

annual report
2011



Public Service Commission

**ANNUAL REPORT
2011**

MALTA

Public Service Commission
The Palace, Republic Street, Valletta

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

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Abstract

The Public Service Commission is set up in terms of article 109 of the Constitution.

This is the fifty-second annual report of the Commission submitted to the Prime Minister in terms of regulation 33 of the Public Service Commission Regulations 1960.

The report provides a brief description of the main activities of the Commission during the year 2011 in the execution of its constitutional functions of giving advice and making recommendations to the Prime Minister on matters relating to appointments, promotions, removal from office, and discipline within the Public Service.

Foreword

It is my pleasure to introduce the Public Service Commission Annual Report 2011. It is a comprehensive though far from exhaustive record of the work carried out by the Commission during the year. The data provided in the report itself as well as in the appendices indicate clearly that the Commission had yet another very busy year.

Throughout the past year the Commission was re-assessing its own policies, regulations, procedures and processes in order to carry out appropriate changes to further improve its efficiency and effectiveness. Both the Public Service Commission Regulations as well as the Disciplinary Procedures Regulations, 1999, have been revised and updated following consultations with the Office of the Principal Permanent Secretary at the Office of the Prime Minister, and the amendments to both sets of regulations are awaiting publication. The Commission focused on the issues involved in the delegation of authority, the interdiction of public officers, the submission of petitions by applicants for Public Service vacancies, oral hearings held by the Commission in connection with disciplinary cases, and the reports on disciplinary proceedings undertaken by delegated authority at the ministries.

This report includes the usual very brief summaries of a number of disciplinary cases and related decisions, as well as selected issues and rulings by the Commission. These sections of the report provide an indication of the way the Commission applies its own policies and regulations. The summaries offer practical guidance to public officers responsible for these sensitive areas.

The Commission has retained a collaborative approach with the Office of the Principal Permanent Secretary as well as the Permanent Secretaries in the ministries in order to ensure the smooth administration of recruitment, promotions, and discipline within the Public Service in the interest of both public officers and the general public.

The Commission held various meetings with the Principal Permanent Secretary and Permanent Secretaries as well as other high officials in ministries primarily responsible for human resources and discipline. Such meetings are held to discuss any issues and problems that are usually specific to particular ministries and departments. The outcome of these meetings is always beneficial to both sides.

During this consultation process, the Commission noted that more training needs to be organised in two areas of particular concern to the Commission, namely: recruitment and promotions, and disciplinary procedures, particularly when newly appointed public officers are allocated to these areas. In fact, the officers responsible for these two areas can be considered as very important external agents to the Commission. Courses are being planned according to needs identified both by the Commission and the Public Administration Human Resources Office, with which the Commission is in regular communication throughout the year.

I feel it is my duty to thank the members of the Commission, on whose knowledge, expertise and experience depends the proper functioning of the Commission. I thank all the members of the Commission staff, particularly the Executive Secretary, Mr Charles Polidano, and the Assistant Directors,

Ms Jacqueline Bonnici and Mr Mario Tabone, for their complete dedication and efficiency in carrying out the onerous duties and tasks of the Office of the Commission. A word of thanks goes also to all public officers, whatever their position in the various ministries, for their collaboration with the Commission throughout 2011.

The Palace, Valletta
28th June 2012

Paul A Attard
Chairman

I. The Remit of the Public Service Commission

Mission statement

“To ensure, through ongoing monitoring and scrutiny, the provision of excellent public services in a delegated environment, through an efficient public appointment process which upholds the principles of merit and equity, and the exercise of just and efficient disciplinary procedures in the public service.”

Statutory basis

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

The fundamental role of the Commission is to make recommendations or to tender advice, as appropriate, 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, transparency, 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 article 121(1) of the Constitution.

II. Membership and Secretariat of the Commission

Composition

Article 109 of the Constitution of Malta states that 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

TABLE 1 - Membership of the Commission on 1 January 2011		
Chairman	Mr Paul A Attard, Dip Educ (Admin & Mgt)	(since 12 June 2010)
Deputy Chairperson	Dr Jeannette Laferla, LL.D.	(since 27 July 2009)
Members	Ms Yvonne Micallef Stafrace, BA (Hons), MA	(since 12 May 1996)
	Ms Mary Vella, BA (Hons)	(since 12 June 2003)
	Mr Tonio Farrugia	(since 27 July 2009)

The President of Malta approved the appointment of the present Commission for a term running for three years up to 11 June 2013. A notice to this effect, dated 1 July 2010, was published in the Government Gazette.

Short biographies of the present Chairman and Members of the Commission are shown in Appendix 1, while a list of the previous Chairmen of the Public Service Commission is found in Appendix 2.

Number of meetings held

During the year 2011, the Commission held a total of 50 meetings during which it dealt with various matters and issues relating to appointments, promotions, and discipline, as outlined in more detail in this report.

The Office of the Public Service Commission

The Commission is served by a small team of public officers headed by the Executive Secretary, Public Service Commission, who is a senior public officer appointed to the position on a performance agreement for three years. During 2011 the position of Executive Secretary was held by Mr Charles Polidano. He was assisted by Mr Mario Tabone, Assistant Director (Support Services), and Ms Jacqueline Bonnici, Assistant Director (Public Service Commission).

A list of the previous Secretaries of the Public Services Commission is found in Appendix 3, while the staff complement and the total expenditure incurred in the running of the Office of the Public Service Commission for the year 2011 are shown at Appendix 4.

Method of work of the Commission

The business of the Commission is conducted either through the circulation of files, or during Commission meetings, generally held every Thursday with an agenda that covers policy issues and less clear-cut cases concerning recruitment, promotions, or disciplinary matters that require discussion.

The Commission conducts disciplinary hearings in serious cases that may lead to dismissal. As laid down in the Disciplinary Regulations, at these hearings, the accused officer and the representative of the department concerned, together with their respective counsels, if they so wish, are given the opportunity to present their case before the Commission before it decides on the case. Oral hearings are also held when an officer appeals before the Commission, as provided for by regulation 30 of the Disciplinary Regulations, after being found guilty following disciplinary proceedings that are decided at departmental level. The number of oral hearings has continued to increase during 2011 in order to ensure a fairer disciplinary process.

Meetings are held with the Principal Permanent Secretary to discuss Public Service policies and issues of common interest and concern in order to promote mutual understanding and support, while fully respecting the constitutional position of the PSC. Senior public officers are at times invited to the meetings of the Commission to discuss specific departmental or ministry issues related to particular cases. Their input on matters of interest or concern helps the Commission to understand better the difficulties and problems faced by the Administration.

The decisions of the Commission are taken by consensus and every effort is made to reach total agreement in every decision.

PSC website

A revamped version of the website of the Public Service Commission was launched in December 2011. The website is now presented in a more user-friendly format, including useful links and a section about frequently asked questions - FAQs. The improved and updated content of the website can now be viewed either in the English language or in the Maltese text version.

The address of the Commission's website is: <http://www.psc.gov.mt>. The website of the Public Service Commission 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 website provides basic information on the Commission's roles and functions, about its current membership, on the way the Commission conducts its business, and about the organisation of the Office of the Public

Service Commission. The current annual report, and the reports for the years 2003 to 2010 can also be viewed and downloaded from the site.

All results of selection processes published by the Commission are also listed chronologically on the website. This section is updated every Friday, the day results are usually published.

III. Recruitment and Promotions

Functions of the Commission relating to appointments

The functions of the Commission in relation to appointments are:

- 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, as appropriate;
- to give rulings on queries raised by selection boards on such questions as eligibility of candidates;
- to verify and approve reports submitted by selection boards, and to publish selection results once approved by it;
- to make recommendations and to advise the Prime Minister in the making of appointments in the Public Service;
- to make recommendations to or to advise the Prime Minister, as appropriate, on the removal of staff from office and on 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 1.1.17 of the Public Service Management Code in respect of appointments;
- to deal with other representations made to the Commission; and
- to summon Heads of Department and selection boards to deal with any issue where necessary.

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

The duration of the selection process in the Public Service

In 2004, the Commission carried out an analysis of the duration of the 16 separate stages which comprise the whole selection process in the Public Service - starting from the request by the department for authority to issue a call for applications and ending with the Prime Minister's approval of an appointment following the Commission's recommendation or advice. The results of the study were then compared to similar benchmarks for 1993/94 and 2002. Similar comparisons were carried out in the six subsequent years following 2004 and were referred to in the respective annual reports.

Appendix 5 shows that, after several years during which the average duration of the selection process was reduced, the average duration went up from 24 weeks in 2010 to 27 weeks in 2011. The increase was attributable in large part to the vetting of draft calls for applications by the Public Administration Human Resources Office (step 3 in the table at Appendix 5). The average duration of this step in the process increased from 29 days in 2010 to 46 days in 2011.

It would, however, be oversimplistic to attribute the increase in the duration of this stage to delays on the part of the Public Administration Human Resources Office (PAHRO), since the verification process often includes negotiations with the Ministry of Finance over the availability of funds to cover new appointments, or extensive discussions with the department issuing the call for applications on provisions in the draft call which are not in keeping with the classification agreement between the Government and the relevant unions, which should be reflected in the draft call for applications.

As noted in Chapter V of this annual report, the Commission directed the Ministry for Health, the Elderly and Community Care to revise the provisions on eligibility in calls for applications for medical consultancy posts to ensure that these provisions were in line with relevant legislation. Until the Ministry reached agreement with the Medical Association of Malta on the necessary changes, the PAHRO was unable to verify several draft calls which had been prepared by the Ministry. This affected calls for applications not only for medical consultancy posts but also for other medical grades. This affected the data in Appendix 5.

Calls for applications

In the course of the year 2011, the Commission issued 290 calls for applications for the filling of vacancies in the Public Service. Out of these 290 calls, 148 were calls for applications open to applicants from outside the Public Service and were therefore advertised in the Government Gazette, while one other advertisement was published in the British Medical Journal. Another 80 calls were restricted to serving public officers and were published through circulars issued by the Public Administration Human Resources Office or by the department concerned. The remaining 61 calls related to positions of Assistant Director, which were advertised through circulars issued by the respective ministry. The different calls for applications issued during 2011 are listed in Appendices 6, 7, and 8.

Comparative figures for the last five years are given in the following table:

		2007	2008	2009	2010	2011
Open calls	Government Gazette	208	94	198	185	148
	British Medical Journal	-	-	2	1	1
	Placement Service Circular of the Institute of Physics and Engineering in Medicine (IPEM) of UK	-	-	-	1	-
Internal calls	MPO / PAHRO Circulars	161	97	103	70	68
	Departmental Circulars	17	7	4	6	12
Calls for Asst. Dir.	Ministerial Circulars	57	29	54	55	61
Totals		443	227	361	318	290

Selection boards

The Commission set up 319 selection boards and approved the selection methods and criteria in respect of each selection process. The number of selection boards is higher than the number of calls for applications since some calls involved the establishment of more than one selection board to cover posts in different areas of specialisation (for example, teaching posts in different subjects/areas).

These selection processes attracted 1,474 applicants, 796 of whom were male and 678 female. The selection boards interviewed 530 males and 421 females, a total of 951 candidates. The remaining 523 applicants were found to be ineligible, or withdrew their applications, or else failed to appear before the interviewing board.

Recommendations and advice to the Prime Minister

The Commission addressed 596 recommendations to the Prime Minister relating to appointments in terms of article 110 of the Constitution. These recommendations covered a total of 3,530 appointments. A statistical breakdown of these recommendations is given below:

TABLE 3 - Appointments / promotions 2011				
		Males	Females	Total
1.	Appointments following public calls for applications published in the Government Gazette	542	1,375	1,917
2.	Appointments following service-wide calls for applications (PAHRO circulars)	212	132	344
3.	Appointments following internal departmental calls for applications (departmental circulars)	20	33	53
4.	Appointment of Assistant Directors following ministerial calls for applications	33	16	49
5.	Other appointments (e.g. appointment to substantive grade, promotions in terms of agreements, re-employment/reinstatement, employment on contract, etc.)	229	938	1,167
Totals		1,036	2,494	3,530

The Commission made a total of 180 recommendations relating to the extension of performance agreements, renewal of contracts of employment, postponement of appointments, re-designation of posts or positions, lateral moves, reversion to former posts, termination of performance agreements on appointment to other positions, revocation of appointments, backdating of appointments, and withholding of progressions and promotions.

The Commission gave advice to the Prime Minister in terms of articles 92(3), 92(4) and 111(1) of the Constitution on 26 occasions relating to performance agreements of Permanent Secretaries and Heads of Department, and the posting of five public officers as Resident Ambassadors abroad.

Representations made to the Commission

During the year 2011, the Commission considered 43 written representations made directly to the Commission about selection processes. The majority of these representations were made by applicants prior to the publication of selection results and mainly involved complaints by persons who were found ineligible by selection boards after submitting their application for the vacancy concerned.

A list of all representations considered in 2011, showing also the nature of the representations and the Commission's decisions, is given in Appendix 9(a). The Commission found in favour of applicants in 11 cases but dismissed the remaining 32 complaints.

Petitions relating to published results

The Commission published 411 selection results during 2011 while it received 78 petitions in respect of the results obtained by individuals. Five of these petitions were not made within the period of 10 working days which is allowed for this purpose in terms of section 1.1.17 of the Public Service Management Code, and were, therefore, not considered by the Commission. The period of 10 working days starts to count from the date of publication of a notice in the Government Gazette informing the public that the result has been issued. In the case of vacancies in scale 5 or higher, where results are sent directly to applicants by post, the ten working days start to count from the date of issue of the result.

The Commission therefore considered 73 petitions, and it found in favour of 10 of the petitioners. In 4 of these cases, the Commission approved publication of revised results. The remaining 6 cases related to two particular selection processes, the results of which were annulled by the Commission. The Commission directed that these selection processes should be repeated by new selection boards.

Another petitioner simply requested information as regards how marks for experience were allocated. The Commission provided the requested information. The Commission ruled against the remaining 62 complaints.

A list of petitions considered in 2011, with a brief indication of the nature of each complaint and the Commission's decision in its respect, is given in Appendix 9(b).

IV. Discipline

Functions of the Commission relating to discipline

In terms of the Public Service Commission (Disciplinary Procedure) Regulations, 1999, the exercise of discipline in the Public Service is, subject to appropriate safeguards, largely delegated to heads of Government departments.

However, the following matters remain the direct responsibility of the Commission:

- The interdiction of public officers from the exercise of the powers and functions of their office (that is to say, suspension from work on half salary pending the conclusion of disciplinary or criminal proceedings against those officers). Interdiction is a precautionary measure which is imposed where it is considered that, because of the nature of the charges against the officer, he or she should not continue to work until the case against him or her is concluded. If the officer is acquitted of the charges, he or she receives the half-salary withheld during his or her suspension. If the officer is found guilty, the half-salary withheld is forfeited.
- The imposition of disciplinary penalties against public officers who are found guilty of a criminal offence by the Courts.
- Decisions as to the guilt or innocence of officers, and as to the penalties to be imposed on those officers, in disciplinary cases where the officers were notified by their Heads of Department that the charges against them could, if proved, lead to dismissal. Such cases are referred to the Commission under regulation 26(2) of the Disciplinary Regulations, since a Head of Department does not have the authority to dismiss an employee on disciplinary grounds. However, a guilty verdict in such a case does not automatically result in the dismissal of the officer; the Commission has the discretion to recommend a more lenient penalty.
- Appeals from public officers against decisions taken by Heads of Department under delegated authority, in terms of regulation 30(1) of the Public Service Commission (Disciplinary Procedure) Regulations, 1999.
- Representations by Heads of Department against the findings of departmental Disciplinary Boards, in terms of regulation 32.

Disciplinary cases involving criminal proceedings against public officers

The Commission dealt with 52 cases involving criminal proceedings against public officers. In respect of these cases, the Commission made the following recommendations to the Prime Minister in terms of article 110 of the Constitution:

TABLE 4 - Recommendations concerning criminal cases	
(i) Interdiction (suspension from work) pending outcome of Court cases	18
(ii) PSC action following a “guilty” verdict by the Courts:	
Dismissal	4
Warning of dismissal and suspension without pay (2, 3, or 5 days)	13
Warning of dismissal and suspension without pay (1 day) lifting of interdiction and forfeiture of salary	1
Warning of dismissal and forfeiture of salary	1
Warning of dismissal, lifting of interdiction and forfeiture of salary	2
Suspension without pay (3 days)	1
Fine (*) of 7 days’ pay and severe reprimand, lifting of interdiction and forfeiture of salary	1
Fine (*) of 2, 3, or 5 days’ pay and severe reprimand or reprimand	4
Forfeiture of salary withheld during suspension and interdiction	1
Others	4
(iii) Restitution of rights following a “not-guilty” verdict by the Courts	
Lifting of interdiction and refund of salary withheld	2
Total	52

(*) *Fines are applied as a disciplinary measure to police officers in lieu of suspension without pay, which applies in the case of other public officers.*

The cases of dismissal shown in Table 4 above include two cases where the Court had imposed a general interdiction in terms of article 10 of the Criminal Code. A person under a general interdiction in terms of the Criminal Code cannot hold Government employment, and has to be dismissed if he or she is already in Government employment.

This is not to be confused with interdiction in terms of the PSC Disciplinary Regulations, which means suspension on half salary of Government employees pending criminal or disciplinary proceedings on serious charges, as explained above.

The case concerning the forfeiture of salary involved an officer who had retired from the public service in 2005, while interdicted on half salary as a result of criminal proceedings against him, and who was found guilty in 2011. In accordance with regulation 12(8) of the Disciplinary Regulations, the Commission recommended that the half-salary withheld during the officer’s interdiction was to be forfeited in view of the fact that he had been found guilty as charged.

One of the cases listed in the table as “Others” also involved a sentence of general interdiction in terms of the Criminal Code. However, this sentence was discontinued by Court order under article 10 of the Criminal Code just three weeks after it was imposed, given the special circumstances which the Court felt were applicable in this case. The same circumstances

led the Court to place the employee under a probation order, rather than to impose on him a prison sentence or a fine. In the light of the Court's decisions, the Commission recommended that no penalty be imposed on the officer concerned.

The remaining 3 recommendations included under "Others" relate to the lifting of interdictions by the Commission before proceedings against the employees in question came to a conclusion. In accordance with the Commission's own internal guidelines, it reviews cases where employees have spent an extended period under interdiction on half salary to determine whether the employees can be allowed to return to work, even though proceedings against the employees in question remain under way. Employees who are allowed to return to work on this basis are entitled to their full salary on resumption of duty, while the half-salary withheld from them during their interdiction remains withheld pending the conclusion of proceedings. The Commission reconsiders cases of employees under interdiction in this manner in recognition of the financial hardship in which the employees can find themselves if they spend a prolonged period of time on half salary while their case is being heard before the Courts, even if they are eventually cleared of the charges against them and the half-salary withheld is returned to them.

