Estates
Collins Maritim	Machine Operator	Tea Estates
Edwina Anyango	General Worker	Tea Estates
Scolastica Jemitei	Leaf Quality	Tea Estates
Loice Bartai	General Worker	Tea Estates
Phibean Kangor	General Worker	Tea Estates
Michael Onyango	General Worker	Tea Estates
Emmy Chepkorir	General Worker	Tea Estates
Ogembo Victor	General Worker	Tea Estates
Jesca Cherotich	Quality Assurance Assistant	Tea Estates
Bernard Cheruiyot	Assistant Factory Manager	Tea Estates
Dorothy Mukio	Factory Manager	Tea Estates
Lenah Mokeira Kennedy	Leaf Sorter	Tea Estates
Leonard Kipkorir Yegon	TMH Operator	Tea Estates
Loise Chepngetich	Leaf Sorter	Tea Estates
Charles Odhiambo Okeyo	TMH Operator	Tea Estates
Fredrick Kibii Koech	Security Guard	Tea Estates
Kirui Kipkorir Jonah	TMH Operator	Tea Estates
Emmy Chemutai	Estate Carpenter	Tea Estates
Joseph Cheruiyot Laboso	TMH Operator	Tea Estates
Samson Odhiambo	EHS Champion	Tea Estates
Alphiner Kirui	Community Nurse	Tea Estates
Faith Koech	Leaf Sorter	Tea Estates
Victoria Cherotich	Welfare Asst.	Tea Estates
Jacob Ruto	Senior Estate Manager	Tea Estates
Andrew Tanui	Estate Asst.	Tea Estates
Leornard Kutoyi	General Worker	Tea Estates
David Opaelo	General Worker	Tea Estates
Joyce Khayanje	General Worker	Tea Estates
Beatrice Chepngeno	Security	Tea Estates
Fred Otieno	General Worker	Tea Estates
Joseph Wafula	General Worker	Tea Estates
Grace Kemunto	Security	Tea Estates
Jacob Warega	Security	Tea Estates
Reuben Rono	Nurse	Tea Estates
Langat Kipngetich	Estate Assistant	Tea Estates
Caroline Bett	Assistant Manager	Tea Estates
Lornah Chelangat	Welfare Assistant.	Tea Estates
Caroline Chepkwony	Asst. Estate Manager	Tea Estates
Philip Nyasinga	Welfare Assistant	Tea Estates
Isaiah Korir	Estate Assistant	Tea Estates
Cosmas Bii	Estate Assistant	Tea Estates
Eizabeth Terer	Clerk	Tea Estates
Julius Onsando	Qcs	Tea Estates
Kalia Josphine	Quality Control	Tea Estates
Dickson Ambale	carpenter	Tea Estates
Chepkoech Betty	Mason	Tea Estates
Omukata Nancy	MTH -Valiant	Tea Estates
Ngeno Reuben	TMH	Tea Estates
Walter Otieno	Quality Control	Tea Estates
Margaret Ayonka	General worker	Tea Estates
Chelule Joseph	SOH Operator	Tea Estates
Andrew Kilach	Assistant Manager	Tea Estates
Sheila Cheptoo	Welfare Assistant	Tea Estates
Julius Ngetich	Estate Assistant	Tea Estates
Edna Towett	Estate Assistant	Tea Estates
Zakaria Kimaiyo	sprayer	Tea Estates
Charles Omuse	Tmh operator	Tea Estates
Albert Mibei	security guard	Tea Estates
Karen Chepkorir	security guard	Tea Estates
Josphine olando	Leaf sorting	Tea Estates

Peter Ondeyo	Tmh operator	Tea Estates
Gideon Rogito	Bagmen	Tea Estates
Jane Gesare	security guard	Tea Estates
Irene Rotich	office assistant	Tea Estates
Regina Mutai	Asst. Research Manager	Tea Estates
Vincent Kiprotich	Supervisor	Tea Estates
Milcah Mbija	Clerk	Tea Estates
Hellen Soi	TGL	Tea Estates
Ezekiel Koech	TGL	Tea Estates
Chepngetich Too	TGL	Tea Estates
Emily Keya	TGL	Tea Estates
Erick Ngetich	Driver	Tea Estates
Joash Kipkurui	TGL	Tea Estates
Susan Chepngeno	Clerk	Tea Estates



Shop Stewards

NAME	ROLE	UNIT
John Nyariki	Driver	Central Services
Lawrence Lorit	Plant Operator	Central Services
Alfred Shiundu	Mechanic	Central Services
Geoffrey Daraja	Firewood	Central Services
Tom Okoth	General work	Central Services
Samwel Okoth	Painter	Tea Extracts
Benson Cheruiyot	Supervisor	Tea Extracts
Hellen Chebet	Supervisor	Tea Extracts
Isaac Masese	General work	Tea Extracts
Kiplangat Rotich	Operator	Tea Extracts
Rose Kalika	Production	Botanials
Gideon Kirui	Production	Botanials
Sabina Chebii	Production	Botanials
Geoffrey Rotich	R & D	Botanials
Leonard Mulamba	HR- Security	Botanials
Lawy Kemboi	Production	Botanials
Paul Jokongo Otieno	Acting supervisor	Tea Estates
Namili Kwamboka Omoke	Supervisor	Tea Estates
Edward Vincent Wanyonyi	General worker	Tea Estates
Meshack Kipng'etich	General worker	Tea Estates
Roselyne O. Ameyo	General worker	Tea Estates
Otieno Denis	TMH Operator	Tea Estates
Parton Mogita	TMH Operator	Tea Estates
Davis Toel	TMH Operator	Tea Estates
Repha Magomere	General worker	Tea Estates
Serina Nyambeki	General worker	Tea Estates
James Wafula	Kando supervisor	Tea Estates
Erick Omondi	General Worker	Tea Estates
Nancy Nasimiyu	General Worker	Tea Estates
Andrea Opole	General Worker	Tea Estates
Walter Otieno	Quality Control	Tea Estates
Dickson Ambale	Carpenter	Tea Estates
Jairus Simiyu	TMH Operator	Tea Estates
Kodek Mayeka	Carpenter	Tea Estates
Joyce Sarange	Security	Tea Estates
Vincent Mohamed	TMH	Tea Estates
Jones Odhiambo	Team leader	Tea Estates
Christopher Koskei	Driver	Tea Estates
Evans Nyangeri	Security Guard	Tea Estates
Jane Chebichi	Security Guard	Tea Estates
James Amuli	TMH Operator	Tea Estates
Charles Nyabane	TMH Operator	Tea Estates
Wesily Langat	Turnboy	Tea Estates
Julius Mogere	General Worker	Tea Estates
Edward Kipsang	Quality Supervisor	Tea Estates
Felix Onyango	Machine Operator	Tea Estates
Margaret Mosobo	General Worker	Tea Estates
Gladys Masika	General worker	Tea Estates
Renice Ogada	General worker	Tea Estates
Samuel Cheruiyot	Estate Roads	Tea Estates
Lucas Ogolla	TMH Operator	Tea Estates
Robert Tonui	TMH Operator	Tea Estates
Wycliff Madaga	TMH Operator	Tea Estates
Evans Marata	General worker	Tea Estates
Joshua Omari	General worker	Tea Estates
Benard maina	Supervisor	Tea Estates
Peter Machuki	General worker	Tea Estates
Emily Kwamboka	General worker	Tea Estates
Geoffrey Maritim	General worker	Tea Estates
Dennis Odhiambo	Leaf Clerk	Tea Estates
Willes Otieno	General worker	Tea Estates
David Rutto	General worker	Tea Estates
Gordon Abwajo	General Worker	Tea Estates
Pamela Mkanya	General Worker	Tea Estates
Henry Joshua	General Worker	Tea Estates
Beatrice Obuya	General Worker	Tea Estates
Sum Pius	Packing Export	Tea Estates
Murwa Petro	Driers	Tea Estates



## DISCIPLINARY POLICY

### 1. POLICY STATEMENT, PURPOSE AND SCOPE

The company upholds the principle and intent of the Labour laws; those employers and employee should treat each other with mutual respect. The Company recognises equally the core values of employment justice and the efficient operation of the business. No employee shall be subjected to arbitrary action and the company is entitled to satisfactory conduct and work performance from all its employees. Where this fails the company reserves the right to initiate a formal disciplinary procedure in the interests of consistency and fairness to all staff and to achieve this, the company will enforce its rules and regulations within the framework of the Recognition Agreement, Collective Bargaining Agreement and Labour Legislation. This policy applies to all unionisable employees.

