

Public Service Commission

ANNUAL REPORT
2017

Public Service Commission

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Chairman's Foreword



Every year, the Public Service Commission publishes a report on the work undertaken in the past year. The publication of the 2017 Annual Report signifies the completion of another year of productive work.

In 2017, the Commission continued to discharge the statutory responsibilities in advising the Chief Executive on matters pertaining to Civil Service appointment, promotion and discipline. In terms of caseload, the total number of cases advised by the Commission reached another high record of 1 109.

As in past years, submissions recommending promotions form the main bulk of our work with new appointments following as the next big call on our duty.

Under our vigorous scrutiny, the Commission seeks to ensure that the selection process is properly conducted and that the fair claims of all eligible candidates are duly and fairly considered. The Commission believes that promotion should not be just about giving due recognition to meritorious officers and entrusting them to undertake higher responsibilities. It is, above all, a means to sustain a stable and robust workforce to serve the needs and best interest of the community. For the same reason, recruiting new talents and injecting new blood to the Civil Service is just as important. The number of recruitment exercises conducted continues to rise in 2017. Chapters 3 and 4 give an overview of the promotion and appointment submissions examined by the Commission in 2017. Some significant and problematic cases were discussed and the Commission's observations highlighted for the reference of Bureaux and Departments.

Public trust in the Government and good governance rests in a civil service of high discipline and integrity. The Commission

is encouraged by the continued low figure of disciplinary cases submitted for our advice. In advising on the level of punishment, we are mindful of the need to ensure fairness and proportionality that takes into account the circumstances of the case and reflects the severity of the misconduct. At the same time, we also consider it important to mete out an appropriate punishment which can serve as a deterrent and reminder for all. Chapter 6 gives a detailed account of the disciplinary cases handled by the Commission.

To live up to the trust placed on us, the Commission has to exercise our role diligently, objectively and independently. It is thus our duty to question when in doubt, to look for comprehensive, well-supported and accurate information before we accept the recommendations. It is through this process of checks and balances and the concerted efforts of the management of Bureaux and Departments that we are able to ensure that the Civil Service is staffed by officers of ability, integrity and good conduct.

Taking this opportunity, I would like to thank my fellow Commission Members for their sterling support and wise counsel. In particular, I would like to pay tribute to Mrs Lucia Li, Ms Virginia Choi and Mr Thomas Chan, who retired from the Commission in February 2018 after having served as Members for six years. I must also thank the Secretary for the Civil Service and his colleagues for their prompt response and follow-up actions in taking forward our suggestions. On behalf of the Commission, I would also like to record my appreciation to the Commission Secretariat for their dedicated support, not least to Ms Candice Ho, the outgoing Secretary, who has served the Commission for over five years.



Mrs Rita Lau
Chairman

CHAPTER 1

An Overview of the Public Service Commission

1.1 The Public Service Commission is an independent statutory body which advises the Chief Executive (CE) on Civil Service appointments, promotions and discipline. Its mission is to safeguard the impartiality and integrity of the appointment and promotion systems in the Civil Service and to ensure a high standard of discipline is maintained. The Commission's remit is stipulated in the Public Service Commission Ordinance (PSCO) and its subsidiary regulations (Chapter 93 of the Laws of Hong Kong).

Membership

1.2 In accordance with the PSCO, the Commission comprises a Chairman and not less than two but not more than eight Members. All of them are appointed by the CE and have a record of public or community service. The membership of the Commission during 2017 was as follows –



The Permanent Secretary for the Civil Service and his colleagues attending a meeting of the Public Service Commission.

Chairman	
Mrs Rita LAU NG Wai-lan, GBS, JP	since May 2014
Members	
Mrs Lucia LI LI Ka-lai, SBS	since February 2012
Ms Virginia CHOI Wai-kam, JP	since February 2012
Mr Thomas CHAN Chi-sun, IDS	since February 2012
Mrs Paula KO WONG Chau-mui	since July 2012
Prof Timothy TONG Wai-cheung, JP	since December 2013
Mr Andrew MAK Yip-shing, BBS, JP	since May 2015
Mrs Ayesha MACPHERSON LAU, JP	since February 2016
Mr John LEE Luen-wai, BBS, JP	since May 2016
Secretary	
Ms Candice HO Sau-ling	June 2012 to September 2017
Ms Phyllis LEUNG Mun-ye	since September 2017

Curricula vitae of the Chairman and Members are at Appendix I.

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Secretariat

1.3 The Commission is supported by a small team of civil servants from the Executive Officer, Secretarial and Clerical grades. At the end of 2017, the number of established posts in the Commission Secretariat was 32. An organisation chart of the Commission Secretariat is at Appendix II.

Role and Functions

1.4 The Commission's role is advisory. With a few exceptions specified in section (s.) 6(2) of the PSCO¹, the Commission advises on the appointments and promotions of civil servants to posts with a maximum monthly salary at Master Pay Scale Point 26 (\$48,630 as at end of 2017) or above, up to and including Permanent Secretaries and Heads of Department (HoDs). The appointment of Directors of Bureau, Deputy Directors of Bureau and Political Assistants under the Political Appointment System is not referred to the Commission for advice. At

the end of 2017, the number of established Civil Service posts falling under the Commission's purview was 43 619 out of a total of 177 752. However, irrespective of rank, cases involving termination (including non-renewal) of agreement and further appointment on agreement terms or new permanent terms under the circumstances as specified in Civil Service Bureau (CSB) Circular No. 8/2003 and the relevant supplementary guidelines issued by CSB; termination or extension of probationary or trial service; refusal of passage of probation or trial bar; and retirement in the public interest under s.12 of the Public Service (Administration) Order (PS(A)O)², must be submitted to the Commission for advice.

1.5 As regards disciplinary cases, the Commission's purview covers all Category A officers with the exception of the exclusions specified in the PSCO. Category A officers refers to those who are appointed to and confirmed in an established office or are members of the Civil

1 In accordance with s.6(2) of the PSCO, the posts of the Chief Secretary for Administration, the Financial Secretary, the Secretary for Justice, the Director of Audit as well as posts in the judicial service of the Judiciary, the Independent Commission Against Corruption and the disciplined ranks of the Hong Kong Police Force are outside the Commission's purview.

2 The PS(A)O is an executive order made by the CE under Article 48(4) of the Basic Law. It sets out the CE's authority in regard to the management of the Civil Service, including discipline matters.

Service Provident Fund (CSPF) Scheme³. They include virtually all officers except those on probation, agreement and some who are remunerated on the Model Scale 1 Pay Scale. At the end of 2017, the number of Category A officers falling under the Commission's purview for disciplinary matters was about 114 800.

- 1.6 The Commission also handles representations from officers on matters falling within its statutory purview and in which the officers have a direct and definable interest. In addition, the Commission is required to advise on any matter relating to the Civil Service that may be referred to it by the CE. The Commission also advises the Secretary for the Civil Service on policy and procedural issues pertaining to appointments, promotions and discipline as well as on a wide range of subjects relating to human resources management.

Mode of Operation

- 1.7 The business of the Commission is normally conducted through circulation of papers. Meetings are held to discuss major policy issues or cases which are complex or involve

important points of principle. At such meetings, representatives of CSB and the senior management of departments may be invited to apprise the Commission of the background of the issue or case but the Commission forms its views independently.

- 1.8 In examining submissions from Bureaux and Departments (B/Ds), the Commission's primary aim is to ensure that the recommendations are well justified and are arrived at following the laid down procedures and stipulated guidelines. To achieve this, the Commission has devised a meticulous vetting system and in the process may require B/Ds to provide clarifications and additional information. In some cases, B/Ds would modify their recommendations in the light of the Commission's comments. In other cases, the Commission is able to be satisfied with the propriety of the recommendations after examining the elaborations provided. The Commission also tenders suggestions or reminders to B/Ds on areas worthy of management attention. The ultimate objective is to facilitate the pursuit of excellence in the administration of the appointment, promotion and disciplinary systems in the Civil Service.

3 The CSPF Scheme is the retirement benefits system for civil servants appointed on or after 1 June 2000 and on New Permanent Terms of appointment.

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Confidentiality and Impartiality

1.9 In accordance with s.12(1) of the PSCO, the Chairman or any member of the Commission or any other person is prohibited from publishing or disclosing to any unauthorised person any information which has come to his/her knowledge in respect of any matters referred to the Commission under the Ordinance. Under s.13 of the PSCO, every person is prohibited from influencing or attempting to influence any decision of the Commission or the Chairman or any member of the Commission. These legal provisions provide a clear basis and safeguard for the confidentiality and impartial conduct of the Commission's business.

Performance Targets

1.10 In dealing with promotion and disciplinary cases, the Commission's target is to tender its advice or respond formally within six weeks upon receipt of the submissions. As for recruitment cases, the Commission's target is to tender advice or respond within four weeks upon receipt of such submissions.

Work in 2017

1.11 In 2017, the Commission advised on 1 109 submissions covering recruitment, promotion and disciplinary cases as well as other appointment-related subjects. Queries were raised in respect of 788 submissions, resulting in 135 re-submissions (17%) with recommendations revised by B/Ds after taking into account the Commission's observations. All submissions in 2017 were completed within the pledged processing time. A statistical breakdown of these cases and a comparison with those in the past four years are provided in Appendix III.

1.12 The Commission deals with representations seriously. All representations under the Commission's purview are replied to following thorough examination. The same level of attention is given to anonymous complaints except that no reply can be sent. The Commission dealt with ten representations relating to appointment matters in the year. After careful and thorough examination, the Commission was satisfied that the representations made were unsubstantiated. There was also one complaint relating

to matters falling outside the Commission's purview. It has been referred to the relevant B/D for necessary action.

1.13 During the year, the Commission has continued to advise on policy and procedural issues pertaining to appointments, promotions and discipline. While staff training and development are the core responsibilities of departmental and grade managements, the Commission Secretariat, which scrutinises submissions from B/Ds on a daily basis, is well-placed to share with B/Ds practices which best serve the interest of the Civil Service. Apart from providing feedback regularly to the General Grades Office (GGO) and the Civil Service Training and Development Institute (CSTDI) for inclusion as training materials, officers of the Commission Secretariat would occasionally be invited to speak in training sessions arranged for officers involved in human resources management responsibilities. In 2017, three sessions on recruitment and promotion were organised for Executive Officers. The Commission fielded a speaker for each. In addition, an officer of the Commission Secretariat was

invited to share her experience with participants attending a new training course on writing skills for appointment-related submissions.

Homepage on the Internet

1.14 The Commission's homepage can be accessed at the following address –

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

The homepage provides information on the Commission's role and functions, its current membership, the way the Commission conducts its business and the organisation of the Commission Secretariat. Our Annual Reports (from 2001 onwards) can also be viewed on the homepage and can be downloaded.

1.15 An Index of the advice and observations of the Commission on Civil Service recruitment, appointment, discipline and other human resources management issues cited in the Commission's Annual Reports since 2001 is also provided on the homepage. The objective is to provide human resources management practitioners in B/Ds and general readers with a ready guide for quick searches of the required information.

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2.1 The underlying principle and an evergreen objective of the Government's appointment policy is to appoint "the best person for the job". To this end, the Commission supports the conduct of open recruitment in a fair and competitive manner. In this regard, the Commission has to be satisfied that proper procedures have been followed and the recommendations are supported by detailed justifications. In 2017, 1109 submissions were made to the Commission for advice. They were the result of various exercises conducted during the year. Among them, 169 recruitment exercises and 672 promotion exercises were conducted in 2017. In addition, there were 20 cases concerning extension of service or re-employment after retirement, of which 13 were further employment exercises conducted under the adjusted mechanism promulgated by CSB in June 2017. In respect of officers appointed on probation or trial service, 163 cases of extension or termination were dealt with. The remaining 49 cases were other appointment-related cases.

2.2 Apart from advising on case-specific submissions, the Commission also works with CSB to improve and streamline appointment procedures and where appropriate proposes subjects for review. An account of the Commission's work on appointment-related cases and the progress of the reviews on the related policies and procedures initiated by the Commission are reported in this Chapter.

Civil Service Recruitment

2.3 Recruitment to the Civil Service is undertaken by CSB and individual B/Ds. It may take the form of an open recruitment or in-service appointment or both. Where submissions are required to be made to the Commission⁴, we will check to see that objective selection standards and proper procedures are adopted in the process. Shortlisting criteria (if proposed) are examined to ensure fairness and consistency. We also advise B/Ds on improvement measures that can be taken to enhance the efficiency and effectiveness of the recruitment process.