In 2 of the above-mentioned cases, the Commission recommended that the interdiction of the respective officers be lifted without prejudice to any further recommendations the Commission could make concerning the forfeiture of the salary withheld during the suspension and interdiction of the two officers concerned, as well as the imposition of any additional penalties in the event of a guilty verdict. The third case involved an officer under interdiction with a pending criminal case who was granted bail by the Court on condition that he followed a rehabilitation programme for drug abuse. The Commission recommended that the interdiction imposed on the officer concerned be lifted subject to a number of conditions, including that the officer be considered on probation for the duration of the court case, and the Commission would consider what disciplinary penalties were appropriate in the event that he was found guilty.

In another 15 cases involving criminal proceedings the employees concerned were acquitted. These employees had not been interdicted on half salary, so no action was necessary on the Commission's part as a result of the Court verdicts. The Commission noted the Court sentence in each instance and agreed to consider the case closed.

Serious disciplinary cases with the possibility of dismissal

The Commission considered 16 disciplinary cases which were referred to it in terms of regulation 26(2) of the Public Service Commission (Disciplinary Procedure) Regulations, 1999, concerning cases where the officer charged had been notified that the charge, if proven, could lead to dismissal.

After giving all the officers involved and their respective Head of Department an opportunity to make oral representations, the Commission submitted the following recommendations to the Prime Minister in respect of 9 cases where the officers concerned were found guilty and served with a penalty:

TABLE 5 - Recommended penalties concerning serious disciplinary cases	
Warning of dismissal and suspension without pay (5 days), lifting of interdiction and forfeiture of salary withheld	1
Warning of dismissal and suspension without pay (2 or 5 days)	2
Warning of dismissal	1
Suspension without pay (1 day)	1
Fine (7 days' pay) and severe reprimand	2
Fine (3 days' pay) and reprimand	1
Lifting of interdiction and forfeiture of salary withheld	1
Total	9

Apart from the 9 cases listed above in Table 5, there were 6 other cases where the Commission recommended that the officers concerned be declared not guilty of the charges proffered against them. In 4 of these cases, the officers involved had been found not guilty by the respective Disciplinary Board and were therefore acquitted of the charges brought against them.

However, in respect of the other 2 cases, the Commission acquitted both accused officers on procedural grounds, rather than on the merits of their respective case. In 1 of these cases, the Disciplinary Board carried out a site inspection as part of its investigations in the case without informing the accused and giving him the opportunity to be present. The Commission found that, while the Disciplinary Board showed commendable initiative in undertaking a site inspection, it had failed to observe the right of the accused to be present throughout the proceedings. The Commission was compelled to declare the proceedings invalid for this reason.

Furthermore, the Commission acquitted the accused officer in the other case because the Disciplinary Board had acquitted the accused of the offence with which she had been charged, but it had gone on to find her guilty of a second offence which had not been included in the statement of charges originally issued against the officer. On the basis of this finding of the Disciplinary Board, the Head of Department imposed a penalty on the officer, who appealed to the Commission. The Commission found that the accused had been notified that she stood to be dismissed if found guilty, and therefore the report of the Disciplinary Board should have been referred to the Commission in accordance with regulation 26(2) of the Disciplinary Regulations.

The Commission struck down the penalty imposed by the Head of Department, since it was not in accordance with the Regulations, and considered the case as if it had been referred to it under regulation 26(2). As required by this regulation, the Commission held an oral hearing at which both the accused and the Head of Department were present. The Head of Department argued that the charge of which the accused had been found guilty was implicit in the original statement of charges against her. The Commission felt that this was a matter of interpretation, and it took

the view that the charges against an officer should not be dependent on interpretation in such a manner. An officer under charge had the right to know the full case against him or her, and all charges against the officer therefore had to be stated explicitly. The Commission accordingly acquitted the accused.

Moreover, the Commission considered one other case where the officer concerned passed away while he was still interdicted from the exercise of the powers and functions of his office. The Commission recommended in the circumstances that any moneys withheld during the period of the officer's suspension and interdiction be refunded to the heirs, in accordance with regulation 12(8) of the Disciplinary Regulations.

Oral representations heard by the Commission

A list of the 18 oral hearings held by the Commission before it decided on the penalty to be recommended, giving the grade of the officer charged and the regulation in terms of which each hearing was allowed, is shown at Appendix 10.

Analysis of offences and penalties in cases decided by the Commission (criminal cases and cases potentially leading to dismissal)

The 52 criminal cases referred to in the foregoing Table 4 include 18 cases where the Commission recommended the interdiction of the officers concerned, 3 cases where the Commission recommended the lifting of interdiction pending any potential penalties that may appropriately be imposed, 2 cases where the officers concerned were not found guilty, and one other case where the Commission recommended that no penalty be awarded. The remaining 28 criminal cases were all served with a penalty as indicated in Table 4. Thus, in addition to the 9 disciplinary cases listed in Table 5, the total number of cases in which officers were served with a penalty by the Commission amounted to 37.

The following table shows the broad categories of offences, and the penalties given in each of the 37 cases where the officer charged was found guilty. The ensuing charts give the percentage distribution of same.

TABLE 6 - Categories of offences and penalties recommended							
Category of Offence	Wilful homicide, breach of bail conditions and probation order, recidivist	Theft, misappropriation, illegal gambling, illegal possession of firearms or goods	Derogatory or indecent behaviour, immoral acts, corruption of minors, alcohol or drug abuse	Abusive or violent behaviour, threats and harassment, causing damage, injuries and assault	Bribery and fraud, falsification of documents, false declarations	Unauthorised absence, insubordination, negligence, dereliction of duties, unauthorised private work	Total
Penalties							
Dismissal	2				2		4
Warning of dismissal and suspension without pay for 1, 2, 3 or 5 days ⁽¹⁾		5	2	2	6	2	17
Warning of dismissal ⁽²⁾				2	1	1	4
Suspension without pay for 1 or 3 days				1		1	2
Fine of 2, 3 or 7 days' pay and severe or written reprimand ⁽³⁾		1	1	1		2	5
Fine of 2, 3 or 5 days' pay and reprimand		1	1			1	3
Forfeiture of salary ⁽⁴⁾		1	1				2
Total	2	8	5	6	9	7	37

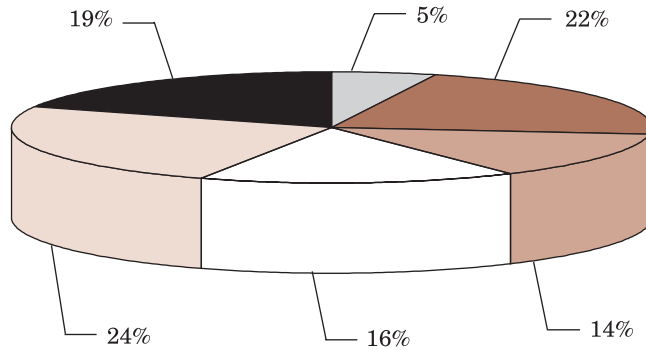
(1) In two of these cases, the Commission recommended also the lifting of interdiction and forfeiture of salary withheld.

(2) The Commission recommended also the lifting of interdiction and forfeiture of salary withheld in two of these cases, and the forfeiture of salary withheld during the period of interdiction in respect of another case.

(3) The Commission recommended also the lifting of interdiction and forfeiture of salary withheld in one of these cases.

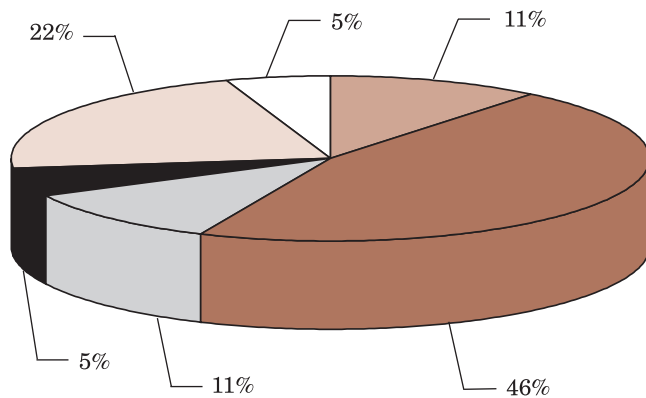
(4) The Commission recommended also the lifting of interdiction in one of these cases.

CHART 1 - Categories of 37 offences - by percentage



- Wilful homicide, breach of bail conditions and probation order, recidivist
- Theft, misappropriation, illegal gambling, illegal possession of firearms or goods
- Derogatory or indecent behaviour, immoral acts, corruption of minors, alcohol or drug abuse
- Abusive or violent behaviour, threats and harassment, causing damage, injuries and assault
- Bribery and fraud, falsification of documents, false declarations
- Unauthorised absence, insubordination, negligence, dereliction of duties, unauthorised private work

CHART 2 - Penalties imposed by PSC in 37 cases - by percentage



- Dismissal
- Warning of dismissal and suspension without pay
- Warning of dismissal
- Suspension without pay
- Fine and severe reprimand or reprimand (police officers)
- Forfeiture of salary

The exercise of discipline through delegated authority

The Commission continued to monitor the exercise of discipline by Heads of Department under delegated authority. 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 the 6 years:

TABLE 7 - Disciplinary action by Heads of Department						
Outcome:	2006	2007	2008	2009	2010	2011
Warning of dismissal and suspension from duty without pay	9	8	1	4	2	0
Suspension from duty without pay	37	51	56	22	25	19
Written warning (Regulation 20)	77	62	34	32	13	34
Written warning (Regulation 19)	367	222	207	447	503	703
<i>Subtotal: cases served with a penalty</i>	<i>490</i>	<i>343</i>	<i>298</i>	<i>505</i>	<i>543</i>	<i>756</i>
Cases discontinued	17	9	7	15	34	21
Verdict of 'not guilty'	106	70	71	60	26	23
<i>Subtotal: cases not served with a penalty</i>	<i>123</i>	<i>79</i>	<i>78</i>	<i>75</i>	<i>60</i>	<i>44</i>
Pending cases	100	49	87	104	68	111
Total	713	471	463	684	671	911

The figures for 2011, as shown in Table 7 above, illustrate a record number of disciplinary cases treated by Heads of Department since 2006. These figures confirm the assumption made in the two previous annual reports, which both suggested a possible reversal of the trend in the diminishing number of disciplinary cases that had occurred after the year 2000, when authority to take disciplinary proceedings was delegated to Heads of Department. This reversal is particularly evident in respect of the cases served with a penalty, where the number of such cases for 2011 registered an increase of more than 39% over the previous year.

It is hoped that good standards of discipline will continue to be maintained next year through the expected implementation of the measures recommended by the Administration, and approved by the Commission, to strengthen the application of discipline in Government departments. The envisaged measures include the establishment of a Standing Disciplinary Panel in each ministry, which would be primarily composed of former public officers. The involvement of former public officers in the disciplinary process would reduce the considerable inroads that this process made on the time of serving officers, while enabling disciplinary procedures to be concluded more quickly.

Appeals and representations by accused officers against disciplinary decisions taken under delegated authority

The Commission considered representations submitted by a Union on behalf of an officer who had received a written warning in terms of regulation 19 of the Disciplinary Regulations for allegedly failing to answer a house visit of the Division's doctor while on sick leave, when in fact, the officer concerned had been on injury leave. The Union had even submitted that the injury leave had been approved, and actually been paid for, by the Department concerned.

During its deliberation on the case, the Commission noted the advice of the Public Administration Human Resources Office that injury leave was not to be regarded in the same light as ordinary sick leave. Officers could be injured in the course of their duties in such a way as to be impeded from working, while remaining mobile. In such cases there was no obligation for officers to remain at home. In the light of this, the Commission considered the fact that, from the information submitted, it was doubtful whether the officer's mobility, during his injury leave, was impeded because of the injuries suffered. In the circumstances, the Commission agreed in terms of regulation 3(2) of the Disciplinary Regulations that the disciplinary proceedings initiated against the officer concerned were to be declared null and that the resultant penalty of a written warning was to be withdrawn.

Furthermore, the Commission considered 6 appeals against decisions of departmental Disciplinary Boards in terms of regulation 30 of the Public Service Commission (Disciplinary Procedure) Regulations, 1999, which gives accused officers the right of appeal to the Commission. In one case the Commission declared the officer charged not guilty and annulled the penalty imposed since it was not in accordance with the Disciplinary Regulations. In four cases, the Commission concluded that circumstances for accepting the appeal did not exist and therefore confirmed the penalty imposed by the Department. The remaining case was still pending by the end of 2011.

References back by the Prime Minister

The Prime Minister may, acting in accordance with article 86(1) of the Constitution, refer a recommendation back once to the Commission for reconsideration. During the year under review the Commission considered 3 such referrals. In two of these cases the Commission confirmed its previous decision and re-submitted its original recommendation for the Prime Minister's approval. The Prime Minister subsequently approved the recommendations, according to article 86 of the Constitution. The other case was still pending by the end of the year under review.

V. Selected Issues and Rulings by the Commission

A. Policy matters and issues related to recruitment

Simplifying the regulations of the Public Service Commission

The Commission considered and approved several amendments to the PSC Regulations 1960 (particularly concerning the selection process) and the PSC Disciplinary Regulations 1999. These amendments had been discussed and agreed with the Office of the Principal Permanent Secretary and the Public Administration Human Resources Office (PAHRO).

Important amendments as approved by the Commission include the establishment of Standing Disciplinary Panels and Standing Selection Panels. These Standing Panels may be composed of suitable and competent former public officers. Standing Selection Panels may, in addition, include non-public officers. Appointments to Standing Selection and Disciplinary Panels will be subject to the Commission's approval.

Each ministry will have a Standing Selection Panel and a Standing Disciplinary Panel whose members will constitute a pool of individuals available for appointment to selection and disciplinary boards respectively, although it will remain a requirement for selection boards to include at least one serving public officer along with members drawn from the ministry's Standing Panel. It is expected that Standing Panels will enable selection processes and disciplinary proceedings to be brought to a conclusion more quickly than is currently the case.

The Commission approved also other amendments to the PSC Regulations 1960 as proposed by the PAHRO with a view to the devolution to ministries and departments of authority to issue calls for applications without the need to obtain clearance in advance from PAHRO or the PSC. This means that it will be incumbent on ministries and departments to ensure that calls for applications are correct and according to existing agreements and any relevant legislation. The Commission will, however, retain the power to take remedial action in the case that a ministry or department publishes an incorrect call for applications.

Regularisation of the employment status of irregularly employed staff in the Public Service

During 2011 the Commission continued to deal with the issue of staff in the Public Service who had been employed otherwise than in accordance with the Constitution.

According to the Constitution, most public officers are appointed by the Prime Minister on the recommendation of the Public Service Commission. The Constitution defines "public officer" in a very broad manner to mean, effectively, any Government employee who serves in a non-military capacity. This definition has been in place since Independence.

The Independence Constitution did not, however, put to rest the well-established tendency to distinguish between “temporary” and “pensionable” public officers, according to whether or not they were entitled to a Treasury pension, and to regard only pensionable officers - that is to say those who held permanent career posts in the Public Service - as “true” public officers. It was widely assumed that temporary staff could be engaged otherwise than through the Public Service Commission.

Even after 1979, when new recruits to the Public Service lost their eligibility for a Treasury pension, temporary appointees, casual employees, supply staff, and part-time employees continued to be regarded as not being “true” public officers, in spite of the fact that the Constitution makes no such distinction. As a result, many such staff were engaged under a variety of arrangements that were not in line with the provisions of the Constitution. The staff in question found themselves in a legal grey area which was not of their own making.

As reported in last year’s annual report, the Commission agreed in principle in 2010 to regularise the status of irregularly employed staff by recommending their appointment as public officers in accordance with article 110 of the Constitution. This exercise began to be undertaken on a case-by-case basis in which irregularly-employed staff were grouped in categories according to the information submitted to the Commission by Permanent Secretaries and verified by the Public Administration Human Resources Office on behalf of the Principal Permanent Secretary. Each category was considered on its own merits. Once the Commission was satisfied that the category in question merited regularisation in the best interest of both the employees and the ministry/department concerned, it recommended the appointment as public officers of the staff in the category.

This exercise continued during 2011. A longstanding problem and major issue that was tackled and resolved during this year was the engagement of supply staff, who are engaged on a year-by-year basis to fill temporary vacancies among classroom staff in state schools. A total of 607 such staff, consisting of Supply Teachers, Supply Kindergarten Assistants, and Supply Learning Support Assistants, had their positions regularised during 2011. Arrangements were also adopted by the Commission to enable the Directorate for Educational Services to retain the required flexibility in re-engaging such staff according to classroom need, thus ensuring that the regularisation of the status of supply staff would not give rise to unnecessary procedural restrictions which might, in turn, lead to vacancies remaining unfilled to the detriment of the educational service.

The Commission made it clear, in recommending the regularisation of supply staff, that their employment would continue to depend on the terms of their contracts of employment with the Ministry of Education and Employment. The entitlement of supply staff to indefinite status in terms of the relevant regulations was a separate issue which would be addressed by the Commission according to the specific regulations and / or terms of contract.

The total number of staff whose employment status was regularised by the Commission during 2011 amounted to 648. Including the 758 Social Assistants whose status had been regularised during November 2010, the

regularisation exercise covered a grand total of 1,406 staff by the end of 2011.

It should be emphasised that such appointments represented the regularisation of the employment status of staff already on the public payroll, and did not include the engagement of new staff.

Special arrangements were agreed to between the Commission and some ministries in order to fast track procedures for the recruitment of staff urgently required to satisfy existing needs. It was made sure that such arrangements were in conformity with constitutional requirements.

Throughout, the Commission emphasised to Permanent Secretaries that the regularisation process was intended to be a once-only exercise to correct past irregularities in the employment of public officers. The Commission made it clear that the provisions of the Constitution on appointments in the Public Service had to be strictly adhered to, and that these provisions applied even in the case of contractual, temporary, part-time, supply and other such categories of appointments. All such appointments had to be made on the basis of a recommendation by the Commission, unless the Constitution itself provided otherwise. Permanent Secretaries were expected to ensure that the provisions of the Constitution on appointments were respected, regardless of any directions they might receive to the contrary, and any Permanent Secretaries who breached the provisions of the Constitution would be held personally responsible.

