





Equality Policy

This policy is correct as on 18 June 2021

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# 1. Introduction

The Public Service is an equal opportunity employer. It aims to provide an inclusive environment which promotes equality and diversity, while maintaining a healthy working environment in which the rights and dignity of employees are respected. In line with Article 32 of the Constitution, the Public Service upholds the principle of non-discrimination (either directly or indirectly) on the grounds of sex, age, race/ethnic origin, marital status, pregnancy or potential pregnancy, disability, sexual orientation, religious or other beliefs. The behaviour of Public employees is governed by the Code of Ethics in the First Schedule of the Public Administration Act (Cap. 497), the Public Service Management Code and other Directives, Policies and Regulations applicable to public employees.

The People and Standards Division (P&SD), within the Office of the Prime Minister, has a strategic role in the centre of People Management practices across the Public Administration. The principle of non-discrimination and equal opportunities is asserted further through the P&SD, which leads the development and implementation of innovative People Management policies, alongside its monitoring, regulatory and advisory role.

This Equality Policy is applicable to all the employees of the Public Service. Ensuring a non-discriminatory working environment within the Public Service is the responsibility of all employees, particularly management.

## 1.1. Definition of Terms

- Direct discrimination – when a person is treated less favourably than another person in a comparable situation.
- Indirect discrimination – where an apparently neutral provision (criterion or practice) would put a person at a particular disadvantage when compared with other persons (unless this provision is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary).
- Harassment takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating and/or offensive environment.<sup>1</sup>

## 1.2. Communicating the Policy

All Public Service employees should be informed of the Public Service Equality Policy. All employees should be further informed about the possibility of seeking assistance from outside the Public Service should it be felt that discrimination has taken place.

The People Support and Wellbeing Directorate (PSW), within P&SD, is responsible for regularly updating this policy and for ensuring its implementation across the Public Service. Any queries or suggestions regarding this policy should be addressed to [psw.opm@gov.mt](mailto:psw.opm@gov.mt)

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<sup>1</sup> In terms of the Equality for Men and Women Act (Cap.456)

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## 2. Communicating Policies to Public Service Employees

### 2.1. Circulars

The Public Service, through the respective Director responsible for People Management, ensures that all directives and circulars, including:

- OPM circulars, which mainly focus on general policy direction;
- P&SD circulars, relating to HR policy issues;
- office orders; and/or
- memoranda,

are brought to the immediate attention of all Public Service employees, including those on paid or unpaid leave either for family-friendly or for other reasons. OPM and P&SD Circulars, which are of direct interest to all public employees, are issued in both the Maltese and English languages.

All OPM and P&SD circulars are addressed to Permanent Secretaries, Directors General and Directors, as well as Heads of Public Entities who should, in turn, ascertain that the information is communicated to their employees. Furthermore, other relevant documents which are published on the intranet should be made available even to Public Sector employees who do not have access to the intranet.

In order to ensure that all public employees have equal access to information, especially in the case of circulars advertising vacancies, the following instructions should be followed:

- HR units are to ascertain that they have up-to-date information with regards to employees who have access to an e-mail account and those without such access;
- all employees who have email access are invariably furnished with an electronic copy of all circulars issued;
- a hard copy of circulars is to be circulated among employees who do not have e-mail access. In these cases, employees should sign the circulars to confirm their awareness of the circular contents; and
- Heads of Public Sector organisations are to ensure that circulars targeting Public Sector and/or Public Service employees are brought to the attention of all their employees as per (b) and (c) above.

Failure to adhere to the above guidelines may lead to disciplinary action.

## 2.2. Public Service Management Code and Manuals

To further facilitate the dissemination of information, the Public Service Management Code (PSMC) and [PSMC Manuals](#) may be accessed online. The PSMC manuals are:

- i. Manual on Resourcing Policies and Procedures
- ii. Manual on the Position of Assistant Director in the Public Service
- iii. Manual on the Procedure and Computation of Salaries
- iv. Manual of Allowances
- v. Manual on Special Leaves
- vi. Manual on Work-Life Balance Measures
- vii. Manual on Transport and Travel Policies and Procedures
- viii. Manual on Social Security Contributions, Benefits and Pensions
- ix. Manual on Service Pension
- x. Manual on the Procedure of the Medical Board

The People Support & Wellbeing Directorate (PSW), within the People and Standards Division, is committed to assist line ministries, departments and employees in addressing their queries, including the interpretation and implementation of policies encompassed in the PSMC.

