Guide on Governance Practice for Executive Authorities and Heads of Department
Vision

A champion of public administration excellence in democratic governance in South Africa.

Mission

To promote the constitutionally enshrined democratic principles and values of the Public Service by investigation, research, monitoring, evaluating, communicating and reporting on public administration.
Guide on Governance Practice for Executive Authorities and Heads of Department

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Foreword

The Public Service Commission (PSC) is mandated by the South African Constitution, 1996, to promote a high standard of professional ethics as well as to investigate, monitor and evaluate public administration practices in the Public Service. To deliver on its constitutional mandate, the PSC is required to advise Executive Authorities (EAs) and Heads of Department (HoDs) on sound public administration practices that are necessary to enhance Governance in the Public Service. As such the PSC has been instrumental in the development of instruments and reports that find application across all spheres of the Public Service.

Based on its body of work on public administration practices, the PSC has decided to produce this Guide on Governance Practice for EAs and HoDs. The guide deals with governance and management topics that are essential for incumbent and new EAs and HoDs to familiarise themselves with.

Based on the body of work done by the PSC, specific emphasis is placed on the roles of EAs and HoDs, the implementation of the Financial Disclosure Framework, Remunerative Work Outside the Public Service, the Evaluation of HoDs and the importance of Oversight Reports to correct public administration deficiencies.

Since executive and management powers rest with EAs and HoDs, the PSC would like to encourage EAs and HoDs to familiarise themselves with the contents of this guide which seeks to strengthen and improve governance, accountability and the performance of the Public Service.

It is important to note that this Guide covers work emanating from the PSC’s mandate. It does not replace, but supplements Guides and Manuals issued by The Presidency, the Department of Public Service and Administration, the Department of Performance Monitoring and Evaluation and National Treasury.

PUBLIC SERVICE COMMISSIONS
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CHAPTER 1: INTRODUCTION

1.1 Background

This Guide serves as induction and orientation reference material for EAs and HoDs across the Public Service. The development of this guide does not serve to replace or contradict any existing policy frameworks or prescripts but rather supplement and provide for simplified processes and procedures to introduce new EAs and HoDs to key elements of Governance in their departments emanating from research and development work conducted by the Public Service Commission (PSC). Similar to orientation, this induction guide provides an opportunity for political and administrative heads in the Public Service to acquaint themselves with some of the core competencies which are generic in the execution of their duties. It provides a wider understanding of their role in ensuring that Good Governance practices are applied within their departments whilst at the same time addressing the need for sound and conducive relationships between EAs and HoDs.

Accordingly, this guide should be read in conjunction with the relevant Acts, Regulations and existing policies and directives applicable in the Public Service. Whenever there is a need for clarification on any part of the guide, the OPSC or relevant authorities such as the Department of Public Service and Administration (DPSA) and National Treasury (NT), as custodians of specific policy frameworks may be contacted in this regard.

1.2 Purpose of the Guide

The need to develop the guide is informed by findings from monitoring and research studies by the PSC, as part of its role to investigate public administration in the Public Service and provide oversight reports to Parliament and the legislatures. The studies revealed that in some instances HoDs are recruited from sectors outside government. These HoDs have limited or no knowledge of the functioning of the Public Service and its legislative and regulatory frameworks. On the other hand, the termination of contracts of some HoDs by their EAs has also created disruptions in the operations and functionality of some departments. Furthermore, there are frequent changes at Executive level with new EAs being introduced to an environment which they may not be thoroughly familiar with.
It is trusted that if used appropriately, the guide will contribute towards effective management and governance in the Public Service.

1.3 Structure of the Guide

The guide is divided into nine chapters, namely:

• Introduction
• Role clarification at the executive interface
• Managing recruitment and selection
• Guidelines on the performance management system for DGs and HODs
• Managing the financial disclosure framework
• Managing remunerative work outside the public service
• The role of EAs in labour relations
• Leadership changes: Ensuring continuity
• Relevant oversight reports / instruments
CHAPTER 2: ROLE CLARIFICATION AT THE EXECUTIVE INTERFACE

2.1 Introduction

The executive interface and role clarification between EAs and HoDs is complex and dynamic hence it attracts a lot of scrutiny from various stakeholders. The concept of ‘executive interface’ used in this Guide refers to the terrain of interaction between EAs and HoDs. These include Ministers, Deputy-Ministers, Members of Provincial Executive Councils (MECs) and Directors-General/HoDs. Whilst the executive interface may involve other role-players such as ministerial advisors, the focus of this Guide is limited to those role-players mentioned above.

The roles and relationships including the responsibilities of executives are stipulated in the Constitution, 1996, the Public Service Act (PSA), 1994, the Public Finance Management Act (PFMA), 1998 and various other pieces of legislation that empower Ministers with sector specific responsibilities. Accordingly, these legislative frameworks form a basis for the symbiotic relationship that exists between political and administrative leadership in the Public Service. What makes these two leadership caps distinct is the fact that the former set the broad development agenda whilst the latter implements measures of achievement in the form of policy instruments and programmes. Of utmost importance is the creation of synergy in the relationship between these role players to ensure seamless transition from political manifestos and programmes of action to actual implementation and benefit of the citizenry.

2.2 Roles and Responsibilities of EAs

2.2.1 Responsibilities of EAs in terms of the Constitution

The Constitution, 1996, does not provide details on the powers and functions of Ministers and Members of Provincial Executive Councils or any other official within the executive interface. The focus of the Constitution is more on the process of appointment of Ministers and Deputy Ministers, rather than their specific powers and functions. Section 91 (2) of the Constitution provides that the President appoints Ministers and assigns their powers and functions. A similar provision is established for Premiers at the provincial level in sections 127 and 128 of the Constitution, 1996. The President
and Premiers would, in terms of their Constitutional powers, appoint Ministers and MECs and assign portfolio responsibilities.

2.2.2 Roles of Deputy Ministers

Legislatively there is no provision that specifically defines the roles of Deputy Ministers. It is therefore important that EAs record in writing powers delegated to Deputy Ministers and communicate these to the Deputy Ministers and the HoDs. This will avoid confusion regarding reporting lines and accountability.