The Commission's insistence that Government employment should respect the provisions of the Constitution does not come solely from a preoccupation with legality - although the Commission does believe that laws, once enacted, should be observed. The provisions of the Constitution on Government employment represent a safeguard to ensure that such employment is based solely on merit. If ministries and departments fail to adhere to the relevant provisions of the Constitution, even if this is done with genuine intentions, it means that the safeguards against patronage are not working effectively.

Engagement of staff on the basis of trust

During the above-mentioned regularisation exercise, the Commission came across a number of cases of individuals who had originally been engaged on the basis of personal trust, but who were subsequently recommended for a regular appointment in the Public Service on the grounds that they were performing administrative duties. Most such individuals had been engaged for service in ministerial secretariats or in adjunct positions, such as domestic staff at the Prime Minister's residence in Girgenti.

As a matter of longstanding practice, staff in ministerial secretariats are recruited directly on the basis of trust, without resort to calls for applications. This is justifiable since Ministers need to have staff in their secretariats in whom they can repose their full personal confidence. However, the regularisation exercise highlighted a number of instances in which appointments on trust were used to fill administrative, managerial or technical positions. This gave rise to a concern on the Commission's

part that appointments on trust could be used to avoid issuing calls for applications for vacancies that should be filled on the basis of merit.

Moreover, the Constitution makes no provision for the engagement of staff in positions of trust, so the legality of this practice could be questionable even where ministerial secretariats are concerned.

The Commission came to the conclusion that mechanisms need to be put in place to ensure that appointments on trust are legal, and are not used to bypass the merit principle.

Accordingly, the Commission wrote to the Principal Permanent Secretary in December 2011, proposing that an instrument of delegation be drawn up under article 110(1) of the Constitution to permit the engagement of staff on the basis of trust, without reference to the Commission, in the secretariats of the Prime Minister, Ministers and Parliamentary Secretaries. This would ensure that appointments in ministerial secretariats on the basis of trust would be legal in terms of the Constitution.

The Commission also proposed that the coverage of the instrument of delegation should be tied to the structure and complement of secretariats as defined by the Prime Minister, preferably in terms of article 6(4) of the Public Administration Act, which states that *“The Prime Minister may issue directives and guidelines concerning the functions, administration and establishment of Ministers’ secretariats, the engagement of staff thereto, and the terms and conditions under which such staff shall serve.”*

Thus the Prime Minister would determine the number and type of positions in each Minister’s secretariat, using the discretion conferred on him by the Public Administration Act. The instrument of delegation issued under article 110(1) of the Constitution would apply to these positions, and no others. This would ensure that only these positions, and no others, could be filled by Ministers on the basis of trust.

In its letter the Commission made it clear that positions outside ministerial secretariats - for instance, that of an advisor on a short-term contract in the office of a Permanent Secretary - could still be filled by means of a direct recommendation, that is to say without a selection process, where this is fully justified. In such a case, however, the approval of the Public Service Commission would be necessary. The Commission, as an independent body, would thus be in a position to ensure that the normal practice of recruitment through a competitive selection process would be waived only where this is genuinely justified in the public interest.

The Commission had yet to receive a reply to this proposal by the end of 2011.

Policy regulating appointments in the position of Assistant Director

In February 2011, the Public Service Commission considered a paper which reviewed the standard selection criteria, sub-criteria and weightings applied to positions of Assistant Director. The paper had been submitted by the Executive Secretary, PSC.

The document identified a number of problems with the standard selection criteria and sub-criteria then in use for positions of Assistant Director, particularly the vagueness of some of the criteria, and overlap between a number of different criteria. The document proposed the adoption of new selection criteria and sub-criteria for such positions. The paper also proposed the adoption, along with the new criteria, of a selection plan which was intended to give selection boards clear guidance in the interpretation and application of the criteria. Boards would have leeway to customise the selection plan to the requirements of a particular position, but they would be required to formally adopt such a plan. This would be a precursor to the possible eventual introduction of selection planning throughout the Public Service.

The Commission approved the paper and agreed to seek the views of the Public Administration Human Resources Office (PAHRO) concerning the adoption of the proposals therein. The proposals were eventually agreed with PAHRO in December 2011 after discussions which covered not only the selection criteria for Assistant Director positions, but also the eligibility requirements and the pass mark to be set for such positions. It was agreed that eligibility should be extended to public officers not below scale 7 with at least four years' service at this level or higher, regardless of whether the officers were in a grade or a position, provided that the officers concerned had attained this level through a regular appointment in terms of the Constitution. It was also agreed that the pass mark for positions of Assistant Director should be set at 60 per cent, in reflection of the fact that these are demanding positions at senior management level.

Postponements of appointments - rules, procedures and policy

Amendments to the policy established with regard to requests for the postponement of appointments, and the procedure to be followed in such cases, were approved by the Commission in December 2011.

The Commission's approval was granted after it considered a number of submissions made by the Public Administration Human Resources Office (PAHRO), concerning proposals to deal with requests for postponement of appointments, refusals of appointment, and instances when selected candidates took up their new appointment and then resigned. Amongst other things, the proposals included amendments whereby candidates who were offered an appointment would be informed about the possibility of their seeking a postponement of appointment, and about the consequences of refusing the appointment. The Commission agreed also that sections 1.1.15 and 1.1.16 of the Public Service Management Code (PSMC) were to be amended accordingly to reflect the approved changes of the revised policy.

Withholding of progressions

Many grades in the Public Service cover more than one salary scale, which means that after a number of years in the grade, an officer becomes entitled to progress to the higher salary scale (provided that his or her performance has been satisfactory).

Heads of Department have been delegated the authority to approve such progressions, subject to section 1.3.10 of the Public Service Management Code (PSMC). Paragraph 1.3.13.4 of the PSMC states that in those cases where progression is not approved, the matter should be referred to the Public Service Commission for its consideration.

One such case considered by the Commission during 2011 involved a request by the Ministry for Resources and Rural Affairs to withhold the progression of an officer holding the grade of Butcher on grounds that this officer was performing duties not pertaining to his grade. The Commission recommended the withholding of the progression in question since it resulted that the officer himself had requested to be relieved from the duties of Butcher.

Further inquiries by the Commission revealed that there were four other officers in the grade of Butcher who were not performing the duties pertaining to their grade. These four Butchers had themselves asked to be assigned other duties, yet had been allowed to progress to a higher salary scale.

The Commission took the view that it was highly irregular for an officer to be appointed to a grade and then to be assigned duties pertaining to a different grade, particularly when those duties were less demanding than the duties which the officer was being paid to undertake. This practice disregarded and effectively rendered null an appointment by the Prime Minister on the recommendation of the Commission in terms of article 110 of the Constitution. It also risked turning the grade of Butcher into an irregular entry-point for other posts which merited to be filled through a dedicated call for applications and selection process permitting all those interested and eligible an opportunity to be considered for such posts.

Accordingly, the Commission directed the Ministry for Resources and Rural Affairs to offer to the four Butchers in question the choice either to resume the duties of their grade, or else to be downgraded to their previous salary scale. On being informed that all four Butchers remained unwilling to resume the duties of their grade, the Commission recommended that the four officers concerned should revert to their previous salary scale until such time as they resumed the duties pertaining to the grade of Butcher.

Provisions stipulated in call for applications in conflict with the relevant classification agreement

In November 2011, the Commission agreed that an officer in the grade of Marbler should not bear the brunt of an administrative mistake and ruled that this officer should benefit from the provisions set out in the call of applications by means of which he had been appointed, since these provisions were more favourable than those stipulated in the classification agreement pertaining to his grade.

The officer involved had been appointed Marbler in 2001, in terms of a call for applications that was published by means of MPO Circular No 102/2000. The call for application stipulated that the selected candidate was to be placed in salary scale 15 on completion of five years' service in the grade and scale 14 on completion of ten years' service in the grade,

subject to satisfactory performance. On completion of ten years' service, this officer had however been informed by his Department that he was not entitled to progression to scale 14, since the classification agreement relating to industrial and supervisory grades, which had come into effect in August 1994, did not provide for such progression. This stand had also been confirmed by the Public Administration Human Resources Office (PAHRO) following initial enquiries made by the Ombudsman, who had subsequently referred the case to the Public Service Commission after consulting with the complainant (see also: Chapter VI, Other Business of the Commission - Ombudsman).

While the Commission pointed out to the Ombudsman that this case should have been referred to it immediately, the Commission noted that the respective call for applications was in conflict with the relevant collective agreement. However, the Commission took the view that since the provisions of the call for applications went beyond those of the classification agreement, these represented acquired rights from which the complainant was entitled to benefit. In this light, therefore, the Commission recommended that the officer concerned should be granted progression to the next higher salary scale, and that this progression should be backdated in accordance with the provisions of the call for applications.

Eligibility requirements for medical consultancy posts not in keeping with the relevant provisions of the law

During 2011 the Commission had to resolve difficulties which arose concerning the eligibility requirements for medical consultancy posts in the light of the Health Care Professions Act. Legal action was taken against the Commission in two such cases.

According to a number of calls for applications for medical consultancy posts which had been issued in 2010, applicants were required to:

- present a certificate of completion of specialist training issued by the local Specialist Accreditation Committee, or a recognised equivalent; or
- be approved for inclusion in the register of specialists which was established by the Health Care Professions Act; or
- be registered as a specialist in accordance with the Health Care Professions Act.

In addition, applicants required two years' full-time experience as a specialist.

In one of the cases considered by the Commission, an applicant was found ineligible for a medical consultancy post because he did not fulfil any of the above-mentioned requirements. The applicant filed a lawsuit in Court contesting the conclusion of the Selection Board on the grounds that he already held the grade of Resident Specialist.

The Commission noted that, indeed, the applicant in question had been appointed Resident Specialist notwithstanding that he was not registered as a specialist according to law. Nevertheless, this did not mean that the eligibility requirements for the post of Consultant could be waived.

The applicant in question succeeded in obtaining a temporary warrant of injunction to suspend the selection process while the Court considered the case on its merits. However, the Court subsequently dismissed the case and revoked the warrant of injunction.

In another case considered by the Commission, a number of applicants contested the result of the selection process for a consultancy post in a branch of general surgery on the grounds that the applicant who had placed first in the order of merit should have been found ineligible.

On considering this case, the Commission found that the first-placed applicant held a valid certificate of completion of training, which he had obtained in June 2010, shortly before the call for applications closed. The issue of this applicant's eligibility hinged on whether or not he was considered to have the two years of full-time specialist experience which were also required by the call for applications.

The Selection Board had taken the view that the applicant in question satisfied the two-year experience requirement since he had been appointed Resident Specialist in 2007. However, the Commission noted that, as in the previous case, the applicant had been appointed Resident Specialist without being qualified to work as a specialist as required by law. Article 29(1) of the Health Care Professions Act states quite categorically that *"No person shall practise as, or hold himself out to be, a specialist unless his name is entered in the respective register kept for the registration of specialists by the relevant Council."* Moreover, article 39 of the same Act makes it a criminal offence to act in breach of article 29. The applicant in question had not been registered as a specialist in terms of the Act by the closing date of the call for applications, although he had obtained his certificate of completion of specialist training.

The Commission therefore concluded that the applicant in question could not be regarded as having two years of full-time experience as a specialist by the closing date of the call for applications. The Commission took the view that it would be complicit in a breach of the Health Care Professions Act if it accepted, as specialist experience, the applicant's service as Resident Specialist when he had not been registered as a specialist as required by the same Act.

This case highlighted a discrepancy between the Health Care Professions Act and the calls for applications for consultancy posts which had been issued in 2010. According to the calls as published, an applicant could be selected and appointed to a consultancy post solely on the strength of a certificate of completion of specialist training, the award of which is the first step leading to registration as a specialist. However, such a certificate is insufficient for the purposes of the Act, which, as already indicated, requires medical practitioners to be registered as specialists before they can function as such.

The Commission raised this issue with the Ministry for Health, the Elderly and Community Care. The Commission informed the Ministry that it was not prepared to approve publication of any more calls for applications for consultancy posts until the eligibility requirements in the calls were brought into line with the overriding provisions of the Health Care Professions Act. The Ministry entered into discussions with the Medical

Association of Malta, as a result of which it was eventually agreed, among other things, that:

- calls for applications for consultancy posts should include a provision making it clear that no applicant could be appointed unless or until he or she was registered as a specialist in terms of the Act; and
- the two-year specialist experience requirement would count as from the date of each applicant's registration in Malta in terms of the Act, or in another EU member state in terms of the legislation in that country.

In the meantime, the Commission received complaints that the applicant who had placed first in a second consultancy post in the field of general surgery was similarly ineligible in terms of the call for applications. When the Commission sought the views of the Selection Board on this issue, the members of the Selection Board reacted by "*withdrawing all of their signatures from the respective reports*", that is to say disclaiming responsibility for the result which they themselves had drawn up.

The same individuals had also been members of the Selection Board for two other consultancy posts in general surgery, including the previously-mentioned post. They "withdrew their signatures" in respect of all three posts. This left the Commission with no option but to annul the selection process for all three posts and to direct the Ministry for Health, the Elderly and Community Care to establish a fresh Selection Board to repeat the selection process on the basis of the same call for applications (that is to say, undertaking a fresh assessment of those who had applied for each of the three posts, as opposed to issuing a new call inviting fresh applications), to safeguard the interests of the same applicants. The new Selection Board was not to include any members of the former Selection Board for any of the three posts in question.

The Commission also directed that the new Selection Board, once established, should take the two-year specialist experience requirement as starting no earlier than the date of each applicant's registration as a specialist either in Malta or elsewhere in the EU.

An applicant who had placed first in the selection process for a post in general surgery, but whose eligibility was in question, disagreed with this ruling, and instituted court action in order to have it overturned. He had sought and obtained a warrant of injunction to suspend the selection process until the case is decided. This case remains before the Court.

The Commission considered a further case relating to another consultancy post. In this case, too, the eligibility of the first-placed applicant was questioned. It emerged from the Commission's investigations that the first-placed applicant had been considered eligible by the Selection Board in spite of the fact that he had not even obtained a certificate of completion of specialist training. The applicant in question had received his appointment to the post, although he had not yet taken it up. After extensive correspondence with the applicant in question, during which he was given every opportunity to present his case, the Commission recommended the revocation of his appointment on the grounds that he had been *ab initio* ineligible for the post. Prior to recommending the appointment of the applicant who placed second, the Commission requested the Ministry for Health, the Elderly and Community Care to verify that all the applicants

in the order of merit, other than the first-placed applicant, satisfied the eligibility requirements.

Guidelines for chairpersons and members of selection boards

As a result of the above-mentioned cases, the Commission decided to amend the guidelines which are distributed by its office to selection boards with a view to emphasising, to the chairperson and members of every selection board, that they are responsible for screening applicants against the eligibility requirements for the vacancy to be filled; that a selection board has no power to deviate from or make exceptions to any of the eligibility requirements; and that only candidates who satisfy those requirements should be interviewed.

To further emphasise this point, the Commission introduced a new declaration form requiring the chairpersons and members of selection boards to confirm, when submitting their reports to the Commission, that the successful candidates as listed in the order of merit prepared by each board all fulfil the eligibility requirements pertaining to the vacancy to be filled.

This new declaration form complemented an existing declaration form whereby the chairperson and members of every selection board were required to declare that they are not related to any applicants for the vacancy to be filled, and that they are not affected by any other conflict of interest relating to the selection process.

The existing form required selection board members to declare, among other things, that they had not acted as tutors to any of the applicants. This point frequently gave rise to queries from selection board members as to whether they should withdraw from the selection board on account of their having delivered training in the past to members of staff who were now applicants for the vacancy to be filled. As a result, the Commission agreed to revise the existing form to clarify that the reference to tutorship includes only persons assigned responsibility for the care of minors by a Court in terms of article 159 of the Civil Code. In the Commission's view, if an applicant happens to be the current or former student or trainee of a selection board member, this does not place the selection board member in a conflict of interest and does not constitute a reason for the latter to withdraw from the board.

The Commission also approved proposals by the Public Administration Human Resources Office (PAHRO) concerning the retention by selection boards of notes and workings relating to the selection process. The Public Service Management Code requires selection boards to compile and to retain such notes and workings in order to be in a position to provide feedback to the Commission in response to petitions by applicants who are contesting the outcome of the selection process. PAHRO proposed that, in keeping with the Data Protection Act, a maximum period for the retention of such notes and workings should be defined.

Following an exchange of views with PAHRO, the Commission agreed that selection boards were to retain their notes and workings for the validity period of the selection result (normally one year), unless the

position to be filled was part-funded by European Union funds, or unless an applicant filed a petition contesting the result. In the latter case, the retention period would extend to two years. This timeframe was set to take account of the possibility of selection results being contested not only before the Commission but also before the Ombudsman, and it was subject to the proviso that in exceptionally protracted cases where there were indications that even a two-year retention period might be insufficient, the Commission would have the power to direct the selection board to retain its notes until the conclusion of the case. Paragraph 1.1.7.11 of the Public Service Management Code was amended accordingly in October 2011.

Effective date of appointment of classroom and teaching staff

In April 2011 the Commission approved that existing arrangements which applied in the case of regular Teachers, whereby the Directorate for Educational Services was empowered to engage such staff, on the basis of the approved and published selection result, as soon as vacancies arose, be extended to all classroom and teaching staff - that is to say Supply Teachers, Kindergarten Assistants, Supply Kindergarten Assistants, Learning Support Assistants, and Supply Learning Support Assistants. This would enable classroom vacancies to be filled immediately. The Commission would subsequently make its recommendation for the appointment of the staff in question retrospective to the date of their actual engagement.

The Commission's approval for the extension of this arrangement to all classroom staff was given following submissions made by the Directorate for Educational Services and the Resourcing Directorate at the Public Administration Human Resources Office. This approval was encapsulated in an agreement between the Government and the Malta Union of Teachers, which was adopted retroactively as from 24 January 2011. This agreement made it clear that the appointment of such officers was subject to the regulations and procedures of the Public Service Commission and would be effective as from the beginning of the applicable scholastic year or the date of their actual employment, whichever was later, so as to ensure that schools would have the necessary classroom/teaching personnel in class throughout the scholastic year.

Submission of applications by local candidates for vacancies in the Public Service

While considering the case of a local applicant who submitted an application by fax in response to a public call for a post in the Public Service, the Commission observed that, read literally, calls for applications do not cater for the submission by fax of applications from local candidates. Hence, whereas overseas applicants are permitted to submit applications by fax - provided that they also submit "a formal application duly signed by the applicant" within one week from the closing date of the call - the implication is that local applicants must submit an application bearing an original signature by the closing date.

