



**REPORT OF THE  
EXAMINATION INTO THE**

**SYSTEMS, POLICIES PROCEDURES AND  
PRACTICES OF THE TEACHERS SERVICE  
COMMISSION**

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## LIST OF ABBREVIATIONS

ADS	Assistant Deputy Secretary
AEO	Assistant Education Officer
A.I.A	Appropriation in Aid
AIE	Authority to Incur Expenditure
BOG	Board of Governors
CS	Commission Secretary
DDEO	Deputy District Education Officer
DEB	District Education Board
DEO	District Education Officer
DHRO	District Human Resource Officer
DICECE	District Centre for Early Childhood Education
DMEO	Deputy Municipal Education Officer
DPM	Directorate of Personnel Management
DS	Deputy Secretary
DSO	District Staffing Officer
DQASO	District Quality Assurance and Standards Officer
EMIS	Education Management Information System
GITS	Government Information Technology Services
FPE	Free Primary Education
HELB	Higher Education Loans Board
HRD	Human Resource Development
HRM	Human Resource Manager
IPPD	Integrated Personnel and Payroll Data
KACA	Kenya Anti-Corruption Authority
KACC	Kenya Anti-Corruption Commission
KNUT	Kenya National Union of Teachers
MEO	Municipal Education Officer
NACC	National Aids Control Council
PAYE	Pay As You Earn
PDE	Provincial Director of Education
POEA	Public Officer Ethics Act
PSA	Provincial Schools Auditor
PSO	Provincial Staffing Officer
SACCO	Savings and Credit Cooperative Society
SDS	Senior Deputy Secretary
TI – Kenya	Transparency International – Kenya
TPC	Teachers Proficiency Course
TSAT	Teachers Service Appeals Tribunal
TSC	Teachers Service Commission
ZQASO	Zonal Quality Assurance and Standards Officer

## ABSTRACT

This Report contains findings and recommendations of the Examination into the systems, policies, procedures and practices of the Teachers Service Commission (TSC). The Examination was carried out by a Team of Officers from the Kenya Anti-Corruption Commission between October and December 2006. The purpose of the Examination was to identify opportunities and avenues for corrupt practices in the systems, policies, procedures and practices in various functional Departments of the Teachers Service Commission and to make recommendations on how to seal the identified loopholes.

The Examination Team studied all the functional areas of the Commission at the headquarters, Selected Provincial and District Education Offices, TSC units in the field, and Municipal Education Offices. In addition, interviews were conducted with various stakeholders and officers in other related Government Departments such as the Ministry of Education, Directorate of Government Information Technology Services (GITS) and the Chairman of the Teachers Appeals Tribunal. Furthermore, the Team held Focused Group Discussions with a number of Teachers, Kenya National Union of Teachers, and one School Board of Governors and also interviewed Head Teachers in selected Secondary and Primary schools. (See appendix II for the list of areas visited).

Findings arising from the Examination reveal that there exist opportunities for corruption and corrupt practices in all the areas examined. The Report also highlights certain inefficiencies in the management and operations of the Teachers Service Commission. The Report covers a wide range of findings which are presented in the following nine sections:

**The first section** identifies weaknesses in the policy and legal environment in which TSC operates. This includes lack of a clear distinction in the roles of the Commissioner, the Commission Secretary, and, the Secretariat.

**The second section** highlights weaknesses inherent in the general operations, administration and governance of the TSC. Key among them is the structure of the Secretariat, Communication channels, certain aspects of school administration and delays in the execution of TSC activities.

**The third section** deals with human resource management issues and highlights malpractices related to the recruitment processes, payment of salaries, administration of payrolls for the Secretariat and Teachers, disciplinary procedures, transfers, and promotions among others. By and large, TSC does

not adhere to stipulated processes and there are frequent interferences in the human resource management which create fertile ground for corrupt practices.

The **fourth section** highlights weaknesses in the financial management aspects of the Commission. Some of these include budgeting process which is not informed through the participation of implementers, manual accounting systems and failure to institute adequate financial controls and checks such as segregation of duties.

**The fifth section** covers weaknesses in the management of the Internal Audit, which include involvement of the internal audit in routine processes thus undermining its independence in appraising the internal systems and advising the management on systems weaknesses.

**The sixth section** is concerned with procurement. Weaknesses include lack of adequate independence in the Procurement Division and inappropriate personnel to handle procurement issues. It also highlights malpractices that may occur due to failure to segregate duties between procurement and receiving of goods from suppliers.

**The seventh section** covers findings in the management of stores and highlights weaknesses which include overstocking of slow moving items and stocking of used and unused items together.

**The eighth section** deals with the issues of records management and identifies areas of weaknesses such as lack of controls on the management of records and improper security of records

**The ninth section** highlights weaknesses in the management of Information and Communication Technology (ICT). Some glaring weaknesses include lack of Information Communication Technology policy. This has led to inappropriate and outdated practices such as outdated information security measures over TSC data.

Recommendations have been made for all the findings in the Report. Some of the recommendations call for administrative actions, while others propose the design of appropriate controls.

KACC is mandated to secure the revision of methods of work and procedures that in the opinion of the Commission may be conducive to corrupt practices. The

Commission expects the Teachers Service Commission to immediately embark on the implementation of the Recommendations. This will include the preparation of an Implementation Schedule to be submitted to KACC within one month after the submission of the Report for discussions and setting targets for continuous monitoring of the implementation process

The Teachers Service Commission is a human resource institution as such this Report has put a great deal of emphasis on the methods of work that relate to human resource management issues. To this end, recommendations have been made on the structure of TSC in order to efficiently implement its core mandate as stipulated in the TSC Act.



KACC Director Launches the Examination at the Kenya Institute of Education

## 1.0 INTRODUCTION

The Teachers Service Commission is a statutory body charged with the management of all the teachers employed in public schools, Teacher Training Colleges and polytechnics. Prior to the establishment of the Commission teacher management was largely handled by various institutions such as Local Authorities, Religious Organizations and the Central Government. The Teachers Service Commission was established in 1967 under the Teachers Service Commission Act herein referred to as the TSC Act Cap 212 Laws of Kenya. The Act mandates the TSC to:

- Establish and keep a register of teachers
- Recruit and employ teachers in all public schools
- Remunerate, promote, transfer and discipline teachers in public schools
- Enforce the Code of Regulations for teachers
- Review standards of education, training, and fitness of persons entering the teaching service.

The Commission has its headquarters in Nairobi with TSC Units at the Provincial and District level Countrywide. The Commission has further delegated some of its functions to Agencies namely:

- Provincial Directors of Education (PDE's)
- District Education Officers (DEO's)
- Director of City Education (DCE)
- Board of Governors (BOG) and
- Municipal Education Officers (MEO's)

The TSC has an elaborate structure comprising Commissioners who are the policy making arm of the Commission, and the Secretariat which is the Executive arm. The Commission Secretary is the Chief Executive.

At its inception TSC handled approximately 39,000 teachers. Currently TSC handles approximately 243,000 teachers. The current annual wage bill for the teachers is approximately Kshs. 44.4 billion. These changes have posed a major challenge for the TSC necessitating increase of the number of Commissioners from three to twenty four. The size of the Secretariat has also increased to approximately 2,400 members of staff from 100 at inception.



In 1997, the Government froze recruitment of public officers which included teachers. This was an attempt to reduce and stabilize the escalating wage bill in order to redirect funds to development programs and at the same time improve the terms and conditions for public officers. The freeze on recruitment created a significant shortage of teachers over the years. This was compounded by the introduction of free primary education (FPE) in 2003 which led to an upsurge in enrolment in primary schools and further decrease in the teacher:pupil ratio. TSC was therefore allowed to recruit teachers to replace those exiting through retirement and natural attrition which is estimated at 5,000 annually.

The TSC faces various challenges in implementing its functions particularly those related to teacher management. There are inefficiencies and delays in service delivery which have created avenues for corruption. In addressing some of these challenges the TSC is undertaking reforms guided by the Sessional Paper No.1of 2005 on Policy Framework for Education, Training and Research. Most of these reforms are geared towards a decentralized system of management which includes aspects of recruitment, deployment and discipline of teachers. The proposed amendments to the legislative framework seek to entrench this policy. Some of the key issues addressed in the proposed Bill include:

- The role of the Minister for Education,
- Appointment of Commissioners
- Decentralization of some of the TSC functions and
- Streamlining TSC functions

The TSC is critically positioned to deliver one of the key resources required for the Country to achieve its goals in national development. Furthermore, the shift towards Universal Free primary Education and the demands of globalization will require a more vibrant institution to handle emerging trends in teacher management. This therefore demands that TSC critically addresses weaknesses inherent in its management and operations to improve its service delivery and to continue being relevant in the education sector.

## **2.0 BACKGROUND**

The Kenya-Anti Corruption Commission (KACC) is mandated to prevent corruption by ensuring that public resources are well managed through prudent and transparent systems that leave no room for corrupt practices. The Examination into the management and operations of the Teachers Service Commission was carried out in accordance with this mandate which is stipulated in the Anti Corruption and Economic Crimes Act 2003 Section 7 (1) (d), (e) and (f). According to these provisions the Commission is empowered:

1. At the request of any person, to advise and assist the person on ways in which the person may eliminate corrupt practices:
2. To examine the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures that in the opinion of the Commission, may be conducive to corrupt practices;
3. To advise heads of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such bodies that the Commission thinks necessary to reduce the likelihood of the occurrence of corrupt practices.

Teachers' services are critical in ensuring that the government fulfils its goals and targets in the Education Sector and particularly the Millennium Development Goal Number two on Universal Primary Education. For the Teachers to deliver their teaching services effectively they need an efficient teachers' management body. It is against this background that good practices in recruitment of new teachers, promotion, deployment, training and development among others are a key concern for an efficient teacher's management body.

### **2.1 PROBLEM STATEMENT**

The Examination into the operations of the Teachers Service Commission was triggered by various factors. In July 2006, the Secretary/Chief Executive to the TSC requested KACC to provide him with technical guidance and advice particularly in the areas of staff training and development. An integrity study by the Transparency International – TI (Kenya) on the TSC which cited certain weaknesses in its operations had just been concluded. In addition, numerous reports and complaints on corrupt practices and inefficiencies of the TSC had been made both through the media and also to KACC. Reports to KACC

indicated that some of the ways and methods in which corruption is perpetuated in the TSC are:

**a) Recruitment**

Some officials of the TSC solicit for bribes from members of the public seeking for employment either to the TSC secretariat or the teaching profession. Other complaints further indicated that to be short listed for interviews, some candidates pay bribes to certain officials of the TSC and its Agents.

It was also reported that there were irregularities and corruption malpractices in teachers' recruitment which had been concluded in August 2006 and in the previous recruitment exercises.

**b) Promotions**

Reports received by KACC alleged that majority of those who are promoted at the Secretariat and also among the teachers are cronies of the senior officers of the TSC. In certain cases, promotions are used as rewards to those who assist in concealing corrupt activities.

**c) Retention of Certain staff after retirement**

Reports indicate that some members of staff of TSC and certain teachers are retained in the service after retirement using flimsy justification. Those who are retained are cronies of certain senior officers in the TSC and also at the Ministry of Education. It was also alleged that some members of staff are retained on the payroll after retirement.

**d) Transfers**

As regards transfers, there were allegations that certain officers in charge of transfers at the TSC solicit for bribes from teachers in order to transfer them to certain schools located in their preferred areas. This had resulted in overstaffing in some schools and understaffing in others particularly those in hardship areas.

**e) Discipline process**

Reports indicated that the TSC applies double standards in dealing with disciplinary cases. Some reports indicate that teachers compromise TSC officials leading to loss of records thus delaying disciplinary cases. Such cases end up being closed for lack of evidence hence perpetuating impunity.

All these complaints and the ranking of TSC as the fourth most corrupt organization in the 2005 Kenya Bribery Index suggested existence of weaknesses and loopholes, in its policies, procedures and methods of work. Accordingly, KACC found it necessary to assess the degree of accountability, transparency and integrity in the key functional areas of the TSC. The purpose was to identify weaknesses, loopholes, avenues and opportunities that may be used for corrupt practices and thereafter to offer appropriate advice on how to seal such loopholes. It is envisaged that such advice would improve transparency and governance of the Commission and ensure that those entrusted with teaching and running of schools do so with the highest degree of integrity.

## **2.2 OBJECTIVES**

The overall objective of this Examination was to offer appropriate advice to the Teachers Service Commission on ways and means of promoting and sustaining transparency, accountability and integrity through application of systems of work that offer no room for corrupt practices. The specific objectives were:

- a) To identify weaknesses, avenues and loopholes for corrupt practices through studying and examining the systems, policies, procedures and practices in the operations of the Commission.
- b) To make recommendations on how to seal corruption loopholes in order to promote and sustain transparency, accountability and integrity in the Teachers Service Commission.
- c) To secure revision of methods and procedures of work that in the opinion of the Commission may be conducive to corrupt practices in the operations of the Teachers Service Commission.

## **2.3 TERMS OF REFERENCE**

The Terms of Reference for this exercise were:

- a) Studying the existing policies, guidelines, procedures and practices applied in all the functional areas of the Teachers service Commission.
- b) Analyzing the adherence to policies, guidelines and procedures in the performance of the Commission's functions.
- c) Ascertaining the effectiveness of these systems in enhancing integrity in the operations of the Commission.

- d) Identifying and profiling areas of weaknesses, loopholes and avenues for corruption in all functional areas of the Commission.
- e) Assessing the effectiveness of the feedback systems between the Commission, the Ministry of Education, Local Authorities and Schools.
- f) Assessing the appropriateness of records management practices by the Commission.
- g) Assessing the extent to which TSC had implemented the recommendations of the Examination Report by the defunct Kenya Anti-Corruption Authority (KACA)
- h) Preparing a Report of findings and making recommendations on how to seal identified corruption loopholes.

## **2.4 SCOPE**

The Exercise was conducted in the offices of the Teachers Service Commission at the head office and other field offices. The coverage included certain arms of the Ministry of Education, Local Authorities and a few selected schools, Teachers, Board of Governors, the Teachers Service Appeals Tribunal and the Kenya National Union of Teachers.

## **2.5 METHODOLOGY**

In order to effectively address the above Terms of Reference, the following methods were applied:

- a) Literature review
  - Policy documents
  - Operational circulars and manuals
  - Other accountable documents
- b) Formal and informal interviews
- c) Observations of
  - Surroundings
  - Physical facilities
  - Work processes
  - Staff/Clients behaviour
- d) Focused group discussions

### 3.0 FINDINGS AND RECOMMENDATIONS

This Section of the Report enumerates findings and recommendations of the Examination. The findings cover a broad spectrum of corruption loopholes and inefficiencies in the methods of work of the Teachers Service Commission.

#### 3.1 POLICY AND LEGAL ENVIRONMENT

The Teachers Service Commission is charged with implementing its mandate as described in various laws that address issues of teacher management as well as labour issues. The core laws are:

- The Education Act, Cap 211
- The Teachers Service Commission Act, Cap 212
- The Employment Act, Cap 226

In addition to these laws, the TSC is guided by various government policies in the implementation of its mandate.

- 1) The Education Act Cap 211 provides that the TSC consults school sponsors while making changes in the school management particularly for school Principals and Head Teachers in Post Primary Schools. The Act also provides that the sponsors be represented in the Board of Governors (BOG). In some instances certain sponsors reject those who do not ascribe to their faith and insist on identifying Head Teachers even when such teachers do not meet the stipulated qualifications.

*The Minister for Education in consultation with the Teachers Service Commission Secretary should ensure that all public schools are managed by qualified staff. Sponsors interests in the management of Schools should be considered at the BOG level but should not override professionalism and competitiveness.*

- 2) Although there is no specific provision in the TSC Act regarding the appointment of the Secretary the Minister for Education makes the appointment. The Secretary serves as the Chief Executive Officer (CEO) and his duties include overseeing the performance, implementation and execution of the Commission policies. This is a crucial position in the management structure of the Commission.

The Commissioners constitute the Commission as per the Act which gives them wide powers. Apart from performing the policy formulation functions, they also perform executive functions that would ordinarily

be assigned to a Chief Executive. These duties include; recruitment, promotion and presiding over disciplinary cases even of non-management cadres. This scenario results in duplication of duties. Furthermore the Act provides that Commissioners serve for a renewable term of three years but does not limit the number of terms a Commissioner may serve. This organizational structure inhibits the development of principles of good corporate governance in the TSC.

*The draft Bill on Education and Training has provided for the appointment of the Secretary to the TSC and the qualifications of such an appointee. However the Bill is still under consideration and we recommend that for now, the Minister for Education in conjunction with the Attorney General should review the TSC Act and regulations to spell out the manner of appointment and the roles of the CEO and those of Commissioners to avoid any overlaps and conflict. The review should consider the roles of Commissioners in matters of recruitment, promotion and discipline. It should also provide the maximum period a Commissioner as well as the Secretary should serve.*

- 3) The TSC Act confers discretionary powers to the Minister for Education in the appointment of the TSC Commissioners. This is largely done without clear guidelines on the required qualifications and hence historically the Commissioners are basically drawn from officers who have retired from the Education sector.