2.2.3 Roles ascribed to EAs and HoDs in terms of the Public Service Act, 1994 as amended and the Public Finance Management Act, 1999 as amended

The main Acts that define the roles of EAs and HoDs are the Public Service Act, 1994 and the Public Finance Management Act, 1999. Note should be taken that certain EAs have powers and functions in terms of other Acts dealing with sectors such as Education, Correctional Services, the South African Police Service and The National Defence Force. The focus of the guide is, however, on the legislation that covers the broadest spectrum of the Public Service. The PSA and PFMA and subordinate legislation (regulations) provide as follows in terms of the powers and functions of EAs and HoDs:

2.2.4 Responsibilities in terms of human resource management

<table>
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<th>SOURCE</th>
<th>PROVISION</th>
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<tr>
<td>Public Service Act, 1994(^1) as amended</td>
<td>Section 3 (5), the EA shall have those powers and duties:- (a) regarding the internal organisation of the office or department concerned, (b) including the organisational structure and the transfer of functions within that office or department; (c) regarding the post establishment of that office or department, including the creation, grading and abolition of posts and the provision for the employment of persons additional to the fixed establishment where the class of work is of a temporary nature; and</td>
</tr>
</tbody>
</table>

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\(^1\) Republic of South Africa. Department of Public Service and Administration. Public Service Act, 1994, as amended
<table>
<thead>
<tr>
<th><strong>SOURCE</strong></th>
<th><strong>PROVISION</strong></th>
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<tbody>
<tr>
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<td>(d) regarding the recruitment, appointment, performance management, promotion, transfer, discharge and other career incidents of officers and employees of that office or department, including any other matter which relates to such officers and employees in their individual capacities</td>
</tr>
</tbody>
</table>

Public Service Regulations, 2001 \(^2\) as amended, Chapter 2, Paragraphs B.1 and B.2

The Public Service Regulations as subordinate legislation to the Public Service Act deals in detail with the powers and functions of EAs and HoDs and the full spectrum of Human Resource Management including organisational design, recruitment and selection, performance management, conditions of service and the Senior Management Service.

2.2.5 HOD responsibilities in terms of financial management

<table>
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<tr>
<th><strong>SOURCE</strong></th>
<th><strong>PROVISION</strong></th>
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| Public Finance Management Act \(^3\), 1999, as amended | 36. **Accounting officers.**—  
(1) Every department and every constitutional institution must have an accounting officer.  
(2) Subject to subsection (3)—  
(a) the head of a department must be the accounting officer for the department; and ....  
(3) The relevant treasury may, in exceptional circumstances, approve or instruct in writing that a person other than the person mentioned in subsection (2) be the accounting officer for—  
(a) a department or a constitutional institution; or ....  
(4) The relevant treasury may at any time withdraw in writing an approval or instruction in terms of subsection (3).  
(5) The employment contract of an accounting officer for a department, trading entity or constitutional institution must be in writing and, where possible, include performance standards. The provisions of sections 38 to 42, as may be appropriate, are regarded as forming part of each such contract. |

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\(^2\) Republic of South Africa. Department of Public Service and Administration. Public Service Regulations, 2001, issued in terms of section 41 of the Public Service Act, 1994, as amended

\(^3\) Republic of South Africa, National Treasury, Public Finance Management Act, 1999, as amended
37. Acting accounting officers.—When an accounting officer is absent or otherwise unable to perform the functions of accounting officer, or during a vacancy, the functions of accounting officer must be performed by the official acting in the place of that accounting officer.

Part 2: Responsibilities of Accounting Officers

38. General responsibilities of accounting officers.—

(a) must ensure that that department, trading entity or constitutional institution has and maintains—
   (i) effective, efficient and transparent systems of financial and risk management and internal control;
   (ii) a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with regulations and instructions prescribed in terms of sections 76 and 77;
   (iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;
   (iv) a system for properly evaluating all major capital projects prior to a final decision on the project;
(b) is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution;
(c) must take effective and appropriate steps to—
   (i) collect all money due to the department, trading entity or constitutional institution;
   (ii) prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; and
   (iii) manage available working capital efficiently and economically;

Role of HoDs as Accounting Officers i.t.o. the PFMA, 1999:

- Financial and risk management and internal control
- Internal audit under the control and direction of an audit committee
- Procurement and provisioning
- Evaluating all major capital projects prior to a final decision on the project
- Effective, efficient, economical and transparent use of the resources of the department
- Collect all money due to the department
- Prevent unauthorised, irregular and fruitless and wasteful expenditure
- Manage available working capital
- Safeguarding and the maintenance of the assets, and the management of the liabilities of the department
(d) is responsible for the management, including the safe-guarding and the maintenance of the assets, and for the management of the liabilities, of the department, trading entity or constitutional institution;

(e) must comply with any tax, levy, duty, pension and audit commitments as may be required by legislation;

(f) must settle all contractual obligations and pay all money owing, including intergovernmental claims, within the prescribed or agreed period;

(g) on discovery of any unauthorised, irregular or fruitless and wasteful expenditure, must immediately report, in writing, particulars of the expenditure to the relevant treasury and in the case of irregular expenditure involving the procurement of goods or services, also to the relevant tender board;

(h) must take effective and appropriate disciplinary steps against any official in the service of the department, trading entity or constitutional institution who—

(i) contravenes or fails to comply with a provision of this Act;

(ii) commits an act which undermines the financial management and internal control system of the department, trading entity or constitutional institution; or

(iii) makes or permits an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure;

(i) when transferring funds in terms of the annual Division of Revenue Act, must ensure that the provisions of that Act are complied with;

(j) before transferring any funds (other than grants in terms of the annual Division of Revenue Act or to a constitutional institution) to an entity within or outside government, must obtain a written assurance from the entity that entity implements effective, efficient and transparent financial management and internal control systems, or, if such written assurance is not or cannot be given, render the transfer of the funds subject to conditions and remedial measures requiring the entity to establish and implement effective, efficient and transparent financial management and internal control systems;

• comply with any tax, levy, duty, pension and audit commitments
• settle all contractual obligations and pay all money owing
• report unauthorised, irregular or fruitless and wasteful expenditure
• appropriate disciplinary steps against any official in the service of the department for financial misconduct
• take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals affecting the accounting officer’s responsibilities are considered
• must comply, and ensure compliance by the department with the provisions of the Act
• ensure that expenditure of is in accordance with the vote and the main divisions within the vote
• take steps to prevent unauthorised expenditure and over-expenditure
(k) must enforce compliance with any prescribed conditions if the department, trading entity or constitutional institution gives financial assistance to any entity or person;
(l) must take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals affecting the accounting officer’s responsibilities are considered, and when necessary, bring those considerations to the attention of the responsible executive authority;
(m) must promptly consult and seek the prior written consent of the National Treasury on any new entity which the department or constitutional institution intends to establish or in the establishment of which it took the initiative; and
(n) must comply, and ensure compliance by the department, trading entity or constitutional institution, with the provisions of this Act.
(2) An accounting officer may not commit a department, trading entity or constitutional institution to any liability for which money has not been appropriated.