However, the Public Service Commission took the view that it was no longer tenable to insist on the submission of a signed, original application, when applications could be submitted electronically through the Government

recruitment portal which had been established for this very purpose. The Commission therefore ruled that local applicants should not be precluded from submitting applications by fax. Moreover, the Commission informed the Public Administration Human Resources Office (PAHRO) about its view that the standard provisions in calls for applications concerning the means of submission of applications should be updated to take account of, and be consistent with, developments such as the Government recruitment portal. Furthermore, PAHRO was requested to consider how this might best be done, and to present proposals to the Commission accordingly.

Adoption of supplementary selection mechanisms in selection processes

On a number of occasions, the Commission considered enquiries from selection boards about the possibility of supplementing oral selection interviews with additional mechanisms for the assessment of candidates. These mechanisms could include practical tests, office skills tests, short tests of writing proficiency, multiple choice questions, or Intelligence Quotient (IQ) tests, among others. In a number of instances, the Commission approved the adoption of such mechanisms in the belief that selection boards should be encouraged to consider the use of mechanisms which would make the selection process more objective, more comprehensive, and more effective. This was done with the proviso that the said mechanisms were to be used as part of the selection process to be undergone by all eligible candidates, as opposed to a qualifying stage on the basis of which candidates could be excluded from the interview.

However, the Commission noted that the prevailing regulatory framework relating to the choice of selection methods required adaptation to better accommodate the use of supplementary selection mechanisms. Paragraph 1.2.1.1(ix) of the Public Service Management Code stipulated that calls for applications should include details of the selection process (interview/practical test/written examination). In keeping with this, calls for applications normally stated that “*Eligible applicants will be interviewed by a Selection Board to assess their suitability for the post*”. Taken together, these two provisions could be understood as compelling selection boards to limit themselves to interviews unless the use of additional mechanisms had been specified in advance in the call for applications. At the same time, selection boards were not in a position to decide what additional selection mechanisms were necessary before the call for applications was published, since selection boards were normally set up after the call was published.

Therefore, in June 2011 the Commission proposed to the Public Administration Human Resources Office (PAHRO) that changes should be made to the Public Service Management Code and to the standard text of calls for applications, so as to give selection boards greater leeway in the application of supplementary selection mechanisms. The Commission also proposed that the use of such mechanisms would remain subject to its approval.

PAHRO agreed to the amendments as proposed by the Public Service Commission and subsequently implemented the required changes in the standard text of calls for applications, as well as in the relevant provisions of the Public Service Management Code. Calls for applications

subsequently began to be issued with the text “*Eligible applicants will be assessed by a Selection Board to determine their suitability for the post*”. The Commission adopted the policy that candidates were to be informed by the selection board of all instruments of assessment that were to be applied, apart from the interview.

Written references made by public officers

The Commission drew the attention of the Administration to the discrepancy between the Public Service Management Code (PSMC), which precluded public officers from making written references in favour of other public officers applying for vacancies in the Public Service, and the continuing reliance on referees in calls for applications for senior medical posts.

This issue came to light in May 2011 while the Commission was considering a request for its advice by the Selection Board involved in the selection process for the post of Consultant Psychiatrist with an interest in geriatric psychiatry within the Ministry for Health, the Elderly and Community Care. The Selection Board had requested the Commission’s advice on the admissibility, in terms of paragraph 1.1.7.5 of the PSMC, of written references by public officers. The Commission subsequently advised the Selection Board that since the call for applications itself required applicants to present the names of referees, and not actual references, the Board was to disregard references presented by the applicants and was to seek references directly from the individual referees, in accordance with the terms of the call for applications.

As a matter of fact, chairpersons and members of selection boards were actually required, in terms of the PSMC, to ignore any such references written by public officers. The rationale behind the rules in the PSMC was to avoid any potential conflict of interest amongst officers. This meant, however, that whereas external applicants for Public Service posts could present references in support of their applications, career public officers - particularly those who had no work experience outside the Service - could not. In the circumstances, following the intervention of the Public Service Commission, the Public Administration Human Resources Office (PAHRO) took steps to review the relevant provisions of the PSMC.

PAHRO subsequently proposed a new draft policy to the Commission which permitted public officers to write references in favour of other public officers, provided that they did so not in general terms but with specific reference to the application for a particular vacancy, and that officers nominated to serve on a selection board for a particular vacancy should refrain from writing references for applicants for the same vacancy.

The Commission considered that the provisions of the new policy, as proposed by PAHRO, served to strengthen the integrity of the refereeing process and would result in greater equity in the selection process. On this basis, the Commission approved the new policy, which was eventually adopted by means of a PAHRO circular in November 2011, while the relevant provisions in the PSMC were also amended accordingly.

Electronic publication of selection results through the Government recruitment portal

In keeping with the principle of better regulation, the Commission proposed that the Government recruitment portal (www.recruitment.gov.mt) be developed to enable results to be made available to applicants online. The Administration was requested to assign priority to the development of a function in the portal to make results available to candidates in a secure and confidential manner, so that candidates would no longer be required to visit the Office of the Commission or their department's head office in order to see the result on a notice-board, with all the inconvenience this might entail.

It was thus proposed that once the result of a selection process was approved by the Commission, the result would be uploaded to the portal by staff at the Office of the Commission. This would trigger the generation of an automatic e-mail in order to inform those who had applied for that particular post that the result was available for viewing. Applicants would be able to view the result after logging on to the portal using their e-id and password. The precise mechanics of the new system would be subject to discussions between PAHRO, the Office of the Commission, and the site developers, while it would also be necessary to consult the Data Protection Commissioner.

The Administration agreed to this proposal, and preliminary discussions between the Office of the Commission and PAHRO on the development of this new function were held in order to take the initiative forward.

Petitions concerning selection processes are only admissible within the timeframe of the original result

The Commission ruled that candidates could only submit petitions within the allowed timeframe following the publication of the original result of the selection process concerned. If the Commission published a revised result, possibly as a result of a petition by a candidate, this did not represent an opportunity for applicants to submit further petitions except any strictly emanating from or directly tied to the change registered in the revised result. The ruling was given in connection with the selection process for the post of Consultant Surgeon at the Gozo General Hospital.

The Commission had first approved the result of the selection process in August 2010 but had later found that the top-placed candidates were ineligible for the post. The Selection Board involved in the selection process was thus directed to submit a fresh report together with a revised selection result, which was then published in April 2011. Subsequently, the Commission received a petition from a candidate who had failed in the interview. The petitioner claimed that the result was unfair in his regard and requested the Commission to consider the matter. The petition was submitted to the Commission within ten working days from the date of issue of the revised result.

However, the petitioner was informed that his petition was not admissible since the Commission considered that the re-publication of a revised result did not constitute an opportunity for candidates to submit fresh petitions

regarding the original result, except as indicated above. Date-lines needed to be respected, otherwise the selection process might never come to a conclusion, to the detriment of the Service and the officers concerned.

Similarly, the Commission took the view that the publication of a revised result did not extend the validity period during which appointments could be made on the basis of that result. Selection results in the Public Service are valid for one year from the date of publication of the result, unless a call for applications specifies a different validity period. If the advertised post becomes vacant during the validity period, the post is offered to the next candidate in the order of merit. Once the result expires, however - or if no candidates are left in the order of merit - a fresh call for applications has to be issued. This enables ministries and departments to refresh the pool of available candidates in order to draw on the best available talent, even if there are still candidates available in the original order of merit. The Commission ruled that the validity period of a selection result should count from the date of publication of the original result, and would remain unaffected by the publication of a revised result.

Eligibility for posts in the Public Service of applicants past retirement age

During 2011, the Commission received a number of queries as to whether applicants who were beyond the retirement age of 61 should be considered eligible for vacancies in the Public Service. It was the Commission's policy that, once it was mandatory as a general rule for public officers to retire on reaching the age of 61, applicants for vacant posts who were beyond retirement age should be considered ineligible.

The Commission confirmed the above-mentioned policy after evaluating current legislation and European Court of Justice case-law relating to the eligibility for employment of persons who were past retirement age. The Commission concluded that the related legislation and case-law were open to more than one interpretation as to whether or not applicants over 61 years of age could be disqualified from employment. Thus there appeared to be no clear-cut grounds for a change in the Commission's policy on this issue. The Commission consulted with the Principal Permanent Secretary, who in turn sought the advice of the Attorney General. The Principal Permanent Secretary concurred with the Commission's stance in accordance with the advice he received.

B. Issues related to disciplinary proceedings

Re-instatement of former public officers following the discontinuation of a sentence of interdiction in terms of the Criminal Code

In March 2011, the Commission received a request from a former public officer to be re-instated in the Public Service. This person had been dismissed from the Public Service in 2006 after he was found guilty of

unlawful exaction, extortion, and bribery, and sentenced to a suspended prison term and to a general perpetual interdiction. A sentence of general perpetual interdiction under the Criminal Code (not to be confused with interdiction in terms of the PSC Disciplinary Regulations) meant that the sentenced public officer could not hold public employment and had to be dismissed from any Government post which he or she might hold. However, on 7 January 2011 the former officer in question obtained a Court order for the discontinuation of his sentence of general perpetual interdiction.

In connection with this request the Commission noted that, in effect, the sentence of general perpetual interdiction against the individual concerned had not been revoked by the Court order, but discontinued in terms of article 10(6) of the Criminal Code. The sentence of interdiction therefore remained valid from 3 November 2006, when it had been imposed, until its discontinuation on 7 January 2011, more than four years later. Public officers who were dismissed in consequence of a Court sentence of general interdiction had no automatic right to re-instatement if the Court ordered the discontinuation of the interdiction.

In reply to the petitioner's request, the Commission informed him that the regulations governing the Commission did not provide for the re-instatement of former public officers following the discontinuation of a sentence of interdiction in terms of the Criminal Code. However, the petitioner could apply for advertised vacancies in the Public Service now that he was no longer under interdiction. Moreover, the Commission advised the petitioner to refer also to section 1.6 of the Public Service Management Code, which provided for the possibility of re-instatement of public officers, subject to the conditions set out therein.

Disciplinary action after conviction of a criminal charge

According to regulation 16 of the Disciplinary Regulations, a public officer who is found guilty of criminal charges may, as a result, face disciplinary proceedings if the Commission considers this appropriate. Disciplinary proceedings in such cases are undertaken directly by the Commission, which is required to give officers the opportunity to submit representations in their own defence before it recommends any penalties in their regard.

During the course of the year, several cases of public officers who were found guilty of a criminal charge were referred for consideration by the Commission in terms of regulation 16 of the Disciplinary Regulations.

The legal representatives of such officers frequently contested the proposed disciplinary penalties against their clients on the grounds that the offence committed was not related - directly or indirectly - to the official duties of their clients. In May 2011, while considering one such case involving a public officer who had been fined by the Courts for illegal gambling, the Commission noted that paragraph 17 of the Code of Ethics, as annexed to the Public Administration Act, stated that "*At all times the behaviour of a public employee shall be in such a way as not to discredit his or her position and not to reflect adversely on the public service*". This provision was included in the Code under the heading "Personal and Professional Behaviour". Moreover, the Public Service Commission (Disciplinary Procedure) Regulations included, among the serious offences listed in

the schedule thereto, “conduct which discredits the department or, more generally, brings the public service into disrepute”. The Commission considered therefore that misconduct on the part of a public officer could discredit his or her position and the Public Service even if it was not related to the officer’s duties.

In so far as there could be any room for doubt on this point, it was resolved by paragraph 7.1.3.6 of the Public Service Management Code, which banned public officers from taking part in gambling activities, whether in public or in private, on the grounds that such activities could not but harm the image of the Public Service. Hence the Commission agreed to recommend, in this particular instance, that the officer concerned be suspended without pay for two days and given a warning of dismissal.

In another case under regulation 16, the legal representative of the officer facing proceedings argued that if a recommendation for a penalty was made by the Commission, it would create an anomaly since the Court had conditionally discharged the officer after having evaluated all the circumstances of the case.

During its consideration of the case, the Commission observed that the officer concerned had in fact been found guilty by the Court of the criminal charge against him, which was that of obtaining a driving licence by fraudulent means. Thus, a conditional discharge such as that granted by the Court in this case reflected a sentence of guilt, not of innocence. The Commission concluded that regulation 16 of the Disciplinary Regulations was therefore applicable in this case since the officer in question had been found guilty of a criminal offence by the Court. Moreover, the Commission considered that offences such as that committed by the convicted officer constituted conduct which discredited the officer’s Department and brought the Public Service into disrepute. This was a serious disciplinary offence in terms of the Disciplinary Regulations, and a penalty was merited accordingly.

Another case involving a conditional discharge was considered by the Commission in November 2011. The case involved a police officer who had been found guilty of stealing fuel from his place of work. The Commission had agreed, following consultation with the Commissioner of Police, that the police officer merited dismissal from the Police Force. The officer’s legal representative appealed to the Commission not to dismiss him, and to show clemency as the Court had done when it liberated the police officer on condition that he did not commit another offence. Furthermore, the lawyer suggested that since the officer had already been sentenced for his offence, his proposed dismissal from the Force would constitute double jeopardy.

On this point, however, the Commission took the view that the case of this police officer had been considered in front of two different institutions, each with a different remit. The remit of the Commission in this case was disciplinary action to uphold the interests of the Public Service as employer, and proceedings before the Commission could in no way be equated with proceedings before the Criminal Court. Therefore there was no double jeopardy. In coming to this conclusion, the Commission based itself on a sentence of the Constitutional Court of 10 January 2005 which defined the concept of double jeopardy.

Prolonged interdiction of public officers

A major issue that was of particular concern to the Commission in 2011 was related to cases of public officers who had been placed under interdiction and suspended on half salary in terms of the Disciplinary Regulations, on account of pending criminal charges. Suspension on half salary is a precautionary measure in the public interest where it is felt that officers should not be present at their place of work on account of the seriousness of the charges against them. Such cases represent a burden on the public purse in that the interdicted officers continue to be paid half their salaries although they are suspended from work and not delivering a service. Moreover, those who are eventually acquitted by the Courts would be refunded the salary withheld during the entire period of interdiction. At the same time, interdicted officers suffer financial hardship when they are reduced to half pay for prolonged periods.

For this reason there were cases where the Public Service Commission decided to lift the interdiction for humanitarian reasons, although this did not imply any judgement by the Commission concerning the criminal charges against the officers concerned.

Indeed, the issue of interdiction was raised in February 2011 by the Chairman of the Commission during a meeting held with the Minister for Justice and Home Affairs, at which the Executive Secretary of the Commission and the Attorney General were also present. During this meeting, it was observed that the Administration had no direct control over the length of court cases.

On its part, the Commission considered the possibility of establishing definite criteria to govern both the imposition of interdiction in the first place, and the subsequent review of interdiction where court cases were prolonged beyond one year. In December 2011 the Commission also decided that where an officer under interdiction due to criminal charges was found guilty of those charges, and those charges did not appear so serious as to warrant the officer's dismissal from the Public Service, the Commission would immediately recommend the lifting of the officer's interdiction even before it decided what disciplinary penalty was appropriate as a result of the officer's conviction. In this way the lifting of the officer's interdiction would no longer be dependent on a final decision by the Commission as to the disciplinary penalty to be imposed on the officer concerned.

Validity period for warnings of dismissal resulting from criminal cases

During 2011 the Commission adopted the practice of establishing a validity period for warnings of dismissal resulting from criminal cases, generally equal to the duration of a suspended sentence or a conditional discharge. This decision was taken in the light of several instances where a warning of dismissal was warranted as a disciplinary measure against public officers who were found guilty of criminal charges, and who were conditionally discharged by the Court or given a suspended sentence for a definite duration. Previously, warnings of dismissal were considered to remain valid indefinitely in the absence of any provisions in the Disciplinary Regulations setting a timeframe. This meant that any

subsequent disciplinary offences would render the officer concerned liable to dismissal, no matter how much time would have elapsed since he or she had been given the warning of dismissal. By comparison, a suspended sentence could be brought into effect as a result of further criminal offences only during the period of its suspension.

Since the Disciplinary Regulations were silent on this issue, the Commission agreed also to draft amendments to the Regulations to cater explicitly for the imposition of warnings of dismissal with a specified validity period. These amendments were proposed to the Administration in December 2011 and were to be included in the draft legal notice setting out the various amendments to the Disciplinary Regulations as approved by the Commission. The said legal notice is expected to be published in 2012.

Serious disciplinary cases may successively attract higher penalties leading to eventual dismissal

The Commission ruled that serious disciplinary cases may progressively attract higher penalties which could potentially lead to the eventual dismissal of an officer charged with, and found guilty of, a succession of such offences.

The ruling was delivered in November 2011 while the Commission was considering the situation of a medical officer who was found guilty of two serious disciplinary cases. These cases had been referred to the Commission with a view to the possible dismissal of the medical officer since he had already been found guilty of serious charges in two previous cases.

In its consideration, the Commission noted that the statement of charges in respect of both the two recent cases against the officer concerned did not include a notification that the charges could lead to his dismissal. The Commission noted also, however, that paragraph 4.2 of the Schedule of Offences and Penalties of the Disciplinary Regulations provided for a scale of penalties for serious offences which increased in stages from a suspension without pay for up to five days, to a suspension without pay for up to five days together with a warning of dismissal, to dismissal. The first proviso to paragraph 4.2 stated that the penalty "*suspension without pay not exceeding 5 days*" could not be awarded in respect of more than two serious disciplinary cases. This indicated that the regulations did contemplate progressively higher penalties for successive cases, although this was not spelled out explicitly.

A lawyer in public employment cannot represent a defendant in proceedings before the Commission

The Commission ruled that a lawyer in public employment could not represent a defendant in proceedings before the Commission. The issue emerged in October 2011 while the Commission was considering an impending termination of contract of a Casual Substitute Clerk due to poor performance which, according to the employing department, had led to a significant backlog of work.

Before taking a definite decision about the case, the Commission had agreed that both the officer concerned and his Head of Department were to be given the opportunity to make oral representations to the Commission. Subsequently, the officer appeared for the hearing accompanied by a lawyer who was also his relative. However, the Commission took the view that this lawyer should not represent the defendant before the Commission since she was employed as a Legal Officer with a Government department. The Commission considered that, being a public officer, she would effectively be presenting her brother's case against her own employer. This represented a conflict of interest on her part. The Commission took the view that it could not permit such a conflict to arise during proceedings before it, since the Commission would thereby effectively be condoning the conflict. In the circumstances, the defendant was given the opportunity to obtain the services of another lawyer instead of his relative to represent him.

PSC can hear evidence in disciplinary cases

During the consideration of a particular disciplinary case potentially leading to dismissal, it was established that the Public Service Commission could hear evidence during disciplinary proceedings before it if the Commission was satisfied that this was necessary to ensure a fair hearing.