4 They refer, for the purpose of recruitment, to ranks attracting a maximum monthly salary not less than the amount specified at Master Pay Scale Point 26 (\$48,630 as at end-2017) or equivalent, but exclude (a) the basic ranks of non-degree entry and non-professional grades; and (b) judicial service, the Independent Commission Against Corruption and the disciplined ranks of the Hong Kong Police Force which are specifically outside the purview of the Commission.

2.4 In 2017, the Commission advised on 169 recruitment exercises involving the filling of 1 601 posts, of which 1 523 posts (in 159 exercises) were through open recruitment and 78 posts (in ten exercises) by in-service appointment. A statistical breakdown of these appointments and a comparison table showing the number of recommendees in 2017 and that of the past four years are provided at Appendix IV. Some specific observations made by the Commission on the recruitment submissions advised in the year are provided in Chapter 3.

Civil Service Promotion

2.5 The role of the Commission in advising the Government on promotions to the middle and senior ranks⁵ in the Civil Service is to ensure that only the most suitable and meritorious officers are selected to undertake higher rank duties through a fair and equitable promotion system. In examining

promotion submissions from B/Ds, the Commission will need to be satisfied that proper procedures have been followed and that the fair claims of all eligible officers have been duly and fully considered regardless of their terms of appointment against the criteria of ability, experience, performance, character and prescribed qualifications, if any. The Commission also makes observations on the conduct of promotion exercises and issues relating to performance management with a view to bringing about improvements where shortfall is identified and enhancing the quality of the Civil Service promotion system as a whole.

2.6 In 2017, the Commission advised on 672 promotion exercises involving 7 355 officers. A numerical breakdown of the promotion recommendations in 2017 and a comparison with those in the past four years are provided at Appendix V. Some specific observations made by the Commission on these submissions are provided in Chapter 4.

5 They refer, for the purpose of promotion, to those middle and senior ranks under the normal appointment purview of the Commission (i.e. those attracting a maximum monthly salary not less than the amount specified at Master Pay Scale Point 26 or equivalent). They exclude the judicial service, the Independent Commission Against Corruption and the disciplined ranks of the Hong Kong Police Force which are specifically outside the purview of the Commission.

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Extension of Service of Civil Servants

- 2.7 In the face of the demographic challenges arising from an ageing population and the anticipated high wastage of civil servants in the coming years, the Government announced in January 2015 the adoption of a package of measures, as detailed below, for extending the working life of civil servants –
- (a) raised the retirement age of new recruits who joined the service on or after 1 June 2015 to 65 for civilian grades and 60 for disciplined services grades regardless of ranks;
 - (b) streamlined the control regime on post-retirement outside work from 1 September 2015;
 - (c) promulgated on 9 November 2015 the Post-retirement Service Contract Scheme to engage retired civil servants;
 - (d) promulgated on 25 February 2016 the revised arrangements for final extension of service, including raising the maximum period from 90 days to 120 days and suitably relaxing the approval criteria; and
 - (e) implemented on 1 June 2017 the adjusted mechanism for further employment of civil servants for a longer duration than final extension of service (hereafter referred to as FE).
- 2.8 The Commission's advice is required for FE, if the posts concerned are under our purview. In the 2016 Annual Report, we had reported that CSB was revising the draft implementation guidelines for the adjusted FE mechanism having regard to the feedback from grade/departmental management. In May 2017, the Commission was consulted on the refined implementation guidelines which were subsequently promulgated by CSB in June 2017.
- 2.9 The Commission is pleased to note that the promulgated implementation guidelines have addressed our comments over the need to ensure objectivity and fairness in the selection process. Given the specified roles of CSB and the Commission, we believe reasonable checks and balances have been provided for which should address the concerns raised by the staff sides during the consultation.
- 2.10 Since the promulgation of the adjusted FE mechanism in June 2017, the Commission had examined 13 FE submissions involving the extension of service of 30 officers. In scrutinising these submissions, apart from being satisfied that B/Ds had adhered to the laid down

procedures, the Commission had also examined the justification of the recommendations. The Commission notes that CSB will keep in view the implementation of the adjusted FE mechanism and will conduct reviews as and when the circumstances so require.

2.11 A breakdown of the number of extension of service or re-employment after retirement cases, including FE submissions, in 2017 and a comparison with those in the past four years are provided at Appendix VI.

2.12 In addition to the measures on extending the service of civil servants as detailed in paragraph 2.7 above, the CE announced in the 2017 Policy Address that to tie in with the goal of expanding the labour force and to respond to the aspirations of serving colleagues in the Civil Service, civil servants who joined the Government between 1 June 2000 and 31 May 2015 would be allowed to choose to retire at 65 (for civilian grades) or 60 (for disciplined services grades) on a voluntary basis. To take forward the above initiative, CSB has drawn up a proposed implementation framework and would conduct consultations with grade/departmental management and staff. The Commission would also be consulted in due course.

Extension/Termination of Probationary/Trial Service

2.13 The purpose of requiring an officer to undergo a probationary/trial period is manifold. First, it provides an opportunity for the appointee to demonstrate his/her suitability for further appointment in the office. Second, it allows the appointment authority (AA) to assess the performance and conduct of the appointee and be satisfied that he/she is fit for continuous employment. Third, it gives the appointee time to acquire any additional qualifications or pass any tests prescribed for further appointment. Probationers/Officers on trial should be given the necessary training, coaching and counselling to help them fit into their jobs. They should also be put under continual observation and assessment by their supervisors. Full advantage must be taken of the probationary/trial period to terminate the service of an officer if he/she is unlikely to become suitable for continued service or further appointment because of his/her conduct or performance. To maintain a robust workforce, HoDs/ Heads of Grade (HoGs) should apply stringent suitability standards in assessing the performance and conduct of probationers/officers on trial to ensure that only those who are suitable in all respects are allowed to pass the probation/trial bar. If at

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any time during the probationary/trial period a probationer/officer on trial has failed to measure up to the required standards of performance or conduct or has shown attitude problems and displayed little progress despite counselling and advice, the HoD/HoG concerned should take early action to seriously consider terminating his/her service under Civil Service Regulation (CSR) 186/200 without the need to wait till the end of the probationary/trial period.

2.14 Extension of probationary/trial period should not be used as a substitute for termination of service or solely for the purpose of giving an officer more time to prove his/her suitability. In accordance with CSR 183(5)/199(3), a probationary/trial period should normally only be extended when there have not been adequate opportunities to assess the officer's suitability for passage of the probation/trial bar because of his/her absence from duty on account of illness or study leave; or when there is a temporary setback on the part of the officer in attaining the suitability standards or acquiring the prescribed qualifications for passage of the probation/trial bar beyond his/her control. It is only in very exceptional circumstances where the officer, though not yet fully meeting the suitability standards, has shown strong indication to be able to

achieve the standards within the extension period that an extension of his/her probationary/trial period should be granted.

2.15 In 2017, the number of cases involving termination of probationary/trial service advised by the Commission had dropped from 11 in 2016 to eight in 2017. Most of these cases were related to unsatisfactory performance and/or conduct of the officers. As for extension of probationary/trial service, the Commission observed that the number of such cases had increased from 123 in 2016 to 155 in 2017. Most of these extensions were to allow time for the officers concerned to demonstrate their suitability for permanent appointment/passage of trial bar on grounds of temporary setback in performance and/or conduct, or absence from duty for a prolonged period due to the officers' health conditions. A statistical breakdown of these cases advised by the Commission in 2017 and a comparison with those in the past four years are provided at Appendix VII.

2.16 In examining a department's recommendation to terminate the service of two officers on probationary appointment, the Commission has noted that the unsatisfactory performance of the two probationers had been noted

midway into the probationary periods but the department waited until the end of the probationary period to submit its recommendation for termination to the Commission. Given the clear evidence provided on their poor performance, earlier action should have been taken to terminate their service. The Commission has advised the department concerned to take prompt and decisive action in dealing with similar cases in future. Probationers should be supervised closely and if they were found unsuitable, prompt and decisive action should be taken without waiting till the end of the probationary period.

2.17 In examining another case of termination, the Commission has found the department's handling left much room for improvement. Instead of assessing the probationer's performance in accordance with a reporting cycle, the report was completed six months late. In examining the given assessment, elaboration on the officer's inadequacies was found lacking and verbal feedback to the officer concerned though given had not been properly recorded. While the disagreement and appeal lodged by the officer had been dealt with properly, he/she was only informed of the appeal result after a lapse of two months. Putting aside the merit of the termination proposal, the

Commission was concerned that an officer on probationary appointment should be given timely feedback on his/her performance and that his/her right to make representations should be safeguarded with the due process fully observed.

2.18 As required under CSR 186(4)/200(4), recommendations involving extension or termination of probationary/trial service which fall under the purview of the Commission, should as far as practicable be submitted to the Commission at least two months before the end of the probationary/trial period. The Commission considers it most undesirable if such cases could not be processed in time for the officers concerned to be informed of the management's decision before the end of their probationary/trial periods.

2.19 In an extension of probationary period case, an officer who was due for passage of the probation bar in September 2016, had been on continuous sick leave since April 2016. However, the department concerned only submitted the proposal to extend his/her probationary period to the Commission in March 2017, i.e. six months after the end of his/her original probationary period. The department had explained that the probationer concerned had been hospitalised since April 2016. The

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department was unable to establish contact with him/her nor his/her family members to obtain an update of his/her condition before late July 2016. While the department had then made a decision that he/she should not be allowed to pass the probation bar on the original due date as there had not been adequate opportunities to assess his/her suitability for passage of the probation bar due to his/her prolonged absence, the department was unable to make a recommendation on the way forward as his/her health condition was uncertain. The department finally came to a view after managing to obtain an update regarding his/her progress of recovery in February 2017 and submitted an extension proposal to the Commission in March 2017. The Commission considers the department's handling of the case had much room for improvement. The long delay in submitting the extension proposal to the Commission is unsatisfactory and could have been avoided. As a general good staff relation measure, the department could have taken earlier and more proactive actions to ascertain the whereabouts and well-being of its staff. In this case, given the department's assessment that a longer observation on the officer's suitability for passage of

the probation bar was required, the department could have proposed an extension of his/her probationary period and sought the advice of the Commission accordingly. The department was advised to be more vigilant in keeping track of officers on probation and to make timely submissions to the Commission in case extension or termination of probationary service is warranted.

- 2.20 Another extension proposal from a department on a probationer only reached the Commission one day before the end of his/her probationary period in October 2017. The reason given by the department was that the officer had repeatedly failed in a test which was a requirement for confirmation. As he/she could only be arranged to re-take a scheduled test later, an extension of his/her probationary period was proposed. Given that the test was scheduled by the management, the Commission has reminded the department to arrange tests for probationers in a timely manner in future and to adhere to the stipulated time line for seeking the Commission's advice on extension proposals.
- 2.21 In an extension of trial period case, the officer was found to be involved in a case being investigated

by an enforcement agency in the course of disciplinary checking. As extension cases were handled by a different section, the department was not able to submit the extension proposal to the Commission two months before the end of the officer's trial period as required. The Commission has advised the department to review and enhance inter-section communications so that the most up-to-date information concerning the conduct or integrity of probationers/officers on trial can be ascertained for appropriate action to be taken.

Other Civil Service Appointment Matters

2.22 Other appointment matters advised by the Commission cover cases of termination, non-renewal or offer of shorter-than-normal agreements that depart from the normal progression or involve selection or comparison of merits; early retirement of directorate officers under the Management Initiated Retirement Scheme⁶; and retirement in the public interest under s.12 of the PS(A)O. In addition, the Commission also advises on secondment⁷, opening-up

6 The Management Initiated Retirement Scheme, first introduced in 2000, provides for the retirement of directorate officers on the permanent establishment to facilitate organisational improvement and to maintain the high standards expected of the directorate. It can be invoked on management grounds if the approving authority has been fully satisfied that –

- (a) the retirement of an officer from his/her present office is in the interest of the organisational improvement of a department or grade; or
- (b) there would be severe management difficulties in accommodating the officer elsewhere in the service.

The officers concerned will be notified in advance and given the opportunity to make representations. A panel chaired by the Permanent Secretary for the Civil Service (or the Secretary for the Civil Service in cases of directorate civil servants at the rank of D8 or equivalent, excluding those appointed as principal officials unless as directed by the CE) will consider each case following which the Commission's advice will be sought on the recommendation to retire the concerned officers.

7 Secondment is an arrangement to temporarily relieve an officer from the duties of his/her substantive appointment and appoint him/her to fill another office not in his/her grade on a time-limited and non-substantive basis. Normally, a department will consider a secondment to fill an office under its charge if it needs skills or expertise for a short period of time and such skills or expertise are only available from another Civil Service grade.

