

Public Services Commission

Governance Framework

1. Introduction

It is the responsibility of the Public Services Commission (the Commission) to exercise its functions as set out in the Public Services Commission Act 2015.

2. Exercise of the Functions of the Commission

a) Statutory Functions

The statutory functions of the Commission are contained within Section 5 of the Public Services Commission Act 2015 and include the following:

Section 5 Functions of the Commission

- (1) The Commission has the following functions —
 - (a) to determine policies relating to the employment, and the terms and conditions of employment, of its employees that are consistent with the Government's human resources strategy and policies;
 - (b) to employ such persons on such terms as it considers appropriate;
 - (c) by agreement with such bodies as it considers to represent the interests of its employees, to establish as necessary negotiating and consultation committees that include members of such bodies;
 - (d) where appropriate, to negotiate or consult with its employees or their representatives, whether via those committees or otherwise, about the employees' pay and other terms and conditions of employment;
 - (e) to arrange for the recruitment of its future employees;
 - (f) to organise the training of its employees;
 - (g) to make arrangements for the assessment of performance and appraisal of individual employees of the Commission;
 - (h) to make promotions and arrange for the transfer of its employees between the various stationed employers;
 - (i) where appropriate to discipline its employees and provide for the suspension or termination of their employment;
 - (j) without limiting any duties it has under health and safety legislation, to make arrangements for securing the welfare of its employees;
 - (k) to make arrangements for loss of office in relation to any public sector employee;
 - (m) to determine such other matters that may be considered reasonably necessary for the proper administration and management of its employees;
 - (n) to perform such other functions as directed by the Council of Ministers.

- (2) If it is not possible for the Commission to reach agreement with the bodies mentioned in subsection (1)(c) as to the establishment and membership of the committees there mentioned, a special committee of Tynwald established for the purpose must determine the collective bargaining and consultation arrangements that are applicable to the negotiation or consultation mentioned in subsection (1)(d).

- (3) The Chief Minister may, after consultation with the Commission, direct the Commission as to the exercise of its functions and the Commission must comply with the direction.

b) Responsibilities for the Civil Service

The key responsibilities of the Commission in respect of the Civil Service are:

- i) **Strategy** - Set the Commission's strategic aims to assure a high calibre, appropriately skilled, well motivated and rewarded workforce.
- ii) **Terms and Conditions of Service** - Determine the scales and rates of salary and other terms and conditions of service.
- iii) **Performance Management** - Ensure there is in place effective performance assessment and appraisal arrangements which focus on the delivery of departmental objectives and personal development.¹
- iv) **Corporate Governance** – Ensure that high standards of corporate governance are in place and observed.
- v) **Values and Standards** – Set the values and standards ensuring that its employees know what standards of conduct are expected.
- vi) **Communications** – Ensure the Public Services Commission's strategic objectives and obligations are clearly understood by the workforce and recognised trade unions.

3. The Role of the Chairman

The Chairman has particular responsibility for providing effective strategic leadership on matters such as:

- (a) formulating the Commission's strategy for discharging its statutory duties;
- (b) encouraging high standards of propriety and promoting the efficient and effective use of staff and other resources;
- (c) ensuring that the Commission, in reaching decisions, takes proper account of guidance provided by Tynwald;
- (d) representing the views of the Commission to Tynwald and the general public; and
- (e) providing an assessment of performance of individual Commission Members, on request, when they are being considered for re-appointment to the Commission or for appointment to the Board of some other public body.

The Chairman should ensure that:

- i) the Commission meets at regular intervals throughout the year, that meetings are properly conducted and that decisions taken are minuted accurately;
- ii) the Commission regularly reviews its own performance in the context of its statutory functions and responsibilities, and progress towards the achievement of its objectives, and implements any agreed changes;

¹ Where terms and conditions relate

- iii) all members of the Commission, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities. The Chairman and other members of the Commission should each have a copy of relevant background material including any specific rules and procedures.

Communications between the Commission and the Chief Minister and Ministers will normally be through the Chairman except where the Commission has agreed that an individual member should act on its behalf. Nevertheless, an individual member has the right of access to the Chief Minister and Ministers on any matter which he or she believes raises important issues relating to his or her duties as a member of the Commission. In such cases the agreement of the rest of the Commission should normally be sought.

Note: The main point of contact with the Chief Minister's Office or the Cabinet Office generally on day-to-day matters relating to HR across the Public Service (including the Civil Service) will normally be the Executive Director – HR, Office of Human Resources, or other member of staff so authorised to act.

4. The Role of Individual Members

Commission Members share the collective responsibility of the Commission for the control and management of its business and are expected to exercise their best judgment in the public interest. Members should regard themselves as guardians of the public interest in the Commission's activities and in the discharge of its statutory duties.

Members should adopt a questioning approach to proposals put before the Commission and should contribute independent advice and judgment, both to the Commission as a whole and, as appropriate, to the Chairman.

