



**ANNUAL REPORT  
2015**

**MALTA**

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## Acronyms

OPM	Office of the Prime Minister
MEDE	Ministry for Education and Employment
PAHRO	Public Administration Human Resources Office
PAA	Public Administration Act
PSC	Public Service Commission
PSMC	Public Service Management Code
RRC	Re-Employment and Re-Instatement Committee
HR	Human Resources
IPSL	Industrial Projects and Services Limited
SSP	Standing Selection Panel



## Abstract

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

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

The report provides a brief description of the main activities of the Commission during the year 2015 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



*Mr Louis P Naudi (Chairman, Public Service Commission)*

During 2015, the Public Service Commission took the decision to review its Disciplinary Regulations. It is recalled that a serious attempt had also been made in 2013 to review these regulations and a complete overhaul had been undertaken. With hindsight the Commission saw that such an undertaking, coupled with the manual outlining the delegation of authority process, would be too much a mouthful for ministries to absorb and implement in an effective and efficient manner. The Commission therefore decided that it would be preferable to review the existing regulations with which, in any case, Heads of Departments were already familiar and, whenever necessary, amend them in the light of decisions which have been taken by the PSC during these last years. A lot of work has since been undertaken in this respect but it is foreseen that more time is needed to effectively consult all the organizations to agree upon all the proposals contained in the draft.

The outstanding feature for the year under review was the authority delegated to Heads of Department by means of an Instrument of Delegation published on the 16 September 2015. This was preceded by the drafting of new Regulations and later the promulgation of Directive Number 9. A Manual explaining in detail the selection and appointment processes under delegated authority in the Public Service was also drawn up by the Commission's senior executives and attached to Directive 9. In order to ensure that Heads of Department were fully conversant with the finesses of the Directive, senior staff from the Commission led by the Executive Secretary, together with PAHRO, organized outreach sessions with staff from each Ministry to explain to them the new selection procedures and the consequential changes.

During the year under review the Commission decided to set up a Compliance Unit intended to reinforce the existing

resources available, as well as making the Commission more of a Regulatory Body. The intention is that petitions and complaints from public officers and other applicants who feel aggrieved by the results of interviewing boards are examined in detail and expediently dealt with. The Commission is satisfied that the quality and output of the recruited officers has enabled it to give a more personalized attention to individual cases.

It also enabled the Commission to devote attention to recommendations from the Administration which it received from Grievances Units, which had been appointed to verify, in detail, complaints lodged by public officers or former public officers who felt aggrieved by decisions which they considered as having affected them in their respective careers. It must be remarked that all cases received by the Commission were drawn up in great detail and each case was substantiated by documentary evidence. In this manner the Commission's evaluation of each individual case was greatly facilitated and made easier to evaluate and conclude.

Other matters dealt with during 2015 by the Commission will be found in the main body of the Report but it would be fitting to end this brief narrative by referring to the Commission's approval of the policy on engagement of dismissed public officers who are granted parole. The Commission embraced this policy, with its own amendments, as it considered that in deserving cases this method would go a long way to integrate people into society when they would otherwise have to face the outside world with the stigma which they carried.

## 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 and autonomous body established under article 109 of the Constitution of Malta. It derives its authority and functions from articles 86, 92, 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 office, the removal of staff from public office, and the exercise of discipline over public officers (or, in other words, Public Service employees).

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 Trade Unions.

The procedures governing these functions are set out in the **Public Service Commission Regulations**, and in the **Disciplinary Procedure in the Public Service Commission Regulations**.

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 Staff of the Commission

### Composition

Article 109 of the Constitution 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 of Malta, acting on the advice given by the Prime Minister after consultation with the Leader of the Opposition.

### Membership

The President of Malta approved the appointment of the current Commission for a term running for three years up to 17 June 2016. A notice to this effect, dated 28 June 2013, was published in the Government Gazette. Table 1 shows the present membership of the Commission.

<b>TABLE 1 - Membership of the Commission as at 31.12.15</b>		
Chairman	Mr Louis P Naudi	(since 18 June 2013)
Deputy Chairman	Mr Salvu Fenech	(since 18 June 2013)
Members	Mr Franco Masini	(since 18 June 2013)
	Mr Vincent Piccinino	(since 18 June 2013)
	Mr Carmel Herrera	(since 18 June 2013)

### Number of meetings held

During the year under review, the Commission held a total of forty-nine (49) meetings during which it dealt with various matters and issues relating to appointments, promotions and discipline, as outlined in more detail in this report.

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### **The Office of the Public Service Commission**

The Commission is served by a small team of dedicated public officers headed by Ms Christine Schembri, Executive Secretary, (Public Service Commission), who is a senior public officer appointed to the position on a performance agreement for three years.

Throughout the year under review, Ms Schembri was assisted by Ms Jacqueline Bonnici, Assistant Director (PSC) and by Ms Angela Portelli, Assistant Director (Support Services).

A list of the previous Secretaries of the Public Service Commission is found in *Appendix 2*, while the staff complement and the total expenditure incurred in the running of the Office of the Public Service Commission for the year 2015 are shown in *Appendix 3*.

### **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 selection processes, promotions, or disciplinary matters that require discussion.

The Commission holds oral hearings in serious disciplinary cases that may lead to dismissal. As laid down in the Disciplinary Regulations, during these hearings, the accused officer and the representative of the department concerned, together with their respective counsel, 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 in disciplinary proceedings that are decided at departmental level. An oral hearing may also be granted by the Commission, at its discretion, before a decision is taken on serious issues like the withholding of progression or the revocation of an appointment.

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Meetings are occasionally 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, or for meetings with the Chairman and key members of staff, to discuss specific departmental or ministry issues related to particular cases or procedures. Their input on matters of interest or concern helps the Commission to understand better the difficulties and the problems faced by the Administration.

### **Reference back by the Prime Minister**

The Prime Minister may, acting in accordance with article 86(1)(a) of the Constitution, refer a recommendation back, once, to the Commission for reconsideration. During 2015 the Commission considered three (3) such referrals. In one case the Commission submitted a modified recommendation and the Prime Minister approved the latter, as required by article 86(1) of the Constitution. With regards to the other two (2) referrals, these were still being considered by the Commission as at 31st December 2015.

### **PSC Website**

The website of the Public Service Commission may be found at <http://www.psc.gov.mt>. The website provides basic information on the Commission's role and functions, its current composition, how the Commission conducts its business, and the organisation of the Office of the Public Service Commission.

