

Public Service Commission

ANNUAL REPORT
2019

Public Service Commission

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Chairman's Foreword



The 2019 Annual Report marks the second year of our digital reporting dispensing with the publication of a printed version. Taking this as an environmental move aside, it serves to provide our readers with a quicker and more convenient way to get to know about the work of the Commission.

2019 presents unprecedented challenges for Hong Kong and our society. After months of social unrest, we are hit by the Covid-19 coronavirus. The Commission is encouraged by the relentless efforts undertaken by diligent civil servants in rising to the challenges and sustaining the delivery of essential public services to the best of their abilities. Our work has not halted. We have continued to discharge our statutory responsibilities in upholding the appointment, promotion systems and advising on matters on conduct and discipline.

In terms of caseload, we recorded another high level of 1162. In tandem with the rising demand of new and improved public services, the Civil Service establishment has grown steadily in recent years reaching a new high level of 190 000 by end of 2019-2020. We can expect a corresponding increase of cases submitted to the Commission in the year ahead.

Maintaining a meritorious Civil Service is a core value the Commission holds dear and aspires. It is thus appropriate for the Commission to have spent most of our attention and efforts in examining recommendations for appointment to and promotion in the Civil Service. Chapters 2 - 4 give details on our work done in 2019. The cases we have highlighted serve to illustrate the need for constant and even more vigorous efforts on the part of Bureaux and Departments to ensure that only the best and most-suited to the jobs are offered appointment. Needless to say, officers have to earn and demonstrate that they are suitable in all respects for promotion.

An efficient and professional Civil Service cannot rely on a brilliant individual alone, it has to be built on systems of organizational excellence and a culture of consistent talent development. Managing staff performance is the duty of the

management in their daily work. Only by maintaining a fair and objective performance appraisal system can the Civil Service continue to thrive. Chapter 5 provides an overview of the strategy and on-going initiatives being pursued by the Civil Service Bureau which the Commission fully support and endorse.

Proper conduct and discipline is a prerequisite required of a civil servant. The Commission advocates and expects a very high standard to be set in the Civil Service. Although the number of serving officers found to have acted in contravention of Civil Service Regulations, Codes of Conduct or flouted the law is small and far in between, each and every case that the Commission has examined are never viewed lightly. To the Commission, upholding the integrity of the Civil Service is a timeless mission. We have no doubt that the Administration stands with us. Our determination to do so together is best reflected in whether timely and decisive action is taken by the management when faced with offending officers. Chapter 6 offers details on some significant cases for future reference. The consideration underlining the advice we have given and suggestions we have proposed to enhance the efficiency of the disciplinary system are also explained.

On completion of another fruitful year of work, I want to thank my fellow Commission Members for their unfailing support and wise counsel. In particular, I would like to pay tribute to Professor Timothy TONG who retired from the Commission after having served as Member for six years. I would also like to extend a warm welcome to Dr Clement CHEN, who joined the Commission during the year.

My heartfelt gratitude also goes to the Secretary for the Civil Service and his colleagues for their readiness and valuable assistance in taking forward the Commission's suggestions. On behalf of the Commission, I would like to record my appreciation to the Commission Secretariat for their dedicated and hard work in the past year.

Working jointly with my fellow Members, we will continue to carry out the Commission's functions independently without fear or favour. Only by so doing will we be able to sustain the confidence and trust placed on us.

A handwritten signature in black ink, appearing to be 'Rita Lau', written in a cursive style.

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 2019 was as follows –



Chairman and Members of the Public Service Commission

Chairman	
Mrs Rita LAU NG Wai-lan, GBS, JP	since May 2014
Members	
Prof Timothy TONG Wai-cheung, BBS, JP	December 2013 to November 2019
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
Mr Lester Garson HUANG, SBS, JP	since February 2018
Mrs Ava NG TSE Suk-ying, SBS	since February 2018
Mrs Margaret LEUNG KO May-yee, SBS, JP	since July 2018
Mr Tim LUI Tim-leung, SBS, JP	since July 2018
Dr Clement CHEN Cheng-jen, GBS, JP	since December 2019
Secretary	
Ms Fontaine CHENG Fung-ying	since October 2018

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



The Public Service Commission at a meeting.

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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 2019, 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 (\$53,500 as at end of 2019) 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 2019, the number of established Civil Service posts falling under the Commission's purview was 48 399 out of a total of 187 379. However, irrespective of rank, the following categories of cases must be submitted to the Commission for advice. They are –

- (a) 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;
- (b) termination or extension of probationary or trial service;
- (c) refusal of passage of probation or trial bar; and
- (d) retirement in the public interest under s.12 of the Public Service (Administration) Order (PS(A)O)².

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.

1.5 As regards disciplinary cases, the Administration is required under s.18 of the PS(A)O³ to consult the Commission before inflicting any punishment under s.9, s.10 or s.11 of the PS(A)O upon Category A officers with the exception of the exclusions specified in the PSCO. Category A officers refer to those who are appointed to and confirmed in an established office or are members of the Civil Service Provident Fund (CSPF) Scheme⁴. 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 2019, the number of Category A officers falling under the Commission's purview for disciplinary matters was about 117 000.

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),

3 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.

4 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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the Commission's primary aim is to ensure that the recommendations are well justified and are arrived at following the required 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 supplementary information. In some cases, B/Ds would modify their recommendations after taking into account the Commission's observations. 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 deserving 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.

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 matter 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 provisions serve to provide a clear and firm legal basis for safeguarding 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 2019

1.11 In 2019, the Commission advised on 1 162 submissions covering recruitment, promotions and disciplinary cases as well as other appointment-related subjects. Queries were raised in respect of 887 submissions, resulting in 156 re-submissions (18%) with recommendations revised by B/Ds in the light of the Commission's comments. All submissions in 2019 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. Should inadequacies or irregularities in B/Ds' work be identified in the process, the Commission would provide advice to B/Ds concerned for rectification.

1.13 The Commission dealt with 11 representations relating to appointment matters in the year. After careful and thorough examination, the Commission was satisfied that none but one of the representations made was substantiated. The representation involved two officers in a department who were arranged by the management to take up acting appointments in a higher rank for more than six months without going through a proper selection process as required under Civil Service Regulation (CSR) 166(6)⁵. The department explained that the acting appointments in question were arranged for the sole purpose

of meeting operational and management needs. It undertook to strictly adhere to the CSR in the future. For the subsequent promotion exercise that followed, the Commission Secretariat was specifically tasked to examine whether any undue advantage was given to the officers concerned for the performance they delivered while acting. The Commission was pleased to note that the promotion board had acted properly by giving full and fair consideration to all eligible candidates on an equal basis.

1.14 In addition to direct representations, the Commission also received complaints of various nature. After thorough examination of the facts and information provided by the relevant B/Ds, the Commission will deliberate on the substance of the complaints and reply to the complainants. Where the matters raised fall outside the Commission's purview, the Commission Secretariat will re-direct them for the relevant B/Ds to reply.

1.15 The Commission has a key role to play in ensuring compliance and consistency in the application of policies and procedures

5 According to CSR 166(6), for an acting appointment that is expected or likely to last or has lasted for more than six months, the approving authority should follow the normal procedures applicable to the selection of officers for substantive appointment in selecting an officer to take up the acting appointment, subject to the advice of the Commission for posts under its purview.

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that pertain to appointments, promotions and discipline in the Civil Service. While staff training and development are the core responsibilities of departmental and grade managements (GMs), the Commission has been working with CSB to promote a total approach in developing a comprehensive Human Resource Management strategy for the Civil Service. Specifically, we would like to see B/Ds create and engender an optimum environment to manage, develop and motivate staff thus enabling them to perform to the best of their abilities to achieve the B/Ds' organisational objectives. In 2019, the Commission continued the initiative of fielding officers from the Commission Secretariat to participate at training sessions/workshops organised for Executive Grade officers. We were encouraged by the feedback that these forums have helped to nurture mutual understanding and enhance communications between the Commission and B/Ds. The face-to-face dialogue and exchange with the Commission Secretariat's staff have enabled officers responsible for preparing submissions to the Commission to become better aware of the Commission's standard and requirements. This in turn has helped to enhance our

mutual efficiency. Separately, the Commission will continue to take advantage of our visits to B/Ds to discuss areas and matters of mutual interest.

Homepage on the Internet

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

<https://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.

- 1.17 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 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.

CHAPTER 2

Civil Service Appointments

2.1 The principle governing Civil Service appointments is to appoint “the best person for the job”. Ability and good conduct aside, the Commission has also to be assured that the selection process is fair and properly conducted and that the claims of all eligible candidates are duly and fully considered. In 2019, the Commission considered and tendered advice on 1 162 submissions. Of them, 1 126 were appointment-related and the remaining 36 were related to conduct and discipline. These submissions were the result of the hard work of B/Ds. Altogether, 197 recruitment and 715 promotion exercises were conducted by them. They involved hundreds and thousands of applicants and candidates whose applications for appointment and claims for promotion have to be meticulously assessed. In addition, the Commission advised on 26 submissions concerning extension of service or re-employment after retirement. Of these, 25 were further employment cases conducted under the adjusted mechanism promulgated by CSB in June 2017. Another 148 cases involved extensions or

termination of officers appointed on probation or trial service. The remaining 40 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 is detailed 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 Commission⁶, we will check to see that objective selection standards and proper procedures are adopted in the process. Introduction of new shortlisting criteria for recruitment exercises require the Commission’s advice in advance before they can be adopted. We will examine them to ensure that they are appropriate and fair. We also advise B/Ds on improvement measures that can

6 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 (\$53,500 as at end-2019) 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.

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be taken to shorten the processing time so that early offers can be made to successful candidates.

- 2.4 In 2019, the Commission advised on 197 recruitment exercises involving the filling of 1 944 posts, of which 1 885 posts (in 190 exercises) were through open recruitment and 59 posts (in seven exercises) by in-service appointment. A statistical breakdown of these appointments and a comparison table showing the number of recommendees in 2019 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 ranks⁷ 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 claims of all eligible officers have been fairly 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 2019, the Commission advised on 715 promotion exercises involving 9 200 officers. A numerical breakdown of these submissions 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.

Extension of Service of Civil Servants

- 2.7 To address the demographic challenges arising from an ageing

⁷ 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.

population and the anticipated wastage of civil servants in the coming years, the Government announced in January 2015 the adoption of a package of measures for extending the service of civil servants. They include raising the retirement age of new recruits, streamlining the control regime on post-retirement outside work, promulgating the Post-retirement Service Contract Scheme to engage retired civil servants, revising the arrangements for final extension of service and implementing an adjusted mechanism for further employment of civil servants for a longer duration than final extension of service (hereafter referred to as “FE”).