The Examination Team was informed that there is intensive lobbying and the desire to ensure representation of all regions in the Country.

*The Minister for Education should immediately issue a Legal Notice outlining the qualifications of the TSC Commissioners with a view to capturing the most competitive personnel and to professionalize the TSC.*

- 4) The Ministry of Education carries out certain activities which overlap with activities of the TSC with regard to the promotion of non-graduate primary school teachers.

*The Commission Secretary and Permanent Secretary Ministry of Education should review the mandate of the TSC and Ministry of Education in light of the two Acts in order to clear the overlaps. TSC should also restructure its activities within its statutory mandate.*

- 5) Neither the Education Act nor the TSC Act makes provisions guiding the process and requirements for public sponsored schools to revert to the sponsor. In some instances the Ministry has been sued by sponsors whose intention is to take back full management of the school or to close the school.

*The Minister for Education should initiate necessary consultations with the Attorney General with a view to clarifying when a public school may revert to the sponsor. The main consideration should be the need to safeguard the public interest.*

## **3.2 GOVERNANCE AND OPERATIONAL ISSUES**

### **3.2.1 GOVERNANCE ISSUES**

- 1) The TSC has developed certain governance instruments such as; the Code of Conduct and Ethics, Code of Regulations for Teachers, Study Leave Policy and Transport Policy. At the time of the Examination, several other instruments such as the Anti-Corruption policy were being developed. The Team observed that in practice, the provisions of governance instruments were not being adhered to. In addition, the instruments were being developed largely without the involvement of majority of staff and Agents. For instance, most of those interviewed indicated that they were not aware of the draft anti-corruption policy.

The TSC Code of Conduct and Ethics is published as Legal Notice No. 137 of 2003. Section 3(2) of the Code of Conduct exempts Commissioners from the provisions of the Code. In the absence of advice to the Commissioners that the Public Officer Ethics Act (POEA) binds them as “public officers”, this exemption creates the opportunity for Commissioners to engage in malpractices prohibited by the Code.

*The Commission Secretary should ensure that the values and principles embodied in the Code and other governance instruments are consistently applied to remove double standards. Preparation and enforcement of the provisions of such instruments should be done in a transparent and participatory manner and should be communicated to all parties concerned. In addition, the instruments should be reviewed regularly to keep them abreast with changes in the legal and work environment. Management support in implementation of the code is critical. The Commission Secretary should also advise the Commissioners that the Code of Conduct embedded in part III of the POEA binds them in their capacity as public officers. Alternatively, he should advise them to develop a Code of Conduct in line with POEA. KACC will be on hand to assist with materials and advice on this matter.*

- 2) The Code of Regulations for teachers states that “other than the salary and allowances paid to a teacher, he/she may not receive or keep any fee, reward or remuneration for the performance of any service for the school unless this is authorized by law”. The Team observed that commercialized remedial/teaching is rampant in many schools. Teachers continue to receive extra payments from parents. The Team also observed that although remedial classes are intended to assist



weak pupils/students to improve their performance, some teachers have abused the system by demanding payments. In some instances, children are sent out of school during normal learning hours in order to coerce the parents to pay for the remedial classes. This is happening even in primary schools in spite of the Free Primary Education. Some of the teachers interviewed indicated that the extra tuition is required for examinable classes while others indicated that the normal teaching period is adequate to cover the syllabus.

In some instances, Boards of Governors and the Parents Teachers Associations approve rewards to teachers in order to motivate them. The rewards take various forms including paying for teachers' trips locally and overseas.

*The Commission Secretary should initiate consultations with the Ministry of Education to develop a framework for rewarding teachers who are committed to working beyond normal working hours in order to improve the performance of pupils /students. In the mean time, the Secretary should take the relevant measures to enforce the provisions of the Code of Regulations and institute appropriate disciplinary action against all teachers who receive extra payments for remedial classes. This will protect children from victimization where such payments are not made or are delayed.*

*Furthermore the Commission Secretary should if necessary formulate a reward/recognition system to be implemented by the TSC. This may involve issuance of recognition certificates to the teachers whose performance is exemplary. To implement such a system, clear criteria and guidelines for selection must be formulated and all participants informed to avoid abuse.*

- 3) The TSC has formulated and widely circulated its Service Charter. However, the Team noted that complaints relating to virtually all functional areas such as salaries, transfers, recruitment, promotions among others were still rampant. This is an indication that the provisions of the Service Charter are not adhered to.

Some of the staff members interviewed indicated that the Charter was too ambitious and that the interpretation varied from one area to another. For example, some members of staff indicated that a requirement for seven days to act on a file implied the period the file moves from their desks not the conclusion of the matter before them.

*The Commission Secretary should ensure that procedures manuals for service area operations are developed and placed in all accessible places. The Service Charter should be revised to make it more realistic through a participatory process. In addition, the Charter should be adequately disseminated in order to build consensus and common understanding in its implementation.*

- 4) Most of the teachers and Agents interviewed expressed concern over the extent to which the Commission Secretary has delegated authorization of letters on his behalf. The Team observed that junior officers' sign letters some of which have serious implications yet they do not indicate their names or their designations. This is a loophole that can be used for extortion and other malpractices including irregular deployments, transfers and recruitment.

*The Commission Secretary should limit the levels of authorization for external communications to Heads of Departments who should also append their names and designations on the communications. This should be communicated to Agents, Head teachers and suppliers for accountability. Any change that may occur should be communicated effectively.*

### **3.2.2 STRUCTURE OF THE TSC SECRETARIAT**

The TSC secretariat is divided into various Departments. These Departments are: Administration, Staffing, Human Resource, Finance and Internal Audit. Each Department has several Divisions and Sections.

#### **Integrity Division**

- 1) In September 2003 the Teachers Service Commission created a fully-fledged Integrity Division to spearhead and coordinate the fight against corruption in the Secretariat and among teachers. Sometimes the Division undertakes functions and duties which are also undertaken by other Departments such investigating reports of fraud, staff complaints, and making recommendations for deployment. The Team observed that the other Departments in the Commission did not clearly understand the role of the Integrity Division. The management was concerned that the Division has had little impact in corruption prevention in the TSC, among teachers.

*The Commission Secretary should mainstream integrity activities in the day to day activities of the Commission in all Departments. The Departmental Heads should be held to account for any malpractices in their areas of operations. This should be supported by a Committee with members drawn from all Departments. The Committee should carry out certain activities such as Corruption Risk Assessments, Prevention Plans and sensitization programs among others. The Secretary should replace the Integrity Division with a lean Secretariat principally charged with the responsibility of providing administrative support to the CPC. Officers currently serving in the Integrity Division and whose services may not be required in the Secretariat should be deployed to other areas.*

*The Secretary should therefore ensure the revision of the current draft policy on corruption prevention in order to align in with the above recommendation. KACC will be ready and willing to help the Commission put all the above in place.*

### **Catering Division**

- 2) TSC has a Catering Division which provides lunch and tea for the Commissioners, Commission Secretary, Senior Deputy Secretaries and some members of staff on all working days. The Team observed that the Division has twelve fulltime catering staff and caters for approximately 120 officials. The meals are not included in the terms of service of the officials and therefore they are not liable for income tax deductions.

*The Commission Secretary should seek guidance from the Permanent Secretary Ministry of Education with a view to issuing guidelines on the provision of meals to Commissioners and TSC senior staff. The guidelines issued should be in line with the general regulations on provision meals to officers in the Public Service.*

*Additionally the Secretary should provide standing imprest accountable on a monthly basis for offices which are entitled to tea.*

*Furthermore the Secretary should wind up the Catering Division and deploy officers working in the Division to areas of their competence.*

### **Legal Division**

- 3) The TSC Legal Division is placed under the Department of Administration. The Division does not perform key functions such as providing legal advice to the Commission Secretary, disciplinary processes and drafting of contracts. In some cases contracts are drafted by individual contractors.

*The Commission Secretary should ensure that the Legal Division is rightly placed, utilized and strengthened. The Division should report to the Commission Secretary in order for it to offer impartial legal advice*

### **Office Services Division**

- 4) The Office Services Division which is under the Department of Administration performs various activities some of which are also domiciled in other Departments. These include advertising for vacant posts, short listing, setting interview dates, procurement, security and mailing of pay slips. This is a duplication of activities which causes conflict and confusion and does not allow for accountability.

*The Commission Secretary should wind up the Office Services Division and transfer its activities to the relevant Departments. In addition, the Commission Secretary should restructure the Department of Administration and provide clear lines of duty in order to avoid duplication and overlaps. This will enhance accountability and optimal utilization of resources.*

### **Procurement Division**

- 5) The procurement Division is established under the Department of Finance and reports to the Head of Finance Department functionally and administratively. The Department of Finance authorizes all procurement activities. In the process, the concept of segregation of various finance activities is lost as the Finance Department authorizes expenditures and scrutinizes the payment of the same expenditures. The arrangement further leads to lack of necessary independence for the Procurement Division in carrying out its duties.

*The Commission Secretary should ensure that Procurement Division reports to the office of the Secretary functionally to ensure its independence. The Department of Finance should only authorize payments after procurement is done and should not initiate and undertake procurement processes. This will enhance checks and balances in the procurement processes through segregation of duties. (See also finding and recommendation in section 3.6.2).*

### **TSC Units**

- 6) The TSC Units in the Districts, Provinces and Municipalities were set up to assist the Agents and to facilitate faster service delivery on various matters particularly those relating to personnel. The Team observed that the Units are headed by the Human Resource Officers some of whom have no training in Human Resource Management. In most instances, the Staffing officers are more qualified and hold senior posts than the Human Resource Officers.

It was observed that in some Units, the officers are rude and lack motivation to address issues concerning the teachers. Some requests take too long before they are acted upon. Due to the apathy portrayed by the officers, desperate teachers offer bribes in order to facilitate processing of their requests.

*The Commission Secretary should ensure that the Human Resource Officers at the TSC Units are qualified to handle all personnel matters. For the Units to run smoothly, they should be headed by the senior most officers at the station.*

*The Commission Secretary should also endeavour to build a culture of integrity among the staff at the Units. In addition, the Secretary should take more interest in reports coming from teachers on matters of corruption at the Units and impose appropriate disciplinary action on officers who engage in corrupt practices.*

### **Quality Assurance and Standards**

- 7) The Division of Quality Assurance and Standards undertakes the interpretation of Inspection and Audit reports prepared by the Ministry of Education Quality Assurance and Standards officers. Most of these reports are prepared for purposes of disciplinary matters. The Division also conducts initial inspections contrary to the provisions of the Education Act which vests the mandate of inspection and Audit of schools in the Ministry of Education. The Division does not have qualified accountants to interpret audit reports.

*The Commission Secretary should ensure that Audit reports are scrutinized by qualified Auditors in the Audit Department who should advise the Disciplinary Committee accordingly. Other inspection reports should be scrutinized by the Disciplinary Committee in order to speed up disciplinary cases. The TSC should desist from carrying out inspections as this is not within its mandate and can form a basis for challenging the decisions of the disciplinary committee if they are based on such inspections. This Division should therefore be wound up and the eight officers currently serving in the Division be redeployed to perform other duties.*

### **Finance and Accounts Department**

- 8) The Commission has created a sorting and balancing section under Finance and Accounts Department. This section receives paid payment vouchers from the cash office, and separates them in to debits and credits (payments and receipts). The vouchers are then taken for capturing in the accounts computer room. The work of the section is unnecessary as it can automatically be done at the data capture point.

*The Commission Secretary should wind up the sorting and balances Section and integrate its functions within the data Capture.*

## **Staffing and Human Resources Departments**

- 9) There is a general delay in executing certain activities due to segregation of related functions into two Departments namely Human Resources and Staffing. For example, a function such as transfer of teachers is domiciled in Staffing while change of salary pay point is a Human Resource function. A file is acted on in each Department and the movement from one Department to the other takes a long time.

*The Commission Secretary should restructure the Staffing and Human Resource Departments to ensure that related issues are handled simultaneously for efficient and faster service delivery. The restructuring at the Head office should also be replicated in the TSC Units. In essence, all matters of staffing are human resource matters and separating the two only leads to the kind of delays experienced at the TSC particularly on Teachers matters.*

### **3.2.3 CHANNELS OF COMMUNICATION**

- 1) The TSC established the office of the Public Relations Officer (PRO) to act as a clearing house for complaints and to assist in building a positive image for the Commission. The PRO office has developed a complaints form which has not been disseminated to the members of the public. However, only complaints set out in the prescribed form are acted upon. This causes delays and casts doubts on the willingness of TSC to respond to complaints.

Some officers of the TSC indicated that management meetings are held only up to the level of Assistant Deputy Secretary and the resolutions of such meetings are rarely communicated to the officers below this level. This is an indication that there are no channels for passing grievances to the management from the lower level staff.

*The Commission Secretary should establish linkages between the offices of the Public Relations Officer (PRO), Agents, Schools and TSC Units and ensure that all complaints are acted on immediately regardless of the format of reporting. In addition, the complaints forms should be available for any complainant intending to lodge complaints with the TSC. Such a form could be posted on the Commission's Website for ease of access. The PRO should provide feedback to complainants without undue delay.*

*The Commission Secretary should also ensure that proper management of communication process is put in place through involvement of staff on various policy and management issues. Each Department, Division and Section should hold meetings regularly and the matters arising from such meetings should inform the agendas for management meetings.*

- 2) The office of the PRO does not tabulate the complaints in a format that shows the nature and origin of such complaints. Complaints related to staff are kept in individual files while those coming from other clients are kept in subject files. It is difficult to analyze the nature and type of complaints for purposes of streamlining service delivery since complaints are symptoms of lapses in systems of an organization leading to various malpractices.

*One of the purposes for receiving complaints is to use them for making management decisions and also to help an institution to put in place internal corruption risk control mechanisms. The Commission Secretary should therefore ensure that a complaints register is maintained in a central place and updated frequently for effective complaints analysis in order to inform the management on timely supervision and decision making processes.*

- 3) The Team noted that sometimes TSC communicates directly to Head teachers without making any reference to their supervisors such as DEO's, PDE's and MEO's. This leads to confusion and disruption of certain programs which are handled at the field offices level such as transfers and deployments.

TSC decentralized offices partially to process issues concerning teachers. There is no timely communication between the head office and the field office. The TSC field officers are required to go to the head office not more than twice a month to bring up new issues and to take back any feedback on concluded issues. Most of the teachers interviewed indicated that the process takes as long as three months to complete.

*The Commission Secretary should ensure that there is effective and timely communication between the TSC Units and the headquarters. TSC has already sent out computers to the field offices in order to achieve timely communication, TSC should hasten the networking program.*

- 4) There is a lot of verbal communication especially on recruitment matters between the TSC vetting committees and the Agents thereby giving the impression of lack of accountability on the decision taken. This is a loophole that can be used to ensure that certain candidates get unfair treatment over others. It can also be used for extortion particularly where candidates keep going to the field offices seeking to find out the decision of TSC on their recruitment.

*The Commission Secretary should ensure that any official communication between the vetting committee and DEO's office on matters of recruitment is documented for ease of reference and accountability.*

### **3.2.4 GENERAL ADMINISTRATION ISSUES**

- 1) Although TSC has decentralized and delegated some of its functions to enhance service delivery, most of the services are only partially provided at the agency level. The actual formalities of dispensing services are substantially done at the Head Quarters. This defeats the rationale of delegation and decentralization. In effect delegation has contributed to delays and inefficiency instead of enhancing service delivery. For instance the vetting process for purposes of recruitment takes longer at the head quarters than the selection process undertaken at the District level. At the time of the Examination, TSC was engaged in a vetting process of the recruitment exercise which had been completed four months earlier.

*The Commission Secretary should ensure that simple delegated functions such as approval for certain types of leave and certain forms of discipline are fully implemented at the TSC Units level. This will require that the Human Resource officers are appropriately qualified to hold such offices and to advise the Agents professionally. The headquarters should only be informed of the decisions and consulted on matters that may not be clear.*

- 2) Some of the DEO's interviewed indicated that they were not aware that whenever TSC staff visit the headquarters on official duty they are reimbursed travel expenses at the TSC head quarters. The DEO's usually facilitate them by providing per diem which amounts to double payments. The Team noted that some of the travel expenses cheques are paid through the DEO's hence there is also a possibility of collusion between some DEO's and the TSC field officers.

*The Commission Secretary should effectively inform all DEO's and PDE's that reimbursement of transport and subsistence allowance for TSC field employees is paid at the Head office. In addition, the Secretary should surcharge employees who receive payments fraudulently and also institute other disciplinary measures against such officers and report them to KACC for investigation.*

- 3) Some officers at the head office and at the TSC Units do not adequately hand over their functions when proceeding on leave. Instead, they retain crucial office documents in their drawers or cabinets making it difficult for certain office operations to go on in their absence. This raises doubts on the integrity of such officers. For



instance at the time of the Examination, Kisii and Kakamega DEO offices were basically not operating. This raises doubts on the integrity of such officers.