The issue was raised in August 2011 after the officer who was charged in these disciplinary proceedings made a request to the Commission for permission to present a witness during the oral hearing that was to be held on his case. This request was made after it transpired from the proceedings held before the Commission that the officer concerned had not been given sufficient information by his department as to the offence with which he was being charged. The officer argued that this fact had resulted in an unfair hearing by the Disciplinary Board because he had not been able to present witnesses who could throw light on his case.

The Commission considered whether, at that stage in disciplinary proceedings potentially leading to dismissal, it was appropriate for the Commission itself to hear witnesses. In this context the Commission took note of regulation 30(5) of the Disciplinary Regulations, which stated that *"When an appeal is lodged, the Commission shall deal with the matter in its absolute discretion, as if no delegation of authority was in force in respect of that matter."* Furthermore, regulation 33(5) stated that *"The Commission shall not allow any new evidence to be produced whenever it is reviewing its past recommendation unless it is satisfied that such evidence was unknown to or could not be produced by the petitioner when his case was first heard."*

The Commission noted that neither of these two provisions was directly applicable in this particular case. Regulation 30 dealt with appeals, while regulation 33 dealt with the review of past recommendations. Nevertheless, these provisions indicated that, in principle, the Commission could hear evidence in disciplinary cases if it was satisfied that this was justified in the interests of ensuring the fairness of proceedings. In this light, and given the particular circumstances of the case in question, the Commission agreed, in the interest of fairness and justice, to accept the officer's request to produce a witness.

Personal notes used by witnesses in disciplinary proceedings

A ruling was sought from the Commission by a particular Disciplinary Board concerning the personal notes used by a witness in disciplinary proceedings. In answering questions during the proceedings, the witness referred to personal notes which she had compiled and which she had brought with her. A lawyer representing the officer charged in the proceedings requested the Disciplinary Board to give him access to these notes. The defence lawyer insisted that he had a legal right to view these notes. The witness, however, refused to make the notes available. The Chairperson of the Disciplinary Board decided to seal the personal notes in question and requested the Commission's advice on the matter.

The Commission agreed that while regulation 6(1) of the Disciplinary Regulations gave the officer charged a right of access to all documentary evidence, this did not extend to the personal notes compiled by a witness, at his or her own initiative, as a "memory prop", provided that:

- only the witness's oral testimony was taken as evidence, and not the notes themselves;
- the notes were used solely by the witness in question, and were not made available to the prosecution or to other witnesses.

Shortcomings by disciplinary boards and of disciplinary reports

The Commission found occasion while considering different disciplinary cases to express its concern about various shortcomings on the part of disciplinary boards, many of which became apparent during oral hearings held before the Commission. As a matter of fact, there were instances where the Commission was even constrained to postpone the same oral hearings or to hold further meetings because of these shortcomings.

During one such occasion, the Commission pointed out to the departmental representatives of the Directorate for Educational Services who were attending an oral hearing that the report compiled by the Disciplinary Board lacked detail. Moreover, related documentation, such as the original statement by the Head of School outlining in detail the alleged misbehaviour of the accused officer, had not been forwarded to the Commission. The Commission requested that, in future, an inadequate disciplinary board report be returned for revision to the respective disciplinary board before it was sent to the Commission. While the departmental representatives submitted to the Commission copies of related documentation which were then in their possession, the Commission agreed to consider the case in question again at its following meeting, in order to give its members time to view the additional documentation. The Commission also agreed that, as a general rule, all relevant documentation had to be at hand before it could consider a disciplinary case, and directed the Executive Secretary to ensure that such documentation was available before cases were placed on the Commission's agenda.

In a separate case, the Commission expressed its concern that the Ministry for Health, the Elderly and Community Care had failed to comply with regulation 25(1) of the Disciplinary Regulations, which required the disciplinary board to communicate its findings both to the Head of

Department and to the accused on the conclusion of its investigations. The Commission took the view that the Ministry for Health, the Elderly and Community Care needed to considerably improve the support it provided to disciplinary boards and to departmental representatives in disciplinary cases.

These concerns were expressed in December 2011 after the Commission had had to postpone an oral hearing in order to give the accused officer and his lawyer more time to review the report of the Disciplinary Board. The lawyer had pointed out to the Commission that his client had only been given a copy of the report upon his insistence, and only a few days before the oral hearing was due to be held before the Commission, despite the fact that the Disciplinary Board's sitting had been held more than two months earlier. While the Commission noted that the Disciplinary Board's report was undated, it found the lawyer to be justified in claiming that, during the short span of time the report had been available, he had not had the opportunity to review the Disciplinary Board's findings in preparation for the oral hearing.

In the meantime, the Commission set and distributed a template for the compilation of disciplinary reports in order to ensure that all the required information and details are included within an established clear structure in the report.

PSC concerned about a department's inaction in an evident case of serious conflict of interest

In October 2011, the Commission wrote to the Permanent Secretary at the Ministry for Resources and Rural Affairs (MRRA) to express its concerns about an apparent lack of enforcement of discipline in the Cleansing and Maintenance Department. These concerns were triggered by the apparent inaction of the Department in the face of a serious conflict of interest of one of its employees.

The issue emerged while the Commission was considering a disciplinary appeal by the officer involved, concerning his undertaking private work without authorisation. During its consideration of the case the Commission noted that, during 2010, this officer had acted on behalf of a private contractor who was submitting a bid for consideration by his own Department. This was stated by the officer's legal representative and was corroborated by the former Head of Department. The Commission was concerned that, on the face of it, this represented a serious conflict of interest in respect of which no action had been taken.

The Commission conceded that it was not possible to take any action at that point in time, because the case would have been prescribed. However it considered that the failure by the then Head of Department to take timely action in the face of an apparent ethical transgression of this nature, raised serious questions about the state of discipline within the Cleansing and Maintenance Department.

The Commission noted that on 3 January 2011, Permanent Secretary (MRRA) had issued a letter-circular to staff revoking all existing permits to carry out private work and directing staff to reapply for permission

to carry out such work. The Commission informed the Permanent Secretary of the Ministry that it regarded this a positive step. However, the Commission requested him to consider whether additional measures were necessary to ensure that the rules governing ethical conduct and the avoidance of conflicts of interest were rigorously followed in the Department concerned.

Prescription not applicable in summary cases under regulation 19

The Commission ruled that Heads of Department are not tied to time limits when administering summary discipline under regulation 19 of the Disciplinary Regulations.

The Commission considered the issue of prescription in October 2011 when the matter was raised during a disciplinary appeal by an officer who had been found guilty of not observing the regulations of his place of work, and who had been given a written warning in terms of regulation 19. The written warning was to expire within twelve months. However, the officer's legal representative claimed that the accusation was prescribed since the Head of Department had known of the case long before he issued the charges against the officer.

The Commission noted that the issue arose from regulation 20(2)(a) of the Disciplinary Regulations, which required a Head of Department to issue a statement of charges no later than 30 working days from when an alleged offence came to his or her notice. Regulation 20(2) did not state whether or not it applied to cases under regulation 19. However, regulation 20(2) went on to provide, through paragraph (e), for the establishment of disciplinary boards - a measure which clearly did not apply to, and indeed conflicted with, regulation 19, since the latter provision dealt with summary cases where the establishment of a disciplinary board was not warranted. This indicated that regulation 20(2) was intended to govern only disciplinary cases which fell under that same regulation, and not summary cases under regulation 19. The Commission therefore agreed that the timeframe for the issue of charges, which was established by regulation 20(2)(a), did not apply to cases under regulation 19, and such cases were not subject to prescription on this account.

In this light, the Commission agreed to uphold the written warning given to the officer involved in this case since the charge against him was sufficient in its own right to merit such a warning, and indeed could have given rise to proceedings of a more serious nature.

VI. Other Business of the Commission

Ombudsman

During 2011, the Ombudsman corresponded with the Commission on 7 cases relating to complaints made to him by public officers. The Commission replied to all queries and accepted any request made by the Ombudsman to view the relevant file to ensure fairness and justice to complainants. The Commission also received the final position of the Ombudsman in respect of 5 of the cases, 2 of which had been considered during the previous year. In all 5 cases the complaint was not upheld by the Ombudsman and was thus considered as closed.

In another case, the Ombudsman referred the Commission to an appointment of an officer in the grade of Marbler, effected in terms of a call for applications which had stated that the selected candidate was to be placed in scale 15 on completion of five years' service in the grade and scale 14 on completion of ten years' service in the grade. The officer concerned was informed by his Department that he was not entitled to progression on scale 14 since the classification agreement relating to the industrial and supervisory grades did not provide for such progression. The Commission noted that the respective call for applications was in conflict with the relevant classification agreement. However, the Commission agreed to recommend the progression from scale 15 to scale 14 as stipulated in the call for applications. PAHRO was requested to take note of the matter and to ensure that future calls for applications reflected the provisions of the relevant classification agreement.

By way of general observation, it is worthwhile to note the considerations made by the Ombudsman in his final opinions in respect of the above mentioned cases. In most of his reports the Ombudsman found occasion to emphasize that his Office could only investigate cases involving the PSC if there was proof to the satisfaction of the Ombudsman that complainant had already sought redress from the Commission. The Ombudsman qualified further his position that it was not his function to investigate aspects of a complaint before him that had not in the first instance been raised by the complainant in his or her petition to the PSC.

In regard to objections concerning selection processes, the Ombudsman took the view that selection decisions necessarily involved subjective judgements on the part of the Selection Board, and such judgements should not be overturned unless there were clear and justifiable grounds to do so. In one such case, the Ombudsman stated that *"the Board is composed of persons who are chosen precisely for their expertise in the area covered by the application and their expert judgement on the capabilities of the candidates should not be disturbed unless there is uncontested and clear evidence of mistaken decisions or bad intentions"*.

The Ombudsman regarded his role in such cases as that of assessing whether the PSC had given due consideration to the issues raised in a petition, and whether there was anything in a process which appeared to be contrary to law or was unreasonable, unjust, discriminatory, based on errors of law or fact, or otherwise wrong. In all the cases under consideration, the

Ombudsman concluded that the Public Service Commission had given due consideration to the petitions it received, while the decisions it had taken were within its functions and competence.

Relevant information on the cases that were the subject of correspondence between the Ombudsman and the Commission in 2011 is given in Appendix 11.

Meetings with representatives from the National Audit Office (NAO)

A number of meetings took place at the Office of the Commission with representatives from the National Audit Office (NAO) who were to undertake a performance audit with a view to establishing the effectiveness and efficiency of the recruitment process in the Public Service. At the first meeting, it was clarified that the audit was to target only the recruitment process and not the operations of the Commission since, under the Constitution, the remit of the NAO with respect to the PSC was limited to the auditing of the Commission's accounts. The NAO representatives were presented with the latest annual report of the Public Service Commission. It was agreed between the two parties that, in accordance with its usual practice, the NAO would seek the views of the Commission on the contents of the draft report on the recruitment process, prior to the publication of the audit report.

Meetings with other persons

The Commission and the Principal Permanent Secretary met on several occasions during the year to discuss particular issues concerning the Administration and other business of the Commission. Important matters frequently discussed during these meetings concerned the selection process for headship positions and lateral moves in these positions, changes to organisational structures and responsibilities, and amendments to the PSC Regulations and the Public Service Management Code.

As envisaged by the Public Service Commission Regulations, 1960, the Commission also held consultations on a regular basis with Permanent Secretaries, Heads of Departments and selection boards whenever this was considered necessary. This was done on 22 occasions during 2011 through *ad hoc* meetings with the Commission or the Chairman.

The first Secretary to the Commission

In last year's annual report, it was reported that the Chairman, Paul A Attard, the Executive Secretary, Charles Polidano, and the Assistant Director (Support Services), Mario Tabone, had paid a visit to Mr Henry Miller, who had been the first Secretary of the Commission. This visit was made on the occasion of the fiftieth anniversary since the institution of the Public Service Commission.



Recently, the Commission received the sad news that Mr Miller passed away peacefully at the Holy Family Home for the Elderly in Naxxar, at the venerable age of 103. Mr Miller had served as Secretary to the Public Service Commission from 5th August 1960 to 24th March 1969 - nine very eventful years that set solid foundations for the Commission's policies, procedures and regulations.

Appendix 1:

Biographies of the Chairman and Members of the Public Service Commission

Mr Paul A Attard

Chairman, Public Service Commission (appointed on 12 June 2010)

Paul A Attard is a former public officer. During his long career he occupied various posts in different areas in the Ministry of Education until in 2000 he was appointed Permanent Secretary. In 2003 Mr Attard was appointed Policy Advisor to the Ministry. In 2006 he became President of the Board of Governors of the Malta College of Arts, Science and Technology. He is a university graduate in educational administration and management. He wrote several analytical reports and published papers on education in Malta and in small states and represented Malta in several Council of Europe and European Union meetings. For several years, he produced and presented programmes both on radio and television.

Dr Jeannette Laferla

Deputy Chairperson, Public Service Commission (appointed on 27 July 2009)

Dr Laferla, née Saliba, graduated LL.D. from the University of Malta in 1975 and started practising the notarial profession in 1976, being the first lady notary in Malta. In 1978 she married Dr John Laferla, now deceased, and has a son. Dr Laferla had previously served as a member of the Public Service Commission between 1988 and 1993.

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).

Ms Mary Vella

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

Ms Vella retired from the Public Service in 2003 following a career in education that included service as Teacher, Head of School, Assistant Director, and, between 1997 and 2003, as Director, Curriculum Management. Ms Vella holds a BA (Hons) degree.

Mr Tonio Farrugia

Member, Public Service Commission (appointed on 27 July 2009)

Mr Farrugia retired from Public Service in 2004 after a long career in the Department of Social Services. During his term in the Department, he served in various sections, ending his career as Assistant Director. Before joining the Department of Social Services, he served also in the Education Department.

Appendix 2:

Public Service Commission Chairmen

Mr Leslie Harold Gorsuch CBE

05.08.1960 - 31.10.1963

Judge William D Harding CBE, KM, BLitt, LL.D

05.11.1963 - 04.11.1971

Dr George Zammit BA, BA (Hons) Lond, BD (Rome), LL.D

05.11.1971 - 31.10.1977

Dr Charles Cassar MD, MRCGP, PhC, KM, CStJ

20.01.1978 - 19.01.1980

Mr Carmel Giuliano

20.01.1980 - 31.12.1981

Mr Godfrey Craig

12.01.1982 - 25.02.1984

Mr Maurice J V Bonello

01.04.1984 - 08.08.1986

Mr Paul V Attard

01.09.1986 - 11.08.1987

Dr Albert G Camilleri BA, LL.D

12.08.1987 - 11.08.1992

Prof Edwin Borg Costanzi BSc, BE&A, A&CE, MA (Oxon)

12.08.1992 - 11.05.1996

Mr Anthony Galdes MOM, BA (Hons)(Econ), FCIB

12.05.1996 - 28.02.1997

Mr Joseph J M Curmi MPA, DPA, FIFD

12.05.1997 - 11.06.2003

Mr Alfred Fiorini Lowell

12.06.2003 - 11.06.2010

Mr Paul A Attard Dip Educ (Admin & Mgt)

12.06.2010 -

Appendix 3:

Secretaries to the Public Service Commission

Mr H Miller, Secretary

05.08.1960 - 24.03.1969

Mr G Soler, Secretary

07.02.1969 - 08.03.1973

Mr A Piccinino, Acting Secretary

09.03.1973 - 30.11.1973

Mr C Vella, Acting Secretary

01.12.1973 - 21.09.1975

Mr P Vassallo Cachia, Secretary

22.09.1975 - 09.09.1983*

Mr P V Attard, Secretary

01.01.1984 - 16.09.1985

Mr R V Mifsud, Secretary

23.12.1985 - 31.12.1988

Mr N Scicluna, Secretary

05.01.1989 - 26.11.1993

Mr J Bonello, Acting Secretary

27.11.1993 - 15.10.1995

Mr G Saliba, Acting Secretary

16.10.1995 - 03.12.1995

Mr J Bonello, Acting Secretary

04.12.1995 - 02.05.1996

Mr N Worley, Acting Secretary

03.05.1996 - 18.02.1999

Mr N Worley, Secretary

19.02.1999 - 12.04.2001

Mr R Saliba, Acting Secretary

13.04.2001 - 20.06.2001

Mr R Saliba, Secretary

21.06.2001 - 09.01.2004

Mr P Sammut, Secretary/Executive Secretary

10.01.2004 - 16.04.2010

Mr C Polidano, Executive Secretary

17.04.2010 -

* *In the absence of an officially appointed Secretary or Acting Secretary to the Commission, Mr J Bonello performed the duties of Secretary, PSC, from September to December 1983.*

Appendix 4:

Office of the Public Service Commission

(i) Staff complement

Staff in post as on 31st December 2011	
Category	No of employees in post
Senior management	Executive Secretary and Two Assistant Directors
Research and support staff	One Officer in Grade 5 and One Research Officer
Administrative staff	Two Principals and one Asst. Principal
Executive staff	Two Executive Officers
Clerical staff	One Senior Clerks and five Clerks
Messengerial staff	One Messenger
Total	17

(ii) Commission's expenditure

Expenditure for the year 2011	
Item	€
Emoluments of the Chairman, Deputy Chairperson and Members of the Commission	70,097
Emoluments of the public officers attached to the Commission's staff	293,832
Social security contributions	23,572
Operational and maintenance expenses	33,197
Total	420,698

Appendix 5:

Comparative Analysis of Selection Processes in the Public Service

Action	Accountability for Action ⁽¹⁾	Average Number of Days from Preceding Action											
		1993/1994	2001/2002	2003/2004	2005	2006	2007	2008	2009	2010	2011		
1	Request for PSC authority to issue call for applications ⁽²⁾	0	0	0	0	0	0	0	0	0	0	0	0
2	Request for approval of selection board/criteria ^{(2),(3)}	46.52	5.68	15.66	6.04	12.54	2.70	2.80	0.07	0.44	0.13	0.44	0.13
3	Verification of call for applications ⁽²⁾	39.8	52.84	36.9	69.31	56.33	33.18	54.55	53.64	28.79	45.83	28.79	45.83
4	Clarification/s sought by PSC	8.26	4.02	3.8	0	0	0	0	0	0.05	0	0.05	0
5	Response by Head of Department to PSC queries ⁽²⁾	24	9.56	8.44	0	0	0	0	0	0.57	0	0.57	0
6	PSC approval of issue of call/selection board/criteria ⁽⁴⁾	49.2	18.9	7.74	6.13	6.07	7.70	8.45	7.33	6.13	5.49	6.13	5.49
7	Publication of call for applications	7.22	12.72	7.78	8.63	6.56	7.48	9.55	20.28	5.59	6.39	5.59	6.39
8	Closing date for submission of applications	25.94	26.2	22.8	21.94	23.17	23.08	21.40	22.35	22.68	23.01	22.35	23.01
9	Holding of interviews	100.6	60.1	53	58.63	59.54	51.42	82.07	54.93	54.48	56.73	54.48	56.73
10	Submission of report by selection board ⁽²⁾	20.58	9.5	14.24	10.52	18.02	11.92	15.49	12.79	13.65	14.29	12.79	14.29
11	Recommendation by Head of Department ⁽²⁾	15.78	17.72	12.62	19	15.07	14.50	15.27	10.01	10.81	12.61	10.01	12.61
12	Verification of vacancy ⁽²⁾	8.24	9.98	4.94	5.54	9.13	6.96	11.96	3.80	4.01	3.51	3.80	4.01
13	Clarification/s sought by PSC	2.9	2.58	0.76	0.22	0.30	1.40	0.59	0.64	0.47	0.59	0.64	0.47
14	Response to PSC queries ⁽²⁾	6.82	9.56	2.42	1.22	4.17	0.90	3.13	2.55	1.27	3.73	2.55	3.73
15	Recommendation by PSC	16.54	18.3	6.6	6.06	6.81	8.94	6.36	8.25	9.12	6.65	8.25	9.12
16	Prime Minister's signature	7	7.74	7.58	7.72	14.33	13.60	8.12	7.23	7.89	10.71	7.23	10.71
Total Duration of Selection Process		379	265	205	221	232	182	236	203	166	190	203	166
		54	38	29	32	33	26	34	29	24	27	29	24
		weeks	weeks	weeks	weeks	weeks	weeks	weeks	weeks	weeks	weeks	weeks	weeks

(1) Key: HD - Head of Department; MPO/PAHRO - Management and Personnel Office, or Public Administration HR Office from 2010; PSC - Public Service Commission; SB - selection board.

