

**MANUAL ON
DISCIPLINARY PROCEDURES
IN THE PUBLIC SERVICE**

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i. LIST OF ABBREVIATIONS

AG: Attorney General

CP: Criminal proceedings

DP: Disciplinary proceedings

ESP: Employee Support Programme

GP 46: Personal Record Sheet

GP 47: Service and Leave Record Sheet

HR: Human Resources

PSC: Public Service Commission

P&SD: People and Standards Division

PSMC: Public Service Management Code

SDP: Standing Disciplinary Panel

ii. GLOSSARY

Admonishment

An administrative measure taken against a public officer by his supervisory officer for minor misconduct. An admonishment may be verbal or in writing.

Additional Earnings

Income other than the basic salary.

Analogous grade

Grades which are on a salary scale having the same maximum salary as the scale of the post to which they are being compared.

Chairperson of a Disciplinary Board

The public officer who chairs the Disciplinary Board.

Criminal proceedings

The proceedings instituted by the Police in the Criminal Court against a public officer for having allegedly committed an offence of a criminal nature.

Delegation

The authority entrusted to officials allowing them to act and make certain decisions on behalf of higher Authorities.

Demotion

A recommendation by the Commission for the appointment to an office of lower status and emoluments.

Departmental Representative

A public officer who may represent the Head of Department before a Disciplinary Board.

Disciplinary Board

A Board which is appointed by a Permanent Secretary in terms of regulation 18 of the Disciplinary Regulations, to investigate a disciplinary charge issued in terms of regulation 17.

Disciplinary file

A file containing information and records relating to a disciplinary case of a public officer.

Disciplinary proceedings

The proceedings initiated by a Head of Department in terms of the Disciplinary Regulations against a public officer for misconduct.

Disciplinary Regulations

Public Service Commission Disciplinary Regulations, 2017.

Exculpation

When the officer charged replies to the charge issued against him and, in the opinion of the Head of Department, the officer submits sufficient grounds to justify himself.

Grade

Any grade listed in the Third Schedule of the Public Administration Act.

Head of Department

The Head of any department of Government listed in the Second Schedule to the Public Administration Act, but for the purpose of the PSC Disciplinary Regulations, also includes Permanent Secretaries, Directors General and Directors, and any other public officer or authority to whom power to exercise disciplinary control has been delegated in accordance with article 110 of the Constitution, in terms of the Instrument of Delegation.

Head of the Public Service

The public officer holding, or acting in, the office of Principal Permanent Secretary in terms of article 14 of the Public Administration Act.

Increment

An annual increase in salary, until the maximum of the scale of pay is reached.

Members of a Disciplinary Board

Members of a Disciplinary Board may be either public officers or members of the Standing Disciplinary Panel.

Permanent Secretary

A public officer appointed as Permanent Secretary in terms of article 92(3) of the Constitution.

Personal file

File containing personal information and records relating to a public officer.



Precautionary suspension

The suspension of an officer from the exercise of his duties in terms of Regulation 12 of the Disciplinary Regulations.

Public officer

A public officer as defined by article 124(1) of the Constitution.

Public Service Commission

An autonomous institution set up in terms of article 109 of the Constitution.

Salary

Basic salary in compensation for work carried out, usually paid every four weeks in 13 equal instalments of the annual salary.

Salary scale

One of twenty (20) pay scales related to different grades and corresponding levels of responsibility. Salary scale 1 being the highest and salary scale 20 being the lowest.

Summary suspension

Suspension on no pay of a public officer by his Head of Department, as an interim measure in terms of Regulation 10(1) of the Disciplinary Regulations.

Supervisory officer

A public officer who is responsible for other public officers.

Written communication

Communication which may be delivered either by hand, or registered or electronic mail.

Working Days

Computation of working days for the purpose of disciplinary regulations is to be based on the standard 40hr/5day week schedule in accordance with the PSMC.

iii. FOREWORD

This manual expands on the provisions of the PSC Disciplinary Regulations 2021, to ensure that the Disciplinary Regulations are interpreted correctly and uniformly by line departments, and also to impart best practices on the exercise of discipline and the conduct of disciplinary hearings by Disciplinary Boards. The manual is appended to Directive 11 issued by the Principal Permanent Secretary and is considered as Government's official document which regulates the exercise of discipline in the Malta Public Service.

The manual was created specifically as a tool to assist Heads of Department, HR Managers and public officers who are responsible for the exercise and/or the processing of disciplinary cases against public officers in line Departments. The manual provides clear guidelines on the procedures to be followed when there are disciplinary/criminal cases against public officers.

This revised and simplified version of the manual offers guidelines that are more user-friendly.

The P&SD, in consultation with the PSC, may issue updated versions of this manual from time to time.

Disclaimer

Whenever there is a discrepancy between the content of this Manual and the provisions of the Disciplinary Regulations, the latter shall prevail.

01

General Provisions

1. General Provisions

The Prime Minister, acting on the recommendation of the PSC, has the authority to discipline public officers, in accordance with article 110(1) of the Constitution. Nonetheless, the Constitution provides that the disciplinary authority of the Prime Minister may be delegated.

The PSC Disciplinary Regulations, 2017 stipulate the procedure to be followed by Heads of Department to exercise discipline on public officers falling under their responsibility. These regulations emphasize increased accountability and transparency to ensure a fair and just disciplinary process.

The PSC is empowered to give rulings and direction on the interpretation of the regulations if the need arises, as well as to enquire into the disciplinary control exercised by Heads of Department.

The P&SD exerts a monitoring role to ensure compliance across line departments. To this end, the P&SD carries out on-the-spot compliance assessments and desk-based checks, on disciplinary/criminal cases instituted against public officers.

1.1. Authority to Exercise Discipline

The authority to exercise discipline against a public officer lies within the Head of any department of Government that is listed in the Second Schedule to the Public Administration Act, as well as:

- (a) Permanent Secretaries and Directors General and Directors other than Heads of Department; and,
- (b) any other public officer or authority, not being a Head of Department, to whom power to exercise disciplinary control has been delegated by means of an Instrument of Delegation (Appendix A), in accordance with article 110 of the Constitution.

1.2. Powers of the PSC

The PSC, shall recommend to the Prime Minister that the delegation of authority is withdrawn and/or that disciplinary action be taken against the officer concerned, if it emerges that a Head of Department or any other officer:

- a) has abused delegated authority; or
- b) has failed to exercise proper disciplinary control in accordance with the PSC Disciplinary Regulations, 2017, or this manual; or
- c) did not comply with any PSC ruling or directive;

1.3. Liability to Disciplinary Proceedings

A public officer is liable to disciplinary proceedings, in accordance with regulation 4(1) of the PSC Disciplinary Regulations 2017, for misconduct, which includes:

- a) unprofessional or unethical behaviour;
- b) behaviour disrespectful to colleagues, superior officers or members of the public; and
- c) neglect or dereliction of duty.

02

General Powers of Supervision

2. GENERAL POWERS OF SUPERVISION

Public officers are expected to perform their duties in a professional and ethical manner. To this end, Heads of Department, as well as supervisory officers, are to ensure that public officers under their responsibility observe the principles and regulations stipulated in the PSMC, Code of Ethics, directives, regulations and other official instructions binding public officers.

Prior to resorting to the application of the disciplinary procedures set out in the PSC Disciplinary Regulations 2017, supervisory officers are to draw the attention of the officer concerned on the proper means of conduct and resort to administrative measures by admonishing the officer concerned verbally or in writing, for minor misconduct.

2.1. Written Admonishment

To address minor misconduct, a supervisory officer may issue a written admonishment. The following procedure is to be followed:

- a) The supervisory officer shall within **five (5) working days** from the date s/he becomes aware of the alleged misconduct, inform in writing¹ the officer under his/her responsibility of his/her intent to issue a written admonishment, stating the grounds therefor;
- b) The officer concerned shall have the opportunity to exculpate himself/herself within **five (5) working days** from when s/he is so informed;
- c) If the supervisory officer does not consider that the officer concerned has exculpated himself/herself, s/he shall administer the written admonishment² within **five (5) working days**.
- d) The written admonishment shall be kept in the officer's personal file for **six (6) months**, in a sealed envelope. No permanent record of the admonishment shall be kept and no record shall be entered in the GP 47 or personal record sheet of the admonished officer.
- e) The supervisory officer who issues the admonishment shall ensure that the admonishment is removed from the file and destroyed after the lapse of **six (6) months**.

A written admonishment shall not be issued against an officer who has already been admonished in writing on **two (2) occasions** in any period of **six (6) months**. The supervisory officer shall however, report the matter to the Head of Department, who shall decide on appropriate disciplinary action under the PSC Disciplinary Regulations, 2017.

A supervisory officer is also expected to use his/her discretion and good judgement as to when recurrent and/or inappropriate conduct should be reported to the Head of Department.

¹ Specimen letter is available for download from the P&SD website .

² The template of a written admonishment is available for download from the P&SD website.

03

Application of Disciplinary Regulations

3. APPLICATION OF DISCIPLINARY REGULATIONS

3.1. Criminal Offences

3.1.1. Action following the Institution of Criminal Proceedings against a Public Officer

When it comes to the notice of a Head of Department that an offence allegedly committed by a public officer under his/her responsibility may be of a criminal nature, s/he shall consult the Attorney General³ as to whether a prosecution should be instituted or, if the latter does not advise a prosecution, as to whether disciplinary action should be taken under the PSC Disciplinary Regulations. In the latter case, the charges framed against the officer shall be approved by the Attorney General [regulation 13(1)].

If criminal proceedings have been or are being instituted against an officer, or the officer is being investigated in connection with an alleged criminal offence, the Head of Department shall report the matter to the PSC with a recommendation⁴, giving reasons, as to whether or not the officer should be suspended for precautionary purposes from the exercise of his/her powers and functions. If the Head of Department considers that offering alternative duties is a more practical option, he should state where the officer concerned would be assigned for duty and the type of duties s/he would be assigned. A copy of the police report and/or bill of indictment shall be attached to the recommendation sent to the PSC, where applicable. This recommendation shall be copied to the officer facing criminal proceedings [regulation 13(3)].

The Head of Department may suspend the officer on half pay pending the approval of **precautionary suspension** by the Prime Minister acting on the recommendation of the PSC, in accordance with regulation 13(4) of the Disciplinary Regulations.

Further details on precautionary suspension are provided under Section 3.2.3 of this Manual.

Alternatively, the Head of Department may direct the officer to avail himself/herself of **forced vacation leave** for a single period up to a **maximum of one hundred (100) hours** and the officer shall comply in accordance with regulation 11(1). However, if an officer has no balance of vacation leave, the Head of Department shall proceed as set out in the preceding two paragraphs, by resorting to the suspension of the officer concerned.

3.1.2. If the Officer is acquitted

An officer acquitted of a criminal charge shall not be punished on any charge of which he has been acquitted by the Court but he may be liable to disciplinary action on any other charge arising from his/her conduct in the case, particularly conduct which is liable to discredit the department or the bring the Public Service into disrepute, including:

- a) conduct in the officer's private capacity resulting in a criminal offence;
- b) conduct which has actually discredited the officer's Department or brought the Public Service into disrepute; and
- c) conduct which would likely discredit the officer's Department or bring the Public Service into disrepute if such conduct became public knowledge, taking into account the circumstances of the case, the duties of the officer charged, and the standards of behaviour applicable to the officer charged in particular, and to all public officers in general.

