

DELEGATION OF FUNCTIONS - PUBLIC SERVICE REGULATIONS (1961)

GUIDELINES

1. INTRODUCTION

The Governor General, acting on the advice of the Public Service Commissions, has agreed to delegate most of the Functions under the Public Service Regulations, (1961) to Permanent Secretaries. This delegation is effected through the Delegation of Functions (Public Service) (Specified Ministry) Order, 2016 and governed by an Accountability Agreement between the Public Service Commission and the Permanent Secretaries.

2. FUNCTIONS DELEGATED

The specific functions delegated include:

2.1 Appointments

All appointments activities for persons entering into, and moving within the public service, including:

- i) recruitment
- ii) first appointment
- iii) promotion
- iv) transfer
- v) assignments
 - acting
 - deployment
 - secondment

2.2 Separation

Removal and/or departure of persons from office under any of the following circumstances:

- a. for Cause (misconduct, poor performance, criminal offence, etc.)
- b. abolition of position
- c. reorganization
- d. voluntary departure (resignation, abandonment of post, etc.)
- e. mandatory departure (upon reaching age of mandatory retirement)

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Separation under the following circumstances will continue to be under the purview of the Public Service Commission:

- i) separation in the public interest
- ii) separation due to incapacity
- iii) early retirement (prior to reaching mandatory age)

2.3 Discipline

The conduct of disciplinary procedures and the imposition of appropriate penalties for any and all infractions, including those which could lead to dismissal from public office for all public officers within the Ministry.

2.4 Training

The selection of persons for training where the subject matter is directly linked to the mandate of the Ministry and/or where eligibility is restricted to only those public officers within the Ministry.

Selection of candidates in circumstances which extend beyond the boundary of individual Ministries, e. g. national training programs, scholarships, etc will continue to be conducted by the Public Service Commission.

3. GUIDELINES

The following guidelines are based on the Public Service Regulations (1961), certain sections of the Staff Orders for the Public Service of Jamaica and certain sections of the Pensions Act. They are intended to assist the Permanent Secretary in carrying the delegated functions. In general, all processes, procedures and mechanisms should be designed to foster the fundamental principles of fairness, equity, transparency and respect in all actions taken and decisions made.

3.1 Appointments

3.1.1 Position Descriptions

As a first step in appointment activities, the position description should be reviewed and updated, where necessary. Position descriptions should reflect the true nature of the job to be done and specify the duties to be performed.

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3.1.2 Recruitment

Recruitment activities should provide the widest possible access and opportunity to those interested in, and eligible to apply for, positions available. As a general rule, opportunities should be advertised. However, other sources such as data banks (e.g HRMIS) may be used.

3.1.3 Eligibility Criteria

i) Initial Entry

Opportunities for initial entry into the public service shall be subject to the convention of universal access; thus any Jamaican citizen who meets the basic requirements is eligible to apply and to be considered. If no suitably qualified Jamaican national is found, then others may be considered.

ii) Internal Appointments

Opportunities for appointments within the public service shall be subject to the concept of one public service; thus any officer, anywhere in the service, who meets the basic requirements of the position(s) to be filled, should be afforded reasonable access and/or be considered. If no suitably qualified candidate is found within the public service, the opportunity(ies) may be extended to persons outside the public service. In certain circumstances, the opportunity(ies) may be extended both internally and externally, simultaneously.

3.1.4 Selection Criteria

The selection criteria should bear a close correlation to the position description and should reflect a balanced combination of the required qualification, both formal and informal; relevant experience gained through a variety of involvement; and personal suitability.

3.1.5 Selection Panels

In the conduct of appointment activities for entry and promotion, it is advisable that selection panels be used. Such selection panels should be structured to ensure balance and objectivity in the selection process. The members of the panel, collectively, should possess the knowledge and competence to assess candidates against the selection criteria for the position. For objectivity, at least one member should be invited from outside the immediate organizational environment.