*The Commission Secretary should ensure that officers do not personalize certain tasks and that they hand over all official documents when proceeding on leave. The delegation of such duties should be done in writing indicating all pending activities and the officer assigned to handle such activities. This will enhance transparency in handling of official matters and improve service delivery to the clients.*

- 4) In order to manage the attendance of staff, the TSC Departmental Heads maintain registers for recording staff attendance. Each Department uses different formats such as books or a form with all the names generated daily. There is no supervision of the system and at times these registers are left unattended. Furthermore, officers do not register their names daily.

*The Commission Secretary should install an electronic system for clocking in. The system once installed should be managed in various points and would also monitor the movements of staff in and out of the building. The system may be integrated with the security system to ensure that only those allowed into the building gain entry.*

- 5) The TSC is not always properly represented in court cases. This is because there is little coordination and facilitation between the office of the Attorney General (AG) and the TSC in monitoring the progress of pending and finalized cases. This has led to cases being heard and determined without the Commission's knowledge. In some cases TSC becomes aware of the cases when its properties have been attached by auctioneers pursuant to court orders. For instance at the time of the Examination, a TSC motor vehicle had been attached in respect of a case and the storage charges had accumulated to the tune of Kshs. 200,000.00

In some cases the TSC ends up paying heavily for some decisions including those of the disciplinary panels. This can be avoided if all the Departments are properly advised by the Legal Division. For instance a teacher who was interdicted for incitement of students sued the TSC, BOG and AEO for defamation and the case was determined in his favour. TSC was ordered to pay Kshs. 486,662

*The Commission Secretary should ensure that the Legal Department keeps track of all legal matters involving the Commission. In addition the Secretary*

*should ensure that the Department undertakes all litigation on behalf of the Commission and provide legal advice to the disciplinary panels.*

- 6) The TSC front office has eleven counters some of which are managed by senior officers nominated on a rotational basis from all the Departments. In some instances these officers leave their core businesses to their juniors and sometimes they advise visitors to either go later or wait for them in their offices in order to attend to their needs later. This creates a loophole for corrupt practices as it increases physical contact between action officers and teachers. It is possible for deals to be negotiated when teachers are advised to see the same officers later.

*The Commission Secretary should ensure that the front office is managed by officers trained in customer care and leave the senior officers to do their core businesses in their offices.*

- 7) The suggestion box which is placed at the reception is usually opened by the Officer in charge of front office operations at various times. There is no guarantee that all complaints particularly those related to the front office will be taken into account.

*The Commission Secretary should ensure that the suggestion box is opened by at least two officers preferably the one in-charge of front office operations and the PRO. This will enhance openness in dealing with the complaints. Complaints and suggestions should be recorded and forwarded to relevant action officers.*

- 8) The TSC uses two methods of fueling vehicles. Electronic cards are used in Nairobi only while imprest is obtained for trips to the field. The TSC justified this system reasoning that fuel cards could easily be stolen or misused. On the contrary, the use of imprest is prone to abuse through falsification of receipts.

*The Commission Secretary should stop use of imprest for fueling vehicles and instead adopt vehicle specific fuel cards which are currently available in the market. These cards are also used for repair of punctures and can only be misused through collusion with the fuel attendants. Upon every fueling the details should be inserted in the vehicle work tickets for control and supervision.*

- 9) The front office runs a left luggage area where some visitors leave their baggage even for two days. These baggages are not security checked and in some instances no tags are issued to the owners of such luggage. This is a major security lapse.

*The Commission Secretary should ensure that visitors to TSC do not leave their luggage beyond the working hours. In addition the Secretary should enhance supervision at the left luggage area to guard against insecurity. Those who must leave their luggage for long should fill in a left luggage form indicating the type of luggage left and the length it should be maintained at the TSC premises. The area should be managed by the Security Division.*

- 10) The TSC received seventy five new computers from the Directorate of Personnel Management (DPM) to be distributed to TSC Units. However, at the time of the Examination, only fifty eight TSC Units had received the computers. The Examination Team noted that some stations had been supplied with old obsolete computers. This is an indication that some computers could have been diverted or exchanged as they were being transported to the stations.

*The Commission Secretary should obtain an account of the distribution of the computers and ensure that all TSC Units are supplied with new computers as it was intended.*

- 11) The TSC welfare organization operates a canteen at the premises of the TSC Head Office. The canteen is run by 11 staff all of whom are TSC employees. However, the proceeds from the canteen are not part of the A.I.A revenue for the TSC. All proceeds are used for the benefit of individual members of the Organization.

*The Commission Secretary should ensure that matters of the TSC welfare are handled separately from other TSC activities. The welfare organization should employ staff to manage the canteen. The Secretary should recall the TSC employees to perform the duties for which they were employed.*

#### **3.2.4.1 TEACHER REGISTRATION**

- 1) All qualified teachers register with the TSC. The registration process involves filling in the registration forms and sending them together with certified copies of certificates. The registration forms are available only at the TSC head and field offices.

*The Commission Secretary should ensure easy access of the registration forms preferably at teachers colleges, DEOs offices and also on the TSC website.*

- 2) In some instances TSC encounters forged certificates presented by candidates for registration, employment or promotion. In such cases the certificates are usually returned to the candidates after verification with Kenya National Examination Council (KNEC) or the Commission for Higher education. In some cases of recruitment, candidates present

fake letters of appointment purported to have been issued by the Head Office. In all known cases to the Examination Team, no action was taken against the culprits. This is an indication that there is lack of commitment on the part of TSC to stop such malpractices.

*As a deterrent measure, the Commission Secretary should refer all cases of forgery of certificates to relevant investigative agencies for further investigation and prosecution.*

#### **3.2.4.2 SCHOOLS ADMINISTRATION**

- 1) The Team observed that in some instances School Management Committee Minutes are not signed. These Minutes are usually used as resolutions to implement certain programmes for schools. Failure by the Committee to endorse the minutes could lead to inclusion of other issues that may not have been approved with the intention to defraud or to misappropriate school funds.

*The Permanent Secretary Ministry of Education in conjunction with the Commission Secretary should develop and issue guidelines to ensure that school management committees follow the necessary standards in the management of schools. This should include endorsing all minutes by the members of the Management Committee to authenticate the resolutions therein. Implementation of such resolutions should only commence when such minutes are fully endorsed. In addition, adequate measures to train and supervise school Heads to properly maintain school management records should be initiated.*

- 2) In some instances, the Ministry grants permission to schools to charge levies for a specific period. On expiry of the period, the schools continue levying charges without seeking fresh authorization. This practice was common in most of the schools visited. For instance, a Primary School was granted permission to collect development levy from 1<sup>st</sup> January up to 31<sup>st</sup> December 2004. At the time of the Examination in December 2006, the school was still collecting Kshs. 910 from every pupil on the strength of such authorization.

*The Permanent Secretary Ministry of Education should issue clear guidelines on the development levies for primary schools in order to curb abuse and overcharging by School Committees/Heads. The Commission Secretary should institute disciplinary action against all teachers who continue to impose levies on parents after expiry of such authorization.*

### **3.3 HUMAN RESOURCE MANAGEMENT**

This section captures human resource management issues as related to recruitment, deployment, promotion and handling of salaries among others. The recruitment aspect is divided into two areas namely teacher recruitment and recruitment at the TSC secretariat. Issues that cut across on recruitment are presented separately.

#### **3.3.1 TEACHER RECRUITMENT**

The Sessional Paper Number 1 of 2005 on Policy Framework for Education, Training and Research addresses the recruitment of teachers and raises concerns on uneven distribution of Teachers. To address the issue of uneven distribution, the Paper recommends that recruitment of teachers be undertaken where vacancies exist. Thus the delegation of recruitment of teachers to various Agents of TSC is anchored in this policy.

Currently the teacher recruitment exercise is carried out by District Education Boards for primary teachers and by School Boards of Governors for Post primary teachers. TSC declares vacancies available at the District level for primary and school level for Post primary.

- 1) One of the requirements for recruitment as a teacher is that one must be a registered teacher. However, the Team observed that this requirement is not followed across the board. Some teachers are recruited and registered simultaneously, while others are disqualified on the basis of not being registered at the time of application. This happens both at the District level recruitment and particularly at the TSC level.

Hand in hand with regular recruitment at the district level, TSC also recruits and posts teachers directly particularly to primary schools. Officials of the Commission informed the Examination Team that the Commission uses its discretion to recruit for some schools due to special circumstances such as insecurity and difficulties in retaining teachers in hardship areas. However, most of those recruited directly were deployed in areas which did not fall under such categories. For example, in Mbeere District 17 new teachers were posted in February 2006. In Nakuru, there were about 12 cases of direct appointments in 2005. This trend was observed in most of the other Districts. Sometimes officers at the district offices do not confirm with the headquarters the authenticity of such recruitments hence creating a loophole that may be used for fraudulent recruitment of teachers by officials of the TSC.

It was observed that sometimes TSC issues employment forms and advise the applicant to get endorsement from the DEO.

- 2) The Teachers Service Commission has issued clear guidelines for recruitment to the DEBs and BOG's which are that for one to be employed as a teacher, he or she should be:
  - a) A Kenyan citizen
  - b) A trained and qualified teacher
  - c) A Holder of P1,P2,S1 or Diploma In Education Certificate
  - d) Below 45 years of age

In addition, the duration of stay since graduation has to be taken into consideration.

These guidelines are hardly followed and many Agents set different criteria and guidelines from those issued by the TSC. Some of the guidelines set by the agents include:

a) **Residency**

Applicants have to show that they are born in the District and even married women have to show certificates/affidavits of marriage as proof that they are locals. At the Post- Primary level there are instances where deliberate flouting of guidelines for subject combination was noted. School Principals who carry out the selection exercise are sometimes compromised to a point where there is no candidate and hence the recruitment has to be repeated in order to get a local candidate.

b) **Zonal Representation**

Members of the DEB zone the Districts and allocate vacancies according to the Zones. This was noted in Meru North district among others.

c) **Clan Representation**

In certain instances, the vacancies are allocated according to the applicant's clan. This was noted in Mbeere, Transmara and Ijara Districts among others.

d) **Constituency**

Some members of Parliament insist that the vacancies should be allocated according to representation of the constituencies in the District.

e) **Teachers Already Employed by Board of Governors (BOG's)**

Sometimes BOG's prefer to employ those that have been teaching in the schools as employees of the B.O.G. In some instances, the DEB's also give preference to those who have been offering voluntary services in local primary Schools. This stifles competition as other qualified candidates are excluded.

- 3) After selection by the DEB's and BOG's, TSC officials at the Head Office carry out a vetting process which involves scrutinizing the list of applicants, list of selected candidates, the merit lists, the certificates of the candidates, BOG and DEB minutes. All these are forwarded to the TSC head office by the respective recruiting Agent.

The Examination Team noted that BOG's send the names of the three best candidates but only send copies of certificates of the best candidate in the merit list. The Vetting Committee does not have the benefit of perusing copies of certificates of the other two candidates. This makes it difficult for the Vetting Committee to verify the integrity of the recruitment process and creates avenues for abuse.

At the time of the Examination in December, 2006 the TSC was still vetting the process which was concluded in August 2006. The vetting process takes longer than the recruitment thus causing further delays.

In spite of the vetting process, there are certain anomalies which the committees fail to detect. For example the Team sampled some of the materials used for vetting and observed that although the Committee had approved the recruitment exercise for certain Districts, lists of applicants did not match with those short listed. In the case of Murang'a District, the names in the merit list were not appearing in the list of applicants.

- 4) After the vetting process, TSC withholds certain names of candidates selected by the DEB's and also by the BOG's. This is done without any written reasons why the candidates were not appointed. Some of the selected candidates end up going to the TSC offices at the Head office to pursue the appointment which opens room for corrupt practices. The Team was informed that this is used by the TSC staff to fill in the

remaining vacancies through corrupt practices such as sale of vacancies, clanism and nepotism.

- 5) Some applicants complained that though they had applied, their names did not appear in the list of applicants. At the same time, some names of those who had not applied appeared in the shortlist. In some districts for instance Kisumu the recruitment panel did not consider applicants who were Diploma holders who could have obtained scores for the higher qualification. At the Post Primary level, some applicants complained that they were given wrong dates for interviews and when they presented themselves they were told that the interviews had already been carried out.

The TSC Commissioners and Management are aware of all these anomalies yet it approves such recruitment even after undertaking a lengthy vetting process.

Furthermore, the TSC has no muscle to supervise the activities of certain Agents particularly the DEB's. At one point Commissioners went to supervise the recruitment to ensure that it was fairly done but they were not even allowed to sit in during deliberations. Although the exercise was done unfairly, TSC largely approved and ratified the DEB's processes.

Most of the stakeholders and agents interviewed proposed that the exercise be taken back to the TSC to bring back sanity in the recruitment exercise.

- 6) The TSC sends the list of the recruited teachers together with the appointment letters to the DEO for the applicants to pick. This creates an opportunity for withholding the letters for ulterior motives. Applicants who may not know that the letters are with the DEO may end up losing the chance if they are not contacted.

*In order to address the issue of uneven distribution of teachers, TSC should conduct phased recruitment based on Provinces. Interviews should be undertaken at the Provincial level targeting applicants who applied to work within the Province. However, opportunities should be open to all qualified candidates from all over the country willing to work in the Province. The recruitment panel for each Province should be randomly selected from among TSC employees to avoid canvassing.*

*A computerized system of selection should be installed to help the Commission to shortlist candidates after application. The selection criteria should be installed in the system at the time of advertisements and before applications are opened.*



*Furthermore in order to address the identified malpractices in recruitment the Commission Secretary should ensure that:*

- Once the TSC has identified vacancies, advertisements are posted in the local dailies, the PDE and DEO offices and at the TSC Offices.*
- Advertisements of vacancies specify the Districts and schools where the vacancies exist. Applicants should be required to state at least two Districts of their preference which should be considered during the interviews.*
- A short listing criteria is developed before applications are received and made known to applicants and other interested parties.*
- Applications are sent to the TSC Head Office in Nairobi. Applications are opened by a panel which should serialize each of the applications for accountability.*
- The recruitment is done in accordance with the first recommendation in this Section.*
- The short listing of Candidates is done by a panel whose members are not involved in the receiving of applications.*
- Once a decision has been made on recruitment, original letters of appointment are sent to the successful applicants. Copies of the letters are sent to the DEOs in the respective Districts of appointment. The lists of successful applicants are posted at various locations including the Head office, DEO's and PDE's offices and at the TSC Units. Further, explore the possibility of using other channels such as the internet to post such lists for easy access.*
- After selection, posting is done with consideration of the choices made at the time of application. However, in line with recommendation in section 3.3.5 (a) of this Report, the Secretary should enforce the five year rule before transfer in order to secure balancing of teachers.*

*In order to provide a lasting solution the TSC should consider setting up a Task Force with the sole mandate of reviewing the process of decentralized recruitment. The Task Force should hold wide consultations with all relevant stakeholders and advise the TSC.*

### 3.3.2 RECRUITMENT OF SECRETARIAT STAFF

The TSC advertises vacant posts internally and sometimes relies on applications sent by job seekers without reference to any advertisement. In most cases, there are no interviews to fill the vacant posts and once the employment form is issued, the applicant is assured of employment.

The TSC management expressed concern over the issue of relatives working at the Commission. This involves all cadres of staff.

Deployment from classroom to the TSC secretariat is done without clear criteria. Some of the Teachers and Agents interviewed indicated that this movement is largely dependent on the levels of canvassing and corruption. The Team noted that most of the mid and upper level staff were former teachers some of them working in areas where they have no qualifications.

Although the TSC has developed schemes of service for all cadres of staff, this is not used to inform the recruitment process.

*The Commission Secretary should ensure that recruitment to the Secretariat is done in an open and competitive system. This will entail:*

- *Defining and adhering to the basic entry requirements (academic and professional qualifications, experience, aptitude and skills) in respect of each post.*
- *Advertising the vacancies in the major dailies and other channels,*
- *Clearly spelling out all the requirements in the advertisement and*
- *Defining the short-listing criteria before receipt of application*

*The Secretary should ensure that the members of staff taking part in the recruitment process as panel members or in short-listing of applicants adhere to the Public Officer Ethics Act by declaring their interest in writing. Such officers must refrain from participating in the selection process as far as possible. The Secretary should design an appropriate form for declaration of conflict of interest and ensure that it is part and parcel of the Code of Ethics for officers in TSC. This will make it easier for the Commissioners and the Secretary to use the same form when confronted with such a situation. (See appendix I for a sample form for declaration of conflict of interest).*

*The Commission Secretary should also endeavour to enforce the requirements already stipulated in the schemes of service and the Public Officer Ethics Act in*

*order to professionalize recruitment of Secretariat staff and to improve the image of the Commission. The Secretariat should be manned by staff recruited from other technical and professional disciplines.*

### **3.3.3 SALARIES AND PAYROLL ADMINISTRATION**

The Teachers Service Commission pays salaries to the teachers through the Ministry of Finance Government Information Technology Services (GITS) while the Secretariat salary is paid through the Integrated Payroll Personnel Data (IPPD) system. This section highlights findings related to general and specific issues on payments of salaries for both teachers and secretariat staff.

