



Equality Policy for the Public Service



**Public Administration HR Office
Office of the Prime Minister**



Employee Relationship Management Directorate Public Administration HR Office

Whilst every effort is made to ensure that this policy is updated, employees are nonetheless requested to refer to the PSMC, the provisions of which will prevail.

This policy is correct as on July 2013





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INTRODUCTION



1 – INTRODUCTION

The Public Service is an equal opportunity employer. It aims to provide an inclusive environment which promotes equality and diversity, while maintaining a healthy working environment in which the rights and dignity of employees are respected. In line with Article 32 of the [Constitution](#), the Public Service upholds the principle of non-discrimination (either directly or indirectly) on the grounds of sex, age, race/ethnic origin, marital status, pregnancy or potential pregnancy, disability, sexual orientation, religious or other beliefs. The behaviour of Public employees is governed by the First Schedule of the [Public Administration Act](#) (Cap. 497). The Code of Ethics is adopted within a framework of principles which are fundamental to the ethos governing employee behaviour. The basic principles are public trust; serving the public and the business community; responsibility to the Government of the day;

productivity and flexibility; and public employees' rights.

The Public Administration HR Office (PAHRO), within the Office of the Prime Minister, has a strategic role in the centre of HR Management practices across the Public Administration. The Public Administration's principle of non-discrimination and equal opportunities is asserted further through the Public Administration HR Office, which leads the development and implementation of innovative HR Policies, alongside its monitoring, regulatory and advisory functions.

This Equality Policy is binding all the employees of the Public Service. Ensuring a non-discriminatory working environment within the Public Service is the responsibility of all employees, particularly management.

1.1 Definition of terms ¹

- Direct discrimination – when a person is treated less favourably than another person in a comparable situation.
- Indirect discrimination – where an apparently neutral provision (criterion or practice) would put a person at a particular disadvantage when compared with other persons (unless this provision is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary).
- Harassment takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating and/or offensive environment.

¹ In terms of the Equality for Men and Women Act (Cap. 456)

1.2 Communicating the policy

All Public Service employees should be informed of the Public Service Equality Policy. All employees should be further informed about the possibility of seeking assistance from outside the Public Service should it be felt that discrimination has taken place.

The Employee Relationship Management Directorate (ERM), within PAHRO, is responsible for regularly updating this policy and for ensuring its implementation across the Public Service. Any queries or suggestions regarding this policy should be addressed to erm-pahro.opm@gov.mt.



OUR COMMITMENT



2 – OUR COMMITMENT

2.1 Communicating policies to Public Service employees

2.1.1 Circulars

The Public Service, through the respective Director (Corporate Services), ensures that all directives and circulars, including:

- OPM circulars, which mainly focus on general policy direction;
- PAHRO circulars, relating to HR policy issues;
- office orders; and/or
- memoranda,

are brought to the immediate attention of all Public Service employees, including those on paid or unpaid leave either for family-friendly or for other reasons. OPM and PAHRO Circulars, which are of direct interest to all public employees, are issued in both the Maltese and English languages.

All OPM and PAHRO circulars are addressed to Permanent Secretaries, Directors General and Directors, as well as Heads of Public Entities who should, in turn,

ascertain that the information is communicated to their employees. Furthermore, other relevant documents which are published on the intranet should be made available even to Public Sector employees who do not have access to the intranet.

In order to ensure that all public employees have equal access to information, especially in the case of circulars advertising vacancies, the following instructions should be followed:

- a) HR units are to ascertain that they have up-to-date information with regard to employees who have access to an e-mail account and those without such access;
- b) all employees who have e-mail access are invariably furnished with an electronic copy of all circulars issued;
- c) a hard copy of circulars is to be circulated among employees who do not have e-mail access. In these cases,

employees should sign the circulars to confirm their awareness of the circular contents; and

- d) Heads of Public Sector organisations are to ensure that circulars targeting Public Sector and/or Public Service employees are brought to the attention of all their employees as per (b) and (c) above.