### 2. DEFINITIONS

**Recognition Agreement** is an agreement between the employer and the union acknowledging Kenya Plantation Agricultural Workers Union as a representative of the workers interests. This agreement regulates the relations between the union and the company in the interest of unionisable employees and the company.

**Collective Bargaining Agreement (CBA)** is an agreement negotiated, agreed, and registered every two years between the recognized union and the Company on the terms and conditions of service for unionisable employees.

**Supervisor** for the purpose of this policy refers to any person(s) in authority higher than the person being discipline. This may be one level or higher in the hierarchy.

### 3. RESPONSIBILITIES

The employee is responsible for:

- a. Adhering to the set Company rules and regulations
- b. Adhering to the provisions of the Collective Bargaining Agreement and Recognition Agreement.

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Disciplinary policy/procedures	27/04/09	5	30/09/2021	HRMs	HR Director	Managing Director	30/09/2021
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The Management is responsible for:

- a. Ensuring due process is followed in all disciplinary matters.
- b. Promptly investigating complaints, grievances, and offences.
- c. Taking action in accordance to laid down procedures.
- d. Disciplinary matters are dealt with in line with relevant disciplinary provisions / Clauses in the Collective Bargaining Agreement and Labour Laws.

#### 4. PROCEDURE

- a. No employee may be accused of an offence under this policy without the management communicating in writing the allegations made and requesting the employee to provide a written explanation within 48 hours.
- b. When an employee's written reply is received, or upon expiration of the time allowed for reply, if it is considered that a case exists for disciplinary action, a report setting out the charge and proposing disciplinary measures to be taken, together with the employee's reply, shall be forwarded through hierarchical channels to the Unit Manager or Human Resource Manager as the case may be.
- c. The Manager upon considering that there are grounds for formal disciplinary action, shall convene a Disciplinary Committee meeting for hearing before taking any other disciplinary measure. The Disciplinary Committee may comprise of the Manager from the same business unit / section, Human Resource Representative (who chairs the committee meeting), union representative and one other person of employee's choice (who must be an employee).
- d. Should there be prima facie evidence of serious misconduct by the employee and that an employee's continuance in service will be prejudicial to the interests of the company or to the investigation into the case, the Unit Manager / Human Resource Representative may suspend the employee from duty pending decision on the case and when this happens it should not exceed one month. A suspended employee shall receive half-pay while the case is under investigation.
  - i. If found innocent, the employee shall be paid the remaining half salary and be reinstated without loss of service.
  - ii. If found guilty, appropriate disciplinary action shall be taken as provided for by this policy, the CBA in force and other labour laws.
  - iii. If after the one month, the Disciplinary Committee has not determined the matter, the suspension shall lapse and the employee shall resume duties with full entitlements including arrears of salary.

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NB: However, an employee accused of a serious offence whose disciplinary measure is dismissal, will be under suspension, shall receive no pay and will not be required to be at the duty station while investigations into the case are in the process and findings not finalized.

- e. The proceedings of the Disciplinary Committee shall be considered valid only if two-thirds of its members are present, including one member from the accused employee's workplace and a shopsteward may be present at the hearing.
- f. An employee may come along with a witness of own choice who is not a member of the Disciplinary Committee provided such a witness is an employee. The Committee may also decide to hear any other person whose evidence it believes may help in establishing the truth.
- g. The Disciplinary Committee shall adopt its findings, based on the hearing. There shall be a report signed by all members present, containing the Committee's findings and the recommendations to the Executive in charge of the division and or Human Resource Director as to what disciplinary measure, if any, should be taken and the reasons thereof together with any minority opinion. Such recommendation will be in line with the labour laws, the company policies, and the Collective Bargaining Agreement in force.
- h. All the members of the Disciplinary Committee shall, during the deliberations and thereafter, respect the confidential nature of the Disciplinary Committee's proceedings.
- i. The divisional executive and or HR Director's decision shall be made known to the employee concerned and to the members of the Disciplinary Committee within 10 days of submission of the report.
- j. A disciplinary case may not be referred to a Disciplinary Committee:
  - a. If referral to the Disciplinary Committee is waived by mutual agreement of the employee concerned and the Unit Manager / Human Resource Manager;
  - b. In respect of summary dismissal in cases where the seriousness of the misconduct warrants immediate separation from service. (e.g. police cases)
- k. If misconduct is established and has resulted in the loss or damage of property of the company, an Executive may, in addition to or in substitution of any punishment, order that the employee reimburse the company the amount of such loss or damage or part thereof.
- l. Disciplinary measures / action that may be taken against an employee found guilty of misconduct shall include the following:
  - i. Reprimand

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- ii. Warning
- iii. Termination
- iv. Dismissal

#### i. Reprimand

Where an employee has committed a minor offence which does not warrant serious action, a verbal caution or reprimand could be issued and the employee warned that a repeat of such misconduct will lead to serious disciplinary action. A record will be maintained for future reference.

#### ii. Warning

An employee whose work or conduct is unsatisfactory or who otherwise commits an offence which in the opinion of the employer does not warrant instant dismissal shall first be issued with a verbal warning and thereafter a warning in writing and the following procedures shall apply; -

- a. The first, second and third warning shall be entered in the employee's employment record. Such warning shall be issued in the presence of the shop steward
- b. The second and third warning shall be copied to both the shop steward and the branch secretary of the union.
- c. An employee who has already received three warnings and commits a fourth fault shall be liable to termination. Provided that where an employee completes 12 consecutive Months from the date of the first warning without further misconduct, any warning entered in his employment record shall be cancelled.

All disciplinary matters will be dealt with in a fair and equitable manner taking into account the requirements of Kenyan law, company policies and Collective Bargaining Agreement in force.

#### iii. Termination of employment

##### a. Permanent employees

Other than for gross misconduct, notice of termination of service or pay in lieu of notice shall be based on length of service as per the unit applicable CBA in force.

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**b. Seasonal and other forms of Term Contracts**

A notice of termination of service or pay in lieu of notice for these cadre of employees prior to termination shall be:

- Twenty-four hours' notice or payment in lieu of serving for less than one month.
- Seven days notice or payment in lieu after serving for a period of between one month to three consecutive months; or
- Two weeks' notice or payment in lieu after serving for at least three consecutive months.

**iv. Summary dismissal**

Any of the following matters (not exhaustive) may amount to gross misconduct so as to justify the summary dismissal of any employee for lawful cause, but the procedure of such matters or any decision of management to dismiss an employee summarily shall not preclude an employer or an employee from respectively alleging or disputing whether the facts giving rise to the dismissal or whether any matters mentioned or not mentioned in his section constitute justifiable or lawful grounds for such dismissal.

- a. If without leave or other lawful cause, an employee absents himself/herself from the place proper and appointed for the performance the performance of his/her work.
- b. If during working hours, by becoming or being intoxicated, an employee renders himself/herself unwilling or in capable properly to perform his/her work.
- c. If an employee wilfully neglects to perform any work which it was his/her duty to have performed, or if he/she carelessly and improperly performs any work which from its nature it was his/her duty, under contract to have performed carefully and properly.
- d. If an employee uses abusive language or insulting language or behaves in a manner insulting to his/her employer or to any person placed in authority over him/her by his employer.
- e. If an employee knowingly fails or refuses to obey any lawful and proper command which it was within the scope of his/her duty to obey issued by

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his/her employer or any other person placed in authority over him/her by his/her employer.

- f. If in the lawful exercise of any power of arrest given or under any written law, an employee is arrested for a cognisable offence punishable by imprisonment and is not within 14 days released on bail or on bond or otherwise set at liberty.
- g. If an employee commits or on reasonable and sufficient grounds is suspected of having committed, a criminal offence against or to the substantial detriment of his employer's property.
- h. Breach of confidential and or misuse of information of a confidential in nature
- i. Deliberate falsification of records by an employee
- j. Committing fraud or being involved in fraudulent activity
- k. Misrepresentation and or making false statements
- l. Misappropriation and misuse of company assets
- m. Physical violence at work
- n. Sexual, racial, tribal and disability discrimination including harassment of another employee, agency or contract worker, any client / customer/ dependants / visitor within company's premises.
- o. Theft of another employee's property
- p. Breach of Company Code of Conduct

The employee may be accompanied by a shop steward whenever a warning / termination / dismissal is being issued.

#### Appeal procedure

An employee served with a warning / or any other disciplinary action shall have the right of appeal to the company in writing within four days from the receipt of a disciplinary action if he/she feels aggrieved by the action taken. The appeal procedure follows the same process as the grievance handling procedure.

