

Public policy dialogue & advocacy



Understanding public policy

# Contents

<b>1. INTRODUCTION .....</b>	<b>3</b>
<b>2. LEARNING OBJECTIVES AND OUTCOMES.....</b>	<b>3</b>
<b>3. DEFINITIONS AND KEY CONCEPTS OF PUBLIC POLICY .....</b>	<b>4</b>
<b>4. IMPORTANCE OF PUBLIC POLICY .....</b>	<b>5</b>
<b>5. CLASSIFICATION OF PUBLIC POLICIES .....</b>	<b>5</b>
<b>6. PUBLIC POLICY TOOLS AND INSTRUMENTS .....</b>	<b>8</b>
<b>7. PUBLIC POLICY DOCUMENTS .....</b>	<b>10</b>
<b>8. PUBLIC POLICY INSTITUTIONS.....</b>	<b>12</b>
<b>9. PUBLIC POLICY AND GOVERNANCE .....</b>	<b>15</b>
<b>10. CONCLUSION .....</b>	<b>17</b>

This workbook has been written by Kiragu Wachira

© Copyright. This handbook is copyright. It may not be reproduced in any form for commercial gain, but may be freely copied for use by business membership organisations provided that the source is quoted.

# Public policy dialogue & advocacy

## Understanding public policy

### 1. Introduction

The Business Advocacy Fund (BAF) provides support to Business Member Organisations (BMOs) in Kenya to advocate for a conducive business and investment climate policy environment. The support provided is mainly in the form of grants and technical assistance in respect of projects that target policy reforms for private sector growth and development.

Good public policies are necessary for presence of business and investment friendly climate. Business Member Organisations should be concerned with policies affecting private sector that the government puts in place. As a result, BMOs need to have a good understanding of public policy so as to enhance their advocacy. This workbook covers wide range of material that lays the foundation for understanding public policy. The workbook is prepared for the **Understanding Public Policy** unit, which is part of the **Policy Process** module.

### 2. Learning objectives and outcomes

#### 2.1 Learning objectives

---

The objective of this Unit is to deepen the understanding of public policy by

- providing definitions and description of public policy
- introducing and outlining some of the key concepts used in describing public policy
- describing public policy output, outcome and impact as well as policy instruments and tools
- describing the public policy institutions

#### 2.2 Learning outcomes

---

On completion of the Unit, it is anticipated that you will

- have gained knowledge of what public policy is and how it is classified
- be able to relate ordinary government actions to respective public policies
- be able to identify and explain what and how public policies relate to or are applicable in your sector
- be able to demonstrate an understanding of public policy institutions.

### 3. Definitions and key concepts of public policy

There is no universal definition of public policy, but generally speaking a policy sets out a principle or set of principles on which to base public decisions (for example, embracing the concept of the customs union within East Africa). As a result, a policy statement provides the background against which present and future public decisions will be taken. Sometimes, however, policy is used by policy makers to describe the plan of action necessary to address a public issue. It may be simply a written guiding statement that guides actions of Ministries or Agencies or it may require legislation to give it full effect.

There are various definitions of public policy that provide a good understanding of what public policy is. Public policy is commonly defined as a

- set of interrelated decisions taken by a political actor or group of actors concerning the selection of goals and the means of achieving them within a specified situation where those decisions should, in principle, be within the power of those actors to achieve. (Jenkins 1978<sup>1</sup>);
- political agreement on a course of action (or inaction) designed to resolve or mitigate problems on the political agenda. (Fischer *et al* 2007);
- course of action (or non-action) taken by a government or legislature with regard to a particular issue. (Knill & Tosun 2012);
- purposeful direction or pattern of action followed by a public official or institution in dealing with a public problem or matter of concern over time. (Anderson: 1984).

What a government or its entity pursues in order to address a public issue amounts to public policy. Public policies seek to regulate, control, promote or develop each policy field or sector. Public policy is normally codified into a written instrument such as laws, regulations, sessional papers and administrative circulars among others.

All policy fields or sectors are governed in one way or another by public policies. The term public policy is often used to describe whole range of public activities in a specific sector or policy field under main thematic areas e.g. health policy, education policy and environment policy. Public policy is also used to refer to public activities under a sub field or sub theme of main policy theme or field e.g. monetary policy under the economic policy theme or interest rates policy under monetary policy sub-theme. Each policy theme or sub-themes target specific issues or activities.

