



30TH JUNE 2023 | ISSUE 14

THE LEGAL INSIGHT

The Official LSK Weekly Newsletter - EID EDITION

PRESS BRIEFING ON UNLAWFUL ARRESTS OF ADVOCATES IN THE LINE OF DUTY

In the recent past, we have witnessed several cases where the office of the Director of Criminal Investigations and other government agencies have attempted to prefer criminal charges against advocates over alleged offenses committed by Advocates in the course of their discharge of professional duties to their clients. We raised similar concerns in our letter dated 6th February, 2023 to the Office of the Directors of Public Prosecution, <https://rb.gy/ayue8>

We are concerned that this increased trend is intended to frustrate the ability of our members to render competent services to the public and the actions constitute a threat to the rule of law and the administration of justice.

On the 20th July 2022, Wamunyor Investment Limited instituted proceedings at the Environment and Land Court at Nairobi under case Number E.242 of 2022 against John Michael Ohas and Columbus Two Thousand Limited for the Ownership of Property Land Reference No. 209/12077. Also listed as a Defendant in the matter was the Chief Land Registrar. The case was responded to through a Statement of Defence and Counterclaim drawn by the firm of Ombok & Owuor Advocates Llp, dated 10th November 2022, which firm had been retained by Mr. Ohas and Columbus 2000 Ltd for purposes of the suit.

Click here to access the full statement, <https://rb.gy/lf6gz>

FEATURED

News Segment

Tech News

Notices/Vacancies

Weekly Bites

Upcoming Events



ASSET TRACING

is an important tool for advocates when dealing with their clients on a myriad of matters. Some of your clients who might find this tool include: -

- **Financiers when carrying out proper due diligence in respect of assets they intend to take as security**
- **Transport and logistics companies**
- **Manufacturing companies**
- **Individual client**

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UNVEILING THE PRESTIGIOUS AFRICA ARBITRATION AWARDS 2023

The 10th East Africa International Arbitration Conference (EAIAC) 2023 is delighted to announce the opening of nominations for the highly anticipated annual Africa Arbitration Awards(AAA) 2023. In its 4th year, the Africa Arbitration Awards aim to celebrate, recognise, and honor outstanding practitioners and leaders in the Africa arbitration ecosystem and will be celebrated at a Gala Dinner on Friday, 25th August 2023 in Zanzibar alongside celebrations for the 10th anniversary of EAIAC.

EAIAC has for the last nine years convened annual regional international arbitration forums, providing a platform for thousands to network, build partnerships and acquire new skills. EAIAC has profiled 450+ practitioners who have participated as speakers at the events. The Africa Arbitration Awards forms part of our vision of building international arbitration capacity, expanding our networks as we promote, profile and celebrate Africa's success in international arbitration.

The five (5) Award categories are:

1. African Arbitrator of the Year (over 40 years of age, in a recent international arbitration)
2. Leading Case Counsel Team (representative team in a recently completed case).
3. Young Arbitration Practitioner of the Year (under 40 years of age, in a recent international arbitration case).
4. Innovation in Arbitration (innovation by online platforms, and case teams)
5. Leading Arbitration Service Provider (such as experts, funders, forensics and transcription).

Below are general rules for all categories. Please note that specific nomination rules are available on: <https://www.eastafricaarbitration.com/nominations/>

- Nominations will require a detailed description (250-300 words) of why the nominee deserves the Award. Describe the special attribute that makes the Nominee deserving. Descriptions of other arbitration initiatives (such as conferences or trainings) can be provided.
- Include a description the matters or case/cases that the nominee was/is involved in. Please anonymize confidential arbitration cases.
- CVs/resumes are encouraged.
- For team nominations, CV of team leader and description of each member of the team are encouraged.
- Self-Nominations are welcome, and you can encourage your colleagues and contacts to nominate you.
- Previous winners are not eligible for nomination.



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is the **online portal** for mediation skills online training course designed for Kenya and created by Dispute Resolution Services.