In failing to adhere to the above guidelines, employees responsible for the circulation of circulars, shall be held liable at law ².

2.1.2 Public Service Management Code and Manuals

To further facilitate the dissemination of information, the Public Service Management Code (PSMC) and [online manuals](#) may be accessed online. Employees who do not have internet access may request a hard copy from their respective

Director (Corporate Services). The manuals concerning specific policy areas are:

- i. Family-Friendly Measures;
- ii. Allowances Payable to Public Officers;
- iii. Social Security Contributions, Benefits and Pensions;
- iv. Treasury Pensions;
- v. Handbook on Opportunity to work outside the Public Service; and
- vi. Glossary of Organisational & Management Terms.

The Client Support Unit, within the Public Administration HR Office, is committed to assist line ministries, departments and employees in addressing their queries, including the interpretation and implementation of policies encompassed in the [PSMC](#). Moreover, through the Unit, employees may request a review, of HR-related decisions, taken in their respect by their employing organisation.

² Letter-circular to Permanent Secretaries dated 2 September 2008 (Ref: MPO/49/51)

2.2 Gender equality

In terms of Article 26 of the Employment and Industrial Relations Act and Article 4 of the Equality for Men and Women Act (Cap. 456), it is unlawful for any person to discriminate, either directly or indirectly:

- in the arrangements made to determine who should be offered employment;
- in determining who should be offered employment;
- in the terms and conditions on which the employment is offered, including pay, conditions of work and other benefits; and
- in determining who should be dismissed from employment.

In this respect, the Public Service ensures non-discriminatory practices in vacancies and vacancy advertisements, job descriptions and selection procedures. Moreover, the selection board regulating the recruitment process is well-versed in equality legislation and ensures that the criteria established for selection, application forms and

interview questions, only refer to what is essential for the performance of tasks relevant to the job³.

Persons employed within the Public Service in the same grade or type of employment enjoy the same conditions of work including pay, family-friendly measures and conditions of work. It is ensured that training offered by the Centre for Development, Research and Training (CDRT) is gender sensitive.

Legal Notice 181 of 2008, entitled Access to Goods and Services and their Supply (Equal Treatment) Regulations, is applicable to the Public Service, as indicated in paragraph 7.3.1.2. of the PSMC.

2.2.1 Good practices adopted by selection boards

In determining eligibility and assessing candidates, the selection board should avoid any form of direct or indirect

³ Manual on Appointments in the Malta Public Service – Guidelines for Chairpersons and Members Appointed on Selection Boards

discriminatory treatment, as defined in the [Employment and Industrial Relations Act](#) (Cap. 452 of the Laws of Malta) and [Subsidiary Legislation \(Equal Treatment in Employment Regulations - SL 452.95\)](#), as applicable from time to time, as well as the [Equality for Men and Women Act](#) (Cap. 456 of the Laws of Malta). The selection board shall ensure that every person is assessed according to his or her ability to carry out a given job. It is discriminatory to assess a person's ability on the grounds of the person's gender and/or family responsibilities. In order to avoid gender bias and to promote equality of opportunity:

- (i) Applications from men and women should be processed in exactly the same way;
- (ii) Records of interviews should be kept, when practicable, showing why applicants were not selected;
- (iii) Persons should be assessed according to their personal capability to carry out a given job. It is therefore

discriminatory to assess persons on the grounds of gender and/or family responsibilities;

- (iv) Interview questions should relate to the requirements of the job. Questions about marriage plans or family intentions should not be asked as they could be construed as showing bias against women and men with family responsibilities;
- (v) It should not be assumed that men only or women only will be able to perform certain types of work;
- (vi) In the case of promotion, when general ability and personal qualities are the main requirements for promotion to a post, care should be taken to consider favourably the non-formal qualifications arising from general experience and differing career patterns of candidates of either gender.

2.2.2 Gender neutral vacancies, vacancy advertisements and job descriptions

Job vacancies / nomenclatures / job descriptions are generally gender-neutral.

