

REPORT OF THE AUDITOR-GENERAL ON COUNCIL FOR LEGAL EDUCATION FOR THE YEAR ENDED 30 JUNE 2017

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of Council for Legal Education set out on pages 1 to 32, which comprise the statement of financial position as at 30 June 2017, and the statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of Council for Legal Education as at 30 June 2017, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Council of Legal Education Act, 2012.

In addition, as required by Article 229(6) of the Constitution, except for the matter described in the Other Matter section of my report, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that public money has not been applied lawfully and in an effective way.

Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Council for Legal Education in accordance with ISSAI 30 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Key Audit Matters

Key Audit Matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. Except for the matters described in the Other Matter Section of my report, there were no Key Audit Matters to report in the year under review.

Other Matter

- (i) As reported in the prior year (2015/2016) it was observed that various institutions and individuals had sued the Council challenging some decisions

of the Council. The intent of the Council for Legal Education Act 2012, was that such cases would be initially determined by the Tribunal established under the Act after which a dissatisfied party could seek redress from the High Court. Members and Chairperson of the Tribunal were interviewed and appointed by the Judicial Service Commission vide letters dated 21 May 2013 and 10 June 2014 respectively but the Tribunal has not been operationalized. No reason has been given for failure to operationalize the Tribunal.

(ii) It is noted that out of the ten Council members, the term for 70% of the members expired in 8th February 2017. The Council and the sub- committees of the Council were unable to convene any meeting since February 2017 due to lack of quorum. Further, the appointing authority contravened the Code of Governance for State Corporations provisions on succession planning of the Council for not staggering the tenure of Council members to ensure a phased transition.

(iii) **Exam Related Costs on Project and Oral Examinations**

The statement of financial performance as at 30 June 2017 reflected examination related costs of Kshs.54,547,803. Out of this balance Kshs.7,390,275 represented payments to Kenya School of Law in relation to cost of administering Project and oral examinations, which were being administered by the School on behalf of the Council for the first time.

During its governing Council meeting of 24 March 2016, the Council had resolved (Minute reference: 5.7.2) that existing arrangements with the School should be revised, by having a formal agency agreement in place. However, as at the time of the audit, no agency agreement between the two entities had been put in place.

Without a formal agreement between the parties, it was difficult to establish the obligations and responsibilities of each party in relation to administration of Project and oral examination.

Responsibilities of Management and those Charged with Governance to the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Accrual Basis) and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Council's ability to continue to sustain its services, and using going concern accounting assumption unless the management either intends to cease operations, or have no realistic alternative but to do so.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

Those charged with governance are responsible for overseeing the Council's financial reporting process.

Auditor-General's Responsibilities for the Audit of the Financial Statements

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution of Kenya. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, and for the purpose of giving an assurance on the effectiveness of the Council's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Council's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit

evidence obtained up to the date of my audit report. However, future events or conditions may cause the Council's to cease to continue to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information of the entities or business activities to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



FCPA Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

12 March 2018