- 2.8 Furthermore, to tie in with the goal of expanding the labour force and to respond to the aspirations of serving colleagues in the Civil Service, the CE announced in the 2017 Policy Address that serving civil servants who joined the Government between 1 June 2000 and 31 May 2015 would be given an option to retire at the age of 65 (for civilian grades) or 60 (for disciplined services grades) on a voluntary basis (hereafter referred to as “the Option”).

The FE scheme

- 2.9 Under the FE scheme, eligible officers may be considered for FE

through a selection process, which has been institutionalised by making reference to the modus operandi of promotion and recruitment boards. The Commission’s advice is required for FE if the posts concerned are under our purview. In 2019, the Commission had advised on 25 submissions on the recommendations of FE selection boards involving the extension of service of 65 officers. A breakdown of the number of extension of service or re-employment after retirement cases, including FE submissions, in 2019 and a comparison with those in the past four years are provided at Appendix VI. The Commission notes that as an on-going effort, CSB will review the implementation of the FE scheme. The Commission will continue to scrutinize the operation of the FE scheme and provide feedback to CSB as necessary.

The Option

- 2.10 CSB launched the Option on 27 July 2018 with the provision of a two-year option period commencing 17 September 2018. As at 16 December 2019, about 46% of the eligible civil servants had taken the Option. The Commission will keep the progressive implementation of the Option in view and seek a further update from CSB prior to the close of the option period in mid-2020.

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Extension/Termination of Probationary/Trial Service

2.11 The purpose of requiring an officer to undergo a probationary/trial period is manifold. They include –

- (a) providing an opportunity for the appointee to demonstrate his/her suitability for further appointment in the Civil Service;
- (b) allowing the appointment authority (AA) to assess the performance and conduct of the appointee and be satisfied that he/she is fit for continuous employment; and
- (c) giving 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 and/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. Termination is not a punishment for a specific act of misconduct. If at 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 having been given guidance and advice, the HoD/HoG concerned should take early action to seriously consider terminating his/her service under CSR 186/200 without the need to wait till the end of the probationary/trial period.

- 2.12 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 be extended only 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.

2.13 The number of cases involving termination of probationary/trial service advised by the Commission was 11 in 2019. These cases were all related to unsatisfactory performance and/or conduct of the officers concerned. Submissions recommending extension of probationary/trial service had increased from 128 in 2018 to 137 in 2019. Most of these extensions were needed 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, minor lapses in conduct or absence from duty for a prolonged period due to the officers' health conditions, or pending the acquisition of requisite qualifications prescribed for continued appointment. A statistical breakdown of these cases

and a comparison with those in the past four years are provided at Appendix VII.

Management of officers on probation/trial

2.14 To uphold the proper administration of the probation/trial system, HoDs/HoGs have the overall responsibility of overseeing the management of officers on probation/trial. Continual monitoring and regular feedback are necessary in determining whether approval for passage of the probation/trial bar should be given. They are also needed to enable the management to take appropriate action to address problems that may surface during the probation or trial period. In order that holistic management actions can be timely taken, information exchange and updates between different work units in a B/D is imperative.

2.15 In examining an extension case, while noting that the department has put in place an administrative "bring-up" system under the personnel section to consider and process the officer's suitability for passage of the probation bar, another section was tasked to deal with staff being investigated for misconduct or involved in criminal investigation. Because of the compartmentalized division of duty with no internal guideline

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requiring the two sections to seek updates and exchange information, belated action was taken to seek an extension of the officer's probation. In another case, the department submitted a recommendation to defer an officer's passage of the probation bar on the grounds of prolonged sick leave having been taken by the officer concerned. Shortly after the Commission had supported the extension, the department made another extension submission as the officer concerned was found to be the subject of a criminal investigation. As the investigation was still on-going, a further extension had to be sought. The Commission considered that action should have been taken by the department to seek a longer extension to cover both circumstances in one-go.

2.16 The Commission considered the handling of the above cases far from satisfactory. The Commission has advised the relevant departments to strengthen internal departmental procedures and enhance the general management of probationers.

Assessment of suitability for passage of probation/trial bar

2.17 As a stipulated appointment guideline, stringent suitability standards should be applied to assess and determine whether an officer on probation/trial should be allowed to pass the probation/trial bar. In an extension case, the supervisors of an officer on probation sought the advice of the Commission for an extension on the grounds that improvement in performance was seen in the last five months before the due date of the passage of the probation bar. Upon scrutiny, the Commission noted that the officer had been repeatedly reported as displaying attitude and conduct problems throughout the probationary period. Just shortly before the end of his/her probationary period, the officer was issued with a verbal warning for insubordination necessitating the deferment of the passage of the probation bar with financial loss under the system of summary disciplinary action promulgated by CSB⁸. While

8 Summary disciplinary action comprises verbal and written warnings. It is taken in cases of acts of minor misconduct (e.g. occasional unpunctuality) committed by civil servants and allows B/Ds to tackle and deter such misconduct expeditiously. The Commission's advice is not required in such cases. A verbal or written warning would debar an officer from promotion or appointment for a period of time. If a probationer is issued with a verbal or written warning, his probationary period should be considered for extension by six months or one year respectively with financial loss under CSR 186, irrespective of when the warning is issued during the probationary period. The probationer will receive no increment during the extension and his/her incremental date will be deferred for the same duration permanently. At the end of the period, the officer will be considered for confirmation to the rank subject to his/her satisfactory performance and the AA's satisfaction that he/she fully meets the requirements of the grade for confirmed appointment in the long term.

disciplinary action, albeit informal, was duly taken against the officer's misconduct leading to the punishment of a verbal warning, the general suitability of this officer for continued appointment should have been considered also under CSRs 180 and 186. Given the officer's persistent attitude and conduct problems, earlier decisive action should have been taken by the departmental management to terminate the officer's probationary service.

2.18 In a case involving an officer on trial, the GM initially proposed to extend his/her trial service for six months with financial loss on medical grounds. On closer examination of the medical history presented, the Commission was unable to establish a causal relationship between the officer's substandard performance and his/her health. Despite intensive coaching, the officer's performance had not improved. Upon the request of the Commission, the GM subsequently revised its recommendation and decided to refuse the officer's passage of trial bar. In tendering its advice on the case, the Commission has impressed upon the GM of the need to keep the performance of an officer on trial under regular review and should be more alert to the taking of prolonged sick leave.

2.19 In another extension case, the

department originally recommended deferring an officer's passage of probation bar for six months with financial loss in light of the large number of sick leave taken intermittently over a prolonged period and failings in conduct and performance. Without responding to elaborations sought by the Commission Secretariat, the extension submission was withdrawn by the department. The Commission later learnt that the reasons advanced by the management for withdrawing the proposal were that the officer's performance had improved and that the sick leave taken was considered genuine. However, the department would consider issuing an advisory letter to advise the officer of the areas requiring improvement and that greater efforts needed to be exerted. This would suggest that the officer's performance had yet to reach the required standard and in the view of the Commission, it was doubtful whether allowing the officer to pass the probation bar was fully justified at this juncture. The Commission considered the department's act of withdrawing the original extension recommendation without first addressing the Commission's concerns regrettable. It also reflected that the departmental management had not carefully thought through the appropriate management action it should take before making the submission.

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Proper administration of verbal/ written warning for probationers

2.20 According to CSB Circular No. 5/2015, a probationer who has been issued with a verbal or written warning will have his/her probationary period extended for six months or one year respectively with financial loss⁹, irrespective of when the warning is issued during the probationary period and subject to the requirements under CSRs 186(3) and 186(4)¹⁰. A probationer issued with a warning should be duly informed of its implication on his probationary period and be cautioned to demonstrate remarkable improvement and exemplary performance, so that the probationer knows where he/she stands. To assist B/Ds in administering summary disciplinary action, CSB has issued a template

for B/Ds to record the verbal and written warnings instituted against defaulting officers, in which a clause stipulating the effect of warnings applicable to the probationer is included in the execution. However, the purpose and effect of the system will be defeated if it is not properly administered. In examining an extension case, the department was found to have used a wrong template in administering a warning to a probationer. The crucial information that the probation period would be extended by six months was not specified therein. In another case, a number of officers were involved and one was a probationer. Not being aware, the issuing officer, when recording the administered warning in the personnel file of the probationer, had wrongly crossed out the reference in the form of an extension of the probation period. While the

9 Please refer to Note 8.

10 CSR 186(3) requires that before a decision is made to terminate the service or refuse/defer with financial loss the passage of probation bar of an officer on probationary terms, the officer should be –

- (a) informed in writing of the intention to terminate his service or refuse/defer his passage of probation bar;
- (b) given the reasons or an outline of the individual shortcomings that have given rise to the intention; and
- (c) given seven calendar days to submit any representations he may wish to make.

The AA shall take into account the representations made and seek the advice of the Commission where appropriate, before making a decision.

CSR 186(4) requires that for recommendation of termination of service or refusal of passage of probation bar or deferment with financial loss of passage of the probation bar which is subject to the advice of the Commission, the AA should as far as practicable forward his recommendation with detailed reasons and justifications, comments on the officer's representations if any, and all staff reports on the officer, to the Commission at least two months before the end of the appointment on probationary terms.

effect of the warnings had not been affected, the Commission has urged the concerned departments to strongly advise the subject officers to familiarize themselves fully with the operation of the warning system and to ensure accuracy in processing similar cases in the future.

Taking timely action for extension of probationary period after award of verbal/written warning

2.21 While accuracy is a prerequisite, taking prompt and timely action is just as important in the administration of the warning system. For the avoidance of doubt, CSB has issued additional guidance to B/Ds again in January 2018 to clarify that they should proceed to extend the probation period of an officer who had been warned without waiting till the end of the probationary period. Despite the reminder, cases involving belated follow-up actions on warnings issued to probationers were still observed during the year. In an extension case, the Commission noted a long time gap of over two years between the issuance of a verbal warning and the submission for extension to the Commission. The department explained that due to administrative oversight, the officer responsible for administering the warning was unaware that the officer was still on probation. The Commission considers that in

order to achieve the punitive and deterrent effect of the warning system, immediate follow-up action should be taken to extend the officer's probationary period. Early action taken in this regard would enable the probationer concerned to correct and strive for improvement. While noting the remedial actions taken by the department in strengthening the administration of the disciplinary system on probationers, the Commission has reminded the department to coach staff responsible for disciplinary and appointment matters to familiarize themselves with the CSB guidelines and to observe the timeline for making submissions to the Commission.

Timely submission

2.22 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.

