

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

# MANUAL ON DISCIPLINARY PROCEDURES IN THE PUBLIC SERVICE

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## **i. LIST OF ABBREVIATIONS**

- AG:** Attorney General
- CP:** Criminal proceedings
- DP:** Disciplinary proceedings
- ESP:** Employee Support Programme
- GP 46:** Personal Record Sheet
- GP 47:** Service and Leave Record Sheet
- HR:** Human Resources
- PSC:** Public Service Commission
- P&SD:** People and Standards Division
- PSMC:** Public Service Management Code
- SDP:** Standing Disciplinary Panel

## ii. GLOSSARY

### **Additional Earnings**

Income other than the basic salary.

### **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 maximum salary as the scale of the post to which they are being compared.

### **Chairperson of a Disciplinary Board**

The person who chairs the Disciplinary Board.

### **Criminal proceedings**

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

### **Delegation**

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

### **Demotion**

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

### **Departmental Representative**

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

### **Disciplinary Board**

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

### **Disciplinary file**

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

### **Disciplinary proceedings**

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

### **Disciplinary Regulations**

Public Service Commission Disciplinary Regulations, 2023.

### **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**

Grade consists of a group of one or more posts in one or more ministries or departments that bear a common designation and form part of a career stream providing for mechanisms of promotion from one grade to another.

**Head of Department**

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

**Head of the Public Service**

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

**Increment**

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

**Members of a Disciplinary Board**

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

**Permanent Secretary**

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

**Personal file**

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

**Precautionary suspension**

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

**Public officer**

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

**Public Service Commission**

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

**Salary**

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

**Salary scale**

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

**Supervisory officer**

A public officer who is responsible for other public officers.

**Working Days**

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

**Written communication**

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

### iii. FOREWORD

This manual expands on the provisions of the PSC Disciplinary Regulations 2023, to ensure that the Disciplinary Regulations are interpreted correctly and uniformly by line departments, and also to impart best practices on the exercise of discipline and the conduct of disciplinary hearings by Disciplinary Boards. The manual is appended to Directive 11 issued by the Principal Permanent Secretary and is considered as Government's official document which regulates the exercise of discipline in the Malta Public Service.

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

This revised and simplified version of the manual offers guidelines that are more user-friendly. The P&SD, in consultation with the PSC, may issue updated versions of this manual from time to time.

#### **Disclaimer**

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

Nomenclatures denoting the male gender include also the female gender

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# General Provisions

## 1. General Provisions

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

The PSC Disciplinary Regulations, 2023 stipulate the procedure to be followed by Heads of Department to exercise discipline on public officers falling under their responsibility. These regulations emphasise increased accountability and transparency to ensure a fair and just disciplinary process.

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

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

### 1.1. Authority to Exercise Discipline

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

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

### 1.2. Powers of the PSC

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

- a) has abused delegated authority; or
- b) has failed to exercise proper disciplinary control in accordance with the PSC Disciplinary Regulations, 2023, or this manual; or
- c) did not comply with any PSC ruling or directive;

### 1.3. Liability to Disciplinary Proceedings

A public officer is liable to disciplinary proceedings, in accordance with regulation 4(1) of the PSC Disciplinary Regulations 2023, for misconduct, which includes:

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

02

# General Powers of Supervision

## 2. GENERAL POWERS OF SUPERVISION

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

Prior to resorting to the application of the disciplinary procedures set out in the PSC Disciplinary Regulations 2023, supervisory officers are to draw the attention of the officer concerned on the proper means of conduct and resort to administrative measures by admonishing the officer concerned verbally or in writing, for minor misconduct.

### 2.1. Written Admonishment

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

- a) The supervisory officer shall within **five (5) working days** from the date he becomes aware of the alleged misconduct, inform in writing<sup>1</sup> the officer under his responsibility of his intent to issue a written admonishment, stating the grounds therefor;
- b) The officer concerned shall have the opportunity to exculpate himself within **five (5) working days** from when he is so informed;
- c) If the supervisory officer does not consider that the officer concerned has exculpated himself, he shall administer the written admonishment<sup>2</sup> within **five (5) working days**.
- d) The written admonishment shall be kept in the officer's personal file for **six (6) months**, in a sealed envelope. No permanent record of the admonishment shall be kept and no record shall be entered in the GP 47 or personal record sheet of the admonished officer.
- e) The supervisory officer who issues the admonishment shall ensure that the admonishment is removed from the file and destroyed after the lapse of **six (6) months**.

A written admonishment shall not be issued against an officer who has already been admonished in writing on **two (2) occasions** in any period of **six (6) months**. The supervisory officer shall however, report the matter to the Head of Department, who shall decide on appropriate disciplinary action under the PSC Disciplinary Regulations, 2023.

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

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<sup>1</sup> A template is available on the P&SD website.

<sup>2</sup> A template is available on the P&SD website.

03

# **Application of Disciplinary Regulations**

## 3. APPLICATION OF DISCIPLINARY REGULATIONS

### 3.1. Criminal Offences

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

If criminal proceedings are instituted against a public officer, the latter shall inform the Head of Department within three (3) working days from the day after the commencement of such proceedings.

When it comes to the notice of a Head of Department that an offence allegedly committed by a public officer under his responsibility may be of a criminal nature, he shall consult the Attorney General<sup>3</sup> 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 before they are issued by the Head of Department [regulation 13(1)].

When it comes to the notice of the Head of Department that a public officer under his responsibility is to be arraigned in court or is being investigated or has been arrested by the police in connection with a criminal offence which is of a nature likely to warrant disciplinary action, and the Head of Department considers that the officer should be withdrawn from the place of work for an interim period, he may suspend the officer for precautionary purposes from the exercise of his powers and functions. No disciplinary proceedings against such an officer upon any grounds involved in the criminal charge shall be taken until the conclusion of the criminal proceedings and the determination of any appeal [regulation 13(3)].

The Head of Department may review the suspension at any time. Furthermore, an officer suspended for precautionary purposes, and in respect of whom no criminal charges are instituted after the lapse of six (6) months from the date of such suspension, may submit written representations to the Head of Department to consider the lifting of such suspension. The review procedure is subject to any directions and guidelines issued by the PSC.

Further details on precautionary suspension, or lifting thereof, are provided under Section 3.2.2 of this Manual.

Alternatively, the Head of Department may direct the officer to avail oneself of **forced vacation leave** for a single period up to a **maximum of eighty (80) hours** and the officer shall comply in accordance with regulation 11(1). This measure shall not be prolonged without due reason and shall only be used as an interim measure. However, if an officer has no remaining 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.

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<sup>3</sup> Specimen letter is available for download from the P&SD website.

### 3.1.2. If the Officer is acquitted

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

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

If a Head of Department decides that disciplinary action is to be taken, he shall submit the proposed statement of charges against the officer concerned for the AG's approval within **five (5) working days** from when he becomes aware of the final court judgement.

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

The Head of Department shall refer the Court judgement to the PSC whenever a public officer is found guilty of a criminal charge. The Head of Department may refrain from referring the findings of the Court to the Commission if he determines that the misconduct has no direct or indirect relation to the duties of the officer concerned, and the penalty imposed by the Court does not include a sentence of imprisonment (even if a suspended sentence) or interdiction. In such cases, the Head of Department shall lift the precautionary suspension without undue delay. The officer shall be entitled to the part salary withheld during the period of precautionary suspension.

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 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.

## 3.2. Interim Measures Pending Disciplinary or Criminal Proceedings

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

### 3.2.1. Forced leave [regulation 11]

The Head of Department may direct an officer under his responsibility to avail himself of vacation leave for a single period up to a maximum of **eighty (80)**, and the officer shall comply. This measure may be used whenever it comes to the notice of the Head of Department that an officer under his responsibility:

- (a) is being investigated or has been arrested by the police in connection with a criminal investigation; or
- (b) is being investigated in connection with a disciplinary offence.
- (c) may have committed an alleged misconduct, or disobeyed lawful orders, whether written or verbal.

