




THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT (THIRD SESSION)
PUBLIC PETITIONS COMMITTEE

Approved
[Signature]
11/04/24.

REPORT ON -
IT'S CONSIDERATION OF THE PUBLIC PETITION NO. 44 OF 2023 REGARDING
ENHANCEMENT OF HOUSE ALLOWANCES FOR TEACHERS WORKING AND RESIDING
WITHIN KILIFI MUNICIPALITY

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 11 APR 2024	DAY: Thursday
FILED BY: Hon. Janet Sichei (Vice Chairperson Public Petitions Committee)	
CLERK-AT THE-TABLE:	Shibuko

Directorate of Legislative & Procedural Services
Clerk's Chambers
Main Parliament Buildings
NAIROBI

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ACRONYMS

CBA	-	Collective Bargaining Agreement
CBS	-	Chief of the Burning Spear
CEO	-	Chief Executive Officer
KNUT	-	Kenya National Union of Teachers
KUPPET	-	Kenya Union of Post-Primary Education Teachers
SRC	-	Salaries and Remuneration Commission
TSC	-	Teachers Service Commission

CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on the Public Petition No. 44 of 2023 regarding the enhancement of house allowances for teachers working and residing in Kilifi Municipality. The petition was presented to the House pursuant to Standing Order No. 225 (2) (b) by the Member for Kilifi North, the Hon. Owen Yaa Baya, MP on 10th August, 2023.

The Petitioner prayed that the National Assembly through the Public Petitions Committee inquires into the living conditions of teachers working and residing within Kilifi Municipality, recommends that teachers in both Secondary and Primary Schools within Kilifi Municipality are facilitated to receive enhanced house allowance among others.

The Committee considered the Petition and observed that whereas the Salaries and Remuneration Commission issued a Circular on the payment of House allowances in 2014, Kilifi was conferred Municipality status in 2018 vide Kenya Gazette Supplement Notice No. 2 dated 19th March, 2019 and this therefore meant that by the time the SRC was forwarding names of municipalities, Kilifi had not been conferred the status of a Municipality, teachers in Kilifi have been receiving house allowance under Cluster 4 hence require an enhancement which is undertaken once every four (4) years and the SRC review of house allowance payable to teachers in Kilifi town until 31st July, 2023 which would be fully harmonized by 1st July, 2024.

The Committee recommends that the affected teachers submit their request through their employer, the Teachers Service Commission to Salaries and Remuneration (SRC) for consideration, SRC and pays enhanced house allowances together with arrears for teachers working and residing in Kilifi Municipality with effect from 1st July, 2023 among others.

The Committee appreciates the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support without which its work would not have been possible. The Chairperson expresses gratitude to the Committee Members for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to lay the Report on the Table of the House.

HON. NIMROD MBITHUKA MBAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

Date...11-04-2024.....

PART ONE

1. PREFACE

1.1. Establishment and Mandate of the Committee

The Public Petitions Committee is established pursuant to the provisions of Standing Order 208A and is mandated to -

- a) consider all public petitions tabled in the House;
- b) make such recommendations as may be appropriate concerning the prayers sought in the petitions;
- c) recommend whether the findings arising from consideration of a petition should be debated; and
- d) advise the House and report on all public petitions committed to it.

1.2. Committee Membership

The Public Petitions Committee was constituted in October 2022 and comprises of the following Members:

Chairperson

Hon. Nimrod Mbithuka Mbai, M.P.
Kitui East Constituency
United Democratic Alliance (UDA)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.
Turbo Constituency
United Democratic Alliance (UDA)

Hon. Patrick Makau King'ola, M.P.
Mavoko Constituency
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Ernest Kivai Ogesi Kagesi, M.P.
Vihiga Constituency
Amani National Congress (ANC)

Hon. Maisori Marwa Kitayama, M.P.
Kuria East Constituency
United Democratic Alliance (UDA)

Hon. Joshua Chepyegon Kandie, M.P.
Baringo Central Constituency
United Democratic Alliance (UDA)

Hon. John Walter Owino, M.P.
Awendo Constituency
Orange Democratic Movement (ODM)

Hon. Bernard Muriuki Nebart, M.P.
Mbeere North Constituency
Independent

Hon. Bidu Mohamed Tubi, M.P.
Isiolo South
Jubilee Party (JP)

Hon. Caleb Mutiso Mule, M.P.
Machakos Town Constituency
Maendeleo Chap Chap Party (MCCP)

Hon. John Bwire Okano, M.P.
Taveta Constituency
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Peter Mbogho Shake, M.P.
Mwatate Constituency
Jubilee Party (JP)

