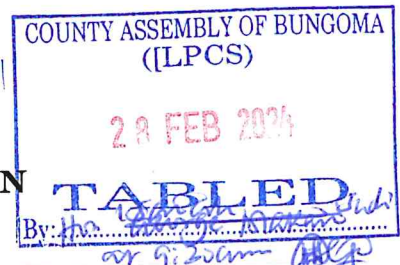


**COUNTY GOVERNMENT OF BUNGOMA**



**COUNTY ASSEMBLY OF BUNGOMA**

**THIRD ASSEMBLY, SECOND SESSION**



**REPORT BY SECTORAL COMMITTEE**

**ON**

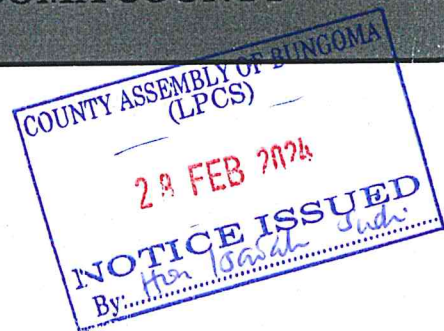
**PUBLIC ADMINISTRATION AND ICT ON THE STATUS OF  
OF DEVOLVED UNITS IN BUNGOMA COUNTY**

**Clerks Chambers**

**County Assembly Buildings**

**PO BOX 1886,**

**BUNGOMA, KENYA**



**November, 2023**

EXECUTIVE SUMMARY .....	3
1.0 CHAPTER ONE .....	5
1.1. PREAMBLE .....	5
1.2. Committee Membership .....	5
1.3. Mandate of the Committee .....	6
1.4. Acknowledgement .....	7
2.0. CHAPTER TWO .....	8
2.1. Sub-County Administrators .....	8
2.2. Ward Administrators .....	11
2.3. Village Administrators .....	13
2.3. Village Councils .....	14
Financial Expenditure .....	16
2.6. Office Operations .....	16
2.7. Quarterly expenditure per Ward Office .....	17
3.0. CHAPTER THREE .....	20
COMMITTEE OBSERVATIONS AND RECOMMENDATIONS .....	20
3.1 COMMITTEE OBSERVATIONS .....	20
3.2. COMMITTEE RECOMMENDATIONS .....	21

## **EXECUTIVE SUMMARY**

**Mr. Speaker,**

The County Governments Act 2012, Part VI, Section 48 provides that functions and provision of services of each County Government shall be decentralized to the Sub – Counties, the Wards and such number of village units as may be determined by the County Assembly. Section 48(4) outlines that a County Assembly shall enact legislation to provide for the delineation and establishment of the village units in the County.

Further, Sections 50, 51, 52 and 53 of the County Governments Act establishes Offices of the Sub-County Administrator, Ward Administrator and Village Administrator respectively and outlines the qualifications and functions.

Following the approval of the Bungoma County (Decentralized Units) Administration Act, 2015, the County Government has established devolved units from the Sub-County to the Village levels; and subsequently filled positions for the Sub-County, Ward and Village Administrators. The Village Councils are yet to be recruited.

However, the administration of the decentralized units has had its share of challenges ranging from political interference to inadequate facilitation and infrastructure for operations. Construction of Sub-County and Ward Offices has progressed at a slow pace leading to increased expenditures on hired offices, most of which are in deplorable conditions.

Additionally, in the Second regime, sub-county administrators were re-deployed to other offices within County departments hence causing a vacuum that has led to some Ward Administrators handling their roles in the Wards and acting as Sub-County Administrators.

Further, under Ward Administration, it is clear that forty two (43) Ward Administrative units are duly filled except Musikoma and Ndivisi Wards which has acting Ward Administrators.

Arising from the above issues, the Sectoral Committee of Public Administration and ICT in its oversight role undertook to inquire into the status of the devolved units with the aim to unearth the challenges faced and recommend an amicable solution on the administration of the decentralized units in compliance to the Second Schedule of the County Assembly Standing Orders. This report provides analysis of information as submitted by the department through written and oral submissions in this regard.