39. Accounting officers’ responsibilities relating to budgetary control.—
(1) The accounting officer for a department is responsible for ensuring that—
(a) expenditure of that department is in accordance with the vote of the department and the main divisions within the vote; and
(b) effective and appropriate steps are taken to prevent unauthorised expenditure.
(c) comply with any remedial measures imposed by the relevant treasury in terms of this Act to prevent overspending of the vote or a main division within the vote.
(2) An accounting officer, for the purposes of subsection (1), must—
(a) take effective and appropriate steps to prevent any overspending of the vote of the department or a main division within the vote;
(b) report to the executive authority and the relevant treasury any impending—
(i) under collection of revenue due;
(ii) shortfalls in budgeted revenue; and
(iii) overspending of the department’s vote or a main division within the vote; and
(c) comply with any remedial measures imposed by the relevant treasury in terms of this Act to prevent overspending of the vote or a main division within the vote.

Note: The Act further deals in detail with reporting responsibilities of HoDs as Accounting Officers.

| Treasury Regulations, 2001<sup>4</sup> | The Treasury Regulations as subordinate legislation to the PFMA deals in detail with the powers and functions of HoDs as Accounting Officers in the full spectrum of Financial Management. It also defines the roles of Chief Financial Officers. |

2.3 The Importance of Delegations

The new public administration model, gradually introduced from 1994 to 1999, devolved powers to Executive Authorities (EAs) in terms of human resource and organizational powers and Heads of Department (HoDs) in terms of financial management with a view to fast-track decision-making and expedite service delivery transformation to the masses of underserved segments of the population. Acts such as the Public Service Act (PSA), 1994, and the Public Finance Management Act (PFMA), 1999, assigned specific powers to EAs and HoDs respectively which they in turn may delegate to appropriate levels within Departments.

The objectives of delegations in the public service can be summarised as follows:

- To reduce the excessive burden on superiors i.e., the executive and managers functioning at different levels;
- To provide opportunities of growth and self-development to junior managers;
- To create a team of experienced and matured managers for the public service; and

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To improve individual as well as overall efficiency of the Public Service by allowing decision making as close as possible to the point of service delivery.

The application of delegations as an instrument to fast-track and improve service delivery can be found in organisations both within the public and private sectors. Organisational modelling theory has pointed to the benefits of “flatter” structures where decision making authority is not over-centralised but empowers managers, supervisors and even operational employees to take decisions within a framework of accountability to allow innovative and improved service delivery.

Studies by the PSC have illustrated that there is hesitancy to delegate authority and that this causes major delays in executing key administrative functions such as the filling of posts.

The relevant legislative frameworks make the following provisions for delegations:

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<th>PROVISION</th>
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| Public Service Act, 1994 as amended | Section 42 A (4) Subject to subsection (3), an executive authority may-  
(a) delegate to the head of a department any power conferred on the executive authority by this Act; or  
(b) authorise that head to perform any duty imposed on the executive authority by this Act.  
(5) The head of a department or any other functionary may-  
(a) delegate to any employee of the department any power-  
(i) conferred on that head by this Act; or  
(ii) delegated to that head in terms of subsection (4); or  
(b) authorise that employee to perform any duty-  
(i) imposed on that head by this Act; or  
(ii) that that head is authorised to perform in terms of subsection (4). |

Delegations are important to fast-track service delivery

EAs may delegate any powers conferred on them i.t.o. the PSA, 1994 to the HoD and other functionaries in the department
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<th>PROVISION</th>
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<td>(6)</td>
<td>Any person to whom a power has been delegated or who has been authorised to perform a duty under this section shall exercise that power or perform that duty subject to the conditions the person who made the delegation or granted the authorisation considers appropriate. (7) Any delegation of a power or authorisation to perform a duty in terms of this section- shall be in writing; (b) does not prevent the person who made the delegation or granted the authorisation from exercising that power or performing that duty himself or herself; and (c) may at any time be withdrawn in writing by that person.</td>
</tr>
<tr>
<td>Public Finance Management Act⁶, 1999, as amended</td>
<td><strong>44. Assignment of powers and duties by accounting officers.</strong>— (1) The accounting officer for a department, trading entity or constitutional institution may— (a) in writing delegate any of the powers entrusted or delegated to the accounting officer in terms of this Act, to an official in that department, trading entity or constitutional institution; or (b) instruct any official in that department, trading entity or constitutional institution to perform any of the duties assigned to the accounting officer in terms of this Act. (2) A delegation or instruction to an official in terms of subsection (1) — (a) is subject to any limitations and conditions prescribed in terms of this Act or as the relevant treasury may impose; (b) is subject to any limitations and conditions the accounting officer may impose; (c) may either be to a specific individual or to the holder of a specific post in the relevant department, trading entity or constitutional institution; and Conditions may be attached to the delegations of powers which must be complied with Any delegation of a power does not preclude the person who made the delegation from exercising that power</td>
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<tr>
<th>SOURCE</th>
<th>PROVISION</th>
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<td>(d) does not divest the accounting officer of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.</td>
</tr>
<tr>
<td></td>
<td>(3) The accounting officer may confirm, vary or revoke any decision taken by an official as a result of a delegation or instruction in terms of subsection (1), subject to any rights that may have become vested as a consequence of the decision.</td>
</tr>
</tbody>
</table>

In order to assist EAs and HoDs to develop delegations that will optimally contribute to improved effectiveness and service delivery the DPSA and NT have developed Delegations Frameworks for human resource and financial management. These frameworks can currently not be accessed through a link to their respective websites but are included on a compact disk provided in the folder at the back of this guide. EAs and HoDs are encouraged to comply as far as possible with these frameworks bearing in mind the unique organisational designs and circumstances prevailing in their departments.

2.4 Managing of Relations at the Executive Interface

EAs and HoDs have to work together in a very complex and often unstable environment to ensure that the mandate of the Department is executed in an efficient and effective manner. Key to their success is the building and maintenance of sound relationships built on trust and mutual respect.

The PSC has conducted various studies that directly and indirectly have a bearing on the status of relationships at the executive interface. Findings emanating from these studies clearly illustrate that where such relationships are not sound the effectiveness of the relevant department suffers and consequently service delivery is affected negatively. Possible solutions point to a need to review the legislative frameworks applicable and changing the employment practices of HoDs. However, within the current environment relationships can be managed in an effective manner as outlined in the sections below.
2.4.1 Establishing and maintaining governance arrangements

An EA and HoD should at least once a month meet formally to discuss key strategic issues impacting on the functioning of and ability to deliver by the Department. During such meetings obstacles hampering delivery should be identified and solutions agreed upon.

Quarterly EXCO meetings should be held involving the EA and the top three tiers of the management echelon in the department. During these meetings progress on agreed workplans must be discussed and executive decisions must be taken on interventions that are required to address deficiencies. The corporate management status of the Department (financial and human resource management) should also be discussed and strategies must be developed to address shortcomings.

The delegations issued by the EA and HoD should be reviewed in a closed session between the two parties on an annual basis based on experience relating to its impact on service delivery.