Where applicable, advertisements are to carry reference to gender-inclusiveness immediately after the title of the call, as follows:

“In accordance with clause 3.1(l) of the current Collective Agreement, nomenclatures importing the male gender include also the female gender.”

Advertised vacancies necessitating specific gender occupational requirements should be clearly outlined in the job description of the respective call for applications. The actual task/s that need to be performed by a person of a particular gender, consequently include a justification of the gender eligibility restriction in terms of sub-article 2 (5) of the Equality for Men and Women Act (Cap. 456).

2.2.3 Gender-sensitive appointment procedures

In line with sub-section 1.1.13 of the PSMC, Public Service employees who qualify for appointment while availing themselves of maternity or parental leave, will be granted their due appointment even if they are unable to resume duties within the validity period of the appointment.

These employees will be required to perform their period of probation when they resume duties and will only be confirmed in their appointment on satisfactory completion of the period of probation.

Where it is absolutely necessary for the vacancy to be filled, the post will be occupied by a temporary appointee.

2.2.4 Conditions of work to temporary and part-time employees in the Public Service

In terms of LN 427/2002 entitled Part-time Employees Regulations,

all temporary employees **not engaged through the Public Service Commission (PSC)**, whether engaged on a part-time or full-time basis, are entitled, on a pro-rata basis, to vacation leave, sick leave, injury leave, jury leave, public holidays and all family-friendly measures as outlined in the [PSMC](#).

Temporary and part-time employees **engaged through the PSC** are entitled to all the benefits and conditions of work outlined in the [PSMC](#) and are also obliged to adhere to all procedures and regulations stipulated in the [PSMC](#). Part-time employees engaged through the PSC are entitled to leave benefits on a pro-rata basis.

2.2.5 Family-friendly measures ⁴

2.2.5.1 Applicability

Family-friendly measures are applicable to all public employees. In the case of employees engaged on a definite basis, the family-friendly measures

will only run up to the term of engagement.

Requests for the uptake of family-friendly measures should be facilitated by the respective Director, always taking into account the exigencies of the service.

Before deciding on the request, the respective Director shall discuss the request with the employee.

2.2.5.2 Paid leave for family-friendly reasons

- Eighteen (18) weeks adoption leave which may be shared by both parents. The first fourteen (14) weeks of the adoption leave entitlement are paid in full. The additional four (4) weeks adoption leave, beyond the first fourteen (14) weeks, are considered as special unpaid leave and payable at a fixed weekly rate equivalent to the maternity leave allowance payable at the time, in terms of the [Social Security Act](#);

⁴ Also applicable to the public sector.

- Eighteen (18) weeks maternity leave. The first fourteen (14) weeks of the maternity leave entitlement are paid in full. If the employee opts to avail herself of the additional four (4) weeks maternity leave beyond the first fourteen (14) weeks, she will be entitled to the applicable benefits payable in terms of the [Social Security Act](#);
- Two (2) working days paternity leave to male employees on the birth of each of their children;
- Two (2) working days bereavement leave on the death of immediate relatives;
- Three (3) working days marriage leave;
- Donation of vacation leave / time-off-in-lieu for humanitarian reasons;
- Urgent family leave;
- Release for pregnant employees to attend ante-natal examinations.

2.2.5.3 Unpaid leave for family-friendly reasons

- A maximum of four (4) years unpaid leave to accompany spouse abroad on government-sponsored assignments/courses;
- One (1) year unpaid parental leave for each child, applicable to Parents, Legal Guardians and Foster Carers;
- A maximum of five (5) years career break to take care of children under eight (8) years;
- A maximum of eight (8) years responsibility leave;
- Thirty (30) days unpaid leave in every period of twelve (12) months for special reasons.

2.2.5.4 Family-friendly measures for work-family balance

- Work on reduced hours
- Teleworking
- Flexibility in work schedules

Requests for family-friendly measures should be facilitated.

