

**Information Note**  
**for the LegCo Panel on Public Service**

**Disciplinary Mechanism in the Civil Service**  
**Supplementary Information**

**Purpose**

At the panel meeting held on 18 November 2002, members were briefed on the civil service disciplinary mechanism and how its operation had been streamlined and improved since 2000 (LC Paper No. CB(1)260/02-03(02)). At members' request, this paper provides additional information on the civil service disciplinary mechanism and disciplinary cases processed in the civil service.

**Civil service disciplinary mechanism**

2. Disciplinary cases in the civil service are processed in accordance with the Public Service (Administration) Order ["PS(A)O"] and the Public Service (Disciplinary) Regulation ["PS(D)R"] made by the Chief Executive ("CE"). Since 2000, as part of the Civil Service Reform, the disciplinary procedures under the PS(A)O and PS(D)R have been streamlined, and a new independent secretariat (Secretariat on Civil Service Discipline) has been set up to centrally process formal disciplinary cases. To improve the efficiency of the mechanism further, with effect from 1 November 2002, Permanent Secretaries/Heads of Department have been empowered to impose punishment (with a few exceptions) on their staff up to Point 33 of the Master Pay Scale (hitherto they were authorized to punish staff below Point 14 of the Scale only). The Secretary for the Civil Service however remains the disciplinary authority for officers on Point 34 and above and the Chief Executive as the disciplinary authority for officers at the directorate level.

3. Broadly speaking, there are four stages in processing a disciplinary case :

- (a) **Investigation stage** in which the acts of misconduct are identified and evidence collected to substantiate the alleged misconduct. If there is prima facie evidence of a misconduct, the accused officer will be given an opportunity to give explanations before a decision is taken on invoking disciplinary action;

- (b) **Pre-inquiry stage** which involves drafting charges, consultation with Department of Justice, appointment of inquiry committee, briefing of the officers concerned, etc. The accused officer will be given access to the materials and documents to be used in the proceedings to facilitate preparation of his defence;
- (c) **Inquiry hearing stage** in which the evidence will be adduced to substantiate the alleged misconduct and fully examined by an independent inquiry committee. The accused officer will be given sufficient opportunities to cross-examine the evidence. He may also invite a friend or colleague to assist him in defending his case; and
- (d) **Punishment stage** in which the level of punishment is determined if the officer is found guilty. The accused officer will be invited to make representations in mitigation before a decision is made.

A number of safeguards have been built into the system to ensure the officers alleged of committing misconduct are given a fair hearing and sufficient opportunities to defend themselves. These safeguards have been explained in detail in paragraph 9 of the previous Information Paper to the panel (LC Paper No. CB(1)260/02-03(02)).

4. The Public Service Commission (PSC) which is a statutory body established under the PSC Ordinance plays an important role in the disciplinary process. It provides independent and impartial advice to the Chief Executive on matters relating the conduct and discipline of public officers. The Commission will, in each disciplinary case, advise the Administration on whether the proposed level of punishment is appropriate, having regard to the gravity of the misconduct and other relevant factors including the standard of punishment in precedent cases of similar nature, the officer's service record, and mitigating circumstances revealed in the proceeding. The Administration will consider the advice of the Commission and where appropriate, revise the proposed punishment in the light of the Commission's advice. Since the implementation of the new mechanism, the percentage of cases in which the punishment has been revised following the Commission's advice has

dropped from 25% in 2000 to about 10% in 2002, reflecting that disciplinary cases are handled more consistently under the new mechanism.

5. An officer who is aggrieved by any decision in disciplinary proceedings may make representations to the CE. Since April 2000, a total of 25 officers receiving disciplinary punishment have made representations to the CE or his delegates. Their representations are reviewed by parties not involved in the original proceedings before a final decision is made.

6. The disciplinary proceedings under the PS(A)O and the PS(D)R as explained above are applicable to all civil servants, except certain categories of staff in disciplined services departments (i.e. the rank and file and middle-ranking officers) who are subject to provisions of the respective disciplined services legislation. Such provisions are stipulated to suit the special circumstances and operational requirements of the disciplined services concerned, and enable the heads of the services to take resolute and swift action on misconduct cases. However, the general principles mentioned in paragraph 3 above are equally followed in the disciplinary proceedings conducted under the disciplined services legislation.

### **Disciplinary cases**

7. Annex A provides a breakdown of the disciplinary cases completed since 2000 by punishment imposed and ranking of the officers concerned. The Annex shows that a small percentage of civil servants are subject to formal disciplinary actions under the PS(A)O and disciplined services legislation, which reflects that civil servants are generally law-abiding and are conscious of need to observe conduct and discipline.

8. The Annex also shows that the number of junior officers subject to disciplinary actions under PS(A)O and disciplinary legislation is larger, probably due to a larger proportion of junior ranking staff being employed in the civil service. This is in line with our expectation that senior civil servants should have a higher degree of probity in their conduct and behaviors than their junior colleagues. The Administration is determined to uphold a high standard of probity in the civil service and will not hesitate to take tough action against civil servants who have

committed misconduct. The past cases show that where higher-ranking officers are found guilty of misconduct, a higher percentage of them are removed from the service.

9. **Annex B** provides a breakdown of disciplinary cases by types of misconduct and ranking of the officers concerned. The Annex shows that, in general, criminal offences committed by civil servants are mainly related to road traffic offences and minor cases such as shoplifting, fighting, etc. About a quarter of the cases are more serious in nature and related to the discharge of the officers' official duties. Misconduct cases which are non-criminal in nature are mainly related to abscondment and unauthorized absence, breach of instructions or negligence of duties, and miscellaneous types such as improper behaviors, supervisory accountability, disclosure of information, loss of government property, etc. The number of misconduct cases in disciplined services departments are considerably higher compared with that processed under the PS(A)O, due to the fact that generally, disciplinary services require a strict compliance with departmental orders and instructions in their operations and in discharging their duties.

