



## PROCEDURE FOR HANDLING ACCESS TO INFORMATION

<b>PRINCIPAL RESPONSIBILITY</b>	Director
<b>INFORMATION ACCESS OFFICER:</b>	Deputy Director – Finance and Administration
<b>SCOPE:</b>	All knls staff, stakeholders and Kenyan Citizens.
<b>Effective Date:</b> July 2018	

### 1.0 OVERVIEW

Kenya National Library Service is a State Corporation established under the Kenya National Library Service Board Act Cap 225 of 1965, with the mandate to develop, promote, establish and equip libraries in Kenya. The State Corporations Act Cap 446 of the laws of Kenya also guides the Board in its operations.

As a public institution focused in the provision of information for knowledge and empowerment, Kenya National Library Service (knls) has a responsibility to protect the public interest and is committed to the highest standards of integrity, transparency and accountability.

### 2.0 PURPOSE AND SCOPE OF THE PROCEDURE

The objective of the access to information procedure is to guide implementation of the Access to Information Act No. 31 of 2016. This procedure will ensure that the staff members uphold the commitment to ensure access to information by knls stakeholders and Kenyan Citizens and entrench the procedure in their day to day work. This document may also be shared with the public and parties requesting information from knls for them to know the procedure of requesting and accessing information.

The procedure shall ensure consistent actions by members of Kenya National Library Service with regards to collection, use, disclosure, fees, protection, disposal, reporting, sanctions, penalties and limitations to access to information under the custody or control of knls that is gathered or generated in the course of operating the services, programs and other activities of knls and with regard to responding to requests for information.

It also sets out the procedures for the request of information from the organisation, the processing of requests and the appeals process should the request for information be declined.

### 3.0 PARTIES INVOLVED IN THE ACCESS TO INFORMATION PROCESS

The following section describes the parties involved in the process of requesting information from knls, the appeals process and the respective roles, responsibilities and mode of appointment of the members.

### **3.1 Director**

The Director of knls is the information Access Officer under Access to Information Act 2016. The director may delegate the performance of his/her duties as an Information Access Officer under the act to any officer in knls.

### **3.2 Information Access Officer (IAO)**

The Director or any other Officer appointed by the Director shall be the designated Information Access Officer (IAO) who shall ensure that the procedure is implemented and is adequate for its intended use.

The Information Access Officer(IAO) is required to co-ordinate implementation of the precepts prescribed in the access to information act no. 31 2016.

### **3.3 Requester**

The Requester may include an individual, organisation, partner, stakeholder, government or the general public seeking information held by knls. Requests for access to information may refer to any or particular kind of information related to the Organisation, its structure, governance, operations, information concerning its work or information generated though the Organisation's programme of work.

### **3.4 Heads of Branches/Departments**

The heads of branches/departments are responsible for; opening and maintaining access to information register in their branches/departments, collection, processing and availing the required information to the requester and reporting to the Access to Information Committee periodically.

### **3.5 Access to Information Committee**

There will be an access to information committee appointed by the Director. The committee will;

- i) Advise the office of the director on access to information infrastructure
- ii) Investigate complaints relating to access to information
- iii) Sensitize staff on Access to Information Act, 2016 and the reporting framework
- iv) Review reports from branches and departments and compile quarterly reports for onwards submission to the Commission on Administrative Justice (CAJ) as required
- v) Prepare annual reports on access to information for onward submission to CAJ as per section 27 of Access to Information Act, 2016
- vi) Recommend to the office of the director the prescribed fees and the method of payment for provision of access to information

## **4.0 ACCESS TO INFORMATION PROCEDURE**

This procedure defines the process of providing information requested.

### **4.1. Access to Information**

Information relating to the functions, responsibilities, operations and services of knls are available to the public and can be accessed from the knls website; [www.knls.ac.ke](http://www.knls.ac.ke) and its sub-site through the link: [www.isbn.ac.ke](http://www.isbn.ac.ke). Information that is not available through these public websites will be made available upon request. Information will be made available to the Requester, in the original language of the information requested.