³ Specimen letter is available for download from the P&SD website.

⁴ Template is available for download from the P&SD website.

If a Head of Department decides that disciplinary action is to be taken, s/he shall submit the proposed statement of charges against the officer concerned for the AG's approval within **five (5) working days** from when s/he becomes aware of the final court judgement. The Head of Department should ensure that criminal proceedings against his/her employees are closely monitored by requesting regular updates on the case from the Police Department [regulations 14(1) and (2)].

Irrespective of whether or not the Head of Department intends to take disciplinary action, s/he shall inform the PSC of the Court judgement, also stating whether s/he proposes to take disciplinary action in connection with the case⁵. In cases where the officer has been suspended for precautionary purposes, the Head of Department shall submit a recommendation as to whether or not the precautionary suspension should be lifted, giving reasons for his/her opinion [regulation 14(3)].

3.1.3. If the Officer is found guilty [regulation 15]

The Head of Department shall refer the Court judgement to the PSC whenever a public officer is found guilty of a criminal charge. It is only the PSC, taking into account the findings of the Court, the nature of the misconduct and whether it is in any way related to the officer's official duties, which decides on the penalty, if any, to be imposed.

Before making its recommendation to the Prime Minister as to the penalty, the PSC shall give the officer the opportunity to submit representations to it on the proposed penalty if this includes dismissal, a warning of dismissal or the forfeiture of the salary withheld. Such representations must reach the PSC within **ten (10) working days** from the date the officer is notified of the proposed penalty.

If the officer was suspended for precautionary purposes as a result of these charges, and the proposed penalty is other than dismissal, the PSC may immediately recommend the lifting of the precautionary suspension, without prejudice to the possibility of the forfeiture of the salary withheld during the period of precautionary suspension or the imposition of disciplinary penalties.

In order to ensure that an officer does not remain suspended for precautionary purposes unnecessarily, the Head of Department should ensure that criminal proceedings against their employees are closely monitored by requesting regular updates on the case from the Police Department/Court Registry.

3.2. Interim Measures Pending Disciplinary or Criminal Proceedings

Whenever criminal or disciplinary proceedings are contemplated against a public officer, the Head of Department may resort to summary suspension, forced leave, or precautionary suspension as per the provisions stipulated below.

3.2.1. Summary Suspension

- a) A Head of Department may summarily suspend a public officer under his/her responsibility up to a maximum of **eight (8) working days** on grounds of alleged misconduct.
- b) During the period of summary suspension, the salary of the officer concerned shall be withheld.
- c) A summarily suspended officer has the right to report back to work immediately after the expiry of the maximum of **eight (8) working days**, unless the Head of Department recalls the officer for duty earlier.
- d) If the Head of Department **fails to initiate disciplinary proceedings** for the alleged misconduct against the officer concerned, in accordance with regulations 17 or 25 of the Disciplinary Regulations, the officer shall be refunded the amount of salary withheld during the period of summary suspension and no record of the summary suspension shall be entered in the officer's record of service.

⁵ Specimen letter is available for download from the P&SD website

- e) If the Head of Department **institutes disciplinary action** against an officer who has been summarily suspended, and the officer charged is:
- found **guilty** of the charges brought against him/her, the period of summary suspension shall be taken into account when determining the penalty to be imposed, and adjustments to his/her salary made, as and where appropriate;
 - **acquitted** of the charges brought against him/her, s/he shall be refunded the full amount of salary withheld during the period of summary suspension. The officer shall also be entitled to a refund of any other earnings that would have been due during the period of the summary suspension.

3.2.2. Forced leave

The Head of Department may direct an officer under his responsibility to avail himself/herself of vacation leave for a single period up to a maximum of **one hundred (100) hours**, and the officer shall comply. This measure may be used whenever it comes to the notice of the Head of Department that an officer under his responsibility:

- (a) is being investigated or has been arrested by the police in connection with a criminal investigation; or
- (b) is being investigated in connection with a disciplinary offence.

3.2.3. Precautionary Suspension

(i) Circumstances for Precautionary Suspension

A Head of Department may consider it necessary and in the public interest that a public officer be suspended for precautionary purposes from the exercise of the powers and functions of his/her office:

- a) on grounds of a serious disciplinary offence, and/or if further investigation is necessary to establish whether disciplinary or criminal proceedings are warranted; or
- b) when the officer is to be arraigned in Court or is being investigated or has been arrested by the Police in connection with a criminal offence.

(ii) Recommendation and Approval of Precautionary Suspension

- a) Whenever a Head of Department considers it necessary and in the public interest that a public officer is suspended for precautionary purposes, s/he shall make a recommendation to the PSC⁶, as to whether or not the officer concerned should be suspended for precautionary purposes, giving reasons to justify his/her opinion. Before proceeding with the recommendation, the Head of Department shall inform the officer of his/her intention and the officer charged shall be allowed five (5) working days from the date on which s/he is informed, to submit written representations to the Commission, giving justified reasons as to why s/he should not be suspended for precautionary purposes, and regarding the proportion of salary to be withheld.

⁶ A specimen template is available for download from the P&SD website

If the Head of Department considers that, as an alternative to precautionary suspension, other measures may be taken, details of the proposed measures must be included in his/her recommendation to the PSC. Alternative measures might include assigning alternative duties to the officer concerned if this is possible and appropriate.

- b) After considering the opinion and proposals of the Head of Department, the PSC shall recommend to the Prime Minister whether or not the officer should be suspended for precautionary purposes.
- c) Pending the decision of the Prime Minister acting on the recommendation of the PSC, the Head of Department may suspend the officer from the exercise of the powers and function of his/her office for precautionary purposes.
- d) When an officer is suspended for precautionary purposes and no criminal charges have been issued in his/her respect after the lapse of six (6) months from the date s/he was suspended, s/he may submit written representations with justified reasons requesting the Commission to consider the lifting of such suspension. The Commission shall refer the representation to the Head of Department for his/her opinion prior to considering the representation. The Commission shall decide whether its original recommendation should be confirmed or revoked, and shall make a recommendation to the Prime Minister accordingly. The lifting of a precautionary suspension following a representation, shall be made without prejudice to any action in terms of the Regulations, should criminal proceedings be instituted against the officer concerned.

(iii) Action to Be Taken if Precautionary Suspension Is Not Approved

If a proposal for an officer's precautionary suspension is not recommended by the PSC, the Head of Department shall immediately recall for duty the officer under suspension and s/he shall be refunded any salary withheld during the suspension period.

(iv) Action to Be Taken if Precautionary Suspension Is Approved

- a) A public officer who is suspended for precautionary purposes shall receive half his/her basic salary, unless the PSC, after having considered the representation submitted by the suspended officer, and after consulting with the Head of the Public Service, approves a higher proportion of the salary.
- b) If the officer is acquitted of the charges brought against him/her, and taking into consideration any proposals made by the Head of Department, the PSC may recommend to the Prime Minister that the precautionary suspension imposed be lifted and that the salary withheld be refunded. The officer shall also be entitled to a pro-rata payment in lieu of any additional earnings withheld over and above his salary, which payment shall be computed on the mean average of the additional earnings of the previous three (3) years prior to the precautionary suspension. It is thus essential that the PSC is informed as soon as possible of the findings of a Disciplinary Board or the outcome of the Court proceedings so that an officer does not remain suspended on half salary unnecessarily.
- c) If the officer is found guilty, and the appropriate punishment is other than dismissal, s/he may be refunded such proportion of the salary withheld as a result of his/her precautionary suspension as recommended by the Commission. If the punishment is dismissal, the officer shall forfeit the salary withheld as a result of his/her precautionary suspension.

(v) Action to Be Taken on the Salary Withheld if the Officer Ceases to Be a Public Officer Pending Criminal/Disciplinary Proceedings

- a) If an officer ceases to be a public officer (following retirement or resignation) after disciplinary or criminal action has been instituted against him/her but before the conclusion of proceedings, any salary withheld during the period of his/her precautionary suspension shall not be refunded unless s/he is acquitted of all the charges brought against him/her. If the officer dies while proceedings are still pending, any salary withheld as a result of his/her precautionary suspension shall be refunded to his/her heirs.
- b) If an officer under precautionary suspension ceases to be a public officer **before any** disciplinary or criminal charges are instituted against him/her, s/he shall be refunded the salary withheld as a result of his/her precautionary suspension.
- c) The Head of Department shall inform the PSC of any of the above circumstances since the refund or forfeiture of salary is approved by the Prime Minister on the recommendation of the PSC.
- d) Notwithstanding the above, if an officer is under preventive custody, no salary shall be due to the officer during the period of preventive custody, whether s/he is subsequently acquitted or found guilty of the charges brought against him/her.

(vi) Other conditions tied to Precautionary Suspension

- a) An officer under precautionary suspension shall not be allowed access to any official premises identified by the Head of Department, or in any way add to, or remove, any official document, instrument, or any other matter.
- b) An officer who is under precautionary suspension in connection with a criminal offence shall seek the permission of the Head of Department if s/he wishes to travel outside the Schengen area. The Head of Department shall consult with the Commissioner of Police before granting such permission. A suspended officer in connection with a criminal offence who fails to seek such permission shall be liable to disciplinary action potentially leading to dismissal.

3.3. Disciplinary Proceedings in Terms of Regulation 17 of the PSC Disciplinary Regulations

3.3.1. Offences to be Reported Without Delay [regulation 5]

a) Reporting misconduct (the supervisory officer)

A supervisory officer shall report to the Head of Department in writing, including e-mail, any misconduct committed by an officer under his/her responsibility by not later than **five (5) working days** from the date s/he becomes aware of the offence. However, if the supervisory officer fails to report such misconduct within the stipulated time-frame, the Head of Department is empowered to institute disciplinary proceedings for this misconduct in terms of regulation 17 of the PSC Disciplinary Regulations. In such a case, the Head of Department is also expected to determine the reasons why the supervisory officer has failed to report the misconduct within the stipulated time-frame, and consider whether disciplinary action against the supervisory officer is called for.

b) Reporting misconduct (the victim)

An officer who is or has been a victim of an offence allegedly committed by a public officer, as listed in the Schedule of Offences and Penalties appended to the PSC Disciplinary Regulations, 2017, may file a formal complaint in writing with the Head of Department of the officer allegedly committing the offence by not later than six (6) months from the date when the alleged offence is committed.

The Head of Department shall determine whether disciplinary proceedings, in terms of regulation 17 of the PSC Disciplinary Regulations, should be instituted against the officer in respect of whom the complaint was made, after carrying out a preliminary investigation, which shall be concluded by not later than fifteen (15) working days from the date the complaint was received. Provided that, in cases where the victim and the offender do not fall under the responsibility of the same Head of Department, the two Heads of Department concerned shall consult each other before any further action in terms of regulation 17 of the PSC Disciplinary Regulations, 2017, is taken by the Head of Department of the alleged offender.

