

Public Service Commission

ANNUAL REPORT
2021

Public Service Commission

ANNUAL REPORT 2021

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Chairman's Foreword



Every year the Commission publishes a report on the work undertaken in the past year. The publication of the 2021 Annual Report marks the completion of another year of productive work. In terms of caseload, we recorded a new high level of 1 379 with recruitments and promotions forming the main bulk of our work.

In the past two years, Hong Kong like the rest of the world has been striving hard to contain the spread of the COVID-19 pandemic. Just when we took breath and quietly hoped that we might have halted it with no local reported cases of infection for a continuous 80 days, the fifth wave of an even more contagious Omicron variant hit us again. During the peak of the crisis in the first quarter of 2022, the number of daily infected cases soared to 50 000. At the time of writing, case numbers began to come down and hopefully the worst is over. To fight this epidemic, civil servants, irrespective of ranks and profession, trained or untrained, have united and availed themselves to brave this unprecedented challenge. The Commission stands with the Civil Service and hopes that with the concerted efforts of all, our lives could return to normalcy as early as possible.

The Commission was fortunate to be able to sustain our statutory responsibilities and delivered in full our pledged work targets. Last year, on top of our set missions, we were invited by the Chief Executive to work with the Secretary for

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the Civil Service to review the mechanism for the selection and appointment of civil servants at the core and highest echelons of the Civil Service. Appointment in accordance with the principle of meritocracy has always been the Commission's doctrine. All the more reason the Commission has to ensure that every candidate recommended for promotion and recruitment is well-deserved and justified.

In tandem with the efforts to identify the best suited officers to fill key and senior positions to implement policies and contribute to the effective and good governance of the Government, the Commission welcomes the establishment of the Civil Service College in December 2021. The establishment of a Civil Service College replacing the former Civil Service Training and Development Institute underscores the Government's recognition and vision to broaden and refocus the training needs of civil servants at all levels to prepare and better position them to take on challenges and new demands for now and the future. The Commission looks forward to the formulation of a more systematic and tailor-made training curriculum to enhance the knowledge and skillsets of the civil service workforce while reinforcing training on managing staff performance. The Commission supports the Government's initiatives to give more and greater emphasis on national studies and to equip our civil servants with better understanding of the Basic Law. In ushering the 25th Anniversary of the establishment of the Hong Kong Special Administrative Region, the Civil Service must rise to its innate responsibilities to embrace and contribute to the development of our country while serving the best interest of Hong Kong under "One Country, Two Systems".

The completed work of the Commission for 2021 is set out in eight chapters in this report. They are broadly categorized to reflect the scope of our statutory responsibilities. In the relevant chapters, we have sampled some significant cases and included the observations and advice we have given on them. They are intended to serve as a reference and a reminder to the management on pitfalls that can be avoided in the pursuit of excellence. On our part, we will continue to discharge our responsibilities zealously, independently and impartially.

Taking the opportunity of the publication of the annual report, I would like to extend my special thanks to my fellow Commission Members for their unfailing support and wise counsel. In particular, I would like to pay tribute to Mr Andrew MAK and Mrs Ayesha LAU who retired from the Commission after having served as Members for six years. I would also like to extend a warm welcome to Professor Francis LUI who joined the Commission during the year.

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My gratitude also goes to the Secretary for the Civil Service and his colleagues for their readiness and assistance in taking forward the Commission's suggestions and advice. On behalf of all Commission Members, I would like to place on record our appreciation to the Secretary of the Commission and all staff of the Commission Secretariat for their dedicated and hard work in the past year. That we are able to meet our public pledge is due in no small part to their diligence and determination.

A handwritten signature in black ink, appearing to be 'Rita Lau', with a large, stylized initial 'R' and a circular flourish at the end.

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 2021 was as follows –



The Public Service Commission at a meeting.

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The Public Service Commission at a meeting.

Chairman	
Mrs Rita LAU NG Wai-lan, GBS, JP	since May 2014
Members	
Mr Andrew MAK Yip-shing, BBS, JP	May 2015 to May 2021
Mrs Ayesha MACPHERSON LAU, BBS, JP	February 2016 to January 2022
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-ye, 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
Prof Francis LUI Ting-ming, BBS, JP	since June 2021
Secretary	
Ms Fontaine CHENG Fung-ying	since October 2018

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

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Secretariat

- 1.3 The Commission is supported by a small team of civil servants from the Executive Officer, Secretarial and Clerical grades. At the end of 2021, the number of established posts in the Commission Secretariat was 33. 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 2021) or above, up to and including Permanent Secretaries and Heads of Department (HoDs). The appointment of the Principal Officials of the executive authorities of the Hong Kong Special Administrative Region (HKSAR) as stipulated under the Basic Law (BL) of the HKSAR of the People's Republic of China does not fall under the purview of the Commission. At the end of June 2021, the number of established civil service posts falling under the Commission's purview was 50 209 out of a total of 192 209. However, irrespective of rank, the following categories of cases are required to be referred 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 BL. It sets out the CE's authority in regard to the management of the Civil Service, including discipline matters.

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- 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 June 2021, the number of Category A officers falling under the Commission's purview for disciplinary matters was about 120 000.
- 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 Bureaux/Departments (B/Ds) may be invited to apprise the Commission of the background of the issue or case but the Commission forms its views independently.

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 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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- 1.8 In examining submissions from B/Ds, the Commission's primary aim is to ensure that the recommendations are well justified and are arrived at following the laid down procedures and stipulated guidelines. To achieve this, the Commission has devised a meticulous vetting system and in the process may require B/Ds to provide clarifications and supplementary information. In some cases, B/Ds would revise 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 worthy of management attention. The ultimate objective is to facilitate the pursuit of excellence in the administration of the appointment, promotion and disciplinary systems in the Civil Service.

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 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 2021

- 1.11 In 2021, the Commission advised on 1 379 submissions covering recruitment, promotions and disciplinary cases as well as other appointment-related subjects. Queries were raised in respect of 886 submissions, resulting in 158 re-submissions (18%) with recommendations revised by B/Ds in the light of the Commission's comments. All submissions in 2021 were

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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 In 2021, the Commission dealt with six representations which were all related to appointment matters under the Commission's purview. After careful and thorough examination, the Commission was satisfied that the representations made were unsubstantiated.
- 1.14 In addition to representations, the Commission also receives complaints of various nature. Although some may fall outside our statutory purview, all complaints are handled diligently. After obtaining the facts and information from the relevant B/Ds, the Commission will deliberate on the substance of the complaints and give replies after careful examination. Where the matters raised fall outside the Commission's purview, the Commission Secretariat will re-direct them to the relevant B/Ds for reply.
- 1.15 The Commission has a pivotal role in ensuring compliance and consistency in the application of policies and procedures pertaining 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 holistic approach in developing a comprehensive Human Resource Management strategy which best serves the interest of 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 embrace the opportunities and challenges of developing Hong Kong and upkeeping our good governance. In 2021, the Commission continued the initiative of fielding officers from the Commission Secretariat to participate in training sessions and workshops organised for officers of the Executive Grade and GMs. Equipping them with the necessary knowledge and expertise to discharge their human resource management function is vital in ensuring that the recruitment, management of probationers, promotion

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and performance management systems are administered properly and in full compliance with Civil Service policies and rules. We were delighted with the positive feedback gauged. These forums have helped to enhance communications between the Commission and B/Ds. Officers responsible for preparing submissions to the Commission are better acquainted with the Commission's standard and requirements which 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.

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- 2.1 Maintaining a workforce of civil servants who are dedicated to their duties, committed to the rule of law, and being objective and impartial in the discharge of duties is of vital importance to the effective governance of the Government. As a backbone of the HKSAR Government, all civil servants are duty-bound to observe and implement “One Country, Two Systems”. Civil Service appointment has therefore to be highly selective to ensure that only the most suitable and meritorious are appointed and recruited into the Civil Service.
- 2.2 In 2021, the Commission considered and tendered advice on 1 379 submissions. Of them, 1 350 were appointment-related and the remaining 29 were related to conduct and discipline. These submissions were the result of the hard work of B/Ds. Altogether, 157 recruitment and 742 promotion exercises were conducted to fill new vacancies and replenish the manpower needs of B/Ds. Behind these two figures are 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 further employment cases were put up under the adjusted mechanism promulgated by CSB in June 2017. Another 247 submissions involved extension or termination of officers appointed on probation or trial service. The remaining 178 were other appointment-related cases.
- 2.3 Apart from tendering advice and observations on case-specific submissions, the Commission also works closely with CSB to provide comments on new appointment policy, to improve and streamline appointment procedures and to propose subjects for review where appropriate. An account of the Commission’s work is detailed in this Chapter.

Civil Service Recruitment

- 2.4 Recruitment to the Civil Service is undertaken by CSB and individual B/Ds which may take the form of an open recruitment or in-service appointment or both. Where submissions are required to be made to the Commission⁵, we will need to be satisfied that objective selection

5 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-2021) 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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standards and proper procedures are adopted in the process. B/Ds are required to consult the Commission in advance on the introduction of any new shortlisting criteria in a recruitment exercise to ensure that they are appropriate and fair. We also advise B/Ds on measures to enhance the efficiency and effectiveness of the recruitment process so that offers can be made to successful candidates as early as possible.

- 2.5 In 2021, the Commission advised on 157 recruitment submissions involving the filling of 1 597 posts, of which 1 545 posts (in 150 exercises) were through open recruitment and 52 posts (in seven exercises) by in-service appointment. A statistical breakdown of these appointments and a comparison table showing the number of recommendees in 2021 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.

Basic Law Test

- 2.6 Since September 2008, BL knowledge assessment has been included in the recruitment process for all civil service positions. Applicants for civil service positions requiring academic qualifications at or above completion of secondary education level must sit for the BL Test, the result of which will carry an appropriate weighting in a candidate's overall assessment. To promote the learning and deepen the understanding of the BL, CSB has reviewed and decided to require a pass result in the BL Test as an entry requirement for these positions in all civil service recruitment exercises advertised on or after 6 August 2021. Regardless of the performance of the candidates in other parts of the assessment, applicants for the civil service posts concerned must obtain a pass in the BL Test to qualify for consideration of appointment. The Commission is in full support of setting knowledge of the BL as a mandatory requirement for entry into the Civil Service. Looking ahead, CSB has undertaken to review and update the assessment content of the BL Test to include the Law of the People's Republic of China on Safeguarding National Security in the HKSAR in the scope of the assessment to reflect the requirements of the jobs under application. The Commission looks forward to offering our views in the course of the CSB review.