Various documents and templates are uploaded on the website periodically, mostly concerning instructions and guidelines issued by the Commission. The current Annual Report, as well as reports for the years 2005 to 2014, can also be viewed and downloaded from the site.

### III. Recruitment and Promotions

#### Functions of the Commission relating to appointments

The functions of the Commission in relation to appointments during the year 2015 included:

- to note the composition of selection boards nominated by heads of department;
- to approve the participation of non public officers sitting on selection boards;
- to approve selection methods and criteria, as appropriate;
- to give rulings on queries raised by selection boards on such issues as the eligibility of candidates;
- to verify and approve reports submitted by selection boards, and to publish selection results once approved;
- to make, to postpone and to revoke appointments to public offices in Salary Scales 6 to 20;
- to make recommendations to 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 the termination of appointments and performance agreements;
- to make recommendations to the Prime Minister regarding the extension of probationary periods and performance agreements;
- to withhold the progression of public officers in Salary Scales 6 to 20 from one scale to the next within the same grade;
- 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, promotions and appointments within the Public Service are made in an equitable, transparent, and impartial manner, free from patronage and discrimination, and based on the principle of merit.



## Calls for applications

During 2015, 608 calls for applications were issued for the filling of vacancies in the Public Service. Out of these calls, 179 were for calls open to applicants from outside the Public Service and were therefore advertised in the Government Gazette, while four (4) advertisements were published abroad: one by the European Society for Radiotherapy and Oncology, one by the Association for Neurological Sciences and two (2) in the Journal of the European Federation of Organisations for Medical Physics. 321 calls were restricted to serving public officers/public sector employees and were published through service-wide/wider public sector circulars issued by line ministries or departments. The remaining 104 calls, relating to positions of Assistant Director, were advertised through circulars issued by the respective ministries.

## Comparative figures concerning calls for applications for the last five years - Table 2

Table 2 - Calls for applications 2011 - 2015						
		2011	2012	2013	2014	2015
Open calls	Government Gazette	148	190	171	245	179
	British Medical Journal	1	-	1	2	-
	European Society for Radiotherapy and Oncology	-	-	-	-	1
	Association for Neurological Sciences	-	-	-	-	1
	Journal of the European Federation of Organisations for Medical Physics	-	-	-	1	2
	International Journal of Audiology	-	1	-	-	-
Internal calls	Service-wide/Wider Public Sector circulars	67	209	253	272	312
	Departmental circulars	12	10	17	20	9
Calls for Assistant Directors	Service-wide circulars	62	134	42	101	104
<b>Totals</b>		<b>290</b>	<b>544</b>	<b>484</b>	<b>641</b>	<b>608</b>

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### Selection Processes

During 2015, selection processes for posts/positions in the Public Service attracted a total of 13,287 applicants. The selection boards interviewed 7,564 candidates and the remaining 5,723 applicants were either found to be ineligible, or withdrew their application, or else failed to appear before the interviewing board.

### Recommendations and advice to the Prime Minister

The Commission addressed 54 recommendations to the Prime Minister relating to appointments resulting from calls issued during the year under review in terms of article 110 of the Constitution. These recommendations covered a total of 81 appointments. A statistical breakdown of these recommendations is given in Table 3 below:

Table 3 - Recommendations for Appointments in respect of calls issued in 2015				
		Males	Females	Total
1	Appointments following public calls for applications published in the Government Gazette	13	19	32
2	Appointments following service-wide/wider Public Sector calls for applications	16	13	29
3	Appointments of Assistant Directors following service-wide calls for applications	11	9	20
	<b>Totals</b>	<b>40</b>	<b>41</b>	<b>81</b>

Furthermore, the Commission made a total of 363 recommendations relating to appointments as a result of selection processes initiated prior to 2015, granting of indefinite status, re-designation, extension of performance agreements, re-employment/reinstatement, renewal of contracts of employment, postponement of appointments, backdating of appointments, retroactive appointments, reversion to previous grade, termination of performance agreements on appointment to other positions, revocation

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of appointments and withholding of promotions. These recommendations related to 566 officers.

On thirteen (13) occasions throughout the year, the Commission gave advice to the Prime Minister in terms of articles 92(3), 92(4) and 111(1) of the Constitution in connection with appointments of Permanent Secretaries, Heads or Acting Heads of Department, and Resident Ambassadors abroad.

### Notifications

The Commission issued 264 notifications relating to appointments as a result of calls for applications issued during the year under review. These notifications covered a total of 1,074 appointments. A statistical breakdown of these notifications is in Table 4 below:

Table 4 - Appointments through notification in respect of calls issued in 2015				
		Males	Females	Total
1	Appointments following public calls for applications published in the Government Gazette	238	486	724
2	Appointments following service-wide/wider public sector calls for applications	133	189	322
3	Appointments of Assistant Directors following service-wide calls for applications	10	3	13
4	Appointments following internal departmental calls for applications (departmental circulars)	13	2	15
<b>Totals</b>		<b>394</b>	<b>680</b>	<b>1074</b>

In addition, the Commission issued 720 notifications relating to appointments following selection processes initiated in previous years, extension of performance agreements, the grant of indefinite status, re-employment/reinstatement, assimilation/promotions in terms of classification agreements, postponement/backdating of appointment, engagement/renewal of contracts, revocation of appointments and withholding of progression/promotion. These notifications concerned 3,180 officers.

## **Representations made to the Commission**

During 2015, the Commission considered a total of thirty-two (32) written representations made directly to the PSC on matters regarding selection processes relating to appointments in the Public Service, as provided for by the Public Service Commission Regulations. Most of the representations received were lodged by applicants prior to the publication of the selection results, and these mainly involved complaints by applicants who were declared ineligible by selection boards after applying for a particular vacancy.

In two (2) instances, applicants were found to be eligible. Since the results had already been published, the Commission directed the Selection Board to interview the applicants at the earliest and to submit a revised result for the Commission's approval prior to re-publication.

One of these applicants claimed that when s/he called at the office of the PSC to view the published result, neither the name nor the ID number had featured on the result sheet for the post s/he had applied for. Upon enquiring with staff at the office of the PSC, applicant was informed that, according to the report submitted by the Selection Board, s/he had been considered ineligible. Applicant sustained that there must have been a mistake since s/he had even sat for the interview. When queried, the Selection Board confirmed that applicant had in fact attended the interview and, through an oversight, the applicant was left out when transferring data from the assessment sheet to the result sheet. Consequently, both the assessment sheet and the result sheet were amended and a revised result was published.