3.3.2. Exercise of Discipline

a) When Disciplinary Proceedings Are Taken Against a Head of Department/Senior Officer Who Has Been Delegated the Power to Exercise Discipline

By means of the delegation issued by the Principal Permanent Secretary on 27th April 2018, whenever disciplinary action needs to be taken against a Head of Department, or any other senior public officer to whom powers to exercise disciplinary action has been delegated, the Permanent Secretary responsible for that officer shall institute disciplinary action.

b) When a Head of Department cannot be involved in disciplinary action against a Public Officer for justifiable reasons

If a Head of Department considers it inadvisable to become involved in disciplinary action against a public officer under his/her charge for justifiable reasons, s/he shall consult the respective Permanent Secretary, who may in turn take such action as a Head of Department is empowered to take under the Disciplinary Regulations. When the Head of Department is a Permanent Secretary, s/he shall consult with the Head of the Public Service, who may in turn take such action as a Head of Department is empowered to take under the Disciplinary Regulations, or delegate such power to another Permanent Secretary.

c) When disciplinary proceedings are to be taken against a Public Officer serving in an entity which does not form part of the Public Service

When the public officer against whom disciplinary action is to be taken is serving in an entity which does not form part of the Public Service, the Permanent Secretary supervising that entity shall take such action as a Head of Department is empowered to take under the Disciplinary Regulations, unless a senior officer within the entity is empowered to take disciplinary action against the public officer through an Instrument of Delegation [regulation 9]. Where no senior officer within a government entity, has been delegated to take such action as a Head of Department is empowered to take under the Disciplinary Regulations, in terms of an Instrument of Delegation, the Permanent Secretary responsible for that entity, may delegate a senior officer within that entity, to take such action as a Head of Department is empowered to take under the Disciplinary Regulations, in terms of the Instrument of Delegation dated 22 March 2021. In such cases, disciplinary action may also be taken by the Director responsible for Corporate Services in terms of the said Instrument of Delegation.

3.3.3. Commencement of Disciplinary Proceedings

Whenever the Head of Department becomes aware that an officer in his/her department may be guilty of misconduct, as listed in the *Schedule of Offences and Penalties* appended to the PSC Disciplinary Regulations, 2017, s/he shall proceed as follows:

a) Issuing the statement of charges

After conducting the necessary preliminary investigations, but not later than **thirty (30) working days** from the date the alleged offence comes to his/her notice, or not later than **ninety (90) working days** from the date of the signing of a report made in terms of the Inquiries Act, the Head of Department shall prepare a written statement of charges⁷ against the officer concerned, stating the specific particulars of the offence and whether s/he deems the charge/s to be minor, or serious, or serious and potentially leading to dismissal.

It is at the discretion of the Head of Department to decide whether the charges constitute a minor or serious offence, taking into account specific circumstances surrounding the alleged offence and its actual or potential consequences thereof. The Head of Department shall consider:

- a) whether the alleged offence involved violence or threats of violence;
- b) whether the alleged offence was committed in the presence of members of the public;
- c) whether the health or safety of staff or of the public was put at risk as a result of the alleged offence;

⁷ A specimen template is available for download from the P&SD website.

- d) whether the alleged offence was committed by an officer who was responsible for preventing such offences; or
- e) the detriment which was or may have been caused to the Department, the Public Service, or the public interest as a result of the alleged offence.

The statement of charges shall include the details of the offence and the date and/or period of time when the offence was committed and shall also notify the officer that s/he is allowed **ten (10) working days**, from the date when the statement is delivered to him/her, to reply in writing to the charge/s made against him/her, stating any grounds on which s/he relies to exculpate himself/herself.

No action in respect of a minor offence is to be taken if the incident occurred earlier than twelve (12) months from the date it comes to the notice of the Head of Department.

Concurrently, the Head of Department may summarily suspend an officer for a maximum of eight (8) working days in accordance with regulation 10 of the PSC Disciplinary Regulations, 2017. In serious cases, the Head of Department may direct the officer to avail himself/herself of a maximum of one hundred (100) hours forced vacation leave, or suspend the officer pending the approval of the officer's precautionary suspension in accordance with regulation 12 of the Regulations. Further details on the procedures concerning summary suspension, precautionary suspension and forced leave are provided in section 3.2 of this Manual.

b) Correction to the statement of charges

A correction to the statement of charges may be made by the Head of Department, by means of a note in writing to the officer charged and to the Disciplinary Board, as the case may be, at any time during the proceedings, provided that the correction does not alter the substance of the charges.

c) Decreasing the categorisation of the charges

The Head of Department may, at any stage of the proceedings and for sufficient and justifiable reasons, decrease the categorisation of charges from serious to minor. In such cases, a note shall be entered in the records of the case, specifying the reasons for the decreased categorisation of the charges. **If the charge had originally been considered as potentially leading to dismissal**, a decrease in the categorisation of charges shall invariably require the approval of the PSC. In such cases, the Head of Department is required to submit to the PSC a full justification for the proposed decrease in the categorisation of the charges.

d) Extension of time-frame

- The time-frames referred to in a) above, may only be extended in terms of regulation 37 upon approval by the PSC, if prior to the expiry of this time-frame, the Head of Department submits a request to the PSC for an extension, giving reasons to justify why the preliminary investigation was not concluded within the stipulated time-frame [regulation 37].

e) Decision whether or not to institute disciplinary proceedings

- If after considering the officer's reply, the Head of Department is satisfied that the officer has exculpated himself/herself, s/he shall so inform the officer and all documents related to the case shall be destroyed after two (2) months from the conclusion of the case.

- If the officer admits to the charge, the Head of Department shall communicate to the officer charged his/her decision on the penalty, without the need to set up a disciplinary board to investigate the case.
- If the officer does not reply within ten (10) working days, or if in the opinion of the Head of Department, does not exculpate himself/herself, the Head of Department shall refer the case to the Permanent Secretary who shall appoint a Disciplinary Board in terms of regulation 18 of the PSC Disciplinary Regulations, within ten (10) working days from the reply by the officer charged or from the date such a reply was due. The letter to the Disciplinary Board shall be copied to the officer charged⁸. Details on the eligibility criteria for the appointment of Disciplinary Boards may be found at section 3.3.4.

3.3.4. Standing Disciplinary Panels and Disciplinary Boards [regulation 18]

A) Standing Disciplinary Panels (SDPs)

Standing Disciplinary Panels shall be established by Permanent Secretaries for their respective Ministry, subject to the approval of the PSC. The aim of SDPs is to serve as a pool of potential members for Disciplinary Boards, and shall consist of suitable and competent former public officers who shall serve for a period of twenty-four (24) months with the possibility of renewal for further terms of twenty-four months in other Ministries. Renewal is subject to the PSC's approval. Members of SDPs may be removed by the PSC, at its discretion, at any time. Whenever a Permanent Secretary intends to include additional members to the Ministry's Standing Disciplinary Panel, s/he shall consult the People and Standards Division, who shall in turn, seek the approval of the PSC.

Members of Standing Disciplinary Panels are required to sign a declaration form (Appendix B) confirming that they do not have any criminal/disciplinary cases against them and that they were not found guilty of any criminal or disciplinary offence.

B) Disciplinary Boards

A Disciplinary Board shall consist of at least three persons, who shall be appointed by the Permanent Secretary responsible for the officer charged, from among suitable and competent public officers, and/or persons forming part of the SDP of the respective Ministry. The Permanent Secretary shall ensure that a Disciplinary Board **does not include**:

- i) any person connected with the case (this includes any person who made a report on the case, or was involved in any preliminary investigation on the case); or
- ii) any person related up to the third degree to the officer charged, or the alleged victim, if any; or
- iii) any person who may be summoned as a witness in the case; or
- iv) members of staff of the secretariat of the Prime Minister, or of a minister, or of a parliamentary secretary; or
- v) members of the House of Representatives of Malta, mayors or councillors in Maltese local councils, or members of the European Parliament; or

⁸ Specimen templates of the letters to be sent to the Disciplinary Board are available for download from the P&SD website

- vi) candidates for election to the House of Representatives of Malta, a Maltese local council, or the European Parliament, or persons who were candidates in the most recent election to any of the said bodies; or
- vii) holders of posts in the structure of a political party, or persons who held such posts within the last five (5) years; or
- viii) any official of a trade union which represents the officer charged, or the alleged victim, if any; or
- ix) a person who is under a disqualification to serve on disciplinary boards issued by the Commission; or
- x) any other person who would be placed in a conflict or an apparent conflict of interest if s/he sat on the disciplinary board.

The Chairperson of a Disciplinary Board shall be:

- a) a public officer performing duties within the same Ministry as the officer charged; but not directly responsible to the Head of Department issuing the statement of charges.
- b) not below salary scale ten (10) and not less than two salary scales above that of the officer charged;
- c) in salary scale five (5) or higher if the charges are considered as potentially leading to dismissal;
- d) in a salary scale not below that of the officer charged if the latter is in salary scale three (3) or higher.

A member of a Disciplinary Board, who is a Public Officer and not a Member of the SDP, shall be:

- a) performing duties within the same Ministry as the officer charged; but not directly responsible to the Head of Department issuing the statement of charges.
- b) at least one (1) salary scale above that of the officer charged;
- c) in a salary scale not below that of the officer charged if the latter is in salary scale three (3) or higher.

Where no officers within the respective Ministry satisfy the above criteria, the Permanent Secretary shall seek the assistance of the Head of the Public Service, or his/her official delegate, to appoint a Disciplinary Board.

Conflict of Interest

Where any member of the Board would be placed in a conflict or an apparent conflict of interest if s/he sat on the disciplinary board, s/he shall immediately as soon as s/he becomes aware of such conflict inform the Permanent Secretary, who shall nominate a substitute within **ten (10) working days** from the date s/he was notified of such conflict of interest.

Objections regarding the composition of the Disciplinary Board

The officer charged may raise objections regarding the composition of the Disciplinary Board if s/he considers that the Chairperson and/or any member of the Board are in any way prejudiced against him/her. In such a case, the officer charged has the right to submit a petition to the Permanent Secretary **before** the start of the hearing. Disciplinary proceedings shall be suspended pending the decision of the Permanent Secretary

If the Permanent Secretary accepts the petition, s/he shall appoint a new Disciplinary Board or make appropriate changes to its composition, and the officer charged shall be informed accordingly.

If, on the other hand, the Permanent Secretary does not accept the petition, s/he shall so inform the officer charged, who shall have the right to refer his/her petition to the Public Service Commission within **five (5) working days** from the date s/he is so informed. The decision of the Public Service Commission shall be final.

Time-frame for the conclusion of a case

A Disciplinary Board shall conclude the case and communicate its findings to the Head of Department and to the officer charged within **thirty (30) working days** from the date the case was referred to it. This time-frame may be extended by the Head of Department for a maximum of a further **thirty (30) working days**.

If in the opinion of the Head of Department, serious and justifiable reasons exist which preclude the Disciplinary Board from submitting a report on its findings within the time-frames stated in the preceding paragraph, s/he shall refer the matter to the PSC for its direction.

3.3.5. Rights of the Officer charged [regulation 6]

The officer charged shall be entitled to:

- have access to all documentary evidence to be used against him/her and shall be allowed **ten (10) working days** to consider such evidence and to reply thereto, provided that:
 - any documentary evidence produced after the start of the hearing shall not be used against the officer unless the officer has been given access to the evidence and given a maximum of **five (5) working days** to consider the additional evidence and reply thereto.
- an adequate opportunity to make his/her defence.
- the assistance of person/s of his/her choice to prepare and present his/her case, and at every stage of any hearing before the Disciplinary Board or the PSC.
- be informed in writing of the decision on any charge and the penalty, if any, to be imposed, as soon as possible.
- notification of any matter concerning a case of discipline shall be considered as discharged if the notification is delivered to the home address as most recently given by the officer to the department, directly to the officer answering charges, or by any other means, including electronic means, provided that **proof of delivery is retained**.