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Civil Service Promotion

- 2.7 The role of the Commission in advising the Government on promotions⁶ in the Civil Service is to ensure that only the most suitable and meritorious officers are selected to undertake the 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 matters relating to performance management with a view to bringing about improvements where inadequacies are identified and enhancing the quality of the overall Civil Service promotion system as a whole.
- 2.8 In 2021, the Commission advised on 742 promotion submissions involving the recommendations of 9 634 officers for promotion or acting appointment. Promotions have to be earned and based on merits. In a great majority of cases, competition is keen. The recommendations of a promotion board have therefore to stand up to scrutiny and the relevant board has to answer the queries raised by the Commission and provide justifications and objective evidence to support them. 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.

Declaration of interest in recruitment and promotion exercises

- 2.9 To guard against any real or perceived conflict of interest in Civil Service appointments, the Government has established a well-tested declaration of interest mechanism governing the conduct of Civil Service recruitment and promotion exercises. The chairman and members of a recruitment/

6 Under the purview of the Commission, recommendations on promotion to middle and senior ranks, i.e. those attracting a maximum monthly salary not less than the amount specified at Master Pay Scale Point 26 or equivalent, are required to be submitted to the Commission for scrutiny and advice. The judicial service, the Independent Commission Against Corruption and the disciplined ranks of the Hong Kong Police Force are outside the purview of the Commission.

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promotion board are required to declare, before the board meeting, whether their relationship with any of the eligible candidates would constitute or may be perceived as having a conflict of interest. The Appointment Authority (AA) will, after taking into account the degree of closeness of the relationship involved and the associated real/perceived conflict of interest, decide on an appropriate course to take. The AA may direct changing the composition of the board, or requesting the board chairman/members to withdraw from the board temporarily, or to abstain from assessing the claim of the declared candidate.

- 2.10 In consultation with the Commission, CSB conducted and completed a review in November 2021. The declaration mechanism is streamlined such that if a board chairman or member declares an interest with a candidate, and the relationship so declared has been considered by the same AA in a previous exercise, it is not necessary to submit the declaration again provided that there is no change in the details of the declaration and that no mitigating action (such as withdrawing from the board temporarily or abstaining from assessing the claim of the declared candidate) is required to be taken. The Commission supports the refinement and considers it sensible to strike a balance between safeguarding the integrity of the mechanism and minimising bureaucratic red tape. CSB has also taken the opportunity to remind B/Ds to impress officers appointed to be chairmen and members of promotion boards on the importance to exercise prudence and judgement in making declarations.

Extension of Service of Civil Servants

- 2.11 Pursuant to the Government's policy decision announced in January 2015 to extend the service of civil servants, an adjusted mechanism for further employment beyond retirement age for a longer duration than final extension of service (hereafter referred to as "FE") was fully implemented from June 2017 after consulting the Commission.

The FE scheme

- 2.12 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 2021, 25 FE submissions were put up to consider applications

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for extension of service. With the support of the Commission, the service of 126 officers were extended for a period ranging from about four months to 4.5 years in aggregate. A breakdown of the number of extension of service or re-employment after retirement cases advised by the Commission in 2021 and a comparison with those in the past four years are provided at Appendix VI.

- 2.13 In 2021, CSB completed a review of the FE scheme as planned. The review results reaffirmed that the FE scheme has provided B/Ds an avenue to retain experienced civil servants to sustain the services of B/Ds. It has also served to meet short-term manpower gaps and facilitate succession planning particularly for grades which are experiencing severe bunching of retirement at certain ranks. In light of the experience gained in implementing the scheme, CSB has fine-tuned some arrangements in respect of applications for final extension of service (up to 120 days)⁷. With effect from September 2021, irrespective of whether the final extension is to take effect upon attaining the retirement age or after the completion of FE of the officer concerned, all applications henceforth will be processed and approved in accordance with CSB Circular No. 2/2016 and the approving authority is the same as that set out in Civil Service Regulation (CSR) 276(4). The advice of the Commission on these applications is no longer required. CSB has assured us that the total duration of the FE period(s) and the final extension of service to be granted for an officer will be capped at a maximum of five years under the present policy. The Commission is pleased to note that applications for FE were considered and approved with full regard to the approval criteria thereby safeguarding the interests of serving officers with no undue promotion blockage caused as a result of the FE. The Commission will continue to monitor the operation of the FE scheme and provide feedback to CSB as necessary.

Management of Officers on Probation/Trial

- 2.14 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 suitability for further appointment in the Civil Service;

⁷ In accordance with CSR 276(4), the relevant HoDs/Heads of Grade or the Secretary for the Civil Service (for cases of HoDs) may approve applications for final extension of service of civil servants for a maximum period of 120 days (exclusive of leave earned during the extension) on operational or personal grounds beyond retirement age.

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- (b) allowing the AA to assess the performance and conduct of the appointee and be satisfied that he is fit for continuous employment; and
- (c) giving the appointee time to acquire any additional qualifications or pass any tests prescribed for further appointment.

To uphold the proper administration of the probation/trial system, HoDs/Heads of Grade (HoGs) have the overall responsibility of overseeing the management of officers on probation/trial including the provision of necessary training, coaching and counselling to help them fit into their jobs. Continual monitoring and regular feedback on their performance aside, B/Ds are required to take timely action to address any problems that may surface during the probationary or trial period.

- 2.15 To maintain a robust workforce, HoDs/HoGs should adopt stringent suitability standards in assessing the performance and conduct of officers on probation/trial to ensure that only those who are suitable in all respects are allowed to pass the probation/trial bar. According to the guidelines promulgated by CSB and as provided for under CSRs, termination of an officer's probationary/trial service is not a punishment. If at any time during the probationary/trial period, an officer on probation/trial is found to have failed to measure up to the required standards of performance/conduct or has shown attitude problems and displayed little progress despite having been given guidance and advice by their supervising officers and/or the GM, the HoD/HoG concerned should take early and resolute action to terminate his service under CSR 186/200 without the need to wait until the end of the probationary/trial period or recourse to disciplinary proceedings.
- 2.16 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 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 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 control. It is only in very exceptional circumstances where the officer, though not yet fully meeting the suitability standards, has shown positive and strong

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indication to be able to achieve the standards within the extension period that an extension of his probationary/trial period should be granted. Besides, the period of an extension should not be decided arbitrarily. Rather, B/Ds should fully consider the circumstances and merits of each case and assess the time required by the management to come to a view on whether the officer concerned should be allowed to pass the probation/trial bar.

- 2.17 In 2021, the Commission recorded a total of 69 cases requiring the termination of probationary/trial service of the officers concerned. It represents a 165% increase from 26 cases in 2020. Among them, 56 cases were related to unsatisfactory performance/conduct, and the rest were related to probationers who failed/refused/neglected to comply with the requirement to sign a declaration to uphold the BL, bear allegiance to the HKSAR, be dedicated to their duties and be responsible to the HKSAR Government⁸. There were another 178 submissions involving extension of probationary/trial service in the year. 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 a 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.

Assessment of suitability for passage of probation/trial bar

- 2.18 B/Ds have in general been vigilant in applying a stringent standard in assessing an officer's suitability for passage of the probation/trial bar. In some cases, however, the Commission has noted inadequate supervision on the part of frontline managers. In examining a termination case, the Commission was concerned that the multiple and prolonged acts of misconduct of a probationer only came to light through investigation of a complaint lodged with the department. Had the supervising officer conducted regular

8 In October 2020, CSB required all civil servants who joined the HKSAR Government on or after 1 July 2020 to declare that they would uphold the BL, bear allegiance to the HKSAR, be dedicated to their duties and be responsible to the HKSAR Government. In January 2021, CSB extended the declaration requirement to all civil servants who were appointed to the civil service before 1 July 2020.

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checks instead of just relying on telephone communications and weekly verbal reports, proactive management action to terminate the service of the probationer would have been taken earlier. The case has highlighted the need for B/Ds to adjust and innovate their management strategy in exercising staff supervision especially over those working in outposts. The Commission has advised the department to review its existing practice and consider the adoption of new technologies to facilitate supervising officers to better discharge their supervisory duties. While public complaint can serve as a feedback, proactive monitoring and quality service assurance must remain a prime responsibility of the management.

Performance management of officers on probation/trial

- 2.19 Appraisal is an integral part of the performance management system. It is a tool with which staff performance is monitored and assessed. It is also a means to provide feedback for staff development. For officers on probation/trial, timely feedback is all the more important as they need to know how they have been performing and be given the chance to improve their shortcomings. In an extension case of the trial service of an officer, the Commission was disappointed to find that out of six appraisal reports written during the trial period, three were completed late with one late for 14 months. Moreover, the written assessment of all the three reports was almost identical. Such practice defeats the very purpose of performance appraisal as a tool to assess an appraisee's progress or otherwise over a specified period of time. The Commission has advised the GM to draw from this case and remind its grade members to perform their performance management duties diligently and properly.

Timely submission

- 2.20 As required under CSR 186(4)/200(4), recommendations involving extension or termination of probationary/trial service which fall under the purview of the Commission should as far as practicable be submitted to the Commission at least two months before the end of the probationary/trial period. The Commission considers it most undesirable if such cases could not be processed in time for the officers concerned to be informed of the management's decision before the end of their probationary/trial periods.
- 2.21 In a case seeking to defer the passage of probation bar of an officer who was under on-going investigation by a law enforcement agency, the department

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concerned submitted its recommendation to the Commission for advice after the expiry of the date for passage of the probation bar. While the GM was fully aware that the officer was under investigation and should have alerted the appointments section of the department, it was not done until close to the end of the probationary period. The Commission considers that had there been closer communication and better co-ordination between the two sections, the case could have been dealt with earlier for timely submission to the Commission. The Commission has invited the department to review its internal processing procedures and enhance its reporting and monitoring mechanism in this regard.