Employees whose requests are not approved have the possibility to appeal the decision with their respective Permanent Secretary (see sub-section 3.1.2.).

Further details on the eligibility, procedure and entitlements of all family-friendly measures are available in Chapter 5 of the [PSMC](#). Records of approvals, rejections and reasons for refusals of requests for family-friendly measures are kept by the respective line ministry.

Upon resuming duties, induction training is given to employees who have been on unpaid leave for longer than two (2) years. Such training is necessary to facilitate a smoother transition back to work and to raise awareness of developments in the Public Administration.

2.3 Persons with disability

Government is committed to stay at the forefront in applying inclusive policies at the place of work. The Public Service seeks to enhance, as far as possible, the status of disabled employees and their opportunities for advancement.

The Public Service is a signatory to the National Commission for Persons with Disability (NCPD) declaration recognising that persons with a disability may, for various reasons, often face social obstacles which impede access to various areas. In this regard, the Public Service is committed to doing all that is reasonably possible to put in action the principles contained in the [Equal Opportunities \(Persons with a Disability\) Act](#) (Cap. 413) and the UN Standard Regulations of 1993 on Equal Opportunities for Persons with a Disability.

The Foundation for IT Accessibility (FITA) aims to facilitate the integration of Public Service employees with a disability by providing information on

equitable and appropriate ICT enabling accommodation. In this regard, potential service users with disability may contact FITA should they feel they would benefit from its services.

2.3.1 Special arrangements for the recruitment of persons with disability

Registered persons with a disability who do not satisfy all the eligibility requirements in calls for applications but who are capable of carrying out, in essence, the duties attached to a particular post/position, are allowed to ask for special consideration when applying for posts/positions in the Public Service. The procedure followed is outlined below:

- The disabled person is to submit the application to the department concerned, attaching proof that s/he is registered as a disabled person with the NCPD. The applicant should also include reasons why s/he does not satisfy all the eligibility requirements and why s/he should be given reasonable

consideration. The application together with attachments, is to be copied to NCPD;

- within five (5) working days from the closing date of the call for applications, NCPD will then make a report with its views and recommendations to the Department concerned;
- within ten (10) days from the closing date of the call for applications, the respective Director General/Director will refer the NCPD report together with his/her comments and specific recommendations to the Public Service Commission (PSC), copying the Public Administration HR Office;
- PAHRO will forthwith inform PSC of its views on the particular request; and
- the Commission will decide on the basis of the submissions made by the Department and by PAHRO and forward such decision to the respective Director General/Director for

onward transmission to the selection board, copying PAHRO.

In terms of Article 7 of the [Equal Opportunities \(Persons with Disability\) Act](#), calls for applications are to stipulate these arrangements for such reasonable accommodation.

Moreover, a policy has been introduced whereby departments and entities are to make every effort to fill vacancies from the ETC register of disabled unemployed (in the Public Service this is applicable in the case of vacancies in scales 16 – 20, both scales included). When assessing candidates from this register, the eligibility requisites usually required for the post/position may be waived, provided that the selected candidate is able to perform the duties of the vacancy in essence.

Furthermore, when examinations are held for entry into a particular post/position in the Public Service, in the case of persons with a disability registered with the NCPD, special arrangements are

to be made as established in the University of Malta Guidelines to MATSEC Examinations Access Arrangements, 2011.

2.4 Sexual harassment

2.4.1 Aims

This policy aims to:

- ensure that all employees and clients of the Public Service are treated with respect;
- secure the dignity and personal development of all employees;
- inform and educate employees on recognising unacceptable behaviour;
- provide information on means of redress to victims of sexual harassment at the workplace. All sexual harassment claims will be treated very seriously and confidentially and all the necessary action will be taken to deal with the claim, as outlined in sub-section 3.1.3. of this policy. In this regard, employees or clients of the Public Service are secured from being victimised for bringing a complaint of sexual harassment, whether the harassment originates from

another employee or from a client of the Public Service, and;

- build a proactive work environment that aims to prevent any occurrence of sexual harassment at the workplace.