An effective management information system must be developed and maintained that must be able to generate monthly alerts to the HoD and EA on key issues affecting the functioning of departments.

The performance agreement of the HoD must be signed and agreed to, if necessary with the assistance of a mediator, within three months from the HoD assuming duty. In addition, if a new EA is appointed the existing performance agreement must be reconsidered but not fundamentally altered as it relates to a strategic plan that has already been adopted, budgeted for and is being executed.

2.4.2 Maintaining sound communication

A high premium must be placed on formal and informal communication as a basis for establishing a cooperative and mutually supportive work environment. Through such honest and open communication trust is built which is key to sound relationships.
2.4.3 Resolving conflict

HoDs are able to submit grievances to the PSC on an act or omission that negatively affects their employment relationship. However, this should be regarded as a last resort. The performance agreements of HoDs make provision for agreement on a mediator in the case of disputes. The role of this mediator should be applied in instances where the relationship for whatever reason is experiencing tension or has broken down.

Mediation should be applied to resolve conflict
CHAPTER 3: MANAGING RECRUITMENT AND SELECTION

3.1 Introduction

The Public Service is a labour intensive employer which is dependent on the quality, skills and performance of its employees to achieve institutional goals and objectives. Chapter 10 of the Constitution of the Republic of South Africa, 1996, provides, amongst others, for the values and principles governing public administration. One of these basic values is that “Public Administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation”.

The provision of effective, efficient and sustainable service delivery is of paramount importance and thus the Recruitment and Selection process is key and fundamental as it is central to the state’s capacity to deliver on its mandate.

3.2 The Regulatory Framework

Human resources recruitment and selection is conducted in terms of the legal framework applicable to the South African Public Service as listed in the table below. The legal framework is underpinned by the following principles:

- Fairness;
- Equity;
- Confidentiality;
- Professionalism, and
- Human dignity.

The Constitution of the Republic of South Africa, 1996, is the supreme law of the country and sets out the values and principles that underscore the recruitment and selection processes that should find application in the Public Service. Its implementation is supported through various legislative frameworks, regulations and guidelines as summarised below.
<table>
<thead>
<tr>
<th>SOURCE</th>
<th>PROVISION</th>
<th>The Constitution requires that good human resource practices be cultivated</th>
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<td>Constitution of the Republic of South Africa, 1996</td>
<td>Chapter 10 of the Constitution requires good human resource practice be cultivated with employment and personnel management practices based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation.</td>
<td>The Public Service Act (PSA) requires in section 11 that “all persons who qualify for the appointment, transfer or promotion shall be considered”</td>
</tr>
</tbody>
</table>
| Public Service Act, 1994 (Act of 103 1994)       | **Basis for Recruitment process**  
The Public Service Act (PSA) takes these principles one step further by requiring in section 11 that “all persons who qualify for appointment, transfer or promotion shall be considered”. Furthermore, the evaluation of persons shall be based on “training, skills, competence, knowledge and the need to redress the imbalances of the past…” | Selection of applicants are based on the training, skills, competence, knowledge, formal qualifications, recognition of prior learning and relevant experience to do the job, coupled with the need to redress the past imbalance. |
| Employment Equity Act 55 of 1995                 | **Basis for selection process**  
The evaluation, including the selection of the applicant shall be based on the training, skills, competence, knowledge, formal qualifications, recognition of prior learning and relevant experience within a reasonable time to do the job, coupled with the need to redress the past imbalance (pertaining to race, gender and disability). | Note: For purposes of enhancing efficiency and service delivery EAs and HoDs are reminded of the fact that powers conferred on them in terms of recruitment and selection should be delegated to appropriate levels in their departments as discussed in Chapter 2 of this Guide |
| Public Service Regulations, 2001 as amended      | **The Employment Equity Act** stipulates that all designated employers must submit employment equity plans, which must include numerical targets to achieve equitable representation of suitably qualified employees from disadvantaged groups.  
**The Public Service Regulations (PSR) includes a number of key principles on which recruitment and selection must be based. Some of the principles have general application whilst others focus particularly on the senior management service (SMS). This also includes the principles of open competition and fair selection processes. According to the PSR the EA shall:**  
(a) Assess the HR capacity to perform his or her department’s function with particular reference to:  
• The number of employees required  
• The competencies which those employees must possess, and  
• The capacities (whether permanent or temporary) in which those employees shall be appointed. | **Assess HR Capacity** |


3.3 Identifying the Need for Recruitment

EAs are accorded the responsibility of assessing the required HR capacity for their departments. The first step is to establish the “real” need for a position to be filled before commencing with recruitment. In the PSR of 2001 it is recognized that HR planning should precede any recruitment action in the Public Service. Among other things this includes forecasting the department’s HR needs, job profiling, job analysis, job evaluation and budgeting for relevant posts. It is important to note that if the HR function has not been delegated then the departmental heads, HR specialists and line function managers together with the EA should all be involved in the process to verify the need for recruitment. The absorption or deployment of existing employees must be given first preference and only if the vacancy cannot be filled through such means can the EA proceed with the recruitment process.

3.4 Important Steps to be Taken when Filling Posts

In accordance with PSR, Chapter 1, the filling of posts cannot commence until the following steps have been taken:

- Assess existing HR by race, gender and disability as well as occupational category, organizational component and grade with reference to their:
  - Competencies
  - Training needs, and
  - Employment capabilities.

- No discrimination in the work place

- Chapter 2 of the SMS Handbook deals with Recruitment and Selection and provides a step by step guide on the processes that should be followed

Establish the “real” need for a position to be filled before commencing with recruitment
Compile a job profile → Conduct job analysis → Compile a job description

Apply Equate and conduct a job evaluation → Motivate the need to fill the post → Compile an advert and advertise the post

Constitute a selection committee that develops and agree on selection criteria (aligned to the JE and advert) → Conduct interviews and apply selection criteria agreed upon including competency testing for members of the SMS → Recommend most suitable candidate for appointment to delegated authority

Complete pre-employment screening: Qualifications and security vetting → Inform successful and unsuccessful shortlisted candidates of outcome in writing → Successful candidate to accept offer in writing
CHAPTER 4: GUIDELINES ON THE PERFORMANCE MANAGEMENT SYSTEM FOR DIRECTORS-GENERAL AND HEADS OF DEPARTMENT

4.1 Introduction

4.1.1 Cabinet adopted a framework for the evaluation of Heads of Department (HoDs) in the 2000/2001 financial year, and in December 2002, Cabinet took the decision to make compliance with the Framework mandatory for all National and Provincial departments. Throughout the implementation of this Framework Cabinet has been receiving and considering various reports with proposals to improve implementation and compliance with the Framework from the Public Service Commission (PSC) and the Minister for Public Service and Administration (MPSA). There was an initial movement to assign the HoD evaluation function to the Department of Performance Monitoring and Evaluation (DPME). However, in terms of Cabinet’s decision on 19 February 2014 the PSC will continue to facilitate the HoD evaluation process.