10. There are no major differences in the nature of misconduct/offences committed by senior, middle ranking, and junior staff. Nevertheless, officers who have been found guilty of a serious misconduct or criminal offence, such as corruption, misconduct in public office, prolonged absence from duty, and other duty-related misconduct, will invariably be removed from the civil service by dismissal or compulsory retirement.

**Breakdown of disciplinary cases  
in the Civil Service by punishment and rank/strength  
(2000/01-2002/03)<sup>1</sup>**

		Removal			Non-removal <sup>2</sup>	Total (a)	Average strength (b)	(a) as % of (b)
		Dismissal	Compulsory Retirement	Sub-total				
<b>PS(A)O cases<sup>3</sup></b>	<b>Directorate</b>	1	2	<b>3 (75%)</b>	1	<b>4</b>	1300	<b>0.3%</b>
	<b>MPS Pt. 14-49</b>	23	22	<b>45 (30%)</b>	107	<b>152</b>	71000	<b>0.2%</b>
	<b>Below MPS Pt. 14</b>	67	43	<b>110 (24%)</b>	352	<b>462</b>	54000	<b>0.86%</b>
	<b>Sub-total</b>	91	67	<b>158</b>	460	<b>618</b>	126300	<b>0.49%</b>
<b>DSL cases<sup>4</sup></b>	<b>Middle-ranking officer<sup>5</sup></b>	5	9	<b>14 (17%)</b>	68	<b>82</b>	5100	<b>1.6%</b>
	<b>Junior-ranking officer<sup>6</sup></b>	66	34	<b>100 (10%)</b>	941	<b>1041</b>	43600	<b>2.4%</b>
	<b>Sub-total</b>	71	43	<b>114</b>	1009	<b>1123</b>	48700	<b>2.3%</b>
<b>Total</b>		<b>162</b>	<b>110</b>	<b>272 (16%)</b>	<b>1469</b>	<b>1741</b>	<b>175000</b>	<b>1%<sup>7</sup></b>

<sup>1</sup> Figures up to 30.9.2002.

<sup>2</sup> Including reduction in rank, severe reprimand, reprimand, financial penalty, and warning issued following formal proceedings.

<sup>3</sup> Cases processed under Public Service (Administration) Order.

<sup>4</sup> Cases processed under disciplined services legislation. Cases involving senior officers in the disciplined services (e.g. Superintendent or above) are processed under the Public Service (Administration) Order.

<sup>5</sup> Officers at inspectorate ranks (e.g. Inspector of Police, Inspector of Customs and Excise, Assistant Divisional Officer, etc).

<sup>6</sup> Rank and file officers (e.g. Police Constable, Customs Officer, Fireman, etc).

<sup>7</sup> The total number of cases for 2½ years from 1.4.2000 to 30.9.2002 against strength is 1%. The yearly average of cases against strength is 0.39%.

**Breakdown of disciplinary cases  
in the Civil Service by Offence/Misconduct and rank  
(2000/01 – 2002/03) <sup>1</sup>**

	PS(A)O cases				DSL cases			Total
	Directorate	MPS Pt. 14-49	Below MPS Pt. 14	Sub- total	Middle- ranking officer	Junior- ranking officer	Sub- total	
<b>Criminal Offence</b>								
<i>Minor Offences</i>								
Road traffic offences	1	13	195	<b>209</b>	4	67	<b>71</b>	<b>280</b>
Other minor offences including shoplifting, fighting, etc.	0	19	51	<b>70</b>	0	12	<b>12</b>	<b>82</b>
<b>Sub-total</b>								<b>362</b>
<i>Serious Offences</i>								
Corruption-related Offences	0	14	8	<b>22</b>	3	17	<b>20</b>	<b>42</b>
Other serious offences (e.g. embezzlement, forgery, misconduct in public office, deception and other duty-related offences, etc.)	3	8	23	<b>34</b>	1	36	<b>37</b>	<b>71</b>
<b>Sub-total</b>								<b>113</b>

\* up to 30.9.2002

	PS(A)O cases				DSL cases			Total
	Directorate	MPS Pt. 14-49	Below MPS Pt. 14	Sub-total	Middle-ranking officer	Junior-ranking officer	Sub-total	
<b>Misconduct</b>								
Abscondment/ Unauthorized absence	0	16	103	<b>119</b>	10	84	<b>94</b>	<b>213</b>
Negligence/ Failure to perform duties or follow instructions	0	34	31	<b>65</b>	41	524	<b>565</b>	<b>630</b>
Unauthorised loan or acceptance of advantage	0	14	19	<b>33</b>	4	23	<b>27</b>	<b>60</b>
Improper claim of allowance/ reimbursements/ refunds	0	13	8	<b>21</b>	1	6	<b>7</b>	<b>28</b>
Unauthorised outside work	0	4	8	<b>12</b>	1	4	<b>5</b>	<b>17</b>
Other misconduct cases <sup>2</sup>	0	17	16	<b>33</b>	17	268	<b>285</b>	<b>318</b>
<b>Sub-total</b>							<b>1266</b>	
<b>Total</b>	4	152	462	<b>618</b>	82	1041	<b>1123</b>	<b>1741</b>

<sup>1</sup> Figures up to 30.9.2002

<sup>2</sup> Including cases involving improper behavior in office, disclosure of information, supervisory accountability, association with undesirable character, loss of government property, making false statement, etc.