### 3.2.2. Precautionary Suspension [regulation 12]

#### (i) **Circumstances for Precautionary Suspension**

A Head of Department may consider it necessary and in the public interest that a public officer be withdrawn from the place of work for an interim period, he may suspend the officer from the exercise of the powers and functions of his office:

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

A precautionary suspension is not a disciplinary action and is only intended as an interim measure of precaution and as far as possible should not be prolonged unnecessarily. Where precautionary suspension was imposed in connection with a criminal offence, the Head of Department is to ensure that the criminal proceedings against the officer charged are closely monitored by requesting regular updates on the case form the Police Department/Court Registry, in order to ensure that the officer does not remain suspended for precautionary purposes unnecessarily.

Where a public officer has been acquitted of a criminal charge, the Head of Department shall lift the precautionary suspension, in connection with the case without undue delay<sup>4</sup>. The officer shall be entitled to be refunded the proportion of salary withheld during the period of such suspension.

No disciplinary proceedings against such an officer upon any grounds involved in the criminal charge shall be taken until the conclusion of the criminal proceedings and the determination of any appeal [regulation 13(3)].

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<sup>4</sup> A template is available on the P&SD website.

**(ii) Action which may be taken by the officer if he disagrees with precautionary suspension [regulation 12(2)]**

If the officer considers that the decision of the Head of Department is unjust in his regard, he may appeal to the Commission within five (5) working days starting from the day after he receives the notification from the Head of Department, setting out the reasons why he considers that the decision in his respect was unjust. The officer may also appeal, by presenting justified reasons, regarding the proportion of salary to be withheld.

The PSC shall seek the views of the Head of Department. If the PSC deems the officer's appeal justified, it shall seek to annul the decision of the Head of Department by means of a recommendation and upon approval of such recommendation, inform the officer and the Head of Department that the precautionary suspension is revoked.

**(iii) Action to be taken when no criminal charges are issued**

The Head of Department may review the suspension at any time. Furthermore, an officer suspended for precautionary purposes, and in respect of whom no criminal charges are instituted after the lapse of six (6) months from the date of such suspension, may submit written representations with justified reasons requesting the Head of Department to consider the lifting of such suspension. Following such representations, if the Head of Department does not lift a precautionary suspension, and the officer considers that the decision in his regard was unjust, the officer may appeal to the PSC within five (5) working days from when he receives the notification from the Head of Department, where he gives the reasons why he considers that the decision regarding him was unjust. The PSC will seek the views of the Head of Department. If the Commission considers such an appeal to be justified, it shall seek to annul the decision of the Head of Department by means of a recommendation and upon approval of the recommendation, inform the officer and the Head of Department of such decision.

If the precautionary suspension is revoked, the officer under suspension shall be immediately recalled for duty and shall be refunded any salary withheld during the period of precautionary suspension.

**(iv) Conditions related to salary and precautionary suspension**

A public officer who is suspended for precautionary purposes shall receive eighty per cent (80%) of the salary or the equivalent to the rate of the minimum wage, as determined in terms of the National Minimum Wage National Standing Order, whichever is the higher.

If the disciplinary or criminal proceedings do not result in the dismissal of the officer or another penalty, the officer shall be entitled to the full amount of salary which he would have received if he had not been suspended for precautionary purposes. The officer shall also be entitled to a pro-rata payment in lieu of any additional earnings withheld over and above his salary, which payment shall be computed on the mean average of the additional earnings of the previous three (3) years prior to the precautionary suspension. If the penalty is other than dismissal, he may be refunded such proportion of the salary withheld as a result of his precautionary suspension as recommended by the PSC. If the penalty is dismissal, the officer shall forfeit the salary withheld as a result of his precautionary suspension.

- **If the officer ceases to be a public officer**

Where an officer against whom disciplinary or criminal action has been taken and is pending, ceases to be a public officer before the conclusion of such action, any salary withheld as a result of his precautionary suspension shall not be refunded unless he is acquitted of all the charges brought against him.

However, when an officer, who has had his salary withheld as a result of his precautionary suspension ceases to be a public officer before any disciplinary or criminal charges are issued, then the officer shall be refunded the salary which had been withheld from him during the period of his precautionary suspension.

- **If the officer dies while proceedings are still pending**

If the officer dies when proceedings are still pending, any salary withheld as a result of his precautionary suspension is refunded to his heirs.

(v) **Action which may be taken by the officer in cases where a written statement of charges is not issued [regulation 12(10)]**

An officer suspended for precautionary purposes in relation to whom a written statement of the charge/s is not issued, after the expiration of sixty (60) working days from the date of such suspension, may submit written submissions with justified reasons asking the Head of Department to lift the precautionary suspension. If the Head of Department does not lift the precautionary suspension, the officer may appeal to the PSC within five (5) working days starting from the day after he receives the notification from the Head of Department, where he gives the reasons why he considers that the decision regarding him was unjust.

The PSC shall seek the views of the Head of Department. If the PSC deems the officer's appeal to be justified, it shall seek to annul the decision of the Head of Department by means of a recommendation, and upon approval of the recommendation, inform the officer and the Head of Department of such decision.

(vi) **Considerations made related to precautionary suspension/ lifting of precautionary suspension**

From the outset, it is to be noted that the decision on whether an officer is to be suspended for precautionary purposes or have this suspension lifted, remains firmly within the responsibility of the Head of Department.

In making such considerations, the Head of Department is invariably to evaluate the specifics and unique circumstances of the case.

Relevant considerations on the decision to impose or lift a suspension for precautionary purposes include, but are not limited to:

- i. The nature of the offence;
- ii. Any link/ relevance to the public officer's duties;
- iii. Whether the officer in question is a recidivist;
- iv. Whether the criminal courts have already pronounced a verdict;
- v. How long the officer has been suspended for precautionary purposes;

- vi. The detrimental impact on the reputation of the public administration;
- vii. If matter is still pending court proceedings, the detrimental impact it may have on potential witnesses to the case and on alleged victim/s;

Nevertheless, the Head of Department may consider other details if considered necessary. The Head of Department, after having consulted with the respective Permanent Secretary, shall inform the officer charged of his intention to impose the precautionary suspension.

When considering the lifting of a precautionary suspension in terms of the PSC Disciplinary Regulations, the Head of Department may refer to the Central Review Committee, which has been specifically appointed by the Principal Permanent Secretary. This Committee's remit is to evaluate and review public officers who have been suspended for precautionary purposes for a period longer than six months.

This Committee has been appointed with the aim of facilitating the review and assisting Heads of Department in their weighted considerations and providing experienced and holistic advice to such a complex and sensitive issue.

The committee is composed of a Chairperson, who is the Permanent Secretary (People & Standards), Deputy Chairperson (a retired public officer), together with a lawyer and psychologist.

Referrals to the Central Review Committee are to be made by sending an email, under confidential cover, to the Permanent Secretary (People & Standards)<sup>5</sup> by not later than three (3) working days from the date that the Head of Department becomes aware of the case. The Committee shall review the case and inform the Head of Department on whether in its opinion the precautionary suspension should be lifted or otherwise, within fifteen (15) working days from when the case is referred to it. The Head of Department shall refer the case to the PSC by not later than three (3) working days from the date that the decision of the Committee is issued.

**(vii) Other conditions related to the precautionary suspension**

An officer who is under precautionary suspension shall not have access to any official premises identified by the Head of Department, and shall not remove, destroy or add to, or cause to be removed, destroyed or added to, any official document, instrument or matter.

An officer who is under precautionary suspension shall seek the prior permission of the respective Permanent Secretary, in terms of the pertinent PSMC provisions, prior to carrying out any private work.

The Head of Department may review the precautionary suspension of the officer at any time.

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<sup>5</sup> psd.opm@gov.mt

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

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

##### a. Reporting misconduct (the supervisory officer)

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

##### b. Reporting misconduct (the victim)

An officer who is or has been a victim of an offence allegedly committed by a public officer, as listed in the Schedule of Offences and Penalties appended to the PSC Disciplinary Regulations, 2023, may file a formal complaint in writing with the Head of Department of the officer allegedly committing the offence by not later than six (6) months from the date when the alleged offence is committed.

#### 3.3.2. Exercise of Discipline

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

Whenever disciplinary action needs to be taken against a Head of Department, or any other senior public officer to whom powers to exercise disciplinary action has been delegated, the Permanent Secretary responsible for that officer shall institute disciplinary action.