The second case related to a complaint lodged by a candidate who had submitted all the necessary documentation as was required in terms of a particular call for applications and was called by the Selection Board for the interview. During the interview the Selection Board noticed that, according to the GP 47 attached to the application, applicant was in a salary scale higher than the

salary of the advertised post. When the Chairperson asked the applicant whether s/he would be willing to work at a lower salary scale if s/he were to be appointed to the post in question, the applicant voluntarily withdrew the application. After the publication of the result, it transpired that the officer had been furnished with a GP47 form which contained incorrect information as to the salary scale the applicant actually held. On the basis of this administrative deficiency, the Commission ruled that the applicant concerned was to be given another opportunity .

With regard to the remaining twenty-nine (29) representations, ineligibility was upheld. One of these representations came from an applicant who had been considered ineligible for a particular post as s/he could not speak Maltese fluently as required in the call for applications. The applicant complained that the call should never have included such a requirement. The Commission requested the views of the Permanent Secretary of the respective ministry, who confirmed that this particular post required direct contact with the public and, as such, fluency in the Maltese language was mandatory. In the light of this information the Commission confirmed the Selection Board's decision when considering the applicant ineligible.

### **Petitions relating to selection results**

The Commission received a total of one hundred and thirty-one (131) petitions in respect of the results obtained by individuals who believed that the result of the selection process was not a fair reflection of their merits.

Ten (10) of these petitions were not made within the ten (10) working days allowed for the submission of petitions in respect of appointments and promotions, in terms of paragraph 1.1.17.5 of the Public Service Management Code (PSMC). These petitions were thus not considered by the Commission. With regards to posts or positions in Salary Scale 6 or below, the ten (10) working days start to count from the date on which a notification appears on the website of the Public Service Commission, stating that the result has been issued. However, in the case of vacancies in Scale 5 or higher, where results are sent

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directly to applicants by registered post, the ten working days start to count from the date on which the result is received by the applicant concerned.

The Commission therefore considered one hundred and twenty-one (121) petitions.

In twelve (12) cases, the Commission upheld the petitions and directed that revised results were to be drawn up and re-published.

Another request made by the head of a unit, in respect of two employees who had failed to secure their tenure as officers in the applicable scale equal to the salary they enjoyed on a personal basis, due to the fact that originally their level of responsibility had not been considered equal to the requirements attached to the relevant scale, was also upheld.

The Commission noted that, throughout their tenure, both employees had been entrusted with highly specialised operations, which were comparable to those carried out by an officer in an equivalent salary scale. The Commission had also considered that the two employees could not be discriminated against, given that their colleagues, who were entrusted with duties that carried out the same level of responsibilities, had already secured their promotion as Officers in Scale. For these reasons, the Commission agreed that the two officers be tenured as Officers in Scale in the applicable salary scale.

Following the publication of two (2) separate selection processes, the Commission ruled that two (2) applicants should have been considered ineligible and were to be disqualified from the selection process in terms of regulation 23(1)(b) of the PSC Regulations.

One (1) investigation led to the revocation of appointment in terms of Regulation 23(2)(d) of the PSC Regulations, after applicant had been found *ab initio* ineligible.

Of the remaining seventy-seven (77) complaints, the original result was maintained. Twenty-seven (27) complaints, which were not finalized by the end of the year under review, were brought forward to the subsequent year for further consideration by the Commission.

## IV. Discipline

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

In terms of the Disciplinary Procedure in the Public Service Commission Regulations, 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 temporary suspension 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. Temporary suspension is imposed where it is considered that, because of the nature of the charges against the officer, he or she should not continue to attend work until the case against him or her is concluded. Temporary suspension is not a disciplinary penalty, but a precautionary measure in the public interest, which does not imply any judgement as to the guilt or innocence of the officer facing charges. If the officer is acquitted of the charges, he or she is reimbursed the half-salary withheld during his or her suspension. If, on the other hand, the officer is found guilty, then the half-salary withheld is forfeited.
- The imposition of disciplinary penalties against public officers who are found guilty of a criminal offence by the Court.
- 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

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them could, if proved, lead to dismissal. After such cases are heard by a disciplinary board, they 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 even if it upholds the guilty verdict reached by the disciplinary board.

- Appeals from public officers against decisions taken by heads of department under delegated authority, in terms of regulation 30(1) of the Disciplinary Regulations.
- Representations by heads of department against the findings of departmental disciplinary boards, in terms of Regulation 32.

During 2015, the Commission delivered several rulings on issues relating to disciplinary proceedings conducted under delegated authority or other proceedings held directly before the Commission, as provided by the Disciplinary Regulations.



## Disciplinary cases involving criminal proceedings against public officers

In terms of article 110 of the Constitution, during 2015 the Commission made the following recommendations to the Prime Minister in respect of fifty-three (53) cases involving criminal proceedings against public officers:

<b>Table 5 - Recommendations concerning criminal cases</b>	
Temporary suspension pending outcome of Criminal Court Cases	20
Lifting of temporary suspension "without prejudice" before conclusion of proceedings	6
<b>PSC action following a "guilty" verdict by the Courts:</b>	
• Dismissal	1
• Dismissal and forfeiture of salary	1
• Warning of dismissal and definite suspension without pay (1, 2, 3, or 5 days)	4
• Warning of dismissal	6
• Warning of dismissal and forfeiture of salary	6
• Definite suspension without pay (1 day)	2
<b>Restitution of rights following a "not-guilty" verdict by the Courts</b>	
• Refund of salary withheld	7
<b>Total</b>	<b>53</b>

The two (2) cases involving dismissal as shown in Table 5 include one case 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 must be dismissed from such employment.

In thirteen (13) other cases involving criminal proceedings, the employees concerned were acquitted. These employees had not been temporarily suspended 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.

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### Oral Hearings

The Disciplinary Procedure in the Public Service Commission Regulations (S.L. Const.03) provides that, in its consideration of a case under certain circumstances, the Commission may give the opportunity of an oral hearing to the parties involved.

Regulation 16(2), which deals with disciplinary action after conviction on a criminal charge, stipulates that, if the Commission considers that the appropriate penalty following conviction on a criminal charge shall be dismissal, or a warning of dismissal, or the forfeiture of any salary, in whole or in part, withheld during any period of suspension or temporary suspension, it shall inform the officer of his/her right to make written representations to the Commission within a period of ten (10) working days from such notification. The Commission shall consider such representations and it may give the officer the opportunity of an oral hearing before making a recommendation to the Prime Minister.

