

*PUBLIC SERVICE COMMISSION*

*ANNUAL REPORT 2005*

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## Foreword

This is the forty-sixth Annual Report of the Commission submitted to the Prime Minister in terms of Regulation 33 of the Public Service Commission Regulations 1960.

The report gives a brief description of the main activities of the Commission during the year 2005 in the execution of its constitutional functions of giving advice and making recommendations to the Prime Minister on matters relating to appointments, removal from office and discipline within the public service.

During the year the Commission continued to fine-tune the procedures of the selection process. This the Commission did, in the interest of the overriding objective of rewarding merit in selection exercises. A particular measure in this regard, which was introduced in 2004 but which came into effect in 2005, was the obligation of selection boards to themselves set sub-criteria to the main criteria that will have already been approved by the Commission. The reports of the boards also now have to indicate what mark each applicant received for each sub-criterion.

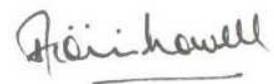
The 2004 Annual Report of the Commission referred in some detail to an analysis of the duration of the selection process in the public sector in 1994, 2002 and 2004. A comparative exercise carried out for 2005, referred to on pages 8 and 9 of this report, reveals that, if one were to discount the effect of the particular decision taken by Government in 2004 to reduce recruitment to a minimum, the average time taken to complete a selection process continued to improve.

During the period covered by the report, the Commission continued to oversee the application of discipline within the Public Service. It also continued to monitor the effectiveness of the delegation of authority to Heads of Department in disciplinary matters, which delegation took effect six years ago in 2000. The Commission remains of the opinion that, all in all, the delegation of authority was a positive step.

In 2005, the Commission approved a number of amendments to the PSC (Disciplinary Procedure) Regulations, 1999. These amendments, which should come into effect in the first quarter of 2006, mainly concern the clearer definition of particular provisions in the Regulations that had led to some uncertainties in interpretation. The offences of “sexual harassment”, “misuse of electronic equipment” and “victimisation of witness or an officer/person lodging a report or doing his/her duty under the Regulation”, were included in the schedule of offences and penalties.

The Commission also considered, amended and approved a set of “Guidelines on what constitutes sexual harassment and on the procedures to be adopted in cases of sexual harassment”.

The Commission again wishes to record its appreciation of the competent and efficient support it received from the Secretary and his staff.



A Fiorini Lowell  
Chairman

22 March 2006

The Palace, Valletta

## I. The Public Service Commission Remit

The Public Service Commission is an independent body established by the Constitution of Malta. It derives its authority and functions from Sections 86, 92, 109, 110, 111, 112, 114, 115 and 121 of the Constitution.

The fundamental role of the Commission is to make recommendations and to tender advice to the Prime Minister in the making of appointments to public offices, the removal from public office and the exercise of discipline over public officers.

In fulfilling its role, the Commission is guided by the principles of merit, equality of opportunity, impartiality, non-discrimination, the exclusion of patronage, political or otherwise, and fair and open competition, the latter within the parameters of agreements that exist between the government and the trade unions.

The procedures governing these functions are set out in the Public Service Commission Regulations, 1960 and in the Public Service Commission (Disciplinary Procedure) Regulations, 1999.

The regulations of the Commission are made by the Commission with the consent of the Prime Minister in accordance with Section 121(1) of the Constitution.

## II. Membership and Secretariat of the Commission

### Composition

In terms of section 109 of the Constitution of Malta, the Public Service Commission shall consist of a Chairman, a Deputy Chairman and from one to three other members.

Members of the Commission are appointed by the President acting on the advice of the Prime Minister, given after consultation with the Leader of the Opposition.

### Membership

<b>Membership of the Commission on 1 January 2005</b>		
Chairman	Mr Alfred Fiorini Lowell	(since 12 June 2003)
Deputy Chairman	Brigadier (Rtd) John Spiteri MOM	(since 12 May 1996)
Members	Ms Yvonne Micallef Stafrace BA (Hons) MA	(since 12 May 1996)
	Dr Janet Mifsud B Pharm. (Hons) PhD	(since 12 May 2000)
	Ms Mary Vella	(since 12 June 2003)

Short biographies of the Chairman and Members are at *Appendix 1*.

The term of office of the Commission expired on 11 June 2005 and was renewed for a further period of one year with effect from 12 June 2005.

## **Number of meetings held**

During the year 2005, the Commission held a total of fifty-one (51) meetings in which it dealt with various matters relating to appointments and discipline as outlined in more detail in this report.

## **Secretariat**

The Commission is served by a small and dedicated team of civil servants headed by the Secretary, Public Service Commission, who is a senior public officer appointed to the position of Secretary on a performance agreement for three years.

During 2005 the Commission was ably advised, supported and serviced by its Secretary, Mr Paul Sammut, who was appointed Secretary, Public Service Commission with effect from 10 January 2004.

The staff complement and the total expenditure incurred in the running of the Office of the Public Service Commission are shown at *Appendix 2*.

## **Method of work**

The business of the Commission is normally conducted through the circulation of files. Meetings are held every Thursday with an Agenda that covers policy issues and cases which are complex or which involve important points of principle and which require discussion.

One of the first items on the agenda is often an oral hearing. The hearings concern disciplinary cases that can lead to dismissal and where, as laid down in the Disciplinary Regulations, the officer concerned and the representative of the Department, together with their respective counsels if they so wish, are given the opportunity to plead their case before the Commission

Senior management from departments may also be invited to the meetings. Their input on matters of interest or concern helps the Commission to understand better the problems faced by departments.

The rest of the agenda of the meetings of the Commission is taken up with discussion on individual cases which merit an exchange of views among the members of the Commission before a decision is reached. This is generally done by consensus.

## **Homepage of the Commission**

The address of the Commission's website is:

<http://www.psc.gov.mt/start.htm>

The homepage can also be accessed through the section on the 'Public Service', under the Office of the Prime Minister, in the website of the Government of Malta at:

<http://www.gov.mt>

The homepage provides basic information on the Commission's role and functions, its current membership, the way the Commission conducts its business and the organisation of the Commission's Secretariat. This Annual Report, and that for 2004, can also be viewed on the homepage and can be downloaded.

## **III. Recruitment and Promotion**

### **Functions of the Commission relating to appointments**

The functions of the Commission in relation to appointments are:

- to make recommendations and advise the Prime Minister in the making of appointments into or within the public service;
- to vet and approve draft calls for applications submitted by Heads of Department and verified by the Office of the Prime Minister;
- to approve selection boards nominated by Heads of Department;
- to approve selection methods and criteria;
- to decide on queries raised by selection boards on such questions as eligibility of candidates;
- to vet and approve reports submitted by selection boards;
- to approve and publish the results of selection exercises;
- to make recommendations and advise the Prime Minister on the removal from office and termination of appointments, performance agreements and contracts;
- to make recommendations to the Prime Minister regarding the extension of probationary periods and performance agreements;
- to consider petitions made in terms of Section 1.1.10 of the Public Service Management Code in respect of appointments; and
- to deal with other representations made to the Commission. Heads of Department and selection boards are summoned where necessary.

The role of the Commission, in line with its obligation, is to ensure that recruitment into and promotions or appointments within the Public Service are made in an equitable and impartial manner, are free from patronage and discrimination and are based on the principle of merit.

### **Calls for Applications**

In the course of the year 2005, the Commission issued 180 calls for applications for the filling of vacancies in the Public Service. Out of these 180 calls, 103 were calls for applications open also to applicants from outside the public service and were therefore advertised in the Government Gazette. 61 calls were restricted to serving public officers and were circulated through the Management and Personnel Office or by Departmental Circulars, as applicable. The other 16 calls were issued by various Ministries for the filling of positions of Assistant Director.

The different calls for applications issued during 2005 are listed in *Appendices 3, 4 and 5*.

### **Selection Boards**

The Commission set up 206 selection boards and approved the selection methods and criteria in respect of each selection process.

These selection processes involved 2,664 applications, 1,336 from male applicants and 1,328 from female applicants. The selection boards interviewed 1,008 males and 953 females, a total of 1,961 candidates. The remaining 703 applicants were found to be ineligible, withdrew their application or else failed to turn up for the interview.

## Recommendations/Advice to the Prime Minister

The Commission made 616 recommendations to the Prime Minister relating to appointments in terms of Section 110 of the Constitution. The Commission also advised the Prime Minister in terms of Sections 92(3), 92(4) and 111 of the Constitution on 55 occasions relating to appointments and extensions of Performance Agreements of Permanent Secretaries and Heads of Department and to the posting of two public officers as Resident Ambassadors abroad. One other advice was submitted to the Prime Minister in terms of Sections 114(1) and 124(7) of the Constitution for the compulsory retirement of a public officer on proved medical grounds.

A statistical breakdown of these recommendations, which covered the 2573 appointments made during 2005, is given below:

<b>Appointments/Promotions 2005</b>				
		<b>Males</b>	<b>Females</b>	<b>Total</b>
1.	Appointments following public calls for applications published in the Government Gazette	318	561	879
2.	Appointments following service-wide calls for applications (MPO Circulars)	290	43	333
3.	Appointments following internal departmental calls for applications (Departmental Circulars)	28	36	64
4.	Appointment of Assistant Directors following Ministerial calls for applications	57	11	68
5.	Other Appointments (eg promotion on basis of length of service and satisfactory performance, appointment to substantive grade, etc)	462	767	1229
		<b>1155</b>	<b>1418</b>	<b>2573</b>

Various other recommendations were made to the Prime Minister relating to the extension of performance agreements, renewal of contracts of employment, postponement of appointments, reversion to former posts, extension of probationary periods, termination of performance agreements on appointment to other positions, and withholding of increments, progressions and promotions.

There were two cases where the Commission recommended the termination of the probationary period. In one case the performance of the public officer concerned had not been satisfactory while in the other case the officer concerned had been found by a medical board to be unfit for duty.

The following table comparing the number of appointments in each of the last three years confirms the downturn in new appointments in 2004 and 2005.