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## 3. Recruitment Procedures

### 3.1. Gender Equality

In terms of Article 26 of the Employment and Industrial Relations Act and Article 4 of the Equality for Men and Women Act (Cap. 456), it is unlawful for any person to discriminate, either directly or indirectly:

- in the arrangements made to determine who should be offered employment;
- in determining who should be offered employment;
- in the terms and conditions on which the employment is offered, including pay, conditions of work and other benefits; and
- in determining who should be dismissed from employment.

In this respect, the Public Service ensures non-discriminatory practices in vacancies and vacancy advertisements, job descriptions and selection procedures. Moreover, the selection board regulating the recruitment process is well-versed in equality legislation and ensures that the criteria established for selection, application forms and interview questions, only refer to what is essential for the performance of tasks relevant to the job.<sup>2</sup>

Persons employed within the Public Service in the same grade or type of employment enjoy the same conditions of work including pay, work-life balance measures and conditions of work. It is ensured that training offered by the Institute for the Public Services (IPS) is gender sensitive.

Legal Notice 181 of 2008, entitled Access to Goods and Services and their Supply (Equal Treatment) Regulations, is applicable to the Public Service.<sup>3</sup>

### 3.2. Gender Neutral Vacancies, Vacancy Advertisements and Job Descriptions

Job vacancies / nomenclatures / job descriptions are generally gender-neutral.

Where applicable, advertisements are to carry reference to gender-inclusiveness immediately after the title of the call, as follows:

*“In accordance with clause 3.1(l) of the current Collective Agreement, nomenclatures importing the male gender include also the female gender.”*

Advertised vacancies necessitating specific gender occupational requirements should be clearly outlined in the job description of the respective call for applications. The actual task/s that need to be performed by a person of a particular gender, consequently, include a justification of the gender eligibility restriction in terms of sub-article 2 (5) of the Equality for Men and Women Act (Cap. 456).

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<sup>2</sup> Manual on Resourcing Policies and Procedures

<sup>3</sup> Manual on Resourcing Policies and Procedures

### 3.3. Good Practices Adopted by Selection Boards

As far as possible, the Selection Board composition should include members of both genders.

In determining eligibility and assessing candidates, the selection board should avoid any form of direct or indirect discriminatory treatment, as defined in the Employment and Industrial Relations Act (Cap. 452 of the Laws of Malta) and Subsidiary Legislation (Equal Treatment in Employment Regulations - SL 452.95), as applicable from time to time, as well as the Equality for Men and Women Act (Cap. 456 of the Laws of Malta) and the Gender Identity, Gender Expression and Sex Characteristics Act (Cap. 540 of the Laws of Malta). The selection board shall ensure that every person is assessed according to his or her ability to carry out a given job. It is discriminatory to assess a person's ability on the grounds of the person's gender and/or family responsibilities. In order to avoid gender bias and to promote equality of opportunity:

- I. All applications should be processed in exactly the same way.
- II. Persons should be assessed according to their personal capability and competence to carry out a given job.
- III. Questions asked during interviews should relate to the requirements of the job.
- IV. Questions regarding gender, family responsibilities, marital status and pregnancy/potential pregnancy, or any other discriminatory questions, are not to be asked.
- V. No account should be taken of sex/sexual orientation, racial/ethnic origin, disability, age, religion/religious belief, political opinion or membership in a trade union/employers' association.
- VI. In the case of promotion, care should be taken to consider favourably the non-formal qualifications arising from general experience and differing career patterns of candidates.

### 3.4. Gender Sensitive Appointment Procedures

In line with the provisions of the Manual on Resourcing Policies and Procedures, Public Service employees who qualify for appointment while availing themselves of maternity or parental leave, will be granted their due appointment even if they are unable to resume duties within the validity period of the appointment. This concession applies also to pregnant external recruits who qualify for Maternity Leave at the same time that they qualify for an appointment with the Public Service.