If the matter is not resolved at company level, the employee or through the shop stewards is at liberty to report the dispute to the Branch Secretary of the union.

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## 5. RECORDS

- a) All offences must be recorded in the prescribed offence sheet / show cause form
- b) Show cause letters
- c) Disciplinary committee's reports / minutes
- d) Disciplinary action taken filed in employee's personal file

## 6. REVIEW

The revised policy takes effect from 30th September 2021. Note the policy will be reviewed from time to time on a need basis.



MANAGING DIRECTOR

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## **BBC** WORLD SERVICE GROUP

Head of Press

James Finlay and Company.

January 25, 2023

**Dear Sir or Madam,**

I am an executive producer working for the BBC World Service investigative series, "Africa Eye." Africa Eye is in the final stages of releasing a documentary concerning allegations of widespread sexual abuse on the tea plantations around Kericho and Bomet counties in Kenya.

Tea that goes into packs of Sainsbury's Red Label is grown here, in fact half of all the tea drunk in the UK alone comes from tea leaves grown in Kenya's Rift Valley.

Working on these tea farms, picking tea, weeding, or operating harvesting machines, is backbreaking work, which thousands of employees say has left them with life-changing injuries. Many of the women who work on the plantations say that, on top of that their managers sexually abuse them, and this has gone on for decades.

As part of our investigation, we have looked into allegations against managers working for the James Finlay and Company (Finlay's), or contractors which supply workers to Finlay's, in Kericho and Bomet counties.

According to our sources, managers and supervisors have regularly exploited female workers on the plantations owned by these companies by demanding sex in return for employment.

These appear to be the actions of sexual predators.

It is proposed that the programme will be broadcast on BBC1 in the UK and BBC Africa partner stations in the coming weeks. In Kenya, this includes KTN Burudani and KTN News. Subsequently the investigation will be broadcast worldwide on BBC TV, online, radio and on BBC social media platforms.

We would like to give James Finlay and Company the opportunity to respond to the allegations we intend to broadcast. We therefore draw your attention to the following.

We have substantive evidence that, Mr. John Chebochok, formerly an Estate Manager for James Finlay and Company, and now the Managing Director and owner of contracting firm Solis, which supplies James Finlay and Company with workers, has been involved in the sexual harassment and exploitation of women working under him, specifically:

- That Mr Chebochok is a sexual predator, a sex pest and serial sexual abuser of the female workers he employs and those who approach him for work.
- That Mr Chebochok has held interviews with prospective employees in hotel rooms.
- That Mr Chebochok regularly use offers of employment in order to sexually abuse potential employees, and that Mr Chebochok withholds employment from those who refuse to sleep with him.
- That the abuse inflicted by Mr Chebochok on employees extends beyond interviews and can, in some cases, go on for almost a decade.
- That Mr Chebochok summons employees to have sex with him after they have worked a full day.
- That Mr Chebochok also offers financial inducements to women he hopes to sleep with in addition to employment.
- That Mr Chebochok warns his victims to remain silent.
- That, in return for sexual favours, Mr Chebochok's employees are offered better progression at work.
- That women who claim Mr Chebochok forced them into sex for work say they subsequently tested positive for HIV.
- That Mr Chebochok has been working on the Finlay's tea plantations for thirty years as a manager. This has given him access to hundreds of potential victims of sexual abuse and exploitation. Mr Chebochok currently has four hundred employees working directly under him.

We also have substantive evidence that Mr. John Asava, a supervisor working for contracting firm Toritke, which supplies James Finlay and Company with workers, has been involved in the sexual harassment, exploitation and assault of women who work on the Finlay's plantations, specifically:

- That Mr John Asava, a supervisor working for contracting firm Toritke, which supplies James Finlay and Company with workers, is a serial sexual abuser and has been involved in the sexual harassment, exploitation and assault of women who work on the Finlay's plantations.
- That Mr Asava forced multiple women and girls into having sex with him in order to gain or maintain employment.
- That Mr Asava has impregnated women and girls that he has sexually assaulted.
- That in 2020 Mr Asava raped an underage girl, a crime for which he has never been arrested.
- That women Mr Asava sexually assaulted have since tested positive for HIV.
- That Mr Asava's actions have traumatised his victims, pushing some to contemplate suicide.



- That Mr Asava is aware of other incidents of violent sexual assault that have occurred on the plantations.
- That Mr Asava has been working on the Finlay's plantations for 26 years, and that owing to his position as a supervisor he has had access to hundreds of potential sex abuse victims.
- That Mr Asava is currently in charge of over one hundred employees

Thousands of women have worked under these managers for over three decades. All to produce tea for some of the UK's biggest brands.

We have also received more general accusations against the treatment of workers by James Finlay's, specifically:

That James Finlay's have been consistently negligent in providing adequate support and aftercare for workers who have suffered debilitating injuries as a direct result of their employment on the plantations.

That employees who complained about this alleged lack of support and aftercare have been sacked by the company.

That the company have failed to take actions outlined in the company's sexual harassment policy guidelines after employees have complained of sexual harassment and abuse.

That no one has ever been convicted of rape or sexual assault on Finlay's property in Kenya.

That the allegations listed above raise serious questions over the company's Rainforest Alliance certification.

Under Kenya's Sexual Offences Act of 2006, any person in a position of authority, who persistently makes sexual advances or requests which he or she has reasonable grounds to know are unwelcome, is guilty of the offence of sexual harassment. If convicted, this carries a prison term of not less than three years.

Under the same Act, a person commits the offence termed 'rape' where consent for penetrative sex is obtained "by means of threats or intimidation of any kind." This carries a prison sentence of not less than ten years.

And any person who, having actual knowledge that he or she is infected with HIV, knowingly and wilfully infects another person is also determined by the Act to be guilty of an offence and liable to no less than fifteen years imprisonment.

Please respond in writing to the above allegations by 1800 UTC on February 03<sup>rd</sup> 2023, so we can reflect any comments you may wish to make in the finished film.

Any responses should be emailed to me, [seamus.mirodan@bbc.co.uk](mailto:seamus.mirodan@bbc.co.uk), or messaged to me via WhatsApp on +44 7796 795 883.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Seamus Mirodan', with a long, sweeping underline.

Seamus Mirodan

Executive Producer

Africa Eye, BBC World Service

[seamus.mirodan@bbc.co.uk](mailto:seamus.mirodan@bbc.co.uk)



## McKevron Law Chambers LLP.

We are a boutique Law Firm based in Nairobi, Capital City of Kenya. Our location gives us a unique access to one of the fastest growing business hubs within Sub Saharan Africa and emerging markets within East and Central Africa. Our specialty covers Group Action Litigations (Class Actions), Personal Injury, Industrial Disease and Commercial Law. We pride ourselves on our vast understanding and in-depth knowledge of the local landscape combined with valuable international expertise.

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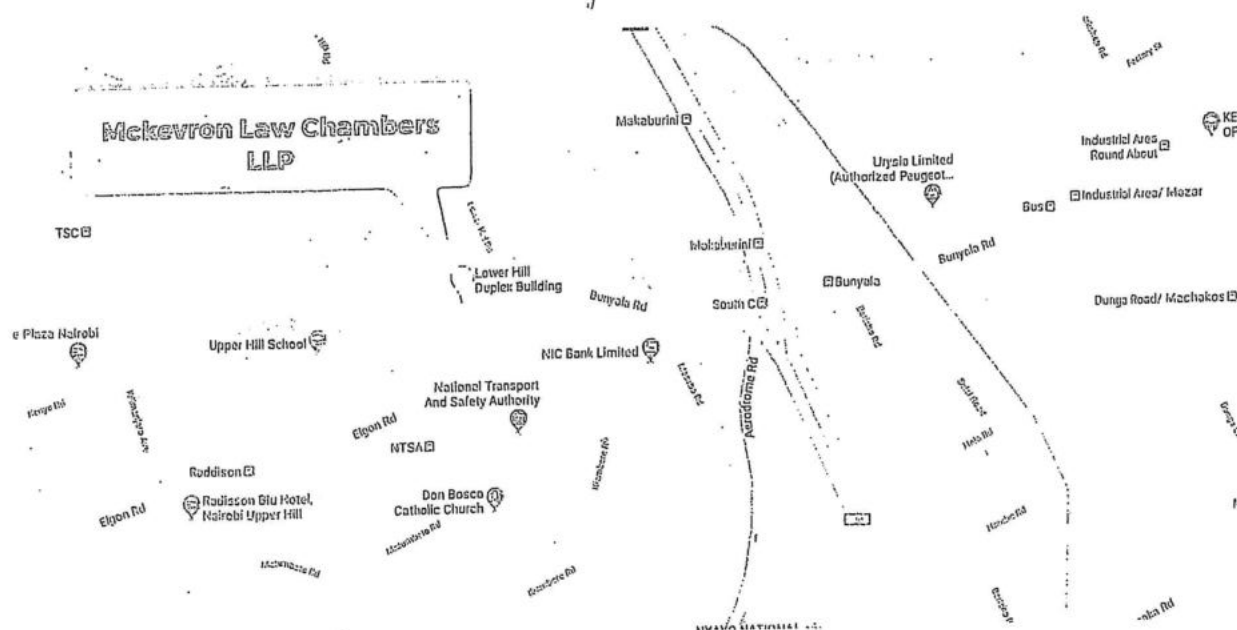
**Office Tel:** 0701248134 / 0752804812

**Web:** [www.mckevron.com](http://www.mckevron.com)

**Email:** [info@mckevron.com](mailto:info@mckevron.com)

**Please contact:** Mr Godfrey Onyango on 0721986544

### Location Map:



Client parking is conveniently located to the front and rear of the property.