The significant increase in 2005 in the number of 'Other Appointments' mainly reflects to promotions of public officers from one grade to another as a consequence of particular provisions in Classification Agreements signed in previous years.

	<b>Appointments/Promotions</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
1.	New appointments following issue of calls for applications in Government Gazette/MPO Circulars/Departmental Circulars	1708	1320	1344
2.	Other Appointments, mainly promotion on basis of length of service and satisfactory performance and appointment to substantive grade.	490	349	1229
	<b>Total</b>	<b>2198</b>	<b>1669</b>	<b>2573</b>

## **The Duration of the Selection Process in the Public Service**

Following the 'Analysis of the Duration of the Selection Process in the Public Service' in each of the years 1994, 2002 and 2004, which had been reported upon in the 2004 Annual Report, a similar comparative exercise was carried out in respect of the calls for applications issued throughout 2005. The result, showing the duration of each of the 16 steps in 2005 as compared with the same steps in the previous years mentioned above, is given in Appendix 6.

Although the end result shows that, at almost 32 weeks, the full process of an average call in 2005 was slightly (16 days) higher than that in 2004, there was a particular circumstance in 2005 which led to a significant, negative, skewing in the result of the 2005 overall average figure.

The skew came about as a consequence of the decision, taken by the Administration in July 2004, to reduce all recruitment into the public service to a minimum as part of the drive to control the public deficit. This decision resulted in Action 3 of the selection process in Appendix 6 - the average time the Prime Minister's Office takes to verify the particular calls for applications - rising to 69 days, as compared to 37 days in 2004, 53 in 2002 and 40 in 1994.

In an effort to make a more meaningful comparison of the other steps of the process, the average figures of all 15 actions in all the four different periods were compared. The result when Action 3 is eliminated, is shown in the last line marked (ii) in the main body of Appendix 6 (a).

An analysis of the figures in the last column and of the figures in the last line (ii) of Appendix 6, leads to the following conclusions in respect of the duration of the selection process in 2005:

- a) the overall duration, apart from **Action 3 – Verification of call for applications** - was shorter in 2005 by 17 days when compared to that in 2004. It was very much shorter - by 61 days and 188 days, when compared to the figures for 2002 and 1994 respectively.
- b) the duration of most of the Actions have, over the years, been reduced to an extent that further reduction is virtually unrealistic. These actions include:
  - Action 6 - PSC Approval of Issue of Call/Selection Board/Criteria (6 days)
  - Action 8 - Closing Date for Submission of Applications (22 days)
  - Action 12 - Verification of Vacancy (6 days)
  - Action 15 - Recommendation by PSC (6 days) and
  - Action 16 - Prime Minister's Signature (8 days)
- c) the two Actions where significant improvement can, however, still be made are:
  - Action 9 - Holding of Interviews (58.63 days)
  - Action 11 - Recommendation by Head of Department (19 days)

- d) further analysis of Action 9 shows that there are particular Departments of Government in which Selection Boards habitually take much longer to interview respondents to Calls for Applications than their counterparts in other Departments. These unduly long delays are graphically illustrated by two actual examples. In one case it took 188 days to interview 6 persons. In the other, it took 102 days to interview 2 persons. These periods of time are considered by the Commission to be unacceptable. The attention of the Departments concerned to these facts is being drawn and the situation will continue to be monitored.

## **Representations to the Commission regarding Selection Processes**

The Commission considered fourteen written representations made directly to the Commission while the selection process following calls for applications issued by the Commission, was still in progress. These included one case that was submitted by a Union regarding the selection procedure followed and two cases submitted by legal officers on behalf of their clients.

After carefully considering these representations, the Commission reached the following conclusions:

- in one case the Commission upheld request to continue with the selection process;
- in another case, the complainant was informed that action was taken by the Commission to ask his employing entity to implement a system which assured that Circulars were brought to the notice of the officers concerned;
- in yet another case, the complainant was informed that the Commission was taking appropriate action on the submissions made;
- seven complaints regarding ineligibility to be considered for the post were not considered justified;
- two claims of unjust procedures were judged to be unfounded;
- two complaints from candidates who made allegations prior to the publication of the result were advised to await the publication of the result and then proceed in line with Section 1.1.10 of the Public Service Management Code.

A list of representations considered in 2005, showing also the complaints and the Commission's decisions, is given in *Appendix 7 (a)*.

## **Petitions relating to Appointments**

The Commission considered twenty-five petitions in respect of appointments made following calls for applications issued by the Commission which were submitted either to the Prime Minister or, in the case of non-serving officers, direct to the Commission in terms of Section 1.1.10 of the Public Service Management Code. These included three petitions which were submitted by legal officers on behalf of their clients.

After carefully considering the petitions, the grounds for the complaints and, where appropriate, the comments of the respective Selection Boards, the Commission reached the following conclusions:

- the complaints in nineteen of the petitions were not justified;

- in one case, the Selection Board was asked to review the marks and the Commission published a revised result sheet. The change in the total of marks did not result in a change in the order of merit.

Five petitions were still pending as on 31 December 2005.

A list of petitions considered in 2005, showing also the complaints and the Commission's decisions, is given in *Appendix 7 (b)*.

## **IV. Discipline**

### **Functions of the Commission relating to Discipline**

In terms of the Public Service Commission (Disciplinary Procedure) Regulations, 1999 and the related Instrument of Delegation signed by the Prime Minister on 1 February, 2000, the exercise of discipline in the public service is, subject to appropriate safeguards, largely delegated to Heads of Government Departments.

The Commission however continued to deal directly with requests for the interdiction and suspension from duties of public officers; the discipline of public officers found guilty of a criminal offence by the Courts; and other disciplinary cases conducted by the department where the officer was notified that the charge, if proved, could lead to dismissal.

The Commission further dealt with appeals from public officers against decisions made by Heads of Department under delegated authority, in terms of Section 30 (1) of the Public Service Commission (Disciplinary Procedure) Regulations, 1999.

The Commission also continued to make its recommendations in connection with the remaining cases initiated under the 1977 Disciplinary Regulations. These cases continued to diminish in number.

### **Disciplinary Cases under the 1977 Regulations – Criminal Cases**

The Commission considered 9 cases involving criminal proceedings against public officers, that had been initially referred to the Commission under the 1977 Disciplinary Regulations.

The recommendations made by the Commission to the Prime Minister in respect of these cases were as follows:

<b>Recommendations</b>	
Dismissal	5
Warning of Dismissal and forfeiture of salary withheld during interdiction	1
Suspension without pay for 3 days	2
Suspension without pay for 1 day	1
<b>Total</b>	<b>9</b>

### **Disciplinary Cases under the 1999 Regulations – Criminal Cases**

The Commission dealt with 48 cases which were referred to it in terms of Regulations 14 and 16 of the Public Service Commission (Disciplinary Procedure) Regulations, 1999. These concerned interdiction and disciplinary action after conviction on a criminal charge. The Commission also dealt with 2 requests for the lifting of interdiction pending the final outcome of the criminal proceedings.

The Commission made the following recommendations to the Prime Minister in respect of these cases:

Recommendations	
Dismissal	4
Warning of Dismissal, suspension without pay (5 days)	2
Suspension without pay (5 days)	1
Suspension without pay (3 days)	1
Suspension without pay (2 days)	3
Suspension without pay (1 day) and reprimand	1
Suspension without pay (1 day)	3
Interdiction	22
Lifting of Interdiction	2
Lifting of Interdiction, forfeiture of salary, written warning/reprimand	2
Lifting of Interdiction, forfeiture of salary, warning of dismissal	2
Lifting of Interdiction, forfeiture of salary, warning of dismissal, placed on other duties	1
Lifting of Interdiction, forfeiture of salary, warning of dismissal, suspension without pay (5 days)	1
Lifting of Interdiction, forfeiture of salary, suspension without pay (1 day)	1
Fine (5 days' pay), severe reprimand	2
Fine (3/2 days' pay)	2
<b>Total</b>	<b>50</b>

There was one particular case where the Commission submitted its advice to the Prime Minister in terms of section 114(1) of the Constitution for the granting of one half of the uncommuted pension to the officer concerned pending the final outcome of criminal proceedings.

### **Disciplinary Cases under the 1999 Regulations – Non-Criminal Cases**

The Commission also considered 16 other disciplinary cases which were referred to it in terms of Regulations 12 and 26(2) of the 1999 Disciplinary Regulations, ie, cases where the officer charged had been notified that the charge, if proved, could lead to dismissal.

After giving the officers concerned and the respective Heads of Department, where applicable, an opportunity to make oral representations, the Commission made the following recommendations to the Prime Minister in respect of these cases:

Recommendations	
Interdiction	1
Dismissal	3
Warning of dismissal and suspension without pay (2 days)	2
Warning of dismissal and suspension without pay (1 day)	1
Fine (5 days' pay)	1
Fine (2 days' pay)	1
Severe reprimand	1
Acquittal/Not guilty	1
Disciplinary proceedings considered null and void	4
Disciplinary proceedings withdrawn	1
<b>Total</b>	<b>16</b>

## Oral Representations

A list of the nineteen oral representations heard by the Commission, giving also the Regulation in terms of which the particular oral representation was allowed, is given at *Appendix 8*.