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3.1.6 Selection Tools

In assessing candidates, depending on the nature and level of the position, a mix of selection tools should be used. This will contribute to fairness and equity, in that the mix of tools will allow for a better balance of the strengths and weaknesses of candidates. Such tools may include, but not limited to; written tests, in-basket exercises, simulation, role-play, psychometric exercises, interviews, etc. In situations where there are large numbers of candidates any of the tools mentioned, or a combination, may be used as screening devices to bring the number of candidates down to more manageable levels.

3.1.7 Selection Records

All selection activities should be duly documented and all documents and records should be retained for a reasonable period, in the event of an appeal and/or to facilitate the audit function.

3.1.8 Selection Results

Selection results must be based on merit, in that the candidate assessed as the “most rounded” or the best suited, having considered all the selection criteria (assessment factors) must be declared as the successful candidate.

3.1.9 Selection Feedback

In the interest of equity, fairness and transparency, each candidate in a selection process should be afforded the opportunity for feedback on the selection process and on his/her performance.

3.1.10 Selection Notification

All participants in a selection process must be notified formally of the outcome. Such notification must stipulate that no appointment action will be taken until the ten (10) day appeal period has expired.

3.1.11 Selection for Initial Entry

All selection processes for initial entry into the public service must be through competition duly conducted, in keeping with these guidelines, and allowing all those who meet the basic requirements of the position fair and equitable access and opportunity for consideration.

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3.1.12 Temporary Appointment

Following the selection process for initial entry into the public service, the successful candidate may be required to serve for a period in a temporary capacity, before consideration for permanent appointment. Where there is a clear vacancy and the successful candidate has met all of the requirements of the position, the period of temporary appointment must not exceed six (6) months.

3.1.13 Permanent Appointment

Following the selection process for initial entry into the public service, the successful candidate becomes a permanent employee upon receipt of a letter of permanent appointment from the Permanent Secretary.

3.1.14 Probation

Upon first permanent appointment into the public Service, the employee may be subject to a probationary period of up to six (6) months. Any period served in a temporary capacity may be considered towards the probationary period.

3.1.15 Confirmation of Appointment

The permanent appointment of an employee will be confirmed, once the probationary considerations are satisfied.

3.1.16 Promotion

As a general rule, selection processes for promotion opportunities should be through competition duly conducted, in keeping with these guidelines, and should provide fair and equitable access and opportunity to all candidates across the public service who may be interested in, and eligible to apply for the position. However, in exceptional circumstances, Permanent Secretaries may make a case for a promotion without competition, e.g. where the talent pool is limited and known, or where the decision relates to the training and development strategy in the Human Resource Management Plan. In such cases, the appointment decision should be posted, so that anyone who may have had an interest may exercise the right of appeal.

3.1.17 Transfers

A transfer is a permanent appointment from one position to another that is equivalent in level, emoluments and benefits; i.e. a transfer must not result in a promotion. A transfer may be from one position to another within the same Ministry (Intra-Ministerial transfer), or it may be from a position in one Ministry to another position in another Ministry (Inter-Ministerial transfer).

An intra-Ministerial transfer requires the consent of the individual to be transferred and his/her Permanent Secretary. An inter-Ministerial transfer requires the consent of three (3) willing parties; the individual to be transferred, the current Permanent Secretary of the individual and the Permanent Secretary of the Ministry into which the individual is to be transferred. In the event of a disagreement, any of the parties may seek the intervention of the Public Service Commission.

3.1.18 Assignments

(i) Acting

An acting assignment is an appointment for a specified period, wherein an individual in one position is required to perform the duties of another position of equivalent or higher level. An acting assignment does not confer an automatic right of permanent appointment to the position. Opportunities for acting assignments should be managed in such a manner that they do not result in an unfair advantage to anyone, in any subsequent competitive process.

(ii) Deployment

A deployment is an assignment from one position to another that is similar in duties and equivalent in emoluments and benefits. Deployments are normally at the manager's discretion, to satisfy operational requirements; may be temporary in the first instance and could lead to a permanent transfer.

(iii) Secondment

A secondment is an assignment of an individual, usually outside the central government civil service into another part of the wider public service or to other organizations with the approval of the appropriate authority. A secondment maybe either for a fixed term with a guarantee to return, or it may be an interim arrangement for a specified period leading to a permanent change in employment. As a result, the individual's position within the civil service must be protected until the secondment is concluded.