Within the framework of collective responsibility, Members should take particular interest in seeing that challenging objectives are set and properly monitored. They should also seek to ensure short and medium term plans are considered against alternative strategies to meet the objectives set. It is important for Members to participate in regular reviews of the Commission's progress against objectives, and to monitor and manage the risk to achieving those objectives.

Members should aim to make a full contribution to the work of the Commission with particular emphasis on increasing efficiency and effectiveness. They should not be inhibited in taking an interest in areas or aspects of the Commission's activities where they consider they can make an effective contribution.

5. Meetings of the Public Services Commission

The Commission shall meet for the transaction of business at such times as may be necessary for the proper exercise of its functions.

No business shall be transacted unless a quorum of members is present – a quorum shall be a majority of members of the Commission (which must include either the Chairman or the Vice-Chairman).

The Chairman or (in his absence) the Vice-Chairman shall preside at every meeting of the Commission.

Minutes of meetings will be taken that accurately record decisions taken, the reasons for those decisions and, where appropriate, the views of individual Members.

6. Collective Corporate Responsibility

As the Public Services Commission is a body corporate, all the Members share collective corporate responsibility for decisions taken.

Note: The Chairman of the Commission is not in the same position as a Minister of a Department in whose name and on whose behalf the functions of the Department are exercised. [The Chairman has no

authority to act or take decisions on behalf of the Commission except as provided through a delegation approved by the Commission, in accordance with Section 6 (1) of the Public Services Commission Act 2015.]

7. Chairman and Executive Director - HR

The Chairman of the Commission and the Executive Director – HR, Office of Human Resources, share in the leadership role, although there is a clear division of responsibility between the Commission and the Executive Director. The Chairman's role is to lead the Commission, ensuring it fulfils its statutory obligations. The Executive Director's role is to lead OHR in implementing corporate HR strategy, managing the delivery of HR programmes and services, including the Commission's programmes and priorities for the Public Services Commission. A good working relationship between the two is fundamental to effectiveness.

Note: The Executive Director – HR, Office of Human Resources, is designated as Secretary, Public Services Commission.

8. Delegation of Functions /Responsibilities of the Commission

Responsibility for day-to-day management matters is delegated to staff within a clearly understood framework of authority and control.

The Commission delegates (through the Civil Service Regulations and Manual and Craft Workers Memorandum of Agreement Delegation Framework) many of its functions to the Chairman, Secretary, Accounting Officers and employers within Departments, Boards and Offices of Government.

9. Conflicts of Interest

Members of the Commission should act impartially and should not be influenced by family, social or business relationships. Commission Members must not use their public position to further their private interests.

The Chairman and other Commission Members should declare any personal or business interests which may conflict with their responsibilities as Commission Members.

Members of the Commission should not participate in the discussion or determination of matters in which they have a direct pecuniary interest. When an interest is not of a direct pecuniary kind, Members should consider whether participation in the discussion or determination of a matter would suggest a real danger of perception of bias. This should be interpreted in the sense that Members might either unwittingly or otherwise unfairly regard with favour or disfavour, the case of a party to the matter under consideration. In considering whether a real danger of perception of bias exists in relation to a particular decision, Members should assess whether they, a close family member, a person living in the same household as the Commission Member, or a firm, business or organisation with which the Commission Member is connected are likely to be affected more than the generality of those affected by the decision in question. This would cover, for example, a decision to invite tenders for a contract where a firm with which a member was connected was significantly better placed than others to win it.

Where, in accordance with the above, Members do not participate in the discussion or determination of a matter, the interest should be declared and recorded in the minutes and the Member should withdraw from the meeting. This is because the continued presence of someone who had declared an interest might be thought likely to influence the judgement of the other members present.

10. Acceptance of Gifts, Hospitality and Travel

i) *Gifts*

No Commission Member should accept gifts, hospitality or services from anyone which would, or might appear to, place him or her under an obligation. The same principle applies if gifts, etc., are offered

to a member of their family or household. This is primarily a matter which must be left to the good sense of Members. Any Member in doubt or difficulty over this should, as appropriate, seek guidance from the Executive Director - HR, or from the Accounting Officer concerned (the Chief Secretary).

The following rules apply:

- a. Tokens, mementos of official occasions, visits or conferences are not to be regarded as gifts unless they exceed an apparent value of £50;
- b. Receipt of gifts should, in all cases, be reported to the Chief Officer;
- c. Gifts of small value (i.e. up to £100) may be retained by the recipient;
- d. Gifts of a higher value should be handed to the Commission for disposal, except that -
 - (i) The recipient may purchase the gift at its cash value (abated by £100);
 - (ii) If the recipient wishes to reciprocate with, and pay for, a gift of equivalent value, the gift received may be retained;
 - (iii) If the Commission judges that it would be of interest, the gift may be displayed or used by the Commission;
 - (iv) If the disposal of the gift would cause offence or if it might be appropriate for the recipient to use or display the gift on some future occasion as a mark of politeness, then the gift should be retained by the Commission for this purpose.