CHAPTER 2

Civil Service Appointments

2.23 In recent years, the Commission has noted the time spent by the Commission Secretariat in seeking supplementary and necessary information further to the submissions received from B/Ds. As the Commission needs to examine all information critically and comprehensively, time and efforts could be saved if all necessary information could be provided at the outset. To improve efficiency and in conjunction with CSB, we have prepared a checklist to assist B/Ds in preparing their submissions. The checklist was promulgated on 17 January 2020. The Commission is hopeful that the checklist would be found useful especially among B/Ds which are less experienced in dealing with problematic probationers whose probation period needed to be extended.

Other Civil Service Appointment Matters

2.24 Other appointment matters advised by the Commission cover cases of non-renewal of agreement, retirement in the public interest under s.12 of the PS(A)O, secondment¹¹, opening-up arrangement¹², review of acting appointment and updating of Guide to Appointment¹³. In 2019, the Commission advised on 40 aforesaid cases. 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

2.25 Retirement in the public interest under s.12 of the PS(A)O is not

- 11 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.
- 12 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.
- 13 The Guide to Appointment (G/A) is an official document prepared by departments for individual ranks to specify the qualification, requirements and the terms of appointment for recruitment or promotion to respective ranks. B/Ds are required to update the entry requirements, terms of appointment, and job description of grades under their purview in the respective G/As on an ongoing basis for CSB's approval.

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.

2.26 During the year, a total of eight officers from seven B/Ds were put under close observation. One officer had subsequently been taken off the watch list after he/she had retired from the service. As at March 2020, seven officers remained under close observation.

2.27 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.

CHAPTER 3

Observations on Recruitment Cases

3.1 Recruiting new talents and injecting new blood to the Civil Service is vital in sustaining a stable and robust workforce to provide the community with effective, efficient and high quality service. To meet service needs and Government manpower requirements, regular recruitment exercises are conducted by B/Ds. The process of selection is rigorous and competition keen. The Commission supports the conduct of recruitment based on merit and fair opportunities. Apart from upholding impartiality and due regard to the process of selection, we also attach great importance to promptness of action in order that the Government would not lag behind in competing with the market for talents.

3.2 During the year, the Commission was pleased to note the good efforts taken by B/Ds in maintaining compliance with the stipulated rules and procedures at a generally high level, even in face of the upsurge of recruitment exercises. In some cases, some aspects of the recruitment exercises have further scope for improvement. In this Chapter, we have highlighted some observations the Commission has made and conveyed to B/Ds for future reference.

Quality of Board Reports and Assessment Made by Recruitment Boards

3.3 In examining recruitment recommendations, the Commission not only looks for compliance with the required due process and procedural fairness, the quality of the submissions is also an aspect the Commission will not lose sight. As a measure of encouragement, the Commission will give recognition to B/Ds for good work done and commend them for their notable achievements. During the year, the Commission was particularly impressed by the work done by two departments. As reflected in the board reports, the Commission has found the assessments given to candidates interviewed were clear and informative. The boards also gave specific comments to account for how well the candidates had done and why they were selected. In the case of the other department, the department formulated a well thought-out marking scheme to facilitate the conduct of the interviews. Detailed descriptions were given under each assessment criterion as a basis for the given marks. In addition, the steps taken by the boards and the guidelines adopted to maintain consistency

in assessment standard between different boards of the same exercise were re-assuring.

- 3.4 The work of a recruitment board of another department however had fallen short. In vetting its submission, the Commission noted that while a candidate was marked to have attained a passing mark in the attribute of “Professional Qualification and Knowledge”, the written assessment had recorded that the candidate’s exposure and professional knowledge did not meet the standard required of the recruiting rank. With such inconsistency, the Commission was unable to support the recommendation. While this might be a single and isolated slip, the Commission has urged the AA to scrutinize the recommendations of recruitment boards and be more vigilant in ensuring accuracy in their submissions.

Interim Arrangement of Filling Vacancy Pending Conduct of Recruitment Exercise

- 3.5 The Commission has always encouraged B/Ds to conduct and complete recruitment exercises expeditiously and to make early offers of appointment to selected

candidates promptly without undue delay. Delays in launching recruitment exercises not only undermine the Government’s advantage in competing with the private sector for good candidates, it will also affect the manpower supply of the B/Ds. In examining a recruitment submission in the year, the Commission noted that the department advertised the vacancy some ten months after the emergence of the vacant post. The department then took another four months to complete the recruitment exercise and submit its recruitment board report to the Commission for advice. In the interim, prolonged acting appointment was arranged. The Commission was concerned that the prolonged acting was not arranged through a proper selection process nor was it reviewed in that long period as required under CSR 166(6)¹⁴. The department explained that the delay was mainly due to preoccupations with other work commitments at the material time. The department accepted that this was not proper and undertook to fully comply with the CSR in the future. The Commission has reminded the department to make good planning well ahead and adequate resources should be deployed to conduct

14 For CSR 166(6), please refer to Note 5.

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future recruitment exercises in a timely manner.

Processing Time of Recruitment Exercises

3.6 In another recruitment exercise involving some 100 qualified candidates, the department took about two months longer to submit the recommendations to the Commission than that of the last exercise with a similar number of applicants. The department explained that apart from an increase in the number of qualified candidates invited for interview, the longer time taken was due to the need to match the availability of all board members in two consecutive weeks in the interest of ensuring consistency of assessment. The Commission considered that the department should have taken a more flexible and pragmatic approach in planning the recruitment schedule. Insisting on finding two consecutive weeks for the sake of maintaining consistency was unnecessary as only one board was involved in this exercise.

Assessment Criteria

3.7 Selection of candidates for appointment should be based on the character, ability, potential and performance as well as qualifications and experience prescribed for the

recruiting rank. It is crucial to ensure that only candidates of the suitable calibre are appointed. To achieve this, assessment forms with appropriate and sufficiently comprehensive assessment criteria should be drawn up for the selection interviews to assess a candidate's suitability for appointment.

3.8 During the year, the Commission observed that there was room for improvement in the design of assessment forms adopted by some recruitment boards. In two exercises of the same department, "Qualifications" and/or "Experience" were included as two separate assessment criteria for the selection interviews. On closer examination, the Commission found that a pre-determined score had been set for attainment of certain academic qualifications and for each additional year of post-qualification experience. Accordingly, a candidate's score in these two aspects could have been established by reference to the information and supporting documents provided by candidates in vetting their applications. There was no need to make on-the-spot assessment at the selection interviews by the recruitment board. The inclusion of such a score in the assessment form is neither necessary nor is it in conformity with the provision in paragraph 2.28(b) of

the Guidebook on Appointments which requires B/Ds to guard against inclusion of qualities that cannot be assessed reliably in the selection interviews. The Commission has advised the department to review the assessment forms for the two recruiting ranks before launching the next exercise.

3.9 According to paragraph 4(c) of CSB's memo dated 14 November 2018 on "Assessment Standards and Efficiency in Conducting Recruitment Exercise", recruitment boards should have due regard to the relative weight of an assessment criterion in determining the priority of appointment. When scrutinizing a number of recruitment submissions, the Commission noted that there was no passing mark set for each of the assessment criterion. Although an overall passing score was required before consideration would be given by the recruitment boards to offer appointment, the Commission was concerned that in the absence of a passing score for each of the attributes, the relevance and relative importance of the assessment criteria in meeting the requirements of the recruiting rank might be overlooked. Setting a passing mark for each assessment criterion and preferably with a pre-determined weighting will help to ensure that only those candidates who possess all the

required qualities are selected. It will also assist recruitment boards to objectively determine the relative priorities of the selected candidates.

Shortlisting Criteria

3.10 It is a long-established and accepted practice for B/Ds to adopt suitable shortlisting criteria in recruitment exercises in order to reduce the number of candidates to a reasonable and manageable size in face of large numbers of applications. Paragraph 2.12 of the Guidebook on Appointments provides that in recruitment exercises where scores in an examination are used as a shortlisting criterion, B/Ds are required to submit the proposed shortlisting criteria and shortlisting results to the Commission for advice if they are different from that used previously. This is so that consistency apart, the Commission will have the opportunity to consider and advise whether the newly adopted criteria were objective and fair. In examining a recruitment submission in the year, the Commission noted that the department concerned had proceeded to invite candidates to attend for the selection interviews after ascertaining that they had obtained a passing score of the written examination which was different from that adopted in the last recruitment exercise conducted

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in 2018. It transpired that the department had set a new passing mark with a view to optimising the number of candidates, thereby facilitating the arrangement for group interviews. As the passing mark was used to screen in candidates for the next stage of selection, it was in effect a shortlisting criterion for which the prior advice of the Commission had to be sought. As more rather than less numbers of candidates were

screened in and having examined the proceedings of the selection interviews, the Commission was able to be satisfied that the integrity of the recruitment exercise had not been adversely affected. The Commission ultimately supported the board's recommendations. Nevertheless, the Commission has strongly advised the department to observe the relevant guidelines in future exercises and consult CSB in case of doubt.

CHAPTER 4

Observations on Promotion Cases

4.1 Promotion in the Civil Service is premised on the principle of meritocracy and suitability. Character, ability, experience and together with any necessary qualification if required provide the basis on which an officer is assessed for suitability to assume the responsibility of the higher rank duties. Promotion has to be earned: it is not an entitlement nor a reward for long service, but a recognition that the selected officer is able and ready to perform the more demanding duties in a higher rank. The Commission assists the Government to ensure that only the most deserving officers with demonstrable ability and potential and are suitable in all respects are promoted. Needless to say, the selection process has to be conducted properly and objectively and that the fair claims of all eligible officers are duly and fully considered.

4.2 In 2019, the Commission continued to examine recommendations for promotion critically and meticulously. We have to be critical and meticulous in ensuring that promotion exercises are conducted properly and are in full compliance with the CSRs and the rules and procedures governing them. The Commission is pleased to note the continued maintenance of a high

level of compliance in 2019. In some cases, however, there was scope for further improvement. While specific observations and comments had been conveyed to the B/Ds concerned, we have chosen some noteworthy cases to illustrate and serve as a reminder for B/Ds.

Counting of Vacancies for Promotion and Acting Appointments

4.3 To realise the potential of capable and suitable officers to take up higher responsibilities in the delivery of services to the community, B/Ds should make the maximum use of available vacancies to promote deserving officers at the earliest possible opportunity. Paragraphs 3.5(a) and 3.42 of the Guidebook on Appointments set out the general principle and method in determining the number of promotable and acting vacancies in a promotion exercise as well as the effective date of promotion. Vacancies that are expected to arise within the current reporting cycle should be counted as promotable vacancies. Other than vacancies occurring in the current reporting cycle, B/Ds should also ascertain the number of vacancies which are expected to arise in the first six months of the next reporting cycle so that filling them (e.g. by

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long-term acting for administrative convenience (AFAC)¹⁵ or short-term acting appointment) could be planned ahead. 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.