These employees will be required to perform their period of probation when they resume duties and will only be confirmed in their appointment on satisfactory completion of the period of probation.

### 3.5. Recruitment of Persons with Disability

The Public Service is committed to stay at the forefront in applying inclusive policies at the place of work. In this regard, the Public Service seeks to enhance, as far as possible, the status of disabled employees and their opportunities for advancement.

The Public Service is a signatory to the National Commission for Persons with Disability (NCPD) declaration recognising that persons with a disability may, for various reasons, often face social obstacles which impede access to various areas. In this regard, the Public Service is committed to doing all that is reasonably possible to put in action the principles contained in the Equal Opportunities (Persons with a Disability) Act (Cap. 413) and the UN Standard Regulations of 1993 on Equal Opportunities for Persons with a Disability.

The Foundation for IT Accessibility (FITA) aims to facilitate the integration of Public Service employees with a disability by providing information on equitable and appropriate ICT enabling accommodation. In this regard, potential service users with disability may contact FITA should they feel they would benefit from its services

### 3.5.1 Special Arrangements for the Recruitment of Persons with Disability

Registered persons with a disability who do not satisfy all the eligibility requirements in calls for applications but who are capable of carrying out, in essence, the duties attached to a particular post/position, are allowed to ask for special consideration when applying for posts/positions in the Public Service. The procedure to be followed is explained in detail in the Manual for Resourcing Policies and Procedures.

In terms of Article 7 of the Equal Opportunities (Persons with Disability) Act, calls for applications are to stipulate these arrangements for such reasonable accommodation.

Furthermore, when examinations are held for entry into a particular post/position in the Public Service, in the case of persons with a disability registered with the NCPD, special arrangements are to be made as established in the University of Malta Guidelines to MATSEC Examinations Access Arrangements, 2011.

In order to increase opportunities for persons with a disability to work in the Public Administration, departments and entities seeking to fill vacant posts/position are to identify whether vacant posts/positions may be filled by persons registered on the JobsPlus register of disabled unemployed, subject that they can perform, in essence, the duties of the post/position.



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## 4. Conditions of Employment

### 4.1. Conditions of Employment in the Public Service

All Public Service employees, whether on a full-time or part-time basis, are entitled to all the benefits and conditions of work outlined in the PSMC and Manuals, and are also obliged to adhere to all procedures and regulations stipulated in the PSMC and Manuals. Part-time employees engaged through the PSC are entitled to leave benefits on a pro-rata basis

### 4.2 Work-Life Balance Measures<sup>4</sup>

#### 4.2.1 Applicability

Work-life balance measures are applicable to all public employees. In the case of employees engaged on a definite basis, the work-life balance measures will only run up to the term of engagement.

Requests for the uptake of work-life balance measures should be facilitated by the respective Director, always taking into account the needs of the service delivery.

Before deciding on the request, the respective Director shall discuss the request with the employee.

#### 4.2.2 Paid leave for family-friendly reasons

The below is a list of the paid work-life balance measures for family reasons, available for public employees. Details on each policy and the entitlement for each type of leave may be found in the Manual on Work-Life Balance Measures.

- Marriage/Civil Union Leave
- Release to attend Ante-Natal Examinations
- Maternity Leave and Breastfeeding Facilities
- Parent Leave
- Leave for Medically Assisted Procreation (I.V.F Leave)
- Adoption Leave
- Bereavement Leave
- Urgent Family Leave
- Donation of Vacation Leave/Time off in Lieu (TOIL) for Humanitarian Reasons

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<sup>4</sup> Also applicable to the public sector

### 4.2.3 Unpaid leave for family-friendly reasons

The following is a list of unpaid work-life balance measures for family reasons. Details on the each policy and the entitlement for each type of leave may be found in the Manual on Work-Life Balance Measures.

- Parental Leave - Applicable To Parents, Legal Guardians And Foster Carers
- Career Break
- Responsibility Leave
- Leave For A Special Reason

### 4.2.4 Other work-life balance measures

The following is a list of other work-life balance measures applicable to public employees.