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

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

(4) Action 6 above includes Actions 5, 9 and 11 of 1993/1994 calls.

(5) In effect, in a number of instances, queries were addressed to Head of Department.

Appendix 6:

Public Calls for Applications

(i) Calls for applications advertised in the Government Gazette – Total 148

Office of the Prime Minister

1. Part-Time Pharmacist, Armed Forces of Malta
2. Printer, Government Printing Press
3. Case Officer (State Aid), Office of the Permanent Secretary
4. Technical Attaché (Research, Development and Innovation), Permanent Representation of Malta to the EU
5. Technical Attaché (Environment), Permanent Representation of Malta to the EU
6. Projects Manager (Managing Authority), Planning and Priorities Coordination Department
7. Projects Manager (EU Funds), Planning and Priorities Coordination Department
8. Head (Operational Programme), Planning and Priorities Coordination Department
9. Senior Manager (EU Funds)
10. Chief Information Officer in the Malta Public Service
11. ICT Governance Officer, Malta Public Service
12. ICT Applications Officer, Malta Public Service
13. Management Information Systems Officer, Malta Public Service
14. EU Fund Officer, Malta Public Service

Ministry of Foreign Affairs

1. Second Secretary in the Diplomatic Service of the Government of Malta
2. Technical Attaché (EU Institutions), Permanent Representation of Malta to the EU
3. Research Officer (Legal), Permanent Representation of Malta to the EU

Ministry for Gozo

1. Senior Manager, Institute of Tourism Studies (Gozo)
2. Butcher, Directorate for Projects and Development (Veterinary Services)
3. Senior Project Administrator, ECO Gozo Regional Development Directorate

Ministry for Infrastructure, Transport and Communications

1. Senior Manager, National Identity Management Office, Land and Public Registry
2. Senior Project Administrator

Ministry of Education, Employment and the Family

1. Project Administrator (ERDF Grant Scheme for Childcare Facilities), Department for Social Welfare Standards
2. Project Administrator (ERDF Grant Scheme for Childcare Facilities), Department for Social Welfare Standards
3. College Prefect of Discipline, Directorate for Educational Services
4. Inclusive and Special Education Specialist, Directorate for Educational Services
5. Kindergarten Assistant II (KGA II), Directorate for Educational Services
6. Speech Therapist with Student Services, Directorate for Educational Services
7. Library Assistant in the School Library Service of Student Services, Directorate for Educational Services
8. Educational Psychologist, Directorate for Educational Services
9. Clinical Psychologist, Directorate for Educational Services
10. Counsellor, Directorate for Educational Services
11. Social Support Worker, Directorate for Educational Services
12. Resource Worker, Directorate for Educational Services
13. Head of School, Directorate for Educational Services
14. Supply Learning Support Assistant, Directorate for Educational Services
15. Head of Resource Centre, Directorate for Educational Services
16. Youth Worker, Directorate for Educational Services
17. Kindergarten Assistant II, Directorate for Educational Services
18. Learning Support Assistant II, Directorate for Educational Services
19. College Precincts Officer, Directorate for Educational Services
20. Supply Teachers, Directorate for Educational Services
21. Supply Kindergarten Assistants, Directorate for Educational Services
22. Office Assistant (STEPS), Directorate for Lifelong Learning
23. Education Officer, Directorate for Quality and Standards in Education
24. Education Officer, Directorate for Quality and Standards in Education
25. Education Officer, Directorate for Quality and Standards in Education
26. Senior Manager (Administration and Finance), Malta Qualifications Council
27. Senior Manager (Institutional Policy Planning, Monitoring and Evaluation), Office of the Permanent Secretary
28. Manager (Voluntary Organisations), Office of the Permanent Secretary
29. Technical Attaché (Education, Youth and Culture), Permanent Representation of Malta to the EU
30. Project Manager (STEPS)
31. Part-Time Projects Administrator (TICSE)
32. Focal Point on Drugs and Drug Addiction

Ministry for Resources and Rural Affairs

1. Assistant Veterinary Support Officer/Veterinary Support Officer, Agriculture and Fisheries Regulation Department

2. Junior Veterinary Officer/Veterinary Officer, Agriculture and Fisheries Regulation Department
3. Trainee Fisheries Protection Officer, Fisheries Control Directorate, Agriculture and Fisheries Regulation Department
4. Gap II Project Officer, Agriculture and Fisheries Regulation Department
5. Gap II Project Officer (Technical), Agriculture and Fisheries Regulation Department
6. Junior Veterinary Officer/Veterinary Officer, Agriculture and Fisheries Regulation Department
7. Tradesman/Senior Tradesman (Heavy Vehicles), Manufacturing and Services Directorate, Cleansing and Maintenance Department
8. Inspector (Health and Safety), Cleansing and Maintenance Department
9. Project Manager for the Life+ Project - Demonstration of the Feasibility of Electric Vehicles towards Climate Change Mitigation (Demoev), EU Affairs Directorate
10. Senior Fisheries Resource Manager, Fisheries Control Directorate
11. Senior Manager (Rural Development), Managing Authority
12. Senior Manager (IACS), Paying Agency
13. Tradesman/Senior Tradesman (Stone Carver), Restoration Directorate, Project Design and Implementation Department
14. Junior Engineer/Engineer (Electrical), Project Design and Engineering Directorate, Project Design and Implementation Department
15. Project Manager for the Information and Communications Campaign for the Proper Use and Management of Nitrates in Agriculture and Livestock Breeding, Rural Development and Aquaculture Department
16. Administrative Assistant for the Life+ Project - Information and Communications Campaign for the Proper Use and Management of Nitrates in Agriculture and Livestock Breeding, Rural Development and Aquaculture Department
17. Trainer for the Life+ Project - Information and Communications Campaign for the Proper Use and Management of Nitrates in Agriculture and Livestock Breeding, Rural Development and Aquaculture Department
18. Tradesman/Senior Tradesman (Electrician), Wholesale Markets and Fishing Fleet Facilities Directorate
19. Aquaculture Officer, Malta Aquaculture Research Centre
20. Scientific Officer
21. Quality Control Manager (Paying Agency)
22. Principal Pharmacist
23. Principal Scientific Officer
24. Agricultural Officer
25. Junior Legal Officer

Ministry of Finance, the Economy and Investment

1. Economics Officer, Economic Policy Department
2. Economics Officer, Economic Policy Department
3. Senior Finance Manager, Financial Policy and Management Division
4. Junior Legal Officer, Government Property Department

5. ICT and Business Officer, Inland Revenue Department
6. ICT Support Officer, Inland Revenue Department
7. Enforcement Manager (Audits and Compliance), Inland Revenue Department
8. Junior Legal Officer, Inland Revenue Department
9. Technical Attaché (Trade), Permanent Representation of Malta to the EU
10. Research Officer, Permanent Representation of Malta to the EU
11. Project Leader (Public Sector Finance)
12. ICT Support Officer
13. Library Assistant
14. Library Assistant
15. Senior Manager (Small Business Act Implementation Section)
16. Economics Officer

Ministry for Justice and Home Affairs

1. Social Worker, Correctional Services Department
2. Deputy Director, Department of Civil Protection
3. Case Worker, Office of the Refugee Commissioner
4. Information and Communications Technology (ICT) Support Officer
5. Junior Legal Officer
6. Accounting Officer in the Schengen Unit
7. Manager (Policy Development)

Ministry for Health, the Elderly and Community Care

1. Technician (Industrial Electronics), Biomedical Engineering Section
2. Statistician, Health Care Services Standards Directorate, Public Health Regulation Division
3. National EESSI (Electronic Exchange of Social Security Information) Manager, Strategy and Sustainability Division
4. Statistician, Strategy and Sustainability Division
5. Consultant Baromedicine Physician
6. Higher Specialist Trainee (Histopathology), Department of Pathology
7. Clinical Chairperson, Department of Accident and Emergency Services
8. Consultant Psychiatrist with an Interest in Geriatric Psychiatry
9. Basic Specialist Trainee (Psychiatrist)
10. Basic Specialist Trainee (Obstetrics and Gynaecology)
11. Basic Specialist Trainee in Haematology, Department of Pathology
12. Basic Specialist Trainee, Department of Surgery
13. Basic Specialist Trainee (Paediatrics)
14. Basic Specialist Trainee (Medicine)
15. Basic Specialist Trainee (Anaesthesia)
16. Basic Specialist Trainee (Ophthalmology)
17. House Surgeon (Dentistry)
18. Basic Specialist Trainee, Accident and Emergency Department
19. Clinical Chairperson of the Department of Psychiatry
20. Medical Officer (General Practice Trainee)
21. Medical Officer (Port Health Services)
22. Scientific Officer

23. Consultant Neurologist
24. Junior Legal Officer
25. Clinical Chairperson, Department of Anaesthesia
26. Scientific Officer (Radiotherapy Physicist)
27. Radiographer (Diagnostic)
28. Paramedic Aide (Occupational Therapy)
29. Physiotherapist
30. House Officer
31. Occupational Therapist
32. Paramedic Aide (Laboratory)
33. Paramedic Aide (Audiology)
34. Paramedic Aide (Ophthalmology)
35. Paramedic Aide (Physiotherapy)
36. Paramedic Aide (Environmental Health)
37. Project Manager for the Project Italia-Malta “Respira”
38. Dental Technologist
39. Dental Surgery Assistant
40. Technician (Audiology Laboratory)
41. Pharmacy Technician
42. Scientific Officer (Public Health Laboratory)
43. Medical Officer (Port Health Services)
44. Scientific Officer (Infection Control)
45. Post-mortem and Mortuary Attendant
46. Medical Laboratory Technologist

**(ii) Call for applications advertised in the
British Medical Journal – Total 1**

1. Locum Consultant Neurosurgeon, Ministry for Health, the Elderly and Community Care

Appendix 7:

Calls for Applications issued through PAHRO Circulars - Total 68

Office of the Prime Minister

1. Audit Technician, Internal Audit and Investigations Department, Cabinet Office
2. Senior Audit Manager, Internal Audit and Investigations Department, Cabinet Office
3. Payroll Governance Manager, Public Administration Human Resources Office
4. Human Resource Policy and Data Manager, Public Administration Human Resources Office
5. Human Resource Policy Manager, Public Administration Human Resources Office
6. Human Resource Support Officer, Public Administration Human Resources Office
7. Expression of interest from amongst public officers/public sector employees to perform duties as Executive Secretary with Local Councils
8. Expression of interest from amongst public officers/public sector employees to perform duties as Executive Secretary with Local Councils

Ministry of Foreign Affairs

1. Principal Security Officer

Ministry for Gozo

1. Deputy Registrar, Court of Magistrates (Gozo)
2. Deputy Nursing Officer (Gozo General Hospital), Directorate of Customer Services
3. Head, Care Centre, at the Santa Marta Centre (Adult Training Centre), Directorate of Customer Services
4. Tradesman/Senior Tradesman (Electrical Fitter), Works Branch, Directorate for Projects and Development

Ministry for Infrastructure, Transport and Communications

1. Assistant Land Registrar, Land Registry

Ministry of Education, Employment and the Family

1. Senior Social Worker, Directorate for Educational Services

Ministry for Resources and Rural Affairs

1. Senior Fisheries Protection Officer, Fisheries Control Directorate, Agriculture and Fisheries Regulation Department
2. Senior Operative (Agriculture) Group IV, Agriculture Directorate
3. Supervisor (Cleansing), Cleansing Directorate, Cleansing and Maintenance Department
4. Technical Officer (Carpentry), Manufacturing and Services Directorate
5. Tradesman/Senior Tradesman (Panel Beater/Sprayer), Manufacturing and Services Directorate, Cleansing and Maintenance Department
6. Senior Technical Officer, Parks and Initiatives Directorate
7. Operative (Public Cleansing) Group III, Parks and Initiatives Directorate
8. Assistant Technical Officer, Parks and Initiatives Directorate
9. Supervisor, Parks and Initiatives Directorate
10. Applications Coordinator, Paying Agency
11. Principal Agricultural Officer, Plant Health Directorate
12. Chief Architect and Civil Engineer, Project Implementation Directorate, Project Design and Implementation Department
13. Chief Architect and Civil Engineer, Restoration Directorate, Project Design and Implementation Department
14. Technical Officer (Draughtsman), Project Design and Engineering Directorate, Project Design and Implementation Department
15. Senior Architect and Civil Engineer, Restoration Directorate, Project Design and Implementation Department
16. Manager (Naturalment Malti), Rural Development and Aquaculture Department
17. Manager (Animal Welfare), Animal Welfare Promotion and Services Directorate, Rural Development and Aquaculture Department
18. Operations Manager, Fishmarket, Hardstanding Facility and Slipways Repairs and Upkeep Services, Wholesale Markets and Fishing Fleet Facilities Directorate
19. Agricultural Foreman
20. Security Guard
21. Operative (Group III)
22. Senior Operative (Gardening Works) Group IV
23. Senior Agricultural Officer
24. Agricultural Foreman
25. Senior Operative (Rubble Wall Builder) Group IV
26. Operative (Farm) Group III, Department of Agriculture

Ministry of Finance, the Economy and Investment

1. Systems Analyst, VAT Department
2. Economics Analyst, Economic Policy Department
3. Assistant Technical Officer (Transport), Customs Department
4. Manager (Small Business Act Implementation Section)
5. Programme Manager (Budget)
6. Finance Manager
7. Senior Financial Analyst
8. Financial Analyst

Ministry for Justice and Home Affairs

1. Assistant Head, Aviation Security
2. Deputy Registrar, Courts of Justice
3. Court Messenger, Courts of Justice

Ministry for Health, the Elderly and Community Care

1. Senior Technical Officer (Environmental Health), Public Health Regulation Directorate
2. Assistant Technical Officer (Renal Unit)
3. Senior Pharmacy Technician, Pharmacy of Your Choice Directorate
4. Procurement Manager
5. Specialist Position of Urology Nurse (Theatre)
6. Specialist Position of Orthopaedics Nurse (Theatre)
7. Operations Manager (Hospital Waste and Estate Management)
8. Senior Operative (Plasterer and Painter) Group IV
9. Operative (Drainage Worker) Group III
10. Technical Officer (Electronics), Biomedical Engineering Section
11. Higher Specialist Trainee (Haematology), Department of Medicine and Pathology
12. Higher Specialist Trainee (Dermatology), Department of Dermatology and Venereology
13. Quality Assurance Administrator, National Blood Transfusion Service
14. Technical Officer (Electronics), Biomedical Engineering Section
15. Midwifery Officer
16. Deputy Nursing Officer

Appendix 8:

Departmental Calls for Applications

(i) Calls for applications advertised through departmental circulars - total 12

Ministry of Foreign Affairs

1. First Counsellor

Ministry of Education, Employment and the Family

1. Assistant Head of School (Primary), Directorate for Educational Services
2. Assistant Head of School (Resource Centre), Directorate for Educational Services
3. Head of Department (Primary - Assessment), Directorate for Quality and Standards in Education
4. Head of Department (Primary), Directorate for Quality and Standards in Education
5. Head of Department (various subjects/groups of subjects), Directorate for Quality and Standards in Education

Ministry of Finance, the Economy and Investment

1. Chief Inspector of Customs, Customs Department

Ministry for Justice and Home Affairs

1. Chief Marshal, Courts of Justice
2. Usher, Courts of Justice
3. Marshal, Courts of Justice
4. Senior Marshal, Courts of Justice
5. Senior Probation Officer, Correctional Services Department

(ii) Calls for applications issued by ministries for the filling of Assistant Director positions under authority delegated by PSC - total 61

Office of the Prime Minister

1. Assistant Director (Financial Management), Armed Forces of Malta
2. Assistant Director (Cabinet Office), Cabinet Office
3. Assistant Director (Training and Development), Centre for Development, Research and Training

4. Assistant Director (Operations), Corporate Services Directorate
5. Assistant Director (Finance and Administration), Tourism and Culture, Corporate Services Directorate
6. Assistant Director (Defence Matters), Defence Matters Directorate
7. Assistant Director (Environmental Affairs - Public Administration), Office of the Principal Permanent Secretary
8. Assistant Director (Public Service Commission), Office of the Public Service Commission
9. Assistant Director (Programme Implementation), Operations and Programme Implementation Directorate
10. Assistant Director (Office of the Director General, PAHRO), Public Administration Human Resources Office
11. Assistant Director (Discipline), Employee Relations Directorate, Public Administration Human Resources Office
12. Assistant Director (Conditions of Service), Employee Relations Directorate, Public Administration Human Resources Office
13. Assistant Director (Departmental Grades), Resourcing Directorate, Public Administration Human Resources Office
14. Assistant Director (Public Sector), Resourcing Directorate, Public Administration Human Resources Office
15. Assistant Director (Data Management and Development), HR Systems & Data Management Directorate, Public Administration Human Resources Office