## **1.0 CHAPTER ONE**

### **1.1. PREAMBLE**

**Mr. Speaker,**

I am pleased to present this report on the status of devolved units in Bungoma County. The information and insights contained in this report have been gathered through oral submissions and analysis of documents submitted by the County Executive Department of Public Service Management and Administration.

### **1.2. Committee Membership**

**Mr. Speaker Sir,**

Committee on Public Administration and ICT comprise the following members:

- |                            |                  |
|----------------------------|------------------|
| 1. Hon. Tony Barasa        | Chair person     |
| 2. Hon. Caleb Wanjala      | Vice chairperson |
| 3. Hon. Stephen Wamalwa    | Member           |
| 4. Hon. Joseph Nyongesa    | Member           |
| 5. Hon. Jackson Wambulwa   | Member           |
| 6. Hon. Busolo Sudi        | Member           |
| 7. Hon. Francis Chemion    | Member           |
| 8. Hon. Simotwo Franklin   | Member           |
| 9. Hon. Grace Sundukwa     | Member           |
| 10. Hon. Cornelius Makhanu | Member           |
| 11. Hon. Timothy Chikati   | Member           |
| 12. Hon. Stephen Kaiser    | Member           |
| 13. Hon. Jeremiah Kuloba   | Member           |
| 14. Hon. Job Mukoyandali   | Member           |
| 15. Hon. Brigid Katasi     | Member           |

### **1.3. Mandate of the Committee**

**Mr. Speaker,**

The Sectoral Committee on Public Administration & ICT was established on 26<sup>th</sup> October; 2022 in accordance with the Standing Order No.179.

The mandate of the Committee is derived from the Standing Order 217 (5) and matters assigned under the Second Schedule which shall be exercised within the limits contemplated under Part 2 of the Fourth Schedule of the Constitution of Kenya, 2010.

The functions of a Sectoral Committee shall be to;

- (a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (b) Consider quarterly reports of the assigned departments and report to the house within twenty one sitting days upon being laid
- (c) Study the programme and policy objectives of departments and the effectiveness of the implementation;
- (d) Study and review all county legislation referred to it;
- (e) Study, access and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (f) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- (g) To vet and report on all appointments where the constitution or any law requires the County Assembly to approve, except those under Standing Order 208 (Committee on Appointments); and
- (h) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.



#### **1.4. Acknowledgement**

**Mr. Speaker,**

I wish to thank all the Committee Members for their input and valuable contributions and dedication during the verification, examination of documents and in the entire exercise.

The committee also appreciates the Offices of the Speaker and the Clerk to the County Assembly for the logistical support accorded to it during the exercise.

The Committee further wishes to record its appreciation to the County Assembly staff attached to it for their dedication during the exercise.

The Committee finally appreciates the Executive led by CECM Public Administration and his team for providing the requisite information and documents required that eased its work.

It is therefore my pleasant duty on behalf of the committee to present this report for approval by this Honorable House.

**Thank you,**

Signed..........Date.....5/12/2023.....

**Hon. Tony Khaoya Barasa (MCA Lwandanyi Ward)**

**Chairperson, Sectoral Committee on Public Administration and ICT**

## **2.0. CHAPTER TWO**

### **COMMITTEE ANALYSIS OF THE STATUS OF THE ADMINISTRATORS**

#### **2.1. Sub-County Administrators**

**Mr. Speaker,**

Section 50 of the County Governments Act 2012 establishes the Office of the Sub-County Administrator in each Sub-County. It states that:

1. The office of the sub- county administrator shall be established at the level of each sub county office.
2. The Sub County administrator shall have qualifications and knowledge in administration or management and shall be competitively appointed by the County Public Service Board in accordance with the provisions of this Act.