4.1.2 In order to facilitate the evaluation of HoDs the PSC has been issuing annual guidelines. The evaluation of HoDs is conducted in line with the Performance Management and Development System (PMDS) for senior managers which came into effect from 01 April 2002 and was amended with effect from 01 April 2006. Additional amendments introduced through circulars and directives from the MPSA are also applicable. In terms of Cabinet’s decision of 19 February 2014 a directive from the MPSA is awaited regarding a proposed revised PMDS for HoDs. The Framework as outlined in this Guide applies until advised otherwise accordingly by the MPSA.

4.2 Evaluation Panels

4.2.1 In order to streamline the evaluation process and improve compliance levels, Cabinet took a decision to structure the evaluations according to Government Clusters. Premiers should facilitate the process in their respective provinces and ensure that panels are appointed according to the Clusters in the Province. Evaluation panels should include stakeholders as dictated by the nature of the Cluster concerned and should also involve the peers of HoDs.
4.2.2 Each evaluation panel appointed for HoDs of national departments will be chaired by either the Chairperson or Deputy-Chairperson of the PSC or any national based Commissioner nominated by the Chairperson of the PSC. Panels appointed for provincial HoDs will be chaired by the Commissioner resident in that province or, in their absence, by a national based nominated Commissioner (other than the Chairperson or Deputy-Chairperson). The involvement of the Commission in these panels is to ensure that, as an independent role player, the evaluation process is fair and equitable and that the same norms and standards are applied to all HoDs in terms of procedures.

4.2.3 The role of evaluation panels is to advise EAs on the performance of their HoDs.

4.3 Administrative Requirements

4.3.1 EAs must ensure that all the required evaluation documents are forwarded to the PSC by 31 October of each year. In the case of national HoDs this information must be forwarded to the Chairperson of the PSC at the Offices of the PSC in Pretoria. Documentation in respect of provincial HoDs must be forwarded to the resident Commissioner in the relevant province. Failure to meet this deadline could result in a HoD being excluded from this process.

4.3.2 All evaluation panels must be supported by the Secretariat provided by the PSC. The role of the Secretariat is to collate and process all information received from EAs into a reporting format for the evaluation panels and to take minutes of proceedings and assist the panel with the calculation of the final score results based on the evaluation of Key Result Areas (KRAs) and Core Management Competencies (CMCs) during meetings of the evaluation panels. The Secretariat needs to ensure that panel members receive the required documentation at least two weeks prior to the date of the evaluation meeting for each cluster.

4.3.3 EAs should complete the verification statement by rating each KRA and CMC in the performance agreement of the HoD and also by making comments on the space provided, prior to sending the verification statement and all other required documents to the PSC. Each page of the
verification statement should be initialled by both the EA and HOD, and full signatures should be attached at the end of the document.

4.3.4 In the event of changes in the Executive, it is advisable for the responsible EAs to involve former EAs who were responsible for supervising the work in concluding the Verification Statement. Former EAs must also be invited to provide an overview of performance to the panel and respond to questions by panel members on the day of the meeting. Should former EAs be unavailable, the responsible EA must use the information at his/her disposal to finalise the evaluation.

4.3.5 All EAs should participate in discussions of the evaluation panels of their respective HoDs and will provide inputs where necessary or when required by the panel. The advice emanating from the evaluation panel will not be binding on EAs and they will still be responsible for the final decisions.

4.3.6 EAs should carefully study the advice received from the evaluation panel. After applying their minds EAs need to take a decision and communicate that decision to their HoDs.

4.3.7 In view of the fact that EAs will be participating in the evaluation by the panel, it is advisable for EAs not to deviate from the advice of the evaluation panel except where they provide valid reasons for this. If such reasons exist, good practice requires the EA to minute the reasons of his/her decision on the performance of the HoD. The reasons should accordingly be conveyed to the PSC and the HoD concerned.

4.3.8 According to a Cabinet decision of 16 February 2005, no cash bonus may be paid to an accounting officer (irrespective of level) who materially over or under spends on his/her budget. The results of the evaluation process must be forwarded to the President and the Premiers.

4.4. Evaluation Process

4.4.1 The evaluation of HoDs should be aligned to the planning cycle of Government. It therefore follows that evaluation periods will be linked to financial years. Each evaluation
must cover one financial year. Panels sittings to evaluate each HoD will, in those cases where an HoD qualifies for both financial years, assess each year separately and provide a score for each performance period.

4.4.2 EAs and HoDs are required to sign performance agreements within the first two months of each financial year. Progress made in relation to the set objectives in the performance agreements must be reviewed regularly. At a minimum, two formal performance reviews should take place annually (preferably one in the middle and another at the end of the cycle). These reviews should be in writing and submitted to the PSC with all other relevant documents for annual assessment.

4.4.3 The information to be used during the evaluation process must be forwarded to the Public Service Commission according to the set deadline by October of each year. The following information will be used during the evaluation process:
(i) The performance agreement for the relevant financial year.
(ii) The department’s three-year strategic plan which incorporates the particular year for which the HoD’s performance is being evaluated or an Annual Performance Plan.
(iii) The department’s annual report for the relevant financial year.
(v) A verification statement completed by the executive authority and HoD detailing the achievement of key result areas and core management competencies provided for in the performance agreement (a standard template is available from the PSC).
(vi) Half yearly review reports for the relevant financial year.

4.4.4 The designated secretariat will collate all information submitted to it and forward it to the evaluation panel for consideration. During the evaluation process, evaluation panels will obtain inputs from both the Executive Authority and HoD.

4.4.5 The panel will consider performance for each Key Result Area (KRA) and Core Management Criteria (CMC) and award a score on a scale of 1 to 5 (The Secretariat will assist the panel by calculating the overall score).
4.4.6 The panel will provide advice in writing to the relevant EA indicating the level of performance of the HoD. The EA, after considering this advice and making the final decision, will also have to decide on cash bonuses, salary progression and other actions to be taken (as provided in the PMDS) in terms of the performance of their HoDs.

4.5 Review

4.5.1 Where the HoD is dissatisfied with a decision of the EA regarding the evaluation she/he may request a review of the matter. The performance agreements of HoDs provide for a dispute settlement procedure according to which a person is identified to whom disputes must be referred for mediation. As a first step, disputes emanating from the performance evaluation of HoDs must be referred to the agreed person. If, however, the dispute cannot be resolved by such a person, the matter can be referred to a Review Committee. A national HoD must lodge his/her dissatisfaction with a Review Committee consisting of the Deputy President and the Minister for Public Service and Administration or their nominees.