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

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

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

When the public officer against whom disciplinary action is to be taken is serving in an entity which does not form part of the Public Service, the Permanent Secretary supervising that entity shall take such action as a Head of Department is empowered to take under the Disciplinary Regulations, unless a senior officer within the entity is empowered to take disciplinary action against the public

officer through an Instrument of Delegation [regulation 10]. Where no senior officer within a government entity, has been delegated to take such action as a Head of Department is empowered to take under the Disciplinary Regulations, in terms of an Instrument of Delegation, the Permanent Secretary responsible for that entity, may delegate a senior officer within that entity, to take such action as a Head of Department is empowered to take under the Disciplinary Regulations, in terms of the Instrument of Delegation dated 4<sup>th</sup> July 2023. In such cases, disciplinary action may also be taken by the Director responsible for Corporate Services in terms of the said Instrument of Delegation.

### 3.3.3. Commencement of Disciplinary Proceedings

Whenever it comes to the notice of a Head of Department that an alleged misconduct or breach of discipline may have been committed under his charge the following provisions shall apply:

#### a) **Gathering of Information**

Whenever it comes to the notice of a Head of Department that an alleged misconduct or breach of discipline may have been committed under his charge, he shall immediately initiate the necessary gathering of information and potential evidence and conclude such process within twenty (20) working days from the date when the alleged misconduct or breach of discipline came to his notice.

If the Head of Department considers that more than twenty (20) working days are necessary, he shall seek approval from the Permanent Secretary responsible for the Department concerned for an extension of not more than ten (10) working days.

#### b) **Issuing the statement of charges**

After the Head of Department has concluded the gathering of information, he shall, in no case later than ten (10) working days from the date when he concluded the gathering of information and evidence, or not later than ninety (90) working days from the date of the signing of a report made in terms of the Inquiries Act, prepare a written statement of charges<sup>6</sup> against the officer concerned and he shall also inform the officer whether in his opinion the charge/s constitute a minor or a serious offence and whether the offence could lead to dismissal.

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

- i. whether the alleged offence involved violence or threats of violence;
- ii. whether the alleged offence was committed in the presence of members of the public;
- iii. whether the health or safety of staff or of the public was put at risk as a result of the alleged offence;
- iv. whether the alleged offence was committed by an officer who was responsible for preventing such offences; or
- v. 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.

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<sup>6</sup> A template is available on the P&SD website.

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

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, in serious cases, the Head of Department may direct the officer to avail himself of a maximum of eighty (80) hours forced vacation leave, or suspend the officer for precautionary purposes. Further details on the procedures concerning precautionary suspension and forced leave are provided in section 3.2 of this Manual.

**c) 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.

**d) Opportunity for rehabilitation [Regulation 17(1)(g)]**

If the Head of Department considers that it would be in the best interest of the officer if he is offered the opportunity to rehabilitate himself, and the officer agrees, within ten (10) working days, to seek professional support preferably through an entity set up by Government to assist public officers experiencing personal, emotional or behavioural problems, the Head of Department may refrain from proceeding with informing the officer that he shall continue with the disciplinary proceedings and from referring the case to a Disciplinary Board. When the officer accepts referral to professional support, within ten (10) working days, the penalty shall be kept in abeyance and the prescriptive period shall be temporarily suspended and the Head of Department shall keep a record accordingly.

If the officer refuses to seek professional assistance or does not successfully complete a support programme, the prescriptive period shall be immediately re-activated, and the Head of Department shall communicate the penalty and/or refer the case to a Disciplinary Board as the case may be.

**e) Early resolution meeting [Regulation 17(2) (b)]**

When the charges are deemed of a minor nature, and concern a first or second minor case of misconduct by the officer charged, the Head of Department shall, together with the statement of charges inform the officer charged of his right to request an early resolution meeting<sup>7</sup>, and of his right to be accompanied by a representative of his choice at such meeting. The officer charged shall be given three (3) working days to register his request to convene the early resolution meeting.

If the officer charged does not register a request in writing to convene an early resolution meeting, the provisions at sections 3.3.3 (a) and (b) above shall apply.

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<sup>7</sup> A template is available on the P&SD website.

If, within three (3) working days, the officer charged registers a request in writing to convene an early resolution meeting, the meeting shall be convened by the Head of Department without delay and not later than five (5) working days from the date on which the Head of Department was notified by the officer. The prescriptive period of ten (10) working days within which the officer is to reply to the statement of charges shall be temporarily suspended and the Head of Department shall keep a record accordingly.

Where the early resolution meeting results in mutual agreement by the parties on the guilt or otherwise of the officer charged and the penalty, if any, to be imposed, or any other action deemed opportune, the Head of Department shall conclude the early resolution meeting by communicating to the officer charged the agreed decision in writing. The officer charged is to indicate his agreement in writing within two (2) working days.

Any penalty imposed by the Head of Department upon mutual agreement reached during the early resolution meeting shall not be subject to an appeal before the Commission, in terms of these Regulations. The early resolution meeting is to be minuted and any agreement reached mutually by both parties during the session is to be made in writing and signed by both parties at the conclusion of the meeting. The Head of Department may appoint a member of the Public Service Standing Disciplinary Panel to assist in the minute-taking of the early resolution meeting. The officer charged is to be given a copy of the signed agreement.<sup>8</sup>

Where no mutual agreement is reached pursuant to the early resolution meeting, or the officer does not indicate in writing his agreement, the prescriptive period of ten (10) working days within which the officer, is to reply to the statement of charges shall be immediately re-activated.

**f) Decreasing the categorisation of the charges**

The Head of Department may, at any stage of the proceedings and for sufficient and justifiable reasons, decrease the categorisation of charges. In such cases, a note shall be entered in the records of the case, specifying the reasons for the decreased categorisation of the charges.

**g) Extension of time-frame**

**h)** The time-frames referred to above, may only be extended, in terms of regulation 37, upon approval by the PSC, if justified reasons are provided. In such instances, the officer in question is to be informed accordingly of an extension of timeframes<sup>9</sup>. Justified reasons may include, but are not limited to:

- i.** The discovery of further details which have a significant impact on the charges and which necessitate in-depth evaluation and/or referral to other offices/ authorities;
- ii.** The unforeseeable and justified absence of the parties concerned. However, the absence of the officer's representative, shall not preclude the Disciplinary Board from proceeding with the hearing of the case if it is shown that the representative was sufficiently notified.

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<sup>8</sup> A template is available on the P&SD website.

<sup>9</sup> A template is available on the P&SD website.

i) **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, he shall so inform the officer and all documents related to the case shall be destroyed after two (2) months from the conclusion of the case.
- If the officer admits to the charge, the Head of Department shall communicate to the officer charged his decision on the penalty, without the need to set up a disciplinary board to investigate the case.
- If the officer does not reply within ten (10) working days, or if in the opinion of the Head of Department, does not exculpate himself, the Head of Department shall refer the case to the Permanent Secretary who shall appoint a Disciplinary Board in terms of regulation 18 of the PSC Disciplinary Regulations, within ten (10) working days from the reply by the officer charged or from the date such a reply was due. The letter to the Disciplinary Board shall be copied to the officer charged<sup>10</sup>. Details on the eligibility criteria for the appointment of Disciplinary Boards may be found at section 3.3.4.

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

**A) Public Service Standing Disciplinary Panel (SDP)**

There shall be a Public Service Standing Disciplinary Panel, consisting of suitable and competent former public officers, as approved by the Head of the Public Service or his delegate. A member of the Panel may be removed by the Commission, at its discretion, at any time.

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

**B) Disciplinary Boards**

**A Disciplinary Board** shall consist of at least three persons, who shall be appointed by the Permanent Secretary responsible for the officer charged, from among suitable and competent public officers, and/or persons forming part of the SDP.

In instances where the Permanent Secretary assumes the role of Head of Department in terms of the PSC Disciplinary Regulations, 2023, the Permanent Secretary is invariably to refer all decisions which he would have made in his capacity as Permanent Secretary, under the PSC Disciplinary Regulations, to the next higher-level Authority i.e. the Principal Permanent Secretary. This includes, but is not limited to, instances where the Permanent Secretary is to appoint the Disciplinary Board or approve the extension of timeframes, as outlined in the PSC Disciplinary Regulations, 2023.

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<sup>10</sup> Specimen templates of the letters to be sent to the Disciplinary Board are available for download from the P&SD website

The Permanent Secretary shall ensure that a Disciplinary Board **does not include**:

- i) any person connected with the case (this includes any person who made a report on the case, or was involved in any gathering of information on the case); or
- ii) any person related up to the fourth 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 he sat on the disciplinary board.

