

**LegCo Panel on Public Service**  
**Civil Service Disciplinary Mechanism and Procedures**  
**Supplementary Information**

At the Panel Meeting on 17 May 2004, arising from discussion of Agenda Item IV (about the civil service disciplinary mechanism and procedures), the Administration undertook to provide information on the following:-

	<b>Response from the Administration</b>
(a) To provide a breakdown of the disciplinary cases in the civil service (Annex B to LC Paper No. CB(1)1786/03-04(04)) by the nature of offences/ misconduct, in particular, offences involving investigation by the Independent Commission Against Corruption	Please see <b>Annex I</b> for the requested breakdown.
(b) To provide the number of disciplinary cases involving unauthorized access to the Police Force's computer system (in addition to the judicial review case set out in Annex D to LC Paper No. CB(1)1786/03-04(04)).	Between 2001/02 and 2003/04, apart from the judicial review case set out in Annex D to LC Paper No. CB(1)1786/03-04 (04), there were four disciplinary cases involving unauthorized access to the Police Force's computer system. The officers relating to three of the cases were awarded the punishment of "Caution" or "Reprimand". Punishment award for the officer in the fourth case is withheld pending the result of his appeal against conviction.

	<b>Response from the Administration</b>
(c) To provide a breakdown of the statistics on civil servants subject to disciplinary action for offences/misconduct related to “abuse of official position” (Annex E to LC Paper No. CB(1)1786/03-04(04)) by the type of punishment handed down and by offences/misconduct committed by directorate and non-directorate officers.	Please see <b><u>Annex II</u></b> for the requested breakdown.
(d) To clarify how the revised procedures promulgated in March 2003 would facilitate timely management actions for handling persistent sub-standard performers, in particular the arrangements for putting officers under the supervision of the “section 12 mechanism” mentioned in paragraph 30 of the paper provided by the Administration (LC Paper No. CB(1)1786/ 03-04(04)).	Please see <b><u>Annex III</u></b> .

**Annex I****Breakdown of disciplinary cases in the Civil Service  
by Offence/Misconduct and Rank in the past three years****(2001/02 – 2003/04)**

Offence/Misconduct	PS(A)O cases <sup>1</sup>				DSL cases <sup>2</sup>			Total
	Directorate	MPS Pt. 14- 49 <sup>3</sup>	Below MPS Pt. 14	Sub- total	Middle- ranking officer <sup>4</sup>	Junior- ranking officer <sup>5</sup>	Sub- total	
<b>Criminal Offence</b>								
<i>Minor Offences</i>								
Road traffic offences	1	20	325	<b>346</b>	5	106	<b>111</b>	<b>457</b>
Other minor offences (e.g. fighting, etc.)	0	27	45	<b>72</b>	2	28	<b>30</b>	<b>102</b>
<b>Sub-total</b>							<b>559</b>	
<i>Serious Offences</i>								
Offences under Prevention of Bribery Ordinance <sup>6</sup>	1	16	8	<b>25</b>	1	9	<b>10</b>	<b>35</b>
Deception <sup>6</sup>	0	3	9	<b>12</b>	0	12	<b>12</b>	<b>24</b>
Perverting the course of justice <sup>6</sup>	0	19	0	<b>19</b>	0	2	<b>2</b>	<b>21</b>
Misconduct in Public Office <sup>6</sup>	1	6	1	<b>8</b>	0	1	<b>1</b>	<b>9</b>
Other serious offences <sup>7</sup>	1	15	32	<b>48</b>	4	41	<b>45</b>	<b>93</b>
<b>Sub-total</b>							<b>182</b>	

Offence/Misconduct	PS(A)O cases <sup>1</sup>				DSL cases <sup>2</sup>			Total
	Directorate	MPS Pt. 14-49 <sup>3</sup>	Below MPS Pt. 14	Sub-total	Middle-ranking officer <sup>4</sup>	Junior-ranking officer <sup>5</sup>	Sub-total	
<b>Disciplinary Misconduct</b>								
Abscondment/ Unauthorized absence	0	21	129	<b>150</b>	5	69	<b>74</b>	<b>224</b>
Negligence/Failure to perform duties or follow instructions	0	50	32	<b>82</b>	47	394	<b>441</b>	<b>523</b>
Unauthorized loan or acceptance of advantage	0	15	23	<b>38</b>	3	21	<b>24</b>	<b>62</b>
Improper claim of allowance/ reimbursements/ refunds	0	16	16	<b>32</b>	0	5	<b>5</b>	<b>37</b>
Unauthorized outside work	0	4	12	<b>16</b>	1	6	<b>7</b>	<b>23</b>
Other misconduct cases <sup>8</sup>	0	19	32	<b>51</b>	23	366	<b>389</b>	<b>440</b>
<b>Sub-total</b>								<b>1309</b>
<b>Total</b>	4	231	664	<b>899</b>	91	1060	<b>1151</b>	<b>2050</b>