The importance of classifying or describing policies under respective fields is that it enables actors in public policy to address relevant issues and problems in accordance with the core theories, processes and activities under each field. When engaging in policy advocacy, the first criterion to adopt is identification and determination of the core policy field under which the public problem would be categorised. This subsequently informs the mapping of policy actors such as

---

<sup>1</sup> Quoted in Howlett M, Ramesh M and Perl Anthony (2009): *Studying Public Policy, Policy Cycles and Policy Systems*, 3<sup>rd</sup> ed, Oxford University Press, UK pg. 6.

core relevant government institutions, core relevant policies and laws, as well as the process to be adopted.

The most common public policy fields include economic, social, education, health, environment, agricultural, energy, roads policy, foreign policy, human rights and democracy, justice, law and order, public administration, public service, urban development and international policies such as human rights treaties and conventions, international rules of general practice, international trade rules and global strategies such as Sustainable Development Goals (SDGs).

#### 4. Importance of public policy

Public affairs, processes and issues are primarily governed through public policy. Whenever government takes action or fails to take action on a public issue, the question that arises is "*what is the government policy or public policy on the issue?*" Therefore, public policy is important because it:

- clarifies the goals and actions to be pursued by government in addressing public issues and problems;
- enables government to have a prudent and objective process of resource allocation, since resources are allocated (or should be allocated) in accordance of the set government policy;
- promotes fairness and equity in service delivery since provision of public services is guided by public policy related to the public service and not a public official's subjective decision;
- promotes predictability, transparency and accountability of government actions especially in regard to regulatory policy. This is essential for the business sector since it enables businesses to operate in a clear and predictable environment;
- promotes principles of good governance such as democracy, institutional and rules-based governance since public policy entails public discourse within systems, rules and public policy institutions.
- sets out the expectations on what rules, processes or systems govern a particular policy field.

#### 5. Classification of public policies

There are different ways of classifying public policies. Public policies may be classified according to their focus, typologies, and implications on politics or governance principles. Public policies may be externally focused or internally focused. Externally focused policies form the main categories of public policies. They govern all activities associated with a particular policy field as they relate to all public and private actors. Most public policies and laws are externally focused and must receive cabinet level and legislative approval. Internally focused policies mainly govern the operations of government and its entities. They may also be referred to as operational or administrative policies. They facilitate implementation of externally focused public policies. Ordinarily, operational policies do not require approval of the legislative assembly unless where the issues they cover have legal implications. Examples of operational policies include sector plans, strategic plans, guidelines, administrative circulars, management

systems for public service delivery e.g. e-government such as the *itax* system, and one stop shop for government services such as *huduma* centres.

Public policies may also be classified or described based on various forms or typologies<sup>2</sup> such as subject matter (e.g. economic policy, trade policy and environmental policy), time period (e.g. post-world war policies, *post-colonial policies and post-independence policies*), ideologies (conservative policies, *liberal policies*) or institutions (regional policy, *national policy*, local policy, European policy and *East African Community policy*) (Knill & Tosun, 2012: 15-16).

Knill & Tosun (2012) presents two other major approaches of classifying public policies. These are:

- classification by implications for politics; and
- classification by governance principles and instruments.

### 5.1 Classification by implications for politics

---

This classification is based on analytical approach on how policies are related to public decision-making processes. According to Knill & Tosun (2012: 16), one of the most persuasive typologies or forms under this classification is proposed by Theodore J. Lowi, which is commonly referred to as Lowi's typology. The typology provides a connection between politics and public policy by highlighting how political decision-making process influences policy direction and measures adopted. Under this typology, public policy emerges as result of political contestation on how to solve public problems. The contestation is normally based on aspects such values, ideologies, views and perspectives and social structures which influence the policy measures adopted. At the point of development, a policy may belong to a particular policy type but after enactment and implementation, the policy is reformed into another policy type. For example, a redistributive policy may be initiated to cover a specific group but due to contestation, it may be expanded to be a distributive policy to cover a wider population.

The classification of policy types discussed below is intended to broaden the manner of viewing and analysing policies. The classification is descriptive in nature and acts as a guide in understanding the nature of public policies and how the process of formulating policies (policy goals, stakeholder contestation and interaction between politics and policy) influence the type of policies adopted.

Lowi identifies the following four categories of policies

- **Distributive policies** which relate to measures that affect distribution of state resources from government to specific target group or beneficiaries. This entails use of public funds to assist a particular group of society mainly due to their vulnerability and need such as marginalisation, poverty or adverse situation with serious impact. Distributive policies promote social welfare. Anderson (1984: 5) observes that distributive policies involve using public resources to assist particular groups, community or industries. The cost is

---

<sup>2</sup> A typology is a classification according to general type for example in social sciences.

normally borne by the general public e.g. through taxes. The policies create winners and no specific group of losers. However, conflicts may arise from the general public where adoption of distributive policies is perceived to result in more tax increases. Examples of distributive policies include agricultural subsidies, free education, free maternity healthcare services, Youth Enterprise Fund and Women Enterprise Fund and tax deductions for home mortgage interest payments.