Where the offence is categorised as being of a minor nature, the Disciplinary Board may be composed entirely from members of the SDP.

**In all other cases, the Chairperson of a Disciplinary Board:**

- a) shall not be an officer performing duties within the same Ministry as the officer charged ;
- b) not below salary scale seven (7) and not less than two salary scales above that of the officer charged;
- c) in salary scale five (5) or higher if the charges are considered as potentially leading to dismissal;
- d) in a salary scale not below that of the officer charged if the latter is in salary scale three (3) or higher.

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

- (a) not be an officer performing duties within the same Ministry of the Head of Department issuing the statement of charges.
- (b) be 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.

### **Conflict of Interest**

Where any member of the Board would be placed in a conflict or an apparent conflict of interest if he sat on the disciplinary board, or is related up to the fourth civil degree to any party involved, he shall immediately as soon as he becomes aware of such conflict inform the Permanent Secretary, who shall nominate a substitute within **ten (10) working days** from the date he was notified of such conflict of interest. A consanguinity/affinity relationship chart may be found at Appendix C of this manual.

A declaration form must be filled in order to avoid conflict of interest and non-discrimination issues (Appendix D).

### **Objections regarding the composition of the Disciplinary Board**

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

If the Permanent Secretary accepts the petition, he shall appoint a new Disciplinary Board or make appropriate changes to its composition, and the officer charged shall be informed accordingly. If, on the other hand, the Permanent Secretary does not accept the petition, he shall so inform the officer charged, who shall have the right to refer his petition to the Public Service Commission within **five (5) working days** from the date he is so informed. The decision of the Public Service Commission shall be final.

### **Time-frame for the conclusion of a case**

A Disciplinary Board shall conclude the case and communicate its findings to the Head of Department and to the officer charged within **forty (40) working days** from the date of the first sitting, which should be held not later than fifteen (15) working days from when the case was referred to the Board. Whenever the Disciplinary Board is recomposed in terms of Regulation 18, the date when the newly recomposed Disciplinary Board is appointed, is considered to be the date when the case was referred to the newly appointed Disciplinary Board.

However, where the charges were categorised as being of a minor nature, the Disciplinary Board shall communicate its findings to the parties by not later than twenty (20) working days from the date of the first sitting.

Where serious and justifiable reasons exist that may preclude the Disciplinary Board from communicating its findings within the period specified, the Board shall refer the matter to the Permanent Secretary by whom it was appointed, seeking approval for an extension. Where the charges were categorised as being of a minor nature the Permanent Secretary may only authorise one extension of a further twenty (20) working days. In all other cases, where justified reasons exist, the Permanent Secretary may approve to extend the timeline by a further forty (40) working days. Notwithstanding, the proceedings before the Disciplinary Board, may not, as far as possible, be extended beyond six (6) months from the date of the first sitting. Where extenuating circumstances exist that preclude the Disciplinary Board from concluding the proceedings within this timeframe, the Permanent Secretary shall seek the direction from the Head of the Public Service or his delegate, who, after considering the extenuating circumstances, may approve a further extension for the Disciplinary Board to conclude the case.

In such instances, the officer charged is to be informed accordingly of an extension of timeframes<sup>11</sup>.

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<sup>11</sup> A template is available on the P&SD website.

Justified reasons for the extension of time frames may include, but are not limited to:

- i. the discovery of further details which have a significant impact on the charges and which necessitate in-depth evaluation and/or referral to other offices/ authorities;
- ii. The unforeseeable and justified absence of the parties concerned. However, the absence of the officer's representative, shall not preclude the Head of Department from proceeding with the early resolution meeting if it is shown that the representative was sufficiently notified.
- iii. Force majeure.

### 3.3.5. Rights of the Officer charged [regulation 6]

The officer charged shall be entitled to:

- be provided with a copy of all 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 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 **ten (10) working days** to consider the additional evidence and reply thereto;
- an adequate opportunity to make his defence;
- the assistance and representation of his choice to prepare and present his case, and at every stage of any hearing before the Disciplinary Board or the PSC. Such representation shall be without prejudice to the expeditious conclusion of the proceedings in terms of these regulations;
- 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 or to his official electronic mail address, and if proof of delivery is retained. In the absence of an official electronic mail address, such notification may be delivered to the personal electronic mail address provided by the officer to his department, if proof of delivery is retained;
- when an officer facing charges **refuses to accept or does not collect such notification**, the officer's entitlement to such notification shall be considered as having been discharged, provided that proof of attempted delivery or of the officer's failure to collect the notification is retained.

### 3.3.6. Rights of the Head of Department [regulation 7]

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

- Be present and be assisted through representation by any person/s of his choice during every stage of the hearing before the Disciplinary Board;
- Be notified of any evidence produced by the officer charged after the start of the hearing and shall be given **ten (10) working days** to consider the relevance of the documentary evidence to the charges brought against the officer;

The Disciplinary Board or the Commission, as the case may be, shall decide whether the evidence is relevant to the charges brought against the officer and shall decide whether the evidence is to be presented during the disciplinary proceedings.

The absence of the Head of Department or his representative, during any stage of the proceedings, shall not preclude the Disciplinary Board or the Commission, as the case may be, from proceeding with any hearing if it is shown that the Head of Department or his representative were sufficiently notified.

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

In cases where the Head of Department is informed 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, he shall proceed in accordance with regulation 17 of the PSC Disciplinary Regulations.

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

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

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

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

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

- (a) The officer charged may submit written representations to the Head of Department, or ask for an appointment to make oral representations to the Head of Department, within **ten (10) working days** from the date the findings of the Disciplinary Board were communicated to him/her.
- (b) After considering the recommendation of the Disciplinary Board with regard to the penalty to be imposed, if any, and any representations made by the officer charged, the Head of Department shall communicate to the officer charged his decision as to whether or not 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.
- (c) If an officer admits to a charge during the course of the proceedings or fails to submit any representations to the Head of Department within the period specified at paragraph (a) above, the Head of Department shall consider the recommendation of the Disciplinary Board with regard to the penalty, and communicate to the officer charged his decision on the Board's findings, and on the penalty to be imposed, if any, within **ten (10) working days** from the date such representations were due. Provided that, whenever the Head of Department is not in agreement with the recommendation of the Disciplinary Board with regard to the penalty, he shall enter a note in the records of the case specifying the reasons for such disagreement.
- (d) If, through the findings of the Disciplinary Board, it results that the offence was not of a serious nature, contrary to that specified in the statement of charges, the Head of Department may award a lesser penalty than that applicable for serious offences, provided that a note is entered in the records of the case, stating the reasons why he accepted the findings of the Board and consequently awarded a lesser penalty.
- (e) The penalty shall come into effect after **ten (10) working days** from the date on which the Disciplinary Board report was received by the officer charged and the Head of Department respectively, during which period both parties may lodge an appeal with the Commission if they do not agree with the findings of the Board.
- (f) In cases where the officer charged is transferred to another department whilst the disciplinary proceedings are still ongoing, the Disciplinary Board report is to be sent concurrently to the officer charged, his current Head of Department and to the former Head of Department who had issued the statement of charges. If the officer charged decides to make any representations on the findings of the Board, these are to be made with the Head of Department who had issued the charges. The latter is to consult with the officer's new Head of Department of the officer charged, regarding the penalty to be imposed. The penalty is then imposed by the current Head of Department of the officer charged.

A broad categorisation of offences and corresponding penalties are listed in the *Schedule of offences and penalties* appended to the PSC Disciplinary Regulations, 2023 [regulation 26 and section 3.6 of this manual].

- g) Whenever an officer is found guilty of an offence that is not considered of a serious nature that may lead to dismissal, and the Head of Department considers that it would be in the best interest of the officer if he is offered the opportunity to rehabilitate himself, preferably through an entity set up by Government to assist public officers experiencing personal, emotional or behavioural problems, he shall decide on the penalty, if any, to be imposed, but shall refrain to inform the officer accordingly. If the officer agrees to seek professional support within ten (10) working days, the penalty shall be held in abeyance until successful completion of the programme. The Head of Department shall be informed of the progress being made by the officer, and for such purposes, a report shall be provided by the entity concerned. The Head of Department shall then decide as to whether the penalty shall be put in 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 shall be imposed.