### **4.2 Classification of Information**

Knls shall facilitate access to information held which may include;

- i) the particulars of its organization, functions and duties;
- ii) the powers and duties of its officers and employees;

- iii) the procedure followed in the decision making process, including channels of supervision and accountability;
- iv) salary scales of its officers by grade;
- v) the norms set by it for the discharge of its functions;
- vi) guidelines used by the entity in its dealings with the public or with corporate bodies, including the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions; and
- vii) a guide sufficient to enable any person wishing to apply for information under this Act to identify the classes of information held by it, the subjects to which they relate, the location of any indexes to be inspected by any person;

Information shall be disseminated taking into consideration the need to reach persons with disabilities, the cost, local language, the most effective method of communication in that local area, and the information shall be easily accessible and available free or at cost taking into account the medium used.

#### **4.3 Limitation of right of access to information**

1) Pursuant to Article 24 of the Constitution, the right of access to information under Article 35 of the Constitution shall be limited in respect of information whose disclosure is likely to—

- a) undermine the national security of Kenya;
- b) impede the due process of law;
- c) endanger the safety, health or life of any person;
- d) involve the unwarranted invasion of the privacy of an individual, other than the applicant or the person on whose behalf an application has, with proper authority, been made;
- e) substantially prejudice the commercial interests, including intellectual property rights, of that entity or third party from whom information was obtained;
- f) cause substantial harm to the ability of the Government to manage the economy of Kenya;
- g) significantly undermine a public or private entity's ability to give adequate and judicious consideration to a matter concerning which no final decision has been taken and which remains the subject of active consideration;
- h) damage a public entity's position in any actual or contemplated legal proceedings; or
- i) infringe professional confidentiality as recognized in law or by the rules of a registered association of a profession.

(2) For purposes of subsection (1)(a), information relating to national security includes—

- a) military strategy, covert operations, doctrine, capability, capacity or deployment;
- b) foreign government information with implications on national security;
- c) intelligence activities, sources, capabilities, methods or cryptology;
- d) foreign relations;
- e) scientific, technology or economic matters relating to national security;
- f) vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans or protection services relating to national security;
- g) information obtained or prepared by any government institution that is an investigative body in the course of lawful investigations relating to the detection, prevention or suppression of crime, enforcement of any law and activities suspected of constituting threats to national security;

- h) information between the national and county governments deemed to be injurious to the conduct of affairs of the two levels of government;
- i) cabinet deliberations and records;
- j) information that should be provided to a State organ, independent office or a constitutional commission when conducting investigations, examinations, audits or reviews in the performance of its functions;
- k) information that is referred to as classified information in the Kenya Defence Forces Act; and
- l) any other information whose unauthorized disclosure would prejudice national security.

(3) Subsection (1)(d) and (e) shall not apply if a request for information relates to the results of any product or environmental testing, and the information concerned reveals a serious public safety or environmental risk.

(4) Despite anything contained in subsections (1) and (2), a public entity or private body may be required to disclose information where the public interest in disclosure outweighs the harm to protected interests as shall be determined by a Court.

(5) A public entity is not obliged to supply information to a requester if that information is reasonably accessible by other means.

(6) In considering the public interest referred in subsection (4), particular regard shall be had to the constitutional principles on the need to—

- a) promote accountability of public entities to the public;
- b) ensure that the expenditure of public funds is subject to effective oversight;
- c) promote informed debate on issues of public interest;
- d) keep the public adequately informed about the existence of any danger to public health or safety or to the environment; and
- e) ensure that any statutory authority with regulatory responsibilities is adequately discharging its functions.

(7) Unless the contrary is proved by the public entity or private body, information is presumed not to be exempt if the information has been held for a period exceeding thirty years.

For documents designated “**Controlled**” and have been requested under these procedures, the Quality Management Representative (QMR) will be required to Stamp them “**Uncontrolled**” before they are issued.