When an officer facing charges **refuses to accept or does not collect such notification**, the officer's entitlement to such notification shall be considered as having been discharged, provided that proof of attempted delivery or of the officer's failure to collect the notification is retained.

3.3.6. Rights of the Head of Department

A Head of Department issuing charges of misconduct against an officer has the right to:

- Be present and be represented by any person/s of his/her choice during every stage of the hearing before the Disciplinary Board;
- Be notified of any documentary evidence produced by the officer charged after the start of the hearing and shall be given **five (5) working days** to consider the relevance of the documentary evidence to the charges brought against the officer;
- Object to the production of any documentary evidence produced by the officer charged after the start of the hearing, if s/he deems such documentary evidence as irrelevant to the charges brought against the officer charged, within **five (5) working days**. When such objection is made, it is at the discretion of the Disciplinary Board or the PSC, as the case may be, to decide whether the documentary evidence is to be produced or otherwise.

3.3.7. Disclosure of prima facie grounds for additional charges [regulation 21]

In cases where the Head of Department is informed by the Disciplinary Board that the evidence pertaining to the case discloses other *prima facie* **related** misconduct on the part of the officer charged, the Head of Department shall determine whether or not to proceed against the officer. If the Head of Department considers it appropriate to institute disciplinary proceedings for the additional misconduct disclosed, s/he shall proceed in accordance with regulation 17 of the PSC Disciplinary Regulations.

In drawing up the statement of charges, the Head of Department may, in the light of the additional charges, increase the level of seriousness ascribed to the original case, even as one potentially leading to dismissal. In the latter case, the composition of the Disciplinary Board shall conform to the provisions of regulations 18(3) and 18(4) of the Disciplinary Regulations or clause 3.3.4 of this Manual.

In cases where the Head of Department is informed by the Departmental representative that the evidence pertaining to the case discloses other misconduct on the part of the officer charged, **not related to the original case**, the Head of Department shall proceed in accordance with regulation 17 of the PSC Disciplinary Regulations, unless the additional grounds are considered to be a minor offence which was committed earlier than **twelve (12) months** from when it was brought to his/her notice.

3.3.8. Decisions and representations on the findings of the Disciplinary Board [regulation 23]

A) Procedure to be followed when the charges do not lead to dismissal

After the findings of the Disciplinary Board are communicated to the Head of Department and the officer charged, the following procedure applies unless the charges were considered as potentially leading to dismissal:

- a) The officer charged may submit written representations to the Head of Department, or ask for an appointment to make oral representations to the Head of Department, within **ten (10) working days** from the date the findings of the Disciplinary Board were communicated to him/her.
- b) After considering the recommendation of the Disciplinary Board with regard to the penalty to be imposed, if any, and any representations made by the officer charged, the Head of Department shall communicate to the officer charged his/her decision as to whether or not s/he accepts the Board's findings, and on the penalty to be imposed, if any, within **ten (10) working days** from the date such representations reach him/her.
- c) If an officer admits to a charge or fails to submit any representations to the Head of Department within the period specified at paragraph (a) above, the Head of Department shall consider the recommendation of the Disciplinary Board with regard to the penalty, and communicate to the officer charged his/her decision on the Board's findings, and on the penalty to be imposed, if any, within **ten (10) working days** from the date such representations were due. Provided that, whenever the Head of Department is not in agreement with the recommendation of the Disciplinary Board with regard to the penalty, s/he shall enter a note in the records of the case specifying the reasons for such disagreement,
- d) If, through the findings of the Disciplinary Board, it results that the offence was not of a serious nature, contrary to that specified in the statement of charges, the Head of Department may award a lesser penalty than that applicable for serious offences, provided that a note is entered in the records of the

case, stating the reasons why s/he accepted the findings of the Board and consequently awarded a lesser penalty.

- e) The penalty shall come into effect after **ten (10) working days** from the date on which the Disciplinary Board report was received by the officer charged and the Head of Department respectively, during which period both parties may lodge an appeal with the Commission if they do not agree with the findings of the Board.
- f) In cases where the officer charged is transferred to another department whilst the disciplinary proceedings are still ongoing, the Disciplinary Board report is to be sent concurrently to the officer charged, his/her current Head of Department and to the former Head of Department who had issued the statement of charges. If the officer charged decides to make any representations on the findings of the Board, these are to be made with the Head of Department who had issued the charges. The latter is to consult with the officer's new Head of Department of the officer charged, regarding the penalty to be imposed. The penalty is then imposed by the current Head of Department of the officer charged.

A broad categorisation of offences and corresponding penalties are listed in the *Schedule of offences and penalties* appended to the PSC Disciplinary Regulations, 2017 [regulation 26 and section 3.6 of this manual].

B) Procedure to be followed when the charges may lead to dismissal

In the case of an offence which was considered by the Head of Department as potentially leading to dismissal, the following procedure applies:

- a) A copy of the Disciplinary Board report is to be referred to the PSC by the Head of Department, within **five (5) working days** from the date of receipt of the report, along with a statement as to whether or not s/he agrees with the report and including the reasons which led him/her to agree or disagree with the report.
- b) If, after considering the report and the circumstances of the case, the Head of Department is of the view that the offence merits a lesser penalty than dismissal, s/he shall enclose his/her recommendation to the PSC including the reasons which led him/her to agree or disagree with the report.
- c) In giving consideration to the Board's findings and opinion, and to any submissions made by the Head of Department, the PSC shall give the officer charged the opportunity to submit written representations. The PSC may give an opportunity to the officer charged and to the Head of Department to make oral representations.
- d) After considering the findings of the Board and the representations submitted, the PSC shall make its recommendation to the Prime Minister, both as to the guilt or otherwise of the officer charged and as to the penalty imposed, if any.

3.3.9. Record of proceedings

The Head of Department shall ensure that a record of proceedings for each disciplinary case is kept in accordance with regulation 24 of the PSC Disciplinary Regulations, 2021. Any attempt to tamper with or to destroy a record of proceedings is considered to be a serious offence.

Any instructions which may be issued by the Head of the Public Service from time to time, with the concurrence of the PSC, with regard to the keeping of records relating to disciplinary proceedings shall be complied with by the Head of Department.

3.4. Appeals from Disciplinary Decisions

3.4.1. Appeal by the Officer charged

In accordance with regulation 27 of the Disciplinary Regulations, a public officer shall have the right to lodge an appeal with the PSC to contest a finding of guilt and any related penalty imposed by the Head of Department following disciplinary action taken in terms of regulation 17. An appeal can also be submitted if the officer can prove that, in the course of disciplinary proceedings against him/her, there was a gross disregard of the Disciplinary Regulations which prejudiced his/her interests.

The officer shall submit his/her appeal and the grounds therefor, in writing to the Executive Secretary (PSC), within **ten (10) working days** from the date the decision of the Head of Department is communicated to him/her. The officer shall concurrently send the appeal to the Head of Department, who shall within **five (5) working days**, transmit to the PSC the relevant documentation related to the case, including the Disciplinary Board report.

An appeal lodged with the PSC shall be acknowledged in writing. If the PSC is of the opinion that the appeal merits consideration, it shall give an opportunity to the officer charged and to the Head of Department to make oral representations.

The PSC, after considering the grounds for appeal, the record of the disciplinary proceedings, and any oral representations, shall recommend to the Prime Minister either that the decision of guilt of the appellant and the penalty imposed be confirmed, or that such decision be amended or revoked. Upon approval of its recommendation, the PSC shall inform the appellant of the outcome of the appeal.

The PSC may, either before the hearing or, at any time during the hearing of an appeal, dismiss or disallow an appeal without hearing representations, in whole or in part, on the grounds that an appeal is frivolous or vexatious or one that should not have been made.

3.4.2. Appeal by the Head of Department

A Head of Department may submit an appeal to the PSC if s/he:

- is dissatisfied with the disciplinary proceedings against an officer or the findings of a Disciplinary Board; or
- can prove that gross disregard of the Disciplinary Regulations prejudiced the case [regulation 29].

The Head of Department shall submit his/her appeal and the grounds therefor, in writing to the Executive Secretary (PSC), within **ten (10) working days** from the date on which the findings of the Disciplinary Board were communicated to him/her. The Head of Department shall concurrently send the appeal to the officer concerned.

If the PSC is of the opinion that the appeal merits consideration, it shall give an opportunity to the officer charged and to the Head of Department to make oral representations.

The PSC, after considering the grounds for appeal, the record of the disciplinary proceedings, and any oral representations, shall make a recommendation to the Prime Minister as to the guilt or otherwise of the officer charged with respect to each of the charges brought against him/her, and the penalty to be imposed, if any.

3.5. Disciplinary Proceedings when Disciplinary Powers have not been delegated

Where disciplinary control has not been delegated or has been withdrawn, the following procedure shall apply:

- a) When it comes to the knowledge of the Head of Department that an officer in his/her department may be guilty of misconduct, the provisions of regulations 17(1)(a) and (b) of the Disciplinary Regulations shall apply.
- b) If the officer charged admits to the charge, the Head of Department shall refer the case to the PSC within **ten (10) working days**, and the PSC shall make its recommendation to the Prime Minister as to the penalty, if any, to be imposed.
- c) If the officer charged does not admit to the charge, or does not submit a reply to exculpate himself/herself within **ten (10) working days** from the date s/he was notified of the charges against him/her, the Head of Department shall refer the case to a Disciplinary Board appointed in accordance with regulation 18 of the Disciplinary Regulations, within **twenty (20) working days** from the date of the officer's reply or the officer's reply was due.
- d) Within **ten (10) working days** from the day after the findings of the Disciplinary Board were communicated, the Head of Department and the officer charged may submit an appeal to the PSC with respect to such findings and ask for an opportunity to make oral representations.
- e) If the charges were considered as potentially leading to dismissal and the officer was found guilty, the PSC shall appoint a date for a hearing during which the officer charged and the Head of Department may make oral representations.
- f) After considering the findings of the Board and the representations made to it during the hearing, the PSC makes its recommendation to the Prime Minister both as to the guilt or otherwise of the officer charged and the penalty to be imposed if any.

3.6. Penalties

A Head of Department may only award penalties listed in the Schedule of Offences and Penalties attached to the regulations and in sections 3.6.1 and 3.6.2 of this manual.

A penalty shall not be put into effect until the lapse of **ten (10) working days** from the date on which the officer was notified of the penalty by the Head of Department. Should the officer or the Head of Department file an appeal with the PSC, in accordance with section 3.4 of this Manual and in terms of regulation 27 of the PSC Disciplinary Regulations, the penalty shall be suspended pending a recommendation of the PSC and its approval or otherwise by the Prime Minister.

3.6.1. Minor Cases

The penalties for minor cases are progressive, as these get heavier from one case to the next. In determining whether a minor case is the first, second, third or fourth minor case, no consideration should be taken of a minor case which occurred prior to **twenty-four (24) months** from the date of the offence under investigation.

A written warning given as a penalty for a first minor case is valid for **twelve (12) months**. Thus, a written warning which was given prior to **twelve (12) months** from the date of the offence under investigation should not be taken into consideration if no other offence is committed during that period.

Dismissal as a result of a minor case is only possible if the most recent offence is committed while the officer is under a warning of dismissal, arising from a previous minor case, whether or not the most recent offence is the fourth minor case.

