



# KENYA FOREST SERVICE

DOCUMENT TITLE: LEGAL SERVICES

REF NO:KFS-LS-001

ISSUE NO: 2

REVISION NO: 1

PAGE:1 of 15

## ISSUE HISTORY

ISSUE	DESCRIPTION OF CHANGE	PROCESS OWNER	EFFECTIVE DATE
1	None, no change has been done	Corporation Secretary	10 <sup>th</sup> June 2010
2	Changes Done to conform to ISO 9001:2015 standard	Corporation Secretary	31 <sup>st</sup> May 2018

## REFERENCED DOCUMENTS

S/NO	REF	TITLE
1	QPM	Quality Policy Manual
2	QMR	Quality Management Representative
3	PM	Procedure Manual
5	WI	Work Instructions
6	FCMA 2016	Forest Conservation and Management Act 2016
7		Gazetted Subsidiary Legislation
8		Strategic Plan
9		State Corporation Advisory Committee
10		Work Plan and Budget
11	PC	Performance Contract

## COPY HOLDERS

1	CCF
2	QMR
3	Corporation Secretary/ Manager Legal Services

## RECORDS/ANNEXES

REC. NO	REC. TITLE
	Full Board Minutes
	Board Committee Minutes
	Senior Management Minutes
	Departmental Minutes
	List of Contracts, Licences and MOUs
	Register of Cases

PREPARED BY: Corporation Secretary

APPROVED BY: CCF



# KENYA FOREST SERVICE

DOCUMENT TITLE: LEGAL SERVICES

REF NO:KFS-LS-001

ISSUE NO: 2

REVISION NO: 1

PAGE:2 of 15

REC. NO	REC. TITLE
	Case Files
	Notification of Meetings
	Register of Contracts, Licences and MOUs
	Register of Legal Service Library

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# KENYA FOREST SERVICE

DOCUMENT TITLE: LEGAL SERVICES

REF NO:KFS-LS-001

ISSUE NO: 2

REVISION NO: 1

PAGE:3 of 15

## TABLE OF CONTENT

ISSUE HISTORY .....	1
REFERENCED DOCUMENTS .....	1
COPY HOLDERS .....	1
RECORDS/ANNEXES .....	1
1. TERMS AND DEFINITION.....	4
2. SCOPE .....	4
3. PURPOSE.....	4
4. OBJECTIVE .....	4
5. RESPONSIBILITY AND AUTHORITY .....	4
6. RESOURCES, INPUTS AND OUTPUTS.....	6
7. CRITERIA OF MEASUREMENT .....	7
8. RISK AND OPPORTUNITIES.....	7
9. EVALUATION OF PROCESS .....	7
10. DETAILS OF PROCEDURE .....	7
11. PROCESS FLOW CHART.....	11

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# KENYA FOREST SERVICE

DOCUMENT TITLE: LEGAL SERVICES

REF NO:KFS-LS-001

ISSUE NO: 2

REVISION NO: 1

PAGE:4 of 15

## 1. TERMS AND DEFINITION

TERM	DEFINITION(S)
KFS	Kenya Forest Service
KPI	Key Performance Indicator
CSF	Critical Success Factor
LO	Legal Officer
CCF	Chief Conservator of Forests
SDCCF	Senior Deputy Chief Conservator of Forests
ACCF	Assistant Chief Conservator of Forests
CF	Conservator of Forests

## 2. SCOPE

This procedure covers from convening board meetings, preparation and vetting of contracts, legal advice to service, litigation to alternative settlement of disputes

## 3. PURPOSE

The purpose of this procedure is to ensure that Legal Office operations are done appropriately and in a timely, fair, transparent & professional manner