- 2.22 In another case, the probationary period of an officer on continuous sick leave had to be extended on account of the sick leave taken and the subsequent period during which only light duties were performed. The extension was intended to allow the department to thoroughly assess the officer's fitness to perform his principal duties based on the advice to be obtained from a further medical board. However, the department concerned had overlooked the need to secure the medical board advice promptly within the extended period. As a result, a further extension had to be sought. As arranging a medical board is a critical task in the process, the Commission has advised the department to factor it in when considering an appropriate period for extension. The administrative work of having to seek a further extension could be saved.

Extension of probationary/trial period due to the issue of verbal/written warning

- 2.23 According to CSB Circular No. 5/2015, the probationary period of an officer issued with a verbal or written warning⁹ should be extended for six months and one year respectively with financial loss¹⁰. As the extension

9 A verbal or written warning is a form of summary disciplinary action which is taken in cases of minor acts of misconduct (e.g. occasional unpunctuality) committed by a civil servant. Such summary disciplinary action allows B/Ds to tackle and deter isolated acts of minor 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.

10 If an officer's probationary period is extended with financial loss, the officer will receive no increment during the extension and his 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 satisfactory performance and the AA's satisfaction that he fully meets the requirements of the grade for confirmed appointment in the long term.

CHAPTER 2

Civil Service Appointments

is to take effect from the end date of the original probationary period regardless of when the warnings were issued, management action to seek the advice of the Commission should be initiated immediately thereupon without waiting until the end of the probationary period. However, belated follow-up actions to seek extensions on warnings issued to probationers were still observed during the year.

- 2.24 In an extension case, the advice of the Commission was sought one year after the warning was issued. As formal notice of extension is given to officers issued with warnings only after the Commission has advised, the Commission is concerned that the punitive and deterrent effect of the warning might be weakened with the lapse of time. In our view, the officer should be told of the consequence of extension as close to the issue of warning as possible. Noting that this was not the only case coming from the same department, the Commission has invited its senior management to review its internal processing procedures and address the Commission's concern at a systemic level. We have also asked CSB to offer assistance as necessary.

Other Civil Service Appointment Matters

- 2.25 In 2021, the Commission advised on 178 other appointment cases. They cover cases of renewal, non-renewal or extension 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. A statistical breakdown of these cases and a comparison with those in the past four years are provided at Appendix VIII.

- 11 Secondment is an arrangement to temporarily relieve an officer from the duties of his substantive appointment and appoint him to fill another office not in his 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 opened 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.

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Civil Service Appointments

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

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

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

2.27 During the year, the Commission advised on 73 cases of retirement in the public interest under s.12 of the PS(A)O. Except for one case invoked on the ground of persistent substandard performance, all the other cases were invoked on the ground of loss of confidence arising from the officers' failure/refusal/neglect to comply with the requirement to sign a declaration to uphold the BL, bear allegiance to the HKSAR, be dedicated to their duties and be responsible to the HKSAR Government. Insofar as cases involving persistent substandard performance are concerned, apart from the case in which s.12 action was invoked (as mentioned above) and completed, four officers who were put under close observation during the year had subsequently been taken off the watch list due to the retirement in public interest of one officer under s.12 on the grounds of loss of confidence and the suspension of s.12 action for three others due to health grounds. As at the end of 2021, three officers remained under close observation due to their persistent substandard performance.

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

CHAPTER 3

Observations on Recruitment Cases

- 3.1 Recruiting new talents and injecting new blood into the Civil Service is vital in sustaining a stable and robust workforce to achieve the aim of effective and efficient delivery of public service with high quality. B/Ds need to conduct regular recruitment exercises to meet their manpower requirements and service needs. The process of selection is rigorous and competition keen. The Commission supports the conduct of recruitment based on merit and fair competition so as to select the best-suited candidates for the civil service jobs. Apart from ensuring the proper conduct of the recruitment process, we also attach importance to administrative efficiency in order that the Government can compete with the private sector for talents and good candidates.
- 3.2 With years of accumulated experience and the aid of clear guidelines, recruitment exercises have been conducted smoothly in accordance with Civil Service recruitment policy. The rules governing the proper conduct of exercises are laid down in the Guidebook. To ensure compliance and facilitate B/Ds in preparing their submissions to the Commission, we invited CSB to consider devising a template with a checklist on all necessary information to be provided. As reported in our last Annual Report, CSB has responded positively and the template was promulgated for use by B/Ds in February 2021. The template was subsequently incorporated into the Guidebook for ready reference by all. The Commission is pleased to note the mutual benefits it has brought to B/Ds and the Commission Secretariat in our respective area of work. We are gratified to see improved efficiency and the shortened time taken in completing recruitment exercises. This is an extraordinary achievement when all out efforts had to be taken across B/Ds to fight COVID-19 which had mutated further in the past year. While some exercises were found to be behind schedule, recruitment exercises had, by and large, proceeded as planned and none aborted.

Quality of Recruitment Reports

- 3.3 Apart from noting B/Ds' general compliance with the rules and procedures, the Commission is also pleased to see the marked improvement in the quality of the recruitment board reports. The Commission was particularly impressed by three recruitment exercises among the many advised in the past year. The boards' assessment on the performance of each individual candidate during the selection interview was well-written and cogent. The inclusion of a brief background of the candidate with remarks on why the board considered the candidate should be recommended had greatly facilitated

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the Commission's scrutiny. It obviated the need for the Commission to seek clarification and has helped to expedite the recruitment process such that offers for appointment could be made at the earliest time. The Commission believes that good work done should be given due recognition and to this end, we have conveyed our compliment to the concerned recruitment boards.

Assessment Criteria

- 3.4 To ensure that only the most suitable candidates are appointed to the Civil Service, the foremost task of a recruitment board is to determine a set of key qualities for evaluating the suitability of the applicants. The formulated criteria for assessment should also be compatible with the job requirements. While a marking scheme is normally devised for selection, the Commission has noted in some cases that no relative weighting was accorded to the items under assessment. We are concerned that a candidate with an unacceptably low score in a key aspect might pass the selection with an overall pass score. We have therefore advised the department concerned to review the assessment criteria and set appropriate weightings for each criterion so that only those passing all and including the key aspects are selected and offered appointment. We are pleased to see our advice acted on in the recruitment exercise conducted by the department last year.

Eligibility of Candidates

- 3.5 As civil service jobs generally offer a life-long career after an initial observation period, it is crucial to ensure that only candidates who have met the entry requirements and possessed the required calibre are appointed. It is vital therefore for a recruiting department to set out clearly and accurately the most up-to-date entry requirement of the post in the advertisements and/or vacancy circulars. During the year, the Commission noted that a department had used an outdated set of entry requirements in the advertisement/vacancy circular of a recruitment exercise. Fortunately, it had not adversely affected the recruitment work. In the end, the recommended candidates for appointment were all able to meet the entry requirements which had been updated in time. In another recruitment exercise, the department had erroneously included ten unqualified candidates but screened out one qualified candidate in its initial vetting process. The mistakes were rectified upon the Commission's enquiry. Although no irreparable consequences had been caused by the inadvertence in these two exercises, the Commission considered that the oversight could be avoided if the

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subject officers had been more vigilant in ensuring accuracy of information in the recruitment process. To avoid recurrence of such problems, the Commission has advised the concerned departments to put in place a more robust checking mechanism.

- 3.6 In two other recruitment submissions examined last year, the Commission had found one candidate in each of the two recruitment exercises being identified as suitable for appointment but not given an offer. As explained by the recruiting departments, the two candidates were found to have failed the stipulated entry requirements upon further verification of their qualifications after the selection interviews. On detailed examination, the Commission observed that both candidates had in fact provided their documentary proof before attending the selection interviews. The departments should have verified their eligibility on the spot and aborted the interviews. The nugatory administrative work incurred aside, interviewing unqualified candidates would cause confusion and affect the reliability of the recruitment results. The Commission has reminded the two departments to exercise extra care in vetting the qualifications of candidates in future exercises.

Waiting List for Appointment

- 3.7 In accordance with the established practice, a recruitment board may draw up a waiting list for future appointment if the number of suitable candidates exceeds that of vacancies immediately available. The length of the waiting list should take into account factors such as the number of anticipated vacancies to arise and past decline rates as a reference. A waiting list is normally valid for one year from the date when the recommendations of the recruitment board report are approved or until the commencement of the next recruitment exercise, whichever is the earlier. The relevant AA may approve an extension of the validity period of a waiting list prior to its expiry, provided that a fresh round of recruitment exercise has not commenced.
- 3.8 In examining the recommendations of a recruitment board, the Commission noted with concern that the board had recommended an excessively long waiting list with about 150 candidates waitlisted for filling some 20 upcoming vacancies. While the validity period of a waiting list may be extended, the Commission believes that maintaining a waiting list for a prolonged period is not conducive for the department in tapping the best available talents for recruitment to the Civil Service. Potential candidates who will become qualified for the post after the recruitment exercise may

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be deprived the chance to apply for the job due to the prolonged waiting list. The Commission has reminded the department to critically assess the need of maintaining a long waiting list and in considering an extension of its validity in conducting future recruitment exercises.

CHAPTER 4

Observations on Promotion Cases

- 4.1 Promotion in the Civil Service is premised on meritocracy. It is not an entitlement nor a reward for long service. An officer has to demonstrate that he is suitable in all respects to discharge the more demanding responsibilities at a higher rank before he could be promoted. The Commission assists the Government to ensure the selection of the most meritorious officers for advancement through a fair and equitable promotion system.
- 4.2 The Commission has set a very high standard for the staff of the Commission Secretariat to scrutinise the recommendations for promotion. In examining promotion submissions from B/Ds, the Commission will need to be satisfied that the exercises are conducted properly and in compliance with the relevant CSRs as well as the prescribed rules and procedures. We are pleased to note the continued maintenance of a high level of compliance by B/Ds in 2021. However, room for improvement in some cases was still observed. While specific observations and comments had been conveyed to the B/Ds concerned, we have cited some noteworthy cases for illustration which could serve as a ready reference and a useful reminder for B/Ds.