- **Redistributive policies** which relate to the transfer of resources from one societal group to another. According to Anderson (1984: 7), redistributive policies 'involve deliberate efforts by the government to shift the allocation of wealth, income, property or rights among broad classes or groups of population such as the rich and poor'. The costs are normally borne by one societal group while another societal group receives the benefits. Examples of redistributive policies include graduated income tax and land reforms for settling the landless and national pension schemes where the younger generation pays for the older generation's pension benefits.
- **Constituent policies** which create or modify the state's institutions as well as change institutions' rules and procedures. This entails setting up or reforming public institutions for the purposes of regulating processes, providing services and producing public goods among others. Examples of constituent policies include policies establishing Kenya Investment Authority (Keninvest), Capital Markets Authority and Communication Authority.
- **Regulatory policies** which specify conditions, restrictions and constraints on individual or collective behaviour. These policies entail regulating behaviour of individuals, groups and corporate entities. Regulatory policies can be used to address distributive, redistributive and constituent policies to the extent that they relate to regulatory processes. Anderson (1984: 6) observes that regulatory policies create clear winners and losers since there are groups supporting or opposing the regulatory policies. Examples of regulatory policies include criminal law, alcohol control laws, competition policy, consumer protection laws, standards, communication and information policy, energy policy and financial services regulation (e.g. Banking Act and Insurance Act).

## 5.2 Classification by governance principles and instruments

---

According to Knill and Tosun (2012: 22), public policies can be classified based on underlying governance principles and instruments. Governance instruments refer to means or techniques by which governments seek to achieve their policy goals for example subsidies, emission limits etc). Governance principles refer to specific classes or groups of governance instruments. Policies are classified in accordance with governance principles based on four central resources of government i.e. **N**odality, **A**uthority, **T**reasure and **O**rganisation (NATO). The resources characterise the role of government in steering public affairs.

- **Nodality** refers to the central role played by government in regard to use and distribution of information within political systems. Government consists of many institutions that generate and manage public information that is used by other societal actors. Therefore, government collects and distributes

information to society in order to enlighten the society or change their perceptions or change a specific individual or collective behaviour for the purposes of achieving political objectives. Examples of policies adopted in relation to nodality status of government include publication of data and information, education, advice, recommendation and persuasion. Government information campaigns are a major policy tool adopted here (such as disease control vaccination campaigns). In addition, government's requirement on information packaging e.g. eco-labelling on consumer products is an example of information policies to change public behaviour. Policies made under nodality mainly focus on changing attitudes, perceptions and behaviour and less on compliance. They therefore complement other policies relating for example on regulation.

- **Authority** implies that government has legitimate and official legal power and authority to make public interventions. Authority based policies mainly take the form of command and control system where government through law seeks to control or regulate certain actions or behaviour. Regulatory policies are the main form of policies that the government uses under authority resources. Examples include economic regulation policies such as competition laws, financial sector regulation, internet regulation or business regulation in general. Authority resources may also entail designating self-regulation powers to non-state actors such as private sector e.g. self-regulation under private sector. Regulatory policies described under Lowi's typology fall under this category.
- **Treasure** resource is money based and entails economic tools of government. Government uses fiscal policies and economic tools to punish the behaviour that they want to deter (fiscal disincentives) e.g. fines, encourage economic actions through subsidies and financial aid (financial incentives), regulate business activities through fees, rates and levies, distribute income through taxation and pension schemes among others. Distributive and redistributive policies described under Lowi's typology fall under this category.
- **Organisation** implies that government relies on organisational structure to achieve its mandate. Through organisational structures, government provides or produces public goods or services directly. Government does this through state ministries, departments or agencies. Examples include provision of national defence, education, health and certain quasi-commercial services (through state owned enterprises). Policies related to organisation entail establishment of new state organisations, restructuring existing organisation (e.g. through merger, abolition or reorganisation including mandates reassignment). Constituent policies described under Lowi's typology fall under this category.

## 6. Public policy tools and instruments

Policy tools and instruments are the means that the government uses in order to achieve the policy objectives and goals. Government adopts various public policy instruments to achieve intended policy objectives, goals and outcomes. The interventions adopted in a policy framework are referred to as policy instruments. The choice of type of policy instrument to be adopted depends on policy objectives, goals and outcomes. Policy instruments are normally classified in



accordance with the above classification of public policies (part 5.2) according to governance principles (NATO). The table below summarises the most common policy instruments adopted by government.