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LSK ANNUAL CONFERENCE



15- 20TH **AUGUST**
2023

**VENUE: DIAMONDS LEISURE BEACH & GOLF
RESORT, KWALE COUNTY**

MAIN CONFERENCE THEME:

Climate Change: From Theory to
Action, the Role of the Legal
Profession in Climate Justice

DISCUSSIONS

Other discussions will cover:
Anti-Money Laundering: The Uncomfortable Agent
A Lawyer's Role in Balancing the Competing Interests

REGISTRATION DEADLINE

31ST JULY 2023

PERIOD	1st to 31st May, 2023 (Early Bird)	1st to 30th June, 2023	1st to 31st July 2023
Annual Conference Rate (Per Delegate)	KES. 32,000	KES. 35,000	KES. 37,000

All Conference Delegates are informed to make their own travel and accommodation arrangements. The Law Society of Kenya has negotiated for discounts from nearby hotels and airlines, which can be accessed on the link, https://bit.ly/LSKAC_Rates

Kindly get in touch directly with the hotels and airlines for further details and assistance.



In case of any inquiries:
Call +254 745 569 854 or 0110 677 188
email annualconference@lsk.or.ke



THE SUBTLE BALANCE AND TRADE-OFFS IN CYBER SECURITY (PART 2)

Last week we looked at the cyber trade-offs that businesses have to make as they enter the online market. We paid particular attention to the balance between cybersecurity for businesses balanced against usability for the customer. Today, we will look at cost and privacy trade-offs.

Security vs. Cost

The question in Cyber security is not that of cost since it is a presumed variable in the equation. Companies now must think of the price associated with the development or integration of the control itself (for example, the cost of a firewall) as an investment in the core business of the company. Cyber security has now become a core function for businesses.

Security vs. Privacy

Privacy trade-offs have also been necessary as the balance has proved delicate. Confidentiality, integrity, and availability of data are the major considerations as far as data safety goes. The correct balance of these three principles will require tempering of each concept to enable the other concepts to be effective.

Most businesses have therefore ended up creating solutions that are either focused more on security than privacy or more on privacy than security. For example, banking systems,⁶ while being secure to a good extent also allow for external inspection which is a data privacy breach. It would be foolhardy to have extremes of either in Cyber security. Each value has to give way to the other depending on where the greatest risk lies.



CONTD...

In conclusion, the only thing to be said is this: that you can never be too careful. Cyber attacks and security breaches have become rife lately, and as long as you have done the best you can possibly do as a business to protect your system and client data, then you will have offset the 'reasonable man/woman's test. A business is not expected to go over and above with its security measures, to a point that the service it seeks to provide digitally becomes inaccessible on account of its many security verifications.

It is a question of Reasonableness

For lawyers defending clients in Cybersecurity matters, the basics of Negligence will come into play. There is obviously a duty of care that businesses owe their clients when it comes to personal data. The question will be whether the business took such measures that an ordinary business, engaging in the same industry would take to protect its systems. The balance between security, convenience, cost and privacy will be tested on the standard of reasonableness.

There you have it ladies and gentlemen.

The more things change, the more they remain the same. Because who would ever have thought that the depths of cybersecurity would lead us back to first-year Torts? Shout out to @ayamunda (lecturer), the one and only J.

FEATURE BY

Mwende Stardust

Founder and Tech Attorney, Lex Centre LLP

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WAIVER OF CERTIFICATE OF GOOD STANDING FEES FOR ONLINE APPLICATIONS

Following the integration of the application for Certificates of Good Standing on the online portal, members have been able to seamlessly apply for their certificates online. The Law Society of Kenya Council is now pleased to inform members that the online application fees of Kshs. 1,500/- for the Certificates of Good Standing, has been waived. Therefore, individual advocates, who have no disciplinary matters can now make their online application, at no cost whatsoever.

Kindly note the following details:

- Individual Certificates of Good Standing- An individual advocate who wishes to obtain a Certificate of Good Standing will do so online and at no cost. The signed Certificate of Good Standing will be automatically generated and made available on the LSK member's portal for downloading and/or printing.
- Individual Certificates of Good Standing for advocates with pending and/or concluded disciplinary matters- An advocate with a pending and/or concluded disciplinary matter will make their application by email or letter and will be required to pay Kshs. 500/-.
- Law Firm Certificates of Good Standing- A law firm that wishes to obtain a Certificate of Good Standing will make a request by email or letter and will be required to pay Kshs. 1,000/-.