4.4 During the year, the Commission has noted in a number of cases that the general provision governing the counting of available vacancies had been too narrowly interpreted. There was also some confusion in determining appropriately the effective date of promotion. In two promotion exercises conducted by a department, the promotion boards recommended the filling of consequential vacancies¹⁶ in the lower rank only after the corresponding vacancies in the next higher rank had been substantively filled. However, the boards had overlooked the principle that

vacancies should be calculated realistically on a grade rather than a rank specific basis, and that the consequential vacancies in the lower rank can be counted unless there is a genuine risk of over-establishment. If the boards' aforesaid recommendations were implemented, the recommended officers would have to be kept waiting unnecessarily and their promotions consequently deferred. In another case, while awaiting the formal advice of the Commission and in order to meet urgent operational needs, the department decided to put up an officer recommended for promotion for acting in an existing vacancy. The officer could not however be released at the time. Instead of recommending the officer's promotion to take effect from the date the officer took up the duties of the higher office, the board had mistakenly recommended that the board date be used as the effective date for promotion. If the department had followed closely the stipulated rule on determining the

15 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).

16 Consequential vacancies denote vacancies which have arisen as a result of the filling of vacancies at the higher rank, as opposed to substantive vacancies which have arisen due to wastage upon the retirement/resignation of incumbents of the substantive rank.

effective date of promotion¹⁷, much time would have been saved by the Commission Secretariat in seeking the details of the acting appointment and resolving the matter. The Commission has asked the departments concerned to remind subject officers to fully familiarize themselves with the policy and rules governing the conduct of promotion exercises in future.

- 4.5 In another exercise, the Commission noted that a department had not included two vacancies which were promotable. The department explained that they were reserved for two recommended officers who were involved in some on-going investigations. The department had arranged other officers to fill the vacancies by temporary acting arrangements to meet operational needs. In the course of examination, the Commission noted that the AA had already decided not to effect the promotion board's recommendations on these two officers. Thus, reserving the two vacancies was neither necessary nor appropriate. Besides, there were officers on the AFAC waiting list available and could be arranged to fill the two vacancies without the need to resort to temporary acting

arrangements. The Commission has therefore advised the department to review the arrangement and to consult CSB in case of doubt.

Conduct of Promotion Boards and Submission of Promotion Board Reports

- 4.6 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 to maximising staffing resources for the operations of B/Ds. It will also affect B/Ds' manpower development plans and posting arrangements for officers identified as fit for promotion.

- 4.7 While the number of promotion boards convened late had increased from three in 2018 to six in 2019, the number remained small, reflecting general adherence by B/Ds. These six boards were convened in the seventh to ninth month after the end-date of the last reporting cycle. Setting aside a special case of sudden

17 The criteria for determining the effective date of substantive promotion of an officer over a promotion bar are set out in CSR 125. Normally, it should be the date on which a vacancy in the upper rank becomes available; or the officer takes up the duties of the higher office; or the officer is considered capable of performing the full duties of the higher office (i.e. usually the board date), whichever is the latest.

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emergence of a vacancy arising from unforeseen circumstances, the delay for the other cases was mainly due to the time required to await the availability of all board members or to settle staff complaint/disagreement on appraisal assessment. The Commission considers that time delays could be minimised if the departments had planned well ahead or started the preparation work for promotion exercises earlier. The concerned departments have been so advised for improvement in future.

4.8 In 2019, we are glad to note that the number of board reports that could not be submitted to the Commission for advice within two months had decreased from 62 (or 9% out of a total of 724) in 2018 to 45 (or 6% of 715) in 2019. Among them, nearly half were submitted late for more than a month. In the case of one department, the incidence of late submission had occurred consecutively over the past three years. The department attributed the delay to competing priorities and clustering of promotion, recruitment and FE exercises. The Commission appreciates the workload and heavy commitments of B/Ds. Nonetheless, late submissions remain an area of concern. Some of the B/Ds had undertaken to stagger future promotion exercises or reinforce the executive support to cope with the increasing workload. We look

forward to improvement in the coming year.

4.9 When preparing for and conducting promotion exercises, it will always be useful to look up the comments and observations the Commission tendered in the previous exercises. In one case, a department failed to convene a promotion board timely despite the emergence of a promotable vacancy left unfilled by the last board. Noting the unfilled vacancy at the last exercise, the Commission had advised the department to take note and convene a promotion board to fill the vacancy timely. In the meantime, the GM had arranged an officer to act up in the vacancy to meet operational needs as an interim measure. The promotion board subsequently held recommended another officer for substantive promotion with effect from the board date. However, as this recommended officer was still holding a substantive rank post on the board date, the board had to revise the effective date of promotion to a later date when the officer took up the higher rank duties. Had the department referred back to the Commission's advice tendered for the last exercise and conducted the 2019 board before the emergence of the vacancy, the unfilled vacancy from the preceding board would have been filled substantively earlier through a proper selection process.

Role of Promotion Board and Appointment Authority

4.10 The key task of a promotion board is to make fair assessment on the claims for advancement of all eligible candidates. The board should deliberate on a candidate's suitability mainly with reference to the officer's performance appraisals over a period of time, which can be supplemented by the personal knowledge of the promotion board members as necessary. A promotion board should select an officer on the basis of character, ability, any qualifications prescribed for the promotion rank, experience, and any other criteria that are relevant to the effective and efficient performance of the duties of the promotion rank. In addition to performance, an officer's personal integrity and conduct are also key determinants for promotion. A promotion board is thus required to scrutinize the disciplinary records of all candidates to ascertain whether any of them are debarred from promotion or acting appointment. For candidates who are involved in on-going criminal or disciplinary investigations, the promotion board is not apprised of such information in order not to prejudice the claim of such officers. The AA however is vested with the power and authority to take account of all relevant factors, including the latest position of any on-going criminal/disciplinary actions, before

approving the recommendations of the promotion boards. According to CSR 100(20), the final decision on which candidates should be promoted rests firmly with the AA who may decide whether to accept all the recommendations of a promotion board, or to vary or reject a particular one.

4.11 In examining the submissions on promotions in the year, the Commission noted that there were instances of a lack of full understanding of the respective roles of a promotion board and the AA in considering the promotion claims of candidates involved in on-going disciplinary investigations. In one case, the promotion board was informed of a disciplinary investigation being taken against a candidate for negligence of duty that took place after the board meeting. The board revisited its original recommendation on the candidate's promotion upon conclusion of the disciplinary investigation. In view of the findings of the investigation and after balancing all relevant factors, the board decided not to recommend the officer for substantive promotion. While the Commission considered the board's recommendation in order after scrutiny, the information about the disciplinary investigation should not have been disclosed to the promotion board. It is the role of the AA to consider and make the ultimate decision on whether the

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recommendations of the promotion board should be approved, varied or rejected.

4.12 In another case, the AA had originally supported a promotion recommendation in respect of a recommendee who was involved in an on-going investigation. However, in the absence of the AA's detailed considerations and assessment on the possible integrity risk involved, the Commission was unable to support the recommendation. Upon review by the AA, the officer's promotion was withheld pending the conclusion of the investigation. There was another case in which the AA had originally supported the waitlisted AFAC appointment of an officer who was bound over for committing a minor criminal offence and issued with a verbal advice. Although verbal advice carries no debarring effect for appointment, having re-assessed the officer's integrity as revealed by the case at the Commission Secretariat's request, the AA finally decided to remove the officer from the waiting list for further observation. The Commission considered that in both cases, the AAs should have set a higher standard on a candidate's conduct and personal discipline when considering an officer's claim for promotion especially for ranks of managerial position. Only by upholding a high standard of conduct and discipline among all

civil servants will the integrity of the Civil Service be sustained. The Commission has reminded the concerned departments to follow closely the CSB's guidelines in handling similar cases in the future.

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 relevant to the performance of duties in the promotion rank, such that the number of candidates to be considered could be reduced to a more manageable size. Such shortlisting criteria, however, should not debar the board from considering exceptionally meritorious candidates who meet the eligibility criteria but not the shortlisting criteria. The Commission has long advocated that B/Ds should be more critical in devising shortlisting criteria in promotion exercises. While consistency in the adoption of shortlisting criteria was important, they should not be considered and adopted mechanically without regard to the prevailing vacancy position, the pool of candidates and the practical effect of the criteria if adopted.

4.14 During the year, the Commission has found some boards to have continued with past practices

adopted by previous boards in setting shortlisting criteria with insufficient regard to changed circumstances. We have selected three cases to illustrate why a different approach is warranted and more desirable to cater for new circumstances and changing needs. In the first case, the promotion board, after considering the Commission's advice tendered in the previous exercise, decided to relax the shortlisting criterion to enlarge the pool of eligible candidates by reducing the in-rank experience requirement by two years. The number of candidates shortlisted under the new shortlisting criterion was 16 and the number of vacancies to be filled in the exercise was eight. With just 55 candidates eligible for consideration, the board should have considered relaxing the shortlisting criterion to a greater extent or even doing away with the shortlisting criterion altogether so that more candidates could be shortlisted for detailed examination. A larger pool of candidates would also allow for a healthy and reasonable competition among all eligible candidates. The Commission had urged the department to remind future boards to critically consider the appropriateness of adopting a shortlisting criterion with due regard to the vacancy position and size of the pool of candidates. In the second case, the promotion board decided to examine in

detail 25 candidates to fill nine promotable vacancies. Of these 25 candidates, ten officers fell short of the service shortlisting criterion the board had adopted and would have been screened out had it not been for their exceptional merits. Given the shortlisting result, it should have struck the board that the adoption of the previously used criterion was inadequate and adopting it again would not serve any meaningful purpose. In the view of the Commission, the board should have dispensed with the shortlisting criterion and enlarge the pool of eligible candidates. In the third case, the promotion board was presented with 320 eligible officers to consider. The board decided to include all for detailed examination without adopting any shortlisting criterion. With such a large pool of candidates, the board could have considered adopting an objective criterion, e.g. in-rank experience, to reduce the pool to a more manageable size thereby enhancing efficiency. As a requirement, a promotion board has to record the deliberations, assessments and recommendations of the board on every considered candidate. That it took the board 4.5 months to complete and submit the board report to the Commission for advice could have been attributed, albeit partly, to the large number of candidates involved. The Commission has

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advised the departments concerned to review the appropriateness of the previously adopted shortlisting criteria and seek advice from CSB if necessary.

Appropriate Weighting to Acting Performance

4.15 Although not specified as a requirement, a well-established principle has been that the recommendations of the last promotion board on AFAC appointments should be given an appropriate weight. While promotion boards are expected to review such acting appointments afresh with a new round of appraisals, officers who have been acting would normally have a higher claim for promotion and their performance is reviewed ahead of other eligible officers in the same exercise.