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

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

- (a) A copy of the Disciplinary Board report is to be referred to the PSC by the Head of Department, within **five (5) working days** from the date of receipt of the report, along with a statement as to whether or not he agrees with the report and including the reasons which led him/her to agree or disagree with the report.
- (b) If, after considering the report and the circumstances of the case, the Head of Department is of the view that the offence merits a lesser penalty than dismissal, he shall enclose his recommendation to the PSC including the reasons which led him/her to agree or disagree with the report.
- (c) In giving consideration to the Board's findings and opinion, and to any submissions made by the Head of Department, the PSC shall give the officer charged the opportunity to submit written representations. The PSC may give an opportunity to the officer charged and to the Head of Department to make oral representations.
- (d) After considering the findings of the Board and the representations submitted, the PSC shall make its recommendation regarding the guilt or otherwise of the officer charged and as to the penalty imposed, if any.
- (e) If the PSC considers that it would be in the best interest of the officer if he is offered the opportunity to rehabilitate himself, 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 Commission shall decide on the penalty, if any, to be recommended to be imposed but shall refrain from making its recommendation. The recommendation shall be held in abeyance until the successful completion of the rehabilitation programme. The Head of Department shall keep the Commission informed of the progress being made by the officer, and for such purposes, a report shall be provided by the entity concerned. The Commission shall then decide as to whether the penalty shall be put in 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 PSC shall be imposed.

### 3.3.9. Record of proceedings

The Head of Department shall ensure that a record of proceedings for each disciplinary case is kept in accordance with regulation 24 of the PSC Disciplinary Regulations, 2023. Any attempt to tamper with or to destroy a record of proceedings is considered to be a serious offence.

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

## 3.4. Appeals from Disciplinary Decisions

### 3.4.1. Appeal by the Officer charged

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

The officer shall submit his 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, or the Head of the Public Service, as the case may be, either that the decision of guilt of the appellant and the penalty imposed be confirmed, or that such decision be amended or revoked. Upon approval of its recommendation, the PSC shall inform the appellant of the outcome of the appeal.

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

### 3.4.2. Appeal by the Head of Department

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

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

The Head of Department shall submit his appeal and the grounds therefor, in writing to the Executive Secretary (PSC), within **ten (10) working days** from the date on which the findings of the Disciplinary Board were communicated to him. 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 Commission, after considering the grounds for appeal, the record of the proceedings, and any oral representations, shall proceed to make a recommendation as to whether the decision of guilt of the appellant and the penalty imposed should be confirmed or revoked or whether the penalty imposed should be amended.

### 3.5. Disciplinary Proceedings when Disciplinary Powers have not been delegated [regulation 25]

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 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 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 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 both as to the guilt or otherwise of the officer charged and the penalty to be imposed if any.

### 3.6. Penalties

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

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

#### 3.6.1. Minor Cases

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

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

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

1 <sup>st</sup> case	Written warning
2 <sup>nd</sup> case	Suspension without pay for a definite period up to five (5) working days
3 <sup>rd</sup> 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 <sup>th</sup> case	Dismissal*

*\*When the case is a fourth minor case, the categorisation of the offence is to be listed as serious potentially leading to dismissal.*

#### 3.6.2. Serious Cases (including criminal conviction)

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

The penalties that may be awarded for serious cases are:

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

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

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

In case when an officer who is charged with a serious disciplinary offence while 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, the statement of charges should notify the officer charged that the offence is considered as one potentially leading to dismissal.

### 3.6.3. Penalties imposed on the Recommendation of the Commission

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

In cases where an officer is found guilty of a criminal charge in any court, the PSC may recommend other penalties in addition to, or instead of, those set out in the Schedule for offences and penalties, as appended to the Disciplinary Regulations.

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

#### **Review of Past PSC Recommendations [Regulation 30]**

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

- In its discretion, the Commission is satisfied that there was a prima facie case of gross disregard of the disciplinary regulations or a serious miscarriage of justice resulting in a violation of natural justice or fundamental rights; or
- The case arose from a criminal conviction which was subsequently annulled or discontinued by a decision of a higher court.
- The PSC shall not consider petitions if:
- The petitioner had already made a similar request which was rejected on the merits of the case; or
- The recommendation which is subject of the petition was made by the PSC following an appeal in a case decided under the authority of a Head of department; or,
- The past recommendation is dated over **ten (10) years** before the date of the petition review.

## 3.7. Removal from Office [Regulation 31]

### 3.7.1. Grounds for Removal from Office

The appointment of a public officer may be terminated under the PSC Disciplinary Regulations, 2023, for the following reasons:

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

### 3.7.2. Absence without Leave

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

- i) The officer concerned shall be considered as having resigned from the Public Service with effect from the eleventh working day of unauthorised absence.
- ii) On the eleventh (11) day, the Head of Department shall notify<sup>12</sup> the officer concerned of:
  - the effective date when he is being considered as resigned from the Public Service as a result of his 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, 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 he receives the notification from the Head of Department, setting out the reasons why 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, 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.

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<sup>12</sup> A template is available on the P&SD website.

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

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

- a) The Head of Department asks the officer charged to state in writing, within **ten (10) working days**, whether he wishes to continue with, or suspend, the disciplinary proceedings against him.
- b) If the officer opts to continue with the proceedings and he is eventually found not guilty, but the officer had been suspended for precautionary purposes in connection with these proceedings, the Head of Department is to take action to lift the precautionary suspension and refund the salary withheld during the period of precautionary suspension.
- c) If the officer opts to continue with the proceedings and 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 new capacity, shall within **three (3) months** from the date the officer rejoined the Public Service, decide as to whether or not disciplinary proceedings should be resumed with a view to impose an appropriate penalty. The Head of Department shall proceed in accordance with the regulations 23 and 26 of the Disciplinary Regulations or sections 3.3.8 and 3.6 of this Manual.
- d) If the officer opts to have his case suspended, or does not state his 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 new capacity, shall within **three (3) months** from the date the officer rejoined the Public Service, decide as to whether or not disciplinary proceedings should be resumed. If the Head of Department decides to resume proceedings from the stage they had reached prior to their being discontinued:
  - any applicable time-frames shall be deemed to start from the date that the Head of Department informs the officer in writing of the decision that the disciplinary proceedings shall resume; and
  - unless the Disciplinary Board had presented its report in the original proceedings, a Disciplinary Board to hear the case according to the charges laid against the officer in the original proceedings, shall be appointed in terms of Regulation 18.

### 3.9. Officer leaves the Public Service with pending criminal proceedings

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

If the officer was under precautionary suspension in connection with criminal proceedings and he is eventually acquitted by the Court the Head of Department is to take action to lift the precautionary suspension and refund the salary withheld during the period of precautionary suspension.

### 3.10. Forfeiture of pension after dismissal

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

### 3.11. Saving clause

Disciplinary proceedings which have been initiated under the Disciplinary Regulations, 2017 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.

### 3.12 Instances when reference to PSC is necessary

In the interest of simplification and clarity, the following instances where reference is to be made to the PSC are being noted.

#### (i) Reference to PSC by officer

- Regulation 12(2) - If the officer considers that the decision by the Head of Department to place the officer on precautionary suspension is unjust, he may appeal to the PSC within five (5) working days starting from the day after he receives the notification from the Head of Department, setting out the reasons why he considers that the decision in his respect was unjust. The officer may also appeal, by presenting justified reasons, regarding the proportion of salary to be withheld.
- Regulation 12(11) and Regulation 13(5) - When the Head of Department does not lift the precautionary suspension, after a request by an officer, and the officer considers that the decision of the Head of Department in his regard was unjust, the officer may appeal to the PSC within five (5) working days starting from the day after he receives the notification from the Head of Department, where he gives the reasons why he considers that the decision regarding him was unjust.
- Regulation 18(7) - If the Permanent Secretary does not accept the petition made by the officer charged or his representative that the Chairperson or any members of the Board are prejudiced against him, the officer shall have the right to refer his petition, within five (5) working days from the date he is so informed by the Permanent Secretary that his petition was not accepted, to the PSC for its consideration. The decision of the PSC shall be final.
- Regulation 25(e) - when disciplinary control has not been delegated to a Head of Department or another officer or authority, or where delegated powers have been withdrawn, the officer charged may, within ten (10) working days starting from the day after the findings of the Disciplinary Board are communicated to them, make an appeal to the PSC with respect to such findings, or ask for an opportunity to make oral representations.