N/B:- Application for Certificates of Good Standing for law firms and members with pending and/or concluded disciplinary matters, will continue to be issued upon request to the Compliance & Ethics Directorate either through a letter or via email to compliance@lsk.or.ke

We advise any member experiencing any challenge to reach the Secretariat through email at compliance@lsk.or.ke and phone number 0110-459-555.



JOB VACANCY - LAWYER

A medium sized legal firm based in Thika wishes to recruit a Receptionist/Legal Secretary to join the team.

QUALIFICATIONS

The applicant should have:

1. Relevant specialized training / professional qualification.
2. A minimum of five (5) years of experience in a busy law firm or a similar environment.
3. Strong interpersonal and management skills.
4. Courtesy and high integrity.
5. Good public relations and customer care.
6. Good oral and written communication skills.
7. He/she must be self-motivated and capable of working with minimum supervision.
8. Legal-oriented training and skills will be an added advantage.

Applications should be submitted together with a detailed CV and must include daytime telephone contact, copies of all relevant certificates and testimonials as well as expected remuneration to reach the firm on or before 10 h July 2023.

Application should be addressed to:

THE MANAGING PARTNER.

info@nkadvocates.co.ke

Only successful candidates will be contacted.

COUNCIL DECISIONS TAKEN ON 12TH JUNE 2023

The Council Decisions on applications taken on 12th June, 2023 for admission to the Roll of Advocates, Practicing Certificates, Notary Public and Commissioner for Oaths can be accessed on the link:

<https://drive.google.com/drive/folders/litVW919TQREJWWRoZF5rhRKlwlaTUMQF?usp=sharing>



INTERNATIONAL BAR ASSOCIATION (IBA) PRO BONO AWARD- EXTENSION OF DEADLINE FOR NOMINATIONS

The International Bar Association (IBA) is pleased to announce that the nominations for the IBA Pro Bono Committee's IBA Annual Pro Bono Award, supported by LexisNexis, has been extended to 30th June, 2023.

The IBA Pro Bono Committee is inviting nominations for its prestigious Award for lawyers who are leading the profession in building a pro bono culture. Pro bono work is a cornerstone of the legal profession, and the IBA Pro Bono Committee wants to help build a culture of pro bono work by lawyers, law firms and organizations of lawyers as a vehicle for access to justice, where that right is not fully supported by legal aid.

For a nomination form, terms and conditions and full details regarding this Award please click [here](https://rb.gy/6zj3v), The Members, at the Ordinary General Meeting of the Law Society of Kenya, held both physically & virtually through Zoom/Webinar Platform on Friday, 31st March 2023, at Safari Park Hotel, Nairobi, resolved to invite members to submit their queries and comments on the statement of accounts and financial statements 2022 presented during the Annual General Meeting (AGM). The report can be accessed through this link, <https://rb.gy/6zj3v>

Members are hereby invited to submit their queries/comments on the reports to memberservices@lsk.or.ke to reach us not later than Friday, 30th June, 2023.

The responses will be given during the continuation of the Adjourned Meeting of the Ordinary General Meeting of the Law Society of Kenya to be held both Physically and Virtually at Panari Hotel in Nairobi at 11:00 am on Friday, 21st July 2023.





5-DAY BESPOKE WORKSHOP ON LEGAL AND LEGISLATIVE DRAFTING

EALS Institute, the training wing of the East Africa Law Society (EALS), invites you to a comprehensive 5-day bespoke workshop on Legal and Legislative Drafting and Leadership to be held from 3rd - 7th July 2023 at Mt. Meru Hotel, Arusha Tanzania

The high-level 5-day capacity building course is designed for law and policymakers at national and devolved Government units. The course is suitable for county executives, senior management staff, Members of Parliament, parliamentary staff, lawyers, county assembly members and officials and senior government ministry officials. The target and design of the training is to build capacity at a high level for policy-makers on thinking, developing, and writing policies, regulations, and laws. It also focuses on building leadership and integrity, and on implementing devolution in a purposeful manner to meet the demands and needs of the countries and organisations.

For more information, please click on the link,
<https://rb.gy/r65kg>

EAST AFRICA COMMUNITY IN- HOUSE COUNSEL CONVENTION, 2023

The East Africa Law Society (EALS) presents the In-house Counsel Convention, a premier gathering of lawyers, policymakers, regulators and compliance managers working within corporates, governments and other organizations.