## 5.0 APPLICATION FOR ACCESS TO INFORMATION

- i) All Information requests shall be directed to;

### **Director**

Kenya National Library Service (Headquarters)  
Mumias Road/OI Donyo Sabuk Road Junction, Buruburu  
P.O. Box 30573-00100, Nairobi, KENYA  
Tel: +254 20 2158352, 7786710  
Fax: +254 20 2721749  
Email: [knls@knls.ac.ke](mailto:knls@knls.ac.ke)

- ii) An application to access information shall be made in writing in English or Kiswahili and the applicant shall provide details and sufficient particulars for the public officer or any other official to understand what information is being requested.
- iii) Where an applicant is unable to make a written request for access to information in accordance with part (ii) above because of illiteracy or disability, the Information Officer/HOD/HOB shall take the necessary steps to ensure that the applicant makes a request in manner that meets their needs.
- iv) The Information Officer/HOD/HOB shall reduce to writing, in a prescribed form the request made under part (iii) above and the Information Officer/HOD/HOB shall then furnish the applicant with a copy of the written request.
- v) A public entity may prescribe a form for making an application to access information, but any such form shall not be such as to unreasonably delay requests or place an undue burden upon applicants and no application may be rejected on the ground only that the applicant has not used the prescribed form.
- vi) For the Organisation's internal tracking purposes, all requests should indicate that the request for information is made pursuant to the knls Information Access Procedure.
- vii) All requests will be thoroughly reviewed to determine whether they are made pursuant to the access to information procedure.
- viii) All requests for access to information will be reported in the prescribed format as per the reporting framework for access to information.
- ix) In the event that a request for information is sent to a specific staff member within the organisation and not the Information Access Officer/HOB/HOD, that staff member shall be required to inform and forward to the Information Access Officer/HOB/HOD the request as soon as it is received.
- x) In the event that the information requested is confidential in nature, the requester will be required to sign confidentiality agreement form.

## **6.0. PROCESSING OF APPLICATION**

- (1) Subject to **section 10**, an Information Access Officer/HOB/HOD shall make a decision on an application as soon as possible, but in any event, within twenty-one (21) days of receipt of the application
- (2) Where the information sought concerns the life or liberty of a person, the information shall be provided within forty-eight (48) hours of the receipt of the application.
- (3) The Information Access Officer/HOB/HOD to whom a request is made under part (2) above may extend the period for response on a single occasion for a period of not more than fourteen (14) days if—
  - a) the request is for a large amount of information or requires a search through a large amount of information and meeting the stipulated time would unreasonably interfere with the activities of the information holder; or
  - b) consultations are necessary so as to comply with the request and the consultations cannot be reasonably completed within the stipulated time.
- (4) As soon as the Information Access Officer/HOB/HOD has made a decision as to whether to provide access to information, he or she shall immediately communicate the decision to the requester, indicating—
  - a) whether or not knls holds the information sought;
  - b) whether the request for information is approved:

- c) if the request is declined the reasons for making that decision, including the basis for deciding that the information sought is exempt, unless the reasons themselves would be exempt information; and
- d) if the request is declined, a statement about how the requester may appeal to CAJ

(5) A public officer referred to in subsection (1) may seek the assistance of any other public officer as the first mentioned public officer considers necessary for the proper discharge of his or her duties and such other public officer shall render the required assistance.

(6) Where the applicant does not receive a response to an application within the period stated in subsection (1), the application shall be deemed to have been rejected.

### **5.1 Transfer of application**

- 1) An information access officer may, not later than five days from the date of receipt of an application, transfer the application or any relevant part of it, to another public entity, if the information requested is held by that other public entity.
- 2) Where an application is transferred under subsection (1), an information access officer shall inform the applicant immediately but in any event not later than seven (7) days from the date of receipt of the application, about such transfer.
- 3) A public entity to which an application is referred by an information access officer under subsection (1) shall make a decision on the application within twenty-one (21) days from the date that the application was first made.
- 4) The provisions of this section shall apply with the necessary modification to an application for access to information that is made to a private body to which this Act applies.

### **6.3 Providing access to information**

- 1) Where a decision is taken to provide the information applied for, an information access officer/HOD/HOB shall send to the applicant a written response within fifteen (15) working days of receipt of the application, advising—
  - a) that the application has been granted;
  - b) that the information will be contained in an edited copy, where applicable;
  - c) the details of any fees or further fees to be paid for access, together with the calculations made to arrive at the amount of the fee;
  - d) the method of payment of such fees, if any;
  - e) the proposed process of accessing the information once the payment if any is made; and
  - f) that an appeal may be made to CAJ in respect of the amount of fees required or the form of access proposed to be provided.
- 2) Subject to subsection (3), upon receipt of the fee payable, an information access officer shall provide the information to the applicant or permit the relevant inspection immediately but in any event not later than two (2) working days from the date of receipt of the payment.
- 3) Any information to be made accessible to an applicant shall be produced forthwith at the place where it is kept, for inspection in the form in which it is held unless the applicant requests that it be made available in another form and, if it is practicable to do so, such information may be copied, reproduced or used for conversion to a sound transmission at the expense of the applicant.
- 4) Where a request for information is to a private body, subsections (1), (2), and (3) shall apply with necessary changes made.