3.1.19 Selection Appeals

(i) Candidates in a selection exercise who have reason to believe that they were assessed unfairly may appeal the decision of the Selection Panel, in writing, to the Public Service Commission within ten(10) working days of notification of the decision.

(ii) Appeals made to the Public Service Commission will be dealt with within thirty (30) working days of filing.

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(iii) *An appellant has the right of representation by person/persons of his/her choice.*

(iv) *The appeal process will reassess only the appellant's performance in the selection process.*

(v) *If there is an appeal, no appointment will be made until the appeal has been heard and a decision rendered.*

(vi) *An upheld appeal does not result in the automatic appointment of the appellant.*

(vii) *If an appeal is upheld, a completely new selection process may be necessary.*

3.1.20 Fixed Term Appointment

A fixed term appointment is a contractual arrangement for the performance of specified functions for a pre-determined period under terms and conditions unique to the contract.

3.2 Separation

Officers may leave, or be made to leave the public service under any of the following circumstances.

3.2.1 For Cause

i) *An employee may be summarily dismissed under the following circumstances:*

- absence from the island without permission from the date of such departure;

- absence from duty without permission for five (5) consecutive working days from the first day of absence;

ii) *The services of an employee may be terminated for misconduct if, following due process, he/she is found to have contravened any of the stated provisions of the established code of conduct.*

iii) *Following confirmation of permanent employment, an employee may have his/her services terminated if his/her performance on the job is assessed over a reasonable period to be consistently below established performance standards or expectations.*

iv) *An employee who has been convicted of a criminal offence may have his/her services terminated.*

3.2.2. Termination of Temporary Appointment

An employee who is serving in a temporary capacity may have his/her temporary appointment terminated at any time, without any reasons given, in accordance with the terms and conditions of the temporary appointment.

3.2.3 Termination on Probation

An employee may have his/her services terminated at any time during the probationary period without any reasons given.

3.2.4 Abolition of Post

Where a function, or a set of duties are deemed to be no longer necessary, the position to which the function or duties are attached may be abolished from the establishment. In such a case, the incumbent or holder of the position may be retired on the ground of abolition of post.

3.2.5 Re-organization

Where a ministry undertakes changes for the purpose of facilitating improvements leading to increased efficiency, effectiveness and economy, persons whose positions are affected by such changes may be retired on the ground of reorganization.

3.2.6 Retirement

i) *Officers are expected to retire from the public service upon reaching the mandatory retirement age of sixty (60) years. Pre-retirement arrangements should commence at least one (1) year in advance of the mandatory retirement (i.e. no later than fifty-nine (59) years).*

ii) *At any time during the five-year period prior to reaching the age of mandatory retirement; i.e. any time from age fifty-five (55) onward, an officer may exercise the option to retire.*

3.2.7 Resignation

Officers may decide to leave the public service on a voluntary basis and tender their resignation. In such cases, a notice period of at least four (4) weeks is required.

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3.2.8 Exit Interview

Where an officer leaves, or is about to leave the public service for any reason, it is recommended that an exit interview be conducted by the appropriate authority within the Ministry.

Discipline

Public officers may be subject to discipline if they are found to violate any of the established rules and procedures governing their employment. In order to ensure fairness and equity the following provisions must be observed.

3.3.1 Code of Conduct

i) The public service is governed by established Statutes, Regulations, Orders and Procedures. These are translated into a list of behaviour deemed to be acceptable expectations which may be considered as a code of conduct for all public servants, including those in managerial positions.

ii) The expectations listed in these guidelines apply generally to all members of the public service. In addition, based on the nature of the organization other operational and/or professional requirements might apply.

iii) Taken together, the combined list of expectations establishes the framework for equity and fairness within the organization; outlines the rights, privileges and obligations of individuals; and becomes the standard or benchmark against which the conduct of both managers and employees will be assessed.

iv) It is the responsibility of each Permanent Secretary to ensure that the complete set of behaviour expectations is formulated, communicated to everyone within the Ministry and posted at convenient locations as a constant reminder.

v) Violation of any of the behaviour expectations could lead to disciplinary measures being taken.