Ministry of Foreign Affairs

1. Assistant Director (European General Affairs and Economic Cooperation), European General Affairs and Economic Cooperation
2. Assistant Director (Financial Management), Financial Management Directorate
3. Assistant Director (External Relations and Mediterranean Affairs), External Relations and Mediterranean Affairs Directorate
4. Assistant Director (Human Resources and Support Services)
5. Assistant Director (Citizenship and Expatriate Affairs), Citizenship and Expatriate Affairs Department

Ministry for Gozo

1. Assistant Director (Direct Labour and Utilities), Projects and Development Directorate
2. Assistant Director (EU Affairs), EU Affairs Directorate

Ministry for Infrastructure, Transport and Communications

1. Assistant Director (Corporate Services), Corporate Services Directorate
2. Assistant Director (EU Affairs), EU Affairs Directorate
3. Assistant Director (Administration), Office of the Permanent Secretary
4. Assistant Director (Policy Development), Office of the Permanent Secretary
5. Assistant Director (Programme Implementation), Programme Implementation Directorate

6. Assistant Director (Programme Implementation), Programme Implementation Directorate
7. Assistant Director (Programme Implementation), Programme Implementation Directorate
8. Assistant Director (Identity Management), Passport and Civil Registration, Land and Public Registry Division

Ministry of Education, Employment and the Family

1. Assistant Director (Scholarships), Lifelong Learning Directorate

Ministry for Resources and Rural Affairs

1. Assistant Director (Operations), Office of the Permanent Secretary
2. Assistant Director (Fisheries Control), Fisheries Control Directorate, Agriculture and Fisheries Regulation Department
3. Assistant Director (Fisheries Control), Fisheries Control Directorate, Agriculture and Fisheries Regulation Department
4. Assistant Director (Contracts and Procurement), Financial Management Directorate

Ministry of Finance, the Economy and Investment

1. Assistant Director (Office of the Commissioner of Inland Revenue), Inland Revenue Department
2. Assistant Director (Capital Expenditure), Budget Office
3. Assistant Director (Information and Support), Economic Policy Department
4. Assistant Director (Recurrent Expenditure), Budget Affairs Division
5. Assistant Director (Financial Policy Development and Analysis), Financial Policy and Management Division
6. Assistant Director (Office of the Director General), VAT Department
7. Assistant Director (Landing and Releasing), Customs Department
8. Assistant Director (Finance), Customs Department
9. Assistant Director (Contracts), Government Property Department

Ministry for Justice and Home Affairs

1. Assistant Director, Office of the Permanent Secretary
2. Assistant Director (Finance and Office Management), Strategy and Support Division
3. Assistant Director (EU Affairs), EU Affairs Directorate
4. Assistant Director (Finance and Administration), Police Department
5. Assistant Director (Finance and Human Resources and Administration), Correctional Services
6. Assistant Director (Human Resources), Courts of Justice
7. Assistant Director (Finance), Courts of Justice
8. Assistant Director (Finance), Courts of Justice
9. Assistant Director (Finance), Courts of Justice

Ministry for Health, the Elderly and Community Care

1. Assistant Director (Industrial and Employment Relations), Human Resources and Administration Directorate
2. Assistant Director (Industrial and Employment Relations), Human Resources and Administration Directorate
3. Assistant Director (Occupational Health and Safety), Human Resources and Administration Directorate
4. Assistant Director (Occupational Health and Safety), Human Resources and Administration Directorate
5. Assistant Director (Office of the Director General), Public Health Regulation Department
6. Assistant Director (Health Care Services), Health Care Services Division
7. Assistant Director (Entitlement Policy), Healthcare Funding Directorate
8. Assistant Director (Administration), Primary Health Care Directorate

Appendix 9 (a):

Representations to the Commission

No	Related Post	Department	Nature of Representations	Commission's Decision
1	Staff Nurse	Health	Claimed that other foreign persons had been employed after being interviewed on Skype whilst complainant was not given this opportunity. Complainant was interviewed with a subsequent group.	Following clarification from the Health Division, the Commission agreed that complainant had had a responsibility to inform the Selection Board of her impending departure from Malta and that in the circumstances, the Selection Board had acted reasonably, bearing in mind the need to conclude the selection process as soon as possible in view of the prevailing shortage of nurses.
2	Supply Teacher (Music)	Directorate for Educational Services	Claimed that she had submitted an application in November 2010 and had been waiting to be called for an interview. On 8 February 2011 she had received a letter from the Education Division informing her that she was to resubmit her application.	Following a request for clarification, the Commission informed complainant that the call issued on 21 December 2010 had superseded previous calls for applications and therefore her previous application was no longer valid. The Directorate for Educational Services had written to applicants under the previous call, as a matter of courtesy, to ensure that they were aware of the new call for applications. The new call provided for a first round of interviews to be held for applicants who had applied by 14 January 2011 with additional interviews to be held subsequently as the need arose. No such interviews had yet been held since there were currently no vacancies in the subject.
3	Procurement Manager	Health	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that applicant was eligible .

No	Related Post	Department	Nature of Representations	Commission's Decision
4 5	Senior Technical Officer	Parks and Initiatives Directorate	Complained that they could not apply as they were qualified to level 3 and not level 4 as required in the call. Previous calls for the same post had permitted candidates to apply if they had a level 3 qualification. They claimed disadvantage compared to others with identical qualifications who had been appointed to the post	The Commission noted that previous calls for applications referred to levels 3 and 4 of the National Vocational Qualifications Framework (NVQF), but this had been officially superseded by the Malta Qualifications Framework (MQF). MQF levels 4 and 5, as required in the most recent call, were equivalent to NVQF levels 3 and 4. Hence the eligibility requirements had not actually changed. Candidates were advised to ensure that they were qualified at level 3 in terms of the current MQF.
6	Kindergarten Assistant II	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that applicant was eligible .
7	Kindergarten Assistant II	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that applicant was eligible .
8	Kindergarten Assistant II	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that applicant was eligible .
9	Designate Consultant Surgeon leading to the post of Consultant Surgeon with special interest in hepato pancreato biliary surgery	Ministry for Health, the Elderly and Community Care	Medical Association of Malta (MAM) requested the Commission to investigate: whether the successful candidate satisfied the call for applications, whether the Selection Board had overlooked the fact that the second placed candidate had undergone years of specialist training abroad, why two candidates who were in possession of specialist registration and had more than 5 years' experience had failed, and the possibility of gender bias.	Following investigation the Commission informed the President of MAM of its findings and gave him the opportunity to reply, raising any additional points, before the Commission made a definitive ruling on the case. Subsequently, the selection result was annulled .
10	Principal Agricultural Officer	Agricultural Directorate, Ministry for Resources and Rural Affairs	Complainant placed third in the result. Two vacancies were filled, however, one of them still performed duties in Gozo. Complainant believed that he was entitled to fill the post.	The Commission informed complainant that postings were the prerogative of the administration and, as such, did not fall within the competence of the Commission.

No	Related Post	Department	Nature of Representations	Commission's Decision
11	Kindergarten Assistant II	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	Since complainant was not a public officer, the provisions in the memorandum of understanding concerning the assimilation of serving Kindergarten Assistants in the grade of Kindergarten Assistant II did not apply to her.
12	Property Registration Officer	Land and Public Registry Department	Complainant explained that he was next in line for appointment and requested to know what rights he had regarding the said position since the validity of the result was due to lapse shortly.	The Commission informed complainant that it was the prerogative of the administration to determine what vacancies existed in the Public Service and whether such vacancies were to be filled.
13	Executive Secretary, Local Councils	Local Government Department	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
14	Counsellor	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
15	Supply Teacher (Design and Technology and Engineering Drawing/Computer Aided Design)	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
16	Deputy Director	Department of Civil Protection	Complainant requested to be allowed to apply for the post since he considered that he had the necessary experience for the post.	Complainant was informed that exceptions could not be made to the eligibility requirements in a call for applications.
17	Assistant Head of School (Primary)	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
18	Assistant Head of School (Primary)	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
19	Consultant (Obstetrics and Gynaecology)	Ministry for Health, the Elderly and Community Care	Appeal against decision by the Selection Board that complainant was ineligible. Complainant maintained that failure to recognise certificates of completion of training from, or specialist registration in, another EU member state, would be in violation of EU law.	Provided complainant held a specialist qualification which was listed in part 1b of the second schedule of the Health Care Professions Act, he was not to be considered ineligible.

No	Related Post	Department	Nature of Representations	Commission's Decision
20	Assistant Head of School (Resource Centre)	Directorate for Educational Services	An applicant for the post informed the Commission that she had resigned from the post of Education Officer on the basis of humanitarian grounds due to serious work related issues which had negatively impacted her health and family. Complainant stated that due to this incident, as well as other incidents of victimisation in her regard, she had reason to believe that the Board members appointed by the Commission could have a conflict of interest when dealing with her application. Complainant requested the Commission to intervene so that her application would be treated with fairness and impartiality.	The Commission referred the case to the Director General, Directorate for Educational Services with a request to make enquiries into the circumstances of the case. If, for the sake of unequivocal fairness and impartiality, she thought it advisable that the composition of the Board should be changed, she was to advise the Commission accordingly, and to nominate substitutes. Subsequently, the Commission approved changes in the composition of the Selection Board as proposed by DES, although the changes were for unrelated reasons.
21	Teacher (Accounts and/or Business Studies)	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
22	Teacher (Physics and/or Integrated Science)	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
23	Teacher (PSD)	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
24	Teacher (Art)	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
25	Nursing Officer	Ministry for Health, the Elderly and Community Care	Complainant was informed that she was ineligible. She later received a letter requesting her to attend an interview and to prepare a PowerPoint presentation and some handouts. When she went for her interview, she was informed that she was not eligible and that the second letter had been a mistake. Requested the Commission to reconsider her application.	The Commission agreed that complainant was ineligible but it was a matter of regret that she had been the victim of an error on the part of the Selection Board. Complainant was informed accordingly. The Commission also requested the Selection Board to formally apologise to complainant, copying the letter to the Commission and to Director General (Health Care Services).

No	Related Post	Department	Nature of Representations	Commission's Decision
26	Teacher (English)	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
27	Teacher (Mathematics)	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
28	Teacher (Economics and/or Business Studies)	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
29	Assistant Technical Officer	Parks and Initiatives Directorate, MRRA	Appeal against decision by the Selection Board that complainant was ineligible for the post of Assistant Technical Officer, in spite of the fact that he had been considered eligible for the higher post of Senior Technical Officer.	The Commission decided that complainant was ineligible. Eligibility requirements for the two posts were different.
30	Youth Worker	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.
31	Teacher (Primary)	Directorate for Educational Services	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that applicant was eligible .
32	Assistant Director (Scholarships)	Lifelong Learning Directorate	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that applicant was eligible .
33	Designate Consultant Surgeon leading to Consultant Surgeon with special interest in upper gastrointestinal surgery	Ministry for Health, the Elderly and Community Care	Appeal against decision by the Selection Board that complainant was ineligible. His application for specialist registration which he had submitted in 2009, a year before publication of the call for applications, had not been processed by the Specialist Accreditation Committee.	The Commission decided that complainant should not suffer the consequences of an administrative lapse. He was therefore not to be disqualified on account of his not being registered as a specialist , but if he were selected for the position, his appointment would be subject to registration in the specialist register of Malta, as required by law.

No	Related Post	Department	Nature of Representations	Commission's Decision
34	Principal Scientific Officer	Ministry for Resources and Rural Affairs	Appeal against decision by the Selection Board that complainant was ineligible.	Selection Board's decision had been based on the fact that candidates did not have five years' service as Scientific Officer. However, the call required 5 years' appropriate practice, which meant the performance of comparable duties regardless of applicants' formal job title and employer. The Selection Board was directed to reassess the complainant's eligibility on this basis.
35	Principal Scientific Officer	Ministry for Resources and Rural Affairs	Appeal against decision by the Selection Board that complainant was ineligible.	Selection Board's decision had been based on the fact that candidates did not have five years' service as Scientific Officer. However, the call required 5 years' appropriate practice, which meant the performance of comparable duties regardless of applicants' formal job title and employer. The Selection Board was directed to reassess the complainant's eligibility on this basis.
36	Second Secretary in the Diplomatic Service	Ministry of Foreign Affairs	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission decided that complainant was ineligible.

No	Related Post	Department	Nature of Representations	Commission's Decision
37	Executive Secretary, Local Councils	Local Government Department	Alleged that the Department for Local Government had included, in the pool from which Executive Secretaries could be selected by Local Councils, officers who had not successfully completed the ad hoc specialised course conducted by the Department for Local Government. Thus a number of ineligible officers had been appointed as Acting Executive Secretaries on the recommendation of the PSC. Requested the Commission to investigate this irregularity.	The Commission informed the Director (Local Government) that it was unacceptable for the Department to unilaterally depart from the terms of a call for expressions of interest which had been approved for publication by the PSC. Although the Department had been facing a shortage of candidates for the post of Executive Secretary, it should have approached the Commission with a view to seeking authorisation for a departure from the terms of the call for expressions of interest. The Commission would have been willing to consider authorising such a departure, provided that candidates were informed about it in an open and transparent manner. The Commission informed complainant that, while applicants were selected for inclusion in the pool of candidates for positions of Executive Secretary by means of a selection process under the jurisdiction of the Commission, the actual selection of Executive Secretaries from among candidates in the pool was made by Local Councils, and the Commission had no jurisdiction over this particular selection process. The Commission was therefore unable to offer a remedy to the complainant.
38	Deputy Director	Department of Civil Protection	Appeal against decision by the Selection Board that complainant was ineligible.	The Commission saw no grounds to intervene in the selection process. The Commission decided that complainant was ineligible.
39	Head of Department (Primary – Assessment)	Directorate for Quality and Standards in Education	Appeal against decision by the Selection Board that complainant was ineligible.	There was no justification to alter the conclusion of the Selection Board that complainant was not eligible.

No	Related Post	Department	Nature of Representations	Commission's Decision
40	Assistant Head of School (Primary – Gozo)	Directorate for Educational Services	Complained that an extension of the validity of the result had been obtained which permitted the appointment of the 2nd placed candidate. Complainant had placed 3rd.	The vacancy had arisen prior to the expiry of the result and did not involve the extension of the validity period.
41	Consultant (Obstetrics and Gynaecology)	Ministry for Health, the Elderly and Community Care	Selection process had been at a standstill. Requested the Commission's intervention so that this selection process be resumed.	The Commission had considered complex legal issues relating to the eligibility requirements of the call for applications. These issues had now been resolved and the Selection Board was directed to proceed with the interviews.
42 43	Head of Department (Primary – Assessment) and (Primary – Literacy)	Directorate for Quality and Standards in Education	Two complainants requested the Commission to publish the result for Head of Department (Primary – Literacy) before the result of Head of Department (Primary – Assessment).	The Commission replied to complainants pointing out that as public officers, they should have been fully aware that the Commission would never consider manipulating the publication date of results to suit the needs of individuals.

Appendix 9 (b):

Petitions relating to Published Results of Selection Processes

No	Related Post	Department	Complaint	Commission's Decision
1	Assistant Principal Physiotherapist	Ministry for Health, the Elderly and Community Care	Complained about the marks awarded in the interview.	No valid reason to justify a change in the result of the selection process.
2	Senior Manager (Managing Authority)	Planning and Priorities Coordination Division, Office of the Prime Minister	Complained about the marks awarded to her by the Selection Board.	The Commission agreed that an additional five marks be awarded to candidate, raising her total mark above the pass mark. The Commission approved the revised result.
3 4 5	Assistant Directors (Permanent Secretary's Office), (Back Office Unit) and (Salaries and Pensions)	Ministry for Gozo	Complained about the marks awarded to him. Felt that he had been discriminated against.	No valid reason to justify a change in the result of the selection process.
6	Teacher (Physical Education)	Directorate for Educational Services	Complained about the marks awarded in the interview.	No valid reason to justify a change in the result of the selection process.
7	Assistant Principal Medical Laboratory Technologist	Ministry of Health, the Elderly and Community Care	Complained that marks were deducted for her absence due to parental leave. Claimed discrimination.	No marks had been deducted.
8 9 10	Director (EU Affairs), (Tourism) and (ECO Gozo Regional Development)	Ministry for Gozo	Complained that she never received the result indicating the marks she had been awarded for the positions in question. She only received an e-mail stating that the positions had been filled.	At headship level the selection process did not generate quantified results in terms of marks. However, discussion was underway concerning the possibility of further strengthening the selection process for positions at this level.
11	Part-Time Children's Advocate	Courts of Justice	Complained about the marks awarded and placing in the order of merit. Alleged that the first-placed candidate was already employed on a full-time basis.	No valid reason to justify a change in the result of the selection process.
12	Correctional Manager (Care and Reintegration)	Corradino Correctional Facility	Complained about placing and the marks awarded in the interview.	No valid reason to justify a change in the result of the selection process.
13	Assistant Technical Officer (Quality Assurance and CE Marking)	Cleansing and Maintenance Department	Complained that he had not been appointed and claimed that he was the most qualified and experienced candidate.	No valid reason to justify a change in the result of the selection process.

No	Related Post	Department	Complaint	Commission's Decision
14	Assistant Director (Environment Affairs), Office of the Permanent Secretary	Ministry for Resources and Rural Affairs	Complained that the selection process was vitiated since the Selection Board had not been composed in accordance with paragraph 1.3.6.11 of the Public Service Management Code.	The Commission's approval for the composition of the Selection Board had been obtained beforehand. Petition not upheld.
15	Assistant Manager (Airport Security)	Ministry for Justice and Home Affairs	Complained about the marks awarded in the interview.	No valid reason to justify a change in the result of the selection process.
16	Executive Director, Institute of Tourism Studies	Ministry of Education, Employment and the Family	Complained about the marks awarded in the interview; alleged that the first-placed candidate was complainant's junior and had fewer qualifications.	No valid reason to justify a change in the result of the selection process.
17	Head of Department (Religion)	Directorate for Educational Services	Complained about the marks awarded in the interview.	Petition could not be considered as it was presented very late after the selection process had been closed.
18	House Officer	Ministry for Health, the Elderly and Community Care	Complained that undue importance had been given to additional qualifications.	Although the criterion "Qualifications" carried 100 marks out of a total of 500, part of this had been allocated to prizes or bursaries, publications, and conference presentations, so that extra qualifications actually carried only 55 out of 500 marks.
19	Assistant Principal Medical Laboratory Technologist	Ministry of Health, the Elderly and Community Care	Asked why she obtained only 10 marks for her BSc degree out of a total of 15 marks. Asked also about the number of vacancies available.	Petitioner informed that the maximum of 15 marks was awarded to candidates who had obtained their BSc after obtaining a diploma in Medical Laboratory Science. The number of posts to be filled was not within the jurisdiction of the Commission.
20	Assistant Director	Directorate for Quality and Standards in Education	Complained about the marks awarded under "motivation/commitment".	The Selection Board proposed the award of 3 additional marks. The Commission approved a revised result on this basis.
21	Assistant Director	Directorate for Quality and Standards in Education	Complained about the marks awarded in the interview.	No valid reason to justify a change in the result of the selection process.