Further, it states that; The sub-county administrator shall be responsible for the coordination, management and supervision of the general administrative functions in the sub-county unit, including–

- the development of policies and plans;
- service delivery;
- developmental activities to empower the community;
- the provision and maintenance of infrastructure and facilities of public services;
- the county public service;
- exercise any functions and powers delegated by the County Public Service; and
- Facilitation and coordination of citizen participation in the development of policies and plans and delivery of services.

In carrying out the functions and obligations of the Office of the Sub-County Administrator, the Sub-County Administrator shall be answerable to the relevant County Chief Officer.



**Mr. Speaker,**

Additional functions of a Sub-County Administrator which extends the above functions include:

- Promotion and coordination of peace building and conflict resolution
- Coordination of disaster management and emergency response activities in the sub-county in collaboration with other government agencies.
- articulate implementation of Articles 10 (on national values and principles of governance) and 232 (on values and principles of public service) of the Constitution to the citizens;
- mobilize revenue collection and play a critical role in building personal accounts and business register of ratepayers and business people in the sub-county;
- facilitating inter-governmental relations;
- Overseeing safe custody of county government assets in the sub-county;
- coordinating and liaising with other directorates and departments in the sub-county;
- ensuring compliance with legal, statutory and regulatory requirements;
- enhancing administrative capacity for effective functions and governance at the sub-county level;
- identifying development projects;
- disseminating information to the public; and
- Providing linkage between the office of the Sub-County Administrator and the community.

**Mr. Speaker,** Bungoma County currently has nine ((9) established sub-counties. An analysis of the submitted report and oral submissions reveal that none of the Sub-County administrators substantively employed holds the positions. Documents submitted by the Chief Officer indicated that in 2018, the substantive Sub county administrators were transferred and redeployed to various departments as Deputy Directors. As a result, the civil society filed a suit in court which was ruled in the favor of

the sub-county administrators; with a verdict to reinstate them to their substantive positions; a decision which has not been honored to date.

Currently, all the nine (9) Sub-County Administration offices are held in acting positions by Ward Administrators as outlined below:

S/ No	Name	Substantive Position	Ward	Acting Position
1.	Zadock Mwanga Ndiwa	Ward Admin	Elgon	Sub-County Administrator Elgon Sub- County Ward Administrator Chepyuk Ward
2.	Gentrix Nasimiyu Ndinyo	Ward Admin	Malakisi	Sub-County Administrator Sirisia Sub-County
3.	Simiyu Paul Kituyi	Ward Admin	Bumula	Sub-County Administrator Bumula Sub-County
4.	Austine Otuma Amboko	Ward Admin	Kimilili	Sub-County Administrator Kimilili Sub-County
5.	William Wasike Kituyi	Ward Admin	Naitiri	Sub-County Administrator Tongaren Sub-County
6.	Jane Kusienya Rebecca	Ward Admin	Chwele /Kabuchai	Sub-County Administrator Kabuchai Sub-County
7.	Ben Masika Wanyonyi	Ward Admin	Mihuu	Sub-County Administrator Webuye East Sub-County
8.	Eunice Simuli Makokha	Ward Admin	Matulo	Sub-County Administrator Webuye West Sub-County
9.	Festus Wekesa Juma	Ward Admin	Musikoma	Sub-County Administrator Kanduyi Sub-County

*Table 1: Sub-County offices held in acting capacity*

**Mr. Speaker,**

The Public Service Commission Human Resource Policies and Procedures Manual for the Public Service 2016; Section C, clause 14 (1) requires that when an officer is eligible for an appointment to a higher post is called upon to act in that pending advertisement of the post, he or she is eligible for payment of acting allowance at the rate of twenty per cent (20/%) of his/her substantive basic salary.

(4) All recommendations for acting appointments in Job Group 'Q' and above shall be accompanied by a draft indent for advertisement of the vacancy and shall be forwarded to the County Public Service Board.

The current acting Ward administrators are not paid the acting allowance as required by the law. The committee further noted that the ward administrators cannot be promoted to sub-county administrators since the positions are currently not vacant. As a result, the department has initiated a process through the County Resource Advisory Committee (CHRAC) to re-designate the Sub County Administrators to Deputy Directors to allow the department to employ.