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arrangement⁸, award of Government Training Scholarship⁹ and revision of terms of employment¹⁰ of serving officers in the middle and senior ranks of the Civil Service. In 2017, the Commission advised on 49 aforesaid cases, including one case of retirement in the public interest under s.12 of the PS(A)O. A statistical breakdown of these cases and a comparison with those in the past four years are provided at Appendix VIII.

Retirement in the public interest under s.12 of the PS(A)O

2.23 Retirement in the public interest under s.12 of the PS(A)O is not a form of disciplinary action or punishment but pursued as an administrative measure in the public interest on the grounds of –

- (a) persistent substandard performance when an officer fails to reach the requisite level of performance despite having been given an opportunity to demonstrate his/her worth; or
- (b) loss of confidence when the management has lost confidence in an officer and cannot entrust him/her with public duties.

An officer who is required to retire in the public interest may be granted retirement benefits. In the case of a pensionable officer, a deferred pension may be granted when he/she reaches his/her statutory retirement age. In the case of an officer under the CSPF Scheme, the accrued benefits attributable to the Government's Voluntary Contributions will be payable in accordance with the rules of the relevant scheme.

- 8 Under the opening-up arrangement, positions in promotion ranks occupied by agreement officers are open up for competition between the incumbent officers and eligible officers one rank below. This arrangement applies to both overseas agreement officers who are permanent residents and are seeking a further agreement on locally modelled conditions, and other agreement officers applying for a further agreement on existing terms.
- 9 The Government Training Scholarship enables local candidates to obtain the necessary qualifications for appointment to grades where there are difficulties in recruiting qualified candidates in Hong Kong. Upon successful completion of the training, the scholars will be offered appointment to designated posts subject to satisfactory completion of recruitment formalities. As in other recruitment exercises, Heads of Department/Heads of Grade have to seek the Commission's advice on their recommendations of the selection exercises for the award of Government Training Scholarship which would lead to eventual appointment in the Civil Service.
- 10 Officers serving on Local Agreement Terms or Locally Modelled Agreement Terms or Common Agreement Terms are eligible to apply for transfer to Local or Common Permanent and Pensionable Terms subject to: (a) service need; (b) a Chinese language proficiency requirement if that is required for the efficient discharge of duties; (c) performance and conduct; and (d) physical fitness.

2.24 During the year, a total of 11 officers from ten B/Ds were put under close observation. After seeking the Commission's advice, the Government retired one officer under s.12 on the grounds of persistent substandard performance. Three officers were taken off the watch list after they left the service for reasons including retirement, invaliding and removal on disciplinary grounds. As at the end of the year, seven officers remained under close observation.

2.25 The Commission will continue to draw B/Ds' attention to potential s.12 cases in the course of vetting staff appraisal reports in connection with promotion exercises. We will also closely monitor departmental managements' readiness and timeliness in pursuing such an administrative action.

Progress of Reviews Initiated by the Commission

Grades with an inverted shape structure

2.26 A Civil Service grade is considered to have an inverted shape structure if the number of posts in its first promotion rank is larger than that in its basic rank. Such a grade structure could not be viable in the long run as there would unlikely be

enough officers in the basic rank to meet the succession need of the next higher rank. Moreover, junior officers in the basic rank of some of these grades who are still on probation might have to be pushed up prematurely to act in the first promotion rank. At the request of the Commission, CSB had reviewed the grade structure of all Civil Service grades and introduced a number of monitoring measures to control the grade structure of those grades with an inverted shape structure. These monitoring measures included exercising vigorous control on the number of posts to be created in the first promotion rank through annual Resource Allocation Exercises (RAEs); conducting annual reviews of these grades; and arranging triennial stocktaking exercises to monitor changes to the grade structure of all Civil Service grades.

2.27 The latest triennial review of all Civil Service grades was conducted by CSB in 2017 and the findings were reported to the Commission in August 2017. The findings showed that the number of grades having an inverted shape structure had reduced from 49 in the 2014 triennial review to 44 in the latest review. Of these 44 grades, CSB considered that the situations of 29 grades were acceptable on the basis of the following considerations –

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- (a) eight grades were obsolete/phasing out grades with no recruitment need in the ranks/grades concerned;
- (b) ten grades were having a training rank and/or would conduct open recruitment at the first promotion rank to ensure that there would be sufficient qualified candidates to fill promotion rank vacancies;
- (c) seven grades were having a small establishment of less than 30 posts in total; and
- (d) the inverted shape structure of four grades could be justified on functional/operational grounds.

2.28 As regards the remaining 15 grades, six grades had made improvement in their grade structures, five remained unchanged and four had shown slight deterioration as compared with the position in the last annual review conducted in 2016. The grade managements of those grades with their grade structures remained unchanged or slightly deteriorated either expected improvement by 2019 after implementation of their respective remedial plans or would, apart from creating more posts at the basic rank, also explore the possibility of direct recruitment at the first promotion rank to ensure that there would be sufficient

experienced and qualified candidates to fill vacancies at the first promotion rank. Concerning the practice of arranging probationers to take up long-term acting appointments, the grade management had confirmed that no such case was found in these 15 grades in 2016.

2.29 CSB has undertaken to –

- (a) work closely with the B/Ds concerned in attaining a healthy and viable grade structure for those grades with an inverted shape structure;
- (b) control the number of posts to be created at promotion ranks of the grades in question in the context of the annual RAEs; and
- (c) conduct triennial reviews on all Civil Service grades and require those 15 grades referred to in paragraph 2.28 above to submit annual progress reports on the implementation of their remedial actions to facilitate monitoring and timely follow-up with the grade managements concerned where necessary.

2.30 Having regard to the further improvement made by those grades with an inverted shape structure as reported by CSB, the Commission considers that the progress of

addressing the issue of grades with an inverted shape structure has been generally satisfactory and will keep the progress in view.

Further appointment of officers serving on new agreement terms

2.31 In examining a recommendation of not offering further appointment on new agreement terms to an officer upon the expiry of his/her agreement, it was noted that the Commission's advice had not been sought on the previous two offers of further appointment on new agreement terms to the officer concerned. While those two offers of appointment did not appear to fall under the circumstances listed in the relevant CSB Circular issued in 2003 for which the Commission's advice must be sought, neither did they match with the circumstances set out in the same Circular under which the Commission's advice was not required. Finding it unsatisfactory that there were grey areas in the Circular and noting that the Circular was issued over ten years ago, the Commission had invited CSB to review the Circular.

2.32 After review, CSB issued in May 2017 a set of supplementary

guidelines setting out the following circumstances under which the Commission's advice is required for further appointment of officers serving on new agreement terms –

- (a) departure from the normal progression;
- (b) selection or comparison of merits is involved; or
- (c) further appointment on new agreement terms of longer than 120 days whereby the officer concerned will be at or above the age of 55/57, 60, or 65, as applicable, (i.e. the same age as the retirement age applicable to his/her contemporaries on permanent terms) during the whole or part of the period of extension/renewal of agreement.

2.33 The "normal progression" referred to in paragraph 2.32(a) is also defined in the supplementary guidelines, as illustrated below –

- (a) if there is available vacancy on the permanent establishment and service need to retain the officer concerned in the grade at least in the medium term (i.e. at least in the next five years), further appointment on new permanent terms should be taken as normal progression, except

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where the officer concerned is a non-permanent resident (which falls under (b) below);

- (b) for cases other than (a) above, further appointment on new agreement terms should be taken as normal progression; and
- (c) for (b) above, while the specified agreement period for further appointment on new agreement terms should as a norm be three years, a specified period of less than the norm of three years may be taken as normal progression if the shorter period is not due to unsatisfactory performance/conduct,

for example, pending review of service needs, pending availability of the successor to take up the post concerned, etc. However, if unsatisfactory performance/conduct is one of the considerations in determining the offer of an agreement period of less than the norm of three years, the further appointment should not be taken as a normal progression.

- 2.34 The Commission appreciates CSB's effort in reviewing the matter and issuing the supplementary guidelines to assist B/Ds in determining cases that are required to be submitted to the Commission for advice.

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Observations on Recruitment Cases

3.1 With the implementation of various streamlining measures and the Commission's advice over the years, the Commission finds it encouraging that B/Ds have made remarkable progress in shortening the completion of recruitment exercises. The Commission considers that time is of the essence if the Government does not want to lose talents or lag behind in competing with the private sector for good candidates. While compliance with stipulated rules and procedures are basic requirements, the Commission also attaches importance to the quality of the submissions.

3.2 During the year, the Commission was struck that notwithstanding the provision of the Compliance Checklist for the Recruitment/ In-service Appointment Exercise as an aid and the specific requests made by the Commission Secretariat, some essential and required information were found missing in the submitted recruitment board reports. As a result, extra time had to be taken by the Commission to seek the information thus impeding the processing of the boards' recommendations. The time consumed for such purpose could be saved if B/Ds could be more vigilant in preparing the board reports. There was also room for improvement in the quality of the

written assessment on individual candidates made by some recruitment boards. The Commission has conveyed our specific observations and comments to the B/Ds concerned. As a reference for others, some noteworthy cases are given in the ensuing paragraphs.

Processing Time of Recruitment Exercises

3.3 In a recruitment exercise involving some 200 applications, the department concerned had taken more than seven months (from the date on which the post was advertised) to submit the board report to the Commission. On closer examination of the time taken, the Commission had found that the required 15 days of interview were scheduled over a period of 1.5 months. While the department had appointed two selection boards to conduct the interviews, the boards were not conducted concurrently primarily because only one secretary was appointed to serve both. Preparation of the board report took another two months. The Commission appreciated that several recruitment and promotion exercises were being conducted by the department during the period and supporting staff was tight.

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Nonetheless, the department could have staggered these exercises with better forward planning and better deployment of resources to achieve timely submission. The department had undertaken to put in place additional measures to speed up the processing of recruitment exercises by enlisting extra manpower and logistic support from other offices. The Commission had requested the department to plan recruitment exercises well ahead in future and to monitor the effectiveness of the improvement measures. We had also reminded the department to expedite the offer of appointments and identify further scope to shorten the recruitment process, particularly in the scheduling of interviews and the preparation of board report in future exercises.

Extension of Application Period

3.4 Paragraph 2.6(c) (vi) of the Guidebook on Appointments stipulates that B/Ds should seek CSB's approval prior to the publication of recruitment advertisements or vacancy circulars if there is any proposed deviation from the established appointment rules, procedures and practices, or the approved Guide to Appointment. If the recruitment rank is under the Commission's

purview, the Commission's advice should also be sought on the proposed deviation. According to paragraph 2.6(c) (vii) of the Guidebook on Appointments, CSB's approval and the Commission's advice (for recruitment ranks under its purview) are also required if it is necessary to re-open a recruitment exercise after the lapse of the application deadline on exceptional grounds. During the year, the Commission noted in two recruitment exercises conducted by a department that the application periods of both exercises were extended for about two weeks. The department explained that in addition to local newspapers, it had arranged to place the recruitment advertisements on a related professional organisation/job search website. However, as time was taken to resolve some technical issues and make related administrative arrangements, the recruitment advertisements could only be placed on those websites a few days before the original application deadline. The department had hence extended the application period. As the department did not regard the extension of application period before the close of the original application as re-opening a recruitment exercise, it had not sought approval from CSB or advice from the Commission on the extension. It was only upon the Commission's enquiry that the

department had sought the views of CSB on the appropriateness of the arrangement.

3.5 From the perspective of CSB's appointment policy, an extension of the application period in the middle of a recruitment exercise was a deviation from the established appointment practices. The department should have sought CSB's approval and the Commission's advice prior to the publication of the extended application period in the revised recruitment advertisement in accordance with paragraph 2.6(c) (vi) of the Guidebook on Appointments. Given that no qualified application was received during the extended period, CSB considered that it should not give rise to any question of fairness and the propriety of the two recruitment exercises was unaffected except that there was a certain degree of delay. After taking into account the department's explanation and CSB's views, the Commission was satisfied that the fair claim of the candidates had not been undermined by the extension of the application period and no impropriety was discerned in the recruitment process. The department was advised to observe the relevant guidelines and to seek CSB's advice in case of doubts to avoid recurrence of similar cases in future.

Conduct of Recruitment Interview

3.6 In examining a recruitment submission in the year, the Commission noted that the department concerned had received a complaint from a candidate alleging that in the group interview he/she attended, no announcement of "five minutes left" was made as stated in the "Instructions to Candidates". After investigation, the department found that the officers facilitating the interviews had forgotten to make such an announcement in some of the groups. In fairness to all candidates, the department decided to conduct a fresh round of interviews. The Commission considers that the incident should not have happened if the facilitating officers had familiarised themselves with and closely followed the prescribed procedures. Moreover, their supervisors should have ensured that they had been properly briefed. Although the problem had subsequently been rectified, the processing time of the recruitment exercise had been prolonged for two months and additional resources incurred. While the department has undertaken to take appropriate actions, including providing training to officers involved in recruitment exercises to avoid recurrence of similar incidents in future, the

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Commission has advised it to take all necessary steps to ensure that all prescribed procedures are adhered to when conducting recruitment exercises and that all officers involved in future exercises perform in accordance with the guidelines provided by the department.

