



REPUBLIC OF KENYA

**MINISTRY OF STATE FOR NATIONAL HERITAGE AND
CULTURE**

DRAFT

NATIONAL POLICY ON RECORDS MANAGEMENT

- APRIL 2009 -

TABLE OF CONTENTS

1.0	BACKGROUND	2
1.1	RATIONALE	2
2.0	LEGAL AND REGULATORY FRAMEWORK	2
3.0	POLICY FRAMEWORK	3
3.1	PURPOSE	3
3.2	POLICY STATEMENT	4
3.3	SCOPE	4
3.4	POLICY OBJECTIVE	4
4.0	RECORDS MANAGEMENT SYSTEMS AND PROCEDURES	4
4.2	MAIL MANAGEMENT	4
4.3	RECORDS USE AND MAINTENANCE	5
4.4	RECORDS DISPOSAL	5
4.5	ELECTRONIC RECORDS MANAGEMENT	5
4.6	SECURITY OF RECORDS	6
4.7	ACCESS TO RECORDS	6
5.0	STATEMENT OF RESPONSIBILITIES	7
5.2.1	MINISTER RESPONSIBLE KENYA NATIONAL ARCHIVES AND DOCUMENTATION SERVICE	7
5.2.2	MINISTERS / ASSISTANT MINISTERS	7
5.2.3	HEAD OF THE PUBLIC SERVICE	7
5.2.4	MINISTRY OF STATE FOR PUBLIC SERVICE	7
5.2.5	DIRECTOR, KENYA NATIONAL ARCHIVES AND DOCUMENTATION SERVICE	8
5.2.6	PERMANENT SECRETARIES / CHIEF EXECUTIVE OFFICERS	8
5.2.7	RECORDS MANAGEMENT OFFICERS IN PUBLIC INSTITUTIONS	9
5.2.8	GOVERNMENT INFORMATION TECHNOLOGY SERVICES (GITS) AND E-GOVERNANCE SECRETARIAT	9
5.2.9	OTHER PUBLIC OFFICERS	9
6.0	PROCEDURE FOR REVIEW OF THE POLICY	10
	APPENDIX 1. LEGAL AND REGULATORY FRAMEWORK	11
	APPENDIX 2. DEFINITION OF TERMS	15

1.0 Background

The management of public records in Kenya is governed by the Public Archives and Documentation Service Act, Cap 19, 1965 (Revised 2003) of the laws of Kenya. Alongside this, several rules, regulations and circulars have been issued to address effective management of records. Despite the efforts made by the Government, the state of records management in the country still remains a challenge due to lack of standardised practices and procedures. As a consequence, there is need to develop a records management policy to address the challenges.

1.1 Rationale

- 1.1.1 Records as a source of information are a basic resource which plays a vital role in the development of any nation. They play a key role in the preservation of a country's and organisation's identity, and also contribute significantly in the realisation of good governance. Records ensure that the government has documented evidence of its own activities on which it can base its decisions. Properly managed records contribute to policy formulation leading to faster decision making processes which directly impact on efficiency and effectiveness of service delivery in organisations. A nation's ability to function effectively and give account of its actions can therefore be negated if sound records management principles are not applied. Furthermore, records are an important corporate asset that must be accorded the same care as other government resources such as finance and personnel.
- 1.1.2 At the institutional level, records underpin business by supporting daily functions and operations. They contribute to policy formulation, decision-making, act as a reference point and uphold knowledge and evidence based governance. As evidence of official business, records have continuous use as a tool for management, accountability, risk management, operational continuity and legal evidence. When records become archives, they form the memory of the institution, and are part of the societal memory and documentary heritage providing historical evidence for decisions and actions undertaken.

2.0 Legal and Regulatory Framework

- 2.1 The principle legal instrument for the management of public records and archives is the Public Archives and Documentation Service Act (Cap. 19). There are other related Acts, subsidiary rules, regulations and circulars which shall be implemented in line with Cap 19. (See appendix 1).