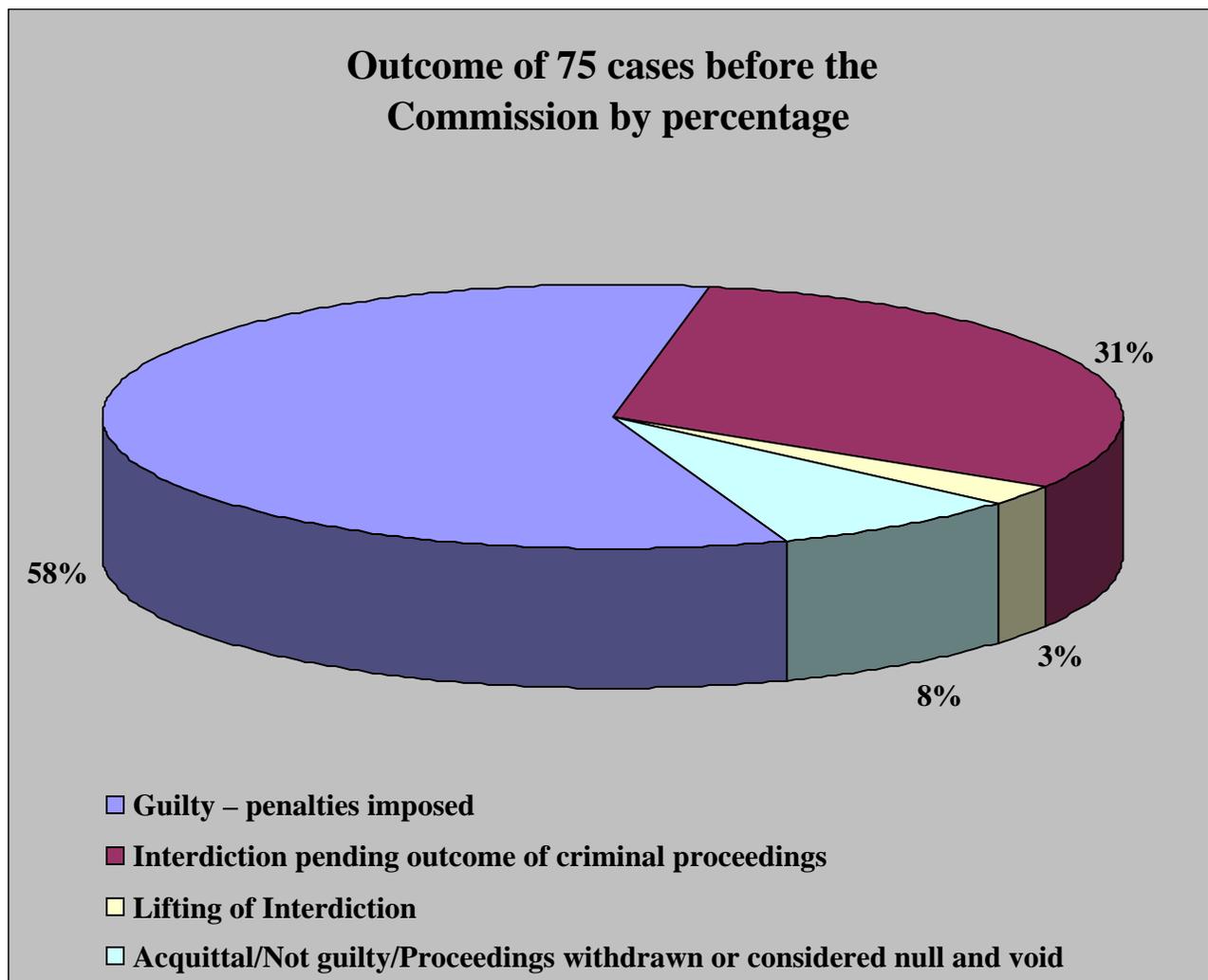
## Analysis of Cases

The following table and chart provide an analysis of the outcome of the above mentioned 75 cases.

<b>Disciplinary Cases before the Commission</b>	
<b>Outcome</b>	
Guilty – penalties imposed <sup>(1)</sup>	44
Interdiction <sup>(2)</sup>	23
Lifting of Interdiction pending the final outcome of the criminal proceedings	2
Acquittal/Not guilty/Proceedings withdrawn or considered null and void	6
<b>Total</b>	<b>75</b>

<sup>(1)</sup> In 7 cases, apart from imposing a penalty, the Commission also lifted the interdiction.

<sup>(2)</sup> 1 of the 23 cases of Interdiction was referred to the Commission following disciplinary proceedings.



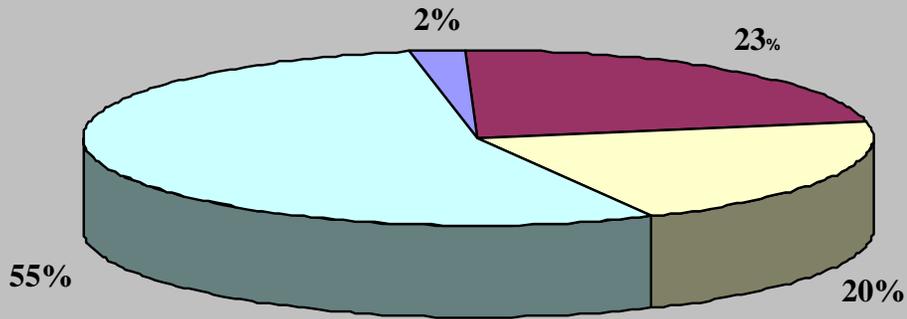
The following table shows the broad categories of offences and the penalties given in each of the 44 cases where the officer charged was found guilty. The ensuing chart gives the percentage distribution of same.

<b>Categories of offences and penalties recommended</b>						
<b>Penalties</b>	<b>Category of Offence</b>	<b>Drugs related</b>	<b>Theft/ Fraud</b>	<b>Corruption related</b>	<b>Others</b> <i>(violent/arrogant behaviour, perjury, unauthorised absence, dereliction of duties, caused damage/injuries etc)</i>	<b>Total</b>
Dismissal				5	7 (*)	12
Warning of dismissal, forfeiture of salary + suspension without pay for 5 days					1	1
Warning of dismissal + suspension without pay for 1, 2 or 5 days				2	3	5
Warning of dismissal + forfeiture of salary		1	2	1		4
Suspension without pay for between 1 and 5 days			6		5	11
Suspension without pay (1 day) and reprimand			1			1
Forfeiture of salary + written warning/reprimand				1	1	2
Forfeiture of salary + suspension without pay (1 day)			1			1
Fine (5 days' pay) + severe reprimand					2	2
Fine (2 to 5 days' pay)					4	4
Severe Reprimand					1	1
<b>Total</b>		<b>1</b>	<b>10</b>	<b>9</b>	<b>24</b>	<b>44</b>

35 of the 44 cases involved disciplinary action following criminal conviction.

(\*) Includes 2 cases of murder and 2 cases of attempted murder

### Categories of 44 Offences by percentage



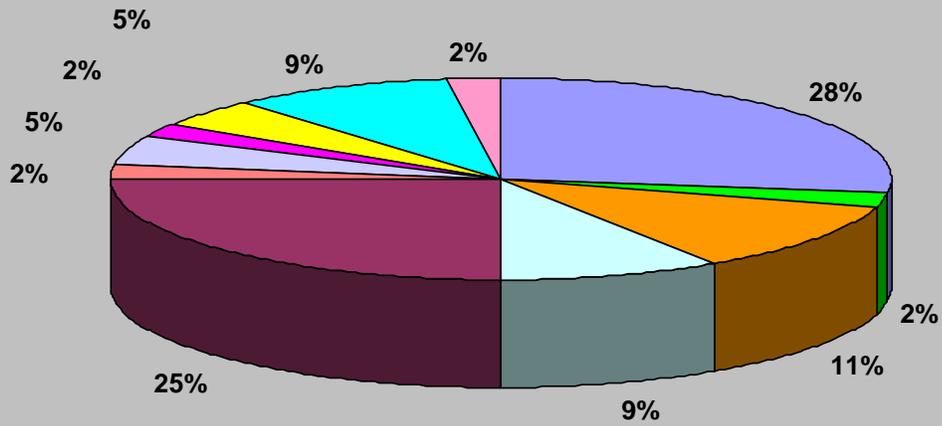
■ Drugs Related

■ Theft/Fraud

■ Corruption related

■ Others (violent/arrogant behaviour, perjury, unauthorised absence, dereliction of duties, caused damage/injuries and includes 2 cases of murder and 2 cases of attempted murder)

### Penalties imposed in 44 cases by percentage



- Dismissal
- Warning of dismissal, forfeiture of salary + suspension without pay for 5 days
- Warning of dismissal + suspension without pay for 1, 2 or 5 days
- Warning of dismissal + forfeiture of salary
- Suspension without pay for between 1 and 5 days
- Suspension without pay (1 day) and reprimand
- Forfeiture of salary + written warning/reprimand
- Forfeiture of salary + suspension without pay (1 day)
- Fine (5 days' pay) + severe reprimand
- Fine (2 to 5 days' pay)
- Severe Reprimand

## The exercise of discipline through delegated authority

The Commission continued to monitor the exercise of discipline delegated to Heads of Department. This was done through reports which Heads of Department were regularly required to submit to the Commission and which contained information about all disciplinary measures taken by them against public officers in terms of the 1999 Disciplinary Regulations.

The following Table gives a breakdown of disciplinary action taken by Heads of Department during 2005 compared with the years 2003 and 2004:

<b>Disciplinary action by Heads of Department</b>			
	2003	2004	2005
Outcome:	No	No	No
Warning of dismissal and suspension from duty without pay	19	3	7
Suspension from duty without pay	84	40	66
Written warning (section 20)	94	44	66
Written warning (section 19)	309	523	731
Cases discontinued	88	87	22
Verdict of not guilty	168	125	191
Pending cases	85	109	69
<b>Total</b>	<b>847</b>	<b>931</b>	<b>1152</b>

## Appeals from disciplinary decisions in terms of Regulation 30 of the Disciplinary Regulations

The Commission received two appeals against disciplinary decisions in terms of Regulation 30 of the Public Service Commission (Disciplinary Procedure) Regulations, 1999.

1. An appeal was filed by a legal officer on behalf of four employees claiming that the Disciplinary Board had failed to follow the procedures laid down in the Disciplinary Regulations and consequently the position of the accused had been prejudiced. In considering this appeal the Commission agreed that the disciplinary board should be asked to appear before it to make the necessary clarifications on the proceedings carried out by the board.

After hearing the submissions made by the Disciplinary Board, the Commission agreed to uphold the appeal and recommended that the disciplinary proceedings, as subsequently confirmed by the Head of Department, be considered null and void.

2. An appeal was submitted by a legal officer on behalf of accused since the officer concerned had been found guilty of a serious offence which, if proved, could lead to dismissal from the Service.

