

MANUAL ON DISCIPLINARY PROCEDURES

in the Malta Public Service

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PEOPLE AND STANDARDS DIVISION

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1. LIST OF ABBREVIATIONS

AG:	Attorney General
CP:	Criminal proceedings
Disciplinary Regulations:	Public Service Commission Disciplinary Regulations, 2017
DP:	Disciplinary proceedings
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

2. 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.

Analogous grade

Grades which are on a salary scale having the same salary maximum 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 Head of Department in terms of regulation 18 of the Disciplinary Regulations, to investigate a disciplinary charge issued in terms of regulation 17.

Disciplinary file

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.

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.

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.

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.

Verbal or written admonishment

An administrative measure used by the supervisory officer for minor misconduct committed by an officer under his responsibility.

Written communication

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

3. PREFACE

This manual is intended for 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. It seeks to assist these officers in their task to manage disciplinary cases, whether resulting from a disciplinary or criminal case, in accordance with the PSC Disciplinary Regulations, 2017.

The PSC Disciplinary Regulations, 1999 were an important step forward in the delegation of authority to Heads of Department. This delegation required that the actual practitioners of the PSC Disciplinary Regulations were fully conversant with the disciplinary procedures set out in the Regulations.

The PSC Disciplinary Regulations, 2017, while retaining the delegation of authority currently exercisable by Heads of Department, focus on simplifying the exercise of discipline through further devolution of powers and doing away with unnecessary or duplicate processes. The new regulations also emphasise the upholding of transparency and fairness in the course of disciplinary proceedings. The most significant measures in this area are, among others, the introduction of new time-frames for Heads of Department to take action with a view to limiting the length of time required to conclude a disciplinary case; and the possibility for the officer charged to submit an appeal or representations in all stages of the disciplinary process.

This manual expands on the provisions of the PSC Disciplinary Regulations, 2017, 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.

Section 4 of this manual explains in detail the application of different disciplinary measures as set out in the Disciplinary Regulations, as well as highlights practices for the use of discipline as an effective management tool. In order to ensure uniformity by practitioners of the Disciplinary Regulations, this manual links to an extensive array of templates together with their instruction notes. The guidelines for Chairpersons and Members of Disciplinary Boards and for departmental representatives are found in Sections 5 and 6 of this Manual, respectively. In view of the Data Protection Act, a set of procedures has been drawn up on the retention and disposal of records on disciplinary cases. These procedures are found in Section 7. The role of the PSC and the P&SD regarding disciplinary procedures is regulatory and monitoring, respectively. To this end, returns of disciplinary cases are required from line Departments. The relative procedures for the submission of these returns are given in Section 8. A glossary has been compiled as a user-friendly aide to practitioners and is found at the very beginning of the Manual.

Heads of Department should ensure that the procedures and practices set out in this Manual, as well as any other directives and guiding principles issued from time to time by the Principal Permanent Secretary and/or by the Public Service Commission, are invariably and strictly adhered to. Failure on the part of a public officer to fulfil any obligations s/he may have, as

imposed by this manual, shall constitute misconduct in terms of the Disciplinary Regulations, without prejudice to any criminal or other action that may be taken according to law.

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

3.1. Exercise of discipline

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.

In November 1999 the Prime Minister approved an Instrument of Delegation which authorised Heads of Department to exercise disciplinary authority, through Legal Notice 186 of 1999 known as the Public Service Commission (Disciplinary Procedure) Regulations, 1999. These Regulations emphasised **devolution of power** and **accountability**. Heads of Department were given greater power to exercise discipline effectively.

This devolution of disciplinary powers was balanced by placing greater emphasis on **employees' rights**. To this end the 1999 Regulations included safeguards to ensure, amongst other things:

- Consistency and uniformity of treatment
- PSC control over the exercise of delegated authority
- The right of appeal
- Adequate means of assistance to the officer
- An impartial Disciplinary Board

The new PSC Disciplinary Regulations, 2017, provide for a higher degree of devolution of power, while focusing on increased accountability and transparency to ensure a fair and just disciplinary process.

The role of the PSC in the disciplinary process remains that of regulator, including functions which emerge from the disciplinary regulations, to give rulings and direction with regard to the interpretation of the regulations if the need arises, and to enquire into the disciplinary control exercised by Heads of Department.

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.