# THE KENYA TEA GROWERS' ASSOCIATION

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Nairobi.

Tel: - 052 20039

Fax: - 052 32172

Email: [info@ktga.or.ke](mailto:info@ktga.or.ke)

Date: 11<sup>th</sup> February, 2019

Hon. Justice Kihara Kariuki  
The Attorney General of the Republic of Kenya  
Sheria House, Harambee Avenue  
P.O.BOX 40112-00100  
**NAIROBI**

*Advance copy via email: [legal@justice.go.ke](mailto:legal@justice.go.ke),  
[info.statelawoffice@kenya.go.ke](mailto:info.statelawoffice@kenya.go.ke)*

Your Honour,

## **RE: INTERNATIONAL CLAIM AGAINST KENYAN COMPANIES**

The above matter refers.

The Kenya Tea Growers Association ("KTGA") is an employers' association that represents various companies involved in tea growing and manufacturing in Kenya. The Association (KTGA) was established in 1931 to promote the common interests of the members in the cultivation and manufacture of tea and to promote good industrial relations and sound wage policies for the workers. The tea industry is a huge contributor to foreign exchange earnings, government tax revenues and employs over 2 million Kenyans directly and indirectly.

Our members include tea companies such as James Finlay (Kenya) Limited, and by association, Unilever Tea Kenya Limited with whom we regularly engage. These companies are registered and operate in Kenya while they have parent companies operating in other jurisdictions such as the United Kingdom ("UK").

## **UNION ACTIVITIES THAT THREATEN THE SOVEREIGNTY AND INTEGRITY OF KENYA**

We write to you as the legal advisor of Government and the custodian of the legal sovereignty of the Republic of Kenya in the domestic and international sphere.

It has come to our attention through a Court Order served upon the parent company of James Finlay (Kenya) Limited in the United Kingdom that a Scottish law firm working with a local NGO – Justice and Environment Foundation (JEF) has instituted suits in the Scotland Court of Injury in the United Kingdom. The subject matter of this suit is to claim remedy for industrial injuries supposedly sustained by workers in Kenya.

The Kenya Plantation and Agricultural Workers Union ("KPAWU") through the Central Organization of Trade Unions ("COTU") in Kenya (hereinafter referred to as the "Union") has through various meetings, statements and media reports purported to institute an international claim with a view of seeking damages for workers who have suffered industrial injuries while employed in the tea companies whether presently still employed or having left employment. Inevitably, the Claims in question may have been processed within the Kenyan systems and appropriate remedies awarded as set out in the law. On the other hand, the lodging of claims in foreign jurisdictions, is a threat to supremacy of the Kenyan Constitution and the sovereignty and authority of Kenyan law and go against the principles of '*res judicata*'. It is currently unclear what the scope of these claims are but we are aware that there are foreign law firms involved which are on the ground soliciting for clients to file a class action suit. We are aware that the Union is in the process of registering current and past Kenyan workers with any claims against the companies in Kericho and Bomet Counties with the involvement of a Kenyan Law Firm, McKevron Law Chambers, a United Kingdom Law Firm namely Ozon Solicitors and a local NGO – Justice and Environment Foundation (JEF).

Of great and urgent concern to us is that these actions undermine the administrative and judicial systems within the Country and threaten the sovereignty of Kenya as a State and the integrity and sovereignty of the Judicial system in Kenya. These actions threaten constitutional rights of Kenyan corporate citizens and the security and stability of the Kenyan economy because they are aimed at economically sabotaging Kenyan Tea companies and denying them access to foreign markets in which they trade their produce which is a major foreign exchange earner for the Kenyan economy. Tea is a very sensitive commodity in the international market and any negative publicity will immediately affect the trade and prices at the auction which are currently at the lowest over the last five years. Additionally, these allegations amount to economic sabotage as they are aimed at damaging the reputation of tea companies in the Country. The net effect of these activities will be to damage the global standing of Kenyan tea in the international market. It will not only affect the said "multinational" companies but also the over 650,000 small scale farmers that produce tea.

### THREAT TO KENYAN SOVEREIGNTY

The actions by the Union, have the following adverse and far-reaching impact on the sovereignty and international integrity of Kenya as a state for the following reasons:

1. The institution of an international claim on matters properly within Kenyan jurisdiction is a threat to the Constitution of Kenya.
2. Kenya is a sovereign State and any threat to the sovereignty of our nation is a matter of serious public interest and a concern to every citizen of the Republic of Kenya and your honourable Office. The activities of the Union in publicizing and mobilizing Kenyan citizens on the basis that their rights have been constantly abused within the Kenyan system is additionally a security threat and a threat to peace in the Country.
3. The institution of an international Claim by the Union undermines the local mechanisms that exist in the Country for the resolution of industrial disputes and redress of breaches of human rights. This action instituted in the Scottish Court threatens the sovereignty of Kenya and the integrity of the Constitutionally established local framework for addressing breach of constitutional rights. It purports to override the decisions of Kenyan administrative systems and Courts that may have handled and determined these work-related injuries. We are aware that one of our members James Finlay (Kenya) Limited have already been sued by seven claimants represented by the firm of Balfour & Manson Solicitors at the **ALL SCOTLAND SHERIFF PERSONAL INJURY COURT** (Scottish Court) which court has issued orders for inspection of some of the company's premises in Kericho. The company has since filed a Constitutional Application, **Employment and Labour Relations Court at Nairobi, Constitutional Application No. 30 Of 2019** seeking declaratory orders that the inspection orders by the Scottish Court should inter alia be adopted and recognized as orders of the Employment and Labour Relations Court before being executed locally. The Scottish law-firm is being represented locally by the firm of Behan & Okero Advocates. Representatives of the two firms on 5<sup>th</sup> February 2019 made an unauthorized entry into James Finlay (Kenya) Limited via their private airstrip and the reason for their entry is yet to be ascertained. We are further aware that the firm of McKevron Law Chambers, representing the Union and Justice and Environment Foundation (JEF), is interested in the Claim as they sought to be enjoined in the above declaratory Application.
4. The institution of an international claim for work related injuries is an affront to the domestic administrative systems that are in place in Kenya under the Ministry of Labour, precisely, the Department of Occupational Health and Safety.

5. The institution of an international Claim for work-related injuries which ordinarily should be processed and awards issued in Kenyan Courts or which may have lapsed under Kenyan law undermines the *conflict of laws* between Kenya and the United Kingdom and are against the universally acknowledged legal principle of *res judicata*.
6. The actions of the Union threaten the integrity and authority of the Judiciary as encompassed in Article 159 of the Constitution.
7. The actions of a foreign law firm, working in collaboration with Kenyan law firms, in coming into the Kenyan jurisdiction to solicit for matters that are properly within the jurisdiction of Kenyan Courts is against the Rules of the Law Society of Kenya and warrant urgent attention by the Society and your Office as principal custodian of Kenyan law.

#### ADVISE ON LEGAL AND CONSTITUTIONAL MATTERS

As the principal legal advisor of the Kenyan Government, Government Departments and various public entities, and the primary repository and custodian of the Kenyan legal system, we believe these issues are of great concern and urge your urgent attention to be drawn to them. We request for the following:

- i. Please issue instructions under Article 156(6) and Article 156(7) stopping the foreign firm, Ozon Solicitors, from soliciting for professional business within the Republic of Kenya;
- ii. Please issue appropriate orders to McKevron Law Chambers the Kenyan firm for engaging in professional misconduct by soliciting professional business.
- iii. Please advise on the status, applicability and enforceability of the foreign orders of the Scottish Court of Injury on Kenyan companies;
- iv. Please advise on the validity of an international Claim against Kenyan companies for alleged workmen injuries which should be dealt with under the jurisdiction of Kenyan Courts and administrative authorities.