Hon. Sloya Clement Logova, M.P.
Sabatia Constituency
United Democratic Alliance (UDA)

Hon. Suzanne Ndunge Kiamba, M.P.
Makueni Constituency
Wiper Democratic Movement-Kenya (WDM-K)

1.3. Committee Secretariat

The Public Petitions Committee is facilitated by the following secretariat:

Lead Clerk
Mr. Ahmed Kadhi
Senior Clerk Assistant/Head of Secretariat

Ms. Miriam Modo
First Clerk Assistant

Mr. Willis Obiero
Third Clerk Assistant

Mr. Shadrach Omondi
Legal Counsel II

Ms. Patricia Gichane
Legal Counsel II

Mr. Martin Sigei
Research Officer III

Mr. Andrew Shangirai
Principal Sergeant at Arms

Mr. Yezel Jilo
Sergeant at Arms

Ms. Lilian Mburugu
Media Relations Officer

Ms. Rahab Chepkilim
Audio Officer

PART THREE

3. STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1. SUBMISSIONS BY THE PETITIONER

On Wednesday, 30th August 2023, Member for Kilifi North Constituency (Hon. Owen Baya, M.P), appeared before the Committee and submitted as follows: -

12. The Salaries and Remuneration Commission (SRC) in fulfilment of its mandate of reviewing remuneration and benefits for public officers issued a circular in December 2014 that harmonized significant variations that existed before the review.
13. A Gazette Notice of conferment of Kilifi Town as a Municipality was issued on 19th March 2019. The Municipality status resulted in a higher cost of living and an increase in rent charged by landlords. Teachers thereby opted to seek cheaper housing outside the municipality.
14. The distance between the areas of residence and the schools they work is far. This demoralizes the teachers and greatly affects the value of service offered to students.
15. Clause 7.6 of the Collective Bargaining Agreement between the Teachers' Service Commission and the Kenya Union of Post Primary Education Teachers (KUPPET) made on 13th July 2021 provides that House allowance shall be payable as per appendix 5 under *Major Municipalities* with rates ranging from Kshs.4,500 to Kshs.35,000 depending on the pay grade. This is the category which Kilifi falls under. Unfortunately, teachers in Kilifi were getting House allowance under the category *All other areas* which range from Kshs.3,200 to Kshs.20,000.
16. There is an urgent need for SRC to review House allowances for public officers in Kilifi to get the House allowance that they deserve.

3.2. SUBMISSIONS BY THE TEACHERS SERVICE COMMISSION (TSC)

On Wednesday, November 15, 2023, the Chief Executive Officer of the Teachers Service Commission, Ms. Nancy Macharia, CBS, appeared before the Committee and submitted as follows, that;

17. Pursuant to Article 230 of the Constitution, the Salaries and Remuneration Commission (SRC) has the mandate to advise on remuneration and benefits of public officers including the teaching service. In the exercise of this mandate, SRC issued an advisory vide letter ref: SRC/TS/MDP/3/1/2 (2) dated 11th August 2015 on the payment of house allowance for public officers.

18. In the said advisory, the SRC categorized the Country into four (4) clusters for purposes of payment of house allowance namely *Nairobi, former major municipalities, other former municipalities, and other areas*.
19. At the time the advisory was issued, Kilifi was a township and was gazetted as such as per Gazette Notice No. 10557 of 2007 hence falling under Cluster 4. Cluster 4 rates are payable to teachers stationed in townships and rural areas. Accordingly, in compliance with the advisory of the SRC teachers in Kilifi have been receiving house allowance under Cluster 4.
20. While the Commission is aware that Kilifi Township was gazetted as a municipality in March 2019, the SRC did not review or render an advisory on the review of house allowance payable to teachers in Kilifi town until 31st July 2023.
21. The Commission has received an advisory from SRC recommending the review of Cluster 4 house allowances payable to teachers. To this end, house allowance for Cluster 3 and Cluster 4 shall be harmonized in two phases with full harmonization to be realized on 1st July 2024.
22. On 29th August, 2023, the Commission signed an addendum to the 2021-2025 CBA with teacher unions effective 1st July 2023 as per the SRC advisory. Accordingly, Phase 1 of the harmonization was effected in the August, 2023 payroll.
23. Accordingly, with effect from 1st July, 2023, teachers in Kilifi Municipality received an enhanced house allowance as advised by SRC.