Where it emerges that the 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;

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.

4. GENERAL POWERS OF SUPERVISION AND ADMONISHMENT

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 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 have the power and duty to give direction to, and draw the attention of, a subordinate officer regarding proper conduct, and to admonish such officer verbally or in writing for minor misconduct, as an administrative measure.

In cases where the supervisory officer considers that a written admonishment is appropriate, s/he 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, and the officer concerned shall have the opportunity to exculpate himself/herself within five working days from when s/he is so informed.

If the supervisory officer does not consider that the officer concerned has exculpated himself/herself, s/he shall administer the written admonishment². The written admonishment shall be kept in the officer's personal file for **six (6) months**, in a sealed envelope, but no permanent record of the admonishment shall be kept. Furthermore, no record shall be entered in the GP 47 or personal record sheet of the admonished officer. 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 supervisory officer shall not resort to admonishing in writing an officer under his/her charge if the latter has been admonished in writing on two occasions in any period of six (6) months. In such a case, the supervisory officer shall 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 at the website of the People and Standards Division

² The template of a written admonishment is available at the website of the People and Standards Division

5. APPLICATION OF DISCIPLINARY REGULATIONS

5.1. Criminal offences

5.1.1. 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 General 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 recommendation on the prescribed form³, 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. This report 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.

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.

No action, other than forced leave and/or suspension, may be taken against the officer until criminal proceedings are concluded, including the determination of any appeal.

5.1.2. 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:

³ Template is available at the website of the People and Standards Division

- a) conduct in the officer's private capacity resulting in a criminal conviction;
- 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.

If a Head of Department decides that disciplinary action is called for, s/he shall submit the proposed statement of charges against the officer concerned for the Attorney General's approval within **five (5) working days** from when s/he becomes aware of the final court judgement. To this end, 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 case. 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)].

5.1.3. 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 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.

Notes on suspension of public officers in connection with disciplinary/criminal charges:

A public officer may be summarily suspended in connection with a disciplinary offence or suspended for precautionary purposes in connection with a more serious disciplinary offence or criminal charges.

5.2. Suspension

5.2.1. Summary suspension

- A Head of Department may summarily suspend a public officer under his/her responsibility for a maximum of **eight (8) working days** on grounds of alleged misconduct.
- During the period of summary suspension, the salary of the officer concerned shall be withheld.
- 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.
- 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.
- 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 in 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.

5.2.2. Precautionary suspension

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:

- on grounds of a serious disciplinary offence, and/or if further investigation is necessary to establish whether disciplinary or criminal proceedings are warranted; or
- 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.

Recommendation and approval of precautionary suspension

- 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 PSC on the prescribed form⁴, as to whether or not the officer concerned should be suspended for precautionary purposes, giving reasons to justify his/her opinion. 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.
- 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.
- 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.

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.

Action to be taken if precautionary suspension is approved

- A public officer who is suspended for precautionary purposes shall receive half his/her basic salary, unless the PSC after consulting with the Head of the Public Service, approves a higher proportion of the salary.
- 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. 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.
- If the officer is found guilty but the appropriate penalty is other than dismissal, s/he may be refunded a proportion of the salary withheld during the period of precautionary suspension as recommended by the PSC. If the penalty is dismissal, the officer forfeits the salary withheld during the period of precautionary suspension.

⁴ A specimen template is available for download from the website of the People and Standards Division

- If an officer ceases to be a public officer 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.
- 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.
- The Head of Department shall inform the PSC of any of the above circumstances since the refund or forfeiture of salary is made on the recommendation of the PSC.
- 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.

Other conditions tied to precautionary suspension

- 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.
- 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 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.

5.3. Disciplinary proceedings in terms of regulation 17 of the PSC Disciplinary Regulations

5.3.1. Offences to be reported without delay [regulation 5]

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.

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, is entitled to file a formal complaint in writing with the Head of Department of the officer allegedly committing the offence by not later than six 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.

5.3.2. Exercise of the role of Head of Department

When disciplinary proceedings are to be taken against a Head of Department or any other senior public officer who has been delegated the power to exercise disciplinary action as indicated in Appendix A, the Head of the Public Service shall take such action as a Head of Department is empowered to take under the PSC Disciplinary or delegate such power to a Permanent Secretary [regulation 8].

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.

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 and Appendix A of this Manual].