We have copied various affected offices in the matter and hope for your prompt response on how to proceed and safeguard our constitutionally protected interests as Kenyan entities.

Yours faithfully,



APOLLO KIARII  
CHIEF EXECUTIVE OFFICER

Cc.

Hon. Justice David Maraga *Email: chiefjustice@judiciary.go.ke*  
The Chief Justice of the Republic of Kenya  
The Supreme Court of Kenya Building  
City-Hall Way  
NAIROBI

Cc. Hon. Fred Matiang'i *Email: ps.interior@kenya.go.ke*  
The Cabinet Secretary, Ministry of Interior and Coordination of National  
Government  
NAIROBI

Cc. Hon. Ukur Yattani *Email: cabinetsecretary@labour.go.ke*  
The Cabinet Secretary, Ministry of Labour and Social Protection  
NSSF House, Bishops Road  
NAIROBI

Cc. Director of Occupational Safety and Health  
Ministry of Labour and Social Protection  
NSSF House, Bishop's Road  
NAIROBI

Cc. MS. Mercy Wambua *Email: mercy.wambua@lsk.or.ke*  
The CEO/Secretary, Law Society of Kenya,  
Lavington, Opposite Valley Arcade, Gitanga Road,  
P.O Box 72219,  
NAIROBI (info@lsk.or.ke)





Janet Chepngeno

Payroll No. 6985

Kericho Estate

P.o.Box 20

Kericho.

27/07/2018.

The Operations Manager,

Kericho Estate

P.O.Box 20

KERICHO.

Dear Sir,

RE: SHOWCAUSE DATED 24<sup>TH</sup> JULY 2018 RESPONSE.

The allegations you claimed in your letter dated 24<sup>th</sup> July, 2018 to have been violated by me is totally untrue. As an employee of Unilever I'm aware and understand the code and I'm equally informed and belief that its contents apply to all Unilever employees management inclusive.

Let me begin by stating how this battle actually began. A lady by the name Dorothy is an employee working at Masobet Division but she works at the Asst. Charles Rotich residence as a gardener one time as we were chatting next to masobet canteen she asked me about a worker called Sharon whereabouts and that she had heard that she was to be moved to Limuru. I did confirmed to her that Sharon was told that her number had been moved to Limuru and for her to save herself from being absent the team leader told her to call Limuru to prevent herself from being recorded absent.

As soon as I finished informing her we continued talking but at some stage she began to tell me a story about our then Kericho Estate Kerenga office tea girl Cheptoo how his Man met with Charlie Assistant when him Charlie had paid her a visit at her house after she had been discharged from hospital after she was injured while baking in her house. She narrated how Cheptoo's Man reacted because it appeared he had been informed that Charlie were in a secret affair with Cheptoo and his visit and presence more so in the Bedroom was not a brotherly visitation.

She took me back to Sharon's issue and asked me if I had heard about Sharon's affair with Charlie and as women we talked what each one of us knew about both of them. Little did I know that Dorothy was preparing a set up trap against me not until the next day when my assistant manager Charles approached me in the morning and asked me to kindly stop discussing Sharon issues with any one or else he could take a stern action against me and to stop talking with Dorothy. He continued to tell me that if I think I cannot stop parroting I should consider resigning by way of resignation letter. I quickly told him that my years of service are still very few and does not even qualify me eligible to gratuity as per the CBA. When I continued to explain to him more he stopped me and told me to move to the shears gang as he walked from where I was towards his Motorbike. To me I at first took it as a joke for it was not a common practice for a manager to directly send a worker to another team. The practice have been a Team leader writes a letter to a worker who requests to move or a manager communicates to an employee through the team leader who gets in touch with the affected individual.



My case was not special in any way to warrant an assistant Manager to come and compel me to move or change my workstation and if at all I misbehaved in any way I should have been accused of insubordination. The second day Charles again at around 9am came to field number 35 and found me plucking he met the team leader talked and after the team leader came to where I was working and told me that my hand plucked tea was not to be weighed in my gang. He told me that he was under instruction from the assistant manager that I proceed immediately to the shears gang which was plucking at the next field number 34. I complied and respected the directive and proceeded to the shears gang at field 34 and weighed my hand plucked leaf which totaled 20kgs. This same hand plucked leaf was paid using the shears rates and I have never asked or complained why I was subjected to such intimidation by your office but I feel it should be noted here as I prepare to undergo the consequences of this show cause letter.

On the third day I again went to see Charles but again he told me to deliver my resignation notice and he will help me to be paid 52 days. I told him but the 52 days is what is in the CBA already as I walked to the shears gang crying. I began to accept and prepared myself psychologically to adapt my new assignment.

I requested my team leader to allow me transfer note to move to the tipping gang he accepted and wrote me a transfer note which I took to assistant Charles to append his sign as an authority but he refused to sign the note for me and again asked me *how many people including his management colleagues have known about Sharon due to my madness and parroting?* I was again shocked he continued to say *"Love the shear"* I worked at the gang until one day when he came and told me to come and see you and I did come to see you in your office Mr Felix. I remember narrating to you the root cause of my troubles.

As Janet I think I have gone through much pain and issuance of this show cause letter to me is one way of trying to make the code policies applicable only to me or us the pluckers' as the management staff continues to enjoy some protection. It is in the workers public domain that Sharon is suffering too due to some people protection that has been adversely mentioned in many forums.

Sharon has been a colleague and a friend and has worked with her in a number of teams and im in the picture on most of her secrets and Charles knows that. After my visit to your office and discussion about my issue Charles continued to threaten me until I wrote a letter attached below to raise my complain to the Managing Director on 2<sup>nd</sup> June 2018 but surprisingly to date I haven't received any response, imagine as I expected a feedback things are changing and everything now is turning against me. The timing of my showcause letter is also suspect why was it done and issued to me and told to reply while on my annual leave is also raising some unanswered questions in my mind. As you undertake to action on my reply kindly with due respect inquire for me if my complaint letter was delivered to the Managing Director desk if yes why it was not responded to.

Im a single mother, an employee, a Kenyan, a social being and I think that Im equally entitled to some humanitarian rights, dignity and of course fair treatment by the laws in place and also the CODE policies should equally cushion me regardless of my position in the company.

I have not fabricated insulting remarks as alleged about my assistant manager by his own thoughts or fears best known to him he is just using the above claims to ensure that im punished for reasons beyond my control.

Thank You!

C.C

HRBP

BRANCH – KPAWU ✓



**KPAWU 2022 FINLAYS SHOPSTEWARDS****KENYA PLANTATION & AGRICULTURAL WORKERS UNION KERICHO BRANCH**

NO	NAME	ESTATE/UNIT	PR/NO.	CONTACTS
1	Gladys Chepkorir	Kapsongoi Estate	947665	0725670602
2	Robert Tonui	Kapsongoi Estate	950869	0728699521
3	Wycliffe Madaga	Kapsongoi Estate	951079	0701842269
4	Lucas Odhiambo	Kapsongoi Estate	306910	0713797782
5	Samwel Cheruiyot	Kapsongoi Estate	951235	0706385837
6	Rose Ameyo	Chomogonday Fact	336298	0721914501
7	Meshack Kipngetich	Chomogonday Fact	966580	0743035517
8	Edward Wanyonyi	Chomogonday Fact	325273	0702689036
9	Paul Jokongo	Chomogonday Fact	325080	0720406191
11	Namiliy Omoke	Chomogonday	335578	0705276662
12	Charles Nyambane	Tiluet Estate	962378	0790273458
13	James Amori Amoli	Tiluet Estate	943658	0726064304
14	Jane Cheruiyot	Tiluet Estate	328967	0706473623
15	Christopher Kosgei	Tiluet Estate	317432	0722948421
16	Wesley Langat	Tiluet Estate	941813	0710224689
17	Jayne Odhiambo	Tiluet Estate	315020	0714494541
18	Evans Nyangeri	Tiluet Estate	951658	0726106385
19	Samwel O. Okoth	Saosa Factory	437120	0720377574
20	Benson Cheruiyot	Saosa Factory	940736	0727233431
21	Kiplangat Rotich	Saosa Factory	437105	0714105646
22	Isaac Masese	Saosa Factory	437445	0742406909
23	Hellen Chebet	Saosa Factory	942501	0722956447
24	Sammy Kosgey	Applied Research	304040	0727507003
25	Isaac Kiprotich	Applied Research	958655	0714252671
26	Joseph Sang	Applied Research	958914	0706492118
27	Joash Kipkirui	Applied Research	945643	0720511690
28	Christine Wakwoma	Applied Research	947518	0718684106
29	Alfred Shiundu	Engineering Dept'	940337	0728010252
30	John Nyariki	Engineering Dpt	911131	0711250134
31	Lawrence Kipkirui	Engineering Dpt	943924	0728468389
32	Evans Marata	Chemase Estate		0703114578/0712458751
33	Joshua Omari	Chemase Estate		0725009453/0740777388
34	Geoffrey Maritim	Chemase Estate		0713929125
35	Peter Machuki	Chemase Estate		0723612146/0723612837
36	Benard Maina	Chemase Estate		0714791638
37	Emily Kwamboka	Chemase Estate		0724755389
38	Tom Opiyo	JFK Forestry Dept	909084	0727281482
39	Geoffrey Daraja	JFK Forestry Dept	936480	0720222538

COMPILED AND APPROVED BY: DICKSON K. SANG

SIGN .....