- Regulation 27(1) - A public officer shall have a right of appeal to the PSC against a finding of guilt and any corresponding penalty imposed by the Head of Department under regulation 17, or where the officer can prove that there has been a gross disregard of the procedures laid down in these regulations and such disregard had prejudiced his interests.
- Regulation 30(1) – Any person who is or has been a public officer and who had been penalised under the 2023 PSC Disciplinary Regulations, under the 1977 Regulations, or the 1999 Regulations, or the 2017 Regulations, following a recommendation by the PSC, may petition the PSC to review his case for the purpose of revoking or amending the recommendation which the PSC had tendered against him.
- Regulation 32(4) - If the officer considers that the decision of the Head of Department is unjust in his regard in terms of Regulation 32 (absence without leave), he may appeal to the PSC within ten (10) working days starting from the day after he receives the notification from the Head of Department, setting out the reasons why he considers that the decision in his respect was unjust.

**(ii) Reference to PSC by Head of Department**

- Regulation 12(6) – If the officer is placed on precautionary suspension, and following disciplinary proceedings, the penalty awarded is other than dismissal, he may be refunded such proportion of the salary withheld as a result of his precautionary suspension as recommended by the PSC. In such instances, the Head of Department is to refer the matter to the PSC.
- Regulation 15(1) - If a public officer has been found guilty of a criminal charge, the findings of the Court on such charge shall be referred by the Head of Department to the PSC. The Head of Department may refrain from referring the findings of the Court to the PSC if after considering such findings and the effect of the misconduct on the reputation of the Public Service, he determines that the misconduct has no direct or indirect relation to the duties of the officer concerned, and the penalty imposed by the Court does not include a sentence of imprisonment, whether it be effective or suspended, or interdiction in terms of Article 10 of the Criminal Code.
- Regulation 23(2)(a) - In the case of an offence where the Head of Department had given notice to the officer charged that the charges, if proved, could lead to dismissal, the Head of Department shall, within five (5) working days from receipt of the Board's report send a copy to the PSC, along with a statement as to whether or not he agrees with the report and including the reasons which led him to agree or disagree with the report;
- Regulation 25(b) - Where disciplinary control has not been delegated to a Head of Department or another officer or authority, or where delegated powers have been withdrawn, if the officer charged admits to the charge/s before the Disciplinary Board begins to hear the case, the Head of Department shall, as early as possible and in any case not later than ten (10) working days therefrom, refer the case to the PSC, which shall make its recommendation as to the penalty, if any, to be imposed;

- Regulation 25(e) - when disciplinary control has not been delegated to a Head of Department or another officer or authority, or where delegated powers have been withdrawn, the Head of Department may, within ten (10) working days starting from the day after the findings of the Disciplinary Board are communicated to them, make an appeal to the PSC with respect to such findings, or ask for an opportunity to make oral representations.
- Regulation 29(1) - A Head of Department who is either dissatisfied with the proceedings or findings of a Disciplinary Board or has proof that there has been a gross disregard of the procedures laid down in these regulations and such disregard had prejudiced the case, may appeal to the PSC.
- Regulation 33(5) and Regulation 33(6) – In instances where an officer who is undergoing disciplinary proceedings ceases to be a public officer before such proceedings are concluded, and the officer opts to continue with the proceedings and is eventually found guilty, no penalty shall be imposed, but a record of the findings of the Disciplinary Board shall be entered in the officer's record of service. Should this officer who had been found guilty rejoin the public service, the Head of Department now responsible for the officer shall, within three (3) months of the officer rejoining the service, decide as to whether or not disciplinary proceedings should be resumed with a view to the imposition of the appropriate disciplinary penalty.

In instances where an officer who is undergoing disciplinary proceedings ceases to be a public officer before such proceedings are concluded, and the officer opts to have the case suspended or does not, within the stipulated time, state what his preferred option is, the case shall be suspended and a note entered in his record of service stating that at the time of his leaving the service, the officer had a pending disciplinary case. Should this same officer subsequently rejoin the service, whether in the same or a different capacity, the Head of Department now responsible for the officer shall, within three (3) months of the officer rejoining the service, decide as to whether or not disciplinary proceedings should be resumed.

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# **Guidelines For Disciplinary Boards**

## 4. GUIDELINES FOR DISCIPLINARY BOARDS

### 4.1. Functions of the Disciplinary Board

The functions of the Disciplinary Board shall be to:

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

In the performance of these functions, the Disciplinary Board may regulate its own procedure, without prejudice to any guidelines issued by the PSC.

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

### 4.2. Duties of the Disciplinary Board

The Disciplinary Board shall:

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

5. Before starting the hearing, the Disciplinary Board shall hold a preliminary meeting within two (2) working days from being appointed the Disciplinary Board shall examine and become familiar with the documents received from the Head of Department related to the case. The Board shall verify that it is in possession of all relevant documents. The documents which the Board shall need to verify include, but are not limited to, the statement of the charges, any report made against the officer charged, the report of the preliminary investigation (if any), the reply made by the officer to the charges made against him (if any), any other document related to the case.
6. Prepare a concise statement, to be read and presented during the first hearing of the Board, on the circumstances which led the Head of Department to issue the charge.
7. Obtain a certified true copy of the Service and Leave Record form (GP 47) of the officer charged from the respective Head of Department who in turn should ensure that it:
  - is complete in every respect as indicated at the back of the form;
  - is duly signed by an officer not below the grade of Principal;
  - includes the current salary of the officer charged.
8. Obtain the list of witnesses appearing on behalf of the Head of Department and on behalf of the officer charged. When the Board has the list of witnesses, the Board shall inform the Head of Department and the officer charged of the witnesses appearing on behalf of either party.
9. When the Board is in possession of all the relevant information, it shall set a date, time and place for the first sitting, notification of which shall be given ten (10) days in advance to the Head of Department and officer charged. The first sitting shall not be held later than fifteen (15) working days from the date on which the Disciplinary Board was appointed.
10. Whenever the Board is recomposed following a petition made in terms of Regulation 18, the timeframes applicable to the Disciplinary Board shall commence from the date that the newly recomposed Disciplinary Board is appointed.

### 4.3. Correspondence

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

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

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

#### 4.3.1. Correspondence to be sent to the Head of Department

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

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

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

#### 4.3.2. Correspondence to be sent to the officer charged

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

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

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

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

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

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

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

#### 4.3.3. Correspondence to witnesses

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

#### 4.4. During the disciplinary hearing

During the disciplinary hearing, the Disciplinary Board may be assisted by a legal expert. The latter's role shall be limited to providing legal advice and clarifications to the Board on legal aspects which might arise during the hearing. However, the legal expert shall refrain from cross examining the witnesses or the officer charged, from interfering in the hearing of the case, providing opinions or in any way be involved in the discussions leading to the decision of the Disciplinary Board on the case.

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 Permanent Secretary, in accordance with regulation 18 of the Disciplinary Regulations;

adequate records of the proceedings of the hearing are kept, including a statement of all persons present during the hearing, and a transcript of the evidence of all sessions held;

details of a disciplinary case may not be disclosed except as required by the Disciplinary Regulations.

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

#### 4.4.1. Rights of the officer charged

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

#### 4.4.2. Rights of the victim

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

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

#### 4.4.3. Rights of the Head of Department

A Head of Department issuing charges of misconduct against an officer under the Disciplinary Regulations may be present and may be assisted through representation of his choice, at every stage of any hearing before a Disciplinary Board or the PSC, including any hearing on appeal.

#### 4.4.4. The first hearing

The first hearing shall be held within fifteen (15) working days from the day that the board has been appointed.

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

#### 4.4.5. Witnesses

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

#### 4.4.6. Failure to appear before the Disciplinary Board

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

#### 4.4.7. Giving evidence

- a) A witness giving evidence cannot be penalised in any way for giving a substantially different testimony from any written statement he had made. It is at the discretion of the Disciplinary Board to evaluate any testimony which substantially differs from any written statements made.
- b) When it appears that a witness may be somehow involved in the case, the Chairperson should remind the witness of his right to refuse to answer questions which might incriminate him/her.

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.