3.3. SUBMISSIONS BY THE SALARIES AND REMUNERATION COMMISSION (SRC)

On Wednesday, 15th November, 2023, the Salaries and Remuneration Commission (SRC) led by Mr. Kennedy Monyoncho, appeared before the Committee and submitted as follows, that;

24. The issues raised by the petitioners fall within the mandate of SRC as they relate to the review of an allowance.
25. SRC was in the process of undertaking progressive harmonization of house allowance and in the current 3rd Remuneration and Benefits Review Cycle (FY 2021/22 - FY 2024/25), the rates for Cluster 3 (other former municipalities) and Cluster 4 (all other areas) would be fully harmonized from 1st July, 2024. SRC has communicated the new rates to TSC for both phases vide a letter dated 31st July 2023 as adopted in the 2021-2025 CBAs for Teachers.
26. Kilifi Town, which was under Cluster 4 (*all other areas*), had benefitted from the new review of house allowance and from 1st July, 2023, teachers working in the area will be drawing the allowance at similar rates as Cluster 3 (other

former Municipalities). SRC aims to fully harmonize house allowance into one cluster taking into consideration affordability and sustainability.

27. A review of the allowance for one group of public servants would lead to inequity and unfairness in pay, therefore, SRC advises that the teachers should submit their requests to SRC through their employer, the Teachers Service Commission (TSC) for consideration in line with the mandate of SRC.
28. A review of house allowances by SRC was done after every four years. The review done in the third cycle of the FY 2021/2024, considered affordability and sustainability. Further, consideration was done for the enhanced house allowances.
29. The various classifications by SRC for teachers in payment of house allowances were informed by the four (4) clusters set by the law including cities, major municipalities, other municipalities, and other towns. However, teachers have slightly more designated hardship areas compared to other civil servants as advised by TSC.
30. The increment of house allowances was based on the categorization put in place in terms of the various clusters. Further, a review of house allowance by grade other than municipality is achievable subject to affordability and sustainability.
31. Kilifi North fell under a CBA with TSC registered on 26th October, 2023 where the house allowances had been addressed hence it was not possible to change the terms of the CBA midstream as it was legally binding.
32. The core mandate of SRC was to set, review, and advise on the remuneration of all public servants, and employers are expected to implement the advisory. The Commission further establishes the status of implementation of its advisories, and the challenges therein through monitoring and evaluation exercises conducted twice annually to resolve any matters of concern. Further, employers are encouraged to write to the SRC on challenges experienced. The Auditor General also follows up on the implementation of the advisory. The role of SRC is to ensure gradual and full harmonization of allowances for all civil servants.
33. SRC remunerates salaries and allowances for state officers who are mostly in the cities, as well as other public officers depending on where they live. The categorization applied to civil servants based on the salary structure to ensure fair implementation of remuneration. However, other unique areas could be relooked through consolidated pay.
34. Future review of remuneration and benefits structures in CBAs will consider the principle of affordability and fiscal sustainability and progressively be aligned to the obtaining policy on remuneration and benefits structures in the Public Service.

35. SRC also advises TSC on the need to submit copies of the Draft CBA to SRC for issuance of clearance letters to facilitate registration at the Employment and Labour Relations Court TSC, once negotiations are concluded within the parameters provided therein for instance on basic salary, house allowances commuter allowances and other remunerative items.

3.4. SUBMISSIONS BY THE CABINET SECRETARY, MINISTRY OF EDUCATION

The Cabinet Secretary of the Ministry of Education, Hon. Ezekiel Machogu, EGH, vide a letter Ref:MOE/SDHER/HRM/CON/14/7 dated 26th October, 2023 forwarded written submissions and stated as follows, that;

36. Article 237(2) (b) of the Constitution gives the Teachers Service Commission the role of recruiting and employing teachers. Section 11 of the Teachers Service Commission provides that the Commission shall manage the payment of teachers under its employment.
37. In line with Article 230(4) of the Constitution, the Salaries and Remuneration Commission advises on the remuneration of public officers, including teachers. The TSC is bound by the advice provided by the Salaries and Remuneration Commission (SRC).
38. In exercise of this mandate, the SRC issued an advisory vide letter Ref:SRC/TS/MDP/3/1/2 (3) dated 11th August, 2015 on payment of House Allowance for public officers.
39. In the said advisory, the SRC categorized the country into 4 clusters for purposes of payment of House Allowances for public officers.
40. At the time the advisory was issued in 2015, Kilifi was a township and was gazetted as such in Gazette Notice Number 10557 of 2007. It therefore fell under Cluster 4. The Cluster 4 rates are for townships and rural areas.
41. In March 2019, Kilifi was gazetted as a Municipality. However, teachers in Kilifi were still paid House Allowances at the rate for townships because the SRC had not reviewed its earlier advisory.
42. The SRC reviewed its advisory on 31st July, 2023 and consequently, the TSC has now effected the Municipal House Allowance rate for teachers in Kilifi. The new rate will be implemented in two phases; the first phase was paid in 1st July 2023 while the second phase will be paid in 1st July, 2024.