Quality of Promotion Board Reports

- 4.3 Apart from general compliance, the Commission also attaches importance to the quality of the submissions. A clear and well-written board report not only facilitates our scrutiny work, much time is saved in the process. During the year, the Commission was particularly impressed by the good work done by two departments. In addition to presenting comprehensive and accurate information as required under the Guidebook, the justifications for the selection of each recommended candidate were clearly accounted for with concrete evidence. The board reports also gave details on and provided an evaluative comparison of the merits of the close contenders relative to the recommendees. The Commission commends the work of the concerned departments and has encouraged them to keep up with their good work.
- 4.4 In examining the reports of some other promotion exercises, the Commission Secretariat has come across some careless mistakes which required rectification before the advice of the Commission could be sought. There were five such cases last year where inaccurate information was found in respect of the number of vacancies and eligible officers; discrepancy between the performance ratings recorded in the staff appraisals and the board report; and the commencement date of acting of eligible officers. The Commission considers it vital that all information provided in the promotion board reports

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can be assumed to be accurate without the need for further cross-checking. The occurrence of these five cases, though small in number, has reminded us that the meticulous scrutiny done by the Commission Secretariat is not only worthwhile but is necessary and we should continue to do so. Instead of being embarrassed, the Commission hopes that the departments concerned will take our observations and advice in the spirit of not wanting the same to be repeated again in the future.

- 4.5 The Guidebook specifies that summaries of performance should be provided to facilitate the promotion board to assess the merits and suitability of all eligible candidates for promotion and a template is included for adoption. Despite the advice we have given in the past, we still found cases in two extremes: some providing very short and brief summaries and others copying word-for-word from the appraisals in great lengths. The greatest difficulty the Commission has however is to find the individual assessment of the board repeating comments from the candidates' appraisal report and a recommendation which lacks substantiation. The Commission has to know the bases on which the promotion board recommended an officer for acting; in what areas an officer needs to be tested with a recommendation of acting with a view (AWAV)¹⁴ to substantive promotion; and why substantive promotion was not recommended. We appreciate that B/Ds are obliged and always forthcoming in responding to our request for elaborations. In some cases, however, our wait for a reply could be a long one. In the end, some recommendations may be revised and in others the Commission is able to lend full support to the recommendations after receiving the boards' elaborations and further justifications. We believe that had fuller information on the deliberations of the board been given in the reports, the advice of the Commission could be tendered earlier. The B/Ds will then be able to implement the recommendations of the conducted promotion exercise sooner.

Counting of Vacancies for Promotion and Acting Appointments

- 4.6 Paragraph 3.5(a) of the Guidebook sets out the general principle and method in determining the number of promotable and acting vacancies in a promotion

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

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exercise. Vacancies anticipated to arise within the current appraisal cycle should be counted as promotable vacancies. As for supernumerary or time-limited posts, they should also be counted as promotable vacancies when sufficient permanent vacancies will become available to absorb the promotees before the lapse of the supernumerary or time-limited posts concerned. Other than vacancies in the current appraisal cycle, B/Ds should also ascertain the number of vacancies arising in the first six months of the next cycle so that the filling of them can be planned ahead by long-term acting for administrative convenience (AFAC)¹⁵ or short-term acting appointment. Whether the same number of candidates will be recommended is a matter to be deliberated by the promotion board.

- 4.7 During the year, the Commission is encouraged to note in one promotion exercise that despite the relatively large number of vacancies involved, the vacancy position including the emergence date of each vacancy was detailed clearly in the board report with information on some significant changes since the last exercise updated. The clarity and relevance of the information provided have greatly facilitated the Commission Secretariat's scrutiny and is truly a shining example for other boards to follow. The Commission has conveyed our appreciation to the concerned department for the work so well done.
- 4.8 Miscalculation of vacancies is problematic and may directly affect the fair claims of eligible candidates for promotion. In one case, the department overlooked the impending retirement of two officers at the promotion rank and understated the number of promotable vacancies. In another case, the department did not count a time-limited vacancy as a promotable one overlooking a permanent vacancy would arise before the lapse of the time-limited post to absorb the promotee. Another department was also found to have excluded a time-limited vacancy for consideration. Much time and efforts had to be spent to sort out the vacancy position. Getting this right is absolutely necessary as the last thing the Commission wants to see is to find deserving officers being left out in a promotion exercise because of an administrative error or oversight. The Commission has reminded

15 According to CSR 166(6), an officer is appointed to AFAC if he 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 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.

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the departments concerned to closely observe the relevant guidelines and be more vigilant in calculating the number of both promotable and acting vacancies.

Effective Date of Promotion

- 4.9 According to CSR 125, the effective date of substantive promotion of an officer is normally 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 which is usually the board date, whichever is the latest. Some promotion boards appeared to be confused and unclear in determining the effective date of promotion of some recommended candidates. As observed, they had overlooked the fact that the officers recommended for promotion had been performing the higher rank duties on a continuous basis when the board met. The original recommendations were revised upon our enquiry and the recommendees were ultimately promoted to take effect from the board date in compliance with CSR 125.

Eligibility of Candidates

- 4.10 The key task of a promotion board is to make fair assessment on the claims on all eligible candidates and identify the most meritorious officer(s) for advancement. Without accurately determining the eligibility of candidates may give rise to concerns over the integrity of the promotion boards. It is therefore imperative upon the boards to include all candidates who are eligible for consideration and exclude those who are not.
- 4.11 In examining two promotion submissions during the year, the Commission noted that some candidates had erroneously been omitted for consideration. In the first case, two officers were not considered in that exercise on the ground that they would have less than 12 months' active service if promoted¹⁶. However, the concerned board had overlooked that while the prescribed retirement age for officers at the eligible lower rank is 55, it is 57 at the promotion rank. They should not therefore be excluded at the

16 In accordance with CSR 109(1)(a), officers who (a) have less than 12 months' active service to serve after the effective date of promotion; (b) are on trial in another grade; and (c) are on a Government Training Scholarship are normally not considered for promotion.

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outset. In the second case, the concerned board had mistakenly treated an officer's secondment to another organisation as a trial appointment and thus, classified him as an ineligible candidate ^{See 16}. Although rectifications were subsequently made upon the Commission Secretariat's enquiry, the Commission has reminded the concerned departments to be more vigilant in determining the eligibility of officers in the future.

- 4.12 Including candidates who are not eligible for consideration is also a grave error and should not be allowed to happen. In the promotion exercises for a rank covering different work streams, officers were required to be in possession of the specified professional qualification as a pre-requisite for consideration for promotion in the respective streams. In examining the promotion submission of a particular work stream, the Commission noted that two candidates included for consideration in the last promotion exercise were not considered eligible in the current one. The department explained that upon further review of the qualifications possessed by the two officers, they were not the specified professional qualifications as required. Although no irreparable consequences had resulted as neither of them were recommended in the last promotion exercise or the current one, such negligence does not put the concerned professional department in good light. We have reminded the department to exercise extra care in ascertaining the qualification attainments of all candidates in determining their eligibility for consideration. Instead of relying solely on the vetting work of the staff in the personnel registry, we have requested the GM to check and confirm the professional qualifications possessed by the candidates prior to the conduct of any promotion exercises.

Shortlisting Criteria

- 4.13 According to paragraph 3.21 of the Guidebook, 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 to reduce the number of eligible candidates to a more manageable size. This would help expedite the proceeding of the promotion board to achieve administrative efficiency. 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 exercise prudence in devising shortlisting criteria in promotion exercises. In cases where only a small number of eligible officers is involved, the promotion board should consider all candidates and not adopt any shortlisting criteria. Consistency with previously adopted criteria aside,

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promotion boards should have due regard to the vacancy position of the current exercise and the practical effect after their adoption.

- 4.14 During the year, the Commission observed that two promotion boards of a department introduced a new shortlisting criterion respectively and screened in a small pool of candidates for serious consideration. Given the small number of eligible officers in both exercises (i.e. 18 and 38 respectively), there was no apparent need to further trim the number. The Commission has advised the concerned department to review the appropriateness of the newly introduced shortlisting criterion in future promotion exercises.
- 4.15 In another promotion exercise, by following the same shortlisting criterion adopted in previous exercises, the number of shortlisted officers was found to be even smaller than the number of available vacancies. While consistency is a relevant factor, adoption of a previous shortlisting criterion should not be considered mechanically without regard to prevailing circumstances. In this case, the board should have considered relaxing or even doing away with the shortlisting criterion to allow for a larger pool of candidates to compete for advancement. The Commission has advised the concerned department to remind the next promotion board to be more critical in considering the adoption of shortlisting criteria.

Board's Assessment on Candidates' Promotion Claims

- 4.16 In assessing and selecting suitable candidates for promotion, a promotion board should mainly refer to the performance of an officer as portrayed in the appraisal report over a period of time, normally in the past three years. The personal knowledge of promotion board members should only serve to supplement but not override the assessment in the appraisal reports. The Commission supports using performance track record as a basis for assessment of and comparison between candidates whereas hearsay or unsubstantiated comments not recorded or borne out in the reports should not carry any weight. This explains why the Commission attaches such importance to the performance appraisal system and for being critical about the quality of appraisal reports. Performance and ability aside, it is incumbent on promotion boards to evaluate the personal attributes of a candidate not least the officer's passion and commitment to serve.
- 4.17 In one exercise, the promotion board waitlisted several officers for acting appointments on the basis of their meritorious performance track records

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despite knowing that they had repeatedly declined the department's invitations for them to attend the training courses required for taking up the higher responsibilities. Although acting is not a requisite condition for promotion, long-term acting appointments are often recommended as a means to ascertain that an officer is suitable in all respects for substantive appointment to the higher rank. In this case, the concerned officers' refusal to be trained is not a question of personal choice. The management had to consider whether, in the absence of the required training, they would be fit and could be entrusted to perform the higher rank duties. Upon review at our request, the board subsequently decided to remove them from the acting list. Promotion boards should bear in mind that apart from good performance, an officer has to demonstrate the possession of all necessary qualities and attributes required of the higher rank.