- Work on reduced hours
- Teleworking
- Flexibility in work schedules

Details on each measure may be found in the Manual on Work-Life Balance Measures.

## 4.3 Disciplinary Procedures

The exercise of discipline on public officers is regulated by the PSC Disciplinary Regulations. The provisions of these Regulations are applicable to officers recruited in the Public Service in terms of Section 110 of the Constitution. This also applies to officers who migrate to entities.

An officer shall become liable to proceedings, under these provisions, for conduct that brings the Public Service into disrepute, for misconduct, for any breach of discipline or code of ethics, or for unsatisfactory work, without prejudice to the generality of the foregoing:

- a) for any breach of, or failure to comply with, any laws, rules, regulations or codes governing from time to time the Public Service, or the conduct of public officers, or the transaction of government business; or
- b) for any breach of, or failure to comply with, any lawful order, direction or instruction, whether written or verbal, that may properly be given by a superior officer or authority.

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## 5. Petitions and Redress Opportunities

### 5.1 Petitions on Injustices and Unfair Treatment

All Public Service employees have the possibility of seeking redress if they have reason to believe that they have been discriminated against, or unfairly treated.

### 5.2 Petitions Related to Appointments and Promotions

When petitions relating to appointments or promotions in the Public Service are lodged by external applicants or serving Public Service employees, the following procedure is to be observed.<sup>5</sup>

- a) Petitions objecting to the result of a selection board are to be submitted to the Executive Secretary, Public Service Commission, copying the respective Director General/Director responsible for the Department/Directorate at which the vacancy has arisen;
- b) immediately upon receiving the copy of the petition, the respective Director General/Director forwards it to the Chairperson of the relative selection board;
- c) the respective Director General/Director instructs the Board to submit to the Public Service Commission, within the shortest time possible, its comments on the points raised in the petition. The respective Director General/Director is to be copied with the selection board's comments;
- d) the respective Director General/Director ensures that the selection board deals with the petition and with any follow-up correspondence there may be with the Public Service Commission expeditiously. The Director General/Director is also expected to intervene in writing, in cases of undue delay.

In the absence of compliance with the above procedure, as well as in cases of undue delay by the selection board or by the respective Director General/ Director, a serious view, including the possible institution of disciplinary proceedings, will be taken.

As a general rule, the Public Service Commission examines any petitions referred to it, keeping in mind:

- a) whether the candidate has been overlooked or whether his/her claims have been inadequately considered because of some error or omission of fact;
- b) whether the recommendation of the selection board has been influenced by any consideration other than those laid down in the Public Service Commission Regulations, which had not previously come to the notice of the Commission or, in cases of appointments by delegated authority, of the delegated authority; and
- c) whether there has been any other irregularity in procedure which vitiates the recommendation.

Petitions objecting to a selection board result should reach the Commission and the respective Director General/Director within ten (10) working days from the date of publication of the notice of the issue of the result in the Government Gazette or, in cases of posts/positions in scale 5 or above, from the date of result.

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<sup>5</sup> Manual on Resourcing Policies and Procedures

### 5.3 Petitions Related to Disciplinary Procedures

Public Officers who do not agree with findings of guilt or the penalty imposed, if any, by the Head of Department as a result of disciplinary proceedings in their respect, may lodge an appeal in writing with the Public Service Commission within ten (10) working days from the date that the decision on the findings of their disciplinary case and penalty imposed, if any, is communicated to them.

Further information on the procedures regarding disciplinary procedures may be found in the Manual on Disciplinary Procedures.

### 5.4 Grievances Board

The Grievances Board was set up in terms of OPM Circular 24/2017 with the aim to give a voice to public officers who suffered alleged injustices related to matters concerning their employment with the Public Service and, who would like to seek an independent and impartial review of their case. Public officers may submit a case of an alleged injustice for the investigation by the Grievances Board by making a request in writing to the One-Stop-Shop for Public Officers by sending an e-mail to [one-stop-shop.psd@gov.mt](mailto:one-stop-shop.psd@gov.mt) or by mail to One-Stop-Shop for Public Officers, People & Standards Division, 3 Castille Place Valletta. More information on the One-Stop-Shop for Public Officers is provided at section 6.3.