Whenever the head of department notifies an officer charged of a serious offence that, if proved, the charge could potentially lead to dismissal, the Commission shall give an opportunity to the officer charged and to the head of department to make oral representations before it, as required by Regulation 26(2)(b).

Regulation 30(6), in Part VI of the Disciplinary Procedure in the Public Service Commission Regulations, entitled *Appeals from Disciplinary Decisions and Review of Past Recommendations of the Commission*, also requires that, in giving consideration to an appeal under this regulation, the Commission shall give an opportunity to the head of department and to the appellant to make oral representations.

One other instance where the Commission is required to give the opportunity of an oral hearing is when a head of department considers that an officer should be retired from the service in the public interest, in terms of Regulation 35 of the Disciplinary Procedure in the Public Service Commission Regulations.

On its own initiative, the Commission also gives the

opportunity of an oral hearing when it is informed by the head of department of the intention to terminate an officer's contract of engagement under the proviso of Regulation 34. Although the Commission is not bound by the Disciplinary Regulations to hold an oral hearing in such cases, it considers that such good practice upholds the principle of natural justice. In 2015, the Commission convened thirteen (13) oral hearings.

### **Serious disciplinary cases with the possibility of dismissal**

During 2015, the Commission considered eight (8) disciplinary cases which were referred to it in terms of Regulation 26(2) of the Disciplinary Procedure in the Public Service Commission Regulations, where the officers involved in these cases had been notified that the charges, if proven, could lead to their dismissal.

After giving both 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:

<b>Table 6 - Penalties recommended by the Commission in serious disciplinary cases</b>	
Dismissal	1
Warning of dismissal valid for one year	1
Suspension without pay for one day	2
Suspension without pay for one day and warning of dismissal valid for one year	1
Suspension without pay for four days and warning of dismissal valid for two years	1
Downgrading of charge from serious to minor and given a written warning	1
Warning of dismissal valid for 5 years	1
<b>Total</b>	<b>8</b>

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By the end of the year, one (1) case was still under review. Apart from the eight (8) cases mentioned above, there was one (1) case where the Commission recommended that the disciplinary proceedings be invalidated on account of gross disregard of procedures. The Commission also recommended that the penalty imposed by the head of department be revoked.

In nine (9) other cases the Commission recommended the temporary suspension of the officers concerned.

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

The fifty-three (53) criminal cases referred to in Table 5 (on page 15) include twenty (20) cases where the Commission recommended the temporary suspension of the officers concerned; six (6) cases where the Commission recommended the lifting of temporary suspension pending any potential penalties that may appropriately be imposed; and seven (7) cases where the officers concerned were not found guilty. The remaining criminal cases were all served with a penalty as indicated in Table 5. Thus, taking into account the eight (8) disciplinary cases listed in Table 6, the total number of cases in which officers were served with a penalty by the Commission amounted to twenty-eight (28).

### 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 required to submit regularly to the Commission, and which contained information about all disciplinary measures taken by them against public officers in terms of the Disciplinary Regulations.

The following table gives a breakdown of disciplinary action taken by heads of department during 2015:

Table 7 - Disciplinary action by heads of department		
Outcome:	2015	
Warning of dismissal and suspension from duty without pay	5	
Suspension from duty without pay	13	
Written warning (Regulation 20)	33	
Written warning (Regulation 19)	442	
<i>Subtotal: cases served with a penalty</i>	<b>493</b>	<b>83.56%</b>
Discontinued cases	22	
Officer charged resigned while case still pending (regulation 37)	1	
Verdict of 'not guilty'	27	
<i>Subtotal: cases not served with a penalty</i>	<b>50</b>	<b>8.47%</b>
<i>Pending Cases:</i>	<b>47</b>	<b>7.97%</b>
<b>Total</b>	<b>590</b>	

## **V. Selected Issues and Rulings by the Commission**

### **A. Policy Matters and issues relating to recruitment and appointments:**

#### **Delegation of the recruitment/selection process in the Public Service**

In April 2015, the working party entrusted with the drafting of the Manual on the Recruitment and Selection Procedure under Delegated Authority, as well as with the drafting of the revised Public Service Commission Regulations (2015), had concluded its assignment. The assignment which was submitted for the Commission's consideration and approval included the following:

A draft Instrument of Delegation:

- i. A draft Directive on the Delegation of Authority to make Appointments in the Malta Public Service – (later known as Directive 9 and which was to be issued by the Principal Permanent Secretary in terms of the Public Administration Act (PAA) and in consultation with the Public Service Commission);
- ii. A draft Manual on the recruitment and selection procedure under delegated authority in the Malta Public Service – (which was to be considered as the Government's official document which regularized the delegated recruitment and selection procedure in the Malta Public Service);
- iii. Draft Public Service Commission Regulations (General Provisions) 2015;
- iv. Draft Public Service Commission Regulations (Appointments) 2015.

The Commission recommended that the Directive, under which the recruitment/selection process was to be delegated to Permanent Secretaries, was to become effective from a future date so as to allow enough time for Permanent Secretaries to gear up for the new venture, and for the Commission to organize outreach programmes in

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conjunction with the Public Administration HR Office (PAHRO) to HR Managers.

In September 2015, the Commission considered, in terms of the provisions of article 110(1) of the Constitution, two Instruments of Delegation and submitted its recommendation to the Prime Minister for his approval.

The first Instrument of Delegation dealt with the delegation of power to Permanent Secretaries to:

- i. approve, make and postpone appointments, following a competitive selection process, on the basis of a valid order of merit, and
- ii. renew fixed-term appointments for a second or subsequent terms, provided that the initial appointment was made on the basis of a competitive selection process.

The second Instrument of Delegation provided for the revocation of the Instrument of Delegation approved on 28 May 2013, regarding the partial delegation of powers from the Prime Minister to the Commission, and its replacement by a new instrument which:

- i. excluded any reference to revocation of appointment;
- ii. included provisions for the delegation, from the Prime Minister to the Commission, of the authority to withhold increments and promotions after a number of years' satisfactory service; and
- iii. extended the applicability of the instrument from "public officers in Scales 6 - 20" to "public offices under article 110 of the Constitution, other than headship positions".