## **2.2. Ward Administrators**

**Mr. Speaker,**

Section 51 of the County Governments Act establishes the Office of the Ward Administrator in each ward. It states that;

1. There is established for each ward in a county the office of the Ward administrator.
2. The ward administrator shall have professional qualifications and technical knowledge in administration and shall be competitively appointed by the County Public Service Board in accordance with the provisions of this Act.

Further, Section 51 (3) of the County Governments Act states that; the Ward Administrator shall coordinate, manage and supervise the general administrative functions in the Ward unit, including—

- the development of policies and plans;

- service delivery;
- developmental activities to empower the community;
- the provision and maintenance of infrastructure and facilities of public services;
- the county public service;
- exercise any functions and powers delegated by the County Public Service Board (under section 86 of the County Governments Act); and
- Coordination and facilitation of citizen participation in the development of policies and plans and delivery of services.

4. In carrying out the functions and obligations in sub section (3), the ward administrator shall be responsible to the sub county administrator.

Other additional functions which may extend the above functions include:

- ensure the Village Councils the county government forms in the Wards have proper management;
- articulate implementation of Articles 10 (on national values and principles of governance) and 232 (on values and principles of public service) of the Constitution to the citizens;
- mobilize revenue collection and play a critical role in building personal accounts and business register of ratepayers and business people in the ward;
- facilitating inter-governmental relations and conflict resolutions;
- Overseeing safe custody of county government assets in the ward;
- coordinating and liaising with other directorates and departments in the ward;
- ensuring compliance with legal, statutory and regulatory requirements;
- enhancing administrative capacity for effective functions and governance at the local level;
- identifying development projects;
- disseminating information to the public; and
- Providing linkage between the office and the community.

**Mr. Speaker,**

The Committees analysis of the submitted data revealed that forty two (42) Ward Administration units are duly filled except Musikoma, Ndivisi and Kamukuywa Wards which had acting Ward Administrators.

On inquiry into the whereabouts of the three ward administrators, it was reported that one Gregory Wanyama from Ndivisi ward retired from service in 2022, Mr. Albert Namachanja of Musikoma Ward was re-designated as a Procurement Officer and Mr. Emmanuel Masungu of Kamukuywa Ward had sought leave of absence from office for a period of five years and currently serving as a Chief Officer in Trans Nzoia County.

### **2.3. Village Administrators**

**Mr. Speaker,**

Section 52 of the County Governments Act 2012 establishes the Office of village administrator. It states that;

1. There shall be established office of village administrator for each village unit established in a County.
2. A village administrator shall have professional qualifications and technical knowledge in administration and shall be appointed by the CPSB in accordance with the provisions of the Act.
3. A village administrator shall coordinate, manage and supervise the general administrative functions in the village including;
  - a) Pursuant to paragraph 14 of part II of the fourth schedule of the constitution
    - i. Ensuring and coordinating the participation of the village unit in governance and
    - ii. Assisting the village unit to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level; and
  - b) The exercise of any functions and powers delegated by the County Public Service Board under section 86

4. In carrying out the functions and obligations in sub section (3), a village administrator shall be responsible to the relevant ward administrator.

**Mr. Speaker,**

Bungoma County has 236 village units. Committee's analysis of the report showed that two hundred and thirty two (232) Village Units are duly filled. Two village administrative units; namely Kakamwe and Milima villages are currently vacant due to exit of the substantive office bearers that is Milima Village Administrator Mr. Erastus Wanyonyi and his Kakamwe counterpart Mr. George Makanda joined Teachers Service Commission and Judicial Service Commission respectively.

Chief Officer further informed the committee that two village Administrators for Masaek and Chebwek villages in Mt. Elgon Sub- County were fully appointed and deployed.

**Mr. Speaker,**

Despite the approval and adoption of the Ad hoc Committee on Task Force Reports on Human Resource Audit, Pending Bills and Scholarship Audit by the County Assembly, the department had not implemented its recommendations with regard to village administrators.