4.5.2 A provincial HoD must lodge his/her dissatisfaction with a Review Committee consisting of the Premier and a MEC nominated by the Premier. A Director-General in the Office of a Premier can refer his/her dispute to a Review Committee consisting of the Deputy President and the Minister for Public Service and Administration or their nominees. In instances where the Premiers have not delegated their authority in terms of the career incidents of HoDs (provided in section 42A (3) of the amended Public Service Act, 1994), the same review process provided for national HoDs and Directors-General in the Offices of Premiers should be followed, e.g. referral to a Review Committee consisting of the Deputy President and the Minister for Public Service and Administration or their nominees.

4.5.3 Disputes referred to Review Committees must contain the following details:
(a) The written advice of the evaluation panel.
(b) The decision by the EA.
(c) Reasons for deviating from the advice of the evaluation panel, if applicable.
(d) Affidavits from both the EA and HoD containing full details of the nature of the dispute.
CHAPTER 5: MANAGING THE FINANCIAL DISCLOSURE FRAMEWORK

5.1 Introduction

Chapter 10 of the Constitution of the Republic of South Africa, 1996, provides, amongst others, for the values and principles governing public administration. One of these basic values is that a high standard of professional ethics must be promoted and maintained in the Public Service. Observance of this basic value goes a long way towards eliminating and/or mitigating sources of corruption. To this effect, all members of the Senior Management Service (SMS) are, in terms of Chapter 3, C.1 of the Public Service Regulations (PSR), required to disclose to their respective EAs, particulars of all their registrable interests (e.g. companies and properties) not later than 30 April each year, in respect of the period 1 April of the previous year to 31 March of a current year.

The PSR further require of the EAs to submit copies of the forms on which the designated employees disclosed their financial interests, to the Public Service Commission (PSC) by not later than 31 May of each year. Any person who assumes duty as an SMS member (or a designated employee) after 1 April in a year is required to make such a disclosure within 30 days after assumption of duty in respect of the period of 12 months preceding his/her assumption of duty. EAs are required to submit such forms to the PSC, within a period of 30 days after they have been so submitted. Upon receipt of the financial disclosure forms, the PSC scrutinizes the disclosures to establish if there are cases of potential or actual conflicts of interest.

5.2 The Need for the Framework

Designated employees are entrusted with public funds. As such, they need to maintain the highest standard of professional ethics. Their integrity and that of their departments must be beyond question. Therefore, the Framework is aimed at preventing conflicts of interest by requiring designated employees to disclose their financial interests.

All members of the Senior Management Service (SMS) are, in terms of Chapter 3, C.1 of the Public Service Regulations (PSR), required to disclose to their respective EAs, particulars of all their registrable interests (e.g. companies and properties) not later than 30 April each year.

EAs must submit the disclosures to the PSC within 30 days after receipt, i.e 31 May each year.

The Framework is aimed at preventing conflict of interests.
5.3 Who has Access?

In terms of the Framework the following persons have access:

- An EA and the staff designated by an EA for the purpose of record-keeping and submission of the forms to the PSC;
- Commissioners of the PSC;
- the Director-General: OPSC; and
- persons designated by an EA or the Chairperson of the PSC for the implementation of the Financial Disclosure Framework.

5.4 Scrutiny of the Disclosure Forms and Identification of Conflicts of Interest

The PSC is required to keep a record of all disclosures and to scrutinize the information as disclosed by a designated official. If, after such scrutiny, the PSC is of the opinion that there is conflict of interest or that conflict of interest is likely to occur, it should refer the matter to the relevant EA. The EA must then consult with the employee concerned and take appropriate steps, including, but not limited to disciplinary action.

After the Commission has referred a case to an EA, the latter must report back to the Commission within 30 days and state whether steps were taken and if no steps were taken state the reasons therefore. A designated official who fails to disclose his/her interests or wilfully provides incorrect or misleading details may be charged with misconduct.

5.5 Summary of the Role of the EA

The role of the EA regarding the Framework could be summarised as follows:

- The disclosure forms should be received by the EA on or before 30 April of each year;
- The disclosure forms of those SMS members who are appointed after 1 April in a year should be received by the EA within one month after such appointment.
- The EA has access to all the disclosure forms of all the SMS members in his or her department.
• The EA may appoint designated officials for the purpose of record-keeping and submission of the forms to the PSC.
• The designated officials will have access to the eDisclosure System. Such access provides the designated officials with the opportunity to verify and inform the EA on whether or not officials who submitted their disclosure forms electronically, complied with the Financial Disclosure Framework eg, submission by due date and completion of all relevant items on the disclosure form.
• The EA should assess the contents of the disclosure forms of the SMS members in his or her department. After such assessment, the Executive Authority must sign the form before submitting it to the PSC. This is a non-delegated function.
• The EA should submit copies of the disclosure forms of the SMS members of his or her department to the PSC on or before 31 May of each year.
• The PSC will scrutinize the forms of the SMS members as received from the EA.
• If, after scrutiny, the PSC is of the opinion that there is conflict of interest (actual or potential) or that conflict of interest is likely to occur, it will refer the matter to the relevant EA. The EA must then consult with the SMS member:
• After consultation with the relevant SMS member the EA may take appropriate steps, including, but not limited to disciplinary action.
• After the PSC has referred a case to an EA, the latter must report back to the PSC within 30 days and state whether steps were taken and if no steps were taken state the reasons why it was not deemed necessary to take steps.
CHAPTER 6: MANAGING REMUNERATIVE WORK OUTSIDE OF THE PUBLIC SERVICE

6.1 Introduction

In South Africa the performance of remunerative work outside the Public Service (RWOPS) is regulated by statute. In order for a public servant to legally perform RWOPS, permission has to be granted by the relevant EA prior to the commencement thereof. Previous studies by the Public Service Commission (PSC) have revealed that departments are faced with serious challenges regarding the management of RWOPS. The most daunting challenge is that officials engage in RWOPS without first obtaining the necessary approval. One of the reasons advanced by some senior managers in the Public Service for engaging in RWOPS without the necessary approval is that they have disclosed in their financial disclosure forms submitted to their respective EAs that they are engaged in RWOPS. There would also be cases where officials apply for permission to engage in RWOPS, but receive no response from the EAs.

In view of the challenges highlighted above, the PSC deemed it prudent to develop some guidelines to assist EAs in taking decisions regarding applications for RWOPS.

6.2 Guiding Principles

Chapter VII of the Public Service Act, 1994 as amended (the Act), provides for the obligations, rights and privileges of employees in the Public Service. In terms of section 28 of the Act, public servants are expected to fulfil the obligations imposed upon them by the Act or any other law, and shall have the rights and may be granted privileges which are prescribed by or under the Act or any other law. Section 29 provides further that the Act shall not be construed as abrogating or derogating from any existing, accruing or contingent right, liability or obligation of any person flowing from any other law.