**Table 1: Public policy tools & instruments and their characteristics**

Policy instrument	Characteristics
Taxes	<ul style="list-style-type: none"> <li>▪ Distributive and redistributive taxes – income tax, excise tax and VAT</li> <li>▪ Regulatory taxes- license fees (e.g. telecommunication license fees)</li> </ul>
Regulation	<ul style="list-style-type: none"> <li>▪ Regulating behaviour of individuals or corporates – health and safety laws, traffic laws, environment laws, alcohol and tobacco control, price controls and control of natural monopolies</li> <li>▪ Regulation intended to reduce potential harm, guide operations of certain processes and activities</li> <li>▪ Includes sanctions, incentives</li> </ul>
Subsidies and grants	<ul style="list-style-type: none"> <li>▪ Stimulates activities that neither market nor non profit or voluntary actors can provide efficiently</li> <li>▪ Promotes wealth creation, poverty alleviation, intergovernmental relations where grants are transferred to subnational (such as counties) levels of government</li> </ul>
Service provision	<ul style="list-style-type: none"> <li>▪ Direct provision of services such as security, education, health, recreation or immigration</li> <li>▪ Most public policies have certain service provision component</li> </ul>
Budget	<ul style="list-style-type: none"> <li>▪ Outline financial commitment by government to meet certain public policy obligations</li> <li>▪ The main instrument of government expenditure for meeting public needs</li> </ul>
Information	<ul style="list-style-type: none"> <li>▪ Provision and access to government information by members of public</li> <li>▪ Public information production and disseminations including data and statistics</li> </ul>
Structure of private rights	<ul style="list-style-type: none"> <li>▪ Governance and management of private relationships such contracts, family relations, labour relations, constitutional rights and property rights</li> </ul>
Framework for economic activity	<ul style="list-style-type: none"> <li>▪ Market interventions and regulation dealing with competition, price controls, control of output levels (e.g. Import and export controls)</li> <li>▪ Regulation of government interventions on economic activities e.g. Deregulation of price controls, control of output levels</li> </ul>
Education and consultation	<ul style="list-style-type: none"> <li>▪ Provision of public awareness creation and education to change public behavior or values e.g. Health campaigns</li> <li>▪ Provision of technical assistance to improve competencies</li> </ul>
Financing and contracting	<ul style="list-style-type: none"> <li>▪ Financial services regulation</li> <li>▪ Structuring of capital and insurance markets</li> <li>▪ Provision of subsidized loans</li> <li>▪ Setting up public enterprises</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Creation or abolition of governmental market</li> <li>▪ Structuring of government procurement system</li> </ul>
Bureaucratic and political reforms	<ul style="list-style-type: none"> <li>▪ Civil service and public sector reforms</li> <li>▪ Political reforms especially on governance institutions</li> </ul>
Source: adapted from Bardach (2012)	

## 7. Public policy documents

Public policy is normally codified into written document for it to have legal or administrative force. These documents may be referred to as legal and administrative instruments that contain public policy. The main legal or administrative instruments (documents) are sessional papers, laws or statutes, master plans, operational policies, public finance instruments and administrative circulars.

### 7.1 Laws or Statutes

Laws are the main legal instruments providing for public policy. Every policy field is governed by diverse laws. Most public policy instruments described above are given effect through laws. Laws are legally binding and enforceable hence resulting in enforceability of public policy. Laws are mainly derived from the policy measures or statements (and espouse policy measures) that the government has adopted in addressing a particular public issue or problem e.g. as provided in sessional papers.

At international level, laws take the form of rules and norms of general practice, treaties, conventions, agreements, and protocols among others. International laws inform the content of national laws of the parties to the laws. For example, the UN treaties and conventions on fundamental rights and freedoms and WTO trade rules inform the national laws on the respective issues.

At national level, laws take the form of national constitution, Acts of Parliament (Statutes), Regulations or Rules (Subsidiary legislation) and decrees or orders. The constitution is the highest law in the country followed by the respective statutes. Regulations, rules, decrees or orders derive their power from the respective statutes. At county level, the main laws are Acts of county assembly (Statutes), Regulations or Rules (Subsidiary legislation) and decrees or orders. Some of the laws specifically governing business sector include Companies Act, Banking Act, Insurance Act, Competition Act, Income Tax Act, Value Added Tax Act and Information and Communication Act among others. Standards made under the Standards Act, Cap 496 also form part of subsidiary legislation and policies.