Quality of Board Reports and Written Assessment Made by Recruitment Boards

3.7 In scrutinising the recommendations of recruitment exercises, the Commission observed that while some recruitment boards had provided cogent and informative comments on the performance of candidates during the selection interviews to support the boards' recommendations, the quality of some others had much room for improvement. In one recruitment exercise conducted in the year, despite having been given similar advice in the previous recruitment exercise, the quality of the board's write-ups on the interviewed candidates remained wanting. As observed, the write-ups made by the board were brief and wordings used almost identical. Although the ratings and scores given were clear and the results unaffected, the Commission has advised the department concerned to remind recruitment boards to take

note and provide a more distinctive account on the performance of each candidate to support the board's recommendations.

3.8 In a recruitment exercise conducted by another department, one board member had declared that a candidate was his/her colleague's daughter. The board member concerned had then withdrawn from the board temporarily when that candidate was interviewed and during the deliberation of her case. Although the declaration made by the board member and the decision of the chairman of the board were attached to the board report, the relevant details concerning the AA's final decision in respect of the declaration had not been recorded in the board report. Besides, some essential information had not been provided in the board report. The Commission has reminded the department concerned to provide all necessary information clearly in the recruitment board reports in future. This would obviate the need for the Commission to seek clarification and hence expedite the processing of the board's recommendations.

Accordance of Preference to Disabled Candidates

3.9 It is Government policy that in case a disabled candidate is found suitable

for appointment in a recruitment exercise, an appropriate degree of preference will be accorded to the candidate concerned. A recruiting department should set a passing mark for interviews and split the marks above the passing mark into three groups for the purpose of determining the priorities for offer of appointment. The actual range of marks for each priority group is pre-determined and not disclosed to the recruitment board members to ensure fairness of the recruitment interviews. For a disabled candidate found suitable for appointment, the interview board should make a conscious decision on whether there is a genuine need to accord an appropriate degree of preference, i.e. to advance his/her priority in a particular group to the top of that group. The deliberations in coming to a decision should also be well documented.

3.10 Two disabled candidates were found suitable for appointment in a recruitment exercise conducted during the year. In the recruitment submission, the department concerned only indicated that as these two candidates already achieved a ranking at the top of a priority group, no preference for appointment needed to be accorded to them. No details on the pre-determined priority groups approved under the relevant

guidelines were however given. In the pursuit of full compliance with laid down requirements, the Commission has reminded the department to include all relevant information in future submissions. In support of the Government's stated policy in according an appropriate degree of preference to disabled candidates, the Commission has to be fully satisfied that due preference had been accorded and the relevant deliberations properly recorded in the board report.

Reduction of Probationary Period

3.11 In accordance with the established practice under CSR 183(3), AAs may exercise discretion to reduce, where justified and appropriate, the probationary period required of an individual appointee who has served in the department on non-civil service terms and who is subsequently selected for appointment on probationary terms to a civil service rank with similar or comparable duties. In examining a recruitment board report, the Commission has found that three recommended/waitlisted candidates were contract staff of the department concerned but the AA's approval was only given to reduce the probationary period of two candidates recommended for appointment.

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Upon the Commission's enquiry, it was revealed that the AA had in fact approved in principle a reduction in the probationary period of the waitlisted candidate subject to his/her satisfactory performance and conduct in the contract position. The department's intention was to confirm the AA's approval at the time of offer of appointment and hence had not included such information in the submission. The Commission considers that the AA's decision made in the context of the same exercise should be recorded properly for subsequent implementation and future reference. The concerned department has been duly advised accordingly.

Validity Period of Recruitment Waiting List

3.12 In advising on a case submitted by a department on the proposal to remove

a recommended candidate from the waiting list of a recruitment exercise, the Commission noted that while the recommendations of the recruitment exercise concerned were approved in 2015, the validity period of the waiting list had been extended twice making the aggregate validity period to two years. While the extension has been approved by the appropriate authority, the Commission believes that maintaining a waiting list for a prolonged period is neither in the interest of the waitlisted candidates nor is it conducive for the Government to tap the best available talents for recruitment to the Civil Service. Furthermore, interested and potential candidates may be deprived of a chance to apply for the job. The Commission has advised the department to critically assess the need and appropriateness of extending the validity period of the waiting list of recruitment exercises.

CHAPTER 4

Observations on Promotion Cases

4.1 Promotion in the Civil Service is premised on meritocracy. It is neither an entitlement of serving officers nor a reward for long service. The Commission assists the Government to ensure the selection of the most suitable and meritorious officers to undertake higher rank duties through a fair and equitable promotion system.

4.2 In 2017, the Commission continued to examine recommendations for promotion critically and meticulously. Compliance with stipulated rules and laid down procedures was a minimum requirement the Commission expects of B/Ds. The Commission is pleased to note that compliance by B/Ds was maintained generally at a high level in 2017. However, there were some cases where there was scope for further improvement. In this Chapter, some noteworthy cases were cited for illustration purpose. The Commission hopes that they could serve as a ready reference and a reminder for B/Ds.

Counting of Vacancies for Promotion and Acting Appointments

4.3 Paragraph 3.5(a) of the Guidebook on Appointments sets out the calculation of promotable vacancies that can be substantively filled in

a promotion exercise and specifies that only those vacancies that are expected to arise within the current appraisal cycle should be counted as promotable vacancies. Moreover, vacancies should be calculated realistically on a grade rather than a rank specific basis. If it is the assessment of the AA concerned that there is little risk of over-establishment, vacancies arising from promotion/acting appointments in a higher rank (i.e. consequential vacancies) can be counted as promotable vacancies for the lower rank. Supernumerary or time-limited posts should also be counted as promotable vacancies if sufficient permanent vacancies will become available to absorb the promotees before the lapse of the supernumerary or time-limited post concerned. As for vacancies arising from retirement or resignation, they should be counted as promotable vacancies for the same rank once the incumbents concerned proceed on final leave/cease active service. Prior to the conduct of a promotion exercise, HoDs/HoGs should determine the number of promotable vacancies and obtain policy support from their Permanent Secretary (and also from CSB if CSB is the AA of the rank concerned) to fill all of them in the promotion exercise. Whether the same number of candidates will be recommended is a matter to be deliberated by the promotion board.

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4.4 During the year, the Commission noticed from a number of promotion submissions that policy bureau's support was not sought for some promotable vacancies before conducting the promotion board, especially for those additional promotable vacancies that emerged after the relevant policy bureau had given its support for the number of vacancies to be substantively filled in a particular exercise. To ensure procedural propriety, B/Ds should not make any presumption that the number of officers to be recommended by the relevant promotion boards would not exceed the approved number of promotable vacancies. They should make good use of all available vacancies to promote deserving officers at the earliest possible opportunity. The Commission has reminded the departments concerned to reconfirm the number of promotable vacancies before convening the promotion board to ensure that additional vacancies that might arise subsequent to first counting were also covered by requisite policy support in future. In a particular case, the Commission observed that the department concerned had counted one possible vacancy as promotable vacancy in a promotion exercise conducted in November 2016 but had not obtained policy support for filling the vacancy concerned. The department

explained that the promotable vacancy in question was extension of a time-limited post approved in the RAE and policy support was sought after the formal announcement of the RAE result in late February 2017. As the promotable vacancy concerned is a known possible vacancy, the department could have sought its policy bureau's provisional support to include it as a promotable vacancy before conducting the promotion board.

4.5 The Commission also observed in a number of exercises that the departments concerned had miscalculated the number of vacancies to be filled. As a result, time had to be taken to clarify the vacancy position. Establishing the correct vacancy position is a pre-requisite before a promotion board should be conducted. Any ambiguity should be clarified and put beyond doubt to eliminate any risk of over-establishment on the one hand and to safeguard the fair interest of all eligible officers. In one of these cases, the board originally recommended two officers who had been acting at a higher rank for substantive promotion with effect from the date the board meeting was held. On closer examination, the Commission discovered that one of the acting officers had been occupying a

vacancy arising from the absence of an officer on prolonged sick leave. Given that the vacancy was of a temporary nature, it should not be counted as a promotable vacancy. As a result, the board had to revise its recommendations. In another case, the Commission noted that a vacancy of a consequential nature was available for filling in January 2015. The department concerned had overlooked its availability and did not include it as a promotable vacancy until the promotion exercise held in 2016. Such oversight could be avoided if the concerned grade management had conducted regular reviews on posts filled by acting or doubling-up arrangements.

Eligibility of Candidates

4.6 Officers who have misconducted themselves will, depending on the punishment meted out, be debarred for promotion. In examining the recommendations of a number of promotion exercises during the year, the Commission noted that such officers had erroneously been included as eligible officers for consideration. In some cases, the punishment records were not found in the staff report files. The Commission has reminded the departments concerned to be more careful in determining the eligibility of candidates and ensure the proper

filing of punishment records in staff's individual report files.

4.7 In another promotion exercise, the Commission noted a change in the eligibility criterion as compared to that of the previous exercise. Upon enquiry and with further elaboration by the department concerned, the Commission was satisfied that the change was justified and that the fair claim of all eligible officers had not been jeopardised. The Commission considers that the eligibility for consideration of promotion should not be changed arbitrarily and changes, if any, should be properly explained in the promotion board report. As far as possible, consistency should be maintained lest it should give rise to staff concern.

Conduct of Promotion Boards and Submission of Promotion Board Reports

4.8 Promotion boards should normally be held within six months from the end-date of the last appraisal cycle. B/Ds should submit promotion board reports to the Commission for advice within two months after the board meeting. Late conduct of promotion boards and late submission of promotion board reports were not conducive in maximising staffing resources for the operations of B/Ds. It will also affect B/Ds' manpower

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development plans and posting arrangements for officers identified as fit for promotion. In 2017, the number of promotion exercises conducted late had decreased from seven in 2016 to four in 2017. The number of board reports that could not be submitted to the Commission for advice within two months had also dropped from 51 in 2016 to 35 in 2017.

4.9 While the Commission is pleased to note the improvement, it remains a concern that repeated/prolonged delay still exists in some cases. In the case of one department, of the 15 promotion exercises conducted and submissions made, seven were submitted late ranging from a week to a month. The Commission has strongly advised the department to review its work plan for conducting promotion exercises and to deploy adequate resources to enable it to achieve timely submission.

4.10 The Commission also finds the way some promotion boards had been conducted has room for improvement. In one promotion exercise, the board held its first meeting in mid-May 2016 only to find that a second meeting was necessary to allow sufficient time for board members to examine staff appraisal reports of all eligible officers. The second meeting was

finally conducted in September 2016 during the intervening period of which some further administrative procedures had to be tackled. The board report was finally submitted to the Commission for advice in early December 2016, i.e. some six months counting from the first board meeting. Such long delay is clearly unacceptable. For promotion exercises involving a large number of eligible candidates, it is not uncommon for such boards to convene more than one meeting for deliberations. In such circumstances, the further meeting(s) should be held as close to the first as possible. The present case was not one of this category. Regrettably it was an unfortunate reflection of the department's inadequate planning and preparation. Conduct of promotion exercises should have been known and anticipated and the attendant work well planned ahead. The Commission felt it necessary to strongly advise the department to get to the root cause of the problem and take appropriate measures to prevent recurrence of similar delays in future.

4.11 In another case, the promotion board conducted its first meeting in August 2016. Pending formal submission of its recommendations, the board was advised that one of

the recommendees was involved in a court case. As this might have an impact on his/her suitability for taking up the higher rank duties, the board decided to re-visit his/her claim and met a second time in September 2016. The board however took the extraordinary step to also review the claims of three other recommended officers resulting in a change of the board's original recommendation on two of them. The Commission considers that selection criteria having been deliberated and decided upon when the board was convened should not be changed lightly. The aspects/attributes required at the higher rank should have been thoroughly considered before the board proceeded to assess the promotability of the eligible officers at its first meeting. Taking the opportunity of the second meeting which was convened for a different reason to re-visit its recommendation on other officers was inappropriate and improper. Besides, the board's means of arriving at its final recommendations on the two officers concerned by voting was most unusual and unnecessary. While board members may sometimes have different views, the role of a promotion board is to consider and compare the relative merits of eligible officers

under consideration through scrutiny of their staff appraisal reports as supplemented by board members' personal knowledge and then make a judgement on the recommendation to be made on the basis of the discussion. In case a consensus could not be reached, the dissenting views of members and the ruling of the board chairman with full justifications should be recorded in the board report for the AA's consideration. Making a recommendation by way of voting without providing any justifications to support the recommendation is neither appropriate nor fair. Had the board referred to the Guidebook on Appointments, it would be well guided on the proper conduct of a promotion exercise. The Commission has advised the department concerned to ensure that officers appointed to sit on promotion boards should get well prepared. The chairman, members and secretary should also be reminded to familiarise themselves with the prevailing principles, rules and procedures governing Civil Service promotion so that they could properly carry out their roles and responsibilities. If need be, briefings could be conducted for these officers before the boards are held. Assistance could also be solicited from CSTDI to arrange specific training for the department.