- 4.18 In another exercise, while the chairman and one member of the promotion board had knowledge of an incident which had reflected negatively on the abilities of two candidates, they did not apprise the board of it because the incident happened after the last appraisal cycle and hence not captured in the appraisal reports for the board to review. Without reference to the incident, the board collectively recommended the substantive promotion of the two officers concerned on the strength of the available performance appraisals. When the board's recommendations were subsequently submitted to the AA for endorsement, the AA noted that the board's attention had not been drawn to the incident. As instructed by the AA, the board convened again to consider the claims of the two officers afresh. After deliberation, the board concluded that the original recommendations should be revised and recommended both officers to continue to AFAC for further observation. The Commission commended the AA's due diligence in considering the board's recommendations. In our view, the board chairman and member should have supplemented the board with the information as it was a substantiated and relevant factor for consideration.

Comparison of Merits

- 4.19 According to paragraph 3.38 of the Guidebook, a promotion board, before making its recommendations, should have reviewed officers who have been recommended for acting appointment in the previous exercise(s), if any. Mechanical comparison of performance ratings of officers who have been acting in the higher rank on the recommendation of a previous promotion

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board with those at the substantive rank is inappropriate given their different levels of responsibilities.

- 4.20 In one submission of a department, the board, after reviewing the promotion claims of eight officers who had commenced acting pursuant to the recommendations of previous boards, recommended five officers without acting appraisals for substantive promotion and the other three for AWAV ^{See 14}. Because the latter three officers had commenced acting earlier, their acting performance was assessed in a full report form. In another exercise conducted by the same department, the promotion board considered the claims of three officers who had taken up acting appointment prior to the board meeting at different time intervals. One officer without acting appraisal was recommended by the board for AWAV for six months while the remaining two officers with written assessment on their acting performance were recommended to continue to AFAC ^{See 15} in the higher rank. On detailed examination, the Commission noted that the two boards had made reference to the performance ratings given in the written appraisal reports mechanically and overlooked that they involved assessment at different levels, one at the substantive and the other at the acting rank. The two boards had erroneously compared the performance ratings attained by the officers concerned without due regard to the different levels of responsibilities they discharged. Such comparison was clearly inappropriate and unfair to the officers concerned. Upon review at our request, the two boards accepted our advice and revisited the claims of the officers concerned. The Commission was satisfied with the equitable outcome achieved in the revised recommendations. The Commission has advised the concerned department to remind future promotion boards to be more mindful in examining and comparing the merits of all eligible candidates. In following the guidelines of the Guidebook, there should also be a better understanding of the rationale behind the stipulated rules.

Declaration of Interest

- 4.21 As mentioned in Chapter 2, CSB has promulgated the implementation of streamlined arrangements for declaration of interest in recruitment and promotion exercises after consulting the Commission. With clearer guidelines promulgated by CSB and advice tendered by the Commission over the years, we are pleased to note that B/Ds have largely heightened their vigilance in handling declarations to guard against conflict of interest with appropriate decisions taken in conformity with the prevailing guidelines.

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4.22 In two cases, the Commission was perplexed by the appointment of two officers who for clear reasons of conflict of interest should not have been appointed to be members of the two promotion boards. In both cases, their spouses were among the candidates eligible for consideration. The relationship was declared and duly reported to the AAs and both decided rightly to have the two officers replaced. What amazed and concerned the Commission was why the relationship was not known in the appointment approval process and had been proceeded with until the declarations were made. As every officer is required to report his marital status, including changes while employed in the Civil Service, the Commission is unsure whether the original appointment made was due entirely to administrative oversight or there are other issues beneath the surface which should be tackled at a systemic level. It is indeed not uncommon to find married couples working in the same grade or department. There are however appropriate measures and firewalls in place to prevent any possible conflict of interest. GMs in particular have been extra cautious in exercising grade management functions over them. The Commission has therefore asked the two departments concerned to look into these two cases and be more vigilant in the future.

CHAPTER 5

Performance Management and Staff Development

- 5.1 Management of staff performance and development of staff potential are key to maintaining a high quality Civil Service for effective service delivery. The Civil Service performance management system seeks to maximise staff's performance and development potential. It is also an important management tool used to identify staff training needs.

Performance Management in the Civil Service

- 5.2 The development of a responsible and efficient civil service cannot do without a robust performance management system. With the key principle of fair and objective assessment embodied in the performance appraisal system, supervisors at all levels have the duty to set appraisal standards and monitor the performance of their staff. It is also their responsibility to carry out comprehensive and timely appraisals. As appraisal reports are submitted together with recommendations for promotions for our scrutiny, the Commission has the regular opportunity to review how far and well the performance appraisal system is carried out. While we would direct specific comments and advice to the B/Ds concerned, we had also tendered suggestions to CSB and the former Civil Service Training and Development Institute (CSTDI) to review and explore new measures to bolster the functions and purpose of the system.
- 5.3 As reported in the 2020 Annual Report, the former CSTDI had acted on the Commission's advice and collaborated with five departments to review the design of and rating scales in the appraisal report forms to reflect and better suit the needs of the grades concerned. Last year, four more departments had joined hands with CSTDI to revamp their appraisal forms. The revised rating scales they have adopted are now more clearly defined and should enable appraising officers (AOs) to assess and distinguish the performance of different officers. Customised training sessions were arranged for 19 departments with the focus of helping supervising officers to strengthen their performance management skills. Two tailor-made training programmes were also conducted specifically for departmental grade managers with the emphasis on enhancing their communication and man-management skills.
- 5.4 Managing performance is an on-going concern and a prime management business at all levels. As noted, some 190 training courses on performance management principles and performance appraisal writing skills were conducted for some 4 600 staff. About 20 such courses were conducted as webinars in view of the need to maintain social distancing during the epidemic. In addition

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to the launch of two online learning platforms in 2020, one new platform was introduced in November 2021 to facilitate various levels of officers to acquire or refresh their knowledge on performance management related matters. The Commission is pleased to note the positive feedback from participants who had found the courses relevant and useful.

Observations on Performance Management Issues

- 5.5 The Commission will continue to identify areas that call for improvement as they come to our attention. Some noteworthy observations and advice we tendered in 2021 are set out in the ensuing paragraphs.

Comprehensive and candid reporting

- 5.6 To put the performance management system into effective use, AOs have to make candid and independent assessment based on facts and objective observations. In a promotion exercise, while an officer was accorded with a top rating on overall performance after a relatively long acting period, the board was not satisfied that the officer had possessed the qualities and competencies of the higher rank and that the officer needed to be further tested. Such assessment was in great contrast with the very positive comments the AO had made on the officer's performance. It was only in the response to our enquiry that the department had explained clearly that the AO, being a member of another grade, had in fact little knowledge of the core responsibilities and the competencies required of the grade and rank. The AO's assessment was largely based on the officer's performance in handling the daily and routine duties in a non-mainstream job setting without sufficient communication with the GM. The Commission accepts that the GM has to set a uniform performance standard to assess all members of the grade. Given the fact that its grade members may be posted to work in different B/Ds, the grade manager has to ensure that the supervisors of these officers are well aware of the requirements of the rank. As staff deployment of similar nature is not uncommon in the Civil Service, the Commission would like to call upon all grade managers to take reference from this case and establish an appropriate way to ensure proper performance appraisal on their grade members regardless of whether they are under the GM's direct supervision or working under a supervisor from a different grade.
- 5.7 In scrutinising another recommendation involving the cessation of an officer's AFAC appointment, the Commission had found inconsistency between

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the performance ratings and the adverse narrative comments given by the reporting officers in the appraisal reports. It was only upon the provision of further elaborations on the officer's acting performance by the board that the Commission was convinced of the board's recommendation. The Commission had asked the concerned department to brief the relevant AO and countersigning officer (CO) and remind them to follow the assessment standards in assessing the acting performance of the officer. The reviewing officer (RO) had also a part to play in monitoring and maintaining an across-the-board assessment yardstick. Where necessary, adjustments should be made and fed back to the reporting officers.

- 5.8 Good quality appraisal reports serve not only as a main reference for promotion boards, they are the basis lending support to the boards' recommendations. The Commission was impressed by the assessment work done across a rank in one department. All the appraisal reports were duly completed with cogent and well-written narratives provided by the AOs and COs. The performance ratings were substantiated with evidence in support. The Commission has recorded our appreciation and commended the good work of the officers concerned.

Management of staff with special health issues

- 5.9 HoDs/HoGs have the overall responsibility to ensure the effective management of the staff/grades under their purview and to take early action to deal with sub-standard performers especially when the performance was affected by special health conditions. Managers charged with supervisory responsibilities should monitor staff interface at a workplace and tackle conflicts proactively. Taking disciplinary action is not the only means to correct the behaviour or misconduct of a staff. Supervisors should look into the root cause and identify an appropriate course of action to help the officer concerned. In the year, a department recommended taking formal disciplinary action against an officer who was found to have repeatedly broken and caused damage to the property of the office. While the act itself was criminal in nature and unacceptable at the surface, there was a deeper cause related to the officer's special health conditions which the management had overlooked. After investigation, the department concerned agreed with the Commission that there were strong mitigating grounds not to hold the officer concerned totally responsible for his damaging acts. No punishment was meted out after careful consideration. We had urged the HoG to enhance the personnel management skills of frontline supervisors

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and advise them to alert their seniors of anything untoward that warrants early intervention by the management.

- 5.10 On review of the officer's past appraisals in the above case, the Commission noted that the concerned officer had consistently been given satisfactory performance ratings with no mention of the officer being put on light duties due to special health reasons for several years. The supervisor had failed to give an accurate account of the extent to which the officer had achieved the job requirement and had not presented a full and true picture of the officer's competence and performance. The officer was left not knowing his deficiencies let alone given guidance to make improvement. The Commission had advised the department to remind not only the supervisor concerned but to arrange training for all supervising officers to improve their staff management and appraisal writing skills.

Writing of full reports in a reporting cycle

- 5.11 Under CSR 236(2), when staff changes take place, a report in memo form should be completed by or for an officer before he vacates his post if the posting occurs three to six months after the previous report; and a full report should be made if the period since the last report is more than six months. In a selection exercise, we had found a full annual report having been written on the appraisee who had only worked under the AO's supervision briefly for a few months. There was no indication that any former supervisors had been consulted nor a separate report had been called to cover the earlier performance as required. Separately, paragraph 2.1.7 of the Performance Management Guide provides that for an appraisee who has more than one AO during a reporting year, at least one of the appraisal reports should be completed in a full report form to facilitate a thorough assessment on his performance, competencies and potential. As observed in a promotion exercise, several appraisal reports were found to have been completed by different AOs during a reporting year but all were in memo form. The Commission had reminded the concerned departments to remind AOs and their supporting administrative staff to refresh their knowledge and understanding of the relevant guidelines in arranging the completion of staff appraisals.