5.3.3. 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, s/he shall prepare a written statement of charges⁵ 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 the actual or potential consequences thereof. The Head of Department shall consider:

- whether the alleged offence involved violence or threats of violence;
- whether the alleged offence was committed in the presence of members of the public;
- whether the health or safety of staff or of the public was put at risk as a result of the alleged offence;
- whether the alleged offence was committed by an officer who was responsible for preventing such offences; or
- 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 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. The procedures in detail concerning summary suspension and precautionary suspension are given in section 4.2 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

⁵ A specimen template is available for download from the P&SD website.

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-frame of **thirty (30) working days** referred to in a) above, may only be extended:

- if the preliminary investigation was conducted under the Inquiries Act, which allows the statement of charges to be prepared by not later than ninety (90) working days from the date the report of the investigation is signed; or
- 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 two (2) months later.
- If the officer admits to the charge, the Head of Department shall communicate to the officer charged his/her decision on the penalty.
- 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 a Disciplinary Board appointed 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 charged⁶.

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

Standing Disciplinary Panels (SDPs) 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.

⁶ Specimen templates of the letters to be sent to the Disciplinary Board are available for download from the P&SD website

A Disciplinary Board referred to in paragraph 5.3.3(e) above shall consist of at least three persons, who shall be appointed by the Head of Department from among suitable and competent public officers, and/or persons forming part of the SDP of the respective Ministry. The Head of Department shall ensure that a Disciplinary Board does **not** include:

- i) any person connected with 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
- 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 selection board.

The Chairperson of a Disciplinary Board shall be:

- a) a public officer performing duties within the same Ministry as the officer charged;
- 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, if a public officer and not a member of the SDP, shall be:

- a) performing duties within the same Ministry as the officer charged;
- 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.

Objections regarding the composition of the Disciplinary Board may be raised by the officer charged 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 Head of Department **before** the start of the hearing. Disciplinary proceedings shall be suspended pending the decision of the Head of Department.

If the Head of Department 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 Head of Department 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 respective Permanent Secretary within **five (5) working days** from the date s/he is so informed. The decision of the Permanent Secretary 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.

5.3.5. 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.

5.3.6. 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 5.3.4 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.

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

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 any representations, 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 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.
- 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.

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].

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.
- 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 the reasons which led him/her to reconsider the gravity of the original charge with the copy of the report to the Commission.
- c) In giving consideration to the Board's findings and to the submission by the Head of Department, if any, 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.

5.3.8. 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, 2017. 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.

5.4. Appeals from disciplinary decisions

5.4.1. Appeal by the officer charged

In accordance with regulation 27 of the Disciplinary Regulations, a public officer shall have the right to submit 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. To this end, a penalty imposed by a Head of Department shall not be put into effect before the lapse of at least **ten (10) working days** from the date the officer was informed of such penalty. If an appeal is lodged, the penalty shall not be put into effect pending the outcome of the appeal [regulation 28].

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 the Head of Department 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.

5.4.2. 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 his case [regulation 29].

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

5.5. 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.

5.6. Penalties

The penalties that may be awarded by a Head of Department are written warning, suspension without pay, and a warning of dismissal valid for **two (2) years**. The dismissal of a public officer is invariably approved by the Prime Minister on the recommendation of the PSC.

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 file an appeal with the PSC from this decision, in accordance with section 5.4 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.

5.6.1. 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

5.6.2. 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.

5.6.3. 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.

5.6.4. 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 agrees⁷ to seek professional support, preferably through an entity set up by Government to assist public officers experiencing personal, emotional or behavioural problems, within **ten**

⁷ A specimen template of the consent form is available for download from the P&SD website

(10) working days from the of 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.

5.7. Removal from office

5.7.1. 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.

5.7.2. 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 day, the Head of Department shall notify⁸ 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.
- 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.

5.8. 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:

- i) 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.

⁸ Specimen letter is available for download from the P&SD website.

- ii) 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.
- iii) 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 5.3.7 and 5.6 of this Manual.
- iv) 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.

5.9. 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.

5.10. 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.

5.11. 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.

6. GUIDELINES FOR DISCIPLINARY BOARDS

6.1. Functions

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.