### 7.2 Sessional Papers

Sessional Papers are the main administrative documents containing public policy. Ideally, all development of law should be preceded or informed by the respective Sessional Paper. Sessional Papers comprehensively address the broader policy issues to be addressed in a specific policy field or subfield. In the day-to-day reference, Sessional Papers are commonly referred to as "education policy", "industrialization policy" or "health policy". The term "sessional paper" is derived

from the fact that the policy documents are introduced in a Parliamentary session as a policy paper.

Sessional Papers substantially influence the direction that the government takes to deal with any public issue. Examples of Sessional papers include Sessional Paper No. 10 of 1965 on African Socialism and its Application to Planning in Kenya, Sessional Paper No. 10 of 2012 on Kenya Vision 2030, Sessional Paper No. 2 of 2015 on Education Policy: Reforming Education and Training Sectors, Session No. 2 of 2005 on Development of Micro and Small Enterprises, Session Paper No. 3 of 2012 on Population Policy for National Development and Sessional Paper No. 9 of 2012 on the National Industrialization Policy Framework for Kenya 2012–2030.

Sessional Papers are implemented through laws (new laws or existing laws), programs, strategic, sectoral, operational or development plans and budgets among others.

### **7.3 Master Plans**

---

Master plans are long term planning instruments/documents and are mainly of technical nature. They lay out future, long-term growth and development planning in respect to a particular sector. Master plans, once adopted by the relevant policy making organ, form the basis of future planning, development and public expenditure. The spatial plan is an example of a master plan. It lays out social-economic planning of physical development activities in a locality. Once adopted, a spatial plan is legally binding and guides all development approvals. Development of spatial plans in Kenya is anchored under the County Governments Act, 2012 and is approved by the county assembly. Others include roads infrastructure master plan, Water master plan. Master plans are anchored in respective legislations.

### **7.4 Public finance instruments**

---

Public finance instruments form a specific body of policy documents. The main public finance documents include

- Budget and its related documents
  - National government – the budget, Budget Policy Statement, Economic and Budgetary Review Report, Medium Term Debt Management Strategy, Medium Term Plan (implements Kenya Vision 2030 in 5-year cycles), Medium Term Expenditure Framework
  - County government – the budget, County Fiscal Strategy Paper, County Budget Review and Outlook Paper and County Government Debt Management Strategy

These documents or instruments form the basis of fiscal planning management and are core in any policy advocacy related to fiscal planning and management.

#### **7.4.1 Operational policies**

---

As noted in part 5 above, operational policies are internally focused policies and are mainly focused on internal government processes. They determine the

effectiveness of the externally focused policies. Some of the operational policies are directly based on respective laws or sessional papers. Operational policy documents include strategic plans, development plans, management systems for public service delivery e.g. adoption of e-government as a policy. Government departments are normally obliged by externally focused public policies to develop and adopt operational policies.

#### **7.4.2 Administrative circulars**

---

Administrative circulars are instruments that are used by government policy makers or government institutions to give directives to government officers within the ministries or departments; or to other government entities on certain government procedures and practices. Administrative circulars sometimes give clarification and interpretation on the operation of law as it applies to respective government departments or officers. The power to make administrative circulars is derived from respective legislations. In certain circumstances, Cabinet makes certain decisions to give directives on implementation of public policy. Such decisions are implemented through administrative circulars. National treasury and county treasury issue numerous circulars directing respective government departments to adopt appropriate measures related to public finance. The Salaries and Remuneration Commission issues circulars on remuneration of public officers.

### **8. Public policy institutions**

Public policy institutions are core in any study or analysis of public policy. Institutions are part of public policy since they are the ones that define, initiate, formulate, adopt and implement public policies. Public policy institutions are differentiated from public policy actors. Public policy institutions are public in nature and have the legal mandate to govern public policy aspects. Public policy actors are institutions that shape, influence public policy or participate in public policy process and may include public or private institutions and individual citizens.

It is therefore necessary to have a grasp of which institutions form part of public policy and what are their fundamental characteristics and roles. This part provides useful highlights for the other two related Units in the module i.e. formulating public policy and public policy analysis. Public policy institutions can be categorized in accordance the levels of public policy process i.e. international, regional, national, county (subnational) levels. The table below provides a summary of the institutions.