4.16 The Commission noted that promotion boards have generally followed this principle in making recommendations for promotions, AWAV and AFAC appointments. In the case illustrated below, the concerned promotion board has stepped out of line. In that exercise, the promotion board recommended 19 officers to AWAV with effect from a common current date. Among them, six were officers already acting pursuant to the recommendations of the last board.

The remaining 13 officers were newly recommended. Although the board had duly assessed the performance of all 19 recommendees and was satisfied that except for a few aspects requiring further observations, they were suitable in nearly all respects for immediate promotion. Recommending them for AWAV appointment was thus appropriate. The Board has not however accorded due weight to the six officers who had been acting on the last board's recommendation. Upon the Commission's request, the Board revisited and finally recommended the six acting officers to AWAV for six months with effect from a common current date, whereas the AWAV appointment of the remaining 13 officers would take effect from a later common date when all the promotable vacancies became available. The Commission has advised the department to brief future boards on the rationale and guiding principles in this regard.

Board's Considerations in Recommending Officers to AFAC

4.17 According to CSR 166(2), acting appointments should be made only when it is necessary and justified to try out the performance of an officer in a higher rank such that his/her performance may be observed for the purpose of assessing his/her suitability for substantive

promotion; or to appoint an officer to perform in the capacity of an office and undertake its duties and responsibilities in the temporary absence of a substantive holder to meet management or operational needs. It is important for promotion boards to differentiate the distinctive purposes and functions of the two types of acting appointments. In the year, a promotion board recommended to waitlist an officer for AFAC in an anticipated vacancy despite knowing the officer's imminent retirement and that it had identified a sufficient number of suitable officers to fill all vacancies in the exercise. The recommendation if implemented not only hindered the succession of the grade, continuity of the operation of the office would also be undermined. The board having reviewed its recommendation at the Commission's request, accepted the need to step up succession management at the concerned promotion rank and removed the retiring candidate from the AFAC waiting list. The Commission has advised the department to remind future promotion boards to consider the claims of eligible candidates in totality and all relevant factors should be taken into account in making recommendations.

- 4.18 While AFAC recommendees should be duly ranked in order of priority with justifications if there are

insufficient vacancies or the vacancies will emerge over a period of time, the Commission has observed in some cases that the board's effort of prioritisation could have been saved. A promotion board, after diligently compared the relative merits of 19 candidates, decided to recommend them to fill eight existing vacancies and 11 anticipated vacancies arising within a period of two months in order of priority. By the time the Board submitted its report to the Commission for advice, all the vacancies had become available to accommodate all 19 officers. The laborious efforts and time undertaken by the board to justify the recommended priorities though laudable would seem to be unnecessary.

Quality of Reports and Assessment Made by Promotion Boards

- 4.19 As a measure of encouragement, the Commission will give recognition to B/Ds for good work done and commend them for their notable achievements. During the year, the Commission was pleased to note a good example of how comparison of merits of close contenders should be done when examining the recommendations of a promotion exercise. In the board report submitted, the basis and emphasis adopted by the promotion board in comparing the claims of the close

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contenders were clearly explained. Furthermore, evaluative information on the candidates' ability, experience, character and attributes were provided as justifications of the board's recommendations. Apart from assessing the candidates' capability to perform well at the promotion rank, the board also carefully deliberated their long-term potential for further advancement. The Commission considers the work of the board a truly excellent example for other promotion boards to follow, and has commended the board including the board secretary for the work so well done.

4.20 In comparison, some common inadequacies and pitfalls were found in other submissions during the year. To cite a few examples, the summaries of performance as required to be provided in the candidates' individual assessment forms tended to be too brief while others are a lengthy recap copied direct from the appraisal reports. In one board report, a different format was used to provide the summaries of performance on non-recommended candidates. To facilitate fair assessment on all eligible candidates, the same format of performance summaries should be used. In another case, the performance summaries of certain eligible officers were found to have omitted the areas requiring improvement as recorded in their

appraisal reports. While it is not necessary to copy word-for-word the assessment from the appraisal reports, B/Ds should ensure that both the strengths and weaknesses as portrayed in the appraisal reports should be faithfully provided in the performance summaries. The Commission has advised the concerned B/Ds to take note and make improvement in future.

4.21 In two promotion cases, the Commission observed that some long-expired disciplinary records were still included in the candidates' individual assessment form. In both cases, it was stated clearly in the individual assessment that the debarring effect had lapsed. Accordingly, the boards had not given any regard to such information and the candidates concerned were considered without any prejudice. The Commission was also satisfied with the impartiality of the promotion boards. The Commission considers the inclusion of expired disciplinary records unnecessary. While the concerned departments had already ceased/advised to cease the practice of including expired disciplinary records in individual assessment, the Commission has invited CSB to consider clarifying the relevant guidelines governing the provision of candidates' disciplinary records in promotion exercises at an opportune time.

Declaration of Interest

- 4.22 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 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.
- 4.23 The Commission has advised AAs that if they err, they should err on the conservative side in considering declarations of conflicts of interest. In 2019, the Commission is pleased to note the appropriate decisions taken by the AAs which are in conformity with the guidelines issued by CSB. The Commission will continue to encourage B/Ds to maintain its vigilance in handling declarations to guard against any perceived or genuine conflict of interest.
- 4.24 However, in a couple of promotion exercises submitted by two departments, the Commission noted the continued appointment of the same board members who had made similar declarations of a relationship

needed to be declared with certain candidates. The first department explained that it needed to appoint all division heads to serve on the boards to provide supplementary information on the candidates' performance. A deviation from such practice might give rise to staff concern over whether their claims would be fully considered if their division heads were not present at the Board. The Commission considered that such staff concern was unfounded, reflecting their lack of understanding of the role and function of a member of promotion boards. As set out in the Guidebook on Appointments, all eligible candidates should be considered on the basis of the assessment given in their appraisal reports. Board members' personal knowledge of a candidate's performance serves to supplement but not override the assessment written in the appraisal reports. In their capacity as an appraising officer or countersigning officer, division heads should have offered their honest assessment in the appraisals. More importantly, it is the AA and not the promotion boards who ultimately decides who should be promoted on the advice of the Commission. The management should explain to staff members to quell any misunderstanding instead of acquiesce by continuing with the practice. The other department explained that the AA had allowed the concerned member to continue

CHAPTER 4

Observations on Promotion Cases

to serve on the promotion board and assess the claim of the declared candidate, because the member had first hand knowledge about the duties of the candidate. However, given the relationship declared, the Commission was concerned about the risk of a perceived conflict of interest if the concerned member continued to serve on the promotion board. Noting that the declared candidate's countersigning officer was also serving on the board, there should not be any concern that the candidate's fair claim as detailed in the performance appraisal reports would be overlooked. The Commission considers that declaration and avoidance of any real or perceived conflict serve not only to uphold the impartiality of the board but also imperative to stave off accusations of favouritism. For this reason, the Commission has advised both departments to address the problem of perception before conducting the next round of promotion exercises.

4.25 For some other promotion boards, unnecessary declarations were observed to have been made such as occasional social gatherings with former classmates in groups while contacts were maintained at an official level only. Given that

pure working relationships with no personal dealings are not required to be declared according to Annex 3.2 of the Guidebook on Appointments, the Commission has advised the concerned B/Ds to seek clarifications from CSB if in doubt in order that future boards could be provided with clearer guidelines obviating the need to make unnecessary declarations.

Confidentiality of Promotion Results

4.26 It is the B/Ds' responsibility to ensure strict confidentiality of promotion recommendations prior to their promulgation. The Commission noted from the content of a complaint that the recommendations of a promotion board might have been leaked. In another case, an officer lodged a petition and requested a review of the board's recommendations while the Commission was still examining the board's report. The Commission has requested the concerned departments to remind all officers involved in the conduct of promotion exercises to strictly observe the confidentiality of all related information and to take due measures to prevent unauthorised disclosure in future exercises.

CHAPTER 5

Performance Management and Staff Development

5.1 Human capital is the greatest asset of any organisation. For the Civil Service, maintaining a high standard and good quality workforce is key to good governance and delivery of services to the community. 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 underpinned by appropriate training for civil servants at all levels.

Performance Management in the Civil Service

5.2 Over the years, the Commission has been joining hands with CSB to strengthen the Civil Service performance management system with a view to better realising civil servants' performance and development potential. The Commission's observations on areas requiring enhancement are relayed either directly to B/Ds or through CSB in parallel if updating of policy guidelines and procedures forms a part. Where appropriate, we would advise B/Ds to solicit the assistance of the Civil Service Training and Development Institute (CSTDI) to address them. During the year, CSTDI had collaborated with two departments to respectively enhance their performance/staff management

practices and re-design out-dated appraisal report forms to reflect modern human resource management (HRM) principles and requirements. To equip grade managers with the necessary staff management skills, we have advised CSTDI to formulate tailor-made human resources training programmes that best suit the manpower profiles and management needs of the targeted B/Ds. The Commission looks forward to the implementation of such programmes in the coming year.

5.3 In the meantime, CSTDI has continued to provide performance management workshops on an on-going basis in 2019. As noted, CSTDI had organised over 30 training courses for various levels of officers on performance management principles and performance appraisal writing skills. In addition, CSTDI had arranged 37 customised training/briefing sessions on performance management and 84 performance appraisal writing workshops in English and Chinese for 31 B/Ds.

Observations on Performance Management Issues

5.4 The Commission will continue to identify areas that call for improvement as they come to our attention. Some noteworthy

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Performance Management and Staff Development

observations are set out in the ensuing paragraphs.

Timely completion of performance appraisals

5.5 Performance management is an integral part of a comprehensive HRM strategy and serves as the basis for HRM decisions. Throughout the process, it is important for supervisors to closely monitor their subordinates' performance and provide them with timely and constructive feedback. To this end, performance appraisal is an essential tool to support and assist in staff development. Late completion of performance appraisals undermines this very purpose and deprives officers of an early opportunity of being apprised of their strengths and where weaknesses are identified for improvement to be made. The Commission has always stressed that staff appraisal, as a performance management tool, should be completed promptly. Late reporting undermines management efforts in promoting best practices of staff management. It also has a knock-on effect on the convening of promotion boards. Timely advancement of deserving officers and staff morale in general may also be affected as a result.

5.6 Although improvement was observed, and in some cases

markedly, the problem of late reporting still persisted in 2019. While recognising the competing priorities and commitments of appraising and countersigning officers, managing staff and their performance is also an inseparable part of their duties for which they will be held to account.