6.2. 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 4.3.4 of this Manual.
2. Upon being appointed to serve on a Disciplinary Board, the Chairperson and members are required to take an oath before a Commissioner of Oaths, after making the necessary arrangements with the Attorney General's Office, before the commencement of proceedings.
3. Check that the statement of charges conforms to the requirements of regulations 17(1)(a) and (b), and section 4.3.3 of this Manual.
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 Head of Department 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. During its preliminary meeting, the Disciplinary Board shall examine and become familiar with the documents received from the Head of Department related to the case, and verify that the Board is in possession of all relevant documents.
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 two (2) certified true copies 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. When the Board is in possession of all the relevant information, it shall set a date, time and place for the first sitting.

6.3. 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.

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 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

6.3.1. 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;
- the name of the person representing the officer, if any;
- the name of the Departmental representative;
- the list of witnesses appearing on behalf of both parties together with an indication of the relevance of their evidence.

6.3.2. 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.

6.3.3. Correspondence to witnesses

After the Head of Department provides the necessary information to the Board, the Board shall send a notification addressed to **all** witnesses, summoning them to appear before the Board to give evidence on the appointed date.

6.4. 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.

6.4.1. Rights of the officer charged

The rights of the officer charged are listed under section 5.3.5 of this Manual.

6.4.2. Rights of the victim

The alleged victim of a disciplinary offence shall, upon submitting a request, 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 of his/her choice, subject to the following conditions:

- i) The alleged victim shall be the first witness to be called to give evidence before the Disciplinary Board.

- ii) The alleged victim or his/her representative shall not be entitled to cross-examine witnesses or otherwise intervene in the proceedings. However, the Head of Department or his/her representative may confer with the alleged victim or his/her representative during the proceedings.
- iii) The alleged victim shall have the same right as the officer charged to access documentary evidence, to the findings of the Disciplinary Board, and to the final decision taken by the Head of Department or the PSC, concerning the guilt or otherwise of the officer charged and the penalty, if any, imposed upon him/her.

6.4.3. 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 persons of his/her choice, at every stage of any hearing before a Disciplinary Board or the PSC, including any hearing on appeal.

6.4.4. 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.

6.4.5. Witnesses

1. 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 expert advice.
2. 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);
 - 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.

6.4.6. 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 Attorney General 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.

6.4.7. 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.
- 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.

6.5. Presenting the findings

6.5.1. 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.

6.5.2. 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 statement whether or not, in the Board's opinion, the officer charged is guilty of committing the offence and a brief statement justifying such opinion;
- details concerning any matter which alleviates or aggravates the gravity of the case.

The report shall not include any recommendation as to the penalty to be imposed.

Before submitting the report, the Board shall communicate its conclusions verbally to the Head of Department and to the officer charged during a final session held for the purpose. 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.

7. GUIDELINES FOR DEPARTMENTAL REPRESENTATIVES

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 advisor.

7.1. 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;
- obtaining written statements from public officers who could be asked to give evidence before the Board, in order to ascertain the details of the case.

7.2. 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.

8. RECORD KEEPING OF DISCIPLINARY CASES

8.1. Disciplinary files

8.1.1. Commencement of disciplinary case

A Departmental disciplinary file with a yellow cover should be opened as soon as disciplinary proceedings are initiated against a public officer and all correspondence relating to that particular case shall be dealt with in that file. The reference number of the discipline file shall be the same as that of the personal file of the officer concerned, preceded by the letters "DISC". Correspondence issued from disciplinary files shall also bear as reference the abbreviated name of the Department, as well as the part number, if any, indicating the number of the disciplinary case.

8.1.2. Pending disciplinary case

The file of a pending disciplinary case shall not be attached to the personal file of the officer concerned and its movement shall be handled with the strictest confidentiality, as specified in the procedure for "Movement of Personal Files" stipulated in the document Data Protection HR Corporate Procedures available on the Public Service Intranet.

When the disciplinary case is still pending, a note shall be attached to the officer's personal file indicating a pending disciplinary case. This note shall be placed on the left-hand side, on top of the last minute-sheet, and shall be removed and destroyed when the disciplinary case is concluded. It shall contain:

- the officer's ID number and discipline file number;
- the type of the pending disciplinary case, whether it is a minor or serious disciplinary case; or a criminal case;
- a warning to delete this note when the disciplinary case is concluded.