- c) Any evidence produced after the hearing of the case has started shall not be used against the officer charged unless he has been supplied with a copy of such evidence or given access to it, and given ten (10) working days to consider the additional evidence and reply thereto.

## 4.5. Presenting the findings

### 4.5.1. Time frames

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

Forty (40) working days to conclude investigations and communicate findings from the date of the first sitting. In cases where the charges are categorised as minor, the Disciplinary Board shall communicate its findings by not later than twenty (20) working days from the date of the first sitting;

an extension of twenty (20) working days in cases which are categorised of a minor nature, given by the Permanent Secretary on good cause being shown;

an extension of a further forty (40) working days from the date of the first sitting, may be given by the Permanent Secretary, on good cause being shown for cases which are categorised of a serious nature. The proceedings are not to be extended beyond six (6) months from the date of the first sitting;

if the extension is insufficient to conclude investigations the Permanent Secretary shall refer the matter to the Head of the Public Service or his delegate, for direction.

### 4.5.2. Final Sitting

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

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

It is in the interest of both the Head of Department and of the Officer charged to be present for the final sitting. However, in the absence of any of the parties, the Board shall proceed with the final sitting and to submit the final report.

### 4.5.3. The report

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

a summary of those parts of the evidence that the Board considers relevant;

the findings of the investigation on material questions of fact;

a statement whether in the Board's opinion the officer charged has or has not committed the offence/s charged and a brief statement of the reasons for that opinion;

a recommendation on the penalty to be imposed by the Head of Department, if any, giving reasons. However if the case was categorised as serious and potentially leading to dismissal the Board shall only include an opinion on the penalty to be imposed and not a recommendation;

details concerning any matter which alleviates or aggravates the gravity of the case;

any recommendation for the officer charged to be referred to support programmes.

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

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

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# **GUIDELINES FOR DEPARTMENTAL REPRESENTATIVES**

## 5. GUIDELINES FOR DEPARTMENTAL REPRESENTATIVES

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

The duties of a Departmental Representative include:

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

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

### 5.1. Before the hearing starts

The Departmental Representative prepares for a case by:

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

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

### 5.2. During the disciplinary hearing

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

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# **Record Keeping Of Disciplinary Cases**

## 6. RECORD KEEPING OF DISCIPLINARY CASES

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

### 6.1 Written Admonishment

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

### 6.2 Disciplinary Files

#### 6.2.1 Opening a new disciplinary file

As soon as disciplinary/criminal proceedings are initiated, a departmental disciplinary file (yellow cover) should be opened. A disciplinary file should be opened for each disciplinary/criminal case. The reference of the file should be the same as that of the personal file of the officer concerned, preceded by the letters DISC (i.e. discipline).

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

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

e.g. Department/DISC/123456/II

#### 6.2.2 Documents to be retained in disciplinary files

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

- The statement of charges issued by the Head of Department;
- The reply submitted by the officer to the Head of Department to exculpate oneself;
- Any correspondence/ records relating to the early resolution meeting, if any
- The correspondence whereby the Head of Department appoints the Disciplinary Board;
- Correspondence regarding extensions for Disciplinary Boards;
- Correspondence sent by the Discipline Board, including the summons to witnesses;
- The correspondence sent by the Departmental Representative;
- Any communication made with the Public Service Commission or with the People and Standards Division;
- The records of any gathering of information/ evidence prior to issuing the disciplinary charges, or any other report made;

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

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

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

### 6.2.3 Retention of pending Disciplinary/Criminal Cases

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

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

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

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

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

## 6.2.4 Retention of Closed Disciplinary Cases

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

The following procedure is to be followed whenever:

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

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

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

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

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

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

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

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

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

## 6.3 Timeframes for Record-keeping of Disciplinary/Criminal Cases

### 6.3.1 Record-Keeping of Penalties

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

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

In an officer's Service and Leave Record Sheet (GP47), however, a record of penalties shall be kept for the periods indicated in the table below:

Penalties	Retention period in Service and Leave Record Sheet
Written Warning	6 months from the date of penalty
Suspension without pay for a number of days	The duration of the active period of suspension. After which the period shall be recorded as a 'break in service'
Warning of dismissal for a number of years	The duration of the period of the warning of dismissal

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

Any period of precautionary suspension shall be referred to as 'break in service' in the Service and Leave Record Sheet.

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

### 6.3.2 Retention of Disciplinary Files

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

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

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

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

Information related to the Public Service Commission Disciplinary Regulations 2023 is maintained for the following three categories:

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

Instructions to Directors responsible for people management

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

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

# Appendix

## APPENDIX A: INSTRUMENT OF DELEGATION

### THE CONSTITUTION OF MALTA

#### DELEGATION OF CERTAIN POWERS RESPECTING THE PUBLIC SERVICE

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

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

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

AND WHEREAS by Instrument of Delegation dated 25<sup>th</sup> 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 17<sup>th</sup> 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 1<sup>st</sup> 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 21<sup>st</sup> December, 2004, the Prime Minister, acting on the recommendation of the Public Service Commission, delegated to the Chief Executive Officer of Heritage Malta power to exercise disciplinary control in accordance with the Public Service Commission (Disciplinary Procedure) Regulations, 1999, over public officers detailed to perform duties with Heritage Malta;

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

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

AND WHEREAS by Instrument of Delegation dated 22<sup>nd</sup> March 2021, the Prime Minister, acting on the recommendation of the Public Service Commission, delegated power to exercise disciplinary control in accordance with the Public Service Commission Disciplinary Regulations, 2017, to the public officers and other authorities listed in the Schedule to the said Instrument, and to the extent indicated therein;

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

AND WHEREAS the Public Service Commission has recommended that power to exercise disciplinary control over public officers, in accordance with the provisions of the Public Service Commission Disciplinary Regulations (S.L.Const.07), should be exercisable without reference to the Commission by the public officers and other authorities listed in the Schedule to this Instrument, to the extent listed in the said Schedule and subject to any special provisions set out therein, provided that –

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

AND WHEREAS I agree with the said recommendation:

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

GIVEN under my hand at the  
Auberge de Castille, Valletta  
This 11th day of July 2023

## SCHEDULE TO THE INSTRUMENT OF DELEGATION

The public officers and other authorities listed hereunder shall have the power to exercise disciplinary control, in terms of the Disciplinary Procedure in the Public Service Commission Disciplinary Regulations (S.L.Const.07) and the Instrument of Delegation of which this Schedule forms part, without reference to the Public Service Commission, over public officers within their areas of jurisdiction, and subject to the special provisions applicable thereto:

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
Principal Permanent Secretary	<p>In the capacity of Head of the Public Service:</p> <ul style="list-style-type: none"> <li>(a) public officers in his own office;</li> <li>(b) Permanent Secretaries, Heads of Department, Directors General and Directors;</li> <li>(c) public officers in salary scale 2;</li> <li>(d) public officers in any office or establishment which does not form part of a ministry or department of Government.</li> </ul>	
	<p>In the capacity of Head of the Public Service, powers as outlined in the following regulations found in the Public Service Commission Disciplinary Regulations (S.L.Const.07):</p> <ul style="list-style-type: none"> <li>(a) Regulation 12(3)</li> <li>(b) Regulation 12(12)</li> <li>(c) Regulation 13(6)</li> <li>(d) Regulation 15(2)</li> <li>(e) Regulation 23(2)(d)</li> <li>(f) Regulation 23(4)</li> <li>(g) Regulation 27(6)</li> <li>(h) Regulation 28</li> <li>(i) Regulation 29(4)</li> <li>(j) Regulation 32(6)</li> </ul>	
	<p>In the capacity of Permanent Secretary, Office of the Prime Minister, under article 14(6) of the Public Administration Act:</p> <ul style="list-style-type: none"> <li>(a) other public officers in the Office of the Prime Minister and its subordinate departments;</li> <li>(b) public officers assigned to government agencies, entities, and other public bodies under the responsibility of the Prime Minister;</li> <li>(c) public officers formerly belonging to the Office of the Prime Minister or its</li> </ul>	<p>The Principal Permanent Secretary may assign jurisdiction over any categories of public officers in the Office of the Prime Minister, its subordinate departments, and entities falling thereunder, to any Permanent Secretaries who are appointed to assist him in accordance with the proviso to article 14(6) of the Public Administration Act.</p>

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
	subordinate departments who have been assigned to a non-Government body; and (d) public officers in the secretariat of the Prime Minister and any Parliamentary Secretaries reporting to the Prime Minister.	
Secretary to the Cabinet	Public officers in the Cabinet Office.	
Permanent Secretaries	(a) Public officers in their own offices; (b) other public officers in their ministry and its subordinate departments; (c) public officers assigned to government agencies, entities, and other public bodies under the responsibility of the ministry; (d) public officers formerly belonging to the ministry or its subordinate departments who have been assigned to a non-Government body; and (e) public officers in the secretariat of the Minister and any Parliamentary Secretaries in the ministry.	
Commissioner of Police	Police officers and any other public officers assigned to the Malta Police Force.	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.  Delegated authority shall be exercised by the Commissioner in accordance with the relevant provisions of the Police Act (Cap. 164).
Chief Executive Officer, Police Department	Public Officers (Civilians) performing duties in the Police Department.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Directors General, Directors, Chief Executive Officers and other public officers functioning in an equivalent capacity, who have been charged with	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.