5.7 While late completion of staff appraisals has remained a recurrent problem, the Commission notes that difficulties in compliance are more pronounced in ranks and grades with the operation of Assessment Panels (APs). The Commission appreciates that the work of APs has to be completed before reviewing officers could be invited to complete their part, all within three months as required under the Performance Management Guide. The Commission has therefore suggested to CSB to adjust the requirement by allowing an extra month for APs while keeping the timetable for conducting promotion exercises at six months from the end date of the reporting cycle. Having considered the matter, CSB supported our proposal and in November 2019 promulgated a revised guideline to that effect. The Commission hopes that with more time given to the APs, appraising officers, countersigning officers and reviewing officers could collaborate closer and

together strive for full compliance of timely reporting.

Performance assessment standards

5.8 Performance assessment requires honest reporting which is fair and objective. Over-generous appraisals especially given to a large number of staff will likely blur the differences among officers' performance and make it very difficult for a promotion board to identify the real performer and justify its recommendation on the basis of the officers' performance records. In the course of examining the promotion board submissions of a few grades during the year, the Commission noticed that the percentage of appraisal reports being given an overall rating at the top level had, as in the previous years, remained on the high side. The tendency of rating the performance of a great majority of eligible officers at the same level still persisted in some other B/Ds. In one other promotion exercise, the appraisals of all eligible officers were rated at the same level throughout the four-year review period.

5.9 Although performance ratings should not be taken and read in isolation but in totality with the detailed written assessment, ranking the performance of all or almost all eligible officers at the same level will make it difficult

to compare and differentiate the relative merits of individual officers. General comments on an officer needing to excel in performance without pinpointing the weaknesses or the competencies falling short are likewise insufficient to satisfy the Commission that the recommendations or non-recommendations of a promotion board are well-justified. On top of inviting B/Ds concerned to review the assessment standard and seek adjustment of the appraisal ratings where necessary, the Commission had asked GMs to impress upon all supervising officers the virtue of candid reporting and the need to be more critical to distinguish officers of different abilities so that the relevant promotion boards could have a more solid basis to assess individual appraisees' suitability for advancement. In a particular case, we have called upon the department to give serious consideration to the setting up of an AP to address the persistent problem.

Comprehensive and candid reporting

5.10 Performance appraisal is a two-way process between the appraising officer and the appraisee. An appraisee needs to be made aware of areas requiring improvement and the appraising officer should be candid in making assessment. For appraising officers sitting on promotion boards

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to make remarks on an appraisee's performance not borne out in the appraisal reports is unfair on the appraisee. Such practice also undermines the credibility of the promotion board. The Commission has therefore urged the concerned B/Ds to guard against such pitfalls and impress upon all appraising officers to follow the Performance Management Guide in completing performance appraisal.

5.11 In examining the performance appraisals of a probationer being recommended for an extension of the probationary period, the written assessment given by the supervising officers in five consecutive reports were found to be almost identical. Such practice defeats the purpose of the performance appraisal system and is unhelpful to the appraisee. We have advised the department to remind the appraising officer of the need to give a distinctive account of the appraisee's actual performance and progress made during the different appraisal periods.

Assessment Panel

5.12 APs are set up to ensure consistency in assessment standards and fairness in appraisal ratings (including ratings on performance, core competencies and promotability) within a rank. They are tasked to undertake levelling and

moderating work among appraisal reports in circumstances where there are differences in assessment standards. B/Ds are encouraged to establish APs in circumstances where over-generous/stringent assessment standards are frequently observed and the reviewing officers have to make comments on the assessment standards adopted by the appraising/countersigning officers in the appraisal reports.

5.13 The Commission is pleased to observe in some promotion submissions from a department that the APs have discharged their functions admirably. The APs not only gave specific and useful recommendations on the assessment standard but also provided the appraising and countersigning officers with constructive advice for improving their writing and presentation skills in completing respective parts of the appraisals. The detailed observations and comments they made on the appraisal reports reflected their good understanding of the job nature of the ranks assessed and the standard of performance expected of the appraisees. The GM had also duly filed and relayed the APs' observations/adjustments to all the relevant parties for feedback and/or necessary action. The Commission commended the APs for the job well done.

Proper use of appraisal report forms

5.14 The Commission supports the adoption of a competency-based approach in performance management, as it enables an appraising officer to assess how far an appraisee is from meeting the competency requirements of the next higher rank, so that competency gaps, if any, and training and development needs can be identified and addressed. It also facilitates more precise assessment of an appraisee's potential and promotability as a basis for career posting, advancement or promotion. Over the years, the Commission is encouraged to see that more and more grades have adopted the use of a new competency-based appraisal form. The Commission has advised B/Ds to plan the migration from one reporting form to another carefully and conduct proper staff consultation thoroughly. Otherwise, confusion may be caused and if not properly managed, the conduct of promotion exercises may also be affected as illustrated in a case the Commission examined in the year. In the submission, the Commission noted that the department adopted a competency-based appraisal form with a new set of assessment criteria different from the old one used in the middle of an appraisal cycle. It was unclear whether the

new assessment criteria and their associated rating scales were used to cover the whole period or from when they were adopted. The presence of two sets of assessment criteria in the same appraisal cycle not only made it complicated for appraising officers, the work of the relevant promotion board in comparing the merits of individual officers was rendered even more difficult. The problem was further exposed as appraisal reports with different cut-off dates were involved. While new initiatives to enhance the performance management system are welcomed, the Commission has advised the department to assess fully the implications and implementation details before adoption.

5.15 According to the Performance Management Guide, if an appraisee has taken up a long-term acting appointment on the recommendation of a promotion board, the appraising officer should prepare a separate appraisal report covering the acting period. As a general principle, the appraisee's performance on each role/responsibility/objective should be assessed against the requirements of the acting rank, while core competencies and fitness for promotion should be assessed against that of the substantive rank in order to facilitate the promotion board's consideration of his/her promotion claim. In one case, the department

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was found to have incorrectly used the appraisal form of a rank to assess the performance of an officer who was only acting in that rank. In another case, the appraising officer had used an appraisal form for a lower rank to assess the annual performance of an officer already promoted to a higher rank in the middle of the reporting cycle. In both cases, the guidelines for completion of performance appraisal had not been followed. To ensure appropriate and fair assessment, the Commission has reminded the concerned departments to be vigilant in adopting the correct report form, competency profile and assessment standard to assess appraisees' performance.

Performance management of officers on probation/trial

5.16 Officers on probation or trial should only be confirmed for passage of probation or trial bar when they are considered suitable in all respects. To facilitate the proper administration of the probation/trial system, HoDs/HoGs should closely monitor the performance of officers on probation or trial, provide feedback to them on a regular basis, and initiate necessary actions (including coaching, counselling, or termination of the probation/trial service if appropriate) as early as required.

Timely completion of appraisal reports and honest reporting on the officers' capability and competence are key in determining the officers' suitability for passage of the probation/trial bar.

5.17 In examining a recommendation to refuse passage of the trial bar of an officer, the Commission noted from the appraisal reports that despite deficiencies being detected very early on of the trial period, neither the appraising officer nor the countersigning officer had reported them in the first trial report. No advice/counselling was recorded to have been given to the officer. It was till the last month of the trial period that the management finally decided to take action to terminate the trial. In another case involving a probationer, while weaknesses and performance deficiencies were reported in the fourth probationary report, the officer was only informed by the supervisor of the need to make improvement three months after the end of the report period. Subsequently, the arrangement of calling special quarterly appraisal reports was put in place for closer monitoring. In both cases, the departmental/grade management should have taken the necessary action earlier. The delay in taking management actions weakens the effectiveness of the performance management system and risks

undermining the appropriateness of the management actions. The Commission has urged the departmental/grade management to take prompt management actions whenever an officer had shown signs of deterioration in performance or whose performance was persistently substandard. In addition, interviews and advice given to an officer on specific areas for improvement should also be properly and clearly documented to facilitate subsequent follow-up actions.

Staff Development and Succession Planning

5.18 Staff development is an integral part of HRM. The Commission advocates a holistic approach in drawing up staff development plans that encompasses a structured career posting policy and a systematic training plan for staff at different

levels. 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. The Commission considers that the GMs should regularly review the training and development needs of their grade members and equip them with skill-sets that can meet changing service needs and new challenges.

5.19 During the year, the Commission is pleased to note that the GM of a grade has taken on board our advice to formulate a career development plan including posting arrangements to broaden the knowledge and exposure of members of the grade. The Commission commends the GM for the positive response and has encouraged the GM to continue its efforts in finalising the career development plan.

CHAPTER 6

Civil Service Discipline

- 6.1 Civil servants should always uphold the highest standards of conduct, honesty and probity in discharging their public duties as well as in their private lives. They are liable to disciplinary action if they fail to observe any government regulations or official instructions, misconduct themselves in any manner, commit a criminal offence (whether related to their public duties or not) or, by their actions, bring the Civil Service into disrepute. The Civil Service has put in place a well-established disciplinary system whereby allegations of misconduct will be promptly investigated and disciplinary sanction strictly administered upon finding a civil servant culpable of misconduct after fair proceedings. Observance of natural justice apart, all disciplinary investigations are conducted fairly and impartially in full compliance with the due process and procedural propriety prescribed. Although the Commission cannot set a pledge time in tendering advice on disciplinary cases as the complexity of each case is different, we have emphasised to B/Ds the importance of expeditious action. Only by taking timely action and meting out of appropriate punishment will the punitive and deterrent effect be served.
- 6.2 The Commission collaborates with the Administration to maintain the highest standard of conduct in the Civil Service. With the exception of exclusions specified in the PSCO¹⁸, the Administration is required under s.18 of the PS(A)O¹⁹ 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 2019, the number of Category A officers falling within the Commission's purview for disciplinary matters was about 117 000.
- 6.3 In examining disciplinary cases, the Commission has always endeavoured to ensure that the level of punishment proposed is justified on the basis of the facts and evidence

18 Please refer to paragraph 1.4 of Chapter 1.

19 Please refer to paragraph 1.5 of Chapter 1.

presented. While the nature and gravity of the misconduct or offence are our primary considerations, we are also mindful of the need to maintain service-wide consistency and parity in treatment. We note and agree that precedent cases provide useful benchmarks in considering the appropriate levels of punishment. However, in order to meet changing circumstances and the rising public expectations of the Civil Service, punishment standards have to be kept under regular review.

Disciplinary Cases Advised in 2019

6.4 In 2019, the Commission advised on the punishment of 36 disciplinary cases which represents about 0.03% of the 117 000 Category A officers within the Commission's purview. This figure has remained consistently low indicating that the great 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 is pleased to note CSB's continued efforts in organising various training and experience sharing sessions where interesting cases were shared and the disciplinary system explained. Besides keeping the Departmental Secretaries abreast of common issues of concerns and new guidelines, the Bureau has also arranged targeted sessions for frontline and junior/middle-ranking officers to alert them to vulnerable areas requiring extra care and attention.