## 4. OBJECTIVE

**NB: Refer to the performance contract.**

CSF	KPI	TARGET(S)	DUE

## 5. RESPONSIBILITY AND AUTHORITY

### 5.1. Chief Conservator of Forests

5.1.1. Approve appropriate Legal Service Department policies and strategies

5.1.2. Provide adequate resources to the department

### 5.2. Corporation Secretary/ Manager Legal Services

5.2.1. Providing guidance to the Board on their duties and responsibilities on matters of governance

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# KENYA FOREST SERVICE

DOCUMENT TITLE: LEGAL SERVICES

REF NO:KFS-LS-001

ISSUE NO: 2

REVISION NO: 1

PAGE:5 of 15

- 5.2.2. Assisting the Board in induction and training, updating Board committee charter, prepare board work plans, board evaluation, governance audit and implementation of the code of conduct and ethics
- 5.2.3. Ensuring timely preparation and circulation of Board and committee papers and minutes
- 5.2.4. Ensuring safe custody of the Company seal and important legal and contractual documents
- 5.2.5. Maintaining and updating the register of conflicts of interests
- 5.2.6. Ensuring that Board and committee papers are circulated in advance of any meeting
- 5.2.7. Providing legal services to the Board and Management
- 5.2.8. Providing Secretarial services to the Board and Board committees
- 5.2.9. Providing advance to the Management on legal matters relating to operations and action on legal cases instituted against the Service
- 5.2.10. Drafting and reviewing contracts, agreements and other legal instruments and ensure that they comply with the laws and regulations, both local and international
- 5.2.11. Ensuring compliances with Legal and regulatory requirements
- 5.2.12. Identify regulatory requirements and collaborate with other departmental heads to ensure enforcement of these requirements
- 5.2.13. Representing the service in Court and other quasi judicial tribunals
- 5.2.14. Liaising with external lawyers in litigation matters affecting the Service
- 5.2.15. Providing overall coordination of prosecution

### 5.3. Chief Legal Officer

- 5.3.1. Representing the Service in Court and other quasi judicial tribunals
- 5.3.2. Prosecute cases under the Forest Conservation and Management Act
- 5.3.3. Preparation and drafting of necessary Court papers in civil and criminal matters
- 5.3.4. Any other duties that may be assigned to him by the Corporation Secretary

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**5.4. Legal officers**

- 5.4.1. Representing the Service in Court and other Quasi judicial tribunals
- 5.4.2. Prosecuting cases under the Forest Conservation and Management Act 2016
- 5.4.3. Preparation and drafting of necessary court papers in Civil and criminal matters
- 5.4.4. Any other duties that may be assigned to them by the Chief Legal officer

**6. RESOURCES, INPUTS AND OUTPUTS****6.1. Resources**

- 6.1.1. Finances
- 6.1.2. Personnel
- 6.1.3. Infrastructure

**6.2. Inputs**

- 6.2.1. Legal Counsel to the Service and the Board
- 6.2.2. Preparation of Court pleadings
- 6.2.3. Filing of Court pleadings
- 6.2.4. Service of court orders
- 6.2.5. Court attendance
- 6.2.6. Preparation of Board meetings
- 6.2.7. Preparation and signing of Contracts and Management agreements

**6.3. Outputs**

- 6.3.1. Court orders
- 6.3.2. Court judgments
- 6.3.3. Execution of court orders
- 6.3.4. Alternative dispute resolutions
- 6.3.5. Board decisions and Board papers
- 6.3.6. Monthly and Annual reports

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**7. CRITERIA OF MEASUREMENT**

**NB: Refer to Performance progress reports**

**8. RISK AND OPPORTUNITIES**

**NB: Refer to the Service's Risk register**

**9. EVALUATION OF PROCESS**

**NB: Refer to the Monitoring and Evaluation Reports.**

**10. DETAILS OF PROCEDURE****10.1. Provision of Legal Counsel to the Service**

- 10.1.1. The Legal Officer identifies areas that need legal advice in KFS.
- 10.1.2. Ascertains whether different service areas are in compliance with the relevant legal provisions in discharging their services
- 10.1.3. Sensitization of different service areas on legal provisions that affect their operations
- 10.1.4. Advises the KFS Management and the respective service areas in regard to legal matters
- 10.1.5. Interpretation of legal documents and/or instruments relevant to the operations of the Service and advise accordingly.

**10.2. Preparation of Court Pleadings**

- 10.2.1. The Legal Officer receives and records correspondence in regard to legal matters.
- 10.2.2. Legal Officer drafts the necessary Court Pleadings which include Plaints, Memorandums, Petitions, Chamber Summons, Originating Summons and Notices of Motion, which are necessary in instituting civil proceedings.
- 10.2.3. The Legal Officer also responds to Court pleadings filed against the Service.

**10.3. Filing of Court Pleadings**

- 10.3.1. Pleadings e.g. Verifying Affidavits and Supporting Affidavits are serviced by the Servicer for Oaths before filing.
- 10.3.2. The Pleadings are then filed at the relevant Registry.

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**10.4. Service of Court Pleadings**

*Note 1: Court pleadings must be duly served as per the provisions or order of the Civil Procedure Code.*

10.4.1. After filing in Court, the pleadings are served upon respective parties to the suit.

10.4.2. The Court Process Server affecting the service prepares an Affidavit of Service to that effect.

10.4.3. The Affidavit of Service is then filed in Court for record purposes.

**10.5. Court Attendance**

*Note 2: Court attendance is as per the Hearing Notices issued and the dates taken in court.*

10.5.1. Any party to the suit can move the Court for a Hearing date and a hearing date can also be taken in court by Consent.