The Convention will be held under theme, The Future of In-House Counsel in Cross-Border Co-operation, between 27th - 28th July 2023 at Madinat Al Bahr Hotel in Zanzibar, Tanzania.

The event shall bring together the brightest and most innovative minds from across the region and beyond to network, debate and explore key issues in In-house practice in East Africa. Discussions shall seek to explore key regional and continental agreements and position the In-house lawyer for emerging opportunities both for themselves and for the corporates they serve.

For more information, please click on the link,
<https://rb.gy/r65kg>



THE 13TH PAN AFRICAN LAWYERS UNION (PALU) ANNUAL CONFERENCE - 5TH TO 8TH JULY 2023

The Pan African Lawyers Union (PALU), the Premier Continental forum for Lawyers and Lawyers' Associations, membership has grown exponentially and now comprises of over five Regional Lawyers' Associations (RLAs), over 54 National Lawyers' Associations (NLAs) and over 1,000 individual lawyers. PALU will hold its Annual Conference 2023 bringing together a broad range of participants from all corners of Africa and the Diaspora.

The Conference will take place from 5th - 8th July 2023 at Avani Victoria Falls Resort, Zambia under the theme, "The Sovereign debt crisis in Africa: The Role of the Legal Profession."

The 3-day Conference provides a prime opportunity for participants to broaden their networks, create and renew professional contacts, and deepen their expertise by engaging in strategic consultations and participating in interactive discussions and vibrant side events.

Members are hereby invited to participate in the Conference either as delegates, session sponsors, moderators, or Panelists.

For more information on the Conference please click [Here](#)

THE INTERNATIONAL BAR ASSOCIATION (IBA) ANNUAL CONFERENCE 2023

The International Bar Association (IBA) Annual Conference is the leading conference for Legal Professionals worldwide to meet, share knowledge, build contacts and develop business. It serves to advance the development of international law and its role in business and society, to provide members with world-class professional development opportunities to enable them to deliver outstanding legal services.

The IBA Annual Conference will be held at the Palais des Congrès de Paris from 29th October to 3rd November 2023. It will give members the opportunity to experience over 200 sessions on a wide range of legal topics, along with an abundance of business and networking opportunities on offer attended by some of the world's leading lawyers.

This conference is open to both members and non-members of the IBA, with lawyers from over 130 jurisdictions and all parts of the Legal Profession attending, including Lawyers in private practice, In-house Counsel, Human rights Advocates, Judges, Bar leaders, Regulators and Government Representatives.

For more information, [click here](#).



CALL FOR PAPERS FOR THE LAW SOCIETY OF KENYA JOURNAL 2023

The Law Society of Kenya Journal is a peer-reviewed publication of the Law Society of Kenya prepared by the Editorial Committee. The Committee invites members to submit papers for consideration for publication in the 2023 Edition.

The Editorial Board welcomes scholarly articles, case reviews case commentaries, and book reviews on any aspect of law.

Only submissions written in accordance with the Law Society of Kenya Journal (LSKJ)- Instructions to Authors will be considered. The Instructions can be accessed via the link,

Submissions should be sent to journal@lsk.or.ke not later than Friday, 21st July 2023 at 5.00 pm.

NB: All submissions should include reliable telephone numbers and email addresses for ease of communication with the Editorial Committee.

Plagiarism is unacceptable and will lead to automatic rejection of the submitted paper.

NOTICE OF THE ADJOURNED MEETING OF THE ORDINARY GENERAL MEETING OF THE LAW SOCIETY OF KENYA TO BE HELD BOTH PHYSICALLY & VIRTUALLY ON FRIDAY 21ST JULY, 2023 AT 11:00AM AT PANARI HOTEL IN NAIROBI

NOTICE IS HEREBY given pursuant to Section 30 (1), Section 32 of the Law Society Act 2014, Regulations 74, 75 (1), 2 (a) & 80 of the Law Society of Kenya (General) Regulations 2020, that continuation of the ADJOURNED MEETING of the ORDINARY GENERAL MEETING of the Law Society of Kenya of 31st March 2023 is convened for and shall be held both Physically and Virtually at Panari Hotel in Nairobi, at 11:00am on Friday 21st July, 2023.

Registration details will be shared in due course.