3.5. SUBMISSIONS BY THE PUBLIC SERVICE COMMISSION (PSC)

The Chief Executive Officer of the Public Service Commission, Dr. Simon K. Rotich, CBS, vide a letter Ref:PSC/ADM/26/11/(53) dated 24th October, 2023, forwarded written submissions and stated as follows, that;

43. The current approved House Allowance as issued by the Ministry of Public Service under Ref. No MP&AAA.9/1 dated 4th August, 2023, on the Implementation of Phase I Remuneration and Benefits for the Civil Service in the National Government for the Third Remuneration Review Cycle 2021/2022-2024/2025, was to be implemented with effect from 1st July, 2023 as tabulated below -

CSG	Job Group Equivalent	Cluster 1: Nairobi City	Cluster 2: Mombasa, Kisumu, and Nakuru cities, Nyeri, Eldoret, Thika, Kitale, Kisii, Malindi Municipalities	Cluster 3: Other former Municipalities	Cluster 4: Other Areas
CSG 4	T	80,000	80,000	80,000	-
CSG 5	S	60,000	56,000	52,000	49,206
CSG 6	R	50,000	35,000	25,000	21,508
CSG 7	P	45,000	28,000	21,000	18,066
CSG 8	N	35,000	25,500	18,000	16,184
CSG 9	L	28,000	22,000	16,500	14,055
CSG 10	K	16,500	12,800	9,600	8,133
CSG 11	J	10,000	7,500	5,800	5,000
CSG 12	H	6,750	4,500	3,800	3,850
CSG 13	G	6,750	4,500	3,800	3,850
CSG 14	F	4,500	3,730	3,000	3,000
CSG 15	E	4,500	3,730	2,960	2,960
CSG 16	D	4,125	3,375	2,750	2,750
CSG 17	C	3,750	3,125	2,500	2,500

44. Enhancement of House Allowances for teachers living and residing within Kilifi Municipality, fall within the mandate of the Teachers Service Commission (TSC) and the Salaries and Remuneration Commission.

45. Even so, there is need for harmonization of House Allowances for all public officers in all areas of the country as a way of addressing disparities that may exist in various sectors of the public service.

46. House allowances approved by SRC in consultation with the PSC should be applicable generally to all public officers as specified for various parts of the country.

PART FOUR

4. COMMITTEE OBSERVATIONS

Upon hearing from the Petitioner and other witnesses, the Committee observed that -

47. Whereas the SRC issued a Circular on the payment of House allowances in 2014, Kilifi was conferred Municipality status in 2018 vide Kenya Gazette Supplement Notice No. 2 dated 19th March, 2019 and this therefore meant that by the time the SRC was forwarding names of municipalities, Kilifi had not been conferred the status of a Municipality.
48. At the time the advisory was issued, Kilifi was a township and was gazetted as such as per Gazette Notice No. 10557 of 2007 hence falling under Cluster 4. Cluster 4 rates are payable to teachers stationed in townships and rural areas. Accordingly, in compliance with the advisory of the SRC, teachers in Kilifi have been receiving house allowance under Cluster 4 hence require an enhancement which is reviewed after every four (4) years.
49. While the Commission is aware that Kilifi Township was gazetted as a municipality in March, 2019, the SRC did not review or render an advisory on the review of house allowance payable to teachers in Kilifi town until 31st July, 2023 which would be fully harmonized by 1st July, 2024.
50. The Ministry of Public Service, Performance and Delivery Management is mandated to gazette hardship areas and SRC reviews salaries and allowances for the gazetted areas accordingly based on affordability and sustainability.
51. The Ministry of Public Service, Performance and Delivery Management is yet to harmonize all hardship areas to address the existing gaps in the remuneration of civil servants.
52. In a bid to ensure gradual and full harmonization of allowances for all civil servants, SRC lacks a compliance mandate for employers who do not implement the advisory.