If there are any pending issues in the personal file of the officer concerned while the disciplinary case is still pending, a note shall be attached in the officer's discipline file accordingly. This note shall be placed on the left-hand side, on top of the last minute-sheet of the discipline file. This note shall be removed and destroyed when the case in the personal file is closed. It shall contain:

- the officer's ID number and personal file number;
- a brief description of the pending issue in the personal file;
- a warning to delete this note when the case in the personal file is closed.

While the disciplinary case is still pending, no reference to the case shall be made on the minute sheet of the personal file, in the Personal Record Sheet (GP 46) and in the Service and Leave Record (GP 47) of the officer concerned.

8.1.3. Conclusion of a disciplinary case

On the conclusion of a disciplinary case, the discipline file shall be sealed in an envelope by the officer responsible for HR matters in the Department or his/her delegate, who shall sign along the flap of the sealed envelope. The discipline file shall be attached to the officer's personal file.

During the period of retention, the sealed discipline files shall be retained in the HR Unit of the Department and they shall only be opened or referred to an officer performing duties outside the HR Unit with the authorisation of the Head of Department of the disciplined officer, or of his/her delegate on such matters, or of an officer acting on his/her behalf.

If the officer is acquitted of the charge against him/her, the discipline file shall be detached from the personal file and it shall be destroyed after two (2) months from the conclusion of the disciplinary proceedings or from the determination of any appeal therefrom, as the case may be.

When the officer is acquitted from the charge issued against him/her, no reference to the case shall be made in the minute sheet of the personal file, in the Personal Record Sheet (GP46) and in the Service and Leave Record (GP 47) of the officer concerned.

If the officer is found guilty of the charge issued against him/her, the sealed disciplinary file shall remain attached to the personal file. An entry shall be made of the outcome of the disciplinary case in the minute sheet of the personal file, in the Personal Record Sheet (GP46) and in the Service and Leave Record (GP47) of the officer concerned, provided that if the penalty is a written warning such entry shall be made in pencil and erased after twelve (12) months.

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

Information related to the Public Service Commission Disciplinary Regulations 2017 is collected in three categories:

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

The standard forms to be used for each category are available from the Public Service Intranet (<http://intra.gov.mt>) in the 'Management Resources' section and the P&SD website.

9.1. Instructions to Directors responsible for people management

Directors responsible for people management are required to collect the completed forms, referred to above, from the Departments and Entities falling within their Ministry and send them to the Executive Secretary, PSC copied to the Director General, P&SD. Two (2) sets are to be sent in a calendar year, the first covering the period 1 January to 30 June, the second covering the period 1 July to 31 December. Returns (including nil returns) are to be sent within one (1) month from the end of the reporting period

In cases dealt with under regulations 14 -16 (Criminal offences) a completed return form is to be sent for each individual case instituted by the Police in the Criminal Court against a public officer for having allegedly committed an offence of a criminal nature. This return should also be submitted when the court case is concluded from all stages.

In cases dealt with under regulation 17 (Minor disciplinary cases) and regulation 17 (Serious disciplinary cases) a completed return form is to be sent for each individual case when a Disciplinary Board is appointed and again when a case is concluded from the Department's end (i.e. when the Head communicates his/her decision to the officer charged or when a case that could lead to dismissal is referred to the PSC). Whenever, the commencement and conclusion of a case fall within the same six (6) month period only one return for that individual case needs to be completed and sent.

Disciplinary cases are considered as concluded from the Department's end either when the Head of Department decides on the case in terms of regulation 23(1) (where the case cannot lead to dismissal) or when the Head of Department refers the case to the PSC in terms of regulation 23(2)(a) (where the case could lead to dismissal).

10. APPENDIX A: INSTRUMENT OF DELEGATION

L-UFFICJU TAL-PRIM MINISTRU



MALTA

OFFICE OF THE PRIME MINISTER

THE CONSTITUTION OF MALTA

DELEGATION OF CERTAIN POWERS RESPECTING THE PUBLIC SERVICE

BY the Honourable Dr Joseph Muscat, K.U.O.M., B.Com, B.A. (Hons), M.A. (European Studies), Ph.D. (Bristol), 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 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 Disciplinary Procedure in the Public Service Commission 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, JOSEPH MUSCAT, K.U.O.M., B.COM, B.A. (HONS), M.A. (EUROPEAN STUDIES), Ph.D. (BRISTOL), 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 Regulations.