The second Instrument of Delegation was to be applied concurrently with the first one and could be exercised by the Commission whenever the first Instrument could not be applied (e.g. when an appointment was made not as a result of competitive selection).

The proposed Directive that was to be issued by the Principal Permanent Secretary, in the light of the Public Service Commission (Appointments) Regulations and the first Instrument of Delegation referred to above, and the

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Manual attached to it, were approved by the Commission on 22 April 2015.

The Commission considered also the new PSC (Appointments) Regulations, and the PSC (General) Regulations, which were cleared by the Attorney General and translated to Maltese. Both sets of regulations were approved and forwarded to the Prime Minister for eventual publishing.

### **Implementation of the delegation of appointments – outreach programmes**

Before Directive 9 was published, it was considered necessary to hold an information session for all Directors responsible for Corporate Services and Human Resources Managers within all the ministries. For this reason, a forum was held on 4 September 2015. At its introduction, the Principal Permanent Secretary explained that, in order to continue to add value to, and expedite the recruitment/selection process, the remaining stages of the recruitment process were likewise being delegated to heads of department. The stages included the approval of the selection criteria and weightings, the approval of the selection board report and publication of the result, and the approval and making of the respective appointment/s without the need, on the part of the head of department, to submit a recommendation to the Commission. A presentation, highlighting salient points from the Manual followed. It was delivered to the attendees by Mr Leo Bonnici, Director, and Ms Marika Caruana, Officer in Grade 5, from the Resourcing Directorate, PAHRO, and by Ms Christine Schembri, Executive Secretary, and Ms Jacqueline Bonnici, Assistant Director (PSC), from the Office of the PSC.

Executive Secretary PSC was also asked to attend the Permanent Secretaries' Policy Forum, held on the 11 September 2015, where she delivered a presentation, co-jointly with Director (Resourcing) PAHRO, on the *"Delegation of the remaining stages of the recruitment/selection process"*.

During the transitory period, from the date of issue of Directive 9, issued by the Principal Permanent Secretary



on 18 September 2015, and its effective date of 1 February 2016, the office of the Public Service Commission, in collaboration with the Public Administration Human Resources Office (PAHRO), held a series of training/outreach sessions for all line ministries.

These information sessions were held between November and December 2015 and were co-ordinated and delivered by Ms Jacqueline Bonnici, Assistant Director (PSC) from the Office of the PSC and by Ms Marika Caruana, Officer in Grade 5 from the Resourcing Directorate within PAHRO. These presentations were specifically aimed at officers working in Human Resources/Corporate Services Directorates who were to be directly involved in the implementation of Directive 9. Prior to the training sessions, the attendees were required to get acquainted with the contents of the *“Manual on the Selection and Appointment Process under Delegated Authority in the Malta Public Service”* annexed to Directive 9. The attendees were also expected to hold similar sessions for all those involved in selection processes and the making of appointments in line departments/divisions falling within the remit of their respective ministries and directorates.

Ministries were also advised to carry out in-house information sessions to members forming part of their Ministry’s Standing Selection Panel (SSP), which included retired ex-public officers, so as to get them accustomed with the new procedure which was soon to be adopted.

### **Setting up of a Compliance Unit in the Office of the Public Service Commission**

Aware of the further delegation of the selection process and the bringing into force of certain articles of the Public Administration Act relating to delegation, the Commission considered that it would no longer be involved in any stage of the operational process of selection with all decision making powers shifting to the Heads of Department.

It regarded that this further delegation would determine one of the purposes of the Commission, shifting from that of a verifier to that of after-the-event auditor and

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regulator whilst toning up the Commission's position as an independent judicature of appeals. Investigating selection processes is a central component of the Commission's work and the principal means by which the Commission ensures that selection procedures are held out in keeping with the merit principle.

For this reason, the Commission deemed it momentous to set up a compliance unit in order to act as its technical arm. Amongst other duties, a Compliance Officer is responsible for:

- a) dealing with incoming objections to selection results;
- b) carrying out *ad hoc* investigations and audits of appointments' processes; and
- c) providing the necessary support to the Commission during appeals' hearings on cases brought before it.

In the light of the above, a call for the Position of Compliance Officer (Selection & Recruitment), open for public officers, was issued on 4 June 2015, by means of HR/OPM Circular No. 18/2015. In October 2015, the Commission engaged the first three Compliance Officers on a thirty-six month assignment. The new recruits were given the necessary training so as to get accustomed with the new PSC Regulations and with the Commission's new role as of 1 February 2016.

They also involved themselves in the delivery of presentations whenever they accompanied Ms Jacqueline Bonnici, Assistant Director (PSC), during the outreach training programmes with line ministries.

### **Decentralisation of processes**

In April 2015, the Commission considered a proposal regarding the decentralization of processes.

In consonance with the Administration's commitment towards the simplification of procedures and the reduction of bureaucracy, the Resourcing Directorate within the Public Administration HR Office (PAHRO) had undertaken a review of a number of procedures which,

## Annual Report

until then, pertained to its remit. The objective of this review was to delegate and empower line ministries in resourcing functions as much as possible within clear parameters. The proposed decentralisation suggested that it would be complemented by appropriate training to line Ministries/Departments and followed up by regular monitoring and auditing to ensure compliance with the set parameters.

Certain decentralisation proposals included:

- 1. Progressions of General Service Grades Officers** were no longer to be processed by the Resourcing Directorate, but were to be processed by the ministry/department where the officer was serving. Letters of progression were to be issued by the Director responsible for human resources within the respective ministry/department. This procedure was already being followed in the case of progressions of Departmental Grades.
- 2. Promotion of General Service Grades Officers after a number of years' satisfactory service** was to be, likewise, processed by the respective ministry/department, which was to submit the recommendation for the promotion of the officer/s concerned directly to the Commission for its approval prior to the issue of the letter of appointment.
- 3.** The requirement for the Resourcing Directorate to issue a '**verification**' to the Commission certifying the correctness of the details in the recommendation for **promotion after a number of years' satisfactory service**, both in the case of General Service as well as Departmental Grades, was to be dispensed with.
- 4.** The requirement for the Resourcing Directorate to issue a '**verification**' to the Commission certifying the correctness of the details in recommendations for the **award of indefinite appointment** upon the lapse of the period stipulated in S.L. 452.81 (*Contracts of Service for a Fixed Term Regulations*) was also to be discontinued.

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The Commission agreed with this proposed line of action to delegate the onus of responsibility to line ministries. It recommended that heads of department were to be made aware of their responsibilities and also that they would be held accountable for any misleading or wrong information submitted.

