

DISPUTE RESOLUTION

Preparing for a Commercial Dispute

A practical Kenyan Dispute Resolution guide covering preparation, records, responsibilities, risk review, and questions to discuss with an advocate.

Preparing for a Commercial Dispute helps clients organise the information needed for an informed discussion about Dispute Resolution. The right approach depends on the facts, the parties, existing documents, timing, and applicable Kenyan law. Early preparation makes it easier to identify gaps, protect important records, and choose practical next steps.

Define the objective and context

Begin by writing down the decision, transaction, concern, or outcome in plain language. Identify who is involved, what has already happened, what must happen next, and whether any deadline or urgent risk exists. Separate verified facts from assumptions. A short chronology can help management and advisers understand the matter without losing important details.

Information to assemble

1. Relevant contracts, policies, licences, notices, applications, correspondence, and prior advice.
2. A dated chronology of decisions, events, payments, communications, and upcoming deadlines.
3. The names and roles of decision makers, counterparties, regulators, advisers, and other stakeholders.
4. Evidence of approvals, consent, delivery, performance, reporting, training, or compliance activity.
5. A clear list of unresolved questions, preferred outcomes, practical constraints, and approval requirements.

Review responsibility and risk

Consider legal, commercial, operational, financial, and reputational effects together. Confirm who owns each action and who has authority to approve the proposed response. Preserve original records and avoid changing documents once a dispute, investigation, or formal review is reasonably anticipated. Sensitive material should be shared only through an appropriate secure channel and with people who require access.

Create an action plan

Convert the review into specific actions with an owner and target date. Immediate protective steps may be different from the final strategy, so record both. Check whether notices, filings, consultations, approvals, payments, or evidence preservation measures are required. Allow enough time for factual verification, legal review, and internal approval before making a final commitment.

Questions to discuss with an advocate

1. Which Kenyan laws, regulations, contractual duties, and procedures apply?
2. What information is missing, and which assumptions create the greatest risk?
3. Are there urgent deadlines, reporting duties, notices, or interim protections?
4. What options are available, and what are their likely timing, cost, and implementation effects?
5. How should future decisions, negotiations, and communications be documented?

Important note

This resource provides general educational information and does not constitute legal advice. It cannot determine the correct outcome for a particular matter. Obtain advice from a qualified advocate who can review the current law, full facts, relevant documents, and your intended course of action.