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Management actions and proper documentation

- 5.12 To ensure proper administration of the performance management system, HoDs/HoGs should closely monitor the officers' conduct and performance, provide feedback to them on a regular basis and initiate necessary actions (e.g. issue of advisory letter, institution of summary or formal disciplinary punishment, termination of service, etc.) as early as required. On those officers having taken up long-term acting appointments as recommended by promotion boards, the management should be particularly critical in assessing their acting performance. While they should be allowed sufficient opportunities to demonstrate their capabilities at the higher rank, their supervisors have the duty of coaching and guiding them to meet the required standards and, when weaknesses or areas requiring strengthening are identified, the management should advise them clearly and promptly so that the officers will not be left in doubt. Proper documentation should be kept to enable the management to take appropriate management actions and in planning the officers' development needs.
- 5.13 During the year, upon examination of the recommendation of a promotion board for ceasing the AFAC appointment of an officer, the Commission observed that the advice claimed to have been given on the officer's weaknesses had not been recorded properly and in detail despite sound justifications had been provided in the board report in support of the recommendation. Incomplete documentation runs the risk of being challenged by the staff concerned and is not conducive to staff development. The Commission had advised the concerned department to take appropriate follow-up actions and career counselled the officer concerned. In comparison, the Commission was glad to note that another department could properly document the series of management actions taken on a probationer who had a record of sub-standard performance. As observed, as soon as early signs of inadequacies surfaced, prompt action was taken by the supervisors to steer the officer to make improvement. In addition to verbal guidance and counselling, the officer was advised in writing pinpointing areas requiring improvement. Special appraisal reports at shorter intervals and performance interviews were conducted with stoppage of increment to underscore the management's dissatisfaction with the officer's performance. With the incremental and comprehensive management actions taken, the case for requiring the officer to serve a longer probationary period was solidly made. The Commission had conveyed our appreciation to the department concerned.

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Assessment panel

- 5.14 Assessment Panels (APs) are set up to ensure consistency in assessment standards and fairness in appraisal ratings within a rank. According to the Performance Management Guide, APs should undertake levelling and moderating work among appraisal reports in circumstances where there are differences in assessment standards. APs should also provide specific comments on the adjustments made to the original assessment ratings. Comments on individual appraisals should be properly documented with a copy placed in the appraisee's staff report file.
- 5.15 In 2021, the Commission is delighted to note that APs had generally operated effectively and smoothly. In some cases, the Commission would like to see APs taking the necessary step of making actual adjustments and not just recording a sheer comment that a given rating was over-rated. In a few cases, the CO/RO had made adjustments to the ratings made by the AO without reasons provided. In our view, a brief account for the adjustment could be offered to help the management understand the rationale behind the difference in assessment. The concerned department had responded positively to our suggestion and undertook to implement measures to strengthen the operations of the AP.
- 5.16 To support and complete the functions of APs, it is imperative for management to take timely and appropriate follow-up actions on the observations and recommendations made by APs. While an AP of a department had conscientiously given its assessment and recommended that clarifications should be sought from the relevant reporting officers, the Commission was concerned that the AP's recommendation had not been acted on and followed up. The Commission considered it unsatisfactory as the observations made by the AP might have a bearing on performance assessment given in the appraisal reports. While the department had responded to our specific enquiries on the candidates, we had advised the department to bolster the functions of APs as a vehicle to ensure that individual performance assessment by AOs were in full accord with the standards set for the rank.

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Performance Management and Staff Development

Staff Development and Succession Planning

- 5.17 The Commission has been advocating a holistic approach to staff development that encompasses a structured career posting policy and a systematic training plan for staff at all levels. A robust staff development plan could help enhance staff's competencies, prepare them for a wider spectrum of responsibilities and build up a pool of talents for smooth succession. In the process, GMs have the duty to see to it that staff are posted for career development as well as for gaining exposure and experience.
- 5.18 During the year, the Commission noted that some officers in B/Ds had stayed in the same posts for a long period of time. While service exigencies and operational needs are often the cause, the Commission believes that more could be done by GMs. In some cases, it was the staff themselves who were reluctant to accept a new posting. As posting is a management prerogative, the Commission considers that GMs should review cases where the officers have expressed a preference to stay in a particular job despite having been in the post for an inordinate length of time. While GMs should maintain dialogues with grade members to understand their aspirations, the management prerogative of directing postings to serve operational and service needs should not be compromised. GMs should impress the officers concerned of the benefits of career postings and motivate them to widen their exposure and enhance their competitiveness for advancement.

CHAPTER 6

Civil Service Discipline

- 6.1 It is the duty and obligation of each and every civil servant to be dedicated to their duties, committed to delivering their best and serving the CE of the HKSAR and the HKSAR Government of the day with total loyalty. They are required and expected to uphold the highest standard of conduct and discipline in discharging their public duties. And as a member of the Civil Service, all civil servants have a responsibility to hold themselves to a higher standard than how one presents oneself as a private citizen. The Government attaches great importance to the conduct and integrity of civil servants and adopts a zero-tolerance approach in dealing with civil servants who have misconducted themselves or broken the law. Depending on the nature and severity of the misconduct or offence, they are liable to administrative sanctions or disciplinary punishment. The Government has put in place a well-established civil service disciplinary system whereby allegations of misconduct are fully investigated with due regard to natural justice and in full compliance with the spirit and requirement of the due process.
- 6.2 The Commission collaborates with the Government to maintain the highest standard of conduct in the Civil Service. With the exception of exclusions specified in the PSCO¹⁷, the Administration is required under s.18 of the PS(A)O¹⁸ 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 June 2021, the number of Category A officers falling within the Commission's purview for disciplinary matters was about 120 000.
- 6.3 In examining and advising B/Ds on disciplinary cases, the Commission has to consider the circumstances of each case impartially and has to be satisfied that the proposed level of punishment is justified and proportional but not forgetting that it has a punitive and deterrent purpose to serve. While taking reference from past cases is useful in maintaining broad consistency, we have also to take other relevant factors into account not least the extent to which the Government's credibility and reputation is undermined. The standard of punishment has to move with time and respond to the expectations of our community. The Government must demonstrate its resolve to uphold the highest standard of conduct and integrity in the Civil Service in order to earn the trust and confidence of our people.

17 Please refer to paragraph 1.4 of Chapter 1.

18 Please refer to paragraph 1.5 of Chapter 1.

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Civil Service Discipline

Disciplinary Cases Advised in 2021

- 6.4 In 2021, the Commission advised on 29 disciplinary cases which had gone through the formal disciplinary procedures prescribed under the PS(A)O. They represent about 0.02% of the 120 000 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. As noted, more experience sharing sessions have been conducted in the past year for officers to learn and become better aware of possible pitfalls they may encounter in their daily work. As part of its continued efforts, the Secretariat on Civil Service Discipline (SCSD) had made out-reach visits to a number of departments for exchanges with departmental managements to enhance mutual efficiency in handling cases requiring disciplinary action. The Commission welcomes these initiatives and looks forward to these good efforts yielding fruitful results. On our part, we will continue to work with CSB to streamline the process so that disciplinary cases can be concluded as expeditiously as possible. The Commission has reminded B/Ds that delays not only reflect poorly on efficiency, the effect of the outcome of the case might be lost as a lesson for the future.
- 6.5 A breakdown of the 29 cases advised by the Commission in 2021 by category of criminal offence/misconduct and salary group is at Appendix IX. Among them, about half (i.e. 15) had resulted in the removal of the civil servants concerned from the service by "compulsory retirement"¹⁹ or "dismissal"²⁰. Of the remaining 14 cases, nine cases had resulted in the punishment of "severe reprimand"²¹. Ten carried with them a financial penalty in the form

- 19 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 reaches his statutory retirement age.
- 20 Dismissal is the most severe form of punishment as the officer forfeits his claims to retirement benefits (except the accrued benefits attributed to Government's mandatory contribution under the Mandatory Provident Fund Scheme or the CSPF Scheme).
- 21 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.

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of a “fine”²² and three with a “reduction in salary”²³. While the punishments speak particularly for themselves the severity of the wrongdoings of the officers concerned, they are a reminder to all that the standard of conduct and discipline in the Civil Service cannot be compromised.

Reviews and Observations on Disciplinary Issues

- 6.6 In examining submitted cases of discipline, the Commission not only deliberates and advises on the appropriate level of punishment to be meted out but also looks into aspects surrounding the offence/misconduct committed to see if other factors might be at play and if so, what could be done to prevent them. Some might involve making changes at a systemic level, for example, by enhancing a weakened or outdated monitoring mechanism. In others, staff supervision might also be an area to be looked at. The Commission has therefore offered general advice beyond the case itself for the concerned B/Ds to take on board for consideration. The comments, observations and recommendations made by the Commission in the past year are set out in the ensuing paragraphs.

Punishment for disciplinary cases involving sex-related offences

- 6.7 The Commission expects every civil servant to be law-abiding and takes a dim view on those breaking the law. Amongst the criminal cases, the Commission had noted as reported in our last Annual Report an upward trend in the number of upskirt filming offences and convictions. The prolific use of the Internet on innovative devices such as smartphones and hand-held computers has enabled the unwanted circulation of fast and vast

22 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.

23 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 up to the standard required of him in order to “earn back” his lost pay point(s).

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amount of indecent and pornographic contents. Regrettably, we have seen a further rise in the number of disciplinary cases involving sex-related offences in the year (from none in 2018 to two in 2019, three in 2020 and seven in 2021). In this regard, the Commission welcomes the enactment of the Crimes (Amendment) Ordinance 2021 introducing specific offences against voyeurism, unlawful recording and prying of intimate parts²⁴ among others, and making such acts punishable by imprisonment of a maximum of five years. The number of such cases in the Civil Service may be small, they are by nature repulsive and reprehensible. The Commission is in strong support of the Government's resolve to deal with these cases forcefully.