**Table 2: Summary of policy institutions**

Institution	Characteristics
International/ multilateral	<ul style="list-style-type: none"> <li>▪ Established by nations to govern global policy issues such as global cooperation, peace and security, health, environment, trade</li> <li>▪ Decision making is done by negotiations, consensus building and voting</li> <li>▪ Decisions are adopted by nations through ratification of legal instruments</li> <li>▪ Binding policy decisions are contained in legal instruments such as treaties, rules and conventions which are based or form part of international law</li> <li>▪ Non-binding policy decisions are contained in global commitments such as action plans or global strategies to address specific global policy concerns (however, nations are expected to keep their commitments)</li> <li>▪ Decisions are binding on nations that ratify the policies and instruments</li> <li>▪ Nations adopt international legal instruments through the process of domestication i.e. adopting the agreement through enactment of national laws. Most national laws and policies are shaped to a large extent by the international instruments negotiated and adopted under the institutions</li> <li>▪ Key policy instruments include resolutions, directives, advisory notes and commentaries on interpretation of provisions of treaties and conventions</li> <li>▪ Accountability and transparency is undertaken through reporting on nations' compliance with international rules and policies</li> <li>▪ There are established dispute settlement mechanisms to solve international disputes where states can have disputes solved</li> <li>▪ United Nations and its agencies is the main multilateral/ international public policy institution. UN agencies include UNDP, WHO, WTO, UNCTAD, UNICEF, UNEP, UNAIDS and WFP/FAO</li> <li>▪ Other multilateral public policy institutions World Bank and IMF. IMF is responsible for fostering global monetary cooperation, secure financial stability and international trade facilitation. World Bank facilitates development and poverty reduction through providing loans for capital development projects, promoting foreign investment and international trade facilitation.</li> <li>▪ Heads of States form the main policy making organs followed by relevant ministers and finally technical officers in the respective state ministries</li> </ul>
Regional	<ul style="list-style-type: none"> <li>▪ The frameworks described under multilateral institutions above apply to regional institutions.</li> <li>▪ Regional international policy institutions are mainly geographically established either at continental level or sub-continental level. They may consist of nations sharing boundaries in specific locality and seeking to foster common agenda such as peace and security or international trade.</li> </ul>

- Examples include African Union (AU), East African Community (EAC), Common Market for East and Southern Africa (COMESA) and Southern Africa Development Community (SADC)
- AU provides a platform for fostering and integrating African countries in addressing common social, economic and development challenges
- EAC and COMESA are institutions founded on regional trade integration. Treaties, protocols and rules made under the two institutions are binding on members states and form part of the nation states' body of law
- Inter-Governmental Authority on Development (IGAD) is another international policy institution that has implications on Kenya's policy regime. IGAD provides a platform the regional member countries to address development, national stability, peace and security issues affecting the countries.

---

National

**National Government (policy institutions)**

**Legislature (Parliament) - Chapter 8 of the Constitution**

- Represent the people and has delegated authority from the people to legislate
- Provides policy oversight over other arms of government through budget approval, scrutiny of public expenditure and law making
- **National Assembly** legislates on any matter concerning the country, approves Sessional Papers, vets and approves appointments of constitutional office holders, provides oversight of government ministries and departments, approves declaration of war and state of emergency as well as impeaching President and Deputy President
- **Senate** makes laws related to county governments, approves division of revenue among counties and advocates for interests of county governments and exercises oversight over county governments on public finance matters

**Executive – Chapter 9 of the Constitution**

- Exercises executive authority as delegated by the people
- Functions of national government are as stipulated under Part 1 of the Fourth Schedule to the Constitution
- Initiates and proposes public policy and laws for consideration and approval by legislature
- Implements public policies and laws through ministries, independent offices and commissions, state corporations, government commercial enterprises (such as Kengen and Kenya Power) and executive offices
- Manages public finances for effective public funding of implementing policies and laws
- Manages national public service and national public service policy

**Judiciary – Chapter 10**

- Exercises judicial authority as delegated by the people
  - Administers justice through adjudication of disputes
  - Forms policy through legal interpretation of statutes leading to judicial pronouncements and precedents
-

County (Subnational)	<p><b>County Governments - Chapter 11</b></p> <p>Functions of county governments are as stipulated under Part 2 of the Fourth Schedule to the Constitution</p> <p><b>County Assembly</b></p> <ul style="list-style-type: none"> <li>▪ Exercises legislative authority at county level as delegated by the people</li> <li>▪ Provides policy oversight over county executive through budget approval and scrutiny of public expenditure, and law making, approves county Sessional Papers and plans vets and approves appointments of county executive committee members and chief officers and others officers where law requires their vetting by county assembly</li> </ul> <p><b>County Executive</b></p> <ul style="list-style-type: none"> <li>▪ Exercises executive authority at county level as delegated by the people</li> <li>▪ Consists of the Governor, Deputy Governor, county executive committee and county public service</li> <li>▪ Initiates and proposes county public policy and laws for consideration and approval by county assembly</li> <li>▪ Implements public policies and laws through county departments, county corporations and county executive offices</li> <li>▪ Implements specific national policies</li> <li>▪ Monitors and evaluates implementation of county policies and laws</li> <li>▪ Manages public finances for effective public funding of implementing policies and laws</li> <li>▪ Manages county public service</li> </ul>
-------------------------	---