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Selection Criteria for Promotion

4.12 In examining the recommendations of a promotion board, the Commission observed that the board had given some weight to a candidate's experience in and exposure to a certain area of work in selecting officers for promotion or long-term acting. While it is an appropriate factor for consideration, the Commission is minded that posting is a management responsibility. An officer should not be disadvantaged solely because of a lack of exposure to a certain area of work. The Commission has reminded the department to draw up comprehensive posting plans commensurate with its operation and service needs and that fair opportunities for exposure to various areas of work should be provided to all members of the same rank/grade.

Shortlisting Criteria

4.13 According to paragraph 3.21 of the Guidebook on Appointments, where the pool of eligible candidates is large, a promotion board may devise shortlisting criteria, such as years of service in the current rank, in considering the suitability of a candidate for promotion. Where rating of overall performance is used as an additional criterion,

the promotion board should set the threshold at a reasonable level. During the year, the Commission observed that some promotion boards had followed and adopted the same shortlisting criteria used in previous exercises without regard to the prevailing vacancy position or the size of the pool of candidates. In one particular case, by following the shortlisting criterion adopted in previous exercises, the number of shortlisted officers were worked out to be exactly the same as the number of the vacancies available for consideration. While consistency in the adoption of shortlisting criteria was important, they should not be considered and adopted mechanically without regard to prevailing circumstances. In this case, the board should have considered relaxing the shortlisting criteria to enlarge the pool of candidates. By doing so, a healthy and reasonable competition among all members of the rank could be engendered. The Commission has advised the departments concerned to remind promotion boards to be more critical in considering the adoption of shortlisting criteria.

4.14 In a promotion exercise of another department, the promotion board maintained the "requirement" of "3-year in-rank service" as a shortlisting criterion and screened

out 25 officers from the pool of 50 eligible officers. The department concerned explained that it was essential for the eligible officers to possess at least three years' in-rank service thereby ensuring that sufficient experience and exposure should have been gained in order for them to be qualified for taking up the duties of the higher rank. The Commission supports the promotion of the most suitable and deserving. Given that in-rank experience was considered vital, the department should have prescribed it as a requirement for promotion instead of using it as a shortlisting criterion by successive promotion boards. Staff concerned would then be left with no doubt as they assessed their own eligibility. This would be particularly relevant when the number of eligible officers was small in proportion to a relatively large number of promotable vacancies.

4.15 Another promotion board adopted "Outstanding" rating on overall performance as the sole shortlisting criterion and shortlisted 23 officers out of some 150 eligible officers, for serious consideration. The assessment of an officer's ability as reflected in the performance appraisal report is a well-established and service-wide selection criterion for promotion. The promotion board should examine the performance of

an officer as a whole and consider the merits of all eligible officers. An "Outstanding" rating alone might not be sufficient in assessing an officer's suitability for promotion.

Quality of Reports and Assessment Made by Promotion Boards

4.16 As a measure of encouragement, the Commission would give acknowledgement to B/Ds for good work done and commend them for their notable achievements. In examining the recommendations of a promotion exercise, the Commission was gratified to observe the care and meticulous approach taken by the promotion board in comparing the relative merits of close contenders. It was a shining example for other promotion boards to emulate. The Commission was impressed by the clear basis of comparison set by the board and the evaluative information on the candidates' ability, experience, character and attributes provided in support of the board's recommendations. Even for the non-recommended officers, the board had provided a succinct assessment on the strengths and weaknesses on each of them.

4.17 In comparison, some common inadequacies and pitfalls as observed

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from other cases were found. They mainly fell under the following categories –

- (a) providing incomplete and/or inaccurate information in the board reports;
- (b) reproducing verbatim instead of summaries of the strengths and weaknesses of eligible candidates as portrayed in the appraisal reports. In a majority of cases, only the strengths of the officers were given in the summaries of performance appraisals;
- (c) the boards' deliberations and assessment on the candidates tended to be brief which was not conducive in distinguishing the relative merits of the candidates. Instead of providing a cogent and evaluative assessment, arithmetical summations of ratings on performance, core competencies and promotability were used to support the board's recommendations; and
- (d) the board report lacking a comparison of the relative merits of close contenders and where provided, it was not a comparison per se but a sheer repeat of the assessment given in their appraisal reports.

The Commission had conveyed to the B/Ds comments and observations

specific to the cases they submitted. Some noteworthy examples are set out in the ensuing paragraphs.

4.18 In one promotion exercise, the board held two meetings. One officer originally recommended for promotion at the first meeting was subsequently removed. The reason for revising the recommendation was not explained in the report. It was only after the Commission's enquiry that it was learnt that the officer who was recommended for promotion at the first board meeting had requested to step down from acting and that he/she did not wish to be considered for promotion in that exercise. Had the board elaborated in the report the considerations behind and circumstances surrounding this officer, much time would have been saved in processing the submission.

4.19 In another promotion exercise, notwithstanding the Commission's earlier observation given in a previous exercise, discrepancies were again found between the information provided in the board report and those recorded in the relevant staff reports. Basic and factual personal data such as date of appointment to present rank, period of appraisal report, change of Appraising Officer (AO) and postings should have been thoroughly checked for accuracy before submission. That

inaccurate information was found was a reflection of carelessness and should not have happened. Other related and relevant documentation work were also found missing. The Commission has advised the HoD concerned to review the personnel and record keeping system in the department and to consider providing more training and supervision to the responsible officers.

it should set out clearly and accurately the board's assessment of the strength and merit of each candidate as a basis to support the board's recommendations. For non-recommended officers, general comments to the effect that they should excel their performance without highlighting areas requiring improvement would make comparison very difficult.

4.20 As a measure of due diligence, the Commission Secretariat keeps track of the advice tendered by the Commission. For suggestions and comments made as a means to encourage B/Ds to make improvement, the Commission would like to see management taking follow up action. In the case of one department, the Commission had in the last year's promotion exercise urged for greater attention to be given to the preparation of promotion board report particularly with regard to the write-up on individual officers. The Commission considers that written assessment needs not be lengthy. More importantly,

Handling of Officers on Acting with a View to Substantive Promotion Appointment

4.21 According to CSR 170(d), before a recommendation is made to the AA to cease an officer's acting with a view to substantive promotion (AWAV)¹¹ appointment, the officer should be advised in writing of the management intention to do so with some information or outline of the officer's shortcoming that has given rise to the recommendation. In addition, the officer should be given five working days to submit any representations he/she may

11 An officer is appointed to AWAV if he/she is considered suitable in nearly all respects for undertaking the duties in the higher rank and he/she is ready to be further tested on the minor doubtful aspects in the higher rank. The norm for this type of acting appointment is six months but may vary.

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wish to make. In examining a recommendation to cease the AWAV appointment of an officer due to the debarring effect of a written warning issued to him/her, the department concerned was found to have failed to follow the foregoing procedures. The department had explained that given that the officer had committed a misconduct and was issued a written warning, he himself/she herself should be well aware of the consequence and implication on his/her acting appointment. Moreover, the department had followed the procedures governing the issue of the written warning and the officer concerned had not lodged an appeal. The Commission accepted that the grounds for ceasing the AWAV appointment in this case were justified. However, there might be other circumstances and reasons necessitating the cessation of an officer's acting appointment. Given that there are clearly laid down procedures in the CSR governing the handling of cessation of AWAV appointments, the department is well advised to follow them.

4.22 In another case of ceasing the AWAV appointment of an officer who was issued a verbal warning shortly before the end of his/her AWAV appointment, as time was taken to complete the warning procedure, the department concerned was unable

to submit the AWAV cessation recommendation to the Commission before the period of the AWAV appointment had lapsed. As an officer appointed to AWAV will normally expect to be substantively promoted at the end of the AWAV period, if not reversed, it is vital for the officer to be informed if his/her AWAV appointment was to be ceased in which case the attendant procedures had to be followed. In dealing with the present case, the Commission believes that parallel action could have been taken and that both the officer and the Commission could be alerted to the action being taken by the department. Needless to say, time is of the essence and prompt action should be taken as expeditiously as possible.

4.23 In another case submitted to the Commission, the AWAV appointment of an officer was originally recommended to be terminated on performance ground. The Commission noted that the officer had acted intermittently at the promotion rank and was previously considered suitable for taking up the duties of the higher rank on an AWAV basis. The Commission was therefore justifiably concerned that the officer's weaknesses as portrayed in the department's submission were fully substantiated and that in the spirit of staff development and good

management, guidance and sufficient opportunities had been given to the officer. The Commission was further baffled to learn that upon ceasing the officer's AWAV appointment, the department's plan was to appoint the same officer to continue to act in the same post to meet operational needs. Although the department had explained that it was a stop-gap measure constrained by the severe manpower shortage, regard should be given to the morale of the officer concerned. The Commission considers that if there was insufficient time for the department to observe his/her performance and suitability for promotion, an extension of AWAV appointment could be considered by the management. If an officer's suitability for promotion is not beyond doubt, it would be more appropriate to appoint him/her to act for administrative convenience (AFAC)¹² to test out his/her ability in the first place. In the end, the department had accepted our advice and the officer's AWAV appointment was extended for six months.

Declaration of Interest

4.24 As reported in the 2016 Annual Report, CSB had reviewed and refined the declaration of interest mechanism for recruitment and promotion exercises having regard to the Commission's observations and suggestions. The refined guidelines had been incorporated in the Guidebook on Appointments and were promulgated to B/Ds for implementation with effect from April 2017. As observed, promotion/recruitment board chairmen and members had become more alert to the declaration requirements. This notwithstanding, the Commission considers that more prudence is still called for in a number of submissions advised by the Commission in 2017.

4.25 In accordance with paragraph 3.16 of the Guidebook on Appointments, if a board chairman or member declares that there may be a conflict of interest in assessing the claim of an eligible candidate, the AA should, after taking into

12 An officer is appointed to AFAC if he/she is not yet ready for immediate promotion, but is assessed as having better potential than other officers to undertake the duties of the higher rank; or he/she is considered more meritorious but could not be so promoted because of the lack of substantive and long-term vacancies. In such cases, reviews on the acting appointment should be conducted regularly according to CSR 166(6).

CHAPTER 4

Observations on Promotion Cases

account the degree of closeness of the relationship involved and the associated real/perceived conflict of interest, determine whether there is a need to change the composition of the board; and if not whether a temporary withdrawal or abstention from making assessment on certain candidates will suffice. During the year, the Commission noted that most declarations reported were related to relationship involving officers having lunch/dinner/social gatherings. These associations among colleagues are very common and are legitimate social and staff relation activities. However, if such gatherings were exceptionally frequent and excessive, they might give rise to a perception of an intimate relationship. Action to avoid any real or perceived conflict of interest will need to be taken. Changing the composition of the board would be a more prudent measure. Otherwise, the AA should at least require the board members concerned to abstain from assessing the claim of the declared candidates. In some other cases, the board members had declared that some candidates were their close friends and they were companions on holiday travels. The AA concerned took the decision to require the board members to abstain or withdraw from the board meeting temporarily. In view of the close relationship and the risk of a perceived conflict

of interest, replacing the board members concerned would appear to be a more prudent arrangement.

4.26 In another promotion exercise, one board member had declared that a candidate was his/her distant relative and he/she considered that their relationship might be perceived as having a conflict of interest. As the candidate concerned did not meet the shortlisting criteria set by the board and his/her performance was not meritorious enough to justify exceptional consideration, the AA decided no action needed to be taken regarding the declaration. The Commission considers that although non-shortlisted candidates are only considered on an exceptional basis, taking part in the process of consideration might give rise to perceived conflict. The Commission has advised the department concerned to be more prudent and err on the conservative side if necessary.

4.27 In spite of the above observations, the Commission was satisfied that the neutrality and judgement of the board members concerned had not been compromised in the deliberations of the boards. After scrutinising the board reports, the Commission was content that the recommendations were justified and fairly made.