#### **Payment of Newly Recruited Teachers**

- 1) Payment of newly recruited teachers takes an average of three months but sometimes it takes as long as six months. The delay is attributed to various reasons such as delays in forwarding supporting documents indicating dates of commencement of teaching by the new teachers. The delay is caused by various actors who include; the Head teachers, Agents as well as the staff at the Units some of whom ask the teachers to facilitate them to travel to the Head office to forward the documents. Further delays are also caused at the Head office as it may take long for the documents to move to the necessary action areas before they reach the Salary section. This exposes the new teachers to a lot of suffering forcing them to offer bribes to fast track the process.

*The Commission Secretary should ensure that the process is fast enough as to enable teachers receive their salaries within a month of employment. This process should be as fast as that of stopping a teacher's salary which is done within a day. The Commission should take disciplinary actions against head teachers and the secretarial staff who fail to act promptly on the documents.*

- 2) The newly recruited teachers are usually paid in the form of a cheque. The cheque is written in the name of the respective DEO. The cheque is posted to the teacher who presents it to the DEO for encashment.

The Team noted that in some instances some DEO's offices charge a fee of 1% to cash cheques of certain amounts. Some of the DEO's indicated that this is charged by the banks but on further enquiry, the Team found out that the Banks were not charging the fee. For example in Kakamega a teacher was charged 1% for cashing a cheque of Kshs. 190,000.00.

In some stations, the DEO's have set specific days for cashing such cheques and teachers who come earlier are required to deposit the

cheques with the DEO and come at a later date to collect the cash. This opens an opportunity for extortion as some of the teachers are desperate.

*The Commission Secretary should ensure that the names of the newly recruited teachers are included in the list that is paid through the Post Bank. A copy of the payment voucher should be sent to the Teacher. The voucher should be authorized by the school Head and the DEO before presentation for payment at the bank. This should only be a short term measure preferably not more than three months after which all teachers should furnish the TSC with bank accounts for clearing their salaries.*

### **Third Party Deductions**

- 3) The lists of third party deductions from insurance companies are submitted to the salary section by the companies in a soft copy. This copy is used to effect deductions without verification of the details and the necessary documents such as pay slip. The only document the TSC requires to effect the deductions for a third party is a copy of the signed agreement. The Team was informed that there are cases where teachers have been duped into insurance contracts some of which are effected without the necessary authorization. TSC does not stop the third party deductions until the third parties have advised them to stop even when the teacher writes to complain that his/her consent was not sought. This scenario may be exploited by unscrupulous TSC officials in collusion with Insurance Sales Representatives who are keen to earn extra commissions.

*The Commission Secretary should ensure that that the application forms for insurance contracts are accompanied by a letter of acceptance by the applicant before commencing any salary deductions.*

### **Over-Commitment of Salaries**

- 4) The teachers Code of Regulation section 28 (5) (i) states that “severe financial embarrassment may affect a teacher’s efficiency and thus render him/her liable to disciplinary proceedings. A teacher shall therefore not commit more than two third the basic salary”. However this rule is violated as many teachers have over-committed their salaries some of them earning a net salary as low as Kshs. 100.00. This affects performance of the teachers since it is unlikely that they would concentrate on teaching. It has also contributed to desertion whereby some teachers concentrate on other businesses during working hours while some sub-contract unauthorized persons to teach on their behalf. This is prevalent in Kisii District.

*The Commission Secretary should implement the requirements of the Code of Regulations by enforcing the 2/3 rule. The aspect of teachers sub-contracting other persons to teach on their behalf is serious and disciplinary action should be taken against the teachers, including Head teachers and DEO's who fail to report such malpractice.*

### **Incremental Credits**

- 5) Upon attainment of higher qualifications, teachers are automatically awarded incremental credits after submitting applications for such credits. If the original certificate is not presented 6 months after incremental credits are awarded, the salary is stopped and recoveries for salary overpayment are initiated. However some colleges take more than six months to issue certificates. This situation results in the victimization of innocent teachers.

*The Commission Secretary should ensure that a candidate wishing to be awarded incremental credits on the strength of attaining higher qualifications presents required testimonials which include the original certificate upon application.*

### **Irregular Salary Payments**

- 6) Between 1995 and 1999 many teachers were irregularly promoted. The list of the teachers who were irregularly promoted was prepared by a Task Force that was formed to investigate this fraud. The task force recommended that salary overpayments of all those affected be deducted from their monthly salaries. However, some teachers (Popularly referred to as fall-outs) colluded with some TSC staff members to terminate recovery of overpayments from their salaries.

*The Commission Secretary should investigate the "fall out" cases and take disciplinary measures against those involved. He should further ensure that deductions are effected exhaustively.*

#### **3.3.3.1 INTEGRATED PAYROLL AND PERSONNEL DATA (IPPD) SYSTEM**

- 1) The Data Operator in the IPPD system has limited privileges as opposed to the Systems Manager. Despite this, the Data Operator is granted the rights to amend employee grades in the Personnel master file. This gives the Data Operator unauthorized access without supervision and adequate controls. An unscrupulous operator can therefore use the privilege and opportunity to make illegal entries.

*The Commission Secretary should ensure there is proper segregation of duties in operations of the system. The systems manager should have access to the employee payroll master file and ensure that sensitive information can only be amended by the said person. In addition, the Secretary in liaison with the Director/Permanent Secretary Directorate of Personnel Management (DPM) should review the IPPD data input control in order to limit access to the master file by the Data Operator.*

- 2) When users log into the IPPD system with the wrong password more than three times the system automatically logs off. However the system does not disable the user account, this could lead to unscrupulous employees gaining access into the system through various means such as guessing the passwords and making unauthorized changes in the payroll data.

*The Commission Secretary should review IPPD such that user accounts are disabled once users attempt to log-in for three times without success or in case of any illegal operations in the system. The user account should only be unlocked by the Systems Administrator and the request for re-enabling the account should be investigated.*

- 3) Although IPPD has an audit trail, the audit trail is not regularly reviewed and the responsibility for reviewing has not been assigned to any person. This gives potential intruders sufficient time to find a weakness in systems security and have unchallenged access to sensitive data.

*The Commission Secretary should assign a qualified ICT officer the responsibility of reviewing security audit trails on a daily basis to enable early detection of unauthorized access attempts. This will help to fortify the integrity of the system.*

- 4) IPPD is supported and maintained by officers from the Directorate of Personnel Management (DPM). Officers of the TSC have not yet been trained in administration and support for the system. This causes unnecessary delays in troubleshooting minor IPPD problems and regularly reviewing the system to ensure data security.

*The Commission Secretary should liaise with the Directorate of Personnel Management to train some of the officers from the TSC Information Technology Department on IPPD Support. He should further ensure that necessary changes are made in the system to rectify security flaws.*

- 5) The Team was informed that the IPPD system is programmed to automatically delete the names of staff who have reached the retirement age from the payroll. However, the system retains some of

the employees who have retired or those whose services have been terminated.

A brief analysis of the payroll indicates that some employees appear twice in the payroll. This creates a loophole for double payment of salaries.

*The Commission Secretary should ensure that the IPPD System is reviewed and controls are put in place that will ensure detection of duplication of employee's data, automatic and permanent deletion of retired and terminated staff. There should also be documented procedures on dealing with removal for accountability.*

### **3.3.3.2 TEACHERS PAYROLL**

#### **Integrated Personnel and Payroll Data (IPPD)**

- 1) The TSC has implemented the Integrated Personnel and Payroll Data (IPPD) system for the Secretariat Staff payroll only. However, the process of implementing the system for Teachers payroll is being done in an uncoordinated manner causing unnecessary delay in full implementation of the system. TSC claims that it will take approximately 12 years to fully implement IPPD due to lack of data.

The information required to create the IPPD system for teachers include:

- The Personal Identification Number,
- National Identity Card,
- Passport size photograph.

Some of this information is available with the TSC. Furthermore, at the time of the Examination, teachers from all over the country were submitting wealth declaration forms and the exercise was quite successful. Thus it is not difficult for the TSC to obtain the required information to facilitate the implementation of the IPPD system.

*The Commission Secretary should ensure that a project plan for implementing IPPD system of payment of Teachers is developed. The progress against task and impact on milestone should be measurable and should not take more than one year to implement.*

## **Payroll Data Capture Room**

- 2) The Team observed that though there is a steel door and a sign reading “NO ENTRY FOR UNAUTHORISED PERSONS” to the payroll data capture room at the TSC offices, access to the room is not controlled. This opens opportunities for unauthorized persons to gain access and interfere with the data. Such an opportunity may also be used by the authorized personnel to collude with others in order to interfere with the payment data.

*The Commission Secretary should ensure that the Data capture room is kept strictly out of bounds to unauthorized persons. This can be achieved through installation of access passwords to the computer room.*

## **Use of passwords**

- 3) The users in the payroll data capture share the passwords for the data capture system and the operating system. This creates a loophole for interference with the data by unscrupulous staff without any accountability hence the security of the data is not guaranteed.

*The Commission Secretary should ensure that a password policy is developed and implemented such that each staff is assigned personal accounts for data capture and operating system to ensure accountability for every user.*

## **Audit Trails**

- 4) The Payroll data capture system does not have an integrated audit trail mechanism that shows the activities of the users of the system such as additions and deletion of payroll data. This exposes the payroll data to manipulation since it is not possible to trace the history of computer activities by specific operators. This may lead to malpractices using the system going undetected for along time.

*The Commission Secretary should ensure that the Data Capture system is enhanced by in building an audit trail mechanism in order to track the activities of the computer operator. This will enhance accountability and detection of any malpractices immediately it occurs.*

## **Payroll Data Capture**

- 5) Adjustments to salaries are captured using a payroll data capture systems from Government Information Technology Services (GITS). These adjustments are forwarded to the GITS in soft copy using a diskette. However, the data is in a format that can be edited by a computer operator. There is no security measure to ensure the data



can not be manipulated. This creates a loophole for manipulation of the data such as change of the basic salary at the discretion of the operator.

*The Commission Secretary should ensure that security measures of data captured are put in place. These may include using methods such as encryption of the data before it is taken to GITS to avoid possibilities of payroll manipulation.*

### **Teacher's Payroll**

- 6) The teachers' payroll is subdivided into Departments representing Provinces. When a teacher is transferred from one province to another the department details have to be changed. However, the Examination Team observed that there are cases where teacher's names appear twice in the payroll under different departments.

In addition, a brief analysis of the payroll reveals that there are some teachers who share the same TSC number yet their names and dates of appointment are different. This is a loophole for inclusion of persons other than the **bona fide** teachers in the payroll.

*The Commission secretary in conjunction with the Director of Government Information Technology Services (GITS) should ensure that the payroll system is reviewed and controls put in place to detect duplication. Further the Commission Secretary should investigate cases where teachers are appearing twice in the payroll and take appropriate disciplinary action against officers who are involved. The matter should further be referred to relevant investigative bodies for investigation and prosecution.*

- 7) The Examination Team found out that in August 2004 TSC advertised for 5,300 vacancies for primary and post primary institutions. In July 2005, 6,444 vacancies were advertised for similar Institutions. However, analysis of the payroll reveals that there were 7,201 and 8,263 new appointments in the respective years. This is an indication that either the TSC recruited a larger number of teachers without advertisement or that there are non teachers (ghost workers) who are paid through the teachers' payroll.

TSC uses EMIS system to get returns of the number of teachers in primary and post-primary schools. The exercise is done quarterly every year. However, TSC has been receiving average returns of approximately 198,000 out of 230,000 teachers in every exercise. This is an indication that TSC is not able to fully account for its total number of teachers in the payroll and there is risk of having ghost workers in the payroll.

*The Commission Secretary in conjunction with the Director of Government Information Technology Services (GITS) should clean up the Teachers payroll ensuring that only bona-fide teachers are captured in the teachers payroll. This exercise should be done continuously to avoid and detect malpractices. The Secretary should further ensure that all vacancies are advertised to enhance transparency and accountability in the employment process. KACC on its part will investigate this further and ensure that the offenders are punished in accordance with the Anti-Corruption and Economic Crimes Act.*

### **3.3.4 APPOINTMENT AND PROMOTION OF TEACHERS AND SECRETARIAT STAFF**

#### **Deployment of staff**

- 1) Some TSC secretariat staff work in areas where they are not qualified to work. This implies that there is no regard for skills and professional qualifications in deployment. Consequently, an officer becomes ineffective and creates room for manipulation of the processes for personal gains. For instance, when officers perform procurement or records duties without the relevant competences, they may be made to make certain erroneous decisions due to lack of technical know-how. The Examination Team noted that an officer who had a Masters degree in Business Administration in Strategic Management had been deployed as a stores officer.

The TSC secretariat has about 2400 employees both in the headquarters and in the field stations. Some of the Departments and Units are overstaffed. For instance, there are 80 employees in the revenue section yet TSC only collects miscellaneous receipts from registration fees and overpayments part of which is collected through the payroll. The Finance and Accounts Department has over 230 employees while Internal Audit has 70 Auditors. Most of these officers are not fully utilized.

*The Commission Secretary should ensure that staff members are deployed in areas in which they have competence and are qualified to handle. Changes may be effected on the request of the officer if they acquire competence in other areas.*

*In addition, the Secretary should carry out a survey on optimal staffing levels to assist the Commission in rationalization of its staffing and skills requirement. This should be done in line with the proposed changes in the structure of TSC in this Report. (See section 3.2.2)*

## Staff Promotion

- 2) The TSC promotes officers from Assistant Deputy Secretary and above. New employees can not enter at this grade because of the need for internal experience and continuity. This has resulted in internal advertisements, lobbying and favouritism in deployment to areas deemed to have more promotion opportunities. Such a system hinders competition, desired changes and encourages conservatism.

Promotion of teachers from job group L to M and other higher levels is cumbersome due to the large number of teachers qualified for these promotions. At the time of the Examination in November 2006 there were four panels interviewing approximately 4000 candidates for promotion to job group M. It was estimated that the interview process would continue until March 2007. Before the end of the Examination exercise, more vacancies were advertised at a time when many teachers were conducting marking exercises away from their working districts. Some of them had to travel all the way from Kisumu to Taita Taveta to pick application forms in order to apply before the deadline. This is because they were denied the forms at the stations where they were conducting marking. Delay in interviews and promotion leads to anxiety among candidates and may occasion canvassing, bribery and extortion.

Promotion of non-graduate teachers is currently pegged to a proficiency test conducted by the Ministry of Education. The number of teachers admitted to the Teachers Proficiency Course (TPC) is based on 4% of the total number of teachers who have served for at least three years. Eligible candidates are required to apply in a prescribed form distributed by the DEO's. However, it is difficult for some teachers to access the application forms because they are issued selectively such that they have no opportunity to apply. There is no clear feedback mechanism for those who were not successful. Some of the teachers interviewed indicated that they were not aware of the process of nomination of teachers to the course.

*To avoid allegations of favouritism, nepotism and other corrupt practices in the promotion process, it is important that staff promotion be conducted in a fair and transparent manner. The Commission Secretary should ensure that criteria for promotion is defined and approved by a Management Committee. This criteria should be made known to all eligible staff members. The criteria should be simple, and easily understood to avoid creating loopholes for corrupt practices through discretionary tendencies.*

*Vacancies for promotion should be advertised in newspapers and other appropriate channels accessible to teachers. Advertisement should not be done during school holidays and periods when teachers are engaged in other activities outside the school environment. This will ensure that majority of the eligible candidates are available and are aware of the exercise.*

*The promotion panel should prepare a report on the candidates including their performance and outcome of the interview. The report should cover reasons for or against offering a promotion.*

*Further, the Commission Secretary should liaise with the Permanent Secretary Ministry of Education to promote primary school teachers on the basis of length of service. This should be limited to those teachers who have not been promoted since they were recruited and have served for a period of ten years and above as at January 2007. Depending on the number of the teachers, the promotion should be done in phases in order to reduce the backlog taking into account the effects that this may have on the wage bill.*

- 3) There are certain levels to which teachers are appointed to positions of responsibility. These include Senior Teachers, Departmental Heads, Deputy Head teachers and Head teachers. The Team observed various malpractices and anomalies in this process such as:

#### **Communication on Available Vacancies**

- 4) Those intending to be appointed as head teachers are expected to apply to the DEO's or PDE's who interview the applicants. Whenever there are vacancies the DEO's and PDE's communicate to the teachers through other officers and the school Heads. This may lead to some eligible teachers being locked out of the process.

After the interviews there is no communication to the candidates as to their performance. This is a loophole that may be used for extortion.

#### **Use of the Data Bank**

After the interviews, the respective Staffing Officer creates a data bank of successful applicants. The intention is to use the bank for appointment whenever vacancies arise. It was however observed that when a vacancy arises, the data bank is not strictly followed because other considerations such as sponsor, locality of the school come into play. This is a loophole that encourages unfairness in appointment of head teachers.