No	Related Post	Department	Complaint	Commission's Decision
22	Assistant Foreman	Parks and Initiatives Directorate, Ministry for Resources and Rural Affairs	Complained that he had not been awarded enough marks for his diploma and for his experience.	Petitioner was informed that marks for his diploma were awarded in accordance with the relevant sub-criteria. Furthermore 7 marks were awarded for experience in restoration, notwithstanding the fact that this area had no relation to that of parks, afforestation and rural conservation.
23	College Prefect of Discipline	Directorate for Educational Services	Complained about the marks awarded in the interview.	No valid reason to justify a change in the result of the selection process.
24	Designate Consultant Surgeon leading to Consultant Surgeon with special interest in hepato pancreato biliary surgery	Ministry for Health, the Elderly and Community Care	Complained about the result and requested the Commission to investigate.	Result annulled. Selection process to be repeated by a new Selection Board.
25	Designate Consultant Surgeon leading to Consultant Surgeon with special interest in hepato pancreato biliary surgery	Ministry for Health, the Elderly and Community Care	Complained about the result and requested the Commission to investigate.	Result annulled. Selection process to be repeated by a new Selection Board.
26	Designate Consultant Surgeon leading to Consultant Surgeon with special interest in hepato pancreato biliary surgery	Ministry for Health, the Elderly and Community Care	Complained about the result and requested the Commission to investigate.	Result annulled. Selection process to be repeated by a new Selection Board.
27	Nursing Officer (Gozo General Hospital)	Department of Customer Services, Ministry for Gozo	Complained about the marks awarded in the interview.	No valid reason to justify a change in the result of the selection process.
28	Nursing Officer (Gozo General Hospital)	Department of Customer Services, Ministry for Gozo	Complained about the marks awarded in the interview.	No valid reason to justify a change in the result of the selection process.
29	Foreman	Parks and Initiatives Directorate, Ministry for Resources and Rural Affairs	Complained about the marks awarded in the interview. Claimed that he had more qualifications than candidates who placed ahead of him in the order of merit.	No valid reasons to alter the result of the selection process.
30	Consultant Surgeon with an interest in lower gastro-intestinal surgery	Ministry for Health, the Elderly and Community Care	Complained about the result and claimed that the first-placed candidate was ineligible.	Result annulled. Selection process to be repeated by a new Selection Board.

No	Related Post	Department	Complaint	Commission's Decision
31	Consultant Surgeon with an interest in lower gastro-intestinal surgery	Ministry for Health, the Elderly and Community Care	Complained about the result and claimed that the first-placed candidate was ineligible.	Result annulled. Selection process to be repeated by a new Selection Board.
32	Consultant Surgeon with an interest in lower gastro-intestinal surgery	Ministry for Health, the Elderly and Community Care	Complained about the result and claimed that the first-placed candidate was ineligible.	Result annulled. Selection process to be repeated by a new Selection Board.
33	Assistant Head of School (Secondary – Malta)	Directorate for Educational Services	Petitioner referred to the revised result and requested to know whether she had been awarded the correct marks for experience.	The Selection Board was requested to submit a revised result including corrections as necessary.
34	ICT Contracts and Services Officer	Malta Public Service	Complained about the marks awarded in the interview.	No marks could be awarded for complainant's degree as this was the qualification which rendered him eligible to apply for the position.
35	Manager (Medical Imaging Services)	Ministry for Health, the Elderly and Community Care	Complained about the marks awarded in the interview.	The Commission decided not to consider this fresh petition since it was received following the expiry of the ten-day period allowed for the submission of petitions.
36	Assistant Director (Fisheries Control)	Fisheries Control Directorate, MRRA	Complained about the marks awarded in the interview. Complainant stated that he had obtained better marks in a selection process for another Assistant Directorship position.	No valid reasons to justify a change in the result. Marks awarded under different selection processes could not be compared.
37	Scientific Officer	Ministry for Gozo	Complained about the marks awarded in the interview.	No valid reason to justify a change in the result of the selection process.
38	EU Fund Officer	Malta Public Service	Complained about the marks awarded in the interview. Complainant pointed out also that he had failed the interview by 5 marks.	No valid reason to justify a change in the result of the selection process.
39	Staff Nurse	Ministry for Health, the Elderly and Community Care	Complained about the marks awarded in the interview for qualifications.	No valid reason to justify a change in the result of the selection process.
40	Learning Support Assistant I	Directorate for Educational Services	Complained about the marks awarded in the interview for qualifications.	No valid reason to justify a change in the result of the selection process.
41	Senior Technical Officer (Electrical)	Manufacturing and Services Directorate	Complained about the marks awarded in the interview.	No valid reason to justify a change in the result of the selection process.

No	Related Post	Department	Complaint	Commission's Decision
42	Assistant Principal Physiotherapist	Ministry for Health, the Elderly and Community Care	Complained that he had been awarded just a pass mark for related knowledge although he had been involved in the setting up of the Hand Unit. Complained also that a candidate who had placed in a higher position had not worked for years.	This petition could not be considered because it was submitted following the expiry of the ten-day period allowed for the submission of petitions.
43	Manager Medical Imaging Services	Ministry for Health, the Elderly and Community Care	Objected to the marks he had been given for relevant experience and qualifications.	No valid reasons to justify a change in the result of the selection process.
44	Manager Medical Imaging Services	Ministry for Health, the Elderly and Community Care	Objected to the marks he had been given for all the criteria.	No valid reasons to justify a change in the result of the selection process.
45	Consultant Surgeon (Gozo General Hospital)	Customer Services Directorate	Complainant considered the result as unfair in his regard and requested the Commission to consider the matter.	The petition was not admissible since it was not submitted within the timeframe allowed following the publication of the original result, and it did not emanate from and was not directly tied to the change registered in the revised result.
46	Assistant Director (Procurement and Administration)	Directorate for Corporate Services, MEEF	Complained about the marks awarded in the interview.	No valid reasons to justify a change in the result of the selection process.
47	Learning Support Assistant I	Directorate for Educational Services	Complained about the marks awarded in the interview.	No valid reasons to justify a change in the result of the selection process.
48	ICT Support Officer	Inland Revenue Department	Complained about the marks awarded in the interview.	The Selection Board proposed the award of an additional 8 marks to the complainant for ICT work experience. The Commission agreed. A revised result was approved and published.
49	ICT Support Officer	Inland Revenue Department	Complained about the marks awarded in the interview.	No valid reasons why the marks allocated to the complainant were to be changed.
50	Research Analyst	House of Representatives	Contested the result explaining why she should have been engaged in the position.	No cause to question the conclusions of the Selection Board.
51	Consultant Paediatrician with an interest in community paediatric services and community disability	Ministry for Health, the Elderly and Community Care	Complained about the marks awarded in the interview. Claimed that he possessed qualifications in community paediatrics whereas the other candidate did not possess such qualifications.	No reason to justify a change in the result of the selection process.

No	Related Post	Department	Complaint	Commission's Decision
52	ICT Support Officer	Ministry of Finance, the Economy and Investment	Complained about the marks awarded in the interview.	The Selection Board had incorrectly awarded him 8 marks for Higher Diploma/qualification in ICT at MQF level 5. Total marks needed to be adjusted and brought down from 136 to 128 marks. The Commission approved the revised result.
53	Assistant Technical Officer	Parks and Initiatives Directorate, MRRA	Complained about the marks awarded in the interview for Experience and Qualifications.	No valid reasons to justify a change in the result of the selection process.
54	Teacher (Physical Education)	Directorate for Educational Services	Complained about the marks awarded in the interview for teaching practice.	No valid reasons to justify a change in the result of the selection process.
55	Teacher (Religion)	Directorate for Educational Services	Complained about the marks awarded for qualifications.	No valid reasons to justify a change in the result of the selection process.
56	Teacher (Primary)	Directorate for Educational Services	Complained about the marks awarded in the interview.	No valid reasons to justify a change in the result of the selection process.
57	Deputy Registrar	Courts of Justice	Complained about the marks awarded for experience and qualifications.	No valid reasons to justify a change in the result of the selection process.
58	Deputy Registrar	Courts of Justice	Complained that the result was unjust as he claimed that a number of candidates who had placed before him had less qualifications and some had not even passed the competitive examination for the grade of Executive Officer.	No valid reasons to justify a change in the result of the selection process.
59	Deputy Registrar	Courts of Justice	Complained that her twelve years' experience as a Deputy Registrar and her qualifications had not been considered.	No valid reasons to justify a change in the result of the selection process.
60	Urology Nurse (Theatre)	Ministry for Health, the Elderly and Community Care	Complained that he had not been awarded any marks for qualifications.	Qualifications required for eligibility were not awarded any marks. No valid reason to justify a change in the result of the selection process.
61	Orthopaedics Nurse (Theatre)	Ministry for Health, the Elderly and Community Care	Complained about the marks awarded in the interview.	No valid reasons to justify a change in the result of the selection process.
62	Orthopaedics Nurse (Theatre)	Ministry for Health, the Elderly and Community Care	Questioned the method of the allocation of marks adopted in the interviews.	No valid reasons to justify a change in the result of the selection process.
63	Teacher (History)	Directorate for Educational Services	Complained about the marks awarded for qualifications.	No valid reasons to justify a change in the result of the selection process.

No	Related Post	Department	Complaint	Commission's Decision
64	Teacher (Physical Education)	Directorate for Educational Services	Complained about the marks awarded for her teaching practice.	No valid reasons to justify a change in the result of the selection process.
65	Teacher (History)	Directorate for Educational Services	Complained about the marks awarded for Relevant Experience, Personal Qualities and Professional Knowledge.	No valid reasons to justify a change in the result of the selection process.
66	Assistant Head of School (Secondary – Malta)	Directorate for Educational Services	Complained about the marks awarded for teaching experience.	No valid reasons to justify a change in the result of the selection process.
67	Teacher ICT/ Computing	Directorate for Educational Services	Complained that he had not been awarded marks for additional qualifications.	No valid reasons to justify a change in the result of the selection process.
68	Teacher PSD and ICT	Directorate for Educational Services	Requested a clarification why the mark awarded for the criterion “relevant experience” differed between the two subjects.	It was at the discretion of the Selection Board to determine what was relevant to the particular post. What mattered was that each separate Board assigned marks to all eligible applicants on a consistent basis.
69	Assistant Head of School (Primary)	Directorate for Educational Services	Requested to know on what criteria marks for experience had been awarded.	Petitioner was provided with the information requested.
70	Assistant Head of School (Primary)	Directorate for Educational Services	Complained that candidates who placed before her did not possess the same level of qualifications that she had.	No valid reasons to justify a change in the result of the selection process.
71	Manager (Animal Welfare)	Animal Welfare, Promotion and Services Directorate, MRRRA	Claimed that he had more experience than the first-placed candidate. He also questioned the eligibility of the candidate.	No valid reasons to justify a change in the result of the selection process.
72	Senior Manager (EU Funds)	Office of the Prime Minister	Complained about the marks awarded for “related professional knowledge”, “leadership qualities” and “qualifications”. Requested revision of marks.	No valid reasons to justify a change in the result of the selection process.
73	Nursing Officer	Ministry for Health, the Elderly and Community Care	Complained about the marks awarded in the interview.	No valid reasons to justify a change in the result of the selection process.
74	Nursing Officer	Ministry for Health, the Elderly and Community Care	Complained about the marks awarded in the interview.	No valid reasons to justify a change in the result of the selection process.
75	Nursing Officer	Ministry for Health, the Elderly and Community Care	Requested clarification as to why he had had not been given any marks for Qualifications.	No valid reasons to justify a change in the result of the selection process.

No	Related Post	Department	Complaint	Commission's Decision
76	Nursing Officer	Ministry for Health, the Elderly and Community Care	Alleged that the result reflected a manifest bias against him and that the Chairperson had not been impartial.	No valid reasons to justify a change in the result of the selection process.
77	Nursing Officer	Ministry for Health, the Elderly and Community Care	Complained that she had not been awarded any marks for Qualifications and that other marks were contradictory.	Petition could not be considered as it was submitted after the expiry of the ten-day period allowed.
78	Supply Teacher (Music)	Directorate for Educational Services	Complainant was engaged as Supply Teacher of Music. He was later informed that he was ineligible in terms of paragraph 3.1 (b) of the call for applications, which stated that applicants had to be able to communicate in the Maltese and English languages.	It was arranged for the applicant to undergo a language proficiency assessment conducted by an independent professional. As the level of communication demonstrated was considered insufficient, complainant was considered as ineligible. Selection Board was requested to submit a revised report and result.

Appendix 10:

Oral Representations on Disciplinary or Criminal Cases heard by the Commission

No	Grade of officer charged	Present for oral hearing	Regulation
1.	Nursing Aide, Ministry for Health, the Elderly and Community Care	Officer charged, assisted by two Union representatives	Criminal case: representations in terms of Regulation 16 (2)
2.	Assistance and Rescue Officer, Civil Protection Department	Officer charged, assisted by two legal advisers	Criminal case: representations in terms of Regulation 16 (2)
3.	Speech Therapist, Health Care Services Division	Officer charged, assisted by legal adviser	Criminal case: representations in terms of Regulation 16 (2)
4.	Technical Officer, Ministry for Resources and Rural Affairs	Officer charged, assisted by legal adviser	Criminal case: representations in terms of Regulation 16 (2)
5.	Tradesman, Ministry for Resources and Rural Affairs	Officer charged, assisted by legal adviser; two departmental representatives	Discipline: representations in terms of regulation 26 (2) (b)
6.	Police Constable	Officer charged, assisted by legal adviser; two departmental representatives	Discipline: representations in terms of regulation 26 (2) (b)
7.	Police Inspector	Officer charged, assisted by legal adviser; one departmental representative	Discipline: representations in terms of regulation 26 (2) (b)
8.	Labourer, Ministry of Education, Employment and the Family	Officer charged, assisted by legal adviser; three departmental representatives	Discipline: representations in terms of regulation 26 (2) (b)
9.	Custodian and Guide, Ministry of Education, Employment and the Family	Officer charged, assisted by Union representative; three departmental representatives	Discipline: representations in terms of regulation 26 (2) (b)
10.	Teacher, Directorate for Educational Services	Officer charged, assisted by two legal advisers and a Union representative; Chairman, Disciplinary Board; three departmental representatives	Discipline: representations in terms of regulation 26 (2) (b)
11.	Staff Nurse, Ministry for Health, the Elderly and Community Care	Officer charged, unassisted; two departmental representatives	Discipline: representations in terms of regulation 26 (2) (b)
12.	General Hand, Ministry of Education, Employment and the Family	Officer charged, unassisted; Chairman of the Disciplinary Board; three departmental representatives	Discipline: representations in terms of regulation 26 (2) (b)
13.	Principal Health Promotion Officer, Ministry for Health, the Elderly and Community Care	Officer charged, assisted by Union representative; one departmental representative	Discipline: representations in terms of regulation 26 (2) (b)
14.	Medical Officer, Ministry for Health, the Elderly and Community Care	Officer charged, assisted by legal adviser; Chairman of the Disciplinary Board; two departmental representatives	Discipline: representations in terms of regulation 26 (2) (b)
15.	General Hand, Ministry of Education, Employment and the Family	Officer charged, unassisted; three departmental representatives	Discipline: appeal in terms of regulation 30 (6)
16.	General Hand, Directorate for Educational Services	Officer charged, assisted by Union representative; two departmental representatives	Discipline: appeal in terms of regulation 30 (6)

No	Grade of officer charged	Present for oral hearing	Regulation
17.	Clerk, Ministry of Education, Employment and the Family	Officer charged, assisted by legal adviser; Chairman of the Disciplinary Board; three departmental representatives	Discipline: appeal in terms of regulation 30 (6)
18.	Assistant Director, Courts of Justice	Officer charged, unassisted; one departmental representative	Discipline: appeal in terms of regulation 30 (6)

Appendix 11:

Cases involving an Exchange of Correspondence with the Ombudsman

No	Selection Process	Query by Ombudsman	PSC Comments	Final position of Ombudsman	Action by PSC
1.	Chief Inspector of Customs, Customs Department	-	-	Ombudsman informed petitioner that the complaint could not be upheld and that the case was being closed.	The Ombudsman's opinion was noted.
2.	Technician/Senior Technician (Laboratory), Ministry for Resources and Rural Affairs	-	-	Ombudsman informed petitioner that the complaint could not be upheld and that the case was being closed.	While the Ombudsman's opinion was noted, the Commission requested his attention for care to be taken when his Office quoted correspondence from files which were made available to it by the Commission to avoid inadvertent errors in the representation of its views.
3.	College Principal, Directorate for Educational Services	-	-	Ombudsman informed petitioner that the complaint could not be upheld and that the case was being closed.	The Ombudsman's opinion was noted.
4.	Manager, Audiology Services, Ministry for Health, the Elderly and Community Care	-	-	Ombudsman informed petitioner that the complaint could not be upheld and that the case was being closed.	The Ombudsman's opinion was noted.
5.	Executive Director, Institute of Tourism Studies	-	-	Ombudsman informed petitioner that the complaint could not be upheld and that the case was being closed.	The Ombudsman's opinion was noted.

No	Selection Process	Query by Ombudsman	PSC Comments	Final position of Ombudsman	Action by PSC
6.	Marbler, Construction and Maintenance Department, MRRA	In terms of the call for applications, the selected candidate was to be placed in scale 15 on completion of five years' service in the grade and scale 14 on completion of ten years' service in the grade. Complainant was informed that he was not entitled to progression since the classification agreement did not provide for such progression. The matter was referred to the Commission.	The call for applications was in conflict with the relevant classification agreement. However, complainant had applied for the post on the basis of the terms set out in the call for applications which were more favourable.	-	The Commission recommended the progression from scale 15 to scale 14 of complainant as stipulated in the call for applications. PAHRO was requested to take note of the matter and to ensure that future calls for applications reflected the provisions of the relevant classification agreement.
7.	Manager (Medical Imaging Services), Ministry for Health, the Elderly and Community Care	The Ombudsman queried the Commission's refusal to consider one of the documents submitted subsequent to a petition that complainant had submitted earlier.	The Commission informed the Ombudsman that it had considered other communication from the complainant following his original petition but it had agreed that petitioners could not raise fresh issues following the expiry of the ten-day period allowed for petitions.	-	-