6.5 A breakdown of the 36 cases advised by the Commission in 2019 by category of criminal offence/misconduct and salary group is at Appendix IX. Of these 36 cases, ten had resulted in the removal of the civil servants concerned from the service by "compulsory retirement"²⁰ or "dismissal"²¹. There were 15 cases resulting in the

20 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.

21 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).

CHAPTER 6

Civil Service Discipline

punishment of “severe reprimand”²² plus financial penalty in the form of a “fine”²³ or “reduction in salary”²⁴ which is the heaviest punishment next to removal from the service and “reduction in rank”²⁵. These figures bear testimony to the resolute stance the Administration has taken against civil servants who have misbehaved and misconducted themselves. It also underscores the Administration’s determination to uphold and safeguard the highest discipline standard in the Civil Service. The Commission will continue to discharge its function and tender advice on disciplinary cases without fear or favour.

Reviews and Observations on Disciplinary Issues

6.6 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 to streamline the disciplinary process and procedures to achieve greater efficiency. Indeed, many of the changes already implemented and some of the proposals now being studied arise from the Commission’s initiatives. The main comments,

- 22 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.
- 23 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.
- 24 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).
- 25 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.

observations and recommendations in the discipline field made by the Commission in the past year are set out in the ensuing paragraphs.

Processing of formal disciplinary cases

- 6.7 Taking prompt and timely action in processing disciplinary cases with appropriate punishment meted out is essential to the fair and effective administration of the disciplinary system. Delay in action not only weakens the credibility of the system and the punitive and deterrent effect of the punishment, it is also unfair to keep the accused in waiting. The Administration's credibility of not tolerating acts of misconduct and in upholding a high standard of probity in the Civil Service is also at stake.
- 6.8 During the year, the Commission noted with concern that a considerable number of disciplinary cases had taken a very long period of time to conclude. In three cases submitted by a department, the average time taken to conclude its disciplinary recommendations was about 1.5 years despite the fact that the criminal offences committed by the defaulting officers were relatively minor in nature. Urgency of action was significant as two of these defaulting officers were due to commence their pre-retirement leave in a few months' time when

the cases were submitted to the Commission for advice. The concerned department attributed the long processing time to the heavy workload and preoccupations of other work commitments. In the case of two other departments, an even longer period of three years was noted. Both departments explained that time had to be taken to conduct investigations into the alleged acts of misconduct, including the gathering of all relevant information and materials relating to the cases, as well as allowing the defaulting officers to make representations before holding the inquiry hearings. While accepting that time is required to observe the due process and proper procedures, the Commission has asked the concerned departments to explore scope for further improvements. We have also invited CSB and the Secretariat on Civil Service Discipline (SCSD) to provide assistance and policy guidance to the departments to expedite their processing of disciplinary cases in future.

- 6.9 The Commission observed that the prolonged processing time taken in some cases might have been caused by the lack of experience of the subject officers in handling formal disciplinary cases. In response to the Commission's concern, CSB had incorporated the Commission's comments and

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promulgated in July 2019 a set of “Points to Note” on conducting disciplinary investigations for B/Ds’ reference. This set of points to note aims to assist B/Ds in conducting investigation into allegations of misconduct for the purpose of taking formal disciplinary action under s.9 or s.10 of the PS(A)O. The principles and good practices in conducting investigations are illustrated with examples. Apart from emphasising the need to plan and organise inquiries promptly, B/Ds are reminded that decisive management action to proceed with disciplinary action and supervision are also key to bringing the disciplinary cases to early completion. In November 2019, SCSD conducted a briefing to Departmental Secretaries for practical exchange of the promulgated guidelines. The Commission appreciates the efforts taken and looks forward to reviewing disciplinary policies and procedures continually in conjunction with CSB.

Supervisory accountability

6.10 Undoubtedly, defaulting officers have to be held directly accountable for acts of duties they had wrongly done or not done. However, in all fairness to the accused, the Commission is duty bound to also consider if there are mitigating circumstances which should be taken into account in advising

on the level of punishment. In this process, we also examine the extent, if any, the management responsibility and supervisory accountability at play. Indeed, supervisors have a duty to supervise their staff, monitor their conduct and performance, be alert to signs of malpractice or poor performance, and take prompt and decisive actions to tackle the problems. Effective staff management is key to the maintenance of a high standard of performance and clearly more constructive than taking punishment action after the event. Omission and non-performance of duties especially committed over a period of time should have been detected and avoided if supervisors could discharge their supervisory and monitoring responsibilities properly and diligently. In a disciplinary case, the Commission noted that the defaulting officer had overlooked and neglected to process payments in respect of services satisfactorily completed resulting in outstanding payments due to the contractor for more than three years. The supervisors of the defaulting officer were unaware of the prolonged outstanding payments until the contractor reported the case to the management of the department. The case not only exposed the department’s inadequate staff supervision, it also called into question the effectiveness of the monitoring and quality

control mechanism for service delivery. The Commission noted the subsequent actions taken by the department to revamp the overall control and monitoring system with supervision and management of frontline operations tightened up. The Commission has advised the department to follow through the new measures introduced and provide regular training/briefing to line supervisors in enhancing their staff supervision and performance management work.

Staff awareness on the proper use of internet service

6.11 With the advent and wide adoption of information technologies for personal communications and businesses, provision of public information and services on the internet by the Government has likewise expanded. While general guidelines have been issued by the Government Chief Information Officer (GCIO) to all officers regarding safe access and proper use of the internet, the Commission was invited to advise on a number of disciplinary cases involving the misuse of official internet services. While the improper and excessive

use of the internet service for personal purposes are clearly in breach of CSRs for which the officers concerned are liable to discipline sanctions, the Commission is more concerned about such acts posing security risks to the Government's information technology (IT) infrastructure, facilities and systems. More effective measures are also necessary to strengthen staff's awareness on the proper use of internet service and the possible consequences on any abusive use of such service. GCIO agrees with the Commission on the need to strengthen staff's awareness and has promulgated an updated set of guiding principles on the proper use of internet service in March 2019. In particular, staff's attention was drawn to the dire consequences and possible disciplinary liability in contravention. In the third quarter of 2019, GCIO commenced an overall review of the prevailing policies/guidelines on IT security and will further enhance the guidelines on the proper use of Government internet service. The Commission looks forward to the promulgation of appropriate guidelines to assist all officers in the proper and safe use of the internet service.

CHAPTER 7

Visits

7.1 In 2019, the Chairman and Members of the Commission visited the Government Logistics Department and the Civil Engineering and Development Department. These

visits have facilitated useful exchanges on various issues concerning Civil Service appointments, performance management, staff development and succession planning of the



Visit to the Government Logistics Department on 11 June 2019

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.



Visit to the Civil Engineering and Development Department on 4 December 2019

CHAPTER 8

Acknowledgements

8.1 The Commission would like to express its gratitude to Mr Joshua LAW, the former Secretary for the Civil Service as well as his 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 2019.

8.2 The Chairman and Members of the Commission also wish to place on record their appreciation to the Secretary of the Commission and her team for their hard work and dedicated support in the past year.

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.



Prof Timothy TONG Wai-cheung, BBS, JP
BSc (OSU), MSc (UC at Berkeley),
PhD (UC at Berkeley), FASME, FHKEng
Member, Public Service Commission
(from 1 December 2013 to 30 November 2019)

Prof Tong was the President of The Hong Kong Polytechnic University (2009 – 2018). He is the Chairman of the Citizens Advisory Committee on Community Relations of the Independent Commission Against Corruption (ICAC), a Member of the Advisory Committee on Corruption of ICAC and the Chairman of the Board of the Council of the Hong Kong Laureate Forum.

Appendix I

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



Mr Andrew MAK Yip-shing, BBS, JP
BSc (HKU), LLB (LondonU), MBA (CUHK),
LLM (LSE), CEDR Accredited Mediator,
MCI Arb
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 Appeals Tribunal panel.



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, a Non-executive Director of the Mandatory Provident Fund Schemes Authority, a Member of the Legal Aid Services Council and a Member of the Exchange Fund Advisory Committee.



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 Hospital Governing Committee of Hong Kong Children's Hospital as well as the Chairman of the Investment Committee of the Hospital Authority Provident Fund Scheme.

Appendix I

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



Mr Lester Garson HUANG, SBS, JP
LL.B. (HKU), M. Ed (CUHK), Solicitor,
Notary Public, China-Appointed Attesting
Officer
Member, Public Service Commission
(appointed on 1 February 2018)

Mr Huang is a Partner and Co-Chairman of P C Woo & Co. Currently, he is the Chairman of the Council of the City University of Hong Kong, the Standing Committee on Language Education and Research and the Social Welfare Advisory Committee. He is also a Non-Executive Director of the Securities and Futures Commission, an Ex-Officio Member of The Hong Kong Federation of Youth Groups and the Education Commission. Previously, he was President of the Law Society of Hong Kong and a Non-Executive Director of the Urban Renewal Authority. He was also a member of the Hong Kong Monetary Authority's Exchange Fund Advisory Committee and the Standing Committee on Judicial Salaries and Conditions of Service.



Mrs Ava NG TSE Suk-ying, SBS
BSocSc (CUHK), LLB (LondonU),
MUP (McGill U), LLM (Arb & DR) (HKU),
FHKIP, MCI Arb
Member, Public Service Commission
(appointed on 1 February 2018)

Mrs Ng joined the Civil Service as an Assistant Planning Officer (later retitled as Assistant Town Planner) in February 1977. She retired from the post of Director of Planning in June 2010. She is now a Member of the Advisory Committee on Post-service Employment of Civil Servants.



**Mrs Margaret LEUNG KO May-yee,
SBS, JP**

Honorary Fellow (HKU), BSocSc (HKU)
Member, Public Service Commission
(appointed on 1 July 2018)

Mrs Leung started her banking career in 1975. She had been a Director and General Manager of The Hongkong and Shanghai Banking Corporation, the Deputy Chairman and Chief Executive of Hang Seng Bank, and Deputy Chairman and Chief Executive of Chong Hing Bank. She retired in 2018. Currently she is an Independent Non-Executive Director of the Agricultural Bank of China Limited, First Pacific Company Limited, Li & Fung Limited and Sun Hung Kai Properties Limited. She is also a member of the Advisory Committee on Arts Development and the Advisory Committee on Post-office Employment for Former Chief Executives and Politically Appointed Officials, a Steward of the Hong Kong Jockey Club, the Treasurer and a member of the Council of the University of Hong Kong, and a member of the Business School Advisory Council of the Hong Kong University of Science and Technology.