The Commission gave the opportunity to the Head of the Department and to the officer charged to make oral representations. After hearing the submissions made, the Commission agreed that the appeal should not be accepted and recommended a penalty.

## Review of past disciplinary decisions

Regulation 33 of the Public Service Commission (Disciplinary Procedure) Regulations 1999 provides a remedy in the event of a gross miscarriage of justice in disciplinary proceedings. It empowers the Commission to review past recommendations following a petition by an aggrieved officer.

The Commission considered four petitions made under this Regulation. After carefully considering the submissions made, the Commission decided as follows:

- in two cases the request could not be acceded to;
- in the other two cases the Commission found that there was no *prima facie* case of gross disregard of the disciplinary regulations or a serious miscarriage of justice.

## **Reference Back by the Prime Minister**

The Prime Minister may, acting in accordance with section 86 (1) of the Constitution, refer a recommendation back once to the Commission for reconsideration. During the year under review two recommendations were referred back by the Prime Minister. Another recommendation had been pending from the previous year.

The Commission concluded one case by withdrawing its previous recommendation.

The other two cases were still under consideration at the end of the year under review.

## **V. Other Business of the Commission**

### **Investigation of Injustices**

During the year 2005, the Commission considered three decisions of the Tribunal for the Investigation of Injustices established by Act No VII of 1997. These decisions, which related to appointments in the public service, required a formal recommendation by the Commission in terms of section 110 of the Constitution in order to be implemented.

In all three cases the Commission made the necessary recommendations to the Prime Minister for the implementation of the Tribunal's decisions.

### **Ombudsman**

In the course of the year, the Ombudsman referred five complaints to the Commission relating to appointments in the public service that had been referred to him by aggrieved persons. The outcome of the five cases was as follows:

- in one case the Commission accepted the Ombudsman's suggestion, made after his having accepted the Commission's decision that the result of the selection exercise should stand, that a fresh call for applications should be issued, a new Selection Board be set up and clearly defined sub-criteria be approved in advance by the Commission;
- in two cases the Commission found no grounds to revise the result of the selection exercise or to change its previous decision. The Ombudsman accepted the Commission's decisions in both cases.

With regard to the remaining two cases, the Ombudsman informed complainants that he could not uphold their complaint and closed the case. In these cases the Ombudsman did not consider the need for the Commission to revisit its original decisions.

The total of five complaints referred to the Commission by the Ombudsman during the year 2005 compare with twenty complaints in 2004.

Relevant information on the cases that were the subject of correspondence between the Ombudsman and the Commission in 2005 is given in *Appendix 9*.

## **Meetings with the Commission**

As also envisaged in the Public Service Commission Regulations, 1960, the Commission regularly consults Heads of Departments and Selection Boards whenever this is considered necessary. This was also done on a number of occasions during 2005 through *ad hoc* meetings with the Commission.

*Appendix 10* gives details of the meetings held with Heads of Departments and with Selection Boards.

## **VI. Some General Observations and Recommendations made by the Commission in particular cases**

### **Recruitment, Promotions and Progressions**

#### **Selection Processes to be carried out in strict compliance with the provisions of the calls for applications**

- The Commission considered the submissions made by a Selection Board stating that an only applicant had been interviewed and had obtained a high mark. However, the Selection Board also pointed out that the applicant had obtained the required qualification one year after the date specified in the call for applications.

The Commission decided that it should not depart from the principle that every selection process should be carried out in strict compliance with the provisions of the call for applications. In the circumstances, the applicant was considered ineligible.

- The Commission considered a request made by a Head of Department for a one-year extension of the validity period of the result of the selection process.

After due deliberation, the Commission agreed that the request could not be acceded to without creating what could turn out to be a dangerous precedent, particularly as there had been, and still remained, ample time for a fresh call for applications for the post in question to be issued.

#### **Guidelines to Selection Boards**

The Commission agreed that the following instructions should be included in the 'Guidelines to Selection Boards' given by the Commission to chairpersons of Selection Boards on their appointment:

- Selection Boards are not to commence the selection exercise before the Commission communicates the approval of the criteria to be adopted. A preliminary meeting of the Selection Board is to be held before starting the selection process. During that meeting the Selection Board should set sub-criteria, preferably for every criterion approved by the Commission, but definitely for the following criteria: Related Knowledge, Qualifications, Related Experience. Moreover, the Chairperson and each member of the Board are also to sign the PSC Declaration Form.
- In order to establish the order of merit amongst candidates obtaining the same marks, Selection Boards are to be guided by the provisions set in section 1.3.10 of the Public Service Management Code. Selection Boards are reminded that (a) ties are only to be allowed in exceptional circumstances; (b) in calls for applications in which the number of applicants is large, the Selection Board may seek the Commission's approval to increase

the marking range; and (c) the award of fractions of a mark in the final result is not allowed.

- Cases such as those resulting in ties, or where the difference in ranking order is that of one/two marks or borderline failures, require specific scrutiny. Selection Boards are asked to exercise this scrutiny prior to coming to a final decision about marks and before forwarding their report to the Commission.

An MPO Circular on the subject was issued on 19 April 2005 while the relevant amendments were also made to the Public Service Management Code.

### **Selection Process for the posts of Police Superintendents - inclusion of Seniority in the selection criteria**

The Commission considered a suggestion by the Administration to specifically include 'Seniority' as one of the main criteria in the selection process of Police Superintendents. Since 2002, when promotion to the rank of Superintendent started being made following a PSC selection exercise instead of through a direct nomination, seniority was indirectly included under the sub-criterion 'Experience' within the main criterion of 'Track Record'.

After due deliberation, the Commission accepted the principle that, as it concerned a disciplined force, the selection process for higher ranks in the Police Force should specifically include 'Seniority' as one of the main selection criteria. The Commission however also decided that the percentage of this main criterion was not to be as high as had originally been proposed by the Administration.

### **Suspension/Withdrawal of long-standing selection processes**

- The Commission considered 75 selection processes which, although initiated, had been left pending by the Departments concerned, or not verified by MPO, for a relatively long period of time:
  - In 57 cases the Selection Board's report had been submitted to the PSC but the MPO verification was still outstanding; and
  - in the other 18 cases the Selection Board's report had still to be submitted to the Commission.

When considering this particular situation, the Commission ruled that pending calls for applications which had been issued prior to 1 October 2004 and in respect of which the Selection Board's report or the recommendation by the Head of Department had not been submitted to the Commission, should be brought to a conclusion by not later than 1 March 2006. In these cases, the Heads of Department in question were to inform the relative applicants that the particular calls for application were being withdrawn and that, if that were the case, a fresh call was to be issued.

- The Commission considered a request for the suppression of a relatively recent selection process at a stage when the Selection Board's report had already been submitted to the Commission. The Commission felt that the reasons submitted did not justify such suppression and requested the Ministry concerned to submit its recommendation for the appointment of the first-placed candidate. The candidate was subsequently appointed to the post.

## **Minority report submitted in a selection process**

The Commission considered a report signed by two members of a Selection Board and a minority report submitted by the third member of the Board who believed that neither of the two applicants demonstrated the competencies required to effectively carry out the duties required by the role.

The Commission sought the comments of the Head of Department on the matter who endorsed the recommendation of the majority report. After due deliberation, the Commission approved the report, published the result, and made its recommendation for an appointment.

## **Public Officers serving as Heads of Minister's Private Secretariat**

The Commission considered a proposal by the Administration that, as in the case of Heads on a performance agreement, Public Officers serving as Heads of Private Secretariats in Ministries, should be substantively appointed Officers in Grade 4 after serving for six years in that position.

The Commission eventually approved the above policy which was, however, to be complemented by the following additional parameters:

- a. public officers who held a substantive appointment in Grade 5 or below, would be required to confirm in writing that, on eventual termination of their appointment as Head of Private Secretariat, they would accept to follow a management role by applying to fill a headship post in Category 'A';
- b. public officers who did not hold an appointment in the General Service would, additionally, be given the option to remain in their Departmental grade, taking their chances for progression within their career stream on eventual termination of their appointment as Head of Private Secretariat.

The Commission also agreed that the short break between one Administration and the next would not be considered as causing an interruption of service.

## **Officers appointed to the position of Assistant Director on a Performance Contract while serving at the EU Secretariat**

The Administration submitted a request for the retention at the EU Secretariat on grounds of public interest, of a public officer who had been recommended for appointment to the grade of Assistant Director after a selection exercise for the position. If approved, the request would mean that the public officer concerned would retain her appointment of Officer in Grade 5 and continue performing her duties at the EU Secretariat not in the position of Assistant Director.

Having considered:

- a. that Officers attached to Private Secretariats who are appointed to positions of Assistant Director on a Performance Contract could, if recommended, remain serving in Private Secretariats on grounds of public interest while retaining their right to a substantive appointment of Officer in Grade 5; and
- b. the similarity between the position of EU Secretariat Staff and that of Private Secretariat Staff, particularly in that, in essence, both were considered as positions of trust,

the Commission found no objection to the extension of the policy that already applied to staff at Private Secretariats, to the staff at the EU Secretariat.

## **Domestic Staff at the Office of the President**

The Commission approved the following policy in respect of Domestic Staff at the Office of the President who are considered to occupy positions of trust:

- employees would henceforth be recruited on a definite contract of one year following a direct recommendation submitted for the consideration of the Commission;
- the contract would allow the Office of the President to renew or terminate the contract, with the Commission's endorsement, during the term of office of the incumbent President;
- employees who would have:
  - a) served on the domestic staff of the Office of the President for a period of not less than four years; and
  - b) performed satisfactorily

would qualify for permanent employment in an appropriate equivalent grade in the Public Service, if their services were no longer required by the Office of the President. Such appointments to permanent employment positions would need to be sanctioned by the Public Service Commission.

The Commission further agreed that the Principal Permanent Secretary should be informed that the above policy was being approved by the Commission on the assumption that the maximum complement of the Domestic Staff at the Office of the President would remain at its present level of 20 and that any significant departure from that figure would need to be agreed to beforehand with the Commission.