During interrogation with the department, the Chief Officer reported that they are in the process of examining each case as per the comments contained in the Ad hoc report; however, the exercise had been slowed down due to unavailability of staff files for the department to extract empirical evidence to back each case.

Further, the department expressed frustrations on their efforts to access the files from CPSB despite multiple reminders.

### **2.3. Village Councils**

**Mr. Speaker,**

Section 53 of the County Governments Act 2012, establishes a village council. It states that;

1. There is established, for each village unit, a village council comprising-



- a) The village administrator who shall be the chairperson of the village council; and
- b) Not less than three and not more than five village elders competitively appointed by the village administrator with the approval of the county assembly, taking into account gender balance.

2. A village council shall be responsible for

- a) ensuring and coordinating the participation of the village unit in governance
- b) assisting the village unit to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level;
- c) monitoring the implementation of policies at the village unit
- d) advising the ward administrator and sub county administrator on matters pertaining to the village and
- e) Any other function necessary for the better administration of the village unit.

3. A person shall be eligible for appointment as a village elder if the person-

- a) Is a citizen of Kenya
- b) Has been a resident of or has been the owner of property in the respective village unit for a continuous period of not less than five years prior to the appointment date;
- c) Meets the requirements of Chapter six of the constitution and
- d) Is not disqualified for appointment to office by this Act or any other law.

4. A village elder shall be paid such allowance as shall be determined by the respective county assembly.

**Mr. Speaker,**

In order to make village Units operational, formation and recruitment of village councils is critical. Section 6(1) of the Bungoma County (Decentralized Units) Administration Act, 2015 states that

*“The County Public Service Board shall appoint administrators of the devolved units through a competitive process having regard to the interests of the women, youths, persons with disabilities and other marginalized groups; provided that any appointment of a village elder as an administrator of Mlango shall be as per section 53(1) of the County Governments Act.*

Analysis of the submitted documents indicate an indent dated 2<sup>nd</sup> February 2022 from the Department of Public Service Management and Administration to the County Public Service Board seeking authority to form and recruit the village councils.

Subsequently, in an advertisement dated 28<sup>th</sup> February, 2022 the County Public Service Board advertised for vacancies inviting suitable and qualified elders to fill in the vacant positions of village councils in the 236 village units. However, this process was hampered with unavailability of funds to recruit the councils. Currently Bungoma County Government does not have village councils in place.

During interaction with the committee, Chief Officer Public Service Management assured members that the department will allocate funds during the financial year 2024/2025 budget to actualize the same.

## **Financial Expenditure**

### **2.6. Office Operations**

The Bungoma County (Decentralized Units) Administration Act, 2015, section 10(3) stipulates that the County Government shall ensure that the administrators of the devolved units are adequately facilitated, financed and equipped to effectively perform assigned functions and duties.

During the current financial year (2023/2024), a total of Kshs. 9,000,000 was appropriated under code 2210802 towards office operations in the devolved units.

A breakdown was provided for the first quarter for office operations per sub-county as outlined:

- |            |               |
|------------|---------------|
| 1. Kanduyi | Kshs. 372,000 |
| 2. Bumula  | Kshs. 323,000 |

3. Mt. Elgon	Kshs. 298,000
4. Tongaren	Kshs. 290,000
5. Kabuchai	Kshs. 212,000
6. Webuye West	Kshs. 208,000
7. Kimilili	Kshs. 208,000
8. Webuye East	Kshs. 167,000
9. Sirisia	Kshs. 163,000
<b>Total</b>	<b>Kshs. 2,241,000</b>