**Notes**

- <sup>1</sup> Cases processed under the Public Service (Administration) Order (“PS(A)O”).
- <sup>2</sup> Cases processed under disciplined services legislation (“DSL”). Cases involving senior officers in the disciplined services departments (e.g. Superintendent of Police or above) are processed under the PS(A)O.
- <sup>3</sup> Including officers in disciplined services departments with equivalent pay scale.
- <sup>4</sup> Officers at inspectorate ranks (e.g. Inspector of Police, Inspector of Customs and Excise, Assistant Divisional Officer, etc.)
- <sup>5</sup> Rank and file officers (e.g. Police Constable, Customs Officer, Fireman, etc).
- <sup>6</sup> Offences normally involving investigation by the ICAC
- <sup>7</sup> Including cases involving embezzlement, forgery and other duty/employment-related offences.
- <sup>8</sup> Including cases involving misconduct bringing disrepute to Government, financial imprudence leading to impairment of operational efficiency, furnishing false information, failure in discharging supervisory responsibility, falsification of documents, improper behavior in office, etc.

**Breakdown of the statistics on civil servants subject to disciplinary action for offences/misconduct related to “abuse of official position” from 2000/01 to 2003/04**

Offence/Misconduct (Note 1)	Warning		Non-removal punishments (Note 2)		Removal punishments		Total
	Dir (Note 3)	Non-Dir (Note 4)	Dir (Note 3)	Non-Dir (Note 4)	Dir (Note 3)	Non-Dir (Note 4)	
Conviction under the Prevention of Bribery Ordinance (Cap. 201)	-	-	-	7 <sup>(Note 5)</sup>	-	39	46
Unauthorized acceptance of advantages/entertainment from persons with official dealings	-	14	-	-	-	2	16
Unauthorized outside work for persons with official dealings	-	2	-	1	-	1	4
Unauthorized disclosure of government information	-	5	-	4	-	1	10
Abuse of Government properties	-	31	-	5	-	-	36
Use of official information/authority for personal gains	-	34	-	18	1	4	57
<b>Total</b>	-	86	-	35	1	47	<b>169</b>

**Notes**

Note<sup>1</sup> Cases involving abuse of official position are covered in this table, be they the result of criminal or disciplinary investigations.

Note<sup>2</sup> Non-removal punishments include reprimand, severe reprimand, demotion and/or a financial penalty.

Note<sup>3</sup> Directorate officer

Note<sup>4</sup> Non-directorate officer

Note<sup>5</sup> The officers concerned were convicted of offences under section 3 of the Prevention of Bribery Ordinance after being found having accepted/solicited loans or advantages without permission, giving rise to a potential conflict of interest situation. Given the relatively less serious nature of their offences, they were allowed to remain in the service. The punishment awarded ranges from “severe reprimand” to “reduction in rank”. Officers convicted of corruption charges under section 4 of the Prevention of Bribery Ordinance (which entail the acceptance/solicitation of an advantage in return for the officer doing or refraining from doing something in his official capacity) would usually be removed from the service.

**Section 12 action**

Performance management is an on-going process. Heads of Department/ Grade (“HoDs/HoGs”) set standards for and monitor the performance of their staff, provide appropriate assistance and guidance and, where necessary, determine if and when action under Section 12 of the PS(A)O should be initiated. It is incumbent upon management to ensure that the expected standard of performance is clearly communicated to their staff, and that supervisory staff are aware of and duly discharge their responsibilities in supervising, coaching, monitoring and assessing performance in an effective and fair manner.

2. Where an officer is not performing up to the standards appropriate to his rank and experience, he would be so advised, and helped to improve his performance through supervision, counselling, training, posting or other appropriate administrative efforts. Recourse to retirement in the public interest would be considered when efforts to help the sub-standard performer improve do not achieve the desired results.

3. In the past, departmental managers tended to give more than ample chances and time for sub-standard performers to improve and to rehabilitate. In many cases, the decision-making process leading to invocation of section 12 action involved many layers. As a result, it usually took an inordinate amount of time (of up to several years in some cases) for completing action on a section 12 case.

4. Under the revised procedure promulgated in March 2003, the management may start to consider putting an officer under the supervision of the “section 12 mechanism” when an officer’s performance has dropped to the rating of “moderate” or equivalent, subject to a considered view that his performance in the coming reporting cycle is likely to further deteriorate. Independent of the section 12 action, the management may continue to take necessary actions under the Civil Service Regulations to issue written advice, and stop or defer the granting of increment to the officer, where appropriate.

5. Before the officer is put under the supervision of the section 12 mechanism, he is duly informed of the aspects of performance that are below acceptable standard; how he could improve; and the consequence should he fail to improve within a specified period. The officer may make representations. To help maintain impartiality, the case together with any representations made is referred to an independent panel comprising a

directorate officer for advice.

6. As and when the department confirms the decision to put an officer under the supervision of the section 12 mechanism, the case will be reported to CSB for monitoring.

7. An “unsatisfactory” performance rating for a full 12-month period (plus evidence of the officer having been duly counselled and forewarned and given no less than 6 months to improve his performance) would provide a sufficient basis for recommending to CSB section 12 action against an officer.

8. From the time the department puts up a recommendation for section 12 action to CSB, it would normally take three months for CSB to follow through the case.