<i>Officer or authority</i>	<i>Area of jurisdiction</i>	<i>Special provisions</i>
exercising disciplinary control		
Directors (Corporate Services) and any other public officers in salary scale 4 or higher who are responsible for people management, corporate services or administration across a ministry	(a) Public officers in their own directorates or offices; (b) other public officers within the area of jurisdiction of the Permanent Secretary.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Public officers in salary scale 4 or higher who are responsible for people management, corporate services or administration across a department	(a) Public officers in their own directorates or offices; and (b) other public officers in their department.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Director responsible for Local Councils	(a) Public officers in the Local Government Department; and (b) Public officers assigned to Local Councils and other local government bodies.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Commander, Armed Forces of Malta	Public officers assigned to the Armed Forces of Malta.	Subject to any instructions which may be issued by the responsible Permanent Secretary, within the parameters of this Schedule, vesting in any one officer power to exercise disciplinary control over particular categories of public officers.
Chief Executive Officers, or persons functioning in an equivalent capacity, of government agencies, government entities, or other public bodies other than Local Councils and other local government bodies	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.

## APPENDIX B: DECLARATION FOR MEMBERS OF THE PUBLIC SERVICE STANDING DISCIPLINARY PANEL

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

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

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

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

- A. I **do not have / have** pending criminal proceedings,
- B. I **have not been found / have been found**<sup>13</sup> guilty of criminal offences.

I acknowledge that I am aware that:

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

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Name

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Signature

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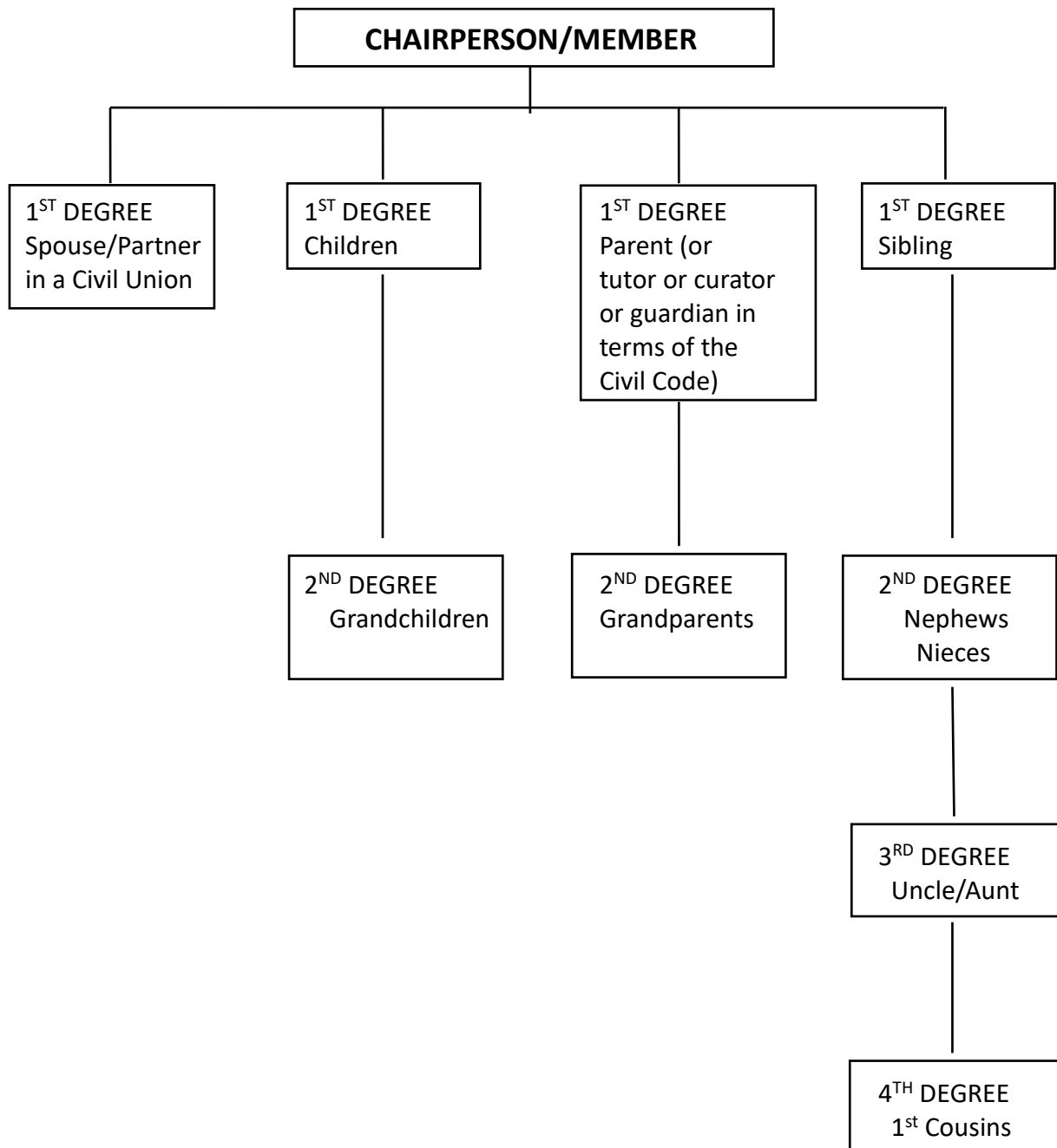
Date

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<sup>13</sup> This declaration should include also any criminal offences of which you were found guilty, but which are no longer recorded in the Conduct Certificate.

## APPENDIX C: CONSANGUINITY OR AFFINITY RELATIONSHIP BETWEEN THE BOARD AND THE OFFICER

*Annex to Declaration by Disciplinary Board regarding Conflict of Interest*



**Note:** In those cases where a Disciplinary Board Member considers that his/her eligibility in an assigned disciplinary case is in dispute, the advice of the Public Service Commission is to be sought before proceeding.

**APPENDIX D: DECLARATION – CONFLICT OF INTEREST AND NON-DISCRIMINATION**

With reference to my appointment as Chairperson/Member of the Disciplinary Board constituted for the purpose of investigating, establishing the facts and reporting the facts to the Head of Department and the officer charged received for \_\_\_\_\_, I hereby declare that:-

1. I am not related to any candidate by consanguinity or affinity to the fourth degree inclusive (for details regarding the consanguinity/affinity relationship, please see Annex D to this Declaration -);
2. I am not, and never was, the tutor or curator or guardian of any candidate in terms of the Civil Code;
3. My non-work-related activities, including but not limited to, any participation in political activities, do not place me in a conflict of interest as a Chairperson/Member of the Disciplinary Board;
4. In investigating the case, I shall not discriminate in any manner or on any basis including race, place of origin, nationality, skin colour, political opinions, creed, sex, sexual orientation, expression or gender identity, civil status, mental or physical well-being and age;
5. I AM AWARE THAT THE WHOLE PROCEEDINGS OF THE BOARD ARE OF A CONFIDENTIAL NATURE AND MAY NOT, WHETHER STILL PENDING OR TERMINATED, BE DISCLOSED, DIRECTLY OR INDIRECTLY, TO ANY PERSON.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name in Block Letters:

\_\_\_\_\_

Grade:

\_\_\_\_\_

Department:

\_\_\_\_\_

E-mail Address:

\_\_\_\_\_