PART FIVE

5. COMMITTEE RECOMMENDATIONS

Pursuant to the provisions of Standing Order 227 and in response to the prayer sought, the Committee recommends that -

Prayer 1: inquires into the living conditions of teachers working and residing within Kilifi Municipality

- (i) The teachers working and residing within Kilifi Municipality allegedly feel discriminated against as they are not paid a commensurate allowance as those residing in major towns; and
- (ii) Teachers were also experiencing high cost of living, the cost of rental houses and basic commodities compared to the monthly allowances they were paid forcing them to seek affordable houses in the outskirts of the town far away from the schools in which they teach.

Therefore, the Committee recommends that the affected teachers submit their copies of the draft CBA to SRC through their employer TSC for consideration.

Prayer 2: recommends that teachers in both Secondary and Primary Schools within Kilifi Municipality are facilitated to receive enhanced house allowance

The Committee notes that -

- (i) SRC was undertaking progressive harmonization of House Allowances under the Third Remuneration and Benefits Cycle for the Teaching Service for the FY2021/2022 - 2024/2025 which had been actualized with effect from 1st July, 2023 and would be fully harmonized by 1st July, 2024; and
- (ii) Consequently, SRC communicated the new rates to TSC for both phases vide a letter dated 31st July, 2023 to negotiate with teachers' Trade Unions on the Collective Bargaining Agreements for teachers.

Therefore, the Committee recommends that SRC and TSC in compliance with the above provision, ensures that teachers working and residing in Kilifi Municipality get enhanced house allowances together with arrears with effect from 1st July, 2023.

Prayer 3: makes any other recommendation or action it deems fit in addressing the plight of the Petitioners.

- (i) The Committee recommends that the Ministry of Public Service, Performance and Delivery Management fast tracks and provides the

status report on the review of hardship areas which will inform review of hardship allowances across the country; and

- (ii) The Committee further recommends that the Ministry of Public Service, Performance and Delivery Management in consultation with the Salaries and Remuneration Commission (SRC) and other relevant Agencies harmonizes House Allowances for Public Officers in all areas across the country as a way of addressing disparities that may exist in various sectors of public service within six (6) months from 1st July, 2023.

Signed:  Date: 11-04-2024

For
THE HON. NIMROD MITHUKA MBAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE



ANNEXURES

- Annex 1: The Adoption List
- Annex 2: Public Petition No. 44 of 2023 regarding enhancement of house allowance for teachers working and residing in Kilifi Municipality
- Annex 3: Minutes of the 56th Sitting held on Wednesday, 30th August, 2023
- Annex 4: Minutes of the 79th Sitting held on Wednesday, 15th November, 2023
- Annex 5: Minutes of the 15th Sitting held on Monday, 25th March, 2024
- Annex 6: Written Submission by the Chief Executive Officer, Public Service Commission Ref:PSC/ADM/26/11/(36) dated 29th August, 2023
- Annex 7: Written submissions by the Cabinet Secretary, Ministry of Education Ref:MOE/SDHER/HRM/CON/14/7 dated 25th October, 2023



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - THIRD SESSION - 2024
PUBLIC PETITIONS COMMITTEE

**ADOPTION OF THE REPORT ON THE CONSIDERATION OF A PUBLIC PETITION NO. 44 OF 2023
REGARDING THE ENHANCEMENT OF HOUSE ALLOWANCES FOR TEACHERS WORKING AND
RESIDING IN KILIFI MUNICIPALITY**

We, the undersigned Honourable Members of the Public Petitions Committee, today Monday, 25th March, 2024, do hereby affix our signatures to this Report on the consideration of Public Petition No. 44 of 2023 regarding the enhancement of House Allowances for Teachers living and residing in Kilifi Municipality, to affirm our approval and confirm its accuracy, validity and authenticity: -

S/NO	NAME	DESIGNATION	SIGNATURE
1.	Hon. Nimrod Mbithuka Mbai, M.P.	Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, M.P.	Vice-Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	Member	
4.	Hon. Ernest Ogesi Kivai, M.P.	Member	
5.	Hon. Joshua Chepyegon Kandie, M.P.	Member	
6.	Hon. John Walter Owino, M.P.	Member	
7.	Hon. Maisori Marwa Kitayama, M.P.	Member	
8.	Hon. Edith Vethi Nyenze, M.P.	Member	
9.	Hon. Bidu Mohamed Tubi, M.P.	Member	
10.	Hon. Caleb Mutiso Mule, M.P.	Member	
11.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	Member	
12.	Hon. Peter Mbogho Shake, M.P.	Member	
13.	Hon. Suzanne Ndunge Kiamba, M.P.	Member	
14.	Hon. John Bwire Okano, M.P.	Member	
15.	Hon. Sloya Clement Logova, M.P.	Member	