[Click here to access the full Notice.](#)





NHIF- THE NOBLE EQUILISER FROM INDEPENDENCE

Ineffective, scandal, fraud, and corruption, are some the words that have been associated with the NHIF. The Kenya National Hospital Insurance Fund (NHIF) is the oldest government insurance scheme in Africa. As the primary provider of health insurance in Kenya, its mandate is to provide access to quality and affordable health care for all Kenyans. NHIF membership is compulsory for all salaried employees. Symbolically the month of June is significant as the historical mark of the self-rule for Kenya and the visionaries began the move towards a better health care system.

The journey began in the 1920s when Kenya was a British Protectorate. From that time up to June 1966, the Europeans and Asians had their health insurance cover, the European Hospital and Treatment Relief Fund, and the Asian and Arab Fund Authority. The insurance covers would help the contributors obtain treatment from the more upscale hospitals while the natives could only access the most basic of healthcare. The NHIF was established following the formulation by the government of the 1964 - 1970 health policy. This programme was based on the realisation that human health was significant in the development of the socio-economic sector. Further, the government intended to achieve economic progress and was motivated to expand the healthcare sector to enhance access by the populace. Hence, from 1965, the government pursued this agenda through the implementation of various measures. There was, for instance, the adoption of the development blueprint, Sessional Paper Number 10 of 1965 on "African Socialism and its Application to Kenya."

The Policy was significant as it formed part of the mechanisms of alleviating poverty, which was attributed to resource discrepancy in colonial Kenya. Health, therefore, entrenched poverty as private financing for healthcare was the norm among the populace. To alleviate disease and therefore poverty, the government based on policy formulation for Sessional Paper Number 10 abolished the use of out-of-pocket-spending (OOPS) for healthcare services in public facilities. This move was geared towards enhancing access to healthcare services, making it affordable and therefore, reducing inequalities among the populace.



CONTD...

The importance of NHIF has over the years gained momentum with rallying calls by nations of the world to achieve Universal Health Coverage (UHC). Achieving UHC is one of the targets the nations of the world set when they adopted the 2030 Sustainable Development Goals (SDGs) in 2015. At the United Nations General Assembly High-Level Meeting on UHC in 2019, countries reaffirmed that health is a precondition for and an outcome and indicator of the social, economic and environmental dimensions of sustainable development. The realization of UHC will signify the end of financial hardship that heavily limits access to healthcare. It will be a dream come true for our forefathers who fought for better healthcare systems. Steadily and with deliberate steps such as identifying one million (1M) indigent households across the forty-seven (47) counties to offer affordable healthcare insurance under UHC, we shall indeed reach a state of full Madaraka in our healthcare space.

Unfortunately, the NHIF and its Board have oftentimes been faced with financial management inefficiencies. In the 1967 NHIF Act, for instance, there was a recommendation for stringent measures to seal loopholes that hindered efficient service delivery. There were cases of fraud that were occasioned by the forgery of stamps affixed to the contributors' cards and measures to curb losses to the Fund were instituted. Measures included the invocation of section 19(2) (b) of the NHIF Act, which proposed means of dealing with forged stamps presented by the healthcare facilities for reimbursement. The loss of revenue to the Fund hindered efficient service delivery. This was occasioned by incompetent hospital inspectors who were not diligent in evaluating healthcare facilities for accreditation. Hence, proposals on reducing revenue losses were to be effected through regular healthcare facility inspections.

Additionally, doctors were to be involved in the preparation and submission of claims, which detailed illnesses, injuries or accidents sustained and subsequently the accrued medical costs. Other instances of loss of revenue to the government were notable from the employed individuals contributing to the NHIF and NSSF schemes through statutory deductions, but sought healthcare services from private facilities, for in-patient services. These facilities benefited greatly from the compulsory contributors.



CONTD...

On the contrary, public healthcare facilities only benefited from maternity rebates from this category of contributors. Subsequently, the government introduced measures aimed at encouraging the utilisation of public healthcare facilities by the NHIF contributors for all disease incidences. This strategy was to enhance the revenue basis for the government. Effective 1 October 1971, for instance, admissions for in-patient services in public healthcare facilities were to be offered at no cost to the compulsory and voluntary NHIF contributors.