1 st case	Written warning
2 nd case	Suspension without pay for a definite period up to five (5) working days
3 rd case	Suspension without pay for a definite period up to ten (10) working days and a Warning of dismissal, which shall be valid for two (2) years.
4 th case	Dismissal

3.6.2. Serious Cases (including criminal conviction)

The penalties applicable to serious cases are not progressive. This means that a decision of guilt for a first serious offence may lead to dismissal, depending on the gravity of case.

The penalties that may be awarded for serious cases are:

a)	Suspension without pay for a definite period not exceeding ten (10) working days
b)	Withholding of increment for a period of not less than one (1) year and not exceeding three (3) years
c)	Suspension without pay for a definite period not exceeding fifteen (15) working days and a warning of dismissal valid for four (4) years
d)	Dismissal

The penalties at a) and c) above may not be awarded in respect of more than two (2) serious disciplinary cases.

The penalty at b) above shall not adversely affect the attainment of any progression to a higher salary scale, in accordance with any provisions of the pertinent classification agreement.

An officer who is charged with a serious disciplinary offence while s/he is under a warning of dismissal is liable to dismissal, regardless of whether the warning of dismissal was imposed as a result of a minor or serious case or following a criminal conviction. In such cases, the statement of charges should notify the officer charged that the offence is considered as one potentially leading to dismissal.

3.6.3. Penalties imposed on the Recommendation of the Commission

As an alternative to dismissal, the PSC may recommend the demotion of a public officer to a lower grade or position.

The Commission may recommend to the Prime Minister other penalties in addition to, or instead of, those set out in the Schedule for offences and penalties, as appended to the Disciplinary Regulations.

3.6.4. Possibility of waiver of penalty in cases related to addictive behaviour

Whenever, in a case of guilt for a serious offence under 1.1(b) of the *Schedule of Offences and Penalties*, the Head of Department is of the opinion that it would be in the best interest of the officer concerned if s/he is offered the opportunity to rehabilitate himself/herself, s/he shall decide on the penalty, if any, to be imposed but shall refrain from informing the officer accordingly. The Head of Department shall then refer the case to the PSC explaining the circumstances of the case, with a recommendation as to why, in his/her opinion, the officer would benefit further if professional support was sought.

If the PSC accepts such a recommendation, it shall inform the Head of Department that if the officer agrees⁹ to seek professional support, preferably through an entity set up by Government to assist public officers experiencing personal, emotional or behavioural problems, within **ten (10) working days** from the receipt of such notification, the penalty is to be held in abeyance. The Head of Department shall inform the officer concerned of the PSC's decision, and if the officer agrees with this decision, the Head of Department will be kept informed of the officer's progress, and for such purposes, a report shall be provided by the entity concerned.

The same provisions apply also to cases where the officer charged was informed that the charges, if proved, could lead to his/her dismissal. If, after considering the findings of the Disciplinary Board and the representations made during the oral hearing, the PSC considers that it would be in the best interest of the officer if s/he is offered the opportunity to rehabilitate himself/herself, preferably through an entity set up by Government to assist public officers experiencing personal, emotional or behavioural problems, and the officer agrees to seek such professional support within **ten (10) working days**, the PSC shall decide on the penalty, if any, to be imposed but shall refrain to make its recommendation to the Prime Minister. In cases where the officer was suspended for precautionary purposes, the PSC shall, however, make its recommendation to the Prime Minister for the precautionary suspension to be lifted, without prejudice to the forfeiture of the salary withheld during the period under precautionary suspension. The PSC is to be kept informed of the progress being made by the officer concerned, and for such purposes, a report shall be provided by the entity concerned.

In both circumstances, if the officer is willing to seek professional support and follow the recommended rehabilitation programme, any penalty decided upon by the Head of Department or the PSC shall be held in abeyance until successful completion of the rehabilitation programme. The PSC shall then decide as to whether the penalty shall be put into effect or otherwise.

If an officer refuses to seek professional assistance, or does not successfully complete a rehabilitation programme, the penalty originally decided upon by the Head of Department or the Commission, as applicable, shall be imposed.

⁹ A specimen template of the consent form is available for download from the P&SD website

Review of Past PSC Recommendations

An officer may request the revision of a past PSC recommendation made in his respect, by submitting a petition in writing to the PSC. The PSC may allow a review of the case if:

- In its discretion, the Commission is satisfied that there was a prima facie case of gross disregard of the disciplinary regulations or a serious miscarriage of justice resulting in a violation of natural justice or fundamental rights; or
- The case arose from a criminal conviction which was subsequently annulled or discontinued by a decision of a higher court.

The PSC shall not consider petitions if:

- The petitioner had already made a similar request which was rejected on the merits of the case; or
- The recommendation which is subject of the petition was made by the PSC following an appeal in a case decided under the authority of a Head of department; or,
- The past recommendation is dated over **ten (10) years** before the date of the petition review.

3.7. Removal from Office

3.7.1. Grounds for Removal from Office

The appointment of a public officer may be terminated under the PSC Disciplinary Regulations, 2017, for the following reasons:

- a) for absence without leave [regulation 32] as outlined below; or
- b) on dismissal or removal in consequence of criminal or disciplinary proceedings, on the recommendation of the PSC.

3.7.2. Absence without Leave

When a public officer is absent without leave for ten (10) consecutive working days, the following procedure shall apply:

- i) The officer concerned shall be considered as having resigned from the Public Service with effect from the eleventh working day of unauthorised absence.
- ii) On the eleventh (11) day, the Head of Department shall notify¹⁰ the officer concerned of:
 - the effective date when s/he is being considered as resigned from the Public Service as a result of his/her unauthorised absence; and
 - any liability due by the officer concerned to pay Government in accordance with the provisions of the Public Service Agreement in force from time to time; ie: half the salary that the officer would have earned during the applicable notice period.
- iii) If an officer reports for duty before the date of notification by the Head of Department, or before the period of **ten (10) working days** expires, s/he is to be allowed to resume duty but shall be liable to disciplinary action by the Head of Department in accordance with the Disciplinary Regulations.

¹⁰ Specimen letter is available for download from the P&SD website.

- iv) Upon receiving the notification from the Head of Department, an officer may submit an appeal to the PSC within **ten (10) working days**, starting from the day after s/he receives the notification from the Head of Department, setting out the reasons why s/he considers that the decision taken by the Head of Department is unjust.
- v) In giving consideration to the appeal, the PSC seeks the views of the Head of Department, and may at its discretion, give the officer concerned and the Head of Department the opportunity to make oral representations.
- vi) If the PSC upholds an appeal submitted in terms of regulation 32(4) of the Disciplinary Regulations:
 - it shall annul the decision of the Head of Department by means of a recommendation to the Prime Minister, and upon its approval, inform the officer concerned and Head of Department that the officer is considered to be still in employment with the Public Service;
 - the officer concerned shall not resume duties unless and until the PSC upholds the appeal;
 - the officer concerned shall not become entitled to the payment of salary for any period of unauthorised absence or for the time taken by the PSC to hear the appeal.

3.8. Officer charged leaves the Public Service with pending disciplinary proceedings

When an officer undergoing disciplinary proceedings ceases to be a public officer before the conclusion of such proceedings, the following procedure shall apply:

- a) The Head of Department asks the officer charged to state in writing, within **ten (10) working days**, whether s/he wishes to continue with, or suspend, the disciplinary proceedings against him/her.
- b) If the officer opts to continue with the proceedings and s/he is eventually found not guilty, but the officer had been suspended for precautionary purposes in connection with these proceedings, the Head of Department shall inform the PSC of these circumstances so that action is taken to refund the salary withheld during the period of precautionary suspension.
- c) If the officer opts to continue with the proceedings and s/he is eventually found guilty, no penalty shall be imposed but a record of the findings of the Disciplinary Board is entered in the officer's record of service. However, if this person subsequently rejoins the Public Service, the Head of Department, responsible for the officer in his/her new capacity, shall within **three (3) months** from the date the officer rejoined the Public Service, make a recommendation to the PSC as to whether or not disciplinary proceedings should be resumed with a view to impose an appropriate penalty. If the PSC directs that proceedings are to be resumed, the Head of Department shall proceed in accordance with the regulations 23 and 26 of the Disciplinary Regulations or sections 3.3.7 and 3.6 of this Manual.
- d) If the officer opts to have his/her case suspended, or does not state his/her preferred option within the stipulated time-frame, the case is suspended and a note entered in the officer's record of service stating that at the time of leaving the Public Service, the officer had a pending disciplinary case. If this person subsequently rejoins the Public Service, the Head of Department, responsible for the officer in his/her new capacity, shall within **three (3) months** from the date the officer rejoined the Public Service, make a recommendation to the PSC as to whether or not disciplinary proceedings should be resumed, if the PSC so directs, the Head of Department shall resume proceedings from the stage these had been discontinued, provided that:
 - any applicable time-frames restart from the date that the Head of Department is informed by the PSC that proceedings should be resumed; or any later date as may apply; and
 - unless the Disciplinary Board had presented its report in the original proceedings, the Head of Department shall appoint a Disciplinary Board to hear the case.

3.9. Officer leaves the Public Service with pending criminal proceedings

When an officer undergoing criminal proceedings ceases to be a public officer before the conclusion of such proceedings, or these have been concluded but the PSC has not yet proceeded in accordance with regulation 15 of the Disciplinary Regulations, no further disciplinary action or penalty may be imposed. However, the Head of Department shall ensure that a record of the Court judgement is entered in the officer's record of service.

If the officer was under precautionary suspension in connection with criminal proceedings and s/he is eventually acquitted by the Court, the Head of Department shall inform the PSC of these circumstances so that action is taken to refund the salary withheld during the period of precautionary suspension.

3.10. Forfeiture of pension after dismissal

Subject to the provisions of article 114 of the Constitution and any other law, a public officer who is dismissed from the Public Service shall forfeit all rights to a pension under the Pensions Ordinance Act.

3.11. Saving clause

Disciplinary proceedings which have been initiated under the Disciplinary Regulations 1999 shall be continued and completed in accordance with the respective regulations, provided that the applicable provisions on disciplinary penalties shall be those most favourable to the officer charged.

04

Guidelines For Disciplinary Boards

4. GUIDELINES FOR DISCIPLINARY BOARDS

4.1. Functions of the Disciplinary Board

The functions of the Disciplinary Board shall be to:

- investigate the case;
- establish the facts;
- communicate the facts to the Head of Department and the officer charged.

In the performance of these functions, the Disciplinary Board may regulate its own procedure, and when questions of procedure or interpretation of the PSC Disciplinary Regulations arise, it shall seek the opinion and direction of the PSC.

The Disciplinary Board shall ensure that it carries out its functions fairly and impartially throughout the hearing of the case. The Board shall refrain from conferring privately with either of the parties involved.