### **Declaration form re conflict of interest and consanguinity/affinity relationship**

In May 2015, the Commission considered a request from the Resourcing Directorate (PAHRO), regarding selection processes for the filling of vacancies in the Public Service, and the need for Selection Board members to sign a Declaration Form (PSC Form No. 6), stating that they were not related to any candidate by consanguinity or affinity to the fourth degree inclusive.

In the light of the provisions of the Civil Unions Act (Cap. 530 of the Laws of Malta), it was considered appropriate that the words reading "Husband/Wife" on the chart establishing the "Consanguinity or Affinity Relationship between Examiner/Interviewer and the Candidate" needed to be amended to read "Spouse/Partner in a Civil Union". In this regard, legal feedback from the Attorney General's Office was sought.

Whilst agreeing to the proposed amendment, the Attorney General's Office had further suggested that point 2 of the Declaration Form was to be amended to read "I am not, and never was, the tutor or curator or guardian of any candidate in terms of the Civil Code". The reason for such a suggestion was to prevent situations where, for example, a candidate would have had a tutor/curator/guardian since birth till the age of eighteen (18) years and then two (2) years later he turned up for an interview. Strictly speaking, with the current wording of the declaration, the interviewer would still qualify to form part of the Selection Board since, at the time of the interview, s/he would not be a tutor/curator/guardian of the candidate. Alternatively, a candidate would have had a tutor/curator/guardian for several years, and five (5) or ten (10) years later s/he would sit for an interview. Although a long time would have passed, the relationship between a person and his/her tutor/curator/guardian would have been a close one during the time it had

subsisted and thus certain bonding would have been created which could still impinge on the overall objective impartiality of the interviewer.

The Commission was in agreement with the views expressed by the Attorney General's Office and approved the amended Declaration regarding Conflict of Interest and the chart explaining the Consanguinity/Affinity Relationship. Both documents were linked to section 2.3 of the *"Manual on the Recruitment and Selection Process under Delegated Authority"*.

**Extension of service-wide calls for applications issued to fill positions in the Public Service to Industrial Projects and Services Limited (IPSL) employees and Public Sector employees who are performing duties in the Public Service**

During the year under review, the Commission approved the extension of service-wide calls for applications issued to fill positions in the Public Service to Industrial Projects and Services Limited (IPSL) employees and Public Sector employees currently performing duties in the Public Service, subject that they were in possession of the stipulated eligibility requisites.

Once appointed, such employees were to only receive the remuneration package attached to the position advertised and, hence, were not to be allowed to retain any other pecuniary benefits associated with their previous employment.

The Commission also approved that IPSL employees were to remain on the books of IPSL during the currency of the appointment in the Public Service given that positions were invariably regulated by a definite period which may not be renewed or may attract an objective reason in terms of S.L. 452.81 not to be converted to indefinite status. However, IPSL employees who attained indefinite status on the basis of the Public Service position were to cease to remain on the books of IPSL.

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Other Public Sector employees performing duties in the Public Service were allowed to retain their employment with their parent entity subject to the entity's consent.

The Commission emphasised that the calls for applications were to specify that in the case of applicants from the IPSL, or other entities from the Public Sector, Selection Boards were to consult with the Director/Manager responsible for human resources of the respective entity, for the purpose of determining the eligibility or otherwise of applicants, when eligibility was based on the level of the position held by the applicant. The Commission ruled that this provision was to be included in all calls for applications extended to IPSL and/or Public Sector employees.

### **Policy on the engagement on temporary basis of dismissed public officers who are granted parole**

Following the enactment of the Restorative Justice Act which came into effect in January 2012, the Government felt the moral obligation and social responsibility to assist and support the rehabilitation of public officers who were dismissed from the Public Service and were subsequently granted parole in terms of this Act. The Act was a big step towards taking the country from a punitive to a restorative justice system by offering prisoners the possibility of reform.

At the beginning of 2015, the Commission considered a draft policy which would provide for the engagement on temporary basis of former public officers who were dismissed from the Public Service after having been sentenced to a term of imprisonment and subsequently granted parole by the Parole Board in terms of the Restorative Justice Act. Applicants would be eligible to be considered under this policy, if the following conditions were satisfied:-

- (i) they were dismissed from the Public Service after they were sentenced to a term of imprisonment, provided that a general perpetual interdiction was not imposed upon them by the Courts; and

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- (ii) they were in possession of a parole licence by the Parole Board, granted in terms of the Restorative Justice Act; and
- (iii) they were found fit (through a medical test) to perform duties assigned to them.

Requests for engagement on temporary basis under this policy would be submitted to the Director General (PAHRO). Such application could be submitted either whilst the applicant is still in prison or after the applicant is granted parole under the Restorative Justice Act. In the former case, applications submitted earlier than the eleventh (11<sup>th</sup>) month of the prison sentence would not be considered. Prospective applicants would be engaged on a temporary basis for the duration of their parole license and would be paid a fixed salary equivalent to the minimum point of the salary scale of their former substantive grade/position, subject to capping to a post pegged to the minimum of salary scale 7 and without being entitled to any increments for the duration of their engagement on temporary basis. Finally, they would be referred to the Employee Support Unit and monitored regularly throughout the term of the temporary employment.

The Commission approved the draft policy, which came into effect on 19 January 2015.

In the light of the introduction of this policy, it was also considered necessary to revise the current norms concerning the re-employment of former public officers who had been dismissed from the Public Service on disciplinary grounds. The draft policy, as revised, would apply to former public officers who had been dismissed from the Public Service either after:

- (i) having been found guilty of a disciplinary offence; or
- (ii) having been found guilty of a criminal offence, including those who had been released from prison after serving a term of imprisonment; and
- (iii) successfully terminated the parole period granted to them in terms of the Restorative Justice Act.



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The draft policy stated that dismissed public officers upon whom a general interdiction had been imposed by the Courts, and those who had been found guilty of wilful homicide or drug trafficking, were excluded from being considered.

Applications were to be considered by the Re-Employment and Re-Instatement Committee (RRC). Applicants who were re-integrated in the Public Service were to be placed in their former grade or in a lower grade within the class or as an Officer in Grade, as determined by the RRC, according to the circumstances of the case. The applicants would be subject to forty-eight (48) months probation and during this time they were to be monitored by the Employee Support Unit. Officers integrated under this policy were not to be assigned duties in places of work considered as 'sensitive' and where there was the possibility that the officer could come in contact with vulnerable groups. If the application was favourably considered, then the Commission would make a recommendation for the re-integration of the applicant.