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## 6. Wellbeing and Support

### 6.1 Employee Support Programme

The Employee Support Programme (ESP) provides professional counselling services and support through a multi-disciplinary team of professionals. The ESP also offers return-to-work support following prolonged sickness from work due to mental illness and serves as a liaison between the Medical Board and line departments to support employees holistically.

The services offered by the ESP are confidential and free of charge. Employees may access the services of the ESP by sending an e-mail to [esp.opm@gov.mt](mailto:esp.opm@gov.mt) or by calling 22001210. For more information on the services offered by the ESP visit [www.esp.gov.mt](http://www.esp.gov.mt).

### 6.2 Medical Board

The Medical Board, which falls under the remit of P&SD, aims to encourage public employees to remain in employment and its primary role is to provide professional guidance and support to employees in terms of occupational health. The Medical Board is composed of a multidisciplinary team of professionals which provide recommendations on issues related to the impact of the employee's health issues on performance at work. Following a professional review of the case, the Medical Board will then make any necessary recommendations with a view to support the employee whilst at the same time assist management as necessary.

### 6.3 One-Stop-Shop for Public Officers

The One-Stop-Shop for Public Officers is intended to provide timely guidance and support to public officers on their conditions of employment with the Public Service, as well on the services, and benefits applicable to public officers. The role of the One-Stop-Shop is also to act as liaison between the employees who access the service of the One-Stop-Shop and their employing departments. The One-Stop-Shop also serves as a first line of contact for public officers who file cases on alleged work-related injustices they suffered, for the investigation of the Grievances Board. More information on the Grievances Board is provided at section 5.4 above.

Public Officers may contact the One-Stop-Shop by sending an e-mail to [one-stop-shop.psd@gov.mt](mailto:one-stop-shop.psd@gov.mt), by calling 22001225, or by walk-in at One-Stop-Shop, People & Standards Division, 3 Castille Place, Valletta. A One-Stop-Shop branch is also available in Gozo at Hamrija Street in Xewkija.

### 6.4 Dealing with Harassment and Bullying

The policy Harassment and Bullying-free Workplace provides a procedural framework to deal with cases of bullying and harassment at the workplace.

The following procedures are intended to serve as guidelines for both Heads of Department and Public Service employees on how cases of harassment and bullying should be tackled in a fair, consistent and expeditious way, while ensuring standards of good practice, natural justice and utmost confidentiality.

- the alleged harasser should be informed of the alleged breach of good conduct against him/her;
- the alleged harasser should be given the opportunity to state his/her case prior to the commencement of any disciplinary action;
- the provisions about the burden of proof in Article 19(2) of the Equality for Men and Women Act (Cap. 456) and Article 7(3) of the Access to Goods and Services and their

Supply (Equal Treatment) Regulations (LN 181/2008), must be observed. If a person establishes, before a court or other competent authority, facts from which it may be presumed that there has been sexual harassment against him or her, the burden of proving that there has been no offence shall lie on the person, establishment or entity against whom the allegation of sexual harassment is being made.

A victim of harassment and bullying may take informal or formal action against the alleged harasser. Details on the procedure to be followed may be found in the policy Harassment and Bullying-Free Workplace.

The procedure in detail on how to address bullying and harassment issues at the workplace may be found in the Policy Harassment and Bullying-free Workplace.

### 6.4.1 Advice & Support

It is the duty of Heads of Department to establish and maintain workplaces free of harassment and bullying.

Public Service employees who suffer bullying and harassment at the workplace and who are not provided with the necessary support and redress from their department, may appeal to the Grievances Board within the People & Standards Division. The appeal is to be made in writing and sent to the One-Stop-Shop for Public Officers within P&SD. The contact details of the One-Stop-Shop are provided at section 6.3 above.

Public employees who suffer bullying and harassment are encouraged to seek professional support from the Employee Support Programme (ESP). The contact details of the ESP are provided at section 6.1 above.





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OFFICE OF THE PRIME MINISTER