Gifts given to Commission Members in their capacity as Commission Members become the property of the Commission unless the Commission Member wishes to keep the gift (if it is below the threshold of £100) or to purchase it.

ii) ***Hospitality***

Travel within the Island and hospitality provided within normal bounds, which is infrequent or reciprocated cause no difficulty (e.g. attendance as a guest at formal dinner, reception, etc.)

Travel and hospitality, including accommodation, provided off the Island cause no difficulty if the Member is fulfilling an engagement at the request of the donor, which is of promotional or other sufficient value to the Island.

Attendance at conferences, dinners, exhibitions, etc., off-Island will involve costs of travel and, frequently, costs of accommodation which exceed an apparent value of £140. In general, an offer of such travel and accommodation should not be accepted.

iii) ***Travel***

Off-Island travel by Members should normally be arranged, so far as possible, to avoid absences from Commission meetings.

When Members travel off-Island on official Commission business their travel expenses should be borne by Government. When any expenses are not met in this way, Members must ensure that no undue obligation is involved; recognising that accepting offers of free travel can be misinterpreted.

11. Confidentiality

It is Government Policy to be as open as possible in providing information publicly about its activities. There are, nevertheless, circumstances in which, for good reasons, confidentiality requires to be maintained. The rules governing the release of information are set out in the Code of Practice on Access to Government Information, and the Freedom of Information Act 2015 which is scheduled to apply to the Public Services Commission with effect from no later than 1 February 2018.

Whilst Members are encouraged to explain and discuss openly the declared policies of the Commission, as appropriate, it is important for the effective working of the Commission that information in relation to developing policies or activities is not divulged prematurely so as to pre-empt a determination by the Commission. Members should, therefore, be sensitive to the interests of the Commission in discussing the work of the Commission with others and, in the event of doubt, to discuss with the Chairman whether outside discussion would be premature.

12. Interaction with the Media

If a Member is approached by the media for comment on any matter or issue, the Commission member should politely decline to make comment at that time and seek the advice of the Chairman of the Commission or the Executive Director - HR.

Upon advice, the Member may make specific comment to the media as deemed appropriate based on the advice tendered by the Chairman or the Executive Director.

The Member may, however, make appropriate and informed comment, if prior delegated authority has been received from the Chairman or, in the absence of the Chairman the Vice-Chairman. (This may be necessary in circumstances when a Member may be Chairman of a sub-committee of the Commission).

13. Annual Report

The Commission shall, as soon as practicable after the end of each year, or more frequently if the Chief Minister so directs, make a report to the Chief Minister with respect to the carrying out of its functions under the Public Services Commission Act 2015. A copy of every such report shall be laid before Tynwald.

14. Indemnity

The Statutory Boards Act, 1987 includes provision that the Commission "may apply any money in its hands for the purpose of indemnifying itself against any costs or damages which it may incur in or in consequence of the exercise of its functions". This is achieved through the purchase of indemnity insurance which, for all Departments, Boards and Offices (except the Manx Utilities Authority and the Post Office) is provided by the Government's Official indemnity policy arranged by Treasury.

This insurance covers claims from third parties which arise from accidental errors or omissions. The cover extends to employees, political members and lay members of Departments, Boards and Offices subject to various conditions including that no indemnity will be provided to persons in respect of their own fraud, dishonesty or criminal act. The cover relates only to action taken by the Member as part of the Commission's "business" and does not cover any other actions.

The insurance provides for payment of damages and claimants costs and expenses for the financial loss arising as a result of a negligent act or accidental error or accidental omission. In addition, the insurer will pay all costs and expenses incurred, with its written consent, in defending any claim which may be the subject of indemnity.

The Statutory Boards Act 1987 gives Members of the Commission the same level of indemnity as that provided to officers, whereby:

- i) a Commission Member will not be personally liable in respect of any act done by him in the performance or purported performance of his functions if he acted reasonably and in the honest belief that his duty required or empowered him to do the relevant act;
- ii) where an action has been brought against a Member of the Commission in respect of an act done by him in the performance or purported performance of his functions, and the circumstances are such that he is not legally entitled to require the Commission to indemnify him, the Commission may nevertheless indemnify him against the whole or any part of any damages or costs which he may have been ordered to pay or may have incurred, if the Commission (with Treasury concurrence) is satisfied that he honestly believed that the act complained of was within the scope of his functions and his duty required or empowered him to do it.

15. General Code of Conduct and Behaviour

A member of the Commission is expected at all times to exhibit the highest standards of behaviour in line with the seven principles of public life as set out in Annex 2.1 of The Government Code. The seven principles of public life being:

Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards or benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Members should not enter into any activity or discussion with any third party that may have the potential of bringing the Commission into disrepute or compromising the reputation of the Commission or the Isle of Man Government.

Any breach of the provisions of this Code of Conduct may result in removal from office of the Member at the direction of the Chief Minister.


Chairman, Public Services Commission

13 June 2016