3.3.2 Hours of Work

The normal hours of work for public servants are 8:30 a.m to 5:00 p.m Mondays to Thursdays and 8:30 a.m. to 4:00 p.m on Fridays. However, hours of work may be established for the Ministry, or parts thereof, based upon the nature of the operation and the exigencies of the service, subject to the approval of the Minister with responsibility for the Public Service.

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3.3.3 Attendance

Public officers are required to observe the hours of work established for the organization, to arrive punctually and to be in attendance between the hours prescribed.

3.3.4 Absence

- (i) Absence from duty due to illness or other emergencies must be communicated to the appropriate authority within the organization as soon as possible, but no later than the end of the first day of absence.*
- (ii) Absence from duty for other reasons should be pre-arranged and authorized by the appropriate authority within the Ministry.*

3.3.5 Dress Code

Public servants should be appropriately dressed for work at all times, in a manner which demonstrates professionalism, decency and a respect for colleagues, clients and members of the general public. In certain circumstances, specific attire (e.g. uniform) may be required.

3.3.6 Standard of Behaviour

- i) All public officers are expected to demonstrate the highest level of professional conduct and personal integrity in the performance of their duties and in serving the public.*
- ii) Officers are expected to treat everyone, including other public officers, clients and members of the general public with courtesy, respect, fairness and objectivity.*
- iii) Officers should display a positive attitude and be pro-active in the exercise of their duties, seeking to understand and to satisfy the real needs of clients, volunteering information and services as appropriate.*
- iv) In the exercise of official duties, no officer shall confer any special benefit and/or give preferential treatment to anyone on the basis of any special relationship.*
- v) Requests for services must be dealt with in a timely, efficient and effective manner.*
- vi) Information provided should be timely, accurate and complete.*
- vii) The standards established in the Citizens Charter for the organization must be adhered to.*

3.3.7 Political Activity

- i) *Public officers are expressly forbidden to engage in any type of partisan political activity in any elections at any level.*
- ii) *In the exercise of official duties, no service or benefit should be denied or provided to anyone on the basis of partisan political affiliation.*

i.3.8 Substance Abuse

- i) *The use of alcohol, intoxicants, or any illegal substance is prohibited at the work place.*
- ii) *Arriving at work under the influence of any of the substances noted, or engaging in any usage during working hours is also prohibited.*

3.3.9 Engagement in Private Work

Officers may engage in private work, only under specified conditions and with prior permission from the appropriate authority.

3.3.10 Conflict of Interest

A conflict of interest may be deemed to exist under any of the following circumstances:

- i. *Engagement in private activity similar to official functions.*
- ii) *Using information and/or any material gained from official position for private gain.*
- iii) *Exploiting the status and privilege of one's position for private gain.*
- iv) *Soliciting and/or Accepting payment and/or any other consideration for the performance or neglect of official duties.*
- v) *Conducting private business during working hours and/or on government property.*

In order to address the potential for conflict of interest, officers should in all instances inform the appropriate authority of any private undertaking, seek clarification and get permission.

Any such permission would be subject to periodic review.

3.3.11 Exercise of Authority

- i) Managers are expected to exercise their authority fairly, and even handedly.*
- ii) The exercise of authority must be to achieve the goals of the organization (results, outputs, etc.) consistent with the committed resources.*
- iii) The exercise of authority should be consistent with sound human resource management practices, and must adhere to these guidelines.*
- iv) Managers who are found to be abusive or vindictive in their treatment of employees will be subject to disciplinary measures.*

3.3.12 Breach of Discipline

A breach of discipline or an infraction may be deemed to have occurred if any officer violates any of the established behaviour expectations.

3.3.13 Reporting an Infraction

Anyone reporting an infraction should specify the nature of the infraction, the time, location and any other initial information to facilitate an appropriate reaction in a timely manner.

3.3.14 Recording an Infraction

Where an infraction is deemed to be serious enough to warrant formal documentation, care should be exercised to capture all the relevant details from all who may have been involved, including any witnesses.