## **The Score Sheets**

- 5) The Examination Team observed that working papers like score sheets are not properly handled as some had cancellations hence there was no method of verifying the score. In some stations like Embu, interviews are carried out without use of a structured scores sheet. In most stations, the score sheets are tabulated and maintained by the staffing officers who keep them loosely in their drawers. Thus some of them had glaring errors on the total mark awarded. An analysis of some score sheets in Nyeri indicated that though the best candidate had been awarded a score of 79% the actual score was 59%. This means that there is unfairness in the selection system which may be a result of favouritism or bribery. Some Staffing Officers have personalized the process and when they are absent from office, records cannot be accessed. In Kirinyaga, the DEO was not aware of the score sheets while in Kisii, the Team could not access any information because the staffing officer was away.

## **Appointment Without Interviews**

- 6) In some stations, appointment is done before carrying out interviews. For instance, in Mombasa, eight Head teachers and five Deputies were appointed irregularly only for the interviews to be done later to regularize the process. This is a pointer to corrupt practices.

There are many instances where those who are of lower grades are appointed to supervise teachers of a higher grade. This affects teacher morale and causes friction in teacher management and may be used to falsely accuse teachers of insubordination.

*The Commission Secretary should restructure the method of appointment of teachers to positions of responsibility by:*

- *Ensuring that vacancies are advertised through the media and other existing channels. Results of the interviews are displayed in the PDEs and DEOs notice boards to enhance transparency in the process.*
- *Designing a uniform score sheet accompanied by guidelines on the selection process. The interview records including score sheets should be maintained by the DEO in an official file for a specified period before they are destroyed for accountability. The DEO should be in control of the process and not the staffing officers. This will also enhance supervision to ensure fairness and transparency in the appointments.*

- *Ensuring that at no one point is a teacher in a junior grade appointed to a position of responsibility in a school where there are teachers of higher ranks. This can be achieved by sourcing for teachers from other stations.*
- *Ensuring that interview panels are made up of senior officers.*

### **Teacher Performance Appraisals**

- 7) Promotion and appointment of teachers is based on their performance. The Team observed that at the time of the Examination, there was no framework for evaluation of teachers' performance and it was dependent on reports of Head teachers or the Quality Assurance and Standards Officers some of whom are junior in grade and qualification in comparison with the teachers. Some teachers complained that the appraisal system was being used to "settle scores".

*The Commission Secretary should institute a performance appraisal system for all teachers with clearly set standards against which the teachers should be appraised. This will guard against exposing the teachers to a subjective appraisal system.*

### **Supervision**

- 8) Supervision of education officers in the field is ineffective as junior officers are appointed to supervise more qualified officers. For instance, Area Education Officers (AEOs) who are non graduates supervise Zonal Quality Assurance and Standards Officers (ZQASOs) most of whom are graduates. In addition, these officers are employed in their home areas as is the case with most of the teachers who they supervise. This affects supervision and causes friction in management of teachers and other educational officers.

*The Permanent Secretary Ministry of Education should review posting of all educational supervisors in the field with a view to delocalizing them and in consideration of the seniority and reporting relationships.*

### **Schemes of Service**

- 9) The general observation was that appointments and promotion for both teachers and TSC secretariat staff members is shrouded with canvassing, lobbying and personal interests of the recommending officers. Thus some officers are promoted and appointed even when they do not merit such positions. The TSC secretariat has a scheme of service which is not adhered to. This has led to demoralization and

dissatisfaction among many employees. Similarly, there are schemes of service for graduate and non graduate teachers.

*The Commission Secretary should streamline the system of promotion and appointments with a view to ensuring that appointments and promotions are done in an open and transparent manner. In addition to the recommendations above, the Secretary should implement all the provisions of the various schemes of service to ensure that there is satisfaction among all the employees.*

### **3.3.5 TRANSFERS OF TEACHERS**

#### **Duration of Stay**

- 1) The conditions for transfer of teachers as specified in the Code of Regulations for Teachers promotes long stay of teachers in one station. This has led to personalization of schools particularly by Head teachers some of whom develop corruption networks particularly in the use of school resources. Such teachers buy the support of students/pupils, the sponsors and some school management committee members who protect them from transfers using various means such as riots or petitions to the Minister for Education, Permanent Secretary and also TSC Commissioners.

Currently, all newly recruited teachers commit themselves to stay in the stations for a period of five years before seeking for transfer. This is not adhered to particularly in primary schools. Some of the teachers interviewed indicated that the DEO's and District Staffing Officers solicit and receive bribes after which they approve transfers before the stipulated time.

There is a lot of interference in the transfer of teachers by TSC officials, politicians, sponsors and other government officials. During the Examination, the Team encountered a Member of Parliament (MP) who had personally gone to the TSC Head Office to seek the transfer of a teacher. In another instance, an MP kept on calling a certain PDE in pursuit of a transfer. This is a drawback to the balancing of teachers and has resulted in overstaffing in some urban and high potential areas as opposed to rural and hardship areas.

*The Commission Secretary should set and enforce guidelines on length of stay in each station for all teachers and in particular Head and Deputy Head teachers in line with government regulations on period of stay in one station. The guidelines should be simple and easily understood and should be included in the letters of appointment.*

*The Commission Secretary should also ensure that the five year rule before transfer is adhered to. In case of transfer requests on special circumstances, the same should be approved by a committee which should be constituted at the Headquarters. Strict implementation of these rules will enhance the intended balancing of teachers throughout the Country.*

### **Authority to Transfer**

- 2) The transfer of teachers is handled at the District and Provincial offices and also at the TSC headquarters which deals with inter-provincial transfers. Sometimes inter-provincial transfers are done without consulting or communicating with the Agents. This causes conflict whereby a teacher could be simultaneously transferred by the Agent as well as the TSC to different stations. It also creates imbalances in teachers posting as well as avenues for corrupt practices.

*The Commission Secretary should ensure that requests for inter-provincial and inter-district transfers are communicated to the TSC from the relevant Agents. The TSC should also inform the Agents of its transfer decisions in writing. This will enhance accountability and harmony in the transfer of teachers.*

### **Handing Over**

- 3) Head teachers who are transferred to certain schools are sometimes rejected when the incumbent fails to leave or when sponsors and school committees fail to accept the new teacher. The teacher is viewed negatively yet the TSC takes long to resolve such problems.

*The Commission Secretary should ensure smooth handing over and taking over during transfer of head teachers. Those who resist transfers and incite communities against incoming head teachers should be disciplined. Complications in transfers should be solved quickly to avoid wastage of TSC human resources.*

- 4) In some instances teachers who are transferred or retire do not fully hand over all school properties. The Team observed that some principals continued to be signatories to schools bank accounts long after they had left the school. This is done with full knowledge of the PDE's and the DEO's. For instance after retirement, the Principal of Bungoma High School continued to authorize the schools account for two years after he had retired. This irregularity could impose huge losses to schools through fraud and theft.

*The Commission Secretary should ensure compliance with the Code of Regulations and the Financial and Accounting Instructions for Educational*



*Institutions which requires that upon transfer or retirement, Head Teachers should hand over all school properties including bank accounts.*

### **3.3.6 DISCIPLINE OF TEACHERS**

#### **Breaches**

1) The nature of some of the breaches involving teachers include:

- Absenteeism
- Drunkenness
- Sexual relationships
- Financial impropriety
- Absconding
- Insubordination and
- Incitement

When a teacher commits any of these breaches, a letter is written to the teacher to show cause why he/she should not be deregistered from the teachers register. This is a serious statement which is being used particularly by Head teachers for intimidation.

*The Commission Secretary should ensure that the letters sent out to teachers on disciplinary matters clearly state the kind of penalties that may be imposed should the teacher be found to have committed any of these ethical breaches. The removal from the register of teachers should be used as a last resort and only be attached to the specific type of breaches which warrant such severe discipline.*

#### **Laxity**

2) There is a lot of laxity among teachers working in their home areas. This is because some of them are engaged in other activities like farming and transport (Matatu) business. For instance, the Team found that a substantial number of teachers in Lugari area abscond duty during certain seasons in order to engage themselves in farming. Similar cases were also noted in Kisii and other parts of the country.

#### **Collusion**

Some Head teachers collude with certain teachers and allow them to take prolonged leave without TSC approval either for study or to engage in other activities. This is because even after detecting such malpractices, the TSC does not take action against head teachers. Some teachers go to the extent of recruiting others to work on their

behalf. This was evident in Western Province where a secondary school teacher in Vihiga District had been given a prolonged leave by the Head teacher to undertake a masters Degree without seeking approval of the same from the TSC.

*The Commission Secretary should ensure that Head Teachers strictly maintain the attendance registers for teachers and that stern action is taken against teachers who abscond and Head Teachers who conceal and condone such malpractices.*

*The Commission Secretary should incorporate the period for reporting all discipline matters in the Code of Conduct and specify penalties to be imposed on supervisors such as Head teachers when they fail to comply with the time limit. After recruitment, the Commission Secretary should post teachers depending on their competency and not on the district of their origin. The same principle should apply with regard to teacher transfers.*

### **Disciplinary Process**

- 3) The process of disciplining teachers takes too long before it is concluded. This is due to lack of supporting documents for which the TSC and Agents blame each other. Many agents who were interviewed said that officials of TSC collude with the culprits to misplace the documents in order delay the process hence the cases end up being dismissed.

*The Commission Secretary should put in place a proper system of registering confidential correspondence received and dispatched. All officers concerned with discipline cases should send relevant supporting documents under confidential cover.*

- 4) Discipline cases involving financial misappropriation take too long. This is attributed to the demand by the Disciplinary Panel that action can only be taken based on end of year final accounts and not the inspection/investigation reports. However, the Team observed that many Head teachers do not submit final accounts for audit within the required period. The Financial Instruction Manual for schools and colleges published under the Education Act, requires that end of year accounts are submitted by 31<sup>st</sup> January of the year following the year of audit.

The long delay provides an opportunity for head teachers to tamper with the evidence such as faking support documents for unsupported payments.

*The Commission Secretary should take action in cases of misappropriation based on audit inspection/investigation reports as and when the reported misappropriation occurs. The Commission Secretary in conjunction with the Permanent Secretary Ministry of Education should enforce the requirements of the Financial Instructions Manual for schools and colleges by disciplining all head teachers who fail to submit books of accounts on time.*

- 5) The Team observed that there are double standards and leniency in handling disciplinary cases involving financial misappropriation, for instance in Bureti District, a Head teacher fraudulently withdrew Kshs. 700,000 in collusion with a member of the Board. The Head teacher was deployed to another school and asked to repay the money. This trend of disciplinary action is common yet not deterrent to other would be offenders and to the teacher.

*The Commission Secretary should ensure that apart from the disciplinary measures, criminal charges are preferred against those who steal school funds. The Commission Secretary should also take the initiative to forward such matters to relevant investigative bodies for investigation and prosecution.*

- 6) The disciplinary committees do not include staff with legal training where as the nature of the proceedings is quasi-judicial. In some instances the committees make certain errors such as failure to accord the accused teachers the right to be heard thus leading to appeals and legal suits.

*The Commission Secretary should ensure that the legal officers and the audit personnel are incorporated in the disciplinary panels to offer technical advice when necessary.*

- 7) There is no uniform requirement for gathering evidence for disciplinary cases. For instance, some files for cases of sexual nature require supporting documents such as P3 forms while others do not require such a form. The Examination Team observed that many cases of sexual nature are not deliberated upon to conclusion. This is attributed to interference by influential TSC officers and collusion between some teachers, DEO and the victim's parents who are compromised and paid. In some cases the offending teacher offers to marry the victim and later on reneges on his/her promise.

*The Commission Secretary should ensure that cases of a sexual nature are handled expeditiously for the wellbeing of the pupils and students. This will be achieved through investigating such cases thoroughly and involving counselors who may handle the students and the teacher supervisors in the panels. The Secretary and the Commissioners should issue a notice to Agents on the required format for reporting and the relevant forms of evidence in such cases.*

*Once a case has been reported, there should be no room for withdrawal of such cases.*

*Under no circumstance should a case of a sexual nature such as rape or defilement be settled by way of “compensation” to the parent of the victim – pupil or student. Such cases should be immediately reported to the police and disciplinary action taken pending the trial.*

- 8) The Code of Regulations generally stipulates punishments for various breaches. These punishments include interdiction, removal from the register, warning, suspension, dismissal and retirement in public interest. These sentences are not specific giving room for exercising discretion by the disciplinary committee. Thus sentences are not standardized. For instance in cases involving carnal knowledge some teachers are dismissed while others are suspended and in cases of misappropriation of funds some are demoted only to be promoted later. The Team noted that there are cases of misappropriation that constitute economic crimes yet they are taken lightly.

*The Commission Secretary should review the teachers Code of Regulations and define specific punishments for all breaches in order to guide the process and reduce the discretionary powers vested on the disciplinary committee. The Commission Secretary should further inform teachers that cases of misappropriation of funds are crimes punishable under the Anti-Corruption and Economic Crimes Act. 2003.*

- 9) The Teachers Service Appeal Tribunal deals with cases of refusal to register a teacher and dismissals. Teachers who are dissatisfied with the disciplinary process are allowed to appeal. However, despite the Teachers Appeals Tribunal overturning a decision, the TSC only reinstate the teacher in the Register of teachers and not as a teacher. The decisions of the Tribunal are not fully implemented.

While the Disciplinary Panels hearing a case makes a decision immediately, the decision is not communicated to the teacher on that particular day. The teacher is advised to go and wait for the formal communication. The rights and duration of appeal are not explained to the teacher. The delay in communication is a weakness that may be exploited for corrupt practices as the teacher keeps on going to the headquarters to find out the results. It may also be used to lock out the teacher from placing an appeal.

*The Commission Secretary should ensure that the decisions of the Tribunal are fully implemented and that the disciplinary panels communicate their decisions to the parties immediately after the hearing. In the event that the decision can not*

*be communicated on the same day, the parties should be notified of the date of the decision before they leave the venue of the hearing.*

### **3.3.7 STAFF TRAINING**

The TSC has a Division that deals with staff training and development. This division conducts training for the secretariat staff and teachers and monitors those teachers that have gone for further studies. The Team found that with the advent of the parallel degree programme, several teachers have enrolled for the programmes in various universities. The TSC has approved study leave with pay for some teachers enrolled in the parallel programmes. Some of these teachers are involved in other income generating activities such as teaching in private schools during the day and only attend classes in the evenings and at weekends.

*The Commission Secretary should review the Code of Conduct for teachers with a view to addressing the terms and conditions for study leave including matters related to secondary employment.*

### **3.3.8 MANAGEMENT OF RETIREMENT**

- 1) The TSC issues notices for retirement one year prior to retirement and requests for documents necessary for processing pension. There is no system for receiving the documents at both the TSC Units and the head office. This leads to major delays in processing pension for teachers thus prompting teachers to seek intervention of intermediaries to fast track the process.

One of the required documents for processing retirement is the letter of confirmation in appointment. It was observed that in some cases, these letters are only issued at the time of retirement causing further delays.

*The Commission Secretary has most of the data required to process pension for teachers. This includes information available in personal files and in the Education Management Information System (EMIS). This should provide the Commission with most of the information required to process pension claims. Retirees should only be asked to provide documents if such documents are not in the custody of the Commission.*

*The Commission Secretary should ensure that teachers are automatically confirmed after the probation period. The EMIS should be programmed to generate the information automatically at the appropriate time.*

- 2) At the time of the Examination, the Department of pensions had seconded three officers to the TSC pensions Division to assist in checking documents to ensure that they are correct before forwarding to the Department. However, many documents are returned to TSC with glaring errors. This is a duplication of duties and causes delays in processing pensions.

*The Commission Secretary in conjunction with the Director of Pensions should redeploy the pensions officers back to the Directorate to receive and act on the retirement documents from the Directorates offices. This will reduce contact with the retirees and the officers will be easily supervised from the Pensions Department.*

- 3) The TSC Code of Regulations section 72 (1c) provides for retirement on medical grounds. However, the practice is to wait until the teachers request to be retired on such grounds. Teachers would ordinarily not apply for this retirement even when most of them are bedridden for a long time and can not teach. The Team observed that some teachers have been ill for a long time and are not capable of performing their duties.

*The Commission Secretary should use his discretion to invoke retirement on medical grounds after exhaustion of the available period of recuperation. Thus the Secretary should liaise with the Director of Medical Services to convene the Medical Board as and when it is required.*

- 4) The Team observed that the Human Resource Department has the authority to change the date of birth for employees where there is a dispute between the file date and Identity Card. This opens an opportunity for corrupt practices through manipulation of records.

*The Commission Secretary should ensure that request for changes of the date of birth are deliberated on by a management committee before they may be approved. The committee should be guided by personnel records available at the head quarters and at the TSC Units. .*

## **3.4 FINANCIAL MANAGEMENT**

The annual budgetary allocation for TSC is at the time of the Examination was approximately Kshs 60 billion. Most of the budgetary provision is used for personal emoluments for teachers. This section details various weaknesses and inefficiencies in financial management at the Commission and makes recommendations for enhancing transparency with respect to financial management.