10.5.2. The Hearing Notice must be served upon the other party to the suit.

10.5.3. The Advocates then attend Court for purposes of the hearing of the suit.

10.5.4. The hearing includes prosecution or defending or arguing the matters in court.

**10.6. Delivery of Judgement**

10.6.1. Upon hearing of the suit, a ruling or a judgment is delivered by the Judge/Magistrate.

*Note 3: Judgement delivery can be given at the hearing or at a later date.*

10.6.2. Rulings or Judgments are read by the Judge or Magistrate in open Court.

10.6.3. The parties obtain the judgment or ruling delivered from Court.

*Note 4: Judgments signify the determination of the suit.*

**10.7. Court Orders**

10.7.1. Orders of the Court are extracted from the Judgment or Ruling by court clerk.

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10.7.2.The party in whose favour Judgment or Ruling is delivered extracts orders for purposes of execution.

10.7.3.After extraction of Court Orders, the Party in whose favour the Orders are granted moves the Court for execution.

10.7.4.The Court Orders must be served upon the other Party.

### **10.8. Execution of Court Orders**

10.8.1.Orders are not issued in vain hence upon service; the same must be complied with.

10.8.2.Non-compliance with the Court Orders amounts to contempt of Court.

10.8.3.In such cases, contempt of Court proceedings may be instituted against the party who flouts the said orders.

10.8.4.Compliance with the Court Orders means execution of the same to the letter.

### **10.9. Alternative Modes of Dispute Resolution**

*Note 5: Not all suits go through the normal Court procedure.*

10.9.1.Parties may decide to withdraw matters and settle them out of court.

*Note 6: Settlement out of Court includes the parties reaching a mutual agreement as to the mode of settlement.*

10.9.2.Upon such settlement, the parties record consent in Court.

10.9.3.A Consent Order is then extracted and its particulars must be observed both in letter and in spirit.

### **10.10. Preparation of Contract / documentation for the Service**

10.10.1. The user department/division informs the Legal Office of the particulars of the intended agreement with third parties.

10.10.2. The LO prepares a formal contract as per the particulars of the oral/drafted agreement.

10.10.3. The LO also peruses any contracts and/or agreements submitted to the service for execution.

### **10.11. Preparation for Board Meetings**

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# KENYA FOREST SERVICE

DOCUMENT TITLE: LEGAL SERVICES

REF NO:KFS-LS-001

ISSUE NO: 2

REVISION NO: 1

PAGE:10 of 15

10.11.1. The Corporation Secretary receives Board papers from the respective Heads of Divisions.

10.11.2. Invitation notices are sent out to Board members together with the Agenda and Board papers.

10.11.3. The Corporation Secretary takes Board minutes and presents them to the Board Chairman for signing when ready.

10.11.4. The approved Board minutes are presented during the subsequent Board meeting for confirmation.

## 10.12. Preparation for Senior Management Meetings

10.12.1. The Corporation Secretary receives papers from the respective Heads of Divisions for discussion during the Senior Management meeting.

10.12.2. Invitation notices are sent out to Board members together with the Agenda and discussion papers.

10.12.3. The Corporation Secretary takes Senior Management minutes and presents them to the Director for signing when ready.

10.12.4. The approved Senior Management minutes are presented during the subsequent Senior Management meeting for confirmation.