## **Officers abandoning their Performance Agreement**

The Commission considered the situation arising when officers abandoned their performance agreement within a relatively short period of their appointment.

The Commission agreed that, in such cases, the officers concerned would have to revert to their previous substantive grade, if a higher substantive grade had been attained on the basis of a performance agreement.

In one particular case an Assistant Director was granted 6 months unpaid leave within a few months of his signing a performance agreement. In that case, the Commission recommended the termination of the officer's performance agreement as Assistant Director as well as of his appointment as 'Officer in Grade 5' and that he should revert to his previous substantive grade of Senior Principal.

## **Engagement on contract of candidates who had completed successfully a course of study sponsored by Government**

The Commission considered the request submitted by the Ministry of Foreign Affairs to engage on contract candidates who had completed successfully a course of study sponsored by Government.

The case concerned the issue in 2004 by the Ministry of Foreign Affairs of a call for applications for students to apply for a scholarship to undertake a post-graduate course either at the College of Europe in Bruges in Belgium or at the University of Sussex in the UK. The interview had been conducted by a high-level Foreign Ministry Selection Board. The course was completely funded by the Ministry of Foreign Affairs from its training vote.

After due deliberation, the Commission submitted its recommendation to the Prime Minister for the engagement of the candidates who had successfully completed their post-graduate course leading to MA (European Studies), as Support Officers on a 3-year renewable contract.

The Commission also advised the Ministry of Foreign Affairs to seek the prior approval of the Commission, should it intend to issue similar calls for applications for scholarships. An exception was however made in regard to the call for applications for 2005-2006 courses, the process of which had already been completed by the time that the request made by the Ministry of Foreign Affairs was considered by the Commission. The Commission agreed to adopt for the 2005/2006 call the same decision it had taken for the 2004 call.

### **Appointment of posts/positions in the Public Sector that do not fall within the remit of the Commission**

The Commission considered a request submitted by the Administration to assign the position of Chief Executive Officer at the Malta Council for Science and Technology to an officer who was previously engaged on contract in a position within the Public Service. The Commission decided that it was not within its remit to appoint a Chief Executive Officer of a Public Sector Organisation and that, if a recommendation was made by the Commission in that particular case, it would be setting a precedent.

### **Delay in processing requests for promotion**

The Commission decided that in processing requests for the promotion of staff in the General Service Grades, the attention of the Principal Permanent Secretary should be drawn to the fact that a considerable number of officers who were due for promotion had had their promotion delayed, at times for a number of years, because their Performance Management Programmes had not been completed and forwarded to OPM. The Commission asked the Principal Permanent Secretary whether he considered it appropriate to threaten disciplinary action against any reporting officers who had failed to take timely action for the promotions in question.

The Commission's suggestion was accepted by the Principal Permanent Secretary and OPM circulars on the subject were subsequently issued. The position continued to be monitored by the Commission.

### **Deputising Allowance given for a long period of time**

The Commission considered two petitions submitted by candidates who had not been selected for the post after having been in receipt of a deputising allowance for the grade for ten whole years. The Commission was aware that the relative Classification Agreement specifically provided for the grant of 'temporary' deputising allowances in senior positions and for the allowances to be authorised on a six-monthly basis.

In the particular petitions, the Commission ruled that the receipt of deputising allowance, even if this lasted for unusually long periods, did not entitle the applicant to automatic appointment to the position in which he had been deputising.

Nevertheless, the Commission made it clear that the practice of giving deputising allowances for such long periods was not good management practice, was not condoned by the Commission and would in future not be acceptable to it.



## **Discipline**

### **Guidelines on the procedures to be adopted in cases of sexual harassment**

The Commission considered a draft document submitted by the Principal Permanent Secretary on “The Public Service: Guidelines on what constitutes sexual harassment and on the procedures to be adopted in cases of sexual harassment”.

In approving an amended version of the draft document, the Commission also ensured that the provisions of the Guidelines were in full conformity with the Public Service Commission (Disciplinary Procedure) Regulations, 1999. The Commission also approved the inclusion of the offence of sexual harassment in the Schedule of Offences and Penalties of the PSC Regulations.

### **Amendments to the Public Service Commission (Disciplinary Procedure) Regulations, 1999**

The Commission considered in detail and approved a number of amendments to the Public Service Commission (Disciplinary Procedure) Regulations, 1999. The amendments are meant to give a definitive interpretation to a number of regulations. This had become necessary as, since the coming into force of the Regulations in 2000, the Commission had been asked to rule on the particular regulations in a number of disciplinary cases.

The offences of “sexual harassment”, “misuse of electronic equipment” and “victimisation of witness or an officer/person lodging a report or doing his/her duty under the Regulation”, were also added to the Schedule of Offences in the Amended Regulations which have just come into effect.

### **Disciplinary Proceedings against the Chairman and Members of a Selection Board**

The Commission considered three petitions regarding a particular selection process and, having considered that the process had been flawed, made its recommendation to the Prime Minister with the aim of righting a wrong that had resulted from the process through the appointment of the three petitioners.

Independently of the Commission, the Principal Permanent Secretary subsequently instructed that disciplinary proceedings should be instituted and charges issued by the respective Heads of Department in terms of Regulation 20 of the Public Service Commission (Disciplinary Procedure) Regulations 1999, against the Chairman and Members of the Selection Board. This action was taken and the hearings of the particular Disciplinary Board were still in process by the end of the year under review.

### **Trainee Correctional Officer - Termination of Course**

A recruit who was undergoing a course of training leading to his appointment as Correctional Officer tested positive to the use of cannabis. Director (Correctional Services) referred the matter for the Commission’s consideration, and the Commission recommended that the candidate should not be allowed to continue the course of training.

## **Hearing of witness during Disciplinary Proceedings**

The Commission considered the submissions made by a Disciplinary Board reporting that, in spite of tentative steps, the Disciplinary Board could not be convened as the accused officer and/or his lawyer seemed to be always unable to attend.

The Commission decided that the Disciplinary Board should set three different dates for the hearing of the case and should give an opportunity to the officer charged to choose one of the three dates set by the Board. The accused was informed that, if he failed to be present on the agreed date, the Board would proceed with the hearing of the case, even in his absence or in that of his lawyer, in terms of Regulation 23 (3) of the Disciplinary Regulations.

## **Interpretation of Section 25 of the Probation Act (Cap 446) in connection with the award of penalties following Criminal Proceedings**

In considering submissions made by the legal advisor of an accused officer that conditional discharge should not be considered as a verdict of guilt, the Commission sought legal advice on the interpretation of Section 25 of the Probation Act (Cap 446).

The Commission was assured that the long-standing interpretation adopted also by previous Commissions, that a conditional discharge was indeed a verdict of guilt, was correct.

## **Breach of the Hunting Regulations is a Criminal Offence**

In deliberating on criminal proceedings instituted against a public officer who was arraigned in Court charged with illegal importation of bird skins, the Commission considered the submissions made by the legal advisor of the officer charged, who argued that the offence was not a criminal one. According to the legal advisor the offence was a breach of hunting regulations and should not be subject to disciplinary action.

The Commission sought legal advice on the matter and the advice tendered was that, irrespective of the fact of whether an offence was listed as a crime in the Regulations or in the parent law, a crime was invariably a criminal offence. The case was, accordingly, to be treated by the Commission in terms of the Public Service Commission (Disciplinary Procedure) Regulations, 1999 in the same way that all criminal offences were treated.

# Biographies of the Chairman and Members of the Public Service Commission

### **Mr Alfred Fiorini Lowell**

*Chairman, Public Service Commission (appointed on 12 June 2003)*

Mr Fiorini Lowell is a retired Public Officer. He joined the Executive Class of the Public Service in 1964. Senior positions held before his retirement in 2003 included Permanent Secretary in the Ministry of Education and Human Resources (1992 -1995), Permanent Secretary in the Ministry of Housing and Local Government (1996 - 1998) and Cabinet Secretary (1995-1996 and 1998-2003).

### **Brigadier (Rtd) John Spiteri**

*Deputy Chairman, Public Service Commission (appointed on 12 May 1996)*

Brigadier Spiteri is a retired Army Officer. After having served in the British Army from 1949 he joined the Armed Forces of Malta in 1971. In 1979 he was appointed Commander AFM. Brigadier Spiteri was also called upon to assume the responsibilities of Commissioner of Police between 1987 and 1988.

### **Ms Yvonne Micallef Stafrace**

*Member, Public Service Commission (appointed on 12 May 1996)*

Ms Micallef Stafrace was employed in the General Workers' Union Secretariat between 1955 and 1962. In 1961 she married Dr Joseph Micallef Stafrace and they have three children. Ms Micallef Stafrace obtained a BA from the University of Malta in 1992, a BA (Hons) History in 1993 and an MA in 1996. She has published "Reggie Miller and the Post-War Socio-Political Challenges" (1998) and "The Growth of Trade Unionism in Malta 1943 - 1952" (2000).

### **Dr Janet Mifsud**

*Member, Public Service Commission (appointed on 12 May 2000)*

Dr Janet Mifsud is a Senior Lecturer in the Department of Clinical Pharmacology and Therapeutics, University of Malta (1990 - ). She is the Commissioner for the National Commission for the Promotion of Equality for Men and Women (2004 - ). Dr Mifsud has also chaired the Gender Issues Committee for the University of Malta (2000 - 2002) and was chair of the National Focal Point for the EU FP5 Programme for Research and Development (2000 - 2003). Dr Mifsud has various publications to her name.

### **Ms Mary Vella**

*Member, Public Service Commission (appointed on 12 June 2003)*

Ms Vella retired in 2003, from a career in Education that included a long service as teacher and as Head of School, and six years as the Head of the Department for Curriculum Management.