CHAPTER 5

Performance Management and Staff Development

5.1 The Commission supports the adoption of a holistic approach to staff development that encompasses a structured career progression plan as well as suitable job exposure and training for civil servants at all levels. During the year and as cases come to our attention, the Commission has continued to make observations and give suggestions to B/Ds on good performance management practices. Some noteworthy observations are set out in this Chapter.

Assessment Panel

5.2 Assessment Panels (APs) are set up to ensure consistency in assessment standards and fairness in appraisal ratings within a rank. While APs are not required to be set up as a rule, B/Ds are encouraged to establish APs to undertake levelling and moderating work among appraisal reports particularly for large departments/grades or where officers of the same rank are posted/seconded to other departments. In the year, the Commission is pleased to note that two APs had been established for the basic rank and the first promotion rank respectively of a grade in a department involving

a total of over 1 500 officers. This is a significant and positive development in the management of staff performance. As over-generous reporting is observed in the second promotion rank of the same grade, the Commission has advised the department to consider taking similar action as soon as practical.

5.3 In another department with AP for a certain rank, the Commission noted that the AP had adopted a mechanical approach to adjust the number of top ratings for core competencies and the overall performance rating in performing its moderation work. According to paragraph 5.3.4 of the Performance Management Guide (the PM Guide), APs should adopt a holistic approach to moderation work. They should not adjust the rating distribution statistically for meeting a fixed rating distribution framework, and should not apply any arithmetic formula in the moderation. The Commission has advised the department concerned to review the existing practices, in consultation with CSB where necessary, to ensure that the mechanism of AP follows the principles and guidelines as stated in the PM Guide.

CHAPTER 5

Performance Management and Staff Development

Timely Completion of Performance Appraisals

5.4 While timely completion of appraisal reports is a requirement for compliance, the Commission has observed repeated late reporting in promotion submissions. Late completion of performance appraisals deprives officers of an early opportunity of being apprised of their strengths and where weaknesses are identified for improvement to be made. It will also cause delay in conducting promotion boards and in turn affect the implementation of the boards' recommendations which is not conducive to B/Ds' manpower deployment plans. In this connection, the Commission is pleased to note that two B/Ds had achieved timely reporting in the promotion exercises involving over 300 eligible officers in the past three years consecutively. The achievements of these two B/Ds not only showed the strong commitment to timely reporting at all levels, but also set a good example for other B/Ds to follow.

Education Bureau

5.5 The Education Bureau (EDB) has over 5 700 staff. In the past three years, the Commission had advised on 160 submissions¹³ from EDB, eight of which involved over 300 eligible officers. It has consistently maintained a very good record of timely reporting. No late completion of performance appraisals for more than three months was noted in a great majority of the promotion submissions advised by the Commission in the past three years. In the case of the Assistant Education Officer rank, having a strength of over 300 officers, timely completion of all reports was achieved three years in a row. The Commission was also impressed by the work done by the Moderation Panels set up by the Bureau. The detailed observations and comments they made on the appraisal reports not only reflect their deep knowledge of the work of both the appraisers and the appraisees but more importantly the standard of performance expected of them. The

13 Some of the grades in EDB are streamed in specific fields and promotion board of each stream will operate independently.

Commission is encouraged to see the Moderation Panels giving specific and useful recommendations on the assessment standard and quality of appraisal writing for feedback to the officers concerned.

Rating and Valuation Department

5.6 The Rating and Valuation Department (RVD), though with a smaller establishment of around 870, is another department which has done an exemplary job on timely reporting. Of the 24 submissions advised by the Commission in the past three years, except for one appraisal report in 2015, it had achieved timely reporting of all appraisal reports, including the Valuation Officer rank with over 300 officers.

Exemplary achievements

5.7 The Commission considers that the determined commitment and sustained effort of EDB and RVD in achieving timely completion of appraisal reports should be complimented and has suggested to CSB that the Secretary for the Civil Service might consider acknowledging their commendable achievement with some due recognition.

Late reporting

5.8 While the Commission is pleased to note the good efforts devoted by EDB and RVD, the problem of late reporting has still featured in a number of promotion exercises conducted by other B/Ds in 2017. In one particular case, the Commission noted that the 2016/17 appraisal reports of 11 officers had not yet been completed when the promotion board was held. Although the years of service of these 11 officers did not meet the shortlisting criterion, the board should as required, examine their performance in full to decide if they merit exceptional consideration. The absence of a duly completed and most up-to-date report on the performance of these officers not only hampered the board's deliberations, the fairness and recommendations of the board would also be called into question. Timely completion of performance appraisals is an essential tool in managing staff performance. It should be done regardless of whether a promotion exercise is to be conducted but more so if one is being planned. The present case reflects an inadequate regard to the promotion system. While this is an isolated occurrence, the Commission cannot tolerate any recurrence. To this effect, we have asked the HoD

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Performance Management and Staff Development

concerned not to grant approval for a promotion board to be convened if performance appraisal reports of all eligible candidates have not been duly completed and received.

- 5.9 The Commission has been relying on the PM Guide in examining whether appraisal reports were completed late. As stipulated in the PM Guide, AO, Countersigning Officer (CO) and Reviewing Officer (RO) are duty bound to complete appraisal reports on time and in any case not later than three months after the end of the appraisal period, or in the case of departing officers, before they vacate their office. The PM Guide also specifies that an AP should convene when a reporting cycle has ended and a fresh round of appraisal reports becomes available, and if practicable, before the RO completes his/her part. In the completion of a normal annual appraisal report, the specified time line should work smoothly. However, for part-reports which are required to be completed during the year due to the changes of postings or supervisors, the time line set will pose some practical difficulties for the RO as he/she can only complete his/her assessment after the AP has been held which will be beyond three months and therefore considered late. The Commission has therefore invited CSB to review the related guidelines.

After review, CSB has re-affirmed that the intention of the arrangement in the PM Guide is to provide ROs with a full picture of the assessment on the officer, including that of the AP, before he/she completes his/her part. To address the mismatch when applying the above guidelines on part-reports, CSB has adjusted the cut-off date for counting late part-reports to the date on which AOs and COs have completed their parts and the appraisal interview has been conducted. With the above adjustment, part-reports can be assessed by the APs and the ROs at the end of the reporting cycle and will not be counted as late reports. The Commission supports the adjustment and will determine late reporting accordingly.

Comprehensive Appraisal

- 5.10 A good performance management system should facilitate an objective and fair assessment by the management and enable staff to receive frank and constructive feedback from the management for improvement and development. Apart from timeliness, objective and comprehensive reporting are equally, if not more important, in performance appraisals.
- 5.11 During the year, the Commission has observed in a number of submissions

that some supervising officers had repeated the same assessment, and in some cases even used identical wordings, in a series of appraisal reports on the same officer. In one promotion case, the Commission even noted three different AOs making largely identical written assessment on the same officer for different appraisal periods. As performance appraisals form the basis for assessing staff development and advancement, there should be a distinctive account of an appraisee's overall performance, strengths and weaknesses in a reporting cycle. This is particularly relevant in assessing the performance of officers on probation. The Commission has asked the departments to remind the AOs concerned to improve the quality of their performance appraisal writing.

5.12 In examining the appraisal report of an eligible officer in a promotion exercise, the Commission noted that there was disagreement between the assessment of the AO and CO. While the RO had indicated his/her agreement to the remarks and the revised ratings made by the CO, he/she had not recorded his/her considerations in the appraisal report. As a promotion board has to base its recommendations primarily on an officer's appraisal report, any adjustment made should be properly

recorded and different views explained in the report.

Performance Assessment Standards

5.13 In the course of examining the recommendations of different promotion boards submitted by B/Ds during the year, the Commission noted that the percentage of appraisal reports being given an overall rating at the top level had, as in previous year, remained on the high side in some ranks. Performance assessment requires honest reporting which is fair and objective. Over-generous appraisals especially given to a large number of staff will make it very difficult for a promotion board to identify the real performer and to support its recommendation on the basis of the officers' performance records. The Commission has advised grade managements to impress upon the appraisers of the virtue of comprehensive reporting and that they should support the top grading by a thorough evaluative assessment on the actual performance of the appraisee so that the relevant promotion board could have a more solid basis to assess individual appraisees' suitability for advancement. In this connection, the Commission had advised one

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department to look into the problem of over-generous reporting in two consecutive years. The percentage of “Outstanding” reports however remained high at nearly 80%.

5.14 The Commission noted from another promotion case that the same overall performance rating was given to almost all candidates under consideration for promotion during the three-year review period albeit not at the top level. The Commission accepts that performance ratings should not be taken and read in isolation but in totality with the detailed written assessment. However, the tendency to rank the performance of almost all officers at the same level may make it difficult to compare and differentiate the relative merits of individual officers. The Commission has drawn this phenomenon to the attention of the department concerned and asked that the practice be reviewed.

Performance Appraisal System

5.15 Generally speaking, the appraisal system in the Civil Service is a three-tier structure involving four parties, namely, the appraisee, AO, CO and RO. To ensure a multi-perspective assessment on the appraisee, the role of the AO,

CO and RO should be assumed by different officers as far as practicable. In examining the submission of one promotion board of a department, the Commission has found that the performance appraisal system adopted by the department concerned was at variance with the service-wide practice. The record of the appraisal suggested that the AOs had to consult the responsible Assistant Directors before completing the appraisals. Besides, instead of adopting the normal three-tier appraisal system, the department had added two more tiers, viz. two Initiating Officers at the ranks of Assistant Director and Deputy Director, in the appraisal process. The roles of these two Initiating Officers were however unclear. Apart from lengthening the performance appraisal process, such a practice also raised the question as to how an appraisee’s disagreement/appeal, if any, should be dealt with. Pursuant to this observation, the department has reviewed the arrangement in conjunction with CSB. As advised by CSB, the department concerned would cease the practice of requiring AOs to consult the responsible Assistant Directors before completing the appraisals. The department would also review the arrangement of having Assistant Directors and

Deputy Directors as the Initiating Officers in the completion of appraisal reports.

Handling of Complaints about Performance Appraisal

5.16 As observed from the staff report file of an eligible officer in a promotion exercise, the Commission noted that while the officer concerned had indicated that he/she had no comment on the performance assessment during the appraisal interviews in two appraisal reports, he/she had approached the RO to express his/her disagreement to the assessment made by his/her AO and submitted a request for a review of the relevant appraisal reports. However, no record was found in the staff report file on the outcome of the appeal. The Commission subsequently learnt that the RO had explained to the appraisee that in line with the normal procedures on performance appraisal, the appraisee should have provided his/her views on and reasons for disagreement during the appraisal interview. The Commission does not dispute that appraisal interview is a direct and proper channel for an appraisee to raise disagreement on the assessment given by the AO. However, it should not be regarded

as the only channel for an officer to lodge an appeal. Indeed, according to paragraph 2.8.1 of the PM Guide, apart from expressing his/her disagreement at the appraisal interview, an appraisee may lodge an appeal to the RO if he/she is not satisfied with the assessment in his/her appraisal. The Commission has advised the department to ensure that appeals raised against the assessment made in the performance appraisals should be handled promptly in accordance with the PM Guide. Actions taken in response to the appeal should be properly recorded in the staff report file of the appraisee and the appraisee informed of the outcome.

In-between Ratings

5.17 As stipulated in paragraph 3.4.1 of the PM Guide, in-between or split ratings should not be used in giving assessment as such practice undermines the aim of the pre-determined rating scale to achieve better objectivity, consistency and comparability in performance management. As observed from a promotion exercise, the RO had given in-between ratings on promotability assessment (i.e. between “Exceptionally well-fitted for promotion” and “Fitted for promotion”) in a number of

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appraisal reports. The Commission has asked the department to remind the RO concerned to observe the requirement in the PM Guide and consider reviewing the rating scale in use in the department if it is inadequate.

Staff Development and Succession Planning Issues

5.18 Staff development is not only about grooming officers for promotion, it is also an essential process to enhancing individual and departmental performance. A robust staff development plan could help enhance staff's capacity, prepare them for a wider range of responsibilities and build up a pool of talents for smooth succession. In the process, grade management has the responsibility to see to it that staff are posted for career development and for gaining exposure and experience.

5.19 During the year, the Commission was struck by some cases where we found some officers had stayed in the same posts for a long length of time. While service exigencies and operational needs are often the cause, the Commission believes that more could be done by grade management. In some cases, it was the staff themselves who were reluctant to accept a new posting. As posting is a management prerogative, the Commission considers that grade management should not lose sight of those officers who have expressed a preference to stay in a particular job despite having been in the post for an inordinate length of time. While as a good management practice, grade management should conduct regular meetings with grade members to understand their aspirations, the management prerogative of directing postings if necessary should be retained.