**Figure1: Office operations per sub-county**

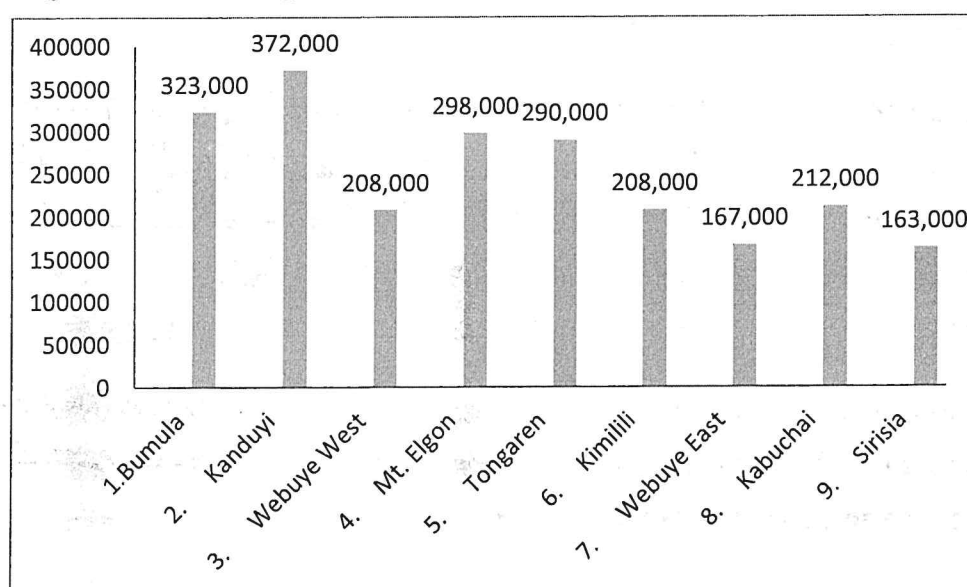


Figure1 indicates that Kanduyi sub-county had the highest expenditures followed closely by Bumula sub-county. Sirisia sub-county had the least expenditures on office operations. It was noted that the sub-counties with more Ward and Village units recorded a higher allocation.

## 2.7. Quarterly expenditure per Ward Office

No.	Description	Monthly Expenditure
1	Local travels	5,000
2	Utilities (water, electricity, etc.)	3,000
3	Daily Subsistence Allowance(DSA)	4,000

4	Catering Services	4,000
5	General office supplies and stationery	4,000
6	Sanitary materials and cleaning materials	3,000
7	Telephone/Airtime	2,000
	<b>TOTAL</b>	<b>25,000</b>

Table 2: Quarterly expenditure per Ward Office

Figure 2: Expenditures per Item

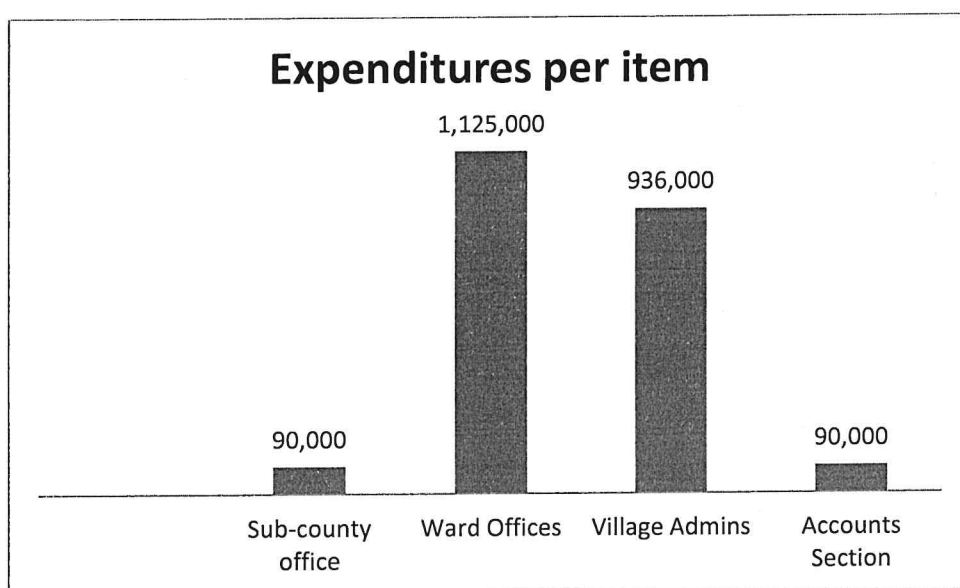


Figure 2 shows that Ward offices and village units had the highest expenditures.