All correspondence to be addressed to the General Secretary

# KENYA PLANTATION & AGRICULTURAL WORKERS' UNION

Affiliated to CENTRAL ORGANIZATION OF TRADE UNIONS (KENYA)



Your Reference: .....

Our Ref: .....

KPAWU/KCO/01/11/2022

KERICHO

Branch

P.O. Box 354

KERICHO

1<sup>st</sup> November, 2022

The Human Resource Director,

Finlays,

P.O. Box 223,

KERICHO.

Dear Sir/Madam,

## RE: LEAVE OF ABSENCE WITH FULL PAY TO ATTEND TRAINING.

We are writing to request you to grant the following employees, leave of absence with full pay from 7<sup>th</sup> to 11<sup>th</sup> of November 2022 to attend COTU (K) PANAF ABVV-FGTB none residential one week study circle capacity building workshop for Kericho and Bomet Kpawu Union Branches to be held at the Roadside Villa Hotel Kericho as from 8.00am to 4.00pm daily.

1. Meshack Kipngetich Chomogonday Factory
2. Evans Nyangeri Tiluet Estate
3. John Nyarigi Finlays Engineering

We look forward for your consideration to allow this shopstewards attend this important training.

Yours faithfully,

SANG DICKSON K.  
BRANCH SECRETARY, KERICHO

File Copy

Cc

General Secretary KPAWU Nakuru



# KENYA PLANTATION AGRICULTURAL WORKERS UNION

KPAWU/KCO/19/11/2022

THE HUMAN RESOURCE DIRECTOR,  
FINLAYS TEA (K),  
P.O BOX 223-20200,  
KERICHO.

KERICHO  
354,  
KERICHO  
21<sup>st</sup> November, 2022.

Dear Sir/Madam,

## RE: LEAVE OF ABSENCE TO ATTEND TRAINING.

We hereby write to kindly request you to grant the below named Shopstewards leave of absence from 28<sup>th</sup> - 29<sup>th</sup> November, 2022 to attend a KPAWU/SOLIDARIDAD shopstewards training on reclaim sustainability tea on descent work to be held at the Sunshine Hotel Kericho as from 8.00am to 5.00pm

1. Samwel Cheruiyot-Kapsongoi Estate ✓
2. Paul Jokongo-Chomogonday Factory ✓ - management replaced with Mchack.
3. Tom Opiyo- Forestry Department ✓
4. Hellen Chebet- Saosa Factory ✓
5. Evans Nyangeri-Tiluet Estate ✓
6. Evans Marata- Chemase Estate ✓

We hope our request shall receive due consideration.  
Yours Faithfully,

SANG K. DICKSON  
BRANCH SECRETARY

Cc. General Secretary-KPAWU NAKURU





# THE KENYA TEA GROWERS' ASSOCIATION

Affiliated to: Federation of Kenya Employers (FKE); East African Tea Trade Association (EATTA); Kenya Association of Manufacturers (KAM) & Kenya Private Sector Alliance (KEPSA)

P.O. Box 320,  
KERICHO.

Cell - 0718 - 757342  
Email: [executiveofficer@ktga.or.ke](mailto:executiveofficer@ktga.or.ke)

Our Ref: AK/kpawu/kco/01/11/2022(t)

Date: 22nd November 2022

Your Ref: KPAWU/KCO/19/11/2022

Mr. Dickson K Sang  
Branch Secretary, Bomet  
Kenya Plantation & Agricultural Workers Union,  
P O Box 354,  
KERICHO

"Advance copy via email: ....."



Dear Sir

## RE: SHOP STEWARDS TRAINING

We refer to your letter addressed to Finlays Kenya Ltd dated 21st November 2022 on the above.

We acknowledge the importance of training and capacity building of the shop stewards and fully support such initiatives.

As was indicated in our letter of 3<sup>rd</sup> October 2022, for such programs to be effective and productive, we suggest that management be involved in the selection of the participants to the training which could you kindly engage the company in this respect. Further, kindly share the training program and course content with the management of the company to enable quick turnaround on your request.

Yours faithfully,

Apollo Kiarri  
CHIEF EXECUTIVE OFFICER

Cc

Human Resource Manager, James Finlay Kenya Limited





# THE KENYA TEA GROWERS' ASSOCIATION

Affiliated to: Federation of Kenya Employers (FKE); East African Tea Trade Association (EATTA); Kenya Association of Manufacturers (KAM) & Kenya Private Sector Alliance (KEPSA)

P.O. Box 320,  
KERICHO.

Cell – 0718 - 757342

Email: [executiveofficer@ktga.or.ke](mailto:executiveofficer@ktga.or.ke)

Our Ref: AK/kpawu/kco/02/11/2022(t)

Date: 28<sup>th</sup> November 2022

Your Ref: KPAWU/KCO/19/11/2022

Mr. Dickson K Sang  
Branch Secretary, Bomet  
Kenya Plantation & Agricultural Workers Union,  
P O Box 354,  
KERICHO

Dear Sir

## RE: SHOP STEWARDS TRAINING

We refer to our letter reference AK/kpawu/kco/01/11/2022 dated 22<sup>nd</sup> November 2022 on the above subject.

After reviewing the list of proposed attendees to the workshop, management confirms the following and will proceed to release them as requested.

Name	Unit
1. Evans Barongo	Chemase
2. Meshack Kipngetich	Chomogonday
3. Samwel Cheruiyot	Kapsongoi
4. Tom Okoth	Sawmill
5. Evans Nyangeri	Tiluet
6. Hellen Chebet	Saosa

Yours faithfully,



Apollo Kiarii

CHIEF EXECUTIVE OFFICER

Cc - Human Resource Manager, James Finlay Kenya Limited



# KENYA PLANTATION & AGRICULTURAL WORKERS' UNION

Affiliated to: CENTRAL ORGANIZATION OF TRADE UNIONS (KENYA)



Your Reference:.....

Our Reference:.....  
KPAWU/KCO/UTK/BS/01/09/2018

The Managing Director,  
Unilever Tea (K) Ltd,  
P.O.Box 20,  
Kericho.

Dear Sir,

**RE: CONTINUED THREATS, ALTERATION OF EMPLOYEES CONTRACTS, TERMS OF SERVICE, DUTIES, DAILY TASK AND RATES OF PAY WITHOUT DUE CONSULTATION IN YOUR FACTORIES AND TEA ESTATES.**

It has been brought to our attention that the above actually began around the month of September 2017 and you have unilaterally revised without due consultations meaning your actions are shrouded and malicious in its totality.

All unionisable employees remain our members and none of them should be a target of victimization, forced labour and of course forcitude for just requesting to be informed on the issues raised above.

We bring to your attention that it will remain totally unfair to mishandle our members as they ask their key right to basic data which you have unilaterally decided to have it confidential and in your sole possession. It is in this regard that we register our disappointment and request that you urgently contact us through our head office to discuss the way forward.

Kind Regards,

  
Sang Dickson K.  


**BRANCH SECRETARY.**

**CC**

- GS- Kpawu Nakuru
- Labour Officer- Kericho
- HRBP- Unilever Tea (K) Ltd

KERICHO

Branch

P.O. Box 354

KERICHO

Date  
September 24<sup>th</sup>, 2018



# KENYA PLANTATION & AGRICULTURAL WORKERS' UNION

Affiliated to: CENTRAL ORGANIZATION OF TRADE UNIONS (KENYA)



KERICHO

..... Branch

354

P.O. Box.....