4.2. Duties of the Disciplinary Board

The Disciplinary Board shall:

1. Ascertain that its composition conforms to regulation 18 of the Disciplinary Regulations. If the Board is aware that any of the provisions therein have not been satisfied, the Chairperson is to immediately inform the Head of Department. Prior to proceeding with their duties as Chairperson and members of the Disciplinary Board, they should sign a declaration stating that they satisfy all the conditions stated in paragraph 3.3 of this Manual.
2. Prior to the commencement of the proceedings of the Disciplinary Board, the chairperson and the members of the Board are required to take an oath before a Commissioner of Oaths, after making the necessary arrangements with the State Advocate's Office.
3. Check that the statement of charges conforms to the requirements of regulations 17(1)(a) and (b), and section 3.3.3 of this Manual. For instance, the Disciplinary Board should check that the statement of the charges includes the details on the offence and when committed (date/period), the charge/s being made, the categorization of the offence, whether the statement of charges was issued by the officer to whom powers of discipline have been delegated in terms of the Regulations.
4. Verify that the time-limits stipulated in regulation 17 have been respected, as follows:
 - in the case of minor offences only, no action is to be taken on cases which occur more than twelve (12) months before they come to the notice of the Head of Department;
 - that the statement of charges was issued within thirty (30) working days from the date that the alleged offence came to the notice of the Head of Department or ninety (90) working days from the date of the signing of the report of a Board of Inquiry, as the case may be;
 - that the Permanent Secretary referred the case to the Disciplinary Board within ten (10) working days from the date of the officer's reply (if the officer replied and the Head did not consider that s/he has exculpated himself/herself) or from the date the reply was due.
5. Before starting the hearing, the Disciplinary Board shall hold a preliminary meeting during which the Disciplinary Board shall examine and become familiar with the documents received from the Head of Department related to the case. The Board shall verify that it is in possession of all relevant documents. The documents which the Board shall need to verify include, but are not limited to, the statement of the charges, any report made against the officer charged, the report of the preliminary investigation (if any), the reply made by the officer to the charges made against him (if any), any other document related to the case.

6. Prepare a concise statement, to be read and presented during the first hearing of the Board, on the circumstances which led the Head of Department to issue the charge.
7. Obtain a certified true copy of the Service and Leave Record form (GP 47) of the officer charged from the respective Head of Department who in turn should ensure that it:
 - is complete in every respect as indicated at the back of the form;
 - is duly signed by an officer not below the grade of Principal;
 - includes the current salary of the officer charged.
8. Obtain the list of witnesses appearing on behalf of the Head of Department and on behalf of the officer charged. When the Board has the list of witnesses, the Board shall inform the Head of Department and the officer charged of the witnesses appearing on behalf of either party.
9. When the Board is in possession of all the relevant information, it shall set a date, time and place for the first sitting, notification of which shall be given ten (10) days in advance to the Head of Department and officer charged.

4.3. Correspondence

All the correspondence of the Disciplinary Board must be issued by the Chairperson, either on an official letterhead of the Department for whom the case is being heard or from his/her official e-mail account. A list of specimen letters regarding correspondence issued by the Board is readily available for download from the People and Standards Division website. Whilst the use of these specimen letters is not compulsory and the wording therein may be altered, it is highly recommended that it is ensured that all the information provided in the specimen letters provided by the People and Standards Division is included when sending correspondence.

Correspondence informing the Head of Department and the officer charged of the date, time and place of the first hearing shall be received by both parties at least ten (10) working days in advance. It is to be ensured that the appointed date is convenient for both parties. Correspondence addressed to the officer charged shall be sent by registered or electronic mail or by hand, provided that proof of delivery is retained.

Specimen templates of such correspondence may be downloaded from the P&SD website.

4.3.1. Correspondence to be sent to the Head of Department

The Board shall communicate with the Head of Department, requesting:

- the home address of the officer charged (this is required if the correspondence will be sent to the officer's residence e.g. if the officer is suspended);
- the name of the Departmental representative;
- the list of witnesses appearing on behalf of the Head of Department, together with an indication of the relevance of their evidence and their e-mail address.

The Board shall send a notification to the Head of Department informing him of the date of the first sitting and of the list of witnesses appearing on behalf of the officer charged.

4.3.2. Correspondence to be sent to the officer charged

The Board shall send a notification to the officer charged, informing him/her:

- of the date, time and place of the first sitting;
- of the identity of the members of the Disciplinary Board;
- of the procedure to be followed.

The Board shall also obtain the following information from the officer charged:

- the name of the person/s representing the officer;
- the list of witnesses appearing on behalf of the officer charged, together with an indication of the relevance of their evidence and details on where these can be contacted.

It is in the interest of the officer charged to provide the list of witnesses to the Board.

Note on Witnesses: Where prior notification was not given to the Board on any witnesses appearing on behalf of either party, and such witness/witnesses show/s up during the hearing, it shall be at the discretion of the Board to decide whether to listen to the evidence of such witness/es during that same sitting, or whether to hear that evidence during another sitting.

The Board shall inform both parties of the witnesses appearing on behalf of each party.

4.3.3. Correspondence to witnesses

The Board shall send a notification in writing addressed to all witnesses, summoning them to appear before the Board to give evidence on the appointed date.

4.4. During the disciplinary hearing

During a disciplinary hearing, the Board shall invariably ensure that:

- the hearing is held in private;
- witnesses are not allowed to be present unless they are giving evidence;
- the Chairperson and the two members are present for all sittings held;
- the officer charged is given full opportunity to defend himself/herself and allowed to be present during the hearing of the case and when any advice or evidence is given before the Disciplinary Board;
- the officer charged and the Head of Department may be assisted by a person or persons of their choice;
- the date and time of any subsequent hearing following the first hearing, shall be determined by the Disciplinary Board in consultation with the Head of Department and the officer charged during the hearing in progress;
- if, at any point, the officer charged raises objections regarding the composition of the Disciplinary Board, the hearing shall be suspended pending the decision of the Head of Department or the Permanent Secretary, in accordance with regulations 18(7), (8) and (9) of the Disciplinary Regulations;
- adequate records of the proceedings of the hearing are kept, including a statement of all persons present during the hearing, and a transcript of the evidence of all sessions held;
- details of a disciplinary case may not be disclosed except as required by the Disciplinary Regulations.

In terms of regulation 24 (1) (e), the Board shall produce a transcript of the evidence of all sessions held. In this regard, Disciplinary Boards may audio record the sittings of the disciplinary hearing. Upon the conclusion of the case, the audio recording shall be kept in a sealed envelope in the officer's discipline file as per section 6 of the manual.

4.4.1. Rights of the officer charged

The rights of the officer charged are listed under section 3.3.5 of this Manual.

4.4.2. Rights of the victim

The alleged victim of a disciplinary offence shall, upon submitting a request in writing to the Permanent Secretary, be entitled to be present at every stage of any disciplinary proceedings which may be instituted to investigate the alleged offence, and s/he may be accompanied by a person/s of his/her choice, subject to the following conditions:

- i) The alleged victim or his/her representative shall not be considered to be a party to the proceedings, and thus shall not be entitled to bring evidence, cross-examine witnesses, or otherwise intervene in the proceedings unless called as a witness during the proceedings.
- ii) The alleged victim shall have the same right as the officer charged to access documentary evidence, to the findings of the Disciplinary Board, including the guilt or otherwise of the officer charged and the penalty, if any, and to the final decision taken by the Head of Department or the Commission.

4.4.3. Rights of the Head of Department [regulation 7]

A Head of Department issuing charges of misconduct against an officer under the Disciplinary Regulations may be present and may also be represented by any person/s of his/her choice, at every stage of any hearing before a Disciplinary Board or the PSC, including any hearing on appeal.

4.4.4. The first hearing

At the start of the first hearing, the Chairperson of the Board shall read out the charge/s to the officer charged, together with a concise statement of the circumstances which led the Head of Department to issue the charge.

4.4.5. Witnesses

1. Both parties to the case have the right to produce the list of witnesses appearing on their behalf. The list of witnesses shall be presented to the Board prior to the commencement of the proceedings. The Board shall ensure that the lists of witnesses are to be made available and provided to both parties. Where the hearing of the case has already commenced and any of the parties deems necessary the evidence of a witness, who was not listed in the list of witnesses provided to the Board prior to the commencement of the hearing, the Board shall notify the other party of the new witness(es).
2. The Disciplinary Board has the authority to:
 - administer an oath to witnesses;
 - direct that any evidence be confirmed by an affidavit;
 - summon any person to give evidence or to produce a relevant document, in accordance with the PSC General Regulations;
 - seek the advice of the PSC on matters concerning the interpretation of the regulations or that of the P&SD on matters concerning procedural matters related to the Disciplinary Board.

3. All witnesses may be cross-examined by the officer charged or his/her representative, by the Head of Department or his/her representative, and by the Chairperson and the members of the Board. No leading questions may be asked. The witnesses shall be heard in the following sequence:
 - the evidence of the Head of Department (if s/he chooses to testify), or his representative;
 - witnesses appearing on behalf of the Head of Department;
 - the evidence of the officer charged (if s/he chooses to testify);
 - witnesses appearing on behalf of the officer charged, produced in support of his/her case.

4.4.6. Failure to appear before the Disciplinary Board

An officer facing charges cannot be penalised in any way for failing to appear before the Disciplinary Board for the hearing of his/her case. Unless the absence of the officer charged is justified, the Board may proceed with the hearing in his absence, provided that adequate notice of the hearing has been given. If witnesses who are not public officers fail to appear before the Board without a valid reason, the Board may seek the advice of the AG for action to be taken under the Inquiries Act. Public officers who are summoned as witnesses but fail to appear for the hearing without an explanation shall be liable to disciplinary action.

4.4.7. Giving evidence

- a) A witness giving evidence cannot be penalised in any way for giving a substantially different testimony from any written statement s/he had made. It is at the discretion of the Disciplinary Board to evaluate any testimony which substantially differs from any written statements made.
- b) When it appears that a witness may be somehow involved in the case, the Chairperson should remind the witness of his/her right to refuse to answer questions which might incriminate him/her.
- c) If, during the hearing, the Board is of the opinion that the evidence indicates other breach of discipline, the Board should suspend the hearing and report the matter to the Head of Department and to the officer charged.
- d) Any evidence produced after the hearing of the case has started shall not be used against the officer charged unless s/he has been supplied with a copy of such evidence or given access to it, and given a maximum of five (5) working days to consider the additional evidence and reply thereto.

4.5. Presenting the findings

4.5.1. Time frames

The Disciplinary Board must adhere to the following time limits to conclude its investigation:

- thirty (30) working days to conclude investigations and communicate findings from the date the case is referred to it;
- an extension of thirty (30) working days given by the Head of Department on good cause being shown;
- if the extension is insufficient to conclude investigations the Head of Department shall refer the matter to the PSC for direction.

4.5.2. Final Sitting

At the conclusion of its investigation, and before it submits the report to the Head of Department and to the officer charged, the Board shall ensure that its conclusions are verbally communicated to the parties at a final session held for the purpose.

As the final sitting is specifically intended to communicate the findings, any objections to such findings shall not be made to the Board during this session but shall be made in terms of Section 3.4 of this Manual.

4.5.3. The report

After all the evidence has been presented, the Board should prepare a report on its findings. This report should consist of:

- a summary of those parts of the evidence that the Board considers relevant;
- the findings of the investigation on material questions of fact;
- a recommendation on the penalty to be imposed by the Head of Department, if any, giving reasons. However if the case was categorised as serious and potentially leading to dismissal the Board shall only include an opinion on the penalty to be imposed and not a recommendation;
- details concerning any matter which alleviates or aggravates the gravity of the case;
- any recommendation for the officer charged to be referred to support programmes.

The Board shall ensure that the report contains an equitable representation of the details concerning the case.

Before submitting the report, the Board shall communicate its conclusions verbally to the Head of Department and to the officer charged during a final sitting held for the purpose, as per section 4.5.2 above. The Board shall then submit its findings to both parties, together with appropriate covering letters, a specimen of which may be obtained from the P&SD website.