CHAPTER 6

Civil Service Discipline

- 6.1 The Commission works with CSB and B/Ds to ensure that civil servants conduct themselves honourably at all times. This entails not just a thorough understanding of the Civil Service disciplinary regulations, but an intrinsic appreciation of the core values of the Civil Service. In furtherance of this objective, the well-established Civil Service disciplinary system in which the Commission plays a key part helps to deal appropriately with the few who fall short and commit acts of misconduct or criminal offences.
- 6.2 With the exception of exclusions specified in the PSCO¹⁴, the Government is required under s.18 of the PS(A)O¹⁵ to consult the Commission before inflicting any punishment under s.9, s.10 or s.11 of the PS(A)O upon a Category A officer. This covers virtually all officers except those on probation or agreement and some who are remunerated on the Model Scale 1 Pay Scale. At the end of 2017, the number of Category A officers falling within the Commission's purview for disciplinary matters was about 114 800.
- 6.3 The Commission's advice on disciplinary cases is based on facts and objective evidence. The nature and gravity of the misconduct or criminal offence in question are always the primary considerations in determining the level of punishment. Other pertinent considerations include the customary level of punishment for similar misconduct or criminal offences, existence of any mitigating factors, the rank, service and disciplinary records of the civil servant concerned, etc. The Commission also seeks to ensure fairness in the process and broad consistency in the punishment meted out at the service-wide level.
- 6.4 Before tendering its advice, the Commission will examine the views and arguments advanced by the B/D concerned and that of the Secretariat on Civil Service Discipline (SCSD). The Commission will consider the grounds of their respective recommendations separately and come to a view independently. In supporting a recommended punishment, the Commission is always mindful of the underlying purpose that the intended punitive and deterrent effect is served.

14 Please refer to paragraph 1.4 of Chapter 1.

15 Generally speaking, with the exception of middle-ranking officers or below in disciplined services grades who are subject to the respective disciplined services legislation, civil servants are governed by disciplinary provisions in the PS(A)O. For disciplinary cases processed under the respective disciplined services legislation of which the punishment authority is the CE (or his/her delegate), the Government will, subject to the exclusions specified in s.6(2) of the PSCO, consult the Commission on the disciplinary punishment under s.6(1)(d) of the PSCO.

CHAPTER 6

Civil Service Discipline

Disciplinary Cases Advised in 2017

6.5 The Commission advised on the punishment of 36 disciplinary cases in 2017 which represents about 0.03% of the 114 800 Category A officers within the Commission's purview. This figure has remained low in recent years, indicating that the vast majority of our civil servants have continued to measure up to the very high standard of conduct and discipline required of them. CSB has assured the Commission that it will sustain its efforts in promoting good standards of conduct and integrity at all levels through training, seminars as well as the promulgation and updating of rules and guidelines. The Commission will continue to

perform its function and tender advice on disciplinary cases without fear or favour. In doing so, the Commission will make sure that the final decision taken is fair. Hence, it is important that officers accused of misconduct should be given a fair and reasonable chance to be heard.

6.6 A breakdown of the 36 cases advised by the Commission in 2017 by category of criminal offence/misconduct and salary group is at Appendix IX. Of these 36 cases, 11 had resulted in the removal of the civil servants concerned from the service by "compulsory retirement"¹⁶ or "dismissal"¹⁷. There were 18 cases resulting in "severe reprimand"¹⁸ plus financial penalty in the form of a "fine"¹⁹ or

16 An officer who is compulsorily retired may be granted retirement benefits in full or in part, and in the case of a pensionable officer, a deferred pension when he/she reaches his/her statutory retirement age.

17 Dismissal is the most severe form of punishment as the officer forfeits his/her claims to retirement benefits (except the accrued benefits attributed to Government's mandatory contribution under the Mandatory Provident Fund Scheme or the Civil Service Provident Fund Scheme).

18 A severe reprimand will normally debar an officer from promotion or appointment for three to five years. This punishment is usually recommended for more serious misconduct/criminal offence or for repeated minor misconduct/criminal offences.

19 A fine is the most common form of financial penalty in use. On the basis of the salary-based approach, which has become operative since 1 September 2009, the level of fine is capped at an amount equivalent to one month's substantive salary of the defaulting officer.

“reduction in salary”²⁰ which is the heaviest punishment next to removal from the service and “reduction in rank”²¹. These figures bear testimony to the resolute stance that the Government has taken against civil servants who have committed acts of misconduct or criminal offences. It also demonstrates and reinforces the Government’s determination to safeguard the reputation of the Civil Service.

to streamline the disciplinary process and procedures to achieve greater efficiency. We also call on CSB to review the benchmarks of punishment periodically in order to keep up with the time and expectations of the community. The major issues reviewed in 2017, together with the observations and recommendations made by the Commission, are set out in the ensuing paragraphs.

Reviews and Observations on Disciplinary Issues

6.7 Apart from deliberating and advising on the appropriate level of punishment to be meted out in each and every disciplinary case submitted to it for advice, the Commission also makes observations on cases and initiates discussions with CSB to explore further scope

Handling of substandard performance or misconduct cases involving civil servants with disabilities

6.8 In response to the Commission’s concern about the prolonged processing time of disciplinary cases involving civil servants with disabilities, CSB updated and promulgated the principles and

- 20 Reduction in salary is a form of financial penalty by reducing an officer’s salary by one or two pay points. When an officer is punished by reduction in salary, salary-linked allowance or benefits originally enjoyed by the officer would be adjusted or suspended in the case where after the reduction in salary the officer is no longer on the required pay point for entitlement to such allowance or benefits. The defaulting officer can “earn back” the lost pay point(s) through satisfactory performance and conduct, which is to be assessed through the usual performance appraisal mechanism. In comparison with a “fine”, reduction in salary offers a more substantive and punitive effect. It also contains a greater “corrective” capability in that it puts pressure on the officer to consistently perform and conduct himself/herself up to the standard required of him/her in order to “earn back” his/her lost pay point(s).
- 21 Reduction in rank is a severe punishment. It carries the debarring effect of a severe reprimand, i.e. the officer will normally be debarred from promotion or appointment for three to five years, and results in loss of status and heavy financial loss. The pension payable in the case of a pensionable officer punished by reduction in rank is calculated on the basis of the salary at the lower rank. An officer’s salary and seniority after reduction in rank will be determined by the Secretary for the Civil Service. He/she would normally be paid at the pay point that he/she would have received had his/her service been continued in that lower rank.

CHAPTER 6

Civil Service Discipline

guidelines for handling this type of cases in March 2013 which provided for a review to be taken in the light of experience gained. As undertaken, CSB completed the review in 2016 and reported the review results to the Commission in early 2017. The Commission is pleased to note that the updated guidelines and procedures had been found to be useful by B/Ds in their management of such cases. To enhance mutual communications and to further improve processing efficiency, the Commission has invited CSB to keep B/Ds informed of the progress of cases under consideration and to pledge a time line of response. Taking heed of the Commission's advice, CSB promulgated a memorandum to all B/Ds to this effect in August 2017.

Handling of disciplinary cases involving probationers

6.9 Disciplinary punishments meted out to a probationer are outside the purview of the Commission. Such cases only came to the attention of the Commission when the Commission's advice is sought to extend the probationary services of the officers concerned as a result of the disciplinary action taken. In one case, a department took 17 months

to issue a verbal warning to a probationer for a minor misconduct. In two other cases, a verbal warning was issued about eight months and a written warning about 18 months following investigations of the probationers' acts of misconduct. As summary disciplinary action (i.e. verbal/written warning) serves to enable frontline supervisors to correct and deter minor and isolated acts of misconduct in a timely manner without the need to institute formal disciplinary proceedings, it should be administered promptly to achieve the desired deterrent effect. The Commission has reminded the departments concerned to be more vigilant in monitoring the conduct of probationers and to ensure that expeditious actions are taken to deal with them. In addition, the Commission has also invited CSB to expand relevant training courses to include the handling of disciplinary cases involving probationers.

Level of punishment

6.10 To fulfil its role in ensuring fairness in the disciplinary process and broad consistency in the level of punishment, the Commission considers it important to keep the standard under regular review and has invited CSB to do so.

CHAPTER 7

Visits

7.1 In 2017, the Chairman and Members of the Commission visited the Architectural Services Department and the Civil Aviation Department. These visits have facilitated useful exchanges on various issues concerning Civil Service appointments, performance management, staff development and succession planning of the Departments concerned. The briefings on the work of the Departments as well as the guided tours to their various operational units have greatly enhanced the Commission's understanding of the Departments' role and operation

as well as the valuable services that they provide to the public and other government departments.

7.2 Separately, the Chairman of the Commission met Professor David R. Syiemlieh, Chairman of the Union Public Service Commission of India in October 2017 and Ms Nahomi Ichimiya, President of the National Personnel Authority of Japan in December 2017 during their visits to Hong Kong and had fruitful exchange of views with them on subjects of common interest concerning Civil Service appointments and discipline matters.



Visit to the Architectural Services Department



Meeting with the Chairman of the Union Public Service Commission of India



Visit to the Civil Aviation Department



Meeting with the President of the National Personnel Authority of Japan

CHAPTER 8

Acknowledgements

8.1 The Commission would like to express its gratitude to Mr Clement CHEUNG, the former Secretary for the Civil Service, and Mr Joshua LAW, the current Secretary for the Civil Service as well as their staff for their continued support and assistance in all areas of the Commission's work. The Commission also warmly acknowledges the ready cooperation and understanding shown by Permanent Secretaries, HoDs and their senior staff in responding to the Commission's enquiries and suggestions during 2017.

8.2 As always, the staff of the Commission Secretariat have continued to provide dedicated support to the Commission. In particular, the Chairman and Members of the Commission wish to place on record their appreciation to the outgoing Secretary of the Commission, Ms Candice HO, for her valuable support and contribution to the efficient operation of the Commission in her more than five years of service with the Commission.

Appendix I

Curricula Vitae of the Chairman and Members of the Public Service Commission



Mrs Rita LAU NG Wai-lan, GBS, JP

BA (Hons) (HKU)

Chairman, Public Service Commission

(appointed on 1 May 2014)

Mrs Lau joined the Government as an Administrative Officer in October 1976 and had served in various Policy Bureaux and Departments during her 34 years of service. Senior positions held by Mrs Lau included Director of Food and Environmental Hygiene (2000 – 2002), Permanent Secretary for the Environment, Transport and Works (Environment) (2002 – 2004), Permanent Secretary for Housing, Planning and Lands (Planning and Lands) (2004 – 2007) and Permanent Secretary for Commerce and Economic Development (Communications and Technology) (2007 – 2008). She was appointed as Secretary for Commerce and Economic Development in July 2008 and left the position in April 2011.



Mrs Lucia LI LI Ka-lai, SBS

MA (Hist) (CUHK), HKICPA

Member, Public Service Commission

(appointed on 1 February 2012)

Mrs Li joined the Civil Service as Accounting Officer II in December 1976. She retired from the post of Director of Accounting Services in January 2009. She is now an Independent Non-executive Director of the MTR Corporation Limited and a Member of the Innovation and Technology Commission Task Force to follow up Director of Audit's Report in regard to the Small Entrepreneur Research Assistance Programme.

Appendix I

Curricula Vitae of the Chairman and Members of the Public Service Commission



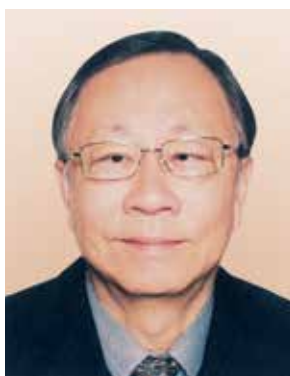
Ms Virginia CHOI, JP

BSW (HKPU), FIHRM (HK), FHKIoD

Member, Public Service Commission

(appointed on 1 February 2012)

Ms Choi is Managing Consultant and Country Manager of Tamty McGill Consultants International Limited. She was the President of the Hong Kong Institute of Human Resource Management from 2001 to 2005 and is now its Executive Council Member. She was the Chairman of the Human Resources Committee and a Member of the Council of The Open University of Hong Kong. She is the Chairperson of the Continuing Professional Development Alliance. She actively participates in various boards, committees and councils including the Government's Pay Trend Survey Committee, the Hong Kong Housing Authority, the Careers Advisory Board of The University of Hong Kong, The Hong Kong Polytechnic University and the Panel of Arbitrators of the Labour and Welfare Bureau, etc.



Mr Thomas CHAN Chi-sun, IDS

BA (Hons) (HKU), JD (CUHK)

Member, Public Service Commission

(appointed on 10 February 2012)

Mr Chan joined the Independent Commission Against Corruption (ICAC) in 1974. Before he took up the post of Director of Community Relations, ICAC, in 2007, he had been the Director of Corruption Prevention, ICAC for 11 years. He retired from ICAC in 2008. Mr Chan is a Member of the Executive Committee of the Hong Kong Youth Hostels Association.