## Appendix 2

### Staff complement

#### Complement as on 31st December 2005

Grade	No of Employees in post
Secretary, PSC	1
Assistant Director	1
Senior Principal	Vacant
Principals	2 (1 instead of a Senior Principal)
Assistant Principals	3
Executive Officer	0
Postperson	1
Senior Clerks	2
Clerks	4 (one on reduced hours)
Messenger	1
General Hands	2
<b>Total</b>	<b>17</b>

### Commission's expenditure

#### Expenditure for the year 2005

Item	Lm
Emoluments of the Chairman, Deputy Chairman and Members of the Commission	2
Emoluments of the public officers attached to the Commission's staff	8
Social Security contributions	
Operational and maintenance expenses	1
Special Expenditure	
Capital	NIL
<b>Total</b>	<b>13</b>

# Calls for Applications advertised in the Government Gazette 2005

## Ministry of Finance

Technical Attaché, Permanent Representation of Malta to the EU  
Programme Manager (Finance)  
Accountants  
Senior Accountants  
Programme Manager (EU Paying Authority)  
Project Leader (Public Private Partnership Unit)  
Economics Officer, Economic Policy Division  
Senior Economist  
Programme Manager (Enforcement), VAT Division

## Ministry for Justice and Home Affairs

Legal Procurator, Land Department, Government Property Division  
Case Workers, Office of the Commissioner for Refugees  
Projects Officer (Third Country Nationals)  
Mediators' Coordinator, Courts of Justice  
Notary to Government  
Junior Legal Officer/Legal Officer, Joint Office

## Ministry of Education

Junior Legal Officer/Legal Officer, Industrial and Employment Relations  
Teachers, Education Division  
Engagement of EUPU Financial Administrator, EUPU

## Ministry for Competitiveness and Communications

Senior Legal Officer, EU Affairs Directorate  
Legal Officer/Junior Legal Officer, Consumer and Competition Division  
Economics Officer, Consumer and Competition Division  
Product Safety Inspector, Market Surveillance Directorate  
Part-Time Market Surveillance Officer (Malta), Consumer and Competition Division

## Ministry for Gozo

Consultant Accoucheur (Gozo General Hospital), Department of Customer Services  
Consultant Pathologist (Gozo General Hospital), Department of Customer Services  
Senior Registrar (Radiology), Gozo General Hospital, Department of Customer Services  
Senior Registrar (Anaesthesia) - Gozo General Hospital, Department of Customer Services  
Engineer (Mechanical) or Junior Engineer (Mechanical), Department of Customer Services  
Manager (Social, Productive and Indigenous Investment)  
Junior Legal Officer/Legal Officer, Department of Corporate Services

## Ministry of Health, the Elderly and Community Care

Senior Registrar (Obstetrics and Gynaecology), Health Division  
Consultant Accoucheur, Health Division  
Consultant Neurological Surgeon, Health Division  
Senior Registrar (Anaesthesia), Health Division  
Consultant Clinical Haematologist, Health Division  
Principal Pharmacist, Responsible Person Activities Section, Government Pharmaceutical Services, Health Division  
Part-Time Radiographers (Diagnostic), Health Division  
Part-time Medical Laboratory Technologist, Health Division  
Consultant (Genito-Urinary Medicine), Health Division  
Consultant Surgeon (Paediatric Surgery), Health Division  
Radiographer (Therapy), Health Division  
Physiotherapist, Health Division  
Medical Laboratory Technologist, Health Division  
Principal Pharmacist, Health Division  
Pharmacist, Health Division  
Radiographer (Diagnostic), Ultrasound Unit, Health Division  
Staff Nurses, Health Division  
Chairman (Medical Imaging), Health Division  
Chairman (Pathology), Health Division  
Chief Scientific Officer (Radiotherapy Physics), Health Division  
Consultant Radiotherapist, Health Division  
Senior Registrar (Anaesthesia), Health Division  
Senior Registrar (ENT Surgery), Health Division  
Consultant Psychiatrist, Health Division  
Consultant (Clinical Transfusion Medicine), Health Division  
Radiographer (Diagnostic), Ultrasound Unit, Health Division  
Registrar (Dermatology and Venereology), Health Division  
Consultant Pathologist (Histopathology), Health Division  
Health Inspector, Health Division  
Senior Registrar (Dentistry), Health Division  
Dental Surgeon, Health Division  
Senior Registrar (Orthopaedics), Health Division  
Senior House Officer (Oncology), Health Division  
Senior House Officer (Obstetrics and Gynaecology), Health Division  
Senior House Officer (Ophthalmology), Health Division  
Senior House Officer (ENT), Health Division  
Senior House Officer (Geriatrics), Health Division  
Senior House Officer (Paediatrics), Health Division  
Senior House Officer (Pathology), Health Division  
Senior House Officer (Psychiatry), Health Division  
Senior House Officer (Accident and Emergency), Health Division  
Medical Officer (Health Information), Health Division  
Medical Officer (Public Health Medicine), Health Division  
Senior Registrar (Radiotherapy and Oncology), Health Division  
Consultant Anaesthetist, Health Division  
Consultant Physician in General Medicine - Diabetes Mellitus, Health Division  
Consultant Paediatrician, Health Division  
Senior Registrar (Psychiatry), Health Division  
Senior Registrar (General Surgery), Health Division  
Senior Registrar in Audiological Medical Otolaryngology, Health Division

Scientific Officer (Radiotherapy Physicist), Health Division  
Chairman (Radiotherapy and Oncology), Health Division  
Chairman (Anaesthesia), Health Division  
Occupational Therapist, Health Division  
Radiographer (Therapy), Health Division  
Medical Laboratory Technologist, Health Division  
General Practitioner, Health Division  
Senior Registrar (General Medicine), Health Division  
Technician (Industrial Electronics), Health Division  
Senior Registrar (Cardiology), Health Division  
Registrar (Psychiatry), Health Division  
Senior Registrar (Urology), Health Division  
Registrar, Medical Council, Health Division  
Pharmacy Technician, Health Division  
Registrar (Genito-Urinary Medicine), Health Division  
Registrar (Anaesthesia), Health Division  
Medical Laboratory Technologist, Health Division  
Medical Officer (General Practice), Health Division  
Senior Registrar (Geriatrics), Department of the Elderly and Community Care  
Radiographer (Therapy), Health Division

## **Ministry for Rural Affairs and the Environment**

Manager (EU Funds Management Unit), EU Affairs Directorate  
Principal Pharmacist  
Junior Legal Officer/Legal Officer

# Calls for Applications issued through MPO Circulars 2005

## Office of the Prime Minister

Photographer-in-charge, Department of Information  
Technical Officer (Operations)  
System Manager (Human Resource Information Systems), Management and Personnel Office  
Senior Principals  
Social Support Workers (from Casual Welfare Officers)  
Ward Clerical Assistants (from Casual Ward Clerical Assistants)

## Ministry of Finance

Engagement of Revenue Officers, Inland Revenue  
Engagement of Project Leader (Public Private Partnership Unit)  
Economics Analyst, Economic Policy Division

## Ministry for Justice and Home Affairs

Engagement of Monitoring Officer, Department of Local Government  
Manager, Marriage Registry, Land and Public Registry  
EU Funds Manager

## Ministry of Education, Youth and Employment

Senior Assistant Librarian (Schools Library Service), Education Division

## Ministry for Competitiveness and Communications

Head of Airworthiness Inspectorate, Department of Civil Aviation  
Senior Information Officer, Consumer and Competition Division

## Ministry for Resources and Infrastructure

Junior Architect and Civil Engineer/Architect and Civil Engineer, Works Division  
Operations Manager (Transport), Works Division  
Senior Legal Officer, Office of the Director General, Works Division

## Ministry for Gozo

Deputy Registrar (Courts of Magistrates), Department of Customer Services  
Technical Officer, Department of Customer Services (Education Branch)  
Foreman (Cleaning Duties), Department of Customer Services (Gozo General Hospital)  
Senior Marshal (Courts of Magistrates), Department of Customer Services  
Tradesman/Senior Tradesman (Mason), Department of Customer Services

## **Ministry of Health, the Elderly and Community Care**

Senior Technical Officer (Graphic Design), Health Division  
Hospital Auxiliary (Group II), Health Division  
Responsible Person, National Blood Bank, Health Division  
Clinical Nutrition Nurse, Health Division  
Motor Transport Driver (Group III), Health Division  
Contenance Nurse Adviser, Department of the Elderly and Community Care  
Hospital Infection Control Nurse, Health Division  
Rheumatology Nurse, Health Division  
Stoma Care Nurse, Health Division  
Resuscitation Nurse, Health Division  
Bereavement Midwife, Health Division  
Senior Pharmacist, Health Division  
Departmental Midwifery Officer, Health Division  
Departmental Nursing Manager, Health Division  
Deputy Midwifery Officer, Health Division  
Director Nursing Services, Health Division  
Operative (Domestic Drainage Service) Group III, Health Division  
Tradesman/Senior Tradesman (Plumber), Health Division  
Senior Pharmacy Technician, Health Division  
Ambulance Driver (Group IV), Health Division

## **Ministry for Rural Affairs and the Environment**

Principal Agricultural Foreman  
Captive Breeding Coordinator

## **Ministry for Urban Development and Roads**

Manager (EU Funds Management Unit)

## **Ministry for the Family and Social Solidarity**

Social Security Inspector, Department of Social Security  
Social Inclusion Officer, Programme Implementation Directorate

## **Appendix 5**

### **Departmental Calls for Application 2005**

#### **(i) Calls for applications advertised through Departmental Circulars**

##### **Office of the Prime Minister**

Senior Printer, Printing Section (Offset), Government Printing Press

##### **Ministry for Justice and Home Affairs**

Senior Marshal, Courts of Justice  
Police Superintendents, Police Department

##### **Ministry of Education, Youth and Employment**

Head of Special Schools, Education Division  
Education Officer, Education Division  
Head of School to serve in Malta, Education Division  
Head of School to serve in Gozo, Education Division  
Subject Coordinator (Secondary Sector), Education Division  
Head of Special Schools, Education Division  
Principal Education Officer, Education Division  
Head of School (Malta), Education Division  
Assistant Head of School (Primary), Education Division