KERICHO

September 24<sup>th</sup>, 2018.....

Your Reference:.....

Our Reference:.....

KPAWU/KCO/UTK/BS/02/09/2018

The Managing Director,

Unilever Tea (K) Ltd,

P.O.Box 20,

Kericho.

Dear Sir,

## **RE: PURPORTED MEDICAL WORK ASSESMENT TO UNILEVER TEA (K) LTD WORKERS.**


We highly appreciate good health and safety of an employee is essential and key to optimizing company productivity at any given time. However we hereby register our concern on the way you undertake workers medical tests prior to allocating them new assignments.


The present style is just but a joke as it is just designed to hoodwink our employees that true medical tests is being carried out yet its true intention is best understood by your respective managers whose mission is to achieve their assigned targets in terms of actual hectarage turned to mechanical harvesting in their respective areas of jurisdiction.

To us we do believe that Work Fitness Assessment involves basically the following aspects Blood pressure, Vision including colour blindness, Heart (Cardivascular) tests, Abdomen, Limps, Spine, Urine and Blood for blood sugar levels/Urinalysis for kidney. For the physically demanding jobs like shears and Mechanical harvesting Functional Capacity Assessment or Musculoskeletal Assessment where we expect to see Chest X-Ray, Blood tests, Audiometry, Spirometry (Lung test), Manual handling assessment, fitness test, MRI/ECG, Drug and Alcohol tests, Central Nervous System examination, Respiratory examinations and of course check on appropriate rehabilitation from past injuries if any.

That not all that we can raise here we expect also an employee to be given enough time to be with the examining doctors which should be at least two hours each. We are totally opposed to the present marathon checks which to us is just but scaring to the workers themselves and us too. We remain committed to an all inclusive industrial relations as we call on the key stakeholders on matters health issues to join us in ensuring that all the affected workers basic rights remain respected and upheld always.

Kind Regards,

  
Sang Dickson K.  
**BRANCH SECRETARY.**

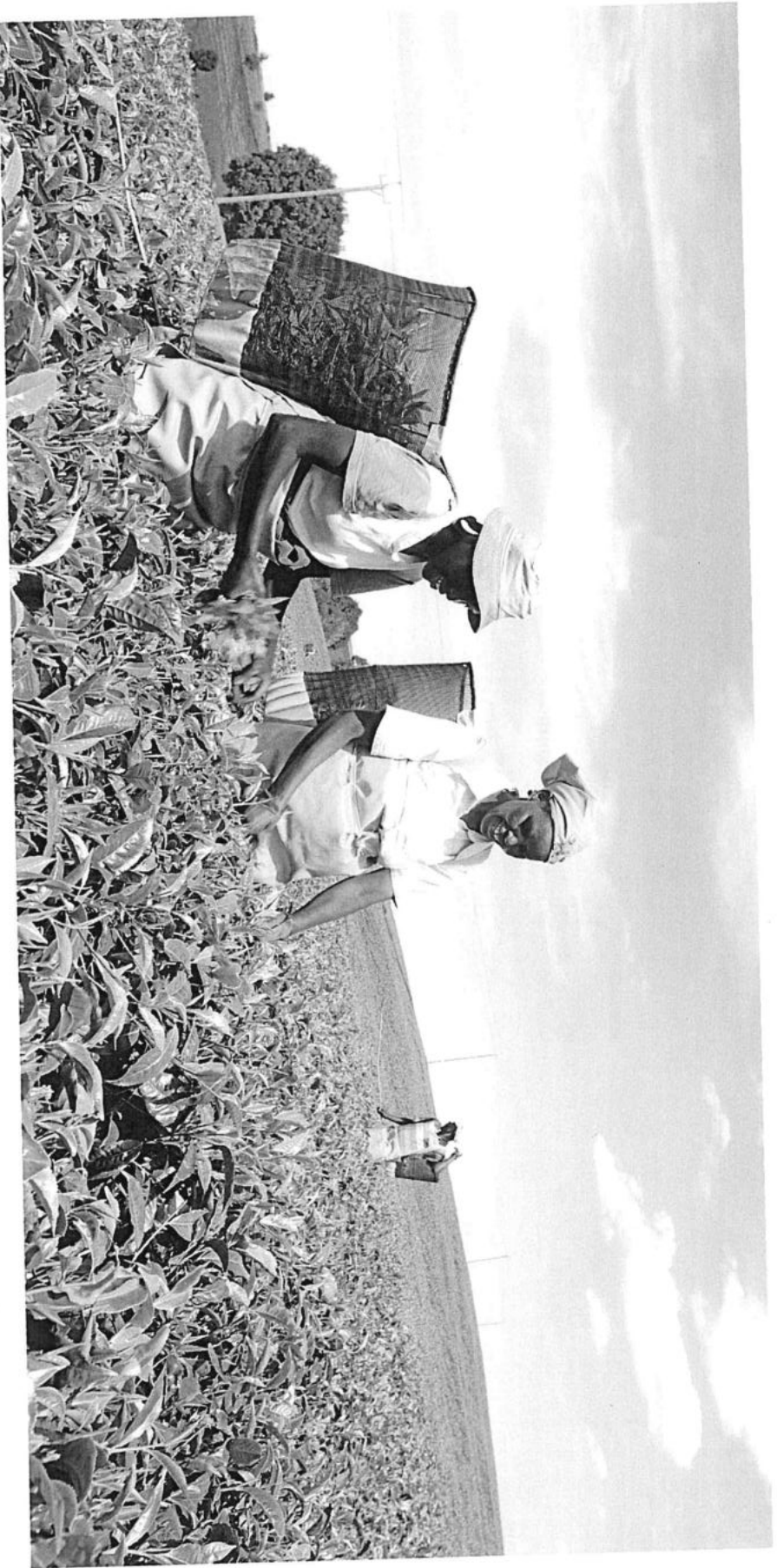


CC

- GS- Kpawu Nakuru
- Medical Officer Incharge dfs- Central Hospital
- GM- UTK Group 1
- GM- UTK Group 2
- CEC- Health Kericho County
- Chair Health Committee-Kericho County Assembly
- Chief Shopsteward UTK
- All Employees- UTK



# EKATERRA TEA KENYA PLC



## eTK BUSINESS STRATEGY – 36 MONTHS

### VISION:

To be a truly sustainable Tea Plantation;  
Providing Future Proofed Tea solutions & Enhanced Livelihoods.

### PURPOSE:

Serious about a Sustainable and Prosperous Tea business,  
Passionate about taking Care of our People & Communities