3.3.15 Disciplinary Procedure

Where an infraction occurs and it is felt that disciplinary measures may be necessary, a procedure must be established and communicated to all relevant parties. Any such procedure must:

- i) Be consistent with the conditions of employment;*
- ii) Begin with a thorough investigation;*
- iii) Follow due process;*
- iv) Guarantee all parties the right to be heard and the right to representation;*
- v) Guarantee the right of appeal;*
- vi) Be conducted as quickly as possible.*

3.3.16 **Investigations**

- i) *The scope and depth of investigations would depend on the nature of the infraction, and must seek to establish the relevant facts.*
- ii) *Depending on the nature of the infraction and the level at which it occurs, the Permanent Secretary may establish an internal procedure, using Senior Officers within the Ministry to conduct the investigation and recommend an appropriate response.*

3.3.17 **Committee of Enquiry**

- i) *Where an infraction is felt to be serious, it may be necessary to establish a committee of enquiry, with clear terms of reference specific to the case.*
- ii) *Any such committee should be so constituted as to guarantee objectivity, impartiality and timeliness.*
- iii) *The committee should be comprised of no fewer than three (3) members.*
- iv) *The chair of the committee should be a member of the legal profession with the appropriate expertise.*

3.3.18 **Penalties**

- i) *Where, based on the outcome of an investigation or the findings of a committee of enquiry, an infraction is deemed to have occurred, the penalty imposed should be consistent with the nature and gravity of the infraction and should be progressive.*
- ii) *The following progression may be considered:*
 - a) *Verbal warning*
 - b) *Written reprimand*
 - c) *A fine*
 - d) *Deferment or withholding of increment*
 - e) *Suspension without pay for a period not exceeding three (3) months*
 - f) *Reduction in rank*
 - g) *Dismissal*

3.3.19 Interdiction

- i. *Where an infraction is considered to be serious, and pending the outcome of disciplinary proceedings, the accused officer may be interdicted from duty on half, quarter or no salary.*
- ii. *Where an officer has been, or is about to be charged with a criminal offence, he/she may be interdicted from duty on half, quarter or no salary, pending the outcome of the criminal proceedings.*

20 Right of Appeal

- (i) *Employees who have reason to believe that a disciplinary process was unfair, or who are displeased with the disciplinary penalty imposed, may appeal to the Public Service Commission.*
- ii) *If, following a ruling by the Public Service Commission the employee is still displeased he/she may appeal to the Privy Council.*

3.4 Selection for Training

3.4.1 Scope

The scope of this responsibility is limited to the selection of persons for training and development activities which are:

- (i) conducted by the Ministry for its personnel; or*
- (ii) related directly to the mandate and/or needs of the Ministry; or*
- (iii) available only to public officers within the Ministry.*

3.4.2 Framework

- i. *Ideally, selection for training and development should be done within the context of a Training and Development Plan, which should be a component of the overall Human Resource Development Plan for the Ministry.*
- ii. *Information gathered from needs assessments among employees and training needs identified in the performance management process should inform the Training and Development Plan.*

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3.4.3 Responsibility for Training and Development

- i. The Permanent Secretary is responsible for determining the training needs of the Ministry and provide for its achievement.*
- ii. Each employee within the organization is responsible for his/her own training and development, and the enhancement of his/her career.*
- iii. The role of management is to encourage and facilitate employees to pursue training and development for their personal growth and career advancement.*

3.4.4 Requests For Training and Development

Requests from individuals for training and development should be considered collectively to determine relative merit and relevance. This will also ensure equity and fairness in the decision-making and selection process.

3.4.5 Access to Training and Development

Where training and development activities are initiated by the Ministry, every effort should be made to ensure the widest possible access and opportunity to all those who may be interested in, and eligible to apply.

3.4.6 Selection Process

Selection processes should be conducted to ensure objectivity, impartiality, and a balance between the needs of the organization and the needs of individuals.

3.4.7 Selection Feedback

In the interest of fairness and transparency, candidates should be provided with feedback on the selection process and a rationale for the decisions taken.

3.4.8 Recourse

Candidates who may have reason to believe they were treated unfairly in a selection process may appeal to the Public Service Commission.