

AVERTING PUBLIC HEALTH SECTOR INDUSTRIAL UNREST IN KENYA: ESTABLISHING STAKEHOLDER WORK COUNCILS TO FOSTER HARMONIOUS LABOR RELATIONS

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BACKGROUND

Health worker strikes are of increasing concern to global health. In a study of low-income countries over a ten-year period (2009–2018), an average of one out of every three days was affected by a disruption in care attributable to health worker strikes (World Health Organization 2019).

The World Health Organization study noted wage concerns in more than half of the observed health worker strikes in low-income countries. In a quarter of these cases, concerns regarding delayed salary payments were also raised, while working conditions and governance were each raised in about a third of the strikes studied. In addition, two strikes were attributed in part to direct safety concerns. Most strikes by health workers in low- and middle-income countries, including Kenya, leave no residual provision for emergency services at public health care facilities. The added burdens of poor socioeconomic status and deficient infrastructure mean that service disruptions in low-income countries can have a more severe effect than in high-income settings (Ong'ayo 2019). Industrial strife leads to a weakened health system that is unable to meet health sector demands.

KEY MESSAGE

Establish work councils to cultivate harmonious employer-employee/union relations for continuity in service delivery at the county level. The work councils offer formal consultative and dialogue platforms between the county departments of health and health sector union leaders.

To avert industrial strife-related disruptions, this brief proposes a national- and county-level policy that establishes work councils—consultative platforms that bring together key stakeholders (employers/employees/unions) for dialogue. The policy would institutionalize the work councils and mandate that they discuss key issues affecting health workers, develop action plans, and share progress toward improving employer-employee relations to effectively manage the health workforce.

CONTEXT

Kenya has had health worker-related industrial unrest over the years, the most notable occurring in 2017. This strike affected the delivery of health services for over 300 days. The nurses' strike lasted

Table 1: Chronology of health worker strikes in Kenya, 2016-2017

Nurses	Dec. 1–14, 2016						June 5–Nov. 2, 2017					166 days
Doctors	Dec. 5, 2016–Mar. 14, 2017											100 days
Others	Feb. 2–16, 2017											14 days
Clinical Officers							Sep. 15–Oct. 5, 2017					20 days
Dec. 2016	Jan. 2017	Feb. 2017	Mar. 2017	Apr. 2017	May 2017	June 2017	July 2017	Aug. 2017	Sep. 2017	Oct. 2017	Nov. 2017	

152 days, while the doctors' strike lasted 100 days—the longest-running strikes ever experienced in Kenya. The unrest also involved other cadres, including clinical officers and 17 non-unionized cadres falling under the umbrella of Kenya's health professional associations such as pharmaceutical technologists, nutritionists, and community health assistants. Table 1 shows the chronology of health worker strikes and the cadres involved.

SETTING THE FOUNDATION FOR CHANGE

With support from the USAID-funded Human Resources for Health (HRH) Kenya Mechanism led by IntraHealth International, Kenya's Council of Governors convened a stakeholders' dialogue forum in February 2018 on health worker industrial unrest. The forum brought together representatives from county governments, national government institutions (the Salaries & Renumeration Commission, Public Service Commission, and ministries of Labour, Health and Treasury), health worker trade unions, faith-based organizations, the private sector, and other relevant stakeholders. Deliberations focused on harmonious labor relations for better service delivery. The meeting determined that health worker industrial unrest fundamentally resulted from lack of a communication framework and dialogue platforms between employers and employees, and between employers and unions.

BRIDGING THE POLICY GAP

Efforts to decrease or eliminate health worker industrial unrest require the establishment of national- and county-specific cross-cadre work councils to serve as communication, dialogue, and reporting structures between employers and unions. Work council implementation entails conducting regular consultative meetings between county department of health and county chapter union representatives to create harmonious

working relationships. The benefits of the work councils include speedy responses to health worker grievances, sustained dialogue as a basis for finding lasting solutions to sector challenges, and the timely identification of policy gaps and strategies to mitigate them. These benefits will lead to reduced disruptions in health services and improved health worker performance and will catalyze the role health workers play in promoting people's right to health care, and by extension, access to universal health coverage.

Per the Constitution of Kenya 2010, the country experiences political leadership change every five years, following the election cycle. These political changes often result in the incoming establishment changing governance approaches and priorities. Counties must develop a policy framework to guide the formation, operationalization, and sustainability of the work councils to protect their legitimacy across political cycles.

PROGRESSIVE RESULTS

The HRH Kenya Mechanism supported delivery of a six-week, competency-based leadership, management, and governance (LMG) training, with five days of face-to-face sessions during which participants interact with facilitators. It is based on the common strategy training curriculum developed by the Ministry of Health in collaboration with partners in the health sector. IntraHealth customized the common strategy training curriculum in partnership with Strathmore Business School and incorporated the International Labour Organization (ILO)'s concepts on industrial relations. The training focuses on strengthening health systems at the county level by improving health managers' leadership and management skills to complement their technical skills. The training brought together county health management teams and health sector union leaders at the national and county levels. As a result of these trainings, 28 work councils have been established.

The Mechanism facilitated initial biannual engagement meetings between county departments of health and county chapter union leaders in Homa Bay, Migori, Nyamira, Uasin Gishu, Nairobi, Mombasa, Kwale, Kisumu, Bungoma, Trans Nzoia, Baringo, Samburu, Nyandarua, and Meru counties to institutionalize joint county consultative committees and the establishment of work councils. This effort is contributing to improved health worker performance to better manage the delivery of health services, including those related to HIV and reproductive, maternal, newborn, child, and adolescent health (RMNCAH).