2.4.2 Principles

- a) As an equal opportunity employer, the Public Service believes that sexual harassment is an intolerable violation of the dignity of employees and therefore does not tolerate any form of sexual harassment at the workplace. Permanent Secretaries, Directors and all Public Service employees are duty bound to safeguard and uphold the principles articulated in this policy. Non-compliance with these principles will lead to disciplinary or criminal proceedings.
- b) The Public Service strives to promote a dignified working

environment and a harmonious relationship among its employees in order to foster mutual respect, understanding and appreciation in the work environment. The Public Service believes that preventing sexual harassment is a good management practice. The victim of sexual harassment may experience emotional and physical stress, which may lead to a negative change in job performance. If sexual harassment is not addressed, the Public Service may be negatively affected in terms of low morale amongst its employees, a higher rate of absenteeism, job turnover and low job performance.

- c) With a view to attaining the aims of this policy, all Public Service employees are to be informed of these guidelines through formal and informal training programmes. The Centre for Development, Research and Training (CDRT) will provide and/or facilitate such training. These training programmes are aimed at

explaining the guidelines on dealing with cases of sexual harassment, the legal implications, and how assistance can be obtained even from outside the employees' Department / Directorate, should victims feel better safeguarded. Public Service employees will further be informed that they may also seek assistance from the representative trade union / employee representative when the employee decides to pursue the matter formally. Moreover, employees may also seek assistance from the National Commission for the Promotion of Equality (NCPE).

All Public Service employees are entitled to adequate, regular and ongoing training on the prevention of sexual harassment at the place of work. The training programmes are aimed at underlining the seriousness of complaints related to sexual harassment and that guidelines should be adhered to at all times.

These guidelines will be explained in detail during the induction

training of recruits in the Public Service.

2.4.3 Definition of terms

Sexual harassment is unwelcome behaviour of a sexual nature or other sex-based conduct affecting the dignity of women and men at the workplace, or during official duty outside the place of work or natural extensions thereof, such as whilst giving or being given a lift to and from work or engaging in social activities organised by the workplace. A workplace is considered to be any place where working relationships exist or where employer/employee relationships exist. Sexual harassment takes many forms, from relatively mild sexual comments to actual physical violence.

The following may be considered as falling under the term sexual harassment:

- Physical conduct of a sexual nature: commonly regarded as meaning unwanted

physical conduct ranging from unnecessary touching, patting or pinching or intentional brushing against another employee's body, to assault, and to coerce sexual activity. Recourse to such coercive conduct could lead to the institution of criminal charges.

- Verbal conduct of a sexual nature: this may include unwelcome sexual advances, propositions or pressure for sexual activity; continued suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome; offensive flirtations, suggestive remarks, insensitive jokes, innuendoes or lewd/obscene comments.
- Non-verbal conduct of a sexual nature: this includes the display whether by electronic or any other means, of pornographic or sexually suggestive pictures, objects or written materials, and making sexually suggestive gestures.

- Sex-based conduct: conduct that denigrates or ridicules or is intimidating or physically abusive of an employee's gender, such as derogatory or degrading abuse or insults that are gender related and offensive comments about appearance or dress. Such conduct can create an offensive working environment for the recipient.
- Sexual blackmail (abuse of authority): conduct where an employee's refusal of, or submission to, unwanted sexual behaviour is used as a basis for a decision which affects that employee's access to employment, continued employment, training, promotion opportunities and other forms of compensation. This form of behaviour involves abuse of authority when a person holding direct or indirect (that is capable of influencing) supervisory or managerial authority, threatens, influences, or actually takes an employment decision affecting the person harassed.
- The above list is not exhaustive and should not be considered as such.

What does not constitute sexual harassment?

For sexual harassment to arise, sexual conduct must be unwelcome. Sexual interaction, flirtation, attraction or friendship which is invited, mutual, consensual or reciprocated is not sexual harassment.