##### **Ministry of Foreign Affairs**

Counsellor

#### **(ii) Calls for applications issued by Ministries for the filling of Assistant Director Positions in terms of delegation by PSC**

##### **Office of the Prime Minister**

Assistant Director (Boards, Committees and Customer Care), Operations and Programme Implementation Directorate  
Assistant Director (Financial Administration), Armed Forces of Malta  
Assistant Director (Departmental Grades), Resourcing - Public Service, Management and Personnel Office

## **Ministry for Justice and Home Affairs**

Assistant Director (Finance and Administration), Police Department  
Assistant Director (Finance and Administration), Government Property Division

## **Ministry of Education, Youth and Employment**

Assistant Director (Operations), Education Division  
Assistant Director (Curriculum Implementation), Education Division  
Assistant Director (Administration), Office of the Permanent Secretary  
Assistant Director (Procurement and Administration), Education Division

## **Ministry for Competitiveness and Communications**

Assistant Director (International Liaison) (T), Market Surveillance Directorate  
Assistant Director (International Liaison), Market Surveillance Directorate

## **Ministry for Resources and Infrastructure**

Assistant Director (Operations), Office of the Permanent Secretary  
Assistant Director (Contracts and Procurement), Works Division  
Assistant Director (Management Support), Office of the Permanent Secretary

## **Ministry for Gozo**

Assistant Director (Customer Care), EU Affairs, Policy Development and Programme Implementation

## **Ministry for Urban Development and Roads**

Assistant Director, Office of the Permanent Secretary

## Appendix 6

### Comparative Analysis of Selection Processes in the Public Service <sup>(1)</sup>

Action	Account-ability for Action	Average Number of Days from Preceding Action			
		1994/1993	2002/2001	2004/2003	2005
1 Request for PSC authority to issue Call for Applications <sup>(2)</sup>	HD	0	0	0	0
2 Request for Approval of Selection Board/Criteria <sup>(2)(3)</sup>	HD	46.52	5.68	15.66	6.04
3 Verification of Call for Applications <sup>(2)</sup>	MPO	39.8	52.84	36.9	69.31
4 Clarification sought by PSC	PSC	8.26	4.02	3.8	0
5 Response by Head of Department to PSC queries <sup>(2)</sup>	HD	24	9.56	8.44	0
6 PSC Approval of issue of Call/Selection Board/Criteria <sup>(4)</sup>	PSC	49.2	18.9	7.74	6.13
7 Publication of Call for Applications	Other	7.22	12.72	7.78	8.63
8 Closing date for submission of applications	Other	25.94	26.2	22.8	21.94
9 Holding of Interviews	SB	100.6	60.1	53	58.63
10 Selection Board Report <sup>(2)</sup>	SB	20.58	9.5	14.24	10.52
11 Recommendation by Head of Department <sup>(2)</sup>	HD	15.78	17.72	12.62	19
12 Verification of Vacancy <sup>(2)</sup>	MPO	8.24	9.98	4.94	5.54
13 Clarification sought by PSC	PSC	2.9	2.58	0.76	0.22
14 Response to PSC queries <sup>(2)</sup>	SB <sup>(6)</sup>	6.82	9.56	2.42	1.22
15 Recommendation by PSC	PSC	16.54	18.3	6.6	6.06
16 Prime Minister's Signature	MPO	7	7.74	7.58	7.72
(i) Total Duration of Selection Processes		379 <sup>(5)</sup>	265	205	221
		(54 weeks)	(38 weeks)	(29 weeks)	(32 weeks)
(ii) Total Duration of Selection Processes after elimination of Action 3 <sup>(7)</sup>		340	213	168	152
		(49 weeks)	(30 weeks)	(24 weeks)	(22 weeks)

<sup>(1)</sup> For the background to the subject of this Appendix cfr. the 2004 Annual Report and pages 7 and 8 of the 2005 Annual Report

<sup>(2)</sup> Date received at PSC (postmark or date of email). This may vary significantly from date on letter.

<sup>(3)</sup> Action 2 above includes Actions 8 and 10 of 1993/1994 calls (Appendix 2).

<sup>(4)</sup> Action 6 above includes Actions 5, 9 and 11 of 1993/1994 calls (Appendix 2).

<sup>(5)</sup> Total corresponds to that of Appendix 2 in spite of collapse of 19 Actions of 1993/1994 into the above 16 Actions.

<sup>(6)</sup> In effect, in a number of instances, queries were addressed to Head of Department.

<sup>(7)</sup> The reasons for this line are given on page 8 of this Report.

## Appendix 7 (a)

### Representations to the Commission regarding Selection Processes

No	Related Post	Department	Complaint	Commission's Decision
1	Senior Engineer (Mechanical - Building Regulations Unit)	Building Construction Industry Department, Works Division	Complained about decision to withhold selection process	The Commission agreed that the selection process should continue
2	Assistant Director (Development)	Planning and Development Department, Education Division	Claimed that his temporary appointment to the post was anomalous, unjust and discriminatory	The Commission decided that it should retain the status quo
3	Teacher (European Studies)	Education Division	Contested his ineligibility	Candidate could not be considered eligible
4	Assistant Head of School (Secondary)	Education Division (Gozo)	Claimed that Departmental Circular had not been brought to her attention	Request to be considered for the post not accepted
5	Senior Internal Auditor	Internal Audit and Investigations, Cabinet Office, OPM	Claimed blatant lack of impartiality on the part of the Chairman of the Selection Board	As the result had not yet been published, complainant was advised to adhere to Section 1.1.10 of the Public Service Management Code
6	Chief Architect and Civil Engineer (Structural Design)	Works Division	Claimed that he heard persistent rumours that the post was being filled by someone else Requested Commission to investigate the matter	As the result had not yet been published, complainant was advised to adhere to Section 1.1.10 of the Public Service Management Code
7	Deputy Attorney General	Attorney General's Office	Objected to the way the appointment had been made Claimed that he was next in line for promotion according to previous practice	Request for oral representations not accepted. A direct recommendation was in line with the Agreement of the Legal Class.
8	Deputy Attorney General	Attorney General's Office	UHM claimed that the usual PSC procedure had not been followed	The Commission was taking appropriate action on the submissions made
9	Senior Messengers	Public Service	Claimed that MPO Circulars had not been brought to his attention Requested that future calls be also sent to his place of work	Complainant was informed that the entity employing him was being asked to implement a system which assured that Circulars were brought to the notice of officers concerned.

No	Related Post	Department	Complaint	Commission's Decision
10	Operations Manager (Technical Section - Rehabilitation Projects Office)	Works Division	Contested his ineligibility	Request to be considered eligible could not be entertained
11	Teacher (Social Studies) and (European Studies)	Education Division	Contested his ineligibility	Not to be considered eligible
12	Staff Nurses	Health Division	Protest on behalf of BSc Nursing Course students stating that candidates could not submit the Certificate of Registration with the Council for Nurses and Midwives in time as the results of the Resits had not yet been published by the University of Malta	Applicants who were not in possession of the requirements stipulated in para 7.1 of the call for applications should be considered ineligible
13	Staff Nurses	Health Division	Re-sit results had not yet been published. Requested Commission to extend the time limit stipulated in the call for applications for the presentation of the Certificate of Registration	Applicants who were not in possession of the requirements stipulated in para 7.1 of the call for applications should be considered ineligible
14	Staff Nurses	Health Division	Requested to be considered for the post as she had passed the resit exams. She was not yet in possession of Certificate of Registration as the results had not yet been published.	Applicants who were not in possession of the requirements stipulated in para 7.1 of the call for applications should be considered ineligible

**Appendix 7 (b)****Petitions relating to Appointments**

<b>No</b>	<b>Related Post</b>	<b>Department</b>	<b>Complaint</b>	<b>Commission's Decision</b>
1	Supervisor (Districts)	Construction and Maintenance Department, Works Division	Claimed that he had been unjustly treated; deserved a better placing	Case still under consideration in view of legal issues involved
2	Supervisor (Districts)	Construction and Maintenance Department, Works Division	Appealed to the Commission to investigate the selection process	Case still under consideration in view of legal issues involved
3	Senior Technical Officer	Drainage Department, Works Division	Claimed that person promoted had less knowledge and experience	Case still under consideration in view of legal issues involved
4	Senior Technical Officer	Drainage Department, Works Division	Claimed that his marks for knowledge and experience were too low considering his employment with Department for 25 years	Case still under consideration in view of legal issues involved
5	Security Officer	Health Division	Considered himself better suited; claimed political discrimination	No grounds to justify a change in the approved result
6	Education Officer (French)	Education Division	Claimed that he was more qualified and more experienced than candidate placed first	Revised result was published. Order of merit remained unchanged
7	ECG Technician	Health Division	Claimed that he was possibly the most qualified of all applicants and had the longest service record within the ECG Unit	No sufficient justification to change the result or the final order of merit
8	Senior Registrar in Audiological Medical Otolaryngology	Health Division	Claimed that she had fresh evidence which confirmed that the Board was not only biased against her but had also misled the Commission	Allegations, even if confirmed, did not justify either the quashing of the result or the alteration of the order of merit Request to be given a pass mark not upheld
9	First Counsellor	Ministry of Foreign Affairs	Claimed discrimination	No valid reasons why approved result should be changed