Break down of the expenditures Kshs 10,000 for each Sub County and accounts office operations is as below;

	ITEM	SUB COUNTY OFFICE	ACCOUNTS
	DESCRIPTION		Kshs.
	Utility (water, electricity, etc.)	2,000	0
1	Daily subsistence allowance	2,000	2,000
2	Catering services	0	2,000

3	General office Supplies, stationery	2,000	2,000
4	Sanitary materials and cleaning material	2,000	2,000
5	Telephone/airtime	2,000	2,000
6	<b>TOTAL</b>	<b>10,000</b>	<b>10,000</b>

### **3.0. CHAPTER THREE**

#### **COMMITTEE OBSERVATIONS AND RECOMMENDATIONS**

##### **3.1 COMMITTEE OBSERVATIONS**

**Hon. Speaker, The Committee observed as follows;**

1. All substantive Sub County Administrators were re-deployed to other County departments as Deputy Directors in 2018 except one for Kanduyi, who has since retired. As a result of this, eight Ward Administrators have been doubling up sub county Administrators since then to date.
2. Despite eight Ward Administrators acting in the position of Sub County Administrators, they are not paid acting allowance.
3. Currently two positions of Ward Administrators are vacant i.e. Ndivisi and Musikoma wards.
4. The Department of Public Service Management has not implemented the recommendations of Ad hoc Committee report as approved by the County Assembly on village administrators.
5. Employment of the Village councils has not been done due to unavailability of funds.
6. Two village administrators of Chebwek and Masaek in Mt. Elgon Sub County that were pending deployment have been fully deployed and working.
7. Most village units have not been properly delineated.
8. There is no scheme of service in place to guide employment, deployment and transfers for village administrators.



### **3.2. COMMITTEE RECOMMENDATIONS**

**Mr. Speaker,**

The Committee recommends as follows,

1. The positions of sub county administrators be competitively and substantively filled to allow the Ward Administrators to carry out their functions and duties as per their job descriptions for effective local governance, service delivery, community development, and overall coordination between different levels of the County government.
2. The officers' eligible for appointment to a higher position and called upon to act in those posts are eligible for payment of acting allowance at the rate of twenty percent (20%) of their substantive basic salary.
3. The two vacant positions of ward administrators for Ndivisi and Musikoma wards be duly filled to ensure effective and efficient service delivery to the residents.
4. The Department of Public Service and Management to implement the recommendations of Ad hoc Committee on village administrators as a matter of priority.
5. The department in consultation with the County Assembly to carry out proper delineation of village units.
6. The village councils should be established with immediate effect to complete the governance structure of devolved units and ensure that unique needs and concerns of each village are considered in broader governance issues.
7. The Scheme of Service is a key document in terms of Human Resource management, hence be put in place to guide the CPSB in employment of the Administrators.



#### 4.0 ADOPTION SCHEDULE

The Members of the Sectoral Committee on Public Administration and ICT hereby adopt and append the signatures to this report with the contents herein.

S/N	Name	Designation	Signature
1	Hon. Tony Barasa	Chairperson	
2	Hon. Caleb Wanjala	V/Chairperson	
3	Hon. Stephen Wamalwa	Member	
4	Hon. Joseph Juma	Member	
5	Hon. Jack Wambulwa	Member	
6	Hon. Sudi Busolo	Member	
7	Hon. Grace Sundukwa	Member	
8	Hon. Francis Chemion	Member	
9	Hon. Stephen Kaiser	Member	
10	Hon. Timothy Chikati	Member	
11	Hon. Cornelius Makhanu	Member	
12	Hon. Jeremiah Kuloba	Member	
13	Hon. Franklin Simotwo	Member	
14	Hon. Job Mukoyandali	Member	
15	Hon. Bridgid Katasi	Member	