2.4.4 Legislative framework

In terms of Article 9 of the [Equality for Men and Women Act \(Cap. 456\)](#), it is a criminal offence for any person to sexually harass other persons. Sexual harassment is also prohibited in terms of Article 29 (2) of the [Employment and Industrial Relations Act \(Cap. 452\)](#) and in the [Legal Notice 181/2008, Access to Goods and Services and their Supply \(Equal Treatment\) Regulations](#), which delineates the illegality of sexual harassment in the provision of goods and services.

2.4.5 Accessibility

These guidelines aim to uphold the principle of gender equality. It sustains Government's commitment towards treating all Public Service employees with equal dignity. No effort should be spared to circulate these guidelines to all Public Service employees, and to ensure that these provisions are enforced.

2.4.6 Applicability

The provisions of these guidelines apply to all Public Service employees. During the period of contract, attachment or traineeship, all service providers, students and trainees attached to the Public Service are also bound by these guidelines. The provisions of this policy also apply to any clients and service users who, for any reason, have contact with the Public Service.



DISCIPLINARY & GRIEVANCE PROCEDURES



3 – DISCIPLINARY & GRIEVANCE PROCEDURES

3.1 Disciplinary Procedures

Disciplining of public officers is regulated by the 1999 Regulations which came into effect on the 1 February 2000 and amendments which came into effect on 27 March 2006. The provisions of the 1999 Regulations and amendments apply to disciplinary or criminal cases where disciplinary action was initiated on or after the 1 February 2000 and are applicable to officers recruited in the Public Service in terms of Section 110 of the Constitution. This also applies to officers who migrate to entities.

An officer shall become liable to proceedings, under these provisions, for conduct that brings the Public Service into disrepute, for misconduct, for any breach of discipline or code of ethics, or for unsatisfactory work, without prejudice to the generality of the foregoing:

(a) for any breach of, or failure to comply with, any laws, rules,

regulations or codes governing from time to time the Public Service, or the conduct of public officers, or the transaction of government business; or

(b) for any breach of, or failure to comply with, any lawful order, direction or instruction, whether written or verbal, that may properly be given by a superior officer or authority.

3.2 Redress and Grievance Procedures

All Public Service employees, irrespective whether they are employed on a full-time, part-time, or temporary basis, have the possibility of seeking redress if they have reason to believe that they have been discriminated against, unfairly treated or sexually harassed. Moreover the Schedule of Offences and Penalties issued under the Public Service Commission (Disciplinary Procedure) Regulations (S.L.

Const. 03) considers as a serious offence the victimisation of a witness or an officer lodging a report or doing one's duty in terms of these regulations.

3.2.1 Petitions relating to appointments and promotions (section 2.2.1)

When petitions relating to appointments or promotions in the Public Service are lodged by external applicants or serving Public Service employees, the following procedure is to be observed⁵.

a) Petitions objecting to the result of a selection board are to be submitted to the Executive Secretary, Public Service Commission, the Palace, Valletta, copying the respective Director General/Director responsible for the Department/Directorate at which the vacancy has arisen;

b) immediately upon receiving the copy of the petition, the respective Director General/Director forwards it to the Chairperson of the relative selection board;

c) the respective Director General/Director instructs the Board to submit to the Public Service Commission, within the shortest time possible, its comments on the points raised in the petition. The respective Director General/Director is to be copied with the selection board's comments;

d) the respective Director General/Director ensures that the selection board deals with the petition and with any follow-up correspondence there may be with the Public Service Commission expeditiously. The Director General/Director is also expected to intervene in writing, in cases of undue delay.

In the absence of compliance with the above procedure, as

⁵ MPO Circular 30/2009

well as in cases of undue delay by the selection board or by the respective Director General/Director, a serious view, including the possible institution of disciplinary sanctions, will be taken.

Any requests for an interview with the Commission by applicants or serving public service employees should include the grounds for which the request is being sought.