### **3.4.1 FINANCIAL MANAGEMENT SYSTEMS**

- 1) The TSC has a stand-alone computer system used for cheque printing, ledger postings and preparation of trial balance. All other financial accounting procedures are done manually. This occasions many clerical errors in processing and recording of transactions. The system was installed in 1994 and has not been upgraded. It is therefore inadequate to handle the huge financial transactions of the TSC.

*The Commission Secretary should acquire and install an Integrated Financial Management Information System (FMIS) preferably the Enterprise Resource Planning System in order to automate financial records and procedures. The system should be interlinked to all the finance and accounting functions of the Commission including budgets, vote books, receipt and payment records, ledger accounts trial balances and be able to extract final accounts. It should also be tailor-made to take care of TSC unique accounting processes. This will increase transaction speed accuracy considerably hence improve reliability and timeliness of the financial reports.*

- 2) The TSC does not have an internal financial management policies procedures manual. It depends solely on the Government Financial Orders to implement its financial programs.

*The Commission Secretary should domesticate the Government Financial Orders by ensuring that the Commission develops a homegrown financial management policies and procedures manual consistent with the Government Laws and Regulations. The manual should also be consistent with the Generally Accepted Accounting Principles (GAAPs) and the International Accounting Standards (IAS). The manual should include policies and procedures on budgeting, payments, imprests and advances, authorization levels, cash office operations, banking and payroll management.*

### **3.4.2 BUDGETING AND BUDGET IMPLEMENTATION**

The TSC budgetary preparation process is not fully inclusive. Some Departmental Heads informed the Examination Team that they are not consulted thus they do not submit work plans to guide the process. The budget is prepared on an incremental basis guided by historical projections.

After receiving allocations as reflected in the printed estimates, the TSC does not prepare work plans to guide the budget implementation process. Expenditure is made as per block of allocation from Treasury without relevant work plans. This causes inefficient utilization of funds especially on operations and maintenance component. In addition, there is no prioritization of programmes thus it is not possible to monitor achievements of set targets annually.

*The Commission Secretary should ensure that all Departments are fully involved in the budgetary process. Indeed all Heads of Departments should be represented in the Budget committee.*

*To ensure checks and balances in the utilization of the funds, the Secretary should ensure that each Department prepares annual work plans based on the actual budgetary allocation. Implementation of the work plans should be done in consultation with the relevant Heads of Departments. This will increase efficiency in budget implementation and avoid favouritism in areas such as training.*

### **3.4.3 PAYMENTS**

- 1) The TSC has not instituted appropriate basic internal checks and controls in the payment process. For instance,
  - a) The vote book accountant prepares Local Purchase Orders/Local Supplies Orders (LPOs/LSOs), posts the vote book, and writes payment vouchers. This creates a loophole where unscrupulous officers may raise an LPO, authorize, and process payment fraudulently.

*The Commission Secretary should ensure segregation of duties for accountability and supervision. Officers who prepare the LPOs and LSOs should not prepare payment vouchers. The LPOs and LSOs should be prepared by the Procurement Division, authorized by the Finance Department and recorded as posted in the vote book by the Accounts section.*



- b) The approval of the Authority to Incur Expenditure (AIE) on payment vouchers for salaries and other personal emoluments is made after all other signatories and in some cases the approval is overlooked. This opens loopholes for making fictitious payments as there is no control in the use of AIE.

*The Commission Secretary should ensure that AIE holder authorizes payments before commencement of other payment processes. This will signify that the AIE holder sanctions the payment and is accountable for any irregular payments that may arise. This will also act as a control and a commitment that the funds are applied to relevant Departmental programmes as per the approved work plans.*

- c) The TSC has about five AIE holders whose assignment has no regard to functional areas. These include AIE holders for claims, supplies, clearance, medical votes and salaries. Some AIE holders are members of the governing committees such as the Tender board, Audit committees, and technical committee on construction of the TSC building. A single officer may authorize expenditure, participate in procurement of the item in the tender committee, monitor implementation of the project as a technical committee member and participate in discussing any audit queries as a member of the Commission audit committee. This scenario vests a lot of discretion on some AIE holders to authorize expenditure without checks.

*The Commission Secretary should ensure that all AIE holders are senior officers responsible for the implementation of the programmes they authorize. As a control measure, AIE holders should cease to be members of governance committees particularly those dealing with matters of finance. An officer who is a member of the Tender committee should not be a member of the Audit committee.*

- d) Examination of payment vouchers for particular expenditure items is done by handpicked accountants and finance officers. For instance, the payment vouchers for the ongoing TSC building contract of Kshs 829,909,101 are only examined by the Deputy Secretary in-charge of Finance. Payment vouchers for operation and maintenance votes are examined by two other officers. This creates room for manipulation or compromise due to lack of internal checks.

There are cases where payments are made without adequate supporting documents, or for goods which are not recorded as received by the Commission. For example, the Commission

received Kshs 1, 551,200 from National Aids Control Council (NACC) to undertake HIV/AIDS related activities. The expenditures on this account were not supported. Where the Commission indicated that it had procured materials such as videos such materials were not reflected in the stores ledger cards. This raises doubt as to whether this money was used appropriately.

*The Commission Secretary should establish a Payment Voucher Examination Section. This will enhance objective scrutiny of payment vouchers by a team of accountants before money is paid. This will ensure that all payments are supported and that the payments are for goods/services received by the Commission.*

- 2) The accounts computer room section prepares cheques for all payments. There is a limit as to the amount of single cheque payment. This necessitates splitting of cheques for various payments exceeding the set limit. This system can be abused because overpayments can occur when multiple cheques are paid for one payment voucher.

*The Commission Secretary should ensure that cheques are written for each payment voucher. Splitting of cheques for one payment should be stopped because it may provide a loophole for overpayments.*

#### **3.4.4 CLEARANCE ACCOUNTS**

The TSC deals with huge clearance accounts which are composed of payroll deductions payable to third parties such as Savings and Credit Cooperative Societies (SACCO) dues, insurance premiums, pay as you earn (PAYE), Higher Education Loans Board (HELB) and court awards among others. An allocation summary listing all third party dues is usually prepared for all the 25 payroll departments from payroll by-products at the end of each month. Cheques are prepared to third parties based on the allocation summaries.

Sometimes there are differences between the payroll by-products and the allocation summaries. These differences lead to either over or under remittance of dues to third parties. For instance, the allocation summary for December 2006 showed SACCO dues for Tena Co-operative Society –Nairobi was Kshs 4,298,672 while the by products totaled Kshs. 2,423,821 a difference of Kshs. 1,874,851.

When such anomalies are detected, the TSC either takes a long time to correct or does not correct the same. These weaknesses clearly indicate that there are possibilities of TSC and SACCO members losing money.

*The Commission Secretary should ensure that documented reconciliation between payroll by products and allocation summaries is done before remitting third party dues to avoid loss of funds and administrative inconvenience in correcting such errors.*

*The Commission Secretary should also ensure adequate supervision at the salaries section in order to reduce errors. The supervisors should ensure that the right codes for all the third party deductions are applied.*

*Any over payments made to third parties should automatically be deducted from the subsequent month's third party remittances and paid to the rightful payees.*

### **3.4.5 MEDICAL COVER**

The TSC operates multiple medical covers which include a Secretariat medical scheme, monthly out patient allowance and medical ex-gratia. When a secretariat staff or family member falls sick, he/she obtains a letter of introduction to one of the listed hospitals for either inpatient or out patient treatment. The letter shows the credit balance of the scheme member that the member should not exceed. If exceeded, the employee is required to pay the difference in cash. In some cases the employee may request TSC to pay the excess amount and later recover from the salary. Upon treatment the hospital sends invoices to the TSC for payment.

This system of medical cover is not only cumbersome to operate but also has loopholes which may be used to make payment for false claims. There is no adequate control to ensure that only authorized family members benefit from the scheme. Officers of the TSC informed the Examination Team that the Commission was considering putting in place an electronic SMART Card to overcome some of these challenges. However, this may not adequately address the issue of multiple medical covers.

*The Commission Secretary should conduct a feasibility study to detail the cost benefit analysis between the existing system of medical cover and an insurance cover with a view to adopting the latter. A comprehensive medical scheme may save the TSC in payment of medial benefits, expenses as well as ex gratia assistance claims. It will also be more convenient because it will shift*

*administration of the scheme to an insurance firm since the TSC may be ill qualified to operate.*

### **3.4.6 DEBTORS**

The TSC has a huge debt portfolio which amounted to Kshs 164 million as at 2004/05. These results from salaries paid to teachers who have deserted, officers paid for study leaves beyond authorized period and illegal promotions. On transfer of teachers, the TSC takes long to correct the pay point hence the salary is returned. These inefficiencies lead to huge amounts of returned salaries averaging Kshs. 12 Million per month. It is also costly to collect this money given that a Revenue Section has been created for this purpose with about 80 employees.

*The Commission Secretary should ensure that Pay Change Advises (PCAs) to Salaries Department are promptly acted on to reflect new salary payment and pay stations. Teachers on transfer may also be paid by cheque or through the nearest Postal Corporation in the new station before the payment is regularized. This will avoid sending salaries to wrong stations and later making efforts to reroute the same and minimize the possibility of losing money in the process.*

### **3.4.7 BANK RECONCILIATION**

- 1) The Commission has a special arrangement with the National Bank of Kenya to return to TSC paid cheques to facilitate preparation of bank reconciliation statements. This is against the principles of accounting relating to preparation of bank reconciliation statements. Whenever a paid cheque leaf is not received from the bank, the entry is reversed and considered 'not paid' at the cost of the bank and the payment reversed as un-presented cheques. However, the payee is assumed to have received the money.

*The Commission Secretary should ensure that bank reconciliation is done using the bank statements since the bank statements provide an updated record of payments made by the Bank.*

- 2) Though the TSC is connected to the National Bank of Kenya (NBK) website for ease of tracking transactions online, the online report is not properly aligned and the TSC can only view completed transactions. TSC can not track cheque clearing process before it is completed hence it is difficult to detect any fraud before it happens.

*The Commission Secretary should liaise with NBK to provide a clear reference system that will give details of all the transactions as they are taking place. This*

*will help the TSC to monitor the cheque clearing process more effectively and counter fraudulent payments before they occur.*

- 3) The TSC has a huge suspense account arising from the creation of new districts. There are also outstanding balances for Local Authorities in respect of service charge which was abolished. At the time of the Examination, the Treasury had not issued guidelines on how to settle such dormant accounts.

*The Commission Secretary should consult the Treasury for guidance on how to clear the balances from its books of accounts.*

## 3.5 INTERNAL AUDIT

### Internal Controls

The TSC has established an Internal Audit Department which is headed by a Senior Deputy Secretary who reports to the Commission Secretary. The Department is mainly expected to appraise internal systems and processes of the Commission so as to advise management on risk areas and recommend on how to avert the risks. Although the Department has about 70 Internal Auditors, there are weaknesses in its operations which make it less effective in the performance of its core duties.

- 1) The Department has not conducted system audits in some areas such as recruitment of both the secretariat staff and teachers, procurement of stores and services and payment system. The Department has therefore not adequately advised management on system weaknesses that permit malpractices to occur.

The internal auditors are sometimes engaged in operating the various systems in the operations of the Commission. For instance, Internal Audit Division is involved in vetting of recruitment of teachers to check the compliance to TSC guidelines by the DEOs and DEBs during recruitment. The Commission nevertheless ratifies employment even when it is clear that its own guidelines are violated by the DEBs despite the internal auditors' participation in the vetting. The involvement of the internal audit in this process takes away the independence of internal audit department to appraise the system which they are party to. Lack of audit independence makes the processes appear routine to the auditors hence they can not detect system weaknesses objectively.

*The Commission Secretary should ensure that the Internal Audit Department is more involved in independent appraisal of various internal processes and recommend to management the most suitable system that can avert risk. Auditors should not be deployed to operate the systems and processes which they are meant to review, identify risk and advise management. This will imply reducing the number of auditors to a leaner and more efficient team.*

- 2) The Internal Audit Department conducts pre-audits on all payment vouchers before they are cleared for payment. Usually only one auditor is involved in pre audit of payment vouchers. This creates a loophole for collusion since the Auditor can easily be compromised to pass the Payment Vouchers even with anomalies.

*The Commission Secretary should create an Examination Section to carry out examination of payment vouchers before payment is done. Internal Auditors should concentrate on internal systems reviews to strengthen internal controls, among others duties. Internal auditors should check on a test basis as to whether the examination section and other accountants are complying with the laid down policies and procedures.*

### **Audit Committee**

- 3) The Audit Committee is not properly constituted because some members of the Tender Committee are also members of the Audit Committee. This is in contravention of the provisions of Treasury Circular No. 16/2005 (section 3.1.2) regarding “Establishment and Operationalisation of Audit Committees in the Public Service.” This erodes the independence of the Audit Committee in reporting to issues related to procurement. The committee is not independent hence may fail to detect or can cover up some malpractices brought before it due to conflict of interest of such members

*The Commission Secretary should reconstitute the Audit Committee as per the provisions of the Treasury Circular No. 16/2005 regarding ‘Establishment and Operationalisation of Audit Committees in the Public Service’. It is imperative that members of the Audit Committee should exclude staff members who are directly involved in processing financial transactions of the Commission such as finance and procurement.*

### **Mandate of the Auditors**

- 4) The Internal Audit Department is involved in the interpretation of the audit reports compiled by the Schools Audit Unit in the Ministry of Education. Sometimes the auditors go out to verify these audit reports. There are cases where TSC auditors conduct investigation and later call upon the Ministry auditors to conduct audit queries. This brings a legal complication since such reports can not stand in the disciplinary proceedings because the Ministry of Education Schools Audit Unit is the only one mandated by the Education Act to audit schools.

*The Commission Secretary should ensure that the Internal Audit Department’s role is limited to interpretation of reports as opposed to conducting initial audits. In situations where audit for schools is required, the same should be referred to the Head of Schools Audit in the Ministry of Education.*

- 5) The Auditors in the Ministry of Education lack the legal mandate to audit other funds like LATF, and CDF funds and only concentrate on FPE funds. Where head teachers are involved in misappropriation of other funds such as CDF, some auditors have had difficulties in auditing the funds, with the head teachers arguing that such funds are audited by the internal auditors in the Ministry of Finance.

The Examination Team was informed that there is a proposal to integrate all autonomous ministerial audits units including Schools Audit Unit with the Internal Auditor General's Office in the Ministry of Finance.

*The Permanent Secretary Ministry of Education in consultation with the Permanent Secretary Ministry of Finance should expedite integration of the Ministry of Education's Schools Audit Unit with the Internal Auditors General's office so as to enable schools' auditors to conduct comprehensive audit for all monies received in schools without any hindrances.*



## 3.6 MANAGEMENT OF PROCUREMENT

The Procurement Division is faced with serious challenges which are partly linked to the establishment of the Division. The Division like most of the other Departments of TSC is inappropriately staffed. As a result of this bottleneck, an examination of the entire procurement chain indicates serious deficiency of capacity for effectiveness in the procurement process. Some of the challenges are demonstrated by the various findings and observations discussed in this section.

### 3.6.1 OPERATIONAL TOOLS

- 1) Although the TSC has a Procurement Plan, the Team observed that the Plan was prepared without the necessary consultation with the user Departments. As a result the Procurement Division prepares a list of requirements based on the historical needs of the user Departments. Such a list does not integrate Departmental work plans into the procurement system. Procurement is therefore done reactively which leads to wastage and extravagance as necessary procurement procedures which safeguard misuse of resources may not be adhered to.

*The Commission Secretary should ensure that comprehensive Annual Procurement Plans are prepared in line with the Public Procurement and Disposal Act 2005 which requires that all procurement activities should be guided by proper planning to avoid wastage of public resources. This will also enhance the linkages between planning and budget implementation.*

- 2) The TSC has prepared a User Guide and a Procurement Policy Manual as necessary tools to describe the sequencing of events in the process of procurement. However the Team observed that these are not applied in the procurement process.

*The Commission Secretary should ensure that the policy manual and guidelines are reviewed and implemented in line with the Public Procurement and Disposal Act 2005 and the accompanying regulations of 2006. The manuals should clearly delineate the roles of various players in the procurement process.*

- 3) The TSC Goods Receiving Notes (GRN) which are used to receive goods from suppliers are not serialized and do not have adequate security features. The notes are in form of computer print outs. This is a loophole that can be exploited to make double payments or payment for unsupplied goods. Furthermore, procurement officers who initiate procurement processes also receive goods from suppliers.

*The Commission Secretary should ensure GRN are serialized and bears adequate security features. In addition, the Secretary should segregate duties between officers who initiate procurement and those who receive the supplies for accountability.*

### **3.6.2 CAPACITY OF THE DIVISION**

The staff deployed in the Procurement Division lacks both necessary training and experience in the field of procurement. The Team noted that officers with professional qualifications in procurement were placed in junior levels in the Division and in most cases their professional advice was ignored. The Division therefore lacks the necessary capacity to guide TSC on desirable procurement methods and practices. This leads to inefficiency and loss of value in procurement.