<b>No</b>	<b>Related Post</b>	<b>Department</b>	<b>Complaint</b>	<b>Commission's Decision</b>
10	EUPU National Coordinator	Education, Youth and Employment	Contended that he should have been ranked first; claimed prejudice and/or discrimination	No valid reasons why approved result should be changed
11	Assistant Director (Elderly and Community Care)	Elderly and Community Care	Claimed that marks awarded did not reflect his true merits	The Commission agreed that the approved result should stand
12	Director (Corporate Services)	Ministry for the Family and Social Solidarity	Claimed that he had over forty years of loyal and unstinting service in the Public Service	No valid reason why its decision to accept the SAAC report should be changed
13	Senior Internal Auditor	Internal Audit and Investigations, Cabinet Office, OPM	Felt that his placing was not justified and not commensurate with his experience and capabilities	No valid reasons why approved result should be changed
14	Director General (VAT)	Ministry of Finance	Considered himself capable of carrying out the duties of the position	No valid reason why its decision to accept the SAAC report should be changed
15	Director (Tourism and Corporate Services)	Tourism and Culture	Claimed to have the necessary attributes and capabilities for position and that his previous experience and achievements were not likely to be matched by other applicants	No valid reason why the recommendation made by the SAAC should not be accepted
16	Chief Architect and Civil Engineer (Structural Design)	Works Division	He had been receiving a deputising allowance for the grade of Chief Architect and Civil Engineer since September 1995	No valid reasons why approved result should be changed
17	Case Worker	Office of the Commissioner for Refugees	Felt he was qualified for the post both academically and morally	No valid reasons why approved result should be changed
18	Assistant Director (Internal Audit) (T)	Internal Audit and Investigations, Cabinet Office, OPM	Felt that the Selection Board had inadequately considered his managerial abilities and was greatly influenced by the Director's negative attitude towards him	No valid reasons why approved result should be changed

<b>No</b>	<b>Related Post</b>	<b>Department</b>	<b>Complaint</b>	<b>Commission's Decision</b>
19	Assistant Director (Internal Audit) (T)	Internal Audit and Investigations, Cabinet Office, OPM	Doubted the integrity and fairness that was exercised during the interview due to the presence of the Director, who, the claimant alleged, was prejudiced against him	No valid reasons why approved result should be changed
20	Director (Environment Policy and Initiatives)	Ministry for Rural Affairs and the Environment	Claimed that there had been discriminatory and unfair procedures	No grounds for a revision of the decision taken by SAAC and consequent recommendation
21	Principal Technical Officer (Marine)	Construction and Maintenance Department, Works Division	Felt that his qualifications and experience had been inadequately considered	No valid reasons why approved result should be changed
22	Pharmacist	Health Division	Felt that she was more than qualified for the post	No valid reasons why approved result should be changed
23	Subject Coordinator (Social Studies)	Education Division	Requested that the approved result be invalidated	No valid reasons why approved result should be changed
24	Chief Architect and Civil Engineer (Architectural Consultancy Services Unit)	Works Division	He had been receiving a deputising allowance for the grade of Chief Architect and Civil Engineer since October 1995	No valid reasons why approved result should be changed
25	Principal Security Officer (Gozo General Hospital)	Customer Services, Ministry for Gozo	Claimed that he was far more qualified than the selected applicant	Case still under consideration

## Appendix 8

### Oral representations heard by the Commission

<b>No</b>	<b>Grade of officer charged</b>	<b>Present for oral hearing</b>	<b>Regulation</b>
1	Police Constable, Police Department	Officer charged, assisted by Legal Adviser	Criminal Case: Representations in terms of Regulation 16 (2)
2	Health Assistant, Health Division	Officer charged, assisted by 2 Legal Advisers, and 2 Departmental representatives	Discipline: Representations in terms of Regulation 26 (2) (b)
3	Health Assistant, Health Division	Officer charged, assisted by Legal Adviser, and 2 Departmental representatives	Discipline: Representations in terms of Regulation 26 (2) (b)
4	Nursing Aide, Health Division	Departmental representative	Discipline: Representations in terms of Regulation 26 (2) (b)
5	Correctional Officer, Department of Correctional Services	Officer charged, assisted by Legal Adviser, and Departmental representative, assisted by Legal Adviser	Discipline: Representations in terms of Regulation 26 (2) (b)
6	Operative, Works Division	Officer charged, unassisted, and Departmental representative	Discipline: Representations in terms of Regulation 26 (2) (b)
7	Assistant Head of School, Education Division	Officer charged, assisted by Legal Adviser, and Departmental representative	Discipline: Representations in terms of Regulation 26 (2) (b)
8	Clerk, Health Division	Officer charged, unassisted, and Departmental representative	Discipline: Representations in terms of Regulation 26 (2) (b)
9	Police Constable, Police Department	Officer charged, assisted by Legal Adviser, and 2 Departmental representatives	Discipline: Representations in terms of Regulation 26 (2) (b)
10	Police Inspector, Police Department	Officer charged, unassisted, and 2 Departmental representatives	Discipline: Representations in terms of Regulation 26 (2) (b)

<b>No</b>	<b>Grade of officer charged</b>	<b>Present for oral hearing</b>	<b>Regulation</b>
11	Senior Tradesman, 2 Tradesmen and a General Hand, Works Division	Disciplinary Board	Discipline: Appeal in terms of Regulation 30 (1) (c)
12	Police Constable, Police Department	Officer charged, assisted by Legal Adviser, and 2 Departmental representatives	Discipline: Appeal in terms of Regulation 30 (6)
13	Ex Police Constable, Police Department	Petitioner, assisted by Legal Adviser	Revision of Past Disciplinary Case: Petition in terms of Regulation 33 (4)
14	Enrolled Nurse, Elderly and Community Services	Petitioner, assisted by Union representative, and Departmental representative	Revision of Past Disciplinary Case: Discretion by the Commission in terms of Regulation 3 (2)
15	Correctional Officer, Department of Correctional Services	Officer, assisted by 2 Legal Advisers	Opportunity for an oral hearing given by the Commission in view of a proposal made by the Head of Department for removal from Office
16	Principal, Health Division	Officer, unassisted	Opportunity for an oral hearing given by the Commission in view of a proposal made by the Head of Department for the termination of the probationary period
17	Custodian and Guide, Heritage Malta	Officer charged, assisted by Legal Adviser	Opportunity for an oral hearing given by the Commission in terms of the proviso of Regulation 16 (2) in view of a serious criminal case
18	Custodian and Guide, Heritage Malta	Officer charged, assisted by Legal Adviser	Opportunity for an oral hearing given by the Commission in terms of the proviso of Regulation 16 (2) in view of a serious criminal case
19	Custodian and Guide, Heritage Malta	Officer charged, assisted by Legal Adviser	Opportunity for an oral hearing given by the Commission in terms of the proviso of Regulation 16 (2) in view of a serious criminal case

## Appendix 9

### Cases involving an exchange of correspondence with the Ombudsman

Selection Process	Query by Ombudsman	PSC Comments	Final position of Ombudsman	Decision by PSC
1 Assistant Head of School (Secondary), Education Division	Complainant should have obtained a pass mark	The Commission looked into the Ombudsman's comment that "relying on the word of the members of the Selection Board might not be the ideal situation", nevertheless it still had no reason to doubt that the Selection Board had carried out the process in a correct manner. Result should stand	No further correspondence from Ombudsman	-
2 Senior Registrar in Audiological Medical Otolaryngology, Health Division	-	-	Ombudsman found no grounds for contesting the Commission's decision. He suggested that a fresh call be issued, the Selection Board be composed differently and clearly defined sub-criteria be approved in advance by the Commission	The Commission concurred with the Ombudsman's suggestion as it was in fact fully in line with its own thinking. Director General (Health) informed accordingly
3 Principal Security Officer, Health Division	-	-	Complaint not upheld. Case closed	Noted
4 Teachers (2004), Education Division	-	-	Complaint not upheld. Case closed	Noted

Selection Process	Query by Ombudsman	PSC Comments	Final position of Ombudsman	Decision by PSC
<p>5 Absorption into the Public Service of a non-Public Officer seconded to Ministries/ Departments</p>	<p>Given the onerous duties performed by complainant and the wide gap between the position held with MDC and the assimilated grade in Scale 10, the Ombudsman proposed that complainant should be eligible to compete for headship positions</p>	<p>The Commission pointed out to the Principal Permanent Secretary that complainant could still be considered for a Headship position if she attained at least Grade 9 and availed herself of the terms of OPM Circular No 22/2005 dated 18 May 2005</p>	<p>1 After the Commission's initial comments, the Ombudsman advised complainant to be guided accordingly</p> <p>2 After the Commission's decision communicated to the Ombudsman following further representations made by complainant, no reaction was received by the Ombudsman</p>	<p>No valid reason why its decision to absorb complainant as Officer in Grade 10 was to be changed</p>

**Meetings with the Commission****Meetings****Subject**

Principal Permanent Secretary	Proposed guidelines for action to be taken in cases of sexual harassment
Principal Permanent Secretary	(a) Whether recommendations for appointments, which had been signed by the Prime Minister and were therefore considered as having been 'perfected', could be withdrawn; and  (b) the Commission's right to submit a recommendation in favour of righting a situation declared as unjust
Principal Permanent Secretary	Selection criteria in respect of the posts of Police Superintendents
Principal Permanent Secretary	Extension of Performance Agreements of officers in headship positions for a period of three months rather than six months
Principal Permanent Secretary	Engagement of System Manager (HRIMS), MPO. Eligibility or otherwise of public sector employees
Principal Permanent Secretary	Delegation of power to make appointments in the Public Service following the approval by the Prime Minister of a PSC recommendation of an appointment or appointments, made in accordance with the result of a process of selection of candidates carried out by the PSC
Principal Permanent Secretary	Incorrect behaviour of a Director, who also chaired a Selection Board, during the course of a selection process
Principal Permanent Secretary	Recruitment and re-deployment of employees to ensure the effective and productive utilisation of existing human resources, both in the Public Service and in the Public Sector
Director Corporate Services, Ministry of Health, the Elderly and Community Care	Request for extension of validity period of result
Selection Board	Posts of Security Officer, Health Division
Selection Board	Posts of ECG Technician, Health Division

## Meetings

Selection Board

Petitioner

Chairman, Selection Board

Disciplinary Board

Legal Adviser to the Commission

## Subject

Posts of Senior Internal Auditor

Posts of Senior Internal Auditor

Submission of result sheet

Clarification sought on a number of points made during the oral hearing

Prohibitory injunction by accused officer against his Head of Department and the Chairman of the Disciplinary Board

Petition in terms of Regulation 21(3) of the Public Service Commission (Disciplinary Procedure) Regulations 1999

Sentences delivered by foreign law courts

Amendments to the Public Service Commission (Disciplinary Procedure) Regulations 1999