On 18 March 2015, the Commission signified its concurrence to the draft policy.

In 2015, the Commission considered and recommended one (1) case of re-integration into the Public Service of an ex-public officer who had served a sentence at Corradino Correctional Facilities, had been released on parole, had been temporarily employed with the Public Service and whose definite contract had expired on the date when his parole had come to an end.

### **Grievances' Units**

During 2015, the Public Service Commission upheld and approved twenty-three (23) recommendations presented by the Central Grievances' Unit. Following in-depth investigations, it transpired that the complainants had indeed suffered an injustice in the past.

The Commission recommended the backdating of appointments, retroactive appointments and placements in salary scales on a personal basis, amongst others.



## **B. Issues relating to disciplinary procedure**

### **New Disciplinary Regulations**

It has long been felt that the current Disciplinary Regulations needed to be revised. The last revision took place during the year 1999. For this reason, the Commission appointed a working group led by its Executive Secretary, and having Assistant Director (PSC), Assistant Director, Employee Relationship Management (PAHRO) and HR Policy Manager (PAHRO) as members. The working group met regularly throughout the last half of 2015 and, as the basis of the revision process, the group was guided by the following objectives:

1. addressing important omissions in the existing regulations;
2. making the regulations more user-friendly;
3. simplifying procedures and eliminating unnecessary practices; and
4. maintaining and enhancing the safeguards for the rights of the public officer charged.

It was envisaged that the revision would be concluded in the year to follow.

### **Reduction of categorisation of alleged disciplinary offences**

The Commission considered a case where disciplinary proceedings had been initiated against a public officer in terms of Regulation 20 of the Disciplinary Regulations. The offences allegedly committed were considered to be of a serious nature and could potentially lead to dismissal. The officer had been duly allowed ten (10) working days in order to exculpate himself. The officer had replied to the charge through his trade union.

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After considering the officer's reply, the Head of Department had been of the opinion that the alleged offences were of a serious nature but, if proved, they did not warrant dismissal. The Head of Department had therefore enquired whether at this stage of the proceedings s/he could decrease the categorisation of the charge from serious and leading to dismissal to just serious.

The Commission considered that the principle upon which regulations 20(3)(b) and 26(1)(c) were based should be extended to the case in question, in the sense that the Head of Department should have the possibility to decrease the categorisation of a charge after considering the reply submitted by the officer charged. Thus, it was approved that a head of department should be able to declassify a charge which had been categorised as serious and leading to dismissal to a minor or a serious one, and a charge which had been categorised as serious could be declassified to a minor one. In such cases, the head of department should enter a note in the records of the case specifying the reasons why he had decreased the categorisation of the charge. The approval of the PSC should invariably be sought if the Head of Department decided to change an offence which had originally been categorised as serious and leading to dismissal to a minor or serious one.

The Commission, however, maintained that the head of department should not be allowed to increase the categorisation of a charge, that is, an alleged offence which had been categorised as minor could not be changed to a serious offence.

The Commission considered that, in accordance with regulation 24 of the Disciplinary Regulations, a head of department already had the facility to issue additional charges if grounds for additional charges became evident.

In this light, the Commission agreed that this decision was to be communicated to all heads of department.

## **Rulings by the Commission regarding Disciplinary Procedures**

During its course of work throughout the year under review, the Commission received various queries from disciplinary boards and from officers in charge of Discipline within various departments. It provided advice and clarifications on the interpretation of procedure in respect of the Disciplinary Regulations. The following represent a few of the numerous queries received during 2015:

- a. A query received from a head of department related to the appointment of the disciplinary board. During the first hearing of a disciplinary case considered to be serious, the chairperson of the disciplinary board had decided to suspend the hearing due to *prima facie* evidence of additional charges and a fresh charge letter had to be issued to the officer charged. In the meantime, two members of the original disciplinary board had been transferred to another department. The head of department requested advice as to whether:
  - a completely new disciplinary board needed to be appointed; or
  - the chairperson could retain his/her appointment whilst nominating two new members to replace the ones that have been transferred to another department; or
  - the original disciplinary board could continue to hear the disciplinary case, notwithstanding the fact that two of its members were no longer officers of the department concerned.

The Commission considered that the Chairperson could retain his/her appointment, bearing the original date of appointment, while the other two members were to be substituted by officers of the department concerned as per Regulation 21(3) of the Disciplinary Regulations with the appointment bearing the actual date.

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- b. The Commission considered a query raised by an officer within a ministry. The latter enquired whether a person with special needs who was summoned to give his witness in a hearing, could be accompanied by a person of his/her trust and whether this person of trust could intervene on behalf of the witness while giving testimony during the hearing. The Commission decided that, for the sake of justice and fairness, a person with special needs who was unable to express himself/herself freely, was to be allowed to be accompanied by a person of his/her trust. The Chairperson of the disciplinary board was to ensure that both parties were given equal opportunity to express their case and to defend their positions. Thereafter, the concerned person opted to have his/her father to assist him/her.

However, the said person who was summoned to give witness, as already mentioned above, was himself/herself the officer accused in another case. The defense lawyer requested that the father of the accused would be called as a witness. The father requested also to assist the officer throughout the hearing. The Commission considered that as the father of the officer charged was being called as a witness, he could only attend the hearing to give his testimony, but he could not assist his son/daughter throughout the hearing of the same case. The Commission also decided that if the officer charged was in need of assistance, he/she could be assisted by another member of the family or by any other person of his/her trust who was not involved in the particular disciplinary case.

- c. On another occasion, the Commission was requested to give a ruling regarding the time-limit within which an officer charged with disciplinary proceedings could make representations to the head of department following the submission of the report of the disciplinary board.

A particular disciplinary board which had been appointed in order to investigate a disciplinary charge had concluded its investigations and had duly submitted its report to the officer charged and to the relative head of department. However, the disciplinary board had not informed the officer charged that he/she could submit his/her written representations or request an appointment to make verbal representations to the respective head of

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department, within ten (10) working days from the receipt of the report.

In view of this breach of regulations, the head of department enquired whether the officer charged should still be given the opportunity to make his/her representations, before he decided upon the penalty to be imposed.