*The Commission Secretary should implement the requirements of Public Procurement and Disposal Act 2005 by deploying professionally qualified and experienced officers to the procurement Division of the Commission.*

### **3.6.3 SUPPLIER LISTING AND PRE-QUALIFICATION**

The TSC carries out procurement without a list of pre-qualified suppliers but awards annual contracts for various items. This process limits competitiveness and exposes TSC to the risk of procuring goods and services at exorbitant prices.

*The Commission Secretary should institute the practice of annually pre-qualifying suppliers through a competitive bidding process. This will open an opportunity for the Commission to choose from a wide range of suppliers and to achieve value for money. The suppliers once pre-qualified should be invited on a fair share principle such as rotation.*

### **3.6.4 TENDER EVALUATION**

Most of the quotations and tenders are evaluated by one officer in the Procurement Division. This creates a loophole for manipulation of the process as the officer may be compromised through bribes or undue influence by suppliers and other interested parties.

A tender evaluation criterion is not included in most of the tenders and quotations. This is a major loophole which can be manipulated as the criteria could be set to suit specific bidders and to lock out others.

Evaluation of tenders for common user items is sometimes done on a cluster of items instead of the individual items. This system denies bidders an opportunity to supply items for which they have comparative

advantage in pricing. For instance, the contract for the supply of vegetables was awarded on aggregate and it led to a complaint by one of bidders who felt he was unfairly denied an opportunity to supply certain items which he had comparative advantage in supplying.

*The Commission Secretary should ensure that evaluation of tenders is done by committees appointed from time to time depending on their technical expertise. He should further ensure that tender evaluation criteria are disclosed in the tender documents.*

*In addition, the Secretary should ensure that the Commission desists from evaluating tenders on order aggregation basis and ensure that tender analysis is done on individual item basis. This will give the Commission an advantage in enlisting bidders whose prices are more competitive.*

*The Commission Secretary should ensure that henceforth, all procurement is done in accordance with the provisions of the Public Procurement and Disposal Act 2005 and the regulations there under.*

### **3.6.5 INTEGRATION OF PROCUREMENT ACTIVITIES**

Some user Departments carry out procurement activities without the involvement of the Procurement Division. This occurs due to lack of proper linkages between the procurement Division and user Departments. The Division does not have adequate independence to conduct procurement activities without undue interference. The following are some examples of instances where procurement was carried out by other Departments with minimal involvement of the Procurement Division.

- a) Procurement of Information Education and Communication (IEC) materials by the Aids Control Unit (ACU).
- b) Procurement of vehicles, furniture, spare parts for vehicles and equipment by the Office Services Division.
- c) The purchase of Land Rover Discoveries (KAN 217U) and (KAL 677U)

The Examination Team found irregularities in the purchase of the Land Rover Discoveries.

- The vehicles were not subjected to pre-delivery inspection by the Ministry of Roads and Public Works before being taken over by TSC.

- Ownership of the KAN 217U is in doubt. This is because invoices pertaining to vehicle bear the name of a different person other than the TSC. This is an indication that TSC may have procured a used vehicle which is against Government Rules to the effect that public entities should not buy second hand vehicles. This is supported by correspondences between TSC and the supplier availed to the Team.

Failure to integrate procurement through the procurement Division makes it difficult to trace the flow of capital items such as office furniture's, computers and photocopiers. This is because these items are not received and recorded in the stores ledger books. This makes it easy for the Commission to lose items.

*The Commission Secretary should ensure that the Procurement functions are centralized at the procurement Division. In particular, procurement of capital items should be coordinated by the Procurement Division and should be properly received and recorded in the stores ledgers. A register should also be maintained indicating where the items are kept and their status. This will enhance transparency and reduce the possibility of collusion and loss of public resources.*

*The Secretary should further probe the purchase of the Land Rover Discoveries and take appropriate disciplinary measures against those involved in any malpractices in the procurement of the vehicles.*

### **3.6.6 FLOATATION OF TENDERS/QUOTATIONS**

Sometimes, the TSC does not indicate closing dates for submission of tenders and quotations. However, the Team noted that some bidders are locked out on the basis of late submission of bids. In one case, the date shown on the tender document differed from the date indicated in the tender advertisement. Some bidders who relied on the date given in the tender document were locked out. This anomaly can be used to deliberately give undue advantage to some suppliers over others.

*The Commission Secretary should ensure that the bid documents/quotations contain specific details especially in regard to both the closing date and the place for submitting the tenders. Clarity of information on the tender documents is very important as it enhances transparency and integrity in the procurement process.*

### **3.6.7 LEAKAGE OF CONFIDENTIAL INFORMATION**

The Team noted that some TSC officials disclose confidential information to bidders in order to make it easier for them to win tenders. This may be attributed to the fact that there are many players involved in procurement

activities. The Team was informed that one officer working in Accounts Division had leaked information to bidders during the last concluded Annual Tendering Process. The officer was transferred to another Department when the matter was brought to the management's notice.

*The Commission Secretary should invoke the Public Procurement and Disposal Act 2005, and institute appropriate action to ensure that officers are punished for bid rigging and other related offences.*

### **3.6.8 CASH PURCHASES**

The TSC control system for cash purchases is inadequate. A number of officers seek approval from the Commission Secretary and undertake purchases without reference to the Procurement Division. This leads to bloated expenditure using cash which may not be easily accounted. For instance the purchase of extension cables at Kshs.70, 000.00 was done through cash purchases.

*The Commission Secretary should ensure that policy guidelines are put in place to specify limits and criteria on which cash purchases can be undertaken. The Secretary should introduce a standing imprest under procurement to cater for low value purchases.*

### **3.6.9 CONTRACT PREPARATION**

Service contracts between suppliers and TSC are solely prepared by the suppliers. This exposes TSC to risks of shouldering the whole cost of the service contract. It also implies that key performance indicators on those contracts are left out and therefore it's very difficult to monitor the contract performance.

In addition, some contractors are engaged without signed contract agreements. At the time of the Examination, the Team observed that a Consultant had been providing services for computer maintenance without a signed contract agreement for a period of two years. Lack of service agreements implies that performance indicators are not clearly spelt out hence, it is not possible to measure the performance of the service provider. In addition, in the event of any dispute the TSC is likely to suffer huge costs in terms of legal damages.

*The Commission Secretary should ensure that all the contracts are prepared by the Procurement Department in consultation with the Legal Department and the user Departments. The contracts should be drawn in accordance with the standards tender documents as issued by the Public Procurement Advisory Authority. No contractor should be allowed to carry out any services without a contract in force.*

## **3.7 STORES MANAGEMENT**

The TSC operates a small store house which is not adequate to accommodate all the stock items. TSC has further not adopted necessary stores management systems for appropriate custody of various items. This Section presents findings which portray various inefficiencies and opportunities for corrupt practices in the stores management.

### **3.7.1 STORES OPERATIONS**

#### **Receipt of Goods**

- 1) Procurement officers receive goods upon delivery without the involvement of stores personnel. Therefore, these goods are not subjected to control checks such as registers and bin cards. This creates opportunities for corrupt practices such as collusion in payment for goods not delivered or for substandard items.

*The Commission Secretary should segregate procurement functions such as order initiation, processing and receiving of supplies. All goods should be received in the stores using the Goods Received Notes (GRN). The deliveries should be clearly captured in the ledger cards and other appropriate registers for accountability.*

*In order to ensure that the goods supplied meet the specified standards, user Departments should always be involved in receiving the goods. Their involvement should include appending their signatures in the Goods Inspection Certificate. .*

- 2) Defective items returned to the store house are kept together with stock items. For instance, some toners (13A) which were returned for being defective were kept together with the ones in use. This creates a loophole for manipulating stock records especially with regard to physical counting of the stock balances. It also facilitates payment for defective supplies.

*Rejected toners kept together with good ones*



*The Commission Secretary should ensure that the store house has a quarantine section where defective items are kept for ease of accountability.*

- 3) The store house is not subdivided into sections for stocking goods in accordance with their nature and value. As a result, bulky items such as photocopying papers and small but high value items like cartridges and flash disks are not separated. This makes it possible for pilferage of the small but high value items. The Team found out that the Commission had previously lost about 60 flash disks.



*It is easy to remove these goods from the shelves*

*The Commission Secretary should ensure that the store house is properly partitioned and that a section of the store is segregated and properly secured for*

*storage of small but valuable items. Alternatively, lockable cabinets should be provided for the storage of such items.*

- 4) Most of the employees working in the storehouse do not have relevant professional training. In addition, they operate without schedule of duties which creates confusion and lack of accountability since they are all involved in issuing and receiving stock as well as maintaining the ledger cards.

*The Commission Secretary should ensure that properly trained officers are deployed to man the store house. Stock items represent cash and should therefore be guarded against any form of abuse through proper recording receipt and issuance. There should be a transparent system of how the items should flow in and out of the storehouse. Proper storage equipment such as cabinets and racks should be provided. The storehouse should be interlinked with the other departments using appropriate IT system.*

### **3.7.2 OVERSTOCKING**

The Team observed that there was overstocking of slow moving items in the store house. This was attributed to lack of accurate stock records and failure to categorize stocks into various classes. In one of the cases, 33 out of 50 pieces of Toner (HPC 4127X) purchased in August 2002 were still in stock by November 2006. These toners were bought at a total cost Kshs 505,750.00. Overstocking is a loophole that may be used to make unnecessary purchases in return of hefty kick backs.

*The Commission Secretary should ensure proper stock control measures are adopted including analysis of stock in order to categorize it into fast and slow moving stock items. Proper re-order levels should be established for all stock items.*

### **3.7.3 STORE SECURITY**

The physical security of the store house is inadequate. Although there are three different padlocks for locking the store house, the store keys are kept by one person. This defeat the purpose of having three padlocks as a control measure.

*The Commission Secretary should ensure that store keys are kept by different persons who should be officers in senior positions.*



#### **3.7.4 DISPOSAL OF BOARDED ITEMS**

The process of disposal of boarded items at the TSC is prone to corrupt practices. This is because there is no clear mechanism for regulating conflict of interest. During the previous disposal exercise two officers bought two of the vehicles listed for boarding. In such a situation, some employees may take advantage over other interested bidders and thereby limit the competitiveness of the whole process.

*The Commission Secretary should ensure that proper guidelines are in place on how employees may be allowed to participate in the goods disposal process and particularly be able to declare conflicts of interest where this is likely to occur.*

## 3.8 RECORDS MANAGEMENT

The services carried out by the TSC largely rely on records. In this respect the TSC has recognized the value of records that it generates and has established a registry service which is the reference point for carrying out key functions of the Institution. However there are major weaknesses in handling of records which are largely manual. These include procedures on file movements, retrieval and storage among others. Some of the weaknesses in records management which provide avenues for corruption and inefficiencies are discussed hereunder.

### 3.8.1 RECORDS POLICY

- 1) The TSC does not have a records management policy. This is despite the huge number of records it handles particularly with regard to teacher management. Further the TSC does not have a records operational manual to guide the staff on how to handle various types of records. This has led to mismanagement of records thus opening room for corrupt practices.



*TSC records in one of the registries*

*The Commission Secretary should engage the services of records management experts particularly from the National Archives and Documentation Services to*

*work with the Commission in developing a reliable and sustainable records management policy and accompanying operational manuals for TSC.*

- 2) The TSC invited a consultant in the year 2003 who advised on the best way to enhance service at the registries. However the recommendations have not been implemented to date. The Consultant's Report provided an insight into the record management problems faced by the TSC and proposed solutions to assist in reorganizing its records.

*The Commission Secretary should initiate the implementation of recommendations made by the Consultant by preparing an Implementation Plan. The Secretary should further seek for expertise from the National Archives and Documentation Services in implementing the recommendations of the Consultant.*

### **Teacher Registration**

- 1) Registration of teachers is done manually and the teachers Register is maintained in several hand written kalamazoo bonds. The registers are bulky and occupy a lot of space and are kept in un-lockable shelves. This exposes the teacher registration process to illegal entries such as double registration. When a teacher is deregistered as a result of indiscipline, the teachers name is just crossed from the register. There is no other action taken to prevent the same teacher from getting re-registered.



*One of the Teachers' Registers*

*The Commission Secretary should ensure that the register of teachers is secured in lockable fire proof cabinets. Further a computerized database for Teachers Registration details should be developed and maintained. The database should have internal access and processing controls to avoid manipulations and duplication.*

- 2) The manual nature of records creates major inefficiencies in service delivery. For instance when a teacher writes to the TSC without indicating the TSC/personnel number the letter is referred back to the teacher advising him to include the TSC number. This causes unnecessary delays and frustrations to the teachers.

*The Commission secretary should link the mail office with the Education Management Information System (EMIS) to assist in making references where certain information is not provided in communication to the TSC by the Teachers. This is because the data captured by the EMIS provides for teachers name, number and station among others.*

### **3.8.2 RECORDS CONTROL SYSTEM**

- 1) The TSC does not have an appropriate file tracking system. This leads to delays in filing of letters causing further delays in taking the necessary action on the letters. At the time of Examination, there was a pile of over 3000 letters in the mail office pending filing. This may lead to loss of information and may be used for corrupt practices particularly in disciplinary cases.

The file movement register from the registry does not contain sufficient details concerning the persons taking the files out of registry. Those taking the files do not sign for them but are expected to sign a register at the receiving Department. This makes it difficult to trace missing files and hold any officer accountable for files under their custody

*The Commission Secretary should ensure that proper file tracking systems such as movement registers are maintained at all records movement points for accountability. The registers should contain details of the picking and receiving officers and the corresponding dates. This would also assist the Commission in analyzing the effectiveness of its Service Charter with regard to the period within which a matter should be acted on.*

- 2) In some instances, a temporary personal file is opened whenever the actual file cannot be traced. The TSC has no criteria guiding the opening of such files. Consequently, no effort is made to reconstruct the information in the previous file. This is a loophole that could be exploited by unscrupulous registry staff in collusion with the teachers

especially those with disciplinary cases to ensure that crucial information is lost.

*The Commission Secretary should ensure that teachers' files maintained at the Units are frequently updated to form a true copy of the files retained at the head office. This will provide the Commission with the necessary information to reconstruct a temporary file. In addition, the Secretary should ensure that TSC develops policy guidelines detailing the period by which the Commission should search for a file before it is declared lost thereby necessitating opening a temporary file.*

- 3) There is no system in place to bring up the files for action in order to address all the matters raised in a file. As a result, files are returned to the registry before some issues are attended to. This causes unnecessary delays and frustration to the teachers.

It was also observed that some officers kept files in their personal drawers instead of the registry. This could be used for extortion by dishonest officers.

*The Commission Secretary should ensure that the Commission maintains a bring-up diary that includes the name, designation and review date so as to reduce the risk of forgetting uncompleted matters. The bring-up diary should be computerized and the Departmental Heads should bear the responsibility of bringing the files up for action.*

### **District Registries**

- 1) Some records created in regard to teacher management at the District level are poorly maintained. For instance, application forms for promotion received by the staffing officers are not well captured and maintained in the system for verification purposes. In some instances, working papers like score sheets for interviews are not kept. The Team observed that sometimes there is substitution of scores in favour of those who have compromised the officers involved in promotion.

*The Commission Secretary should ensure that comprehensive subject files relating to all aspects of teacher management are created and maintained at the TSC units and copies of the same forwarded to the TSC Head office. This can be achieved by developing a clear filing index for all information. The index should be used at the head office and also at the TSC Units.*

- 2) The TSC has not instituted proper controls on distribution of the forms (commonly referred to as casualty forms) used to provide various instructions on the status of teachers such as date of reporting, change

of pay points, indiscipline, and interdiction among others. These forms are distributed to all Head teachers through the TSC Agents. However in most of the TSC Units, there are no records on the distribution of the forms. Lack of proper controls and accounting system for these forms is a loophole that could be used to exploit teachers by dishonest officers.

*The Commission Secretary should ensure that registers for casualty returns are maintained for accountability purposes. The registers should include the date of receipt from the headquarters, the serial numbers, name and signature of receiving officers.*

- 3) The Examination Team observed cases where TSC employees carry teachers' files in the company of the teachers. This may lead to plucking of some folios from the files. This may be the reason why some crucial correspondences pertaining to discipline keep on disappearing from teachers files.

The Team also observed some officers at the TSC Units sending teachers to the registries to ask for their personal files. This creates an avenue for negotiation to pluck out folios from the files. It could also be used for extortion before the files are retrieved.

*The Commission Secretary should ensure that teachers are served at designated points and at no point should they be required to follow their files to or from the registry. The registries should be out of bounds for unauthorized officers. All officers working in the registries should be vetted.*

### **3.8.3 RETENTION AND DISPOSAL SCHEDULE**

TSC has not developed a retention and disposal schedule for its records. Files of retired officers and those who have resigned or left the service are still available in the current registries. This has contributed to congestion at the registries. This affects retrieval of records and therefore delays in service delivery.