---

## 9. Public policy and governance

Public policy is part of governance. Governance is concerned with steering society in a particular direction. It also entails coordinating society or public affairs through political process. Public policy sets forth the manner in which a society is governed or ought to be governed. There are three modes of governance namely hierarchy, markets and networks that enhance conceptualization of governance and public policy. The three modes determine the choice of appropriate policy to be adopted in addressing a public problem or issue. However, under normal circumstances, the three modes may operate within the same policy field at the same time. These governance modes are<sup>3</sup>:

### 9.1 Governance by hierarchy

---

Governance by hierarchy entails steering by formal rules, systems, procedures that bind both government and private actors through state intervention (through bureaucratic systems). Government hierarchical order sets the policy direction through what is commonly referred to as command and control (use of

---

<sup>3</sup> Knill C and Tosun J (2012). *Public Policy, A New Introduction*, Palgrave Macmillan, UK. Pg. 199-219

government authoritative power to command and control policy content and process). The mode implies that government is directly in charge of governing by rules in a particular policy area. The government may regulate actions of all players, provide services directly (as opposed to the market) or coordinate all actors in a particular policy field among others.

Hierarchical governance works better where the policy field relates to provision of public goods such as clean environment, health, roads or public infrastructure, education, defence or regulation of economic activities. Governmental intervention is presumed to be essential due to market imperfections and failures, which lead to externalities and inequities in society.

## **9.2 Governance by markets**

---

Governance by markets entails provision of goods and services by market. It is based on the premise that the market is better placed to allocate efficiently goods and services than the state. Under the market, it is presumed that there is perfect flow and access to relevant information on exchange of goods and services and that consumers make rational choices in selection of goods and services. Demand and supply market forces determine one's participation in the market for goods and services. Policies adopting governance by markets seek to give market players freedom to operate but often within basic market governance rules. However, due to market imperfections and failures certain level of governmental interventions (governance by hierarchy) is required.

## **9.3 Governance by networks or network governance**

---

Network governance entails coordination between public and private actors (including voluntary actors) on provision of goods and services as well as market regulation to a certain extent. Public and private actors form policy networks based on common interests and pursuits in a particular field. The public and private actors play their distinct roles in an interdependent manner taking into consideration matters such as capacity, access to information, expertise and resources among others. In network governance, policies are developed, adopted and implemented in a collaborative manner.

The private actors complement the role of government in addressing a particular policy issue. Self-regulation by private actors is an example of network governance. Private actors are given mandate by government to regulate some of their own activities within certain rules. Network governance provides a framework for stakeholder engagement in policy process.

Network governance provides opportunities for formation of policy networks which facilitate public and private actors to be integrated in policy process. Policy networks consist of public and private actors who coalesce around a policy issue or domain. The networks share common policy beliefs and goals as well as knowledge and interest in a policy area. Network members pursue participate in policy negotiations for a common purpose. However, since public actors bear the legal mandate to form and adopt policies, they still retain certain residual powers to guide and sometimes control network governance processes. An example of



network governance is public-private sector participation in technical committee on standards development under Kenya Bureau of Standards.

## 10. Conclusion

This workbook has considered various concepts and theories on public policy. As noted in the introduction, the purpose is to equip BMOs to engage constructively in public policy advocacy. Ultimately, it is anticipated that there will be enhanced capacity among BMOs to advocate policy reforms that advance the enabling environment in which businesses operate and thrive. There are various implications on advocacy that emerge from the concepts, theories, process and tools presented in this workbook.

*First*, the definitions and concepts describing public policy create a foundation for policy advocacy which includes understanding that government actions in solving public problems constitute public policy; public policies are grouped in accordance with respective policy fields and that policies are interconnected in solving problems. This is useful for BMOs in making preliminary determination on whether the advocacy problem or issue is a policy issue, whether it requires government intervention and which policy fields are relevant to the problem being addressed.

*Second*, classification of public policies deepen the understanding of the nature and types of public policies; how public policies relate and are influenced by politics and political system; how interest groups and their pursuits shape public policy and how distribution of costs and benefits in public policy determines the policy outcomes which in turn shapes public policy. This informs stakeholder analysis through identification of diverse interest groups and respective policy measures targeting them; advocacy strategies and policy positions, which are based on the policy types. Classifying policies by governance principles enables an appreciation of instruments and resources available to government in solving public problems. Policy advocacy at whatever stage of policy process at any time relates to certain policy instrument. Knowledge of policy instruments and their characteristics is critical for policy advocacy.