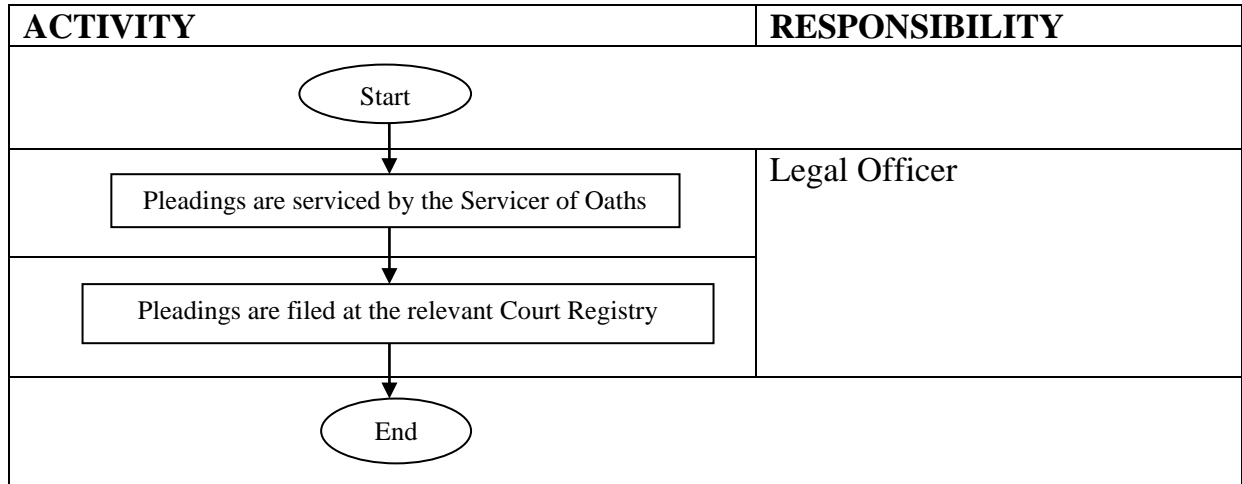
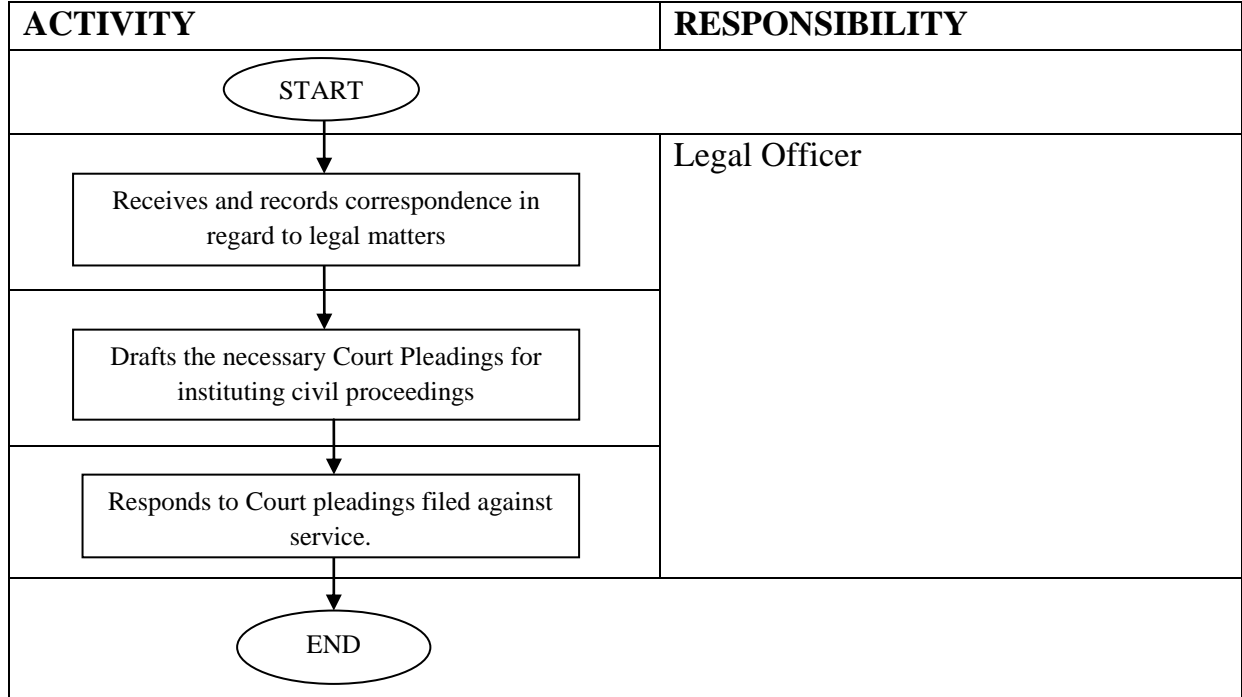
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**11. PROCESS FLOW CHART**

**11.1.Preparation of Court Pleadings**



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**11.2. Service of Court Pleadings**

ACTIVITY	RESPONSIBILITY
	Legal Officer
	Court Process Server

**11.3. Delivery of Judgement**

ACTIVITY	RESPONSIBILITY
	Judge/Magistrate
	Involved parties

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**11.4. Court Orders**

ACTIVITY	RESPONSIBILITY
	Court Clerk
	Involved Parties

**11.5. Alternative Modes of Dispute Resolution**

ACTIVITY	RESPONSIBILITY
	Legal Officer

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**11.6. Preparation of Contract / documentation**

ACTIVITY	RESPONSIBILITY
START	
↓	
Informs the Legal Division of the particulars of the intended agreement with third parties	Service Areas
↓	
Prepares a formal contract as per the particulars of the oral agreement	Legal Officer
↓	
Peruses any contracts and/or agreements submitted to the Service for execution	
↓	
END	

**11.7. Preparation for Board Meetings**

ACTIVITY	RESPONSIBILITY
START	
↓	
Receives Board Papers from Heads of Divisions	Service Areas
↓	
Sends out invitation notices and agenda to Board Members	Corporation Secretary
↓	
Takes minutes of Board meetings and prepares the minutes for signing by the Board Chairperson.	
↓	
END	

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**11.8.Senior Management Meetings**

<b>ACTIVITY</b>	<b>RESPONSIBILITY</b>
START	
↓	
Receives Board Papers from Heads of Divisions	Service Areas
↓	
Sends out invitation notices and agenda to Senior Management Members	Corporation Secretary
↓	
Takes minutes of Senior Management meetings and prepares the minutes for signing by the CCF Chairperson.	
↓	
END	

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