Mrs Paula KO WONG Chau-mui

BSocSc (Hons) (HKU)
Member, Public Service Commission
(appointed on 6 July 2012)

Mrs Ko served as a Member of the Public Service Commission from 1 June 2005 to 30 September 2006. Before her retirement in 2011, she was the Head of Human Resources, Standard Chartered Bank (China) Limited.



Prof Timothy TONG Wai-cheung, JP

BSc (OSU), MSc (UC at Berkeley), PhD (UC at Berkeley),
FASME, FHKEng
Member, Public Service Commission
(appointed on 1 December 2013)

Prof Tong is the President of The Hong Kong Polytechnic University. He is the Chairman of the Citizens Advisory Committee on Community Relations of ICAC, the Chairman of the Steering Committee of the Pilot Green Transport Fund, a Member of the Steering Committee on the Promotion of Electric Vehicles and a Member of the Advisory Committee on Corruption of ICAC.



Mr Andrew MAK Yip-shing, BBS, JP

BSc (HKU), LLB (LondonU), MBA (CUHK), LLM (LSE),
CEDR Accredited Mediator, MCI Arb, Chartered Secretary
Member, Public Service Commission
(appointed on 23 May 2015)

Mr Mak is a barrister-at-law and an accredited Mediator. He has been the Chairman of the Special Committee for Greater China Affairs of the Hong Kong Bar Association for over ten years. He is also the Chairman of Fishermen Claims Appeal Board, a Member of the Air Transport Licensing Authority and a Member of the Insurance Appeal Tribunal panel.

Appendix I

Curricula Vitae of the Chairman and Members of the Public Service Commission



Mrs Ayesha MACPHERSON LAU, JP
CPA

Member, Public Service Commission
(appointed on 1 February 2016)

Mrs Lau is a partner of KPMG China. She is the Chairman of the Joint Committee on Student Finance and a Non-executive Director of the Mandatory Provident Fund Schemes Authority, a Member of the Legal Aid Services Council, the Financial Infrastructure and Market Development Sub-Committee of the Exchange Fund Advisory Committee and the Policy Research Committee of the Financial Services Development Council.



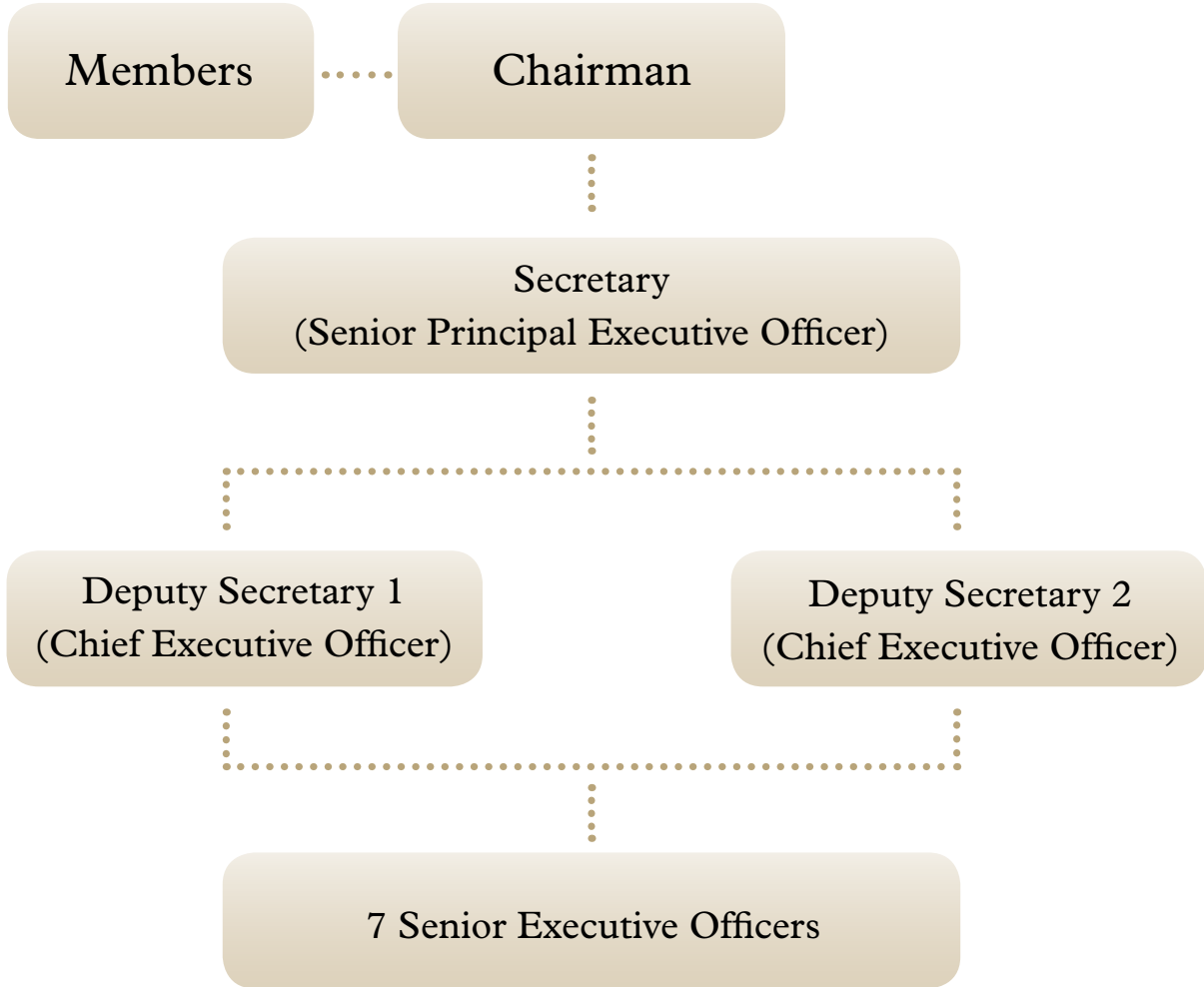
Mr John LEE Luen-wai, BBS, JP

Honorary Fellow of CityU, Fellow of The Institute of Chartered Accountants in England and Wales, FCCA and FCPA
Member, Public Service Commission
(appointed on 1 May 2016)

Mr Lee is the Managing Director and the Chief Executive Officer of Lippo Limited. He is an Executive Director and the Chief Executive Officer of Lippo China Resources Limited and Hongkong Chinese Limited. He also serves as an Independent Non-executive Director of New World Development Company Limited and UMP Healthcare Holdings Limited, all being listed public companies in Hong Kong. Over the years, he has served as a member or chairman of different government boards and committees covering the areas of healthcare, education, law, finance, accountancy, culture and entertainment, broadcasting, anti-corruption and food and environmental hygiene. He is currently the Chairman of the Investment Committee of the Hospital Authority Provident Fund Scheme.

Appendix II

Organisation Chart of the Public Service Commission Secretariat



Establishment

Directorate Executive Officer	1
Executive Officer Grade	9
Clerical Grade	18
Secretarial Grade	3
Chauffeur Grade	1
	32

Appendix III

Submissions Advised by the Commission

Category	Number of Submissions Advised				
	2013	2014	2015	2016	2017
Recruitment	126	133	151	161	169
Promotion/Acting appointment	669	682	710	701	672
Extension of service or re-employment after retirement	8	16	17	16	20
Extension or termination of probationary/trial service	91	141	114	134	163
Other Civil Service appointment matters	90	76	59	49	49
Discipline	44	48	37	47	36
Total number of submissions advised	1 028	1 096	1 088	1 108	1 109
<i>(a) Number of submissions queried</i>	673	720	767	796	788
<i>(b) Number of submissions with revised recommendations following queries</i>	156	133	105	113	135
<i>(b) / (a)</i>	23%	18%	14%	14%	17%

Appendix IV

Recruitment Cases Advised by the Commission

Terms of Appointment	Number of Recommended Candidates in 2017	
	Open Recruitment	In-service Appointment
Probation	1 408	0
Agreement	40	0
Trial	75	78
Sub total	1 523	78
Total	1 601	

	Comparison with Previous Years				
	2013	2014	2015	2016	2017
Number of recruitment exercises involved	126	133	151	161	169
Number of candidates recommended	1 092	1 268	1 100	1 398	1 601
<i>Number of local candidates recommended</i>	<i>1 092</i>	<i>1 268</i>	<i>1 099</i>	<i>1 397</i>	<i>1 601</i>
<i>Number of non-permanent residents recommended</i>	<i>0</i>	<i>0</i>	<i>1</i>	<i>1</i>	<i>0</i>

Appendix V

Promotion Cases Advised by the Commission

Category	Number of Recommended Officers				
	2013	2014	2015	2016	2017
Promotion	2 154	2 264	1 929	2 224	2 169
Waitlisted for promotion	108	200	216	272	291
Acting with a view to substantive promotion (AWAV) or waitlisted for AWAV	361	436	442	397	478
Acting for administrative convenience (AFAC) or waitlisted for AFAC	4 079	4 099	4 160	4 636	4 417
Total	6 702	6 999	6 747	7 529	7 355

	2013	2014	2015	2016	2017
Number of promotion exercises involved	669	682	710	701	672
Number of ranks involved	393	403	401	426	411

Appendix VI

Extension of Service and Re-employment after Retirement Cases Advised by the Commission

Category	Number of Recommended Officers in 2017	
	Directorate	Non-directorate
Submissions under the previous arrangements for extension of service or re-employment after retirement before 1 June 2017	7	0
Submissions under the adjusted mechanism for further employment beyond retirement age for a longer duration than final extension of service from 1 June 2017	2	28
Sub total	9	28
Total	37	

	Comparison with Previous Years				
	2013	2014	2015	2016	2017
Number of extension of service or re-employment after retirement submissions advised	8	16	17	16	20
<i>Directorate ranks</i>	3	9	11	11	9
<i>Non-directorate ranks</i>	5	7	6	5	11

Appendix VII

Extension/Termination of Probationary/Trial Service Cases Advised by the Commission

Category	Number of Submissions Advised				
	2013	2014	2015	2016	2017
Termination of trial service	0	1	1	0	0
Termination of probationary service	11	11	16	11	8
Sub total	11	12	17	11	8
Extension of trial service	8	3	13	11	12
Extension of probationary service	72	126	84	112	143
Sub total	80	129	97	123	155
Total	91	141	114	134	163

Appendix VIII

Other Civil Service Appointment Matters Advised by the Commission

Category	Number of Submissions Advised				
	2013	2014	2015	2016	2017
Non-renewal of agreement	1	0	1	0	1
Renewal or extension of agreement	13	7	10	11	2
Retirement under section 12 of the Public Service (Administration) Order	1	1	0	0	1
Secondment	7	0	6	3	7
Opening-up arrangement	2	1	3	0	1
Review of acting appointment	6	11	10	12	12
Updating of Guide to Appointment	60	56	29	23	25
Total	90	76	59	49	49

Appendix IX

Disciplinary Cases Advised by the Commission

(a) Breakdown of Cases in 2017 by Salary Group

Punishment	Number of Cases Advised			
	Salary Group			Total
	Master Pay Scale Pt.13 and below or equivalent	Master Pay Scale Pt.14 to 33 or equivalent	Master Pay Scale Pt.34 and above or equivalent	
Dismissal	4	1	1	6
Compulsory Retirement + Fine	0	0	0	0
Compulsory Retirement	3	1	1	5
Reduction in Rank	0	0	0	0
Severe Reprimand + Reduction in Salary	3	0	1	4
Severe Reprimand + Fine	9	5	0	14
Severe Reprimand	1	0	0	1
Reprimand + Fine	4	0	1	5
Reprimand	1	0	0	1
Total	25	7	4	36

(b) Breakdown of Cases in 2017 by Category of Criminal Offence/Misconduct

Punishment	Number of Cases Advised				
	Criminal Offence			Misconduct ²²	Total
	Traffic related	Theft	Others ²³		
Dismissal	0	2	2	2	6
Compulsory Retirement	0	0	3	2	5
Lesser Punishment	6	2	10	7	25
Total	6	4	15	11	36

(c) Comparison with Previous Years

Punishment	2013	2014	2015	2016	2017
Dismissal	8	1	5	2	6
Compulsory Retirement	5	12	7	12	5
Lesser Punishment	31	35	25	33	25
Total	44	48	37	47	36

22 Including unauthorised absence, solicitation and acceptance of unauthorised loans, etc.

23 Including fraud, underskirt filming, indecent assault, misconduct in public office, forgery, using false instrument, etc.