They include:

- The Records Disposal Act, Cap. 14, 1962.
- The Anti-Corruption and Economic Crimes Act, 2003.
- Public Officer Ethics Act, 2003.
- Statistics Act, 2006.
- Public Procurement and Disposal Act, 2005.
- Public Audit Act, 2003.
- Government Land Act, Cap. 280, 1915.
- Registered Land Act, Cap. 300. 1963
- Value Added Tax Act, Cap. 476, 1990
- Financial Management Act, 2004.
- Directorate of National Intelligence Service Act, 1998.
- The Evidence Act, Cap. 80, 1977 (Revised 1989).
- Kenya Information and Communication Act, No. 2 of 1998 (Revised 2009).
- Freedom of Information 2007.
- Government Financial Regulations and Procedures, Chapter, 23 Section 3 – 5.
- Ministry of State for Public Service - Personnel letter No. 1/2008 (DPM.12/6A Vol. 1 (71).
- ISO 15489 (2001): Information and Documentation – Records Management:
- Kenya Police Standing Orders, 2001.
- Government of Kenya Security Manual, 2005.
- Departmental Records Retention Schedules.

3.0 Policy Framework

3.1 Purpose

- 3.1.1 This policy seeks to facilitate standardization in the application of procedures and practices in the management of records. It takes cognizance of established laws, regulations and internationally accepted records management standards. It seeks to address the gaps and challenges that have undermined effective and efficient records management in the country. It further apportions every public service agency and its employees, responsibilities with regard to the management of records. The policy therefore lays a suitable institutional framework that will support effective management of records the country. All the public sector's policies, procedures and systems pertaining to the management of records should therefore be consistent with this policy.

3.2 *Policy Statement*

3.2.1 The National Policy on Records Management provides for guidance on the procedures, practices and regulations on the management of records. This policy shall apply to records in all formats including electronic records. It is prepared in accordance with the national laws, regulations and internationally recognized standards on records management. Kenya National Archives and Documentation Service (KNADS) shall spearhead the development a national standard to guide the implementation of the policy.

3.3 *Scope*

3.3.1 The Policy applies to all records created, received, maintained, used and preserved in the public sector, regardless of the media and format in which they are contained. It applies to all business activities performed by or on behalf of the public sector in whatever manner they are conducted.

3.3.2 This policy is applicable to the private sector (organisations and individuals), where the records created are of national interest.

3.4 *Policy Objective*

3.4.1 To provide guidance in the management of records for the purpose of ensuring that accurate and reliable records are created, used, maintained, and disposed as a continuum of care.

4.0 Records Management Systems and Procedures

4.1 All public organisations shall design systems and procedures to ensure that accurate and reliable records are created and maintained. The systems and procedures shall cover the following areas:

4.2 *Mail Management*

4.2.1 For records to support organisations' business transactions, management of mail shall be streamlined. Receipt, registration, distribution, storage and dispatch of all incoming and outgoing mail shall be coordinated from a designated records management office (registry). Such mail shall be filed, arranged and indexed in an appropriate way for ease of retrieval.

4.3 *Records Use and Maintenance*

- 4.3.1 Users of public records shall include creating agencies, authorised state agents, authorized researchers and interested members of the public in line with laid down government regulations.
- 4.3.2 Records shall be maintained and controlled to ensure adequate storage and protection in order to enhance efficiency. This shall entail:-
- Designing and enforcing control procedures for tracking the movement of records.
 - Providing adequate and appropriate space and equipment for the storage of records.
 - Establishing ministerial/institutional records centers.

4.4 *Records Disposal*

- 4.4.1 Records disposal procedures work on the premise that all records cannot be retained indefinitely. Public records shall be disposed in accordance with the existing laws and regulations (See Appendix 1).
- Public offices shall develop records retention and disposal schedules in consultation with the Director, KNADS.
 - Records for preservation shall be transferred to the National Archives and any other institutional archives approved as a place of deposit by the Director, KNADS.
 - Prior to transfer of records, classified records will be reviewed by both KNADS and the creators to determine when the records will be de-classified.
 - Upon transfer of records, the creating agency relinquishes both physical and legal control of the records to the National Archives as the custodian of public records/archives selected for permanent preservation.
 - Destruction of valueless records shall be witnessed and certified by a responsible officer of the creating agency.