- 6.8 At the request of the Commission, CSB had reviewed the punishment benchmark for offences of upskirt filming in 2020. Following the review, heavier punishment has been meted out for warranted cases to underscore Government's disapproval of such illicit acts. With the raised standard of punishment, five out of the seven upskirt and sex-related offences advised by the Commission in 2021 were inflicted with removal punishment. While the remaining two defaulters were given one last chance to remain in the service having regard to the circumstantial and specific mitigating factors, they were punished heavily to reflect the serious nature of their improper acts. The Commission will continue to work with CSB to keep the punishment standard under review.

Punishment standard

- 6.9 To keep up with the high and rising expectations of the community on the conduct and discipline of civil servants, the Commission has conveyed to CSB our concerns that the disciplinary punishment standard administered on offending civil servants should not only be proportional but should also be seen as being able to contribute to not only the maintenance of a reputable Civil Service but one that the community can trust and have confidence. While due reference is made to the customary level of punishment, broad consistency could only be one factor in determining the level of punishment. The nature of responsibilities and the position the defaulting officer occupies should call for more critical considerations by the disciplinary authorities in B/Ds.

24 In the past, culprits accused of committing the above offences were prosecuted for "loitering", "disorder in public places", "outraging public decency" and "access to a computer with criminal or dishonest intent".

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6.10 On traffic-related offences, while there are specific legal provisions governing violations of traffic laws, considering the risk it could pose to road users at large, civil servants should set a good example by driving with extra care and vigilance regardless of whether they are on duty or not. It follows that the more senior an officer is, the more stringently he has to be judged in having broken the law. In one case, the Commission had found a senior officer charged with regulatory and law enforcement responsibilities being merely admonished with a verbal advice²⁵ for serious speeding by the department concerned after being caught. It was only upon the Commission's query that the case was reviewed resulting in the officer being issued a verbal warning instead. In another case, a senior ranking officer was given a written advice after conviction of "Careless driving" in a traffic accident which had caused minor injuries to two members of the public. The Commission believes that such accidents could be avoided if all drivers can be more conscious of their acts as drivers in observing and abiding by all traffic and road use laws. Needless to say, officers employed to perform driving duties have to be doubly aware of the need to drive safely and with good driving manners whilst on duty or not. Among the disciplinary cases involving driver grade officers, the Commission was more concerned about repeat offenders. In our view, if an offending officer had taken lesson from an earlier conviction, a repeat of the same or other offences should not occur but if not so, a more serious view should be taken and a heavier punishment should be meted out. We have therefore urged the management of a department to continue to adopt a stringent standard in monitoring and dealing with an officer who has a blemished record of convictions committed over a relatively short period of time. The Commission had also reminded the GM of its pivotal role in setting an appropriate service-wide standard and in managing the driver grade.

Processing of formal disciplinary cases

6.11 Setting and imposing appropriate levels of disciplinary punishment aside, early and swift action is just as important to achieve the desired punitive and deterrent effects. Delays in taking disciplinary action not only delay justice being done, tardiness in action would also weaken and undermine the

25 Verbal and written advice are administrative measures to remind the officer concerned to correct the shortcomings in performance or misconduct which is minor and isolated in nature. They are not a form of disciplinary action.

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Government's credibility in upholding an effective and efficient disciplinary system in the Civil Service.

- 6.12 In a number of disciplinary cases, the time taken for investigation and deliberations on a recommendation for submission to the Commission was inordinately long. In two cases, the departments concerned took about three years to conclude the case. In others, taking a year or two appears to be the norm. While accepting that there were complications and issues not entirely within the departments' control, for example, the work-from-home arrangement necessitated as an anti-epidemic measure, some procedures could be streamlined and compressed with better co-ordination for concerted action. The Commission has urged the departments concerned and SCSD to review the disciplinary procedures and identify scopes for shortening the processing time.
- 6.13 S.11 of PS(A)O provides that an officer convicted of a criminal offence could be punished without further conducting disciplinary hearings and inquiries which are different for charges under s.9 and s.10. The Commission therefore expects such cases could be completed faster in relative terms. It follows that summary disciplinary actions which are intended to tackle and deter isolated acts of minor wrongdoing could be administered in an even more timely manner. In one case, the concerned department took more than five months to issue the actual written warning to a driver for committing a non-criminal and straightforward traffic offence. The Commission has reminded the concerned department and the GM to put in place a more robust monitoring system to deal with such cases so that timely sanctions could be meted out as close to the offence as possible to achieve the punitive effect.

Interdiction

- 6.14 Interdiction of an officer from duty as provided under s.13 of PS(A)O²⁶ is an administrative measure invoked by the management to cease an officer's

26 Having regard to all relevant factors, an officer may be interdicted from duty –
(a) under PS(A)O s.13(1)(a) if disciplinary proceedings under s.10 of the PS(A)O have been, or are to be, taken against him, which may lead to his removal from service;
(b) under PS(A)O s.13(1)(b) if criminal proceedings have been, or are likely to be, instituted against him which may lead to his removal from service under s.11 of the PS(A)O if convicted; or
(c) under PS(A)O s.13(1)(c) if inquiry of his conduct is being undertaken and it is contrary to the public interest for him to continue to exercise the powers and functions of his office.

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exercise of powers and functions of his public office when it is considered manifestly not in the public interest for him to remain in service before the completion of concerned criminal/disciplinary investigation/proceedings and hence clearance of the integrity doubt involved. While interdiction is not a punishment, the concerned B/D should take into account all relevant factors in totality in evaluating the adverse impact of the risk involved in allowing the officer to continue to work. Amongst them, the possible conflict between the alleged offence/misconduct and the officer's duties, the nature and gravity of the offence/misconduct laid against the officer, as well as the likely harm/risk to the general public should be carefully considered holistically. It is also incumbent upon the concerned B/D to consider interdiction of an officer at an appropriate time.

- 6.15 In 2021, the Commission has come across two disciplinary cases in which the concerned departments could have acted more promptly and decisively in directing the interdiction of the defaulting officers. In one case, a frontline officer arrested for multiple duty-related offences was allowed to continue to work in the same office until a trial date was fixed by the court. The Commission considered that the concerned department had not given sufficient weight to the nature of the alleged offences and the serious conflict given rise to the public duties. In our view, it would be more prudent to interdict the officer immediately upon his arrest. In another case, the concerned department had decided to institute disciplinary action under s.10 of PS(A)O on an officer for misconducting himself which might warrant removing him from the service. In view of the sensitivity and nature of the misconduct not least the high level of integrity standard required of the officer's job, a more decisive management action should have been taken to interdict the officer. In both cases, the Commission had advised the concerned departments to consider staff interdiction more critically and expeditiously in cases involving integrity risk and concerns in the future. CSB should be consulted if in doubt.

Staff awareness

- 6.16 In accordance with s.13(1) of the Public Service (Disciplinary) Regulation, civil servants are required to report to their B/Ds if they are subject to criminal proceedings, irrespective of whether such proceedings would lead to criminal conviction. The Commission noted with concern that staff are found to have failed to comply with the reporting requirement, thus delaying their B/Ds' considerations and actions as required. Many staff have claimed

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that they are not aware of such requirement or that they have interpreted it as not applicable to their own case. The Commission is thus pleased with CSB's positive agreement to review the matter with plans to advise B/Ds to remind all staff of the requirement failing which the possible punishment they could face. We have suggested that the issue of written guidelines could be augmented by oral briefings especially for new appointees.

- 6.17 In the course of scrutinising a case involving breaches of the Acceptance of Advantages Notice, it had come to the Commission's attention that there were several others in the same department who had similarly accepted unauthorised loans. Despite the department's frequent and regular promulgation/re-circulation of the related guidelines, we observed that the guidelines were issued and re-circulated electronically on the department's intranet or through Government e-mails which might not be readily accessible to outdoor and frontline staff. It is advisable for the management to consider other appropriate means to cater to the work settings of its staff so that they could have access to the information and be made aware of the rules.

CHAPTER 7

Visit

- 7.1 The Chairman and Members of the Commission visited the Leisure and Cultural Services Department in June 2021. The visit has facilitated useful exchanges on various issues concerning Civil Service appointments, performance management, staff development and succession planning of the Department. The briefing on the work of the Department and the guided tour to the Hong Kong Museum of Art and the Kowloon Park have greatly enhanced the Commission's understanding of the Department's work and operation as well as the vital role it plays in providing quality leisure and cultural services to the community.



Visit to the Leisure and Cultural Services Department on 25 June 2021

CHAPTER 8

Acknowledgements

- 8.1 The Commission would like to express our gratitude to Mr Patrick NIP, the Secretary for the Civil Service, and his colleagues for their continued support and assistance in all areas of the Commission's work. The Commission also appreciates the ready cooperation and understanding shown by Permanent Secretaries, HoDs and their senior staff in responding to the Commission's enquiries and suggestions during 2021.

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.



Mr Andrew MAK Yip-shing, BBS, JP

BSc (HKU), LLB (LondonU), MBA (CUHK),

LLM (LSE), CEDR Accredited Mediator, MCIArb

Member, Public Service Commission

(from 23 May 2015 to 22 May 2021)

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 Insurance Appeals Tribunal panel and a Member of the Process Review Panel for the Financial Reporting Council.

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**Mrs Ayesha MACPHERSON LAU, BBS, JP
CPA**

Member, Public Service Commission

(from 1 February 2016 to 31 January 2022)

Mrs Lau is the Chairman of the Joint Committee on Student Finance, the Chairman of the Mandatory Provident Fund Schemes Authority, a Member of the Legal Aid Services Council and a Member of the Exchange Fund Advisory Committee. She was a partner of KPMG China.



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 a member of the Investment Committee of the Hospital Authority Provident Fund Scheme.

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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 and the Social Welfare Advisory Committee. He is also an ex-officio member of the Hong Kong Federation of Youth Groups. Previously, he was President of the Law Society of Hong Kong and the Chairman of the Standing Committee on Language Education and Research, a Non-Executive Director of the Urban Renewal Authority and the Securities and Futures Commission. 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 and an ex-officio member of the Education Commission.



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.

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**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 and Sun Hung Kai Properties Limited. She is also the vice-chairman of the Advisory Committee on Arts Development, a member of 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, a member of the Business School Advisory Council of the Hong Kong University of Science and Technology and a non ex-officio member of the Law Reform Commission of Hong Kong.