*Third*, ordinarily, policy advocacy is based or focused on a specific policy and legal document or instrument (sessional papers, statutes and plans among others) for the purposes of reform or change or implementation. Gaining understanding about which the document or instruments contain or provide for public policy is essential for successful policy advocacy.

*Fourth*, policy advocacy is always targeted at specific policy institution. Gaining and enhancing knowledge about policy institutions at all levels is essential in policy analysis and advocacy. BMOs need to know which institutions are responsible for the respective policy fields to engage in policy advocacy.

*Fifth*, governance approach or type determines the focus of policy advocacy. The design of policy advocacy is partly based on the type of governance under which the public policy is based. For example, where a policy is based on governance by hierarchy (government), advocacy strategy would for example focus on either strengthening government systems or shifting governance from hierarchy to

market or to network governance. But if a policy is based on market governance, policy advocacy would for example focus on creating level playing field or increasing more roles in self-governance for players in the market.

## Further reading and further information

- Anderson, James E (1984). *Public Policy Making: An Introduction*, 3<sup>rd</sup> Ed. Boston: Houghton.
- Bardach Eugene (2012). *A practical Guide for Policy Analysis- The Eightfold Path to More Effective Problem Solving*, 4<sup>th</sup> ed, Sage USA.
- Dunn N. William (2012). *Public Policy Analysis, 4<sup>th</sup> Ed*, Pearson USA.
- Ferlie E, Lynn L and Pollit C (editors) (2005): *Oxford Handbook of Public Management*, Oxford University Press, UK
- Fischer F, Miller Gerald and Sidney Mara (editors) (2007). *Handbook of Public Policy Analysis - Theory, Politics and Methods*, CRS Press USA.
- Moran Michael, Rein Martin & Goodin Robert, (editors) (2006). *The Oxford Handbook of Public Policy* Oxford University Press, UK.
- Hill Michael (2013). *The Public Policy Process*, 6<sup>th</sup> ed, Routledge, UK.
- Howlett M, Ramesh M and Perl Anthony (2009): *Studying Public Policy, Policy Cycles and Policy Systems*, 3<sup>rd</sup> ed, Oxford University Press: Canada.
- Kingdon John (2011). *Agendas, Alternatives, and Public Policies*, 2<sup>nd</sup> ed, Longman, USA.
- Knill C and Tosun J (2012). *Public Policy, A New Introduction*, Palgrave Macmillan, UK.
- Peters Guy and Pierre Jon (editors) (2006). *Handbook of Public Policy* Sage, London.
- Pollock R, Wick C and Jefferson A (2015). *The Six Disciplines of Breakthrough Learning*, 3<sup>rd</sup> ed, Wiley, USA.





This series of advocacy competence handbooks – divided into modules and units – is intended to support business member organisations (BMOs) to engage in public private dialogue and to advocate improvements to the business environment. You are free to use the units and other materials provided that the source is acknowledged.

#### Foundation Unit

##### 0. Introduction to advocacy & dialogue

##### Module 1: The policy process

###### 1.1 Understanding policy and regulation

###### 1.2 Policy analysis

###### 1.3 The process of formulating and reforming policy

##### Module 2: Policy positions

###### 2.1 Identifying, understanding & framing issues

###### 2.2 Preparing policy positions

###### 2.3 Influence & argumentation

##### Module 3: Communications

###### 3.1 Communications & public relations

###### 3.2 Media relations & use of social media

###### 3.3 Interview skills

##### Module 4: Written communications

###### 4.1 Branding & house styles

###### 4.2 Writing press releases

###### 4.3 Preparing written documents

##### Module 5: Managing advocacy projects

###### 5.1 Planning an advocacy project

###### 5.2 Budgeting & financial management

###### 5.3 Evaluation of advocacy

##### Module 6: Managing a BMO

###### 6.1 Leadership, strategy & business planning

###### 6.2 Governance and ethics

###### 6.3 Members and member services

##### Module 7: Research

###### 7. Research methods



The Business Advocacy Network is an initiative of Irwin Grayson Associates and can be found at [businessadvocacy.net](http://businessadvocacy.net). IGA can be found at [irwingrayson.com](http://irwingrayson.com) and contacted at [david@irwin.org](mailto:david@irwin.org). You can follow David Irwin on twitter at [@drdaavidirwin](https://twitter.com/drdaavidirwin).

---