4.5 *Electronic Records Management*

- 4.5.1 Electronic records generated or received by public officers in the course of official business are public records. As records of government agencies, electronic records, like records in other formats, are subject to statutory and regulatory requirements. To maintain integrity, accuracy and authenticity of electronic records, public offices shall ensure that:

- Public officers at all levels are provided with adequate skills and competencies in the management of electronic records.
- Electronic records are managed effectively as part of a comprehensive records management programme.
- Electronic records are maintained in electronic form where appropriate.
- Electronic records are maintained in reliable recordkeeping systems.
- Maintenance and provision of authorised access to electronic archives is a shared responsibility between the records creators and KNADS.
- Electronic records which may be required in future as evidence shall comply with metadata requirements, which should include content, context and structure.
- Practical strategies are taken for the long-term preservation of electronic records in view of technological obsolescence.

4.6 *Security of Records*

4.6.1 Public institutions shall protect their records in all formats against:

- Unauthorised access to records and information.
- Unauthorised removal from their place of custody.
- Leakage of information.
- Mishandling.
- Malicious damage.
- Exposure to physical, biological and chemical damage.
- Technological obsolescence.
- Alteration, manipulation and loss.

4.6.2 A Disaster Management Plan shall be developed for the protection of all records. The plan shall identify and give special attention to vital records that could be used for continuity of a business in the event of a disaster.

4.7 *Access to Records*

4.7.1 Access to records and information shall be provided within the existing regulatory framework. The process of accessing information shall be flexible enough to respect freedom of information requirements provided that the guidelines in the government security manual are not contravened.

4.7.2 After transfer of records to KNADS the security classification therein identified as top secret, secret, confidential and restricted shall apply.

- 4.7.3 Records management rules and regulations shall specify appropriate levels of access or restrictions and control mechanisms for handling records.
- 4.7.4 Security status/restrictions on records shall be reviewed periodically to determine the need for additional control measures or for de-classification of information by the creating agency.
- 4.7.5 Access to public archives is subject to the provisions of Cap. 19.

5.0 Statement of Responsibilities

- 5.1 All records created by public officers in the course of their duties are public records. All public organisations and public officers shall be responsible and accountable for official records in their possession. On vacation of the office, public officers shall hand over the official records in their possession to the accounting officer/CEO.
- 5.2 The policy identifies and defines responsibilities to public officers as follows: -

5.2.1 Minister Responsible Kenya National Archives and Documentation Service

The Minister responsible for KNADS shall approve, authorize and issue this policy.

5.2.2 Ministers / Assistant Ministers

They shall provide policy directions and be responsible and accountable for records created or received in their Ministries/Institutions.

5.2.3 Head of the Public Service

The head of the Public Service shall ensure that Permanent Secretaries and Chief Executive Officers implement, monitor and evaluate compliance with this policy.

5.2.4 Ministry of State for Public Service

The Permanent Secretary, Ministry of State for Public Service shall: -

- Recruit, develop skills and deploy records management officers in the Civil Service.
- Administer the scheme of service for records management officers.
- Supervise records management officers in the civil service.
- Consult KNADS on the development of systems, standards and procedures for records management.

5.2.5 Director, Kenya National Archives and Documentation Service

The Director of KNADS shall:

- Implement the provisions of Cap. 19.
- Develop and review policies, systems, standards and guidelines for the management of public records.
- Advise on the development of training curriculum on records management in consultation with training institutions.
- Advise public sector on the management of electronic records.
- Issue guidelines for the establishment of Documentation Link Centres in Ministries and Departments.
- Guide public offices in the implementation of this policy.
- Forge partnerships with public institutions whose Acts of Parliament or regulations bear instructions on management of records.
- Conduct regular audits on records management activities in all public offices.

5.2.6 Permanent Secretaries / Chief Executive Officers

All Permanent Secretaries / Chief Executive Officers of public institutions shall be responsible for the management of records in their organisations. They shall: -

- Ensure the implementation of this policy.
- Be responsible for the establishment of Records Management Offices in their institutions.
- Establish Records Management Committees in their institutions.
- Liaise with the relevant ministry for the recruitment of qualified and skilled records management officers.
- Be accountable for the deployment of records management officers.
- Ensure that records management officers in collaboration with ICT officers design and implement electronic records management systems.
- Ensure that employees create and maintain complete and accurate records of their official transactions and activities.
- Ensure early identification of vital records and their preservation.