Emanating from the provisions of sections 28 and 29 of the Act, section 30 stipulates that:

In order for a public servant to legally perform RWOPS, permission has to be granted by the relevant EA prior to the commencement thereof.
6.2.1 Employees in the Public Service shall not perform or engage themselves to perform remunerative work outside their employment in the Public Service, except with the written permission of the EA of the relevant department.

This provision which is contained in section 30(1) of the Act does not constitute an absolute prohibition on public servants to perform RWOPS. It is however, mandatory for officials to seek approval from the relevant EA before engaging themselves in any remunerative work outside of their normal employment in the Public Service. Application to perform RWOPS must be made prior to the commencement of such work.

Officials who are involved in private business activities such as partnerships, companies, close corporations, sole proprietorships and state owned companies, must seek approval from the relevant EAs before undertaking RWOPS in those entities. The same applies to officials who are board members of companies and are remunerated for participating in the companies’ board meetings.

6.2.2 In deciding whether to grant permission to perform RWOPS, the EA must take into account whether or not the outside work could reasonably be expected to interfere with or impede the effective or efficient performance of the relevant employee’s function in the department or constitute a contravention of the Code of Conduct for the Public Service.

This provision is contained in section 30(2) of the Act. It essentially calls for the EAs to apply only legal and fair administrative procedures when taking a decision to grant or decline the application to engage in RWOPS. The aim is to discourage arbitrary decision-making. To this end the EA takes into account the following factors that should influence his/her decision:

- The details of the activities that the employee will be involved in as a result of the RWOPS.
- Whether the RWOPS will be performed entirely outside the official working hours of the employee. This would ensure punctuality, undivided attention, time and energy in the execution of official duties. It would also serve as a guarantee that office equipment is not used to perform activities related to the RWOPS.
- Whether such activities will interfere with the employee's duties in the relevant department, in terms of time and/or

An EA must consider whether or not the outside work could reasonably be expected to interfere with or impede the effective or efficient performance of the relevant employee’s function in the department
content. Should this be the case, the EA will be justified in declining the application.

- The likelihood of conflicts of interest between the official responsibilities of the employee and the activities performed as a result of RWOPS. This should justify the decision to decline the application for RWOPS.

6.2.3 The EA has 30 days from the date of receipt of the application within which to decide whether permission to engage in RWOPS is granted or not. If a decision is not taken within the stipulated 30-day period, it would be deemed that such permission has been granted.

It is imperative for the EA to take a decision within the stipulated 30-day period and to communicate it to the applicant. Section 30(3) of the Act stipulates that failure to provide feedback will render the application to have been approved. In certain cases this could be detrimental to the effective administration of the department as the activities involved in the RWOPS may be in conflict with the official responsibilities of the employee. The information provided by the official on the application form will assist the EA in determining if there will be potential or actual conflicts of interest.

6.2.4 Monitoring of RWOPS

It is advisable that EAs monitor the implementation of RWOPS and its impact on a six monthly basis.

6.3 Departmental Supplier Database

Before granting of approval for the RWOPS, the EAs should verify if the name of the company listed in the application form of the official is also listed on the supplier database of the department. Should this be the case, the EA should consider declining the application.

Declining application for RWOPS could also be justified where the entity involved trades or is likely to trade with the State.

6.4 Summary of the Role of the EA

All employees in the Public Service must apply for RWOPS.

- Only legal and fair administrative criteria will be taken into account in the decision to grant or refuse permission to perform RWOPS.
• Permission to perform RWOPS must be applied for in advance and RWOPS must only be undertaken once approval has been obtained.
• Details of what the employee proposes to do must be provided on the prescribed application form attached as Annexure B hereto.
• RWOPS should in no way interfere with the employee’s duties in the Public Service in terms of either time or content.
• The proposed work must in no way result in conflicts of interest between the official activities in the Public Service and the RWOPS.
• The decision of the EA must be taken and communicated to the applicant within 30-days of receipt of the application.
• EAs should monitor the implementation of RWOPS and its impact on a six monthly basis.
• Failure to take a decision within the stipulated time-frame will mean that the application to undertake RWOPS has been granted.
CHAPTER 7: THE ROLE OF EXECUTIVE AUTHORITIES IN LABOUR RELATIONS

7.1 Introduction

The role of the Executive Authority (EA) in maintaining sound labour relations is integral to the wellbeing of a department and its employees. Applicable legislation such as the Public Service Act, 1994, as amended, (PSA) provides extensively for the role played by EAs in governing the mandate of a department. Chapter II of the Public Service Act, 1994 (as amended) prescribes some of the functions that the EAs should perform in the administration of the Public Service. For instance, the EA is responsible for, amongst others, establishing norms and standards relating to the functions of the Public Service, integrity, ethics, conduct and anti-corruption. Section 3 (7)(b) provides that the EA “has all those powers and duties necessary for the recruitment, appointment, performance management, transfer, dismissal and other career incidents of employees…”

7.2 The Role of EAs in Discipline Management

It should be noted at the outset that discipline management has been widely recognised as a corollary to achieve effective service delivery in society. Based on this recognition, the emphasis on discipline by the EA cannot be overlooked. The quality of service delivery and productivity within the Public Service would be highly compromised if Departments fail to maintain discipline. If public servants are allowed to act or conduct themselves contrary to the prescripts regulating discipline, there would be disorder, chaos and ineffective service delivery. In order to avoid this unacceptable state of affairs, discipline should be maintained. This will also result, not only in effective service delivery but also in the promotion of good human relations within the workplace.

Discipline management forms an integral part of the functions to be performed by the EA. The EA cannot abdicate this responsibility. In other words, the EA must ensure the overall maintenance of discipline within his/her department. In order to ensure that this responsibility is carried out, provisions are outlined in the Public Service Act, 1994, as amended, (section 16 B); the Labour Relations Act, 1995 as amended (the full spirit of the Act) and the Disciplinary Code and Procedures for the Public Service, Resolution 1 of 2003 of the General Public Service Coordinating Bargaining Council to ensure that discipline is maintained within the Public Service.
These provisions allow the EA to delegate some functions, including but not limited to discipline management. They also prescribe the processes or procedures to be followed in managing discipline within the Public Service. The rationale is that discipline should be applied fairly and consistently to achieve the broader objectives of the Departments. Unfair and inconsistent application of discipline would result in labour relations instability which would inadvertently lead to adverse consequences for the society.

The Code of Conduct (1997) which was introduced by government provides a framework for disciplined and accountable public servants. It outlines the principles relating to Governance and ethical conduct of public servants. The inevitable consequence of non-adherence to these principles is indiscipline and or misconduct, and this will call for corrective measures to be undertaken by management. As the political head of the Department, the EA has a responsibility to create a conducive environment for the promotion and maintenance of a high standard of professional ethics. In terms of Resolution 2 of 1999 all employees in the Public Service must comply with the Code of Conduct.