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GUIDELINES FOR DEPARTMENTAL REPRESENTATIVES

5. GUIDELINES FOR DEPARTMENTAL REPRESENTATIVES

A Head of Department issuing charges of misconduct against an officer may be present and may also be represented by any person or persons of his choice, at every stage of any hearing before a Disciplinary Board or before the Commission, including any hearing on appeal.

The duties of a Departmental Representative include:

- representing the Head of Department before a Disciplinary Board or the PSC;
- familiarising himself / herself with the case before it starts;
- following closely the proceedings.

The Departmental Representative may be assisted by a legal expert and shall not lead the proceedings.

5.1. Before the hearing starts

The Departmental Representative prepares for a case by:

- ensuring that s/he is well-briefed on the case under investigation by the Head of Department or other officers, as the case may be;
- being aware of the evidence in support of the charge;
- knowing the identity of all witnesses appearing for the Department, as well as those produced by the officer charged, and the relevance of their evidence;
- being familiar with any documents that are to be presented as evidence;

It is to be pointed out that the role of the Departmental Representative is limited to that of representing the Head of Department and not to investigate the case. Therefore, the Departmental Representative should not interfere in the investigation or operations of the Disciplinary Board.

5.2. During the disciplinary hearing

During a Disciplinary Board hearing, the role of the Departmental Representative is to cross-examine all witnesses, whether they have been summoned by the Head of Department or by the officer charged, as considered necessary, and to follow closely the proceedings of the hearing.

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Record Keeping Of Disciplinary Cases

6. RECORD KEEPING OF DISCIPLINARY CASES

This section sets out the guidelines for the retention of records and data related to administrative measures, discipline and criminal cases.

6.1 Written Admonishment

When a written admonishment is issued, a disciplinary file shall not be opened. The written admonishment shall be kept in a sealed envelope in the officer's personal file for six (6) months. No permanent record of the admonishment should be kept and no record shall be entered in the officer's Personal Record Sheet (PRS) (GP 46) and Service and Leave Record Sheet (GP 47). The supervisory officer who issues the admonishment shall ensure that the admonishment is removed from the file and destroyed after the lapse of six (6) months from the date that it is issued.

6.2 Disciplinary Files

6.2.1 Opening a new disciplinary file

As soon as disciplinary/criminal proceedings are initiated, a departmental disciplinary file (yellow cover) should be opened. A disciplinary file should be opened for each disciplinary/criminal case.

The reference of the file should be the same as that of the personal file of the officer concerned, preceded by the letters DISC (i.e. discipline).

Any correspondence related to the case should bear a reference related to the case which should include:

- The abbreviated name of the department, and
- The part number, if any, indicating the number of the disciplinary case.

e.g. Department/DISC/123456/II

6.2.2 Documents to be retained in disciplinary files

All documents related to the disciplinary case should be retained in file. Such documents include:

- The statement of charges issued by the Head of Department;
- The reply submitted by the officer to the Head of Department to exculpate oneself;
- The correspondence whereby the Head of Department appoints the Disciplinary Board;
- Correspondence regarding extensions for Disciplinary Boards;
- Correspondence sent by the Discipline Board, including the summons to witnesses;
- The correspondence sent by the Departmental Representative;
- Any communication made with the Public Service Commission or with the People and Standards Division;
- The report of any preliminary investigation made prior to issuing the disciplinary charges, or any other report made;
- Copies of all documents, papers, files and any other evidence received by the Disciplinary Board;

- The Disciplinary Board Report;
- Any decision taken or recommendation made in respect of the officer (e.g. the approval of the precautionary suspension; the penalty imposed etc);
- Correspondence received from the People and Standards Division informing the Head of Department of any recommendation made in respect of the officer;
- Correspondence sent to the officer by the Head of Department informing him of any decision taken/recommendation made in his/her regard;
- Any representations made by the officer;
- Notes of evidence given by witnesses, including a statement of all persons present during the hearing;
- Any advice sought from the AG;
- A transcript of all the evidence of all disciplinary hearings held by the Disciplinary Board;
- A transcript or audio recording of the oral hearing held before the PSC, if any, when the case may potentially lead to dismissal.

In the case of criminal cases, the following documents should be retained:

- A copy of the police report/bill of indictment;
- A copy of the court sentence;
- Correspondence made with the Public Service Commission and the People and Standards Division;
- Correspondence from the People and Standards Division informing the Head of Department of any recommendation made on the case;
- Correspondence informing the officer of any decision/recommendation made in his/her regard (e.g precautionary suspension, penalty imposed etc.)
- Any representations made by the officer;
- Any other documents/correspondence related to the case.

6.2.3 Retention of pending Disciplinary/Criminal Cases

When a case is still pending, the disciplinary file should not be attached to the officer's personal file and the movement of file shall be handled with the strictest confidentiality. Disciplinary files can only move to persons authorised to view such files (e.g. HR personnel or the officer's Head of Department).

A pending disciplinary/criminal case file is to be treated as a temporary file, and as such it should not be attached to an individual's personal file to reduce the risk of unauthorised access.

Whilst the disciplinary/criminal case is still pending, no reference to the case is to be made on the minute sheet of the personal file.

A note shall be attached to the officer's personal file indicating that there is a pending disciplinary case. The note shall be placed on the top left-hand side of the last minute sheet and shall contain:

- The officer's ID number;
- The discipline file number;
- The categorization of the case (e.g. whether minor/serious disciplinary case or criminal).

6.2.4 Retention of Closed Disciplinary Cases

6.2.4.1 Retention of data when an officer is acquitted of the charges/when the case is time-barred/no charges are issued

The following procedure is to be followed whenever:

- (i) an officer is acquitted of the charges;
- (ii) the case is discontinued because the timeframes stipulated in the PSC Disciplinary Regulations and related manual have not been adhered to;
- (iii) No charges were issued by the Head of Department/Police, following an investigation.

In such cases, no note about the disciplinary case is to be entered in:

- the minute sheet of the main personal file;
- the Service and Leave Record (GP47); or
- the Personal Record Sheet (PRS – GP46).

The disciplinary file is to be kept sealed in an envelope and attached to the employee's main personal file for two (2) months. On the lapse of the two (2) months, the discipline file is to be detached from the main personal file and destroyed.

During these two (2) months, the Director responsible for People Management is to ensure that the personal file does not leave the HR premises, unless specifically authorised by the Head of Department responsible for the officer, the Director responsible for People Management, or an officer acting on the latter's behalf.

6.2.4.2 Retention of data when an officer is found guilty of the charges

Whenever an officer is found guilty of the charges, the disciplinary file is to be sealed and attached to the main personal file.

An entry on the outcome of the case and the penalty given (with the exception of a written warning) is to be entered:

- on the minute sheet of the main personal file;
- in the Service and Leave Record (GP47); and,
- on the Personal Record Sheet (PRS – GP46).

6.3 Timeframes for Record-keeping of Disciplinary/Criminal Cases

6.3.1 Record-Keeping of Penalties

This section outlines the duration of the period during which reference is to be made to a disciplinary/criminal case on the officer's personal records.

Penalties shall remain recorded in the officer's Personal Record Sheet (GP46) for ten (10) years from the date a penalty is completed.

In an officer's Service and Leave Record Sheet, however, a record of penalties shall be kept for the periods indicated in the table below:

Penalties	Retention period in Service and Leave Record Sheet
Written Warning	12 months from the date of penalty
Suspension without pay for a number of days	12 months from the date of penalty
Withholding of increment for a definite period	A period equal to the withholding of increment, starting from the date the withholding expires
Warning of dismissal for a number of years	A period equal to the validity period of the warning of dismissal, starting from the date the warning of dismissal expires
Demotion	10 years from the date of penalty

No reference shall be made on an officer's Personal Service Record Sheet and Service and Leave Record Sheet for written and verbal admonishments.

The period for recording a penalty imposed by the Public Service Commission in cases leading to dismissal or criminal cases, on an officer's Service and Leave Record Sheet, shall be determined by the Commission depending on the nature and gravity of the offence. The period shall not exceed ten years, unless the officer charged was placed under an indefinite warning of dismissal, in which case the penalty would be recorded until the officer concerned reaches 75 years of age.

6.3.2 Retention of Disciplinary Files

Files of disciplinary/criminal cases shall be retained as indicated below.

Outcome of Case	Retention Period of File
Non-guilty disciplinary/criminal cases	The discipline file and any related documents and records are to be retained for two (2) months from the conclusion of the case and no record is kept thereafter, unless an appeal has been lodged on the case.
Guilty Disciplinary/Criminal Cases	The discipline file and any related documents and records shall be retained up to ten (10) years from the conclusion of the case, unless the penalty given is a warning of dismissal for an indefinite period, in which case the discipline file is to be retained until the officer reaches the age of 75 years.
Discipline files of public officers who retire/resign from the Public Service with pending disciplinary/criminal proceedings	The discipline file shall be retained until the officer reaches retirement age .
Files of cases which are discontinued	To be destroyed after two (2) months from the date that the case becomes discontinued.

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**REPORTING OF
DISCIPLINARY CASES
TO P&SD AND PSC**

7. REPORTING OF DISCIPLINARY CASES TO P&SD AND PSC

Information related to the Public Service Commission Disciplinary Regulations 2017 is maintained for the following three categories:

- Regulations 14 – 16 (Criminal cases);
- Regulation 17 (Minor disciplinary cases);
- Regulation 17 (Serious disciplinary cases).

Instructions to Directors responsible for people management

Directors responsible for people management are required to maintain updated records on disciplinary and criminal cases of public officers falling under the remit of their Ministry, through the Dakar Discipline Module. The data for each discipline/criminal case is to be inputted in the system whenever a new case is opened and it is to be ensured that the information on each case is constantly updated.

Requests for access to the Dakar Discipline Module are granted on the approval by the People Support & Wellbeing Directorate. Directors responsible for people management are to ensure that the PSW Directorate is informed immediately whenever an employee falling under the remit of their Ministry no longer requires access to the system. It is to be ensured that access to the Dakar Discipline Module is only requested for officers who actually work on disciplinary matters.