- Establish and maintain asset registers.
- Ensure the establishment of institutional records centres for storage and maintenance of semi-current records.
- Furnish the Director of KNADS with copies of published and generally circulated documents.
- Ensure development and implementation of a disaster management programme.

5.2.7 Records Management Officers in Public Institutions

Records Management Officers shall be responsible for records management activities in their respective Ministries/institutions. They shall, in consultation with KNADS:

- Develop a comprehensive records management programme for the organisation.
- Develop, implement and audit systems and procedures for management of records.
- Plan for appropriate accommodation for records.
- Train all members of staff on relevant records keeping systems.
- Initiate the disposal of records in line with laid down procedures.
- Prepare annual budget for records management activities and operations.
- Carry out records survey and appraisal.
- Prepare records retention and disposal schedules.

5.2.8 Government Information Technology Services (GITS) and E-Governance Secretariat

Shall liaise with KNADS when developing and/or implementing systems that relate to management of records.

5.2.9 Other Public Officers

All public officers shall adhere to the contents of this policy. They shall: -

- Ensure that the records they create and receive are properly captured and filed in accordance with laid down procedures.
- Ensure that they do not alter, destroy, misplace or render unusable any official document, record or file that is intended to be maintained as official record.

6.0 Procedure for Review of the Policy

- 6.1 This policy will be reviewed in line with Cap. 19 and other relevant laws when need arises.

Appendix 1. Legal and Regulatory Framework

1. Public Archives and Documentation Service Act, Cap. 19, 1965 (Revised 2003)

This is an Act of Parliament to establish the Kenya National Archives and Documentation Service (KNADS) and to provide for the preservation of public archives and public records and for connected purposes. Among other things, the Act defines the role of the Director in the management of public records and archives and vests the authority for their disposal in him/her. It makes it a requirement for heads of public institutions to furnish the Director with copies of published and generally circulated documents created within their domain. The Act further mandates KNADS to initiate the establishment of Documentation Link Centres where they do not exist in Government Ministries and Departments. It also sets out conditions for public access to public archives, validity and certification of public archives and prohibits the export of historical records. In addition it defines public records and spells out offences and penalties for contravention of the Act.

2. Records Disposal Act, Cap. 14, 1962 (Revised 1972)

This statute provides for the disposal of records in the custody of the High Court and the Registrar-General. It establishes the authorities and procedures for disposal of records covered in the Act. It further defines the offices under the office of the Attorney-General, and provides a records retention schedule of the records covered in the Act as well as the procedures for their disposal.

3. Anti-Corruption and Economic Crimes Act, 2003

This Act provides for the prevention, investigation and punishment of corruption, economic crimes and related offences. It describes circumstances under which the Kenya Anti-Corruption Commission may require a person to provide information and the offences and fines relating to negligence or failure to comply.

4. Statistics Act, 2006

This Act provides for the establishment of the Kenya National Bureau of Statistics. It provides for the collection, compilation, analysis, publication and dissemination of statistical information and co-ordination of the national statistical system. The Act provides the legal requirements for creation of records, collection, supply, disclosure and access to information. It further stipulates the offences and penalties related to the contravention of the Act.

5. Public Procurement and Disposal Act, 2005

This Act establishes procedures for efficient public procurement and disposal of unserviceable, obsolete and surplus stores, assets and equipment by public entities. The Act spells out the legal requirements for creation of records, disclosure and confidentiality of procurement documents and their retention periods. It highlights the need to have a clear link between procurement and expenditure files.

6. Public Audit Act, 2003

This Act provides for the audit of Government, State Corporations and Local Authorities. It provides for certain matters relating to the Controller and Auditor-General, the Kenya National Audit Office and establishment of the Kenya National Audit Commission. It brings out the powers vested therein to access and produce records or copies of records for audit and examination purposes.

7. Government Land Act, Cap. 280

Section 99 of this Act provides for the registration of all transactions entered into, affecting or conferring or purporting to confer, limit or extinguish any right, title or interest, whether vested or contingent to, in or over land registered under this Part (other than a letting for one year only or for any term not exceeding one year), and all mutations of title by succession or otherwise.