Appendix I

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



Mr Tim LUI Tim-leung, SBS, JP

Fellow Member of The Hong Kong Institute of Certified Public Accountants,
Member of The Institute of Chartered Accountants in England and Wales
Member, Public Service Commission
(appointed on 1 July 2018)

Mr Lui joined PricewaterhouseCoopers (PwC) in London in 1978 and returned to Hong Kong in 1984. He retired as a Senior Advisor of PwC in 2018. He is a Past President of the Hong Kong Institute of Certified Public Accountants. Currently, he is the Chairman of the Securities and Futures Commission and the Education Commission. Over the years, he has served as the Chairman of the Committee on Self-financing Post-secondary Education, the Joint Committee on Student Finance, the Standing Commission on Directorate Salaries and Conditions of Service and the Employees' Compensation Insurance Levies Management Board.



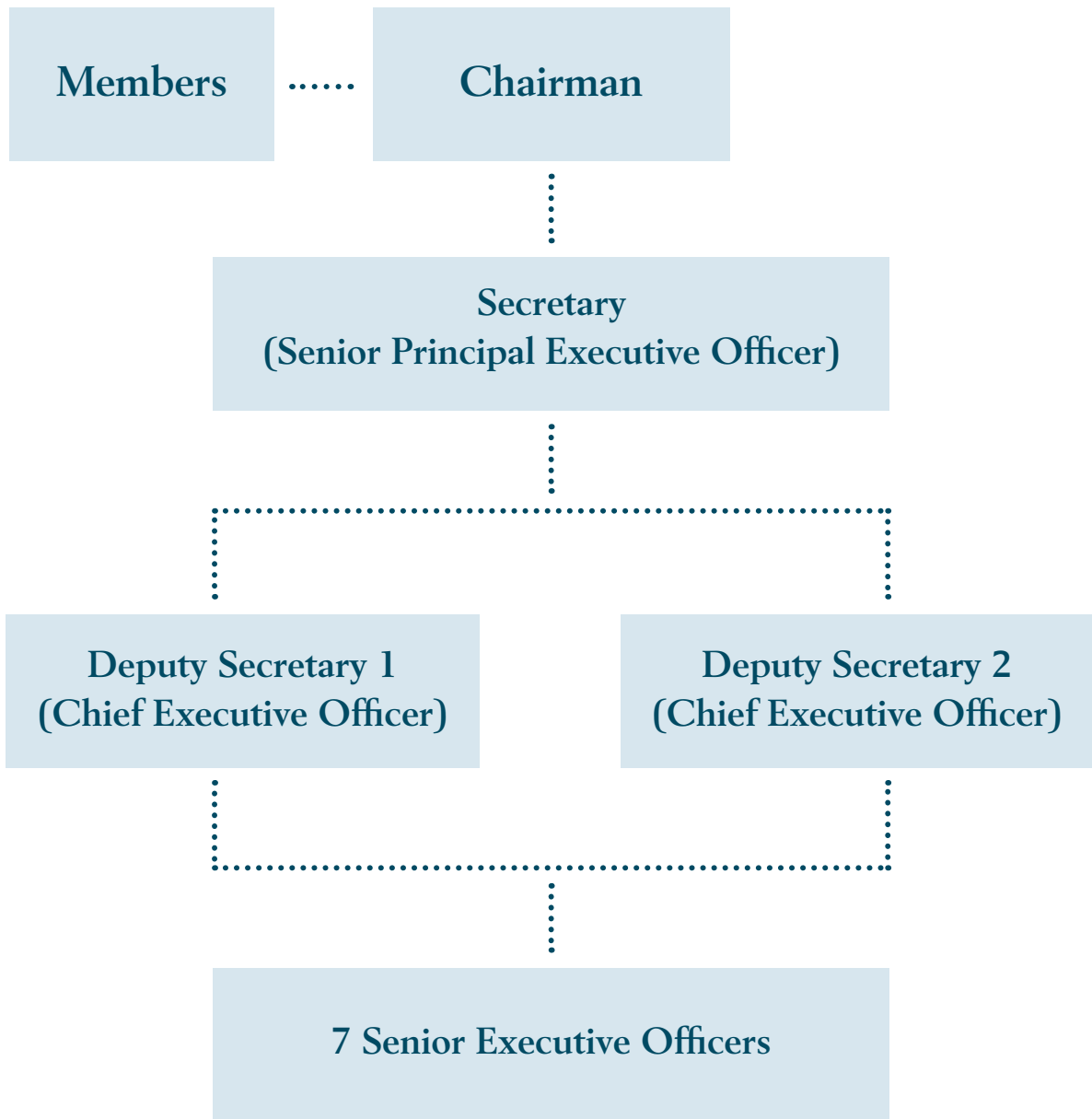
Dr Clement CHEN Cheng-jen, GBS, JP

Member, Public Service Commission
(appointed on 1 December 2019)

Dr Chen is the Executive Director of Tai Hing Cotton Mill Limited. Currently, he is the Chairman of the Council and the Court of the Hong Kong Baptist University, a Non-Executive Director of the Insurance Authority and Honorary President of the Federation of Hong Kong Industries. Previously, he was the Chairman of the Vocational Training Council, the Hong Kong Productivity Council, the Youth Education, Employment and Training Task Force. He had also served as an ex-officio member of the Education Commission and a member of the Council of the Open University of Hong Kong.

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

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Appendix III

Submissions Advised by the Commission

Category	Number of Submissions Advised				
	2015	2016	2017	2018	2019
Recruitment	151	161	169	165	197
Promotion/Acting appointment	710	701	672	724	715
Extension of service or re-employment after retirement	17	16	20	23	26
Extension or termination of probationary/trial service	114	134	163	140	148
Other Civil Service appointment matters	59	49	49	42	40
Discipline	37	47	36	40	36
Total number of submissions advised	1 088	1 108	1 109	1 134	1 162
<i>(a) Number of submissions queried</i>	767	796	788	795	887
<i>(b) Number of submissions with revised recommendations following queries</i>	105	113	135	142	156
<i>(b) / (a)</i>	14%	14%	17%	18%	18%

Appendix IV

Recruitment Cases Advised by the Commission

Terms of Appointment	Number of Recommended Candidates in 2019	
	Open Recruitment	In-service Appointment
Probation	1 764	0
Agreement	52	1
Trial	69	58
Sub total	1 885	59
Total	1 944	

	Comparison with Previous Years				
	2015	2016	2017	2018	2019
Number of recruitment exercises involved	151	161	169	165	197
Number of candidates recommended	1 100	1 398	1 601	1 873	1 944
<i>Number of local candidates recommended</i>	<i>1 099</i>	<i>1 397</i>	<i>1 601</i>	<i>1 871</i>	<i>1 944</i>
<i>Number of non-permanent residents recommended</i>	<i>1</i>	<i>1</i>	<i>0</i>	<i>2</i>	<i>0</i>

Appendix V

Promotion Cases Advised by the Commission

Category	Number of Recommended Officers				
	2015	2016	2017	2018	2019
Promotion	1 929	2 224	2 169	2 752	2 830
Waitlisted for promotion	216	272	291	368	330
Acting with a view to substantive promotion (AWAV) or waitlisted for AWAV	442	397	478	393	412
Acting for administrative convenience (AFAC) or waitlisted for AFAC	4 160	4 636	4 417	5 568	5 628
Total	6 747	7 529	7 355	9 081	9 200

	2015	2016	2017	2018	2019
Number of promotion exercises involved	710	701	672	724	715
Number of ranks involved	401	426	411	430	443

Appendix VI

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

Category	Number of Recommended Officers in 2019		
	Directorate	Non-directorate	Total
Submissions under the adjusted mechanism for further employment beyond retirement age for a longer duration than final extension of service from 1 June 2017	14	51	65
Submissions for final extension of service / re-employment beyond retirement age	1	0	1
Total	15	51	66

	Comparison with Previous Years				
	2015	2016	2017	2018	2019
Number of extension of service or re-employment after retirement submissions advised	17	16	20	23	26
<i>Number of submissions involving directorate ranks</i>	11	11	9	11	9
<i>Number of submissions involving non-directorate ranks</i>	6	5	11	12	17

Appendix VII

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

Category	Number of Submissions Advised				
	2015	2016	2017	2018	2019
Termination of trial service	1	0	0	2	4
Termination of probationary service	16	11	8	10	7
Sub total	17	11	8	12	11
Extension of trial service	13	11	12	10	17
Extension of probationary service	84	112	143	118	120
Sub total	97	123	155	128	137
Total	114	134	163	140	148

Appendix VIII

Other Civil Service Appointment Matters Advised by the Commission

Category	Number of Submissions Advised				
	2015	2016	2017	2018	2019
Non-renewal of agreement	1	0	1	0	1
Renewal or extension of agreement	10	11	2	3	1
Retirement under section 12 of the Public Service (Administration) Order	0	0	1	0	0
Secondment	6	3	7	1	3
Opening-up arrangement	3	0	1	2	2
Review of acting appointment	10	12	12	5	5
Updating of Guide to Appointment	29	23	25	31	28
Total	59	49	49	42	40

Appendix IX

Disciplinary Cases Advised by the Commission

(a) Breakdown of Cases in 2019 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	3	0	1	4
Compulsory Retirement + Fine	0	0	0	0
Compulsory Retirement	5	1	0	6
Reduction in Rank	0	1	0	1
Severe Reprimand + Reduction in Salary	1	2	0	3
Severe Reprimand + Fine	9	3	0	12
Severe Reprimand	0	0	0	0
Reprimand + Fine	1	2	0	3
Reprimand	2	2	3	7
Total	21	11	4	36

(b) Breakdown of Cases in 2019 by Category of Criminal Offence/Misconduct

Punishment	Number of Cases Advised				
	Criminal Offence			Misconduct ²⁶	Total
	Traffic related	Theft	Others ²⁷		
Dismissal	0	0	0	4	4
Compulsory Retirement	0	0	5	1	6
Lesser Punishment	3	0	15	8	26
Total	3	0	20	13	36

(c) Comparison with Previous Years

Punishment	2015	2016	2017	2018	2019
Dismissal	5	2	6	3	4
Compulsory Retirement	7	12	5	11	6
Lesser Punishment	25	33	25	26	26
Total	37	47	36	40	36

26 Including unpunctuality, unauthorised absence, abuse of official position, failure to follow instructions or perform duties, misuse of government internet service, violence at work, etc.

27 Including fraud, forgery, using false instrument, possession of dangerous drugs, assault, underskirt filming, soliciting or accepting advantages without permission, etc.