As a general rule, the Public Service Commission examines any petitions referred to it, keeping in mind:

- a) whether the candidate has been overlooked or whether his/her claims have been inadequately considered because of some error or omission of fact;
- b) whether the recommendation of the selection board has been influenced by any consideration other than those laid down in the [Public Service Commission](#)

[Regulations](#), which had not previously come to the notice of the Commission or, in cases of appointments by delegated authority, of the delegated authority; and

- c) whether there has been any other irregularity in procedure which vitiates the recommendation.

Petitions objecting to a selection board result should reach the Commission and the respective Director General/Director within ten (10) working days from the date of publication of the notice of the issue of the result in the Government Gazette or, in cases of posts/positions in scale 5 or above, from the date of result ⁶.

3.2.2 [Petitions relating to family-friendly measures](#) ⁷ (section 2.2.5)

When a request for family-friendly measures cannot be facilitated, the respective Director shall

⁶ MPO Circular 26/2004; MPO Circular 2/2005

⁷ Also applicable to the public sector

inform the employee, in writing, of the reason for refusal. The employee may then appeal to the Permanent Secretary who shall investigate the case and explore whether an alternative solution may be found. A solution might entail a redistribution of work and/or the intra deployment of employees. The decision taken by the Permanent Secretary will be final ⁸.

3.2.3 Procedures relating to cases of sexual harassment (section 2.4)

The primary purpose of the procedural framework set out in this section is to deal with cases of sexual harassment in a constructive manner, by providing Public Service employees with the possibility of improving their conduct. These procedures aim to achieve this by also indicating how minor breaches of the code of conduct can be dealt with informally (where the complainant agrees). The formal and informal procedures are

outlined in sub-sections 7.3.8 and 7.3.9 of the PSMC.

The following procedures are intended to serve as guidelines for both Heads of Department and Public Service employees on how sexual harassment cases should be tackled in a fair, consistent and expeditious way, while ensuring standards of good practice, natural justice and utmost confidentiality.

- the alleged harasser should be informed of the alleged breach of good conduct against him/her;
- the alleged harasser should be given the opportunity to state his/her case prior to the commencement of any disciplinary action;
- the provisions about the burden of proof in Article 19(2) of the Equality for Men and Women Act (Cap. 456) and Article 7(3) of the Access to Goods and Services and their Supply (Equal Treatment) Regulations (LN 181/2008), must be observed. If a person

⁸ MPO Circular 36/2010

establishes, before a court or other competent authority, facts from which it may be presumed that there has been sexual harassment against him or her, the burden of proving that there has been no offence shall lie on the person, establishment or entity against whom the allegation of sexual harassment is being made.

3.2.3.1 Advice and Assistance

Public Service employees who are victims of sexual harassment may refer their complaints to the National Commission for the Promotion of Equality (NCPE). Employees may also, if they wish, seek the advice of the Head of Department, or a person of trust, even if the person is not a Public Service employee⁹. The advice should outline all possible courses of action. The victim should then decide which course of action he or she would like to take, depending on the severity of the

case. Such advice should include the possibility to lodge a formal or informal complaint. When the harasser is the employee's superior, the victim should seek advice from the next higher authority such as the Director General or Permanent Secretary.

It is the duty of Heads of Department to establish and maintain workplaces free of sexual harassment. Any Public Service employee, apart from the harassed person, who is aware of any sexual harassment that may be taking place, is duty bound to bring this to the attention of the Head of Department responsible for the alleged victim. Before taking any action, the Head of Department concerned shall ask the alleged victim of the harassment whether s/he wishes the matter to be treated in a formal or informal way. If the victim of the harassment so wishes, the Head of Department may also seek the advice of NCPE.

⁹ Counselling services may be obtained from the relevant entities including 'Aġenzija Appoġġ'

3.2.3.2 Dealing with sexual harassment

A victim of sexual harassment may take informal or formal action against the alleged harasser. Details on the procedure to be followed, is available at sub-sections 7.3.8. and 7.3.9. of the [PSMC](#).