FEATURE BY



SOPHIE KAIBIRIA
DIRECTOR
PRACTICE STANDARDS

The pattern of reforms for NHIF had therefore not been new but has been pushed by the shift in the society and the growth in the medical economy. The current changes that will be effected from 1st July have equally been brought about by the government policy to push equity in the fund contribution. This is a foundation quest from post-independence that is yet to be achieved due to the problems bedeviling the scheme such as fraud, mismanagement, health scandals and corruption. Will the country get it right this time?

#VigilanceWakilis

We are called upon to provide checks and balances for the system of governance to ensure that law and application are aligned.



Golf forth and prosper

2023 LSK President's Golf Tournament



Only players with a valid handicap will be allowed on the draw.

There will be a golf clinic from noon to 3.00 pm

Register Now!

<https://forms.gle/CPVPsWwcJJ1zvhoJ8>



19th
August 2023



Leisure Lodge Golf Resort
Diani, Kwale County



TO PARTNER;
gloria.kuyoh@lsk.or.ke



0706 319 030



UPCOMING EVENTS/WEBINARS

LSK CPD WEBINAR

IMMIGRATION & REGIONAL INTEGRATION:
Reimagining the Cross Border Practice & Challenges

1 CPD UNIT

Harriet Njoki Mboce,
HSC

Co-Convenor, LSK Committee
on Cross Border Practice &
Immigration

Vincent Godana
Advocate

POSTPONED TO

DATE
Monday, 3rd July
2023


TIME
2.00 PM TO 3.30 PM

0111 045 300

CHARGES: KES 1,500

cpd@lsk.or.ke

REGISTER NOW



LAW SOCIETY OF KENYA


Save the Date


SOUTH WEST EDITION


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Football, Volleyball, Table
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 **29TH JULY 2023**

 **GUSHII STADIUM,
KISII COUNTY**

 For the Golf Tournament & Indoor games:
 **KISII SPORTS CLUB** 



SEMINAR

COURSE: LEGAL AUDITOR CERTIFICATION COURSE (3 LSK CPD POINTS)

DATE: 24th -28th July, 2023

VENUE: NAKURU

THEME: "The A-Z of the Legal Audit Process"

ABOUT THE COURSE Legal Auditor Certification Course is relevant for those who intend to acquire knowledge and skills to carry out actual legal audits of both private and public organizations. The objective of the course is to equip the participant with the practical skills to understand the content and process of legal audit, and to undertake audit with professionalism and confidence. The course is also relevant and suitable for in-house counsel in both private and State Corporations who conduct internal compliance audits within their organisations and equips them to monitor external audits as recommended in the Mwongozo Code of Governance of State Corporations.

The participant will learn about legal audits, the objectives and benefits, preparation of ToRs, proposals, inception reports, data collection instruments, reports, etc. The Course will have many sessions devoted to practical activities simulating the various stages of an actual legal audit exercise. Upon conclusion of the 5 days of training, the participant will undertake a practical project off-site, under the guidance of the trainers, to ensure that the participant is well-equipped to carry out legal audit assignments from the beginning to the end.

YOUR INVESTMENT: Kshs. 105,000 (non-East Africans: USD 1,500) inclusive of VAT and registration fee. (Covers tuition fees, course materials, stationery, lunch and refreshments). **NOTE** that where a person who has registered for the course pulls out within 7 days to the date of training, the School shall deduct 25% of the tuition fee to cover administrative expenses.

Application Process: The application should be made **ONLINE** through the platform. Please log at: <https://services.ksl.ac.ke/web/> login sign up and register for the course. Money should be deposited in the School's Account (Account No. 202 2029 110 Absa Bank PLC, Absa Plaza Branch, Nairobi, Kenya) and a banking slip presented to the Finance Office. Please note that we would wish to have your duly completed application form and proof of payment by 12.00 p.m. on 19th July, 2023 to enable us to adequately prepare for the course. Late applicants should confirm availability of space before paying for the course. For more information, please contact the Course Coordinator, Kefa Simiyu or Christine / Jacqueline on: Tel: +254- +254(020) 2699581/6 Email: cpd@ksl.ac.ke, mkefa@ksl.ac.ke; cmwanza@ksl.ac.ke or jacqueline@ksl.ac.ke Website: www.ksl.ac.ke