08

APPENDIX A: INSTRUMENT OF DELEGATION

THE CONSTITUTION OF MALTA

DELEGATION OF CERTAIN POWERS

RESPECTING THE PUBLIC SERVICE

BY the Honourable Dr Robert Abela, K.U.O.M., B.A., LL.D., ADV., TRIB., MELIT., M.P., PRIME MINISTER

WHEREAS article 110 of the Constitution of Malta provides that power to remove and to exercise disciplinary control over persons holding or acting in public offices shall vest in the Prime Minister, acting on the recommendation of the Public Service Commission;

AND WHEREAS it is further provided in the same article that the Prime Minister, acting on the recommendation of the Public Service Commission, may delegate in writing any of the aforementioned powers to such public officer or other authority as may be specified in the Instrument of Delegation;

AND WHEREAS by Instrument of Delegation dated 25th March, 1966, the Prime Minister, acting on the recommendation of the Public Service Commission, delegated to the Commissioner of Police certain powers of disciplinary control over persons holding or acting in any office on the Malta Police Force;

AND WHEREAS by Instrument of Delegation dated 17th December, 1996, the Prime Minister, acting on the recommendation of the Public Service Commission, delegated to the Director, Correctional Services, certain powers of disciplinary control over persons holding or acting in any of the Correctional Services grades other than that of Director, Correctional Services;

AND WHEREAS by Instrument of Delegation dated 1st November, 1999, the Prime Minister, acting on the recommendation of the Public Service Commission, delegated power to exercise disciplinary control in accordance with the Public Service Commission (Disciplinary Procedure) Regulations, 1999, to the public officers and other authorities listed in the Schedule to the said Instrument, and to the extent indicated therein;

AND WHEREAS by Instrument of Delegation dated 21st December, 2004, the Prime Minister, acting on the recommendation of the Public Service Commission, delegated to the Chief Executive Officer of Heritage Malta power to exercise disciplinary control in accordance with the Public Service Commission (Disciplinary Procedure) Regulations, 1999, over public officers detailed to perform duties with Heritage Malta;

AND WHEREAS by Instrument of Delegation dated 18th June 2014, the Prime Minister, acting on the recommendation of the Public Service Commission, delegated power to exercise disciplinary control in accordance with the Public Service Commission (Disciplinary Procedure) Regulations, 1999, to the public officers and other authorities listed in the Schedule to the said Instrument, and to the extent indicated therein;

AND WHEREAS by Instrument of Delegation dated 11th February 2020, the Prime Minister, acting on the recommendation of the Public Service Commission, delegated power to exercise disciplinary control in accordance with the Public Service Commission Disciplinary Regulations, 2017, to the public officers and other authorities listed in the Schedule to the said Instrument, and to the extent indicated therein;

AND WHEREAS the Public Service Commission has recommended that the aforementioned Instruments of Delegation should be replaced by the delegation of powers set out hereunder;

AND WHEREAS the Public Service Commission has recommended that power to exercise disciplinary control over public officers, in accordance with the provisions of the Public Service Commission Disciplinary Regulations (S.L.Const.03), should be exercisable without reference to the Commission by the public officers and other authorities listed in the Schedule to this Instrument, to the extent listed in the said Schedule and subject to any special provisions set out therein, provided that –

- (i) the Public Service Commission may at any time recommend to the Prime Minister that this Instrument of Delegation be totally withdrawn or withdrawn in respect of particular public officers or other authorities; and
- (ii) upon such a recommendation being made, and until the Prime Minister acts upon such a recommendation, the powers delegated by this Instrument shall be suspended totally or only in respect of particular public officers or authorities, as may be stipulated in the recommendation made by the Public Service Commission;

AND WHEREAS I agree with the said recommendation:

NOW, THEREFORE, I, ROBERT ABELA, K.U.O.M., B.A., LL.D., ADV., TRIB., MELIT., M.P. PRIME MINISTER, in exercise of the powers conferred by article 110 of the Constitution, do hereby direct that as from the date hereof, the powers which the Public Service Commission has recommended should be exercisable by the public officers and other authorities listed in the Schedule to this Instrument shall be so exercisable by the said public officers and other authorities, to the extent listed in the said Schedule and subject to any special provisions set out therein, and in accordance with the provisions of the Disciplinary Procedure in the Public Service Commission Disciplinary Regulations.

GIVEN under my hand at the
Auberge de Castille, Valletta
This 22nd day of March 2021

SCHEDULE TO THE INSTRUMENT OF DELEGATION

The public officers and other authorities listed hereunder shall have the power to exercise disciplinary control, in terms of the Disciplinary Procedure in the Public Service Commission Disciplinary Regulations (S.L.Const.03) and the Instrument of Delegation of which this Schedule forms part, without reference to the Public Service Commission, over public officers within their areas of jurisdiction, and subject to the special provisions applicable thereto:

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
Principal Permanent Secretary	<p>In the capacity of Head of the Public Service:</p> <ul style="list-style-type: none"> (a) public officers in his own office; (b) Permanent Secretaries, Heads of Department, Directors General and Directors, as provided for by regulation 8 of S.L.Const.03; (c) public officers in salary scale2; (d) public officers in any office or establishment which does not form part of a ministry or department of Government, as provided for by regulation 9 of S.L.Const.03. <p>In the capacity of Permanent Secretary, Office of the Prime Minister, under article 14(6) of the Public Administration Act:</p> <ul style="list-style-type: none"> (a) other public officers in the Office of the Prime Minister and its subordinate departments; (b) public officers assigned to government agencies, entities, and other public bodies under the responsibility of the Prime Minister; (c) public officers formerly belonging to the Office of the Prime Minister or its subordinate departments who have been assigned to a non-Government body; and (d) public officers in the secretariat of the Prime Minister and any Parliamentary Secretaries reporting to the Prime Minister. 	<p>The Principal Permanent Secretary may assign jurisdiction over any categories of public officers in the Office of the Prime Minister, its subordinate departments, and entities falling thereunder, to any Permanent Secretaries who are appointed to assist him in accordance with the proviso to article 14(6) of the Public Administration Act.</p>
Secretary to the Cabinet	Public officers in the Cabinet Office.	
Permanent Secretaries	<ul style="list-style-type: none"> (a) Public officers in their own offices; (b) other public officers in their ministry and its subordinate departments; (c) public officers assigned to government agencies, entities, and other public 	

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
	<p>bodies under the responsibility of the ministry;</p> <p>(d) public officers formerly belonging to the ministry or its subordinate departments who have been assigned to a non-Government body; and</p> <p>(e) public officers in the secretariat of the Minister and any Parliamentary Secretaries in the ministry.</p>	
Commissioner of Police	Police officers and any other public officers assigned to the Malta Police Force.	<p>Powers of Head of Department with respect to police officers shall not be exercisable by the relevant Permanent Secretary or any other officer or authority save the Commissioner of Police.</p> <p>Delegated authority shall be exercised by the Commissioner in accordance with the relevant provisions of the Police Act (Cap. 164).</p>
Chief Executive Officer, Police Department	Public Officers (Civilians) performing duties in the Police Department.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Directors General, Directors, and other public officers in salary scale 4 or higher, save those listed elsewhere in this Schedule	Public officers in their divisions, departments, directorates or offices.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Directors (Corporate Services) and any other public officers in salary scale 4 or higher who are responsible for people management, corporate services or administration across a ministry	<p>(a) Public officers in their own directorates or offices;</p> <p>(b) other public officers within the area of jurisdiction of the Permanent Secretary.</p>	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Public officers in salary scale 4 or higher who are responsible for people management, corporate services or administration across a department	<p>(a) Public officers in their own directorates or offices; and</p> <p>(b) other public officers in their department.</p>	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
Director responsible for Local Councils	(a) Public officers in the Local Government Department; and (b) Public officers assigned to Local Councils and other local government bodies.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
State Advocate	Public officers assigned to the Office of the State Advocate	Powers of Head of Department with respect to public officers in the Office of the State Advocate shall not be exercisable by the relevant Permanent Secretary or any other officer or authority save the State Advocate.
Attorney General	Public officers assigned to the Office of the Attorney General.	Powers of Head of Department with respect to public officers in the Office of the Attorney General shall not be exercisable by the relevant Permanent Secretary or any other officer or authority save the Attorney General.
Auditor General	Public officers assigned to the National Audit Office.	Powers of Head of Department with respect to public officers in the National Audit Office shall not be exercisable by the relevant Permanent Secretary or any other officer or authority save the Auditor General.
Commander, Armed Forces of Malta	Public officers assigned to the Armed Forces of Malta.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Executive Officers, or persons functioning in an equivalent capacity, of government agencies, government entities, or other public bodies other than Local Councils and other local government bodies, save those Chief Executive Officers listed elsewhere in this Schedule	Public officers assigned to the government agency or entity or other public body, other than Local Councils and other local government bodies.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers. Such instructions may require any Chief Executive Officer or person functioning in an equivalent capacity to keep the Permanent Secretary informed of

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
		disciplinary proceedings instituted by him against public officers.
Chief Executive Officer, Primary Health Care	Public officers performing duties in the field of primary health.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Executive Officer, Mater Dei Hospital	Public officers performing duties at Mater Dei Hospital.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Operations Officer, Mater Dei Hospital	Public officers performing duties at Mater Dei Hospital.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Executive Officer, Mount Carmel Hospital	Public officers performing duties at Mount Carmel Hospital.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Operations Officer, Mount Carmel Hospital	Public Officers performing duties at Mount Carmel Hospital.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Managing Director (Sourcing & Supply Chain Management), Central Procurement Supplies Unit	Public officers performing duties in the Central Procurement Supplies Unit.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Executive Officer, Pharmacy of Your Choice	Public officers reporting to the Chief Executive Officer, Pharmacy of Your Choice.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
		Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Executive Officer, St Vincent de Paul Long-Term Care Facility for Highly Dependent Persons	Public officers performing duties at St Vincent de Paul Long-Term Care Facility for Highly Dependent Persons.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Medical Officer	Public officers within the Ministry for Health.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Director of Human Resources, Steward Health Care Malta	Public officers performing duties at Gozo General Hospital, St. Luke's Hospital and Karen Grech Rehabilitation Hospital.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Head (Operations) Detention Services	Public Officers performing duties at Detention Services.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Commandant, Academy for Disciplined Forces	Public Officers performing duties in the Academy for Disciplined Forces.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Refugee Commissioner	Public officers performing duties in the Office of the Refugee Commissioner including the Dublin Unit.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
Chief Executive Officer, Correctional Services Agency	Public officers assigned to Correctional Services Agency.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Human Resource Manager, Environmental Landscapes Consortium Limited	Public officers assigned to Environmental Landscapes Consortium Limited.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Director Operations, Campo Santo Ltd.	Public officers assigned to Campo Santo Ltd.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Executive Officer, Courts Services Agency	Public officers assigned to the Court Services Agency.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Executive Officer, Lands Authority	Public Officers assigned to the Lands Authority	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Executive Chairperson, Malta Competition and Consumer Affairs Authority (MCCAA)	Public Officers assigned to the Malta Competition and Consumer Affairs Authority (MCCAA)	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Executive Officer, Malta Libraries	Public Officers assigned to Malta Libraries	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
		over particular categories of public officers.
Chief Executive Officer, Malta College of Arts Science and Technology (MCAST)	Public Officers assigned to the Malta College of Arts Science and Technology (MCAST)	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Executive Chairperson, Planning Authority (PA)	Public Officers assigned to the Planning Authority (PA)	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chairman and Chief Executive Officer, Transport Malta	Public Officers assigned to Transport Malta	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Executive Officer, Water Services Corporation (WSC)	Public Officers assigned to the Water Services Corporation (WSC)	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Rector, University of Malta	Public Officers assigned to the University of Malta.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.

APPENDIX B: DECLARATION FOR STANDING DISCIPLINARY PANELS

DECLARATION PRIOR TO APPOINTMENT IN THE STANDING DISCIPLINARY PANEL (SDP)

Information Protected - Personal information provided on this form is protected, and is used in accordance with the provisions of the Data Protection Act.

I,, holder of I.D. No., do hereby declare that:-

(Please read carefully the following and delete, as appropriate.)

- A. I **do not have / have** pending criminal proceedings,
- B. I **have not been found / have been found**¹¹ guilty of criminal offences.

I acknowledge that I am aware that:

- 1) Should it be subsequently discovered that any information provided in this Declaration was false, or that any relevant information was withheld, this will constitute grounds for the termination of my appointment within the SDP pool.
- 2) I am obliged to report to the People & Standards Division any changes in circumstances regarding my conduct.
- 3) The People & Standards Division may share the information provided in this Declaration with the respective Ministries and the Public Service Commission.

Name

Signature

Date

¹¹ This declaration should include also any criminal offences of which you were found guilty, but which are no longer recorded in the Conduct Certificate.



OFFICE OF THE PRINCIPAL PERMANENT SECRETARY
OFFICE OF THE PRIME MINISTER