7. Registered Land Act, Cap. 300, 1963

This Act deals with the registration of title to land, the regulation of dealings in land so registered, and connected purposes. It requires that land records are retained by the Land Registrar for as long as they are needed to support current business and for six years thereafter.

8. Value Added Tax Act, Cap. 476, 1990

The Act charges Kenya Revenue Authority (KRA) with the responsibility of collecting revenue on behalf of the Government. The Act provides that a person carrying on a business shall keep records of all receipts and expenses, goods purchased and sold and accounts, books, deeds, contracts and vouchers which in the opinion of the commissioner, are adequate for the purpose of computing tax.

It further states that a person carrying on a business shall preserve every book of account, and every document which is essential to the explanation of any entry in any book of account, relating to the business for a period of not less than ten years after the year of income to which that book of account or document relates.

9. Financial Management Act, 2004

The Act gives Accounting officers the responsibility to ensure that proper financial and accounting records are kept, while all records kept in electronic format are adequately backed-up and protected from computer viruses.

10. Directorate of National Security Intelligence Service Act, 1998

The Act prohibits disclosure of any information, records, materials or documents obtained in pursuance of the requirements of the Act. It further requires the destruction, as soon as is reasonably practicable, of any copies, or parts and records obtained in pursuance of the Act.

11. The Evidence Act, Cap. 80 (Revised 1989)

The Act provides for production of primary or secondary evidence as prove of documentary evidence in a court of law. The Act specifies what constitutes primary documentary evidence and secondary documentary evidence. The Act requires documents to be proved by primary evidence except in conditions specified under the Act where secondary documentary evidence may be provided.

12. Kenya Information and Communication Act, 2009

The Act provides for legal recognition of electronic records and specifies requirements for their retention. It provides for integrity and security of electronic information. It further gives the Minister responsible for communication the power to make regulations for the manner and format in which electronic records in government departments shall be created, filed and used.

13. Freedom of Information Bill, 2007

The Bill makes it a requirement for public authorities to set up records management systems and procedures to facilitate the right of access to information and at the same time to submit to the Commission, annual reports regarding requests received and processed. The Bill also sets the time frame within which public servants must provide information applied for and the circumstances under which “exempt information” may be withheld.

14. Government Financial Regulations and Procedures, Chapter 23, Section 3 – 5

The Government Financial Regulations and Procedures deals with the administration of Government finances in relation to the Consolidated Fund, including the Supply Services. It defines the term “accountable documents”. It

further outlines the categories of documents, their retention periods, and circumstances under which the documents may be preserved or destroyed. The authority for the destruction of accountable documents is vested with the Accounting Officers.

15. Ministry of State for Public Service - Personnel letter No. 1/2008 (DPM.12/6A Vol.1 (71))

This circular issued by the Ministry of State for Public Service (Directorate of Personnel Management) deals with disposal of personnel records. It outlines the various categories of personnel records, their retention periods and the disposal procedures.

16. ISO 15489: Information and Documentation - Records Management

This is an international standard to provide guidance on managing records in all formats or media, created or received by any public or private organisation in the conduct of its activities, or any individual with a duty to create and maintain records. All the elements in the standard are to ensure that adequate records are created, captured and managed. It further determines responsibilities for the organisation of records and development of records policies, procedures, systems and processes.

17. Kenya Police Standing Orders of 2001

The orders provide a list of records held by the police and their retention periods.

18. Government of Kenya Security Manual, 2005

The manual details steps relating to safeguarding of classified information and materials. It also provides for officers who should have access to such information. It further lays down common standards to be applied in regards to classified information (grading, downgrading, access, circulation, storage and disposal).

Appendix 2. Definition of Terms

Accessibility – Availability and ease of access to records for consultation as a result of both legal authorisation and the existence of retrieval tools.

Appraisal – Process of determining the value of records in order to establish the disposal action.

Archives – (1) Records accumulated by an organisation or person in the course of their business, and preserved because of their enduring value.

(2) Organisation or part of an organisation responsible for selection, acquisition, preservation and availability of archives (as in 1 above).

Archivist – A person with requisite training and skills in archival studies, who selects, manages, describes and preserves records of enduring value.

Assets Register - A list of assets, which includes their ownership and value.