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Mr Tim LUI Tim-leung, SBS, JP

Fellow Member of The Hong Kong Institute of
Certified Public Accountants

Member, Public Service Commission

(appointed on 1 July 2018)

Mr Lui joined PricewaterhouseCoopers in 1978 and retired as a Senior Advisor 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.

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Prof Francis LUI Ting-ming, BBS, JP

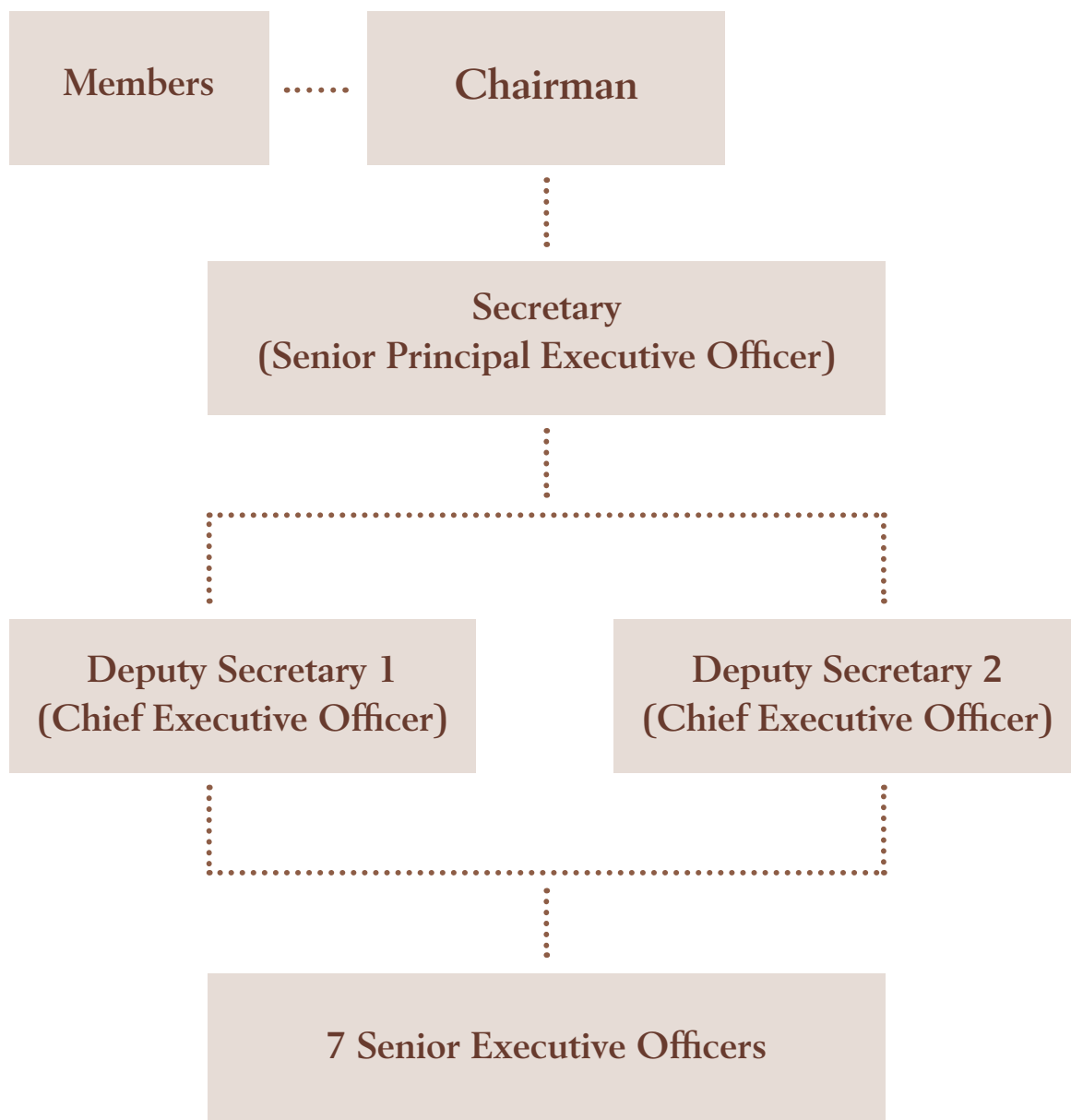
Bachelor of Arts (Economics), University of Chicago,
Doctor of Philosophy (Economics), University of
Minnesota

Member, Public Service Commission
(appointed on 1 June 2021)

Prof Lui is Professor Emeritus, Adjunct Professor and Honorary Fellow of the Hong Kong University of Science and Technology. Currently, he is a non-official member of the Board of Governors of the Hong Kong Arts Centre. Over the years, he has served as a member of different government boards and committees covering the areas of education, employment, housing strategy, land supply, population policy and fiscal planning, poverty alleviation and retirement protection.

APPENDIX II

Organisation Chart of the Public Service Commission Secretariat



Establishment

Directorate Executive Officer	1
Executive Officer Grade	9
Clerical Grade	19
Secretarial Grade	3
Chauffeur Grade	1

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APPENDIX III

Submissions Advised by the Commission

Category	Number of Submissions Advised				
	2017	2018	2019	2020	2021
Recruitment	169	165	197	140	157
Promotion/Acting appointment	672	724	715	704	742
Extension of service or re-employment after retirement	20	23	26	22	26
Extension or termination of probationary/trial service	163	140	148	173	247
Other Civil Service appointment matters	49	42	40	91	178
Discipline	36	40	36	29	29
Total number of submissions advised	1 109	1 134	1 162	1 159	1 379
<i>(a) Number of submissions queried</i>	788	795	887	853	886
<i>(b) Number of submissions with revised recommendations following queries</i>	135	142	156	162	158
<i>(b) / (a)</i>	17%	18%	18%	19%	18%

APPENDIX IV

Recruitment Cases Advised by the Commission

Terms of Appointment	Number of Recommended Candidates in 2021	
	Open Recruitment	In-service Appointment
Probation	1 417	1
Agreement	45	0
Trial	83	51
Sub total	1 545	52
Total	1 597	

	Comparison with Previous Years				
	2017	2018	2019	2020	2021
Number of recruitment exercises involved	169	165	197	140	157
Number of candidates recommended	1 601	1 873	1 944	1 471	1 597
<i>Number of local candidates recommended</i>	<i>1 601</i>	<i>1 871</i>	<i>1 944</i>	<i>1 471</i>	<i>1 597</i>
<i>Number of non-permanent residents recommended</i>	<i>0</i>	<i>2</i>	<i>0</i>	<i>0</i>	<i>0</i>

APPENDIX V

Promotion Cases Advised by the Commission

Category	Number of Recommended Officers				
	2017	2018	2019	2020	2021
Promotion	2 169	2 752	2 830	2 601	3 178
Waitlisted for promotion	291	368	330	450	272
Acting with a view to substantive promotion (AWAV) or waitlisted for AWAV	478	393	412	322	325
Acting for administrative convenience (AFAC) or waitlisted for AFAC	4 417	5 568	5 628	5 508	5 859
Total	7 355	9 081	9 200	8 881	9 634

	2017	2018	2019	2020	2021
Number of promotion exercises involved	672	724	715	704	742
Number of ranks involved	411	430	443	413	439

APPENDIX VI

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

Category	Number of Recommended Officers in 2021		
	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	10	116	126
Submissions for final extension of service / re-employment beyond retirement age	1	0	1
Total	11	116	127

	Comparison with Previous Years				
	2017	2018	2019	2020	2021
Number of extension of service or re-employment after retirement submissions advised	20	23	26	22	26
<i>Number of submissions involving directorate ranks</i>	9	11	9	10	9
<i>Number of submissions involving non-directorate ranks</i>	11	12	17	12	17

APPENDIX VII

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

Category	Number of Submissions Advised				
	2017	2018	2019	2020	2021
Termination of trial service	0	2	4	1	3
Termination of probationary service	8	10	7	25	66
<i>Sub total</i>	8	12	11	26	69
Extension of trial service	12	10	17	11	10
Extension of probationary service	143	118	120	136	168
<i>Sub total</i>	155	128	137	147	178
Total	163	140	148	173	247

APPENDIX VIII

Other Civil Service Appointment Matters Advised by the Commission

Category	Number of Submissions Advised				
	2017	2018	2019	2020	2021
Non-renewal of agreement	1	0	1	0	3
Renewal or extension of agreement	2	3	1	4	3
Retirement under section 12 of the Public Service (Administration) Order	1	0	0	1	73
Secondment	7	1	3	4	2
Opening-up arrangement	1	2	2	0	0
Review of acting appointment	12	5	5	8	5
Updating of Guide to Appointment	25	31	28	74	92
Total	49	42	40	91	178

APPENDIX IX

Disciplinary Cases Advised by the Commission

(a) Breakdown of Cases in 2021 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	5	3	1	9
Compulsory Retirement + Reduced pension	0	0	0	0
Compulsory Retirement + Fine	0	0	0	0
Compulsory Retirement	4	2	0	6
Reduction in Rank	0	0	0	0
Severe Reprimand + Reduction in Salary	0	1	2	3
Severe Reprimand + Fine	2	3	0	5
Severe Reprimand	1	0	0	1
Reprimand + Fine	4	1	0	5
Reprimand	0	0	0	0
Total	16	10	3	29

APPENDIX IX

Disciplinary Cases Advised by the Commission

(b) Breakdown of Cases in 2021 by Category of Criminal Offence/Misconduct

Punishment	Number of Cases Advised				
	Criminal Offence			Misconduct ²⁷	Total
	Traffic related	Theft	Others ²⁸		
Dismissal	0	0	4	5	9
Compulsory Retirement	0	1	5	0	6
Lesser Punishment	4	3	4	3	14
Total	4	4	13	8	29

(c) Comparison with Previous Years

Punishment	2017	2018	2019	2020	2021
Dismissal	6	3	4	4	9
Compulsory Retirement	5	11	6	8	6
Lesser Punishment	25	26	26	17	14
Total	36	40	36	29	29

²⁷ Including failure to perform duties, unauthorised absence, obtaining unauthorised loans, etc.

²⁸ Including assault, forgery, soliciting or accepting advantages without permission, upskirt filming, etc.