GIVEN under my hand at the
Auberge de Castille, Valletta
This 18 day of June 2014

(Sgd) Joseph Muscat

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 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> <p>(a) public officers in his own office;</p> <p>(b) Permanent Secretaries, Heads of Department, Directors General and Directors, as provided for by regulation 8 of S.L.Const.03;</p> <p>(c) public officers in salary scale2;</p> <p>(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> <p>In the capacity of Permanent Secretary, Office of the Prime Minister, under article 13(5) of the Public Administration Act:</p> <p>(a) other public officers in the Office of the Prime Minister and its subordinate departments;</p> <p>(b) public officers assigned to government agencies, entities, and other public bodies under the responsibility of the Prime Minister;</p> <p>(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</p> <p>(d) public officers in the secretariat of the Prime Minister and any Parliamentary Secretaries reporting to the Prime Minister.</p>	<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 13(5) of the Public Administration Act.</p>
Secretary to the Cabinet	Public officers in the Cabinet Office.	
Permanent Secretaries	<p>(a) Public officers in their own offices;</p> <p>(b) other public officers in their</p>	

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
	<p>ministry and its subordinate departments;</p> <p>(c) public officers assigned to government agencies, entities, and other public 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>
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 human resource 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	<p>(a) Public officers in their own directorates or offices; and</p> <p>(b) other public officers in their</p>	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
human resource management, corporate services or administration across a department	department.	parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Director of Correctional Services	Public officers in the Correctional Services 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.</p> <p>The following disciplinary penalties may be imposed on public officers in the Correctional Services Department as a result of disciplinary proceedings under delegated authority:</p> <ul style="list-style-type: none"> (a) disciplinary transfer; (b) a fine not exceeding thirteen days' pay; (c) deferment of increment for a period not exceeding one incremental year; (d) stoppage of weekly rest days, not exceeding seven; (e) severe reprimand; (f) reprimand; (g) caution.
Director responsible for Local Councils	<ul style="list-style-type: none"> (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.
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

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
		the National Audit Office shall not be exercisable by the relevant Permanent Secretary or any other officer or authority save the Auditor General.
Commanding Officer, 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 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 Executive Officer, Karin Grech	Public officers performing duties at Karin Grech Rehabilitation Hospital.	Subject to any instructions which may be issued by the responsible

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
Rehabilitation Hospital		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, Karin Grech Rehabilitation Hospital	Public officers performing duties at Karin 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.
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.
Chief Executive Officer, 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 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, St Vincent de Paul Residence for the Elderly	Public officers performing duties at St Vincent de Paul Residence for the Elderly.	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, Gozo General Hospital	Public officers performing duties at Gozo General 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.
Medical Administrator, Sir Paul Boffa Hospital	Public officers performing duties at Sir Paul Boffa 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, Sir Paul Boffa Hospital	Public officers performing duties at Sir Paul Boffa 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) of Detention Centres	Public officers performing duties at Detention Centres.	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.
Commanders of Detention Centres	Public officers performing duties at each respective Detention Centre.	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

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
Human Resource Manager, Environmental Landscapes Consortium Limited	Public officers assigned to Environmental Landscapes Consortium Limited.	particular categories of public officers. 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.
Officers in a supervisory capacity (with respect only to regulation 18 of S.L.Const.03)	Public officers under their charge.	—

11. APPENDIX B: RETENTION OF DISCIPLINARY RECORDS

Records of disciplinary cases are to be retained as stipulated in the Data Protection – Human Resources Corporate Procedures, which is available for download from the Public Service Intranet under the section 'Data Protection.'

Documentation related to minor and serious disciplinary cases are to be retained as follows:

After the conclusion of the case:

- If found guilty, the documents are retained for ten (10) years from the termination of employment and record is shown permanently in the Personal Record Sheet (GP46).
- If found not guilty, the documents are retained for two (2) months from the conclusion of the case and no record is kept thereafter.

If the case is not concluded:

- If the officer retires whilst disciplinary proceedings are still pending, the documents shall be retained until the officer reaches retirement age.

Written warning given as a penalty for a first minor offence

A written warning which is issued as a penalty for a first minor offence is to be attached to the officer's Personal Record Sheet (PRS) (GP46) and an appropriate note is made in pencil on the PRS. On the expiry of twelve (12) months from the date that the written warning is issued, any reference made to it shall be deleted.