#### WIN WITH PEOPLE

*US and OUR Responsibility of CARE*

#### STRONG BUSINESS

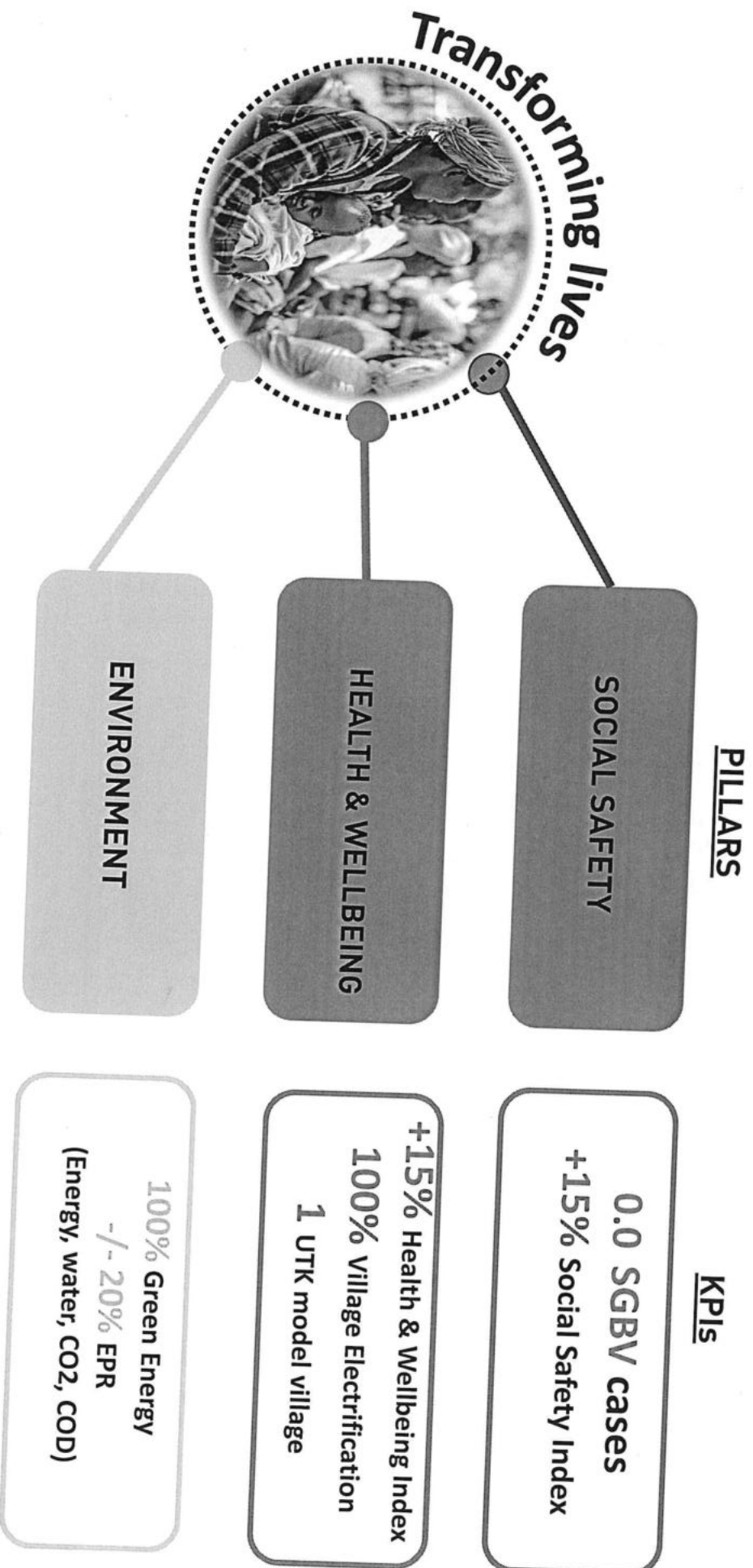
*Sustainable Profitable Business*

#### SOCIAL & ENVIRONMENTAL TRANSFORMATION

*Safe & Secure*

*eTK Culture of Care, Empowerment, Talent & Skills  
Business Transformation-Digitalization  
Transforming lives*

# SOCIAL & ENVIRONMENTAL TRANSFORMATION STRATEGY – 36 MONTHS





# OUR SOCIAL WELFARE

**20**  
Primary schools

**5**  
Secondary schools

**50**  
Early Childhood Development Centres

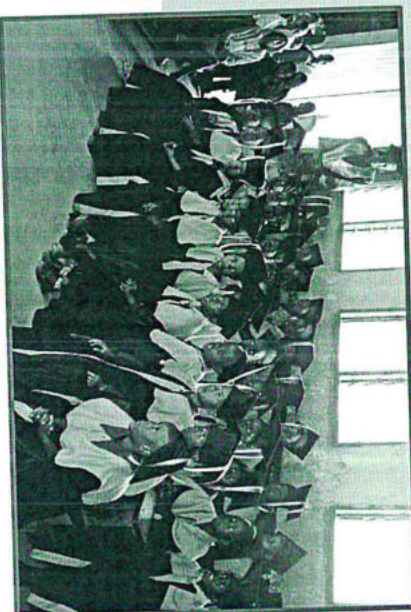
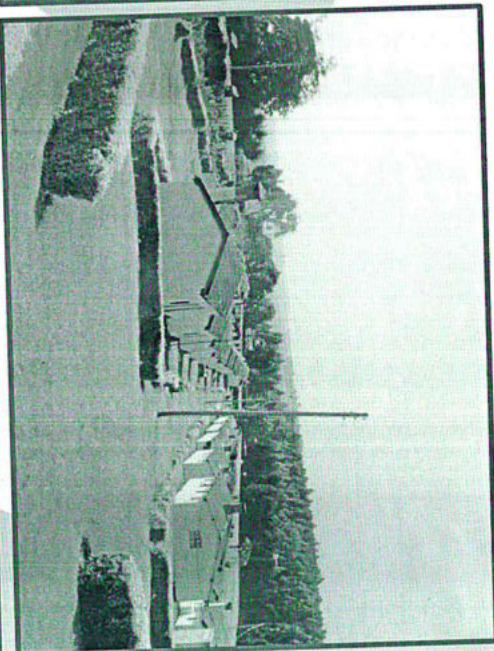
**13**  
Day care centres

**10,000**  
houses

**1**  
Hospital

**15**  
Dispensaries

**5**  
Medical centres





# Welfare Strategic Pillars – Social Transformation



Safety for Women, Boys  
& Girls (SGBV)



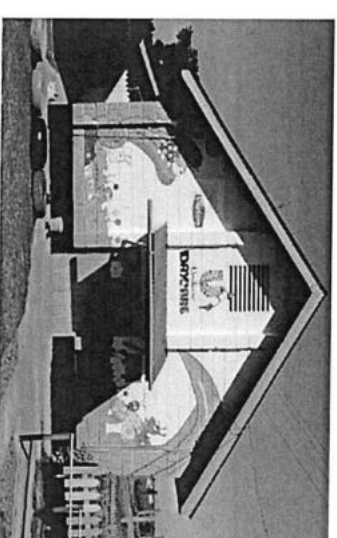
Mental Health, Wellbeing  
& Nutrition

**EMPLOYEE ASSISTANCE PROGRAM (EAP)**

- 24 Hours access to counselling
- Confidential services
- Toll-free services

**0800723332**

Improve Social  
Infrastructure



Prevention

Mental Health & Wellbeing

Village Improvement  
Program/model village

Detection

Improved Nutrition

Village Electrification

Response

Sanitation & Hygiene

Enhanced support for  
PWDs

# MANAGING SEXUAL HARASSMENT SGBV IN eTK



## Prevention

- **Policy framework**- CoBP, SH policy, Dignity Enhancement Committee Charter
- **SGBV awareness campaigns** both internal and external-engagements
- **Security Interventions**- CCTV, village alarms, patrols, reporting & Controlroom
- **Addressing contributing factors** to SGBV: alcohol, financial mismanagement, stress etc
- **Mental health & EAP support**
- **Kings & Queens Clubs** for students in eTK Schools- **child rights clubs**
- **Women's Collective Action & He4Them movements**

## Detection

- **Multiple reporting channels** : toll free BI hotline, grievance committees, senior leadership contacts
- **Monthly monitoring through Dignity Enhancement Committees (DEC)**
- Regular analysis of trends & patterns in SGBV ; annual SGBV surveys (**98% felt safe in last survey**)
- **Security interventions**- CCTV, village alarms, patrols, reporting & Controlroom
- **6 police posts, 4 local admin chiefs** within the business

## Response

- **Giving Justice** through internal governance framework for disciplinary process
- An elaborate **sanctions framework**
- **Psycho-social counselling**
- **Safe Shelter** and medical care.
- **Partnership** with NGOs, police and the judiciary



Hotline

0800 724 052

Available 24/7 | English/Swahili | Confidential | Toll-free

BUSINESS  
INTEGRITY  
DOING THE RIGHT THING, ALWAYS





# Our Partners



National and County  
Government



Child care  
**Baby Friendly Workplace  
Project** & Scaling maternal and  
infant health & wellbeing



**Gender Empowerment Platform** bringing  
together a common voice on SGBV issues  
across the tea industry players  
Socio-economic empowerment programs



***ICT, entrepreneurship & life skills***  
training and youth employability



**Scaling up the safety model** – Global  
Women Safety Framework in Rural  
Spaces



Enhanced & diversified  
nutrition

# WOMEN EMPOWERMENT PROGRAMS



## FEMALE LEADERSHIP

- 43% Female Management in eTK
- Engineering scholarships for females at the university
- Technical skills apprenticeship program



## SOCIAL & POLICY INFRASTRUCTURE SUPPORT

- 13 day care centers & breastfeeding centers
- 50 Early Childhood Centers
- 4 months maternity leave, 21 days paternity leave
- Policy framework: Nursing break policy, agile working policy



## SOCIO-ECONOMIC EMPOWERMENT

- ICT Skills to the women & the youth
- Annual Financial Literacy training for every employee



## IMMEDIATE ACTIONS TAKEN AND ARE IN PROGRESS

1. Disciplinary Action and barred from accessing the business and Reporting to the Police
2. Independent Oversight Committee is currently under development; they will oversee Recruitment, Promotion, Performance, etc
3. Survey Platform; Anonymous Survey to all employees
4. Gender Balance; Increase gender balance at all levels currently at **43%** female
5. Independent Investigation Point 1.0



**THANK YOU!**