## 6.4 Fees

- 1) No fee may be levied in relation to the submission of an application.
- 2) knls may charge a prescribed fee for the provision of the information and the fee shall not exceed the actual costs of making copies of such information and if applicable, supplying them to the applicant.
- 3) Subject to subsection (2), the Cabinet Secretary shall make regulations prescribing the fees payable for expenses incurred in providing information to an applicant.

## 6.5 Correction of information

- 1) At the request of the applicant, knls shall within reasonable time, at its own expense, correct, update or annotate any personal information held by it relating to the applicant, which is out of date, inaccurate or incomplete.
- 2) A request under this section shall be made in writing to knls containing the out of date, inaccurate or incomplete information and shall—
  - a) state that it is a request to amend certain personal information relating to the applicant;
  - b) specify the personal information that is to be amended indicating how such information is out of date, inaccurate or incomplete; and
  - c) specify the remedy sought by the applicant.

The IAO shall prepare a report and submit to the Commission on Administrative Justice (Office of the Ombudsman) on a quarterly basis using the prescribed forms from CAJ.

## 6.6 Reporting

### 6.6.1 Quarterly Reporting

- 6.6.1 **Submission of quarterly reports:** knls shall submit quarterly reports to the CAJ within fourteen (14) days following the end of a quarter on the number of complaints received, nature and action taken, and implementation status of access to information as per the templates provided in the annexures.
- 6.6.2 **Mode of reporting:** Reports shall be submitted via e-mail in PDF format or through the Commission's system. The dedicated e-mail address for submission is [certificationpc@ombudsman.go.ke](mailto:certificationpc@ombudsman.go.ke)
- 6.6.3 **Delayed submission of reports:** A report submitted beyond the due date shall attract a penalty of up to 15% of the total quarterly score. However, this is restricted to fifteen calendar days after the deadline, beyond which the report will not be admissible.
- 6.6.4 **Reporting format:** All reports must be submitted in the CAJ's provided templates in this Framework. Any report submitted other than in the format provided will be deemed non-compliant.

### 6.6.2 Annual Reports

On or before the 30<sup>th</sup> day of June of each year, knls shall submit to CAJ a report covering the preceding year, which shall include—

- a) the number of requests for information received by knls and the number of requests processed;
- b) the number of determinations made by knls not to comply with the requests for information under section 8, and the main grounds for such determinations;
- c) the average number of days taken by knls to process different types of requests;
- d) the total amount of fees collected by knls while processing requests; and
- e) the number of full-time staff of knls devoted to processing requests for information and the total amount expended by the entity for processing such requests.

## **7.0. SANCTIONS AND PENALTIES**

Failure to comply with following shall attract sanctions;

- a) Late submission of quarterly reports.
- b) Submission of false/misleading quarterly reports.
- c) Failure to submit the required reports as per the reporting framework provided.
- d) Failure to respond to CAJ inquiries.
- e) Failure to honour summons or notice to show cause from CAJ.
- f) Failure to implement CAJ decisions, or recommendations.
- g) Victimization of staff who make reports to the institution, CAJ or any other lawful agency.
- h) Failure to perform duties and responsibilities under the Access to Information Act.

### **7.1 Offences and Penalties**

Failure to comply with these procedures may attract disciplinary action in line with knls human resource manual, 2017.

Failure to comply with the provisions of the access to information act will attract penalties as outlined in section 28 of the Act.

## **REFERENCES**

- 1) The Constitution of Kenya, 2010 (Article 10, Article 33, Article 35, and Article 260).
- 2) Access to information Act, No. 31 of 2016
- 3) Kenya National Library Service Board Act, Cap 225 of 1965
- 4) knls strategic plan 2018 – 2022
- 5) Commission on Administrative Justice Act No. 23 of 2011
- 6) knls Risk Management Policy
- 7) knls Service Delivery Charter
- 8) knls Communication Policy
- 9) Human Resource Manual 2017