

# QUESTIONNAIRE FOR COLLECTING INFORMATION DURING THE DEVELOPMENT OF THE LEGAL AID (FUND) REGULATIONS, 2024

## 1. Introduction

This questionnaire is an important component in the development of the Legal Aid (Fund) Regulations which aims to facilitate the implementation of the Legal Aid Fund in Kenya: page.

If you encounter a question for which data is not available, please indicate that on the response and continue to the next question.

If you cannot provide figures under any question asking for figures, please provide a reasonable estimate.

If you wish to provide additional information, please use the comments section or the 'Additional Information' section at the end of the questionnaire.

The questionnaire should be submitted to:

**The Chief Executive Officer**  
National Legal Aid Service  
Kenya Charity Sweepstake (KCS) House,  
Mama Ngina Street  
P. O. Box 45597 00100 Nairobi (CBD)  
Telephone: +254110149939  
Toll Free: 0800720640  
Website: <https://www.nlas.go.ke>  
NAIROBI.

or

E-mail: [info@nlas.go.ke](mailto:info@nlas.go.ke)

or

Any of Regional Offices in Nakuru, Eldoret, Kisumu and Mombasa

## 2. General Information

County: \_\_\_\_\_

Date of Submission (day/month/year): \_\_\_\_\_

Name of person submitting the questionnaire: \_\_\_\_\_

Title: \_\_\_\_\_

Department/Organization: \_\_\_\_\_

Contact Details:

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

Address: \_\_\_\_\_

## A: PRELIMINARY INFORMATION

3. From your understanding, which services are included as part of “legal aid” in Kenya? *(Please select all that apply)*

- Criminal cases
- Civil cases
- Legal advice (e.g. on the application of the relevant law, and actions the person may appropriately take)
- Legal representation before a court, tribunal or other dispute resolution mechanism (Please specify where) \_\_\_\_\_
- Legal assistance (e.g. with taking any appropriate action, whether by taking action on the persons’ behalf or by assisting them with taking action)
- General assistance in navigating the justice system (e.g. by providing instructions on filling of legal documents)
- Drafting of legal documents
- Provision of legal information in police precincts, prisons, or in the community
- Other (please specify) \_\_\_\_\_

4. According to the laws and policies in Kenya, what do you consider to be the role of legal aid? *(Please select the three answers you consider important for you under each column)*

	Criminal	Civil
To ensure equality of all parties to a dispute	<input type="checkbox"/>	<input type="checkbox"/>
To ensure a fair hearing	<input type="checkbox"/>	<input type="checkbox"/>
To guarantee access to justice for all		
To act as a neutral arbiter between the parties	<input type="checkbox"/>	<input type="checkbox"/>
To help courts reach an equitable solution to disputes	<input type="checkbox"/>	<input type="checkbox"/>
To promote alternative dispute resolution	<input type="checkbox"/>	<input type="checkbox"/>
To prevent a wrong decision in court	<input type="checkbox"/>	<input type="checkbox"/>
To minimize an unfavourable outcome for the legal aid recipient	<input type="checkbox"/>	<input type="checkbox"/>
To actively defend legal aid recipients’ national and international due process and human rights	<input type="checkbox"/>	<input type="checkbox"/>
To reveal the truth even if it is against the legal aid recipient’s interests	<input type="checkbox"/>	<input type="checkbox"/>
To actively participate in proceedings to prevent the legal aid recipient from making statements against their interests	<input type="checkbox"/>	<input type="checkbox"/>

To use all legal means to achieve the best result for the legal aid recipient    
Other (please specify)

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**B. LEGAL AID SERVICE PROVIDERS**

**5. How many licensed practicing lawyers are there in Kenya?**

Number of practicing lawyers: \_\_\_\_\_

Not Applicable

Don't have the data

**6. How many practicing paralegals are there in Kenya?**

Number of practicing paralegals: \_\_\_\_\_

Not Applicable

Don't have the data

**7. Which type of legal aid services are paralegals allowed to provide in Kenya?**

Criminal

Civil

Legal advice (e.g. on the application of the relevant law, and actions the person may appropriately take)

Legal representation before a court, tribunal or other dispute resolution body

Provision of legal information in police precincts, or prisons

General assistance in navigating the justice system (e.g. by providing instructions on filling out legal documents)

Other (please specify) \_\_\_\_\_

**8. How should legal aid services be organized in Kenya? (Please select all that apply)**

	Criminal cases	Civil cases
Through public defender institutions	<input type="checkbox"/>	<input type="checkbox"/>

- |   |                          |                          |
|---|--------------------------|--------------------------|
| Through a select panel of legal aid providers | <input type="checkbox"/> | <input type="checkbox"/> |
| Through the Law Society of Kenya              | <input type="checkbox"/> | <input type="checkbox"/> |
| Through pro bono schemes                      | <input type="checkbox"/> | <input type="checkbox"/> |
| Through the National Legal Aid Service        | <input type="checkbox"/> | <input type="checkbox"/> |
| Through civil society                         | <input type="checkbox"/> | <input type="checkbox"/> |
| A combination of the above(please explain)    | <input type="checkbox"/> | <input type="checkbox"/> |
| .....   |                          |                          |
| .....   |                          |                          |
| .....   |                          |                          |
| .....   |                          |                          |
| Other (please specify).....                   | <input type="checkbox"/> | <input type="checkbox"/> |
| .....   |                          |                          |
| .....   |                          |                          |
| .....   |                          |                          |

**9. How should the process for obtaining legal aid be initiated? (Please select all that apply)**

- Upon request from the person who wants legal aid
- The court presiding over a case should inquire and assess eligibility during the first appearance of the parties
- Upon request from the police
- Upon request from the prosecutor
- The National Legal Aid Service based on notification from a State Justice actor or applicant for legal aid
- Upon request from the Law Society of Kenya
- Upon request from the legal aid provider
- The determination should be automatic if the case or legal aid recipient qualifies for legal aid for legal aid services
- Other (please specify) \_\_\_\_\_