Classification Scheme – Systematic identification and arrangement of business activities and/or records into categories according to logically structured conventions, methods, and procedural rules represented in a classification system.

Confidential Record – A Record prohibited from public disclosure because access to information may cause harm or embarrassment to the state, its citizens or other individuals or organisations. It may also include information exempt from disclosure by court order or specifically identified as confidential by statute or administrative law.

Continuum of Care - A consistent and coherent regime of management processes from the time of the creation of records (and before creation, in the design of recordkeeping systems) through to the preservation and use of records as archives.

Current Records – Records regularly used for the conduct of the current business of an agency, institution or organisation or an individual.

Disaster Management Plan – Organised scheme of procedures for mitigating against natural or man-made disasters and facilitating recovery of records in the event of a disaster.

Document – Recorded information in any format which can be treated as a unit.

Electronic Record – Any combination of text, graphics, data, audio, pictorial, or other information representation in digital form that is created, modified, maintained, archived, retrieved, or distributed by a digital information system.

Electronic Records Management System - Any electronic system that manages the capture, storage, location and retrieval of records, either in paper or electronic format.

Enduring Value - The value of a record based on its uniqueness, age, significance or ability to convey an understanding of the operations of an organisation or individual.

Evidential Value – Value derived from records to show evidence of the organisation’s operations of specific functions or entities.

File - A group of related documents, fastened together within a file folder. A virtual file can be created for electronic documents.

Filing Systems - A logical and systematic arrangement for classifying records into subject groups or categories based on definite scheme of natural relationships representing numerals, prefixes, or key words for identification.

Freedom of Information (FOI) - A general statutory right of access to information irrespective of age and format held by public institutions, subject to a number of limited exemptions.

Information – Knowledge that is communicated and has facts, concepts, objects, events, ideas, processes, etc.

Information Management – Planning, controlling and exploitation of information sources within an organisation.

Medium (Media) - The physical form of material on which information is recorded such as paper, film, CDs, magnetic tapes and disks, etc.

Non-current records – Records rarely needed by the office of origin to conduct current business.

Preservation – All measures taken, including financial and strategic decisions, to maintain the integrity and extend the life of records.

Public Officer – As provided for under the Public Officer Ethics Act – 2003.

Public Records – Records created or received, and accumulated by public institutions in the conduct of business.

Record – Information created or received and maintained by an agency, organisation or individual in pursuance of legal obligations or in the transaction of business.

Records Centre – Facility for the low-cost storage, maintenance, reference and use of semi-current records pending their ultimate disposal.

Records Disposal - The act of removal of records from their place of origin, whether for destruction or formal transfer to records storage centre or archives, of records that have reached the end of their retention period.

Records Life Cycle - The records management premise that records pass through stages: creation, maintenance, use, and disposal.

Records Management - The systematic control of all records from their creation or receipt through processing, retrieval, distribution and use, to their ultimate preservation and disposal.

Records Management Office – Division/section responsible for management of records in an organisation.

Records Management Programme - The programme ensures that records are created in an organised manner, in a manageable quantity and in suitable formats. It allows records only to remain in offices only as long as they are current and describes procedures for the storage and disposal of non-current records.

Records Manager – Person trained in records management and responsible for achieving efficiency in the creation, maintenance, use, and disposal of records.

Records of National Interest –Records emanating from activities that are government funded as well as all records that have social, political, economic, cultural and environmental implications to society.

Records Retention Schedule – A control document describing the records of an organisation establishing retention periods and providing legal authorisation for their disposal.

Records Retrieval - Locating and delivering records for use.

Records Storage – Preservation measures for keeping records under defined conditions and permitting their retrieval or the information contained in them.

Records Survey – An exercise conducted to identify the size, scope, and complexity of an organisation's records and evaluate the records management systems.

Records Value - The usefulness of records for operating, administrative, legal, fiscal, and historical purposes.

Retention Period – Period of time that records should be retained in their offices of origin or in records centres before they are transferred to the Archives for preservation or otherwise destroyed.

Semi-Current Records – records occasionally required in the conduct of current business.

Tracking of Records - Capturing and maintaining information about the movement of records in the process of business transaction.

Vital Records - Records containing essential information necessary for the continuity or resumption of operations in the event of a disaster.