The TSC has identified an archive for their non current records. There is no list of the records that have been transferred to this archive. Therefore whenever a file goes missing, it is always assumed that the file has been transferred to the archive.

*The Commission Secretary should seek assistance from the Director of the National Archives and Documentation Services to assist in preparation of a records retention and disposal schedule in accordance with existing government*

*regulations. The schedule should detail methods of disposal and or transfer of documents to the National Archives for permanent preservation.*



*A congested registry*

### **3.8.4 FILE ALLOCATION GUIDE**

- 1) The TSC has not developed an allocation guide to direct in the retrieval of the files distributed in all the repositories under registry service. Further some registry shelves have not been marked to ease retrieval. The clerks locate the files by familiarity. This practice creates complacency and is not sustainable.



The TSC also lacks a standard format for arranging records for ease of retrieval. The Team noted inconsistencies in some Units whereby some files are arranged in the ascending order while in other Units they are arranged according to the last digit of the teacher's personal number.



*One of the registries with unlabeled shelves*

*The Commission Secretary should develop a File Allocation Guide that will include the file number, the shelf or cabinet number and the repository in which the file is stored.*

- 2) The officers in charge of records in the Head office are not aware of the records which are created in the Departments. The main registry is therefore not in control of such records.

*The Commission Secretary should ensure that an inventory of all the records is created in all the Departments and centralized in the registries. The inventory should include the subject title of the record and the Department or office that creates and maintains this document. A copy of the inventory should also be kept in the creating office.*



### **3.9 INFORMATION AND COMMUNICATION TECHNOLOGY (ICT)**

The Teachers' Service Commission has a full fledged Department of Information Communication Technology that is charged with the formulation and interpretation of ICT policy. It also spearheads computerization exercise for the Commission to improve service delivery. However, the Department is more concerned with data capturing of the Education Information Management System (EMIS). The following are some of the key findings on ICT.

#### **3.9.1 POLICY**

- 1) The Teachers Service Commission does not have an Information Communication Technology (ICT) Policy. Due to lack of policy, the computerization process which is in place is not comprehensive and is carried out in ad hoc manner. This may lead to inappropriate and outdated practices such as outdated information security measures over its data that may lead to integrity and confidentiality of the Teachers Service Commission Information being compromised.

*The Commission Secretary should ensure that a detailed Information and Communication Technology (ICT) Policy is developed and implemented in the Head quarters and Teachers Service Commission Units.*

- 2) There is no specific budget for ICT. TSC relies on annual projections from the Procurement Division. This may lead to TSC not optimizing its ICT services and assets investment since there is no prioritization of ICT resource for operations and projects.

*For effective and efficient ICT investment, the Commission Secretary should ensure that an ICT budget is developed in line with ICT strategy and investment decisions.*

- 3) The TSC plans to computerize all its functional areas in order to improve service delivery, however all the user departments have not been involved in developing systems requirements and specifications. This could lead to haphazard implementation of the computerization process.

*The Commission Secretary should constitute an IT Steering Committee involving all the service areas so as to come up with comprehensive requirements and specifications for computerization.*

- 4) TSC does not keep custody of software licenses. Instead, they are kept by the vendors who supply the software. For instance, licenses for Oracle software and Office application program were still with the vendors at the time of the Examination in November 2006. It is difficult to prove the authenticity of the software supplied without the corresponding licenses. This makes TSC Vulnerable to prosecution if found using unlicensed software.

*The Commission Secretary should ensure that vendors supply the software with licenses which should be in the custody of the ICT Manager.*

- 5) The Information Technology department in the TSC does not maintain an inventory of all its computer equipment and where they are located. This could lead to loss of computer equipment going undetected.

*To effectively maintain and protect computer equipment, the Commission Secretary should ensure that all computer equipments are accounted for and assigned an owner. The owner should be responsible for the maintenance and security of each computer equipment assigned.*

### **3.9.2 RISK MANAGEMENT**

- 1) Systems Generic accounts (super user accounts) which are accounts with more privileges are used simultaneously with normal accounts by Systems Administrators, for instance the administrator account is used in administration of the servers controlling TSC systems and also in the Financial Accounting System. This results in reduced user accountability which may encourage mischief and result in the inability to determine those causing irregularities.

*The Commission Secretary should ensure that these accounts are reviewed and settings are appropriately amended so as not to allow the ability to log in directly into the systems using generic accounts. Systems Administrators should use their personal accounts.*

- 2) Security related events of access violations in the computer servers that control TSC financial and payroll systems are usually not checked by the Systems Administrator. More so TSC employees are not trained on Information security awareness. This could lead to unauthorized access to TSC computer systems going undetected for along period of time and employees divulging sensitive information unknowingly due to lack of awareness.

*The Commission Secretary should ensure regular review of security violation events in computer servers that control the TSC system to facilitate early detection of any unauthorized access to TSC computer systems.*

*The Commission Secretary should further ensure establishment of a security awareness program that will incorporate annual security training and periodic security awareness briefings.*

- 3) The TSC has several sub networks which are interlinked. For instance, the accounts, salaries and Human Resources departments among others have separate sub networks on different floors which are not regularly monitored by the Information Technology Division. This compromises data security in these sub networks.

*The Commission Secretary should ensure that all Finance and Salaries sub networks are integrated into the main network and security of the entire Local Area Network is continuously monitored by the Information Technology Division.*

- 4) Financial Accounting System users are not required to change passwords on a regular basis, there is no system or manual control in place to initiate password change. If a password is not changed on a regular basis, then it will be easier for another user to learn the password from observation over time. This will impair the effectiveness of system access controls.

*Financial Accounting System user passwords should be changed on a regular basis and when personnel terminations occur. The Commission Secretary should ensure guidelines related to password format, change frequency and usage are established and communicated to the relevant staff.*

- 5) Authority to make programming changes to the Financial Accounting System is communicated verbally to the software vendor. No official change Request forms or authority is issued to implement such changes. Lack of proper change control procedures could lead to inappropriate and unauthorized changes being introduced into the system.

*The Commission Secretary should ensure that a change control procedure is developed and changes to the systems are documented with authorized change request form which should include the description and reason of the change made.*

### 3.9.3 BACK-UP AND RECOVERY PLAN

- 1) The Teachers Service Commission does not have a documented Continuity Plan and Disaster Recovery Plan in place, in case of a risk or a disaster it may be difficult to recover normal operations and IT resources. This could result in prolonged disruptions of Teachers' Service Commission activities or even loss of TSC critical financial systems.

*The Commission Secretary should ensure that a Continuity Plan of its IT operations is developed that will enable TSC continue smoothly with its normal functions in case of a disaster. A disaster recovery plan should also be developed which should put into consideration asset criticality including that of the Financial Accounting System, alternative services delivery process and regular testing.*

- 2) The TSC units have computers for Education Management Information System data capture. However, there is no standard application interface for data capture in the TSC units and the staff has not been sufficiently trained on how to use the system. This leads to lack of uniformity in the data collected and possibility of capturing the wrong data.

*The Commission Secretary should ensure installation of a standard application interface for data capture system in all the TSC units and sufficiently train staff in the TSC units on the Education Management Information System.*

- 3) Although TSC takes backups of its systems, the backups of critical applications like the Financial Accounting System, Education Information Management System and the payroll are not taken frequently while the same backups are stored in the same building. Security for the backups is not guaranteed. Financial accounting data may not be fully recovered creating room for manipulation of data between the last backup and the time of system failure.

*The Commission Secretary should ensure that a comprehensive backup system is developed that will minimize the recovery point objective and arrangement made for an offsite backup.*

## 4.0 IMPLEMENTATION OF THE KACA REPORT

The Kenya Anti-Corruption Authority (KACA) carried out an Examination into the systems of TSC in the year 2000. The objectives of the Examination were:

- a) To identify weaknesses, loopholes and opportunities for corrupt practices in the following areas:
  - Policies and procedures relating to promotions
  - Policies and procedures relating to transfers
  - Policies and procedures relating to discipline of teachers
  - Processing and payment of teachers' salaries and allowances
  - Processing and payment of teachers' personal claims
- b) To recommend appropriate measures to seal any loopholes and weaknesses.
- c) To monitor and review the implementation of the recommendations by the TSC.

The Report of the Examination was presented in December 2000. After receiving the Report, the TSC did not prepare an Implementation Plan. The Report was also not circulated to Heads of Departments. Most of the Heads of Departments interviewed during the current Examination said they saw the Report at the time this Examination was being launched. In addition, the Agents interviewed indicated that they had not heard of the Report. Only the Commission Chairman, Secretary and the Head of Administration said that they had seen the report

However, the TSC management prepared and forwarded a status report on the implementation process to the Examination Team. (The report is attached as an addendum to this Report).

The status report indicates that TSC has taken the following actions among others:

1. Each officer of the Commission is required to prepare an annual work plan based on the Commissions performance contract.
2. Each service area holds monthly staff meetings.
3. The Commission has guidelines and clear procedures for staff recruitment, promotion and attendance. The guidelines on identification and appointment of Head teachers have been issued to all TSC Agents
4. Establishment of a transfer committee.

5. Responding to all complaints within seven days in accordance with the TSC service Charter.

The current Examination Report has unearthed and addressed loopholes and inefficiencies in almost all the above areas. This is an indication that although TSC has put in place certain measures to address the findings of the KACA Report, there is much more that needs to be done in order to prevent corruption in the Commission. Furthermore, failure to circulate the Report and to prepare an Implementation Plan is an indication that implementation was carried out in a haphazard manner. In view of this, the Commission Secretary should ensure that the recommendations which have not been acted on are incorporated in the Implementation Plan of this Examination Report.

## **5.0 CONCLUSION**

The Sessional Paper Number 1 of 2005 on policy framework for Education, Training and Research defines the national goals and objectives guiding the Education Sector. One of the strategies for achieving the defined objectives is the need to review the current operations of the TSC with a view to strengthening its capacity to manage teaching services under its mandate. Strengthening of the TSC is of major importance as this is the only institution charged with management of teachers in public primary and secondary schools, teacher training institutions and polytechnics. Indeed with the advent of the Constituency Development Fund, more schools are being constructed and as such there are many requests to TSC to post teachers to these schools. The Free Primary Education further places TSC in a critical position due to its role in the provision, discipline and performance of teachers. The budget for the fiscal year 2007/08 has made provision for recruitment of 11,000 teachers during that period in order to improve the quality of teaching in schools. There are also far reaching proposals for the overhaul of the legal framework. A draft Education Bill has been developed to address reforms in the education sector. This Report has therefore come at an opportune time to support the Government in its endeavour to strengthen the TSC and the quality of education in the Country.

One of the Government strategies in achieving education goals and objectives is the involvement of stakeholders in the management of education at various levels. The Examination Team gathered views from a cross section of stakeholders and key players in the Education Sector as well as studying various reports on TSC. The views of various stakeholders were therefore taken into consideration in the preparation of this Report.

The Report has highlighted weaknesses and corruption loopholes in the methods of work of the TSC. As a Human Resource Institution, the activities of the TSC are basically directed towards personnel management. One of the key concerns therefore should be the quality of the human resource employed in the teaching profession as well as those vested with the management of the teachers. The recruitment of teachers is a critical component in ensuring that the education system is managed by proficient and committed personnel. The Report also recommends the restructuring of the TSC Secretariat in order to improve efficiency in carrying out its functions. Indeed these proposals were echoed by various stakeholders interviewed during the Examination process.

The legal framework within which the TSC operates hinders the Commission Secretary from performing the duties of his office with the necessary independence. This is because the Teachers Service Commission Act Cap 212

Laws of Kenya does not provide the qualifications, appointment and duties of the Commission Secretary and the staff of the TSC Secretariat. This leads to duplication of duties between the Secretary and the Commissioners and underscores the urgency with which the Government should embark on law review.

The law review process must therefore take into consideration delineation of the functions of the Commission as opposed to those of the Ministry of Education. Furthermore findings of this Examination indicate that overlaps and duplications exist in the activities of TSC and those of the Ministry of Education. The functions of the TSC Secretariat will need to be clearly spelt out in order to guide in the formation of its structure. Various reports suggesting the removal of certain functions such as Teacher Registration from the TSC to an Independent Body must also be considered.

The recommendations set out in the Report will assist in the sealing of corruption loopholes in the operations of the TSC. The process of implementation must be supported by the Commissioners, Commission Secretary as well as the Ministry of Education. The senior and mid level management staff of the Commission must be involved because they have a critical role in the supervision and control at all levels of the TSC. In order to effectively implement the recommendations of this Report the TSC will require cooperation with various stakeholders as well as incorporating views of previous studies on the Commission. This includes the report of the Kenya Anti-Corruption Authority (KACA) of 2000. Some of the recommendations will require substantial financial outlays but if well implemented, will no doubt have positive outcomes that outweigh the costs. On the whole however, most of the recommendations contained in this Report will not require substantial financial input.

Systematic implementation of this Report will require the TSC to prepare a comprehensive Implementation Plan incorporating all the issues raised in this Report and the Kenya Anti-Corruption Authority (KACA) Report. KACC expects the Secretary to spearhead the preparation of the Implementation Plan which should be forwarded to the Director one month after the presentation of this Report. The Plan will assist KACC to continuously monitor the process of implementation and address any emerging issues. KACC will also be at hand to offer necessary guidance.



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# APPENDIX I DECLARATION OF CONFLICT OF INTEREST SAMPLE FORM

Declaration of conflict of interest

## Part A – Declaration (to be completed by declaring staff)

To: (Approving Authority)

I would like to report the following existing/potential\* conflict of interest situation arising during the discharge of my official duties:

<p><b><i>Persons/companies with whom/which I have official dealings and/or personal interest</i></b></p> <p><b><i>1</i></b></p> <p><b><i>2</i></b></p> <p><b><i>3</i></b></p> <p><b><i>Brief description of my duties which involve the persons/companies mentioned above</i></b></p> <p><b><i>1</i></b></p> <p><b><i>2</i></b></p> <p><b><i>3</i></b></p>
--

\_\_\_\_\_

Date

\_\_\_\_\_

name of declaring staff  
Title/Department

## Part B – acknowledgment (to be completed by approving authority)

To: declaring staff

The information contained in your declaration for of ----- is noted. It has been decided that:

You should refrain from performing or getting involved in performing the work =, as described in Part A, which may give rise to conflict of interest.

You should continue to handle the work as described in Part A, provided that there is no change in the information declared above.

Other conditions (please specify) -----

\_\_\_\_\_

Date

\_\_\_\_\_

name of approving authority  
Title/Department

*(Adapted from various best practices guidelines on staff Administration from ICAC New South Wales and ICAC Hong Kong)*

## **APPENDIX II OFFICIALS INTERVIEWED, OFFICES AND PLACES VISITED**

### **TSC HEADQUARTERS NAIROBI**

1. The Secretary Teachers Service Commission
2. The Chairman Teachers Service Commission
3. Senior Deputy Secretary Administration
4. Human Resource Department
5. Finance
6. Audit
7. Staffing
8. Registry
9. Pension
10. Catering

### **PROVINCIAL OFFICES**

1. Nairobi
2. PSA Coast
3. PDEO Rift Valley
4. PSO Rift Valley
5. PSA Rift Valley
6. PDEO Nyanza
7. PSO Western
8. Deputy PDEO Eastern
9. PSO Eastern
10. Deputy PDEO Central
11. PSO Central
12. PSA Central
13. DPSA Western

### **DISTRICT OFFICES**

1. Director of City Education –NCC
2. DEO Mombasa
3. DHRO Mombasa
4. MEO Mombasa
5. MSO Mombasa
6. DEO Malindi
7. DHRO Malindi
8. DEO Kilifi
9. DSO Kilifi
10. DEO Nyeri
11. DHRO Nyeri
12. DSO Nyeri
13. DQASO Nyeri

14. DEO Kirinyaga
15. DHRO Kirinyaga
16. DHRO Chuka
17. DSO Chuka
18. DDEO Mbeere
19. DHRO Mbeere
20. DSO Mbeere
21. DEO Nakuru
22. DHRO Nakuru
23. DSO Nakuru
24. DMEO Nakuru
25. DDEO koibatek
26. MEO Kisumu
27. MSO Kisumu
28. DHRO Kakamega
29. DDEO Kisii
30. DEO Kisumu
31. DHRO Kisumu
32. DSO Kisumu

#### **PRIMARYSCHOOLS VISITED**

1. Mrima Primary School Likoni
2. Star of the Sea Primary School
3. St. Augustine Primary School
4. Kisauni Baptist Centre Primary School
5. Moi Primary School Nakuru
6. Kisii Campus Primary School

#### **SECONDARY SCHOOLS VISITED**

1. Muvandori Mixed Secondary School
2. Solian Girls High School

#### **STAKEHOLDERS**

1. Kenya National Union of Teachers (KNUT)
2. Government Information Technology Services (GITS)
3. Ministry of Education (MOE)
  - Department of Quality Assurance and Standards
  - Schools Audit Unit
  - Kenya Education Sub-Sector Programme (KESSEP)
4. Teachers Service Appeals Tribunal (TSAT)