The Commission ruled that the head of department should invite the officer charged to make his/her representations, notwithstanding that the ten (10) working-day time-frame had elapsed. This line of action would not deny any rights pertaining to the officer charged.

## VI. Other Business of the Commission

### Community outreach

On 26th December 2015, staff from the office of the PSC, accompanied by members of their family, together with the Executive Secretary, dedicated some of their free time to do voluntary work at the '*Dar tal-Providenza*', which included helping out in the daily chores carried out by the employees of the '*Dar tal-Providenza*'.

A monetary donation, collected during the Christmas staff party organised for the members of the Commission and its staff, was presented to the Director of '*Dar tal-Providenza*', Fr Martin Micallef. Fr Martin thanked all those present for the laudable gesture and also for the donation.

Ms Schembri, the Executive Secretary, thanked Fr Martin for welcoming her and the staff of the PSC together with their families, at the '*Dar tal-Providenza*', holding that such a visit made everyone appreciate the precious work carried out by both the employees as well as by those who volunteer on a regular basis. One could also feel the love and dedication shown towards the residents of '*Dar tal-Providenza*'. Every person who attended this activity felt a sense of satisfaction and thus it was agreed that such an outreach activity is to be made an annual commitment by the PSC.

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### Team-building activity

On the 3rd November 2015, the first ever team-building activity was organized by the office of the PSC. Following the recruitment of new team members, the administration thought it was a good opportunity to get all the staff together in a relaxed environment away from the office for a day. All staff members were encouraged to put forward any difficulties and uncertainties which they had in relation to the changes that the PSC was going through due to the delegation of the selection process which had to kick in as of the 1st February 2016. The theme chosen for this team building exercise was *Working Together Towards Change*.



For this activity, the office of the PSC engaged the services of a professional training consultant. Initially, the training consultant focused on breaking down barriers among individuals through group activities. Working in a team led to a multiplicity of skills, highlighting new ways of working together.

Other tasks which were targeted at managing change, provided opportunities for the team to participate collectively in experiences which required collaboration. This helped to develop better relationships amongst staff.



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This team-building activity turned out to be a success, wherein an evaluation report presented by the professional training consultant revealed that on the whole the employees considered the activity had been fruitful and staff would reap benefits as an outcome.



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### **Business with the Office of the Ombudsman**

Both the Public Service Commission and the Office of the Ombudsman deal with petitions of aggrieved candidates in connection with appointments, promotions and discipline in the Public Service. Aggrieved candidates would first need to refer their grievance to the Public Service Commission and if their complaint is turned down by the Commission, then they may refer such complaint to the Ombudsman for further investigation. While the Public Service Commission is the body which has the power to make decisions, the Office of the Ombudsman is entrusted with the authority to conduct a review of a selection or a disciplinary process if it is considered that the process undertaken by the Commission had not been conducted fairly and merit had not been rewarded. In such cases the Ombudsman gives an opinion. The decision on whether the Ombudsman's opinions should be accepted and acted upon or not, rests entirely with the Commission, as it is the only body that has the constitutional right and authority, by virtue of Article 110 of the Constitution, to make a recommendation to the Prime Minister for the making or revocation of an appointment or the exercise of discipline.

In the course of the year under review, the Office of the Ombudsman corresponded with the Public Service Commission on twelve (12) occasions for cases relating to appointments in the Public Service following complaints received at the former's office by aggrieved persons. The Commission extended the fullest possible assistance to the Ombudsman, both when replying to queries and also with the making of relevant documentation available for the Ombudsman's disposal.

The Ombudsman's opinion in relation to the twelve (12) cases above-mentioned were as follows:

- In six (6) cases the Office of the Ombudsman agreed with the Commission's decision and informed the complainants that it could not uphold their complaint and cases were closed.
- The Ombudsman had raised concerns as to how marks had been allocated throughout a particular

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selection process, and requested to be informed of any action the Commission intended to take in line with his recommendations.

In view of the points raised by the Ombudsman, the applications of the successful candidates, together with that of the petitioner, who had failed the interview by three marks from a maximum of 200, were perused. An exercise had been carried out to compare experience claimed by candidates in their respective curriculum vitae as presented with their application, and the marks they had been awarded by the selection board. The selection board was asked to review all the applications and it resulted that the petitioner should have been awarded an additional three marks under the sub-criterion "experience in people management". By this increase, complainant obtained a pass mark and was subsequently appointed to the post in question following the publication of a revised result.

- In another case, three (3) public officers who had been doing works related to the Security Officers Class lodged a complaint with the Ombudsman since they had not been considered for absorption into the grade of Security Guard in November 2014. However, by the time the Commission was investigating the complaint, it was informed that all the officers who had initially been found not suitable to be absorbed into the grade of Security Guard, were given a second opportunity to be interviewed. As a matter of fact, all three officers were eventually absorbed into the Grade of Security Guard on the 16th June 2015.
- By the end of the year under review there were four (4) cases which were still open to discussion and both offices were still corresponding and considering these cases between them.

## Appendix 1

### 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, MRCP, 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 - 17.06.2013

**Mr Louis P Naudi**

18.06.2013 -

## Appendix 2

### Secretaries to the Public Service Commission

**Mr H Miller, Secretary Designate**

06.07.1960 - 16.12.1960

**Mr H Miller, Secretary**

17.12.1960 - 23.03.1969

**Mr G Soler, Secretary**

24.03.1969 - 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

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**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 – 28.02.2014

**Ms C Schembri, Executive Secretary**  
01.03.2014 –

**Appendix 3:****Office of the Public Service Commission****(i) Staff complement**

<b>Staff in post as on 31st December 2015</b>	
<b>Category</b>	<b>No of employees in post</b>
Senior management	Executive Secretary and Two Assistant Directors
Compliance and support staff	One Officer in Grade 5 and Four Compliance Officers
Administrative staff	Two Principals and one Assistant Principal
Executive staff	Two Executive Officers
Clerical staff	Three Clerks (one on unpaid leave to try alternative employment) and one Casual Substitute Clerk
Messengerial staff	Two Messengers
<b>Total</b>	<b>18</b>

**(ii) Commission's expenditure**

<b>Expenditure for the year 2015</b>	
<b>Item</b>	<b>€</b>
Emoluments of the Chairman, Deputy Chairman and Members of the Commission	85,263
Emoluments of the public officers attached to the Office of the Public Service Commission	341,343
Social security contributions	27,944
Operational and maintenance expenses	106,509
<b>Total</b>	<b>561,059</b>