"Since the formation of the work council, we are able to freely chat on WhatsApp, sit and discuss challenges faced by health workers, and jointly make resolutions to address them. We have had no strikes since the formation of the council, and we are able to treat each other as partners in improving health service delivery in the county."

—*Dr. Dalmas Oyugi, County Chief Officer of Health, Migori County Government*

"The work council has enabled us to freely share our sentiments/grievances, consult the health leadership without fear of victimization, and get feedback on staff promotion and gaps identified for recruitment. The leadership, management, and governance training has broadened our skills as union leaders for effective communication and leadership roles. We are part of the decision-making process on issues affecting the health workers."

—*Chrisphine Onditi, Work Council Coordinator, Chairperson of the Migori Branch of the Kenya Union of Clinical Officers, and Organizing Secretary of the Global Association of Clinical Officers and Physician Associates*

The work council concept has proved effective in averting health worker strikes. It has improved the workplace environment and has mitigated labor disputes that had the potential to disrupt health service delivery. Mombasa, Turkana, Makueni, Uasin Gishu, Homa Bay, and Nyamira counties have adopted work councils to negotiate with health workers, and strikes were successfully averted in January 2019. Kiambu, Nyeri, Kisumu, Kisii, and Nairobi counties used work councils to negotiate with nurses on early duty resumption during the January 2019 nurses' strike. In the same period, counties with no established work councils at the time, such as Laikipia, Kirinyaga, Taita Taveta, Tana River, and Vihiga, struggled to contain health worker strikes.

POLICY RECOMMENDATIONS

A county-level policy on work councils will ensure that resources are available to support mentorship and coaching for the trade union leaders in developing county-specific union chapter dialogue framework and engagement structures. The structures will provide a better means of engagement between union and county department of health leaders, fostering improved labor relations and employer-employee dialogue. As a result, issues affecting health workers, such as delayed salary payments, poor working conditions, and career progression problems will be resolved, enabling health workers to be well-placed, skilled, and available to deliver services toward universal health coverage.

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APPENDIX: PROPOSED WORK COUNCIL ESTABLISHMENT FRAMEWORK

1. COMPOSITION OF THE WORK COUNCIL COMMITTEE

The work council will be composed according to the following proposed framework, which incorporates decision-makers at the county department of health and includes a maximum of 20 members.

2. EXPECTED OUTPUTS

- Documented modalities and strategies that effectively manage any dispute with the department of health, with the goal of reducing/averting health worker strikes.
- Established county-level work councils serving as a communication, dialogue, and grievance-reporting platform.
- Developed county-specific terms of references for the work councils, on meeting schedules, effective grievance handling, etc.
- Developed framework for effective communication between employers, union representatives, and health workers.

3. WORK COUNCIL MEMBERSHIP

1. Chief Officer of Health – convener
2. County Director of Health – member/technical advisor
3. County Public Service Board member – member
4. Director of Human Resource Management – member and advisor to the committee
5. Human Resources for Health Officer – secretary
6. Health Administrative Officer – secretary
7. County or regional trade union leaders (or national leaders, depending on the magnitude of the matter under discussion) – member
8. Union of Kenya Civil Servants representative - member
9. Cadre chiefs of registered unions in the county, as may be decided by the committee – members
10. A union representative (as elected by union representatives; based on each county's context - the chair of the Kenya Union of Clinical Officers coordinates)
11. County Executive Committee member – co-opted member with an oversight role

4. TERMS OF REFERENCE

1. Convene joint meetings on a quarterly basis.
2. Monitor the implementation of labor laws, social security, and employment and health and safety regulations in the county.
3. Determine the main causes of health worker strikes and share these causes during the meetings.
4. Determine the reasons for delays in salary payment/budgetary issues.
5. Determine the reasons for delays in resolving health worker strikes and engage the county.
6. Be regularly informed on the staff environment, including employment issues (promotions and discipline) and training within the sector affecting health workers.
7. Identify possible measures and models that the county government could adopt in case of a strike to mitigate the impact of service delivery disruptions.

8. Work council (county and county chapter union representatives): jointly implement resolutions agreed upon during the work council meetings.
9. Unions: take the lead in identifying strategies for resolving health worker strikes, based on the grievances reported by the members and share these strategies during work council meetings.
10. Negotiate for non-disruptive grievance resolution mechanisms at the county level through dialogue.
11. If need be, develop and sign county-specific minimum service agreements to be applied in the event of health worker strikes to ensure the availability of essential services.
12. Each party: at all times, take all reasonable steps to minimize and mitigate any industrial unrest that may arise due to disagreement and promote a harmonious working relationship between employees and employer.
13. Develop a graduated strike actions model that ensures minimal abrupt disruptions to health services and that stipulates exhaustion of dialogue prior to resultant industrial action.
14. Plan for catch-up health campaigns should strikes exceed a specific time frame.
15. Union representatives: take appropriate steps (legal or otherwise) in cases where the regulation mentioned above is not respected by the employer, even after reengagement.
16. Consistently develop a joint communiqué to relay key information to the employees on resolutions agreed during the meetings.
17. All health workers whose unions are not registered: address grievances through the technical arm of the department, the County Director of Health Services.



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