**10. What is the most appropriate mechanism for assigning legal aid providers? (Please select all that apply)**

- Courts and police should have a roster of duty legal aid providers for a given day, and call them in the given order

- Courts and police should contact the bar association, which should maintain and coordinate appointments and delivery of services
- The National Legal Aid Service should maintain a duty roster and State agencies should contact the Service
- There should be legal aid providers on duty in courts and police precincts
- Other (please specify) \_\_\_\_\_

**11. If a person has a right to legal aid, but no legal aid provider is available, must the proceedings cease until a legal aid provider arrives?**

- Yes
- Yes, with limitations (please specify)  
 .....  
 .....
- No \_\_\_\_\_

**12. Should there be specialized legal aid services provided by the State for specific population groups? (Please select all that apply)**

- Yes, for:
  - Persons with disabilities
  - Children
  - Women
  - The elderly
  - Migrants
  - Refugees, asylum seekers, or stateless persons
  - Internally displaced persons
  - Minorities and marginalized communities
  - Other (please specify) \_\_\_\_\_
- No

**C: ADMINISTRATION OF THE LEGAL AID FUND**

**13. What should be the role of the National Legal Aid Service in relation to the Legal Aid Fund? (Please select all that apply)**

- To establish and manage an affordable, accessible, sustainable and accountable national legal aid scheme
- To administer and manage the Legal Aid Fund
- To monitor and oversee expenditure of the Legal Aid Fund
- To consult with legal aid providers on their needs for ensuring their ability to provide effective legal aid
- To consult with legal aid providers in the determination of scales of fees payable to legal aid providers
- To advocate with appropriate officials for sufficient budget to cover the need for legal aid
- To assign legal aid providers to persons granted legal aid
- To negotiate with officials to achieve reasonable conditions for legal aid providers
- To oversee and coordinate the function of legal aid appointment mechanisms
- To establish and maintain performance standards for effective delivery of legal aid
- To serve as an independent oversight agency between legal aid providers and the State that pays them
- To guarantee the independence of legal aid providers from the State
- To track case outcomes for data on effective representation
- To interface with personnel in other justice agencies and organizations (judges/prosecutors/police/experts/other) about the quality of legal aid providers' services
- To monitor compliance of legal aid providers with government priorities
- To advocate or negotiate for conditions that allow legal aid providers to advocate effectively for legal aid recipients' rights
- Other (please specify) \_\_\_\_\_

14. Should Legal Aid Fund be implemented as a separate vote of the annual justice system budget in Kenya?

Yes

No

15. What in your view should the national budget for legal aid be (in KSHS, if possible)? \_\_\_\_\_

16. What considerations should be taken into account in determining the scales of fees for legal aid providers? (Please select all that apply)

Scope of services (e.g. consultation, drafting pleadings, representation in court etc.)

Complexity of the case

Time and effort required

Experience and expertise

client financial situation

Market rates

Cost-benefit analysis to the client and community

Any other (Please specify) .....

17. What in your view is the reasonable lump some payment for a legal aid provider?

Category of Legal Aid Provider	Services	Court station	Basic rate (Kshs)	Negotiated rates S 75 (3)
Accredited junior advocate	Legal advice, legal representation, assistance in resolving disputes by alternative dispute resolution/drafting of relevant documents and effecting service incidental to any legal proceedings/reaching or giving effect to any out-of-court settlement, creating awareness through the	Supreme Court	.....	.....
		Court of Appeal	.....	.....
		High Court or other Superior Court	.....	.....
		Subordinate Court	.....	.....
Accredited senior advocate		Supreme Court	.....	.....

	provision of legal information and law-related education, and recommending law reform and undertaking advocacy work on behalf of the community.	Court of Appeal	.....	.....
		High Court or other Superior Court	.....	.....
		Subordinate Court	.....	.....
Accredited firm of advocates with a senior advocate		Supreme Court	.....	.....
		Court of Appeal	.....	.....
		High Court or other Superior Court	.....	.....
		Subordinate Court	.....	.....
Accredited university or other institution operating legal aid clinic	Assistance in resolving disputes by alternative dispute resolution/ effecting service incidental to any legal		.....	.....
Accredited public benefit organization or faith based organization	proceedings/reaching or giving effect to any out-of-court settlement, creating awareness through the provision of legal		.....	.....
Accredited government agency	information and law-related education, and recommending law reform and undertaking advocacy		.....	.....
Accredited paralegal	work on behalf of the community.		.....	.....

Additional comments (optional)

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**18. Challenges and Recommendations**

From the choices below, please select the five answers most important factors that most impede access to legal aid in Kenya and rank from 1-5 ('1' being the most significant)

- \_\_\_\_\_ There is a limited number of lawyers in Kenya
- \_\_\_\_\_ There is a limited number of lawyers outside cities and urban areas
- \_\_\_\_\_ Lawyers are paid very little for legal aid work
- \_\_\_\_\_ Services provided by legal aid providers is low quality
- \_\_\_\_\_ Lawyers are opposed to allowing paralegals to fill the gap of available lawyers
- \_\_\_\_\_ It is more important to cover the cost of police, prosecutors and judges than to spend State funds on legal aid providers
- \_\_\_\_\_ There is little support among the population for spending funds to defend accused criminals
- \_\_\_\_\_ People prefer to resolve issues through the informal justice system, where legal professionals do not typically participate
- \_\_\_\_\_ People do not know where to find legal assistance
- \_\_\_\_\_ Other (please specify) \_\_\_\_\_

Comments (optional):

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