The Labour Relations Act (1995) also recognises the duty of the employer to maintain discipline in the workplace. It explains, amongst others, the code of good practice which is of great assistance to employers when handling disciplinary matters. Furthermore, in ensuring that proper procedures are followed in the Public Service, the Disciplinary Code and Procedures (Resolution 1 of 2003) and Senior Management Service (SMS) Handbook were promulgated. Adherence to the provisions of these prescripts would ensure that Departments, in managing discipline, comply with the employees’ right to fair labour practices as enshrined in section 27 of the Constitution of the Republic of South Africa.

As stated above, the EA has the overall responsibility of maintaining discipline in the workplace. This responsibility includes the power to discharge employees in terms of section 17 of the PSA. In exercising the power to discharge an employee, the EA or a delegated official must observe the applicable provisions in the Labour Relations Act and Public Service Co-ordinating Bargaining Council (PSCBC) resolutions. Although the EA does not actively play a role in the day to day management of discipline within a Department, this responsibility can only be delegated but not be abdicated. The EA must provide effective leadership because good discipline is the result of effective leadership.
Proper training should be provided to the officials responsible for managing discipline in the workplace. The training will be of value to the Department because discipline will be managed and maintained in a proper and consistent manner. Without proper training on disciplinary procedures, Departments will likely face problems regarding unsound labour relations. Inevitably these problems will adversely affect service delivery and productivity in the Public Service and ultimately the socio-economic development of the country will be stalled.

7.3 The Role of EAs in Grievance Management

As indicated above, section 3(7) of the PSA, 1994, as amended, provides an EA with all the powers and functions necessary to ensure that a department delivers on its mandate and responsibility towards the citizens of the country. However, the authority of the EA is not only restricted to the provision of services to the citizens of the country, but also to ensure that employees work in a well-structured and sound environment. This entails providing employees with the opportunity to raise any dissatisfaction within the work environment relating to an official act or omission by the employer.

The role of the EA in the consideration of grievances lodged by serving employees on salary levels 1-12 as well as SMS members, are provided for in section 35 of the PSA, as well as the Grievance Rules, 2003, applicable to employees on salary levels 1 to 12 and the Rules for dealing with the grievances of members of the SMS in the Public Service, 2010.

The EA plays an integral part in the resolution of grievances of employees. This role is emphasised in the fact that in terms of the PSA, the EA is the entry point of grievances as the PSA provides for an employee to lodge his/her grievance with the EA. The departmental procedures for investigating a grievance of an employee, includes the EA, who is ultimately responsible for deciding on the merits of a grievance. Even after the Public Service Commission (PSC) has investigated the merits of grievances referred to it by an employee, the EA is responsible for implementation of the PSC’s recommendations.

Since the EA is pivotal to the resolution of grievances, it is important that EAs are supported by experts within the department in
order for the EA to make informed decisions on the merits of grievances. Provision is made in section 42A of the PSA, for the EA to delegate his powers and functions to the Head of Department. However, the provision for delegation does not prohibit the EA from deciding to revoke the delegation.

The role of the EA in the consideration of grievances is further extended to former employees. In terms of section 3(8) of the PSA, the EA is provided with the authority to perform any act in connection with any matter that relates to the employment of a former employee or his/her conditions of service, applicable at the time that the employee was still in the employ of the department. The only limitation to this authority is the time line of 3 years in terms of which the EA may perform such action. However, even this authority may be extended beyond the prescribed timeframe, on request of the EA to the Minister for Public Service and Administration.
CHAPTER 8: LEADERSHIP CHANGES: ENSURING CONTINUITY

8.1 Introduction

As a result of Cabinet reshuffles and following elections there are changes at Executive level with newly appointed Ministers and Ministers formally responsible for other portfolios taking over the reins at a particular department. The phenomenon applies to Deputy Ministers. It is essential that members of the Executive are familiarised as soon as possible with their new portfolios to ensure seamless transition.

Based on research conducted by the PSC, the turnover rate of HoDs has proven to be disruptive to operations and problematic in departments. A need was identified to develop strategies that will ensure a smooth transition between incoming and outgoing HoDs. One of those strategies is the effective management of the hand-over processes between incoming and outgoing HoDs. It is a process that should enable the new incumbent to understand critical components to the performance of the organisation, that is, the strategic objectives, processes, systems and human capital of the institution.

8.2 Rationale for the Effective Management of Hand-over Processes

The first few months of assumption of duty are to a larger extent crucial to determine the failure or success of a leader in an organisation and the public service is not exempted. It is a symbolic period in which any action taken could be used to measure effectiveness or job fit for the position in question and not so much of what has been accomplished from past experience. This makes the position of newly appointed EAs and HoDs vulnerable. The need therefore is to create an enabling environment for the newly appointed or deployed EA/HOD by availing all the necessary resources and tools.

All stakeholders have high expectations from the newly appointed EAs and HoDs. They are expected to establish communication protocols, set priorities and lay the groundwork for the future of both their departments and how these will contribute towards building a development orientated public administration.
8.3 Handing over to Newly Appointed/Redeployed Ministers

For a newly appointed EA the environment he/she enters may be totally foreign to him/her. Even an EA that has been deployed from another portfolio must be familiarised with the organisational culture and operational functions of the new department. In order to provide the necessary information and orientation to newly appointed or deployed EAs, departments must develop an orientation programme which should as a minimum provide for the following:

- An introductory meeting between the HoD and new EA should be held during which the existing strategic plan and progress thereof is discussed in detail. If the former EA is available this meeting should include him/her. All relevant documentation should be provided to the EA.
- A meeting with EXCO should be held as soon as possible after the inception meeting with the new EA, HoD and, if possible, outgoing Minister during which the EA is not only introduced to the team and the portfolios of the Senior Managers involved are discussed, but critical areas of non-performance, financial concerns and the filling of critical vacancies should be discussed. Again during the meeting all relevant progress reports and documentation should be provided to the new EA.
- A meeting involving the HoD, Head of Corporate Services, Chief Operating Officer (COO) and other persons deemed necessary should be held with the new EA for the purpose of familiarising the new EA with the administrative, financial and human resource management practices applicable in the department. The existing financial and human resource management delegations should receive prominence during this meeting and the EA should be informed of the rationale for specific delegations and how these contribute to the effective delivery of services by the department.
- The HOD should convene an information session during which the EA’s Cluster responsibilities are highlighted and explained. Areas of collaboration with other portfolios and departments must be explained, progress in this regard must be reported and the implications for the EA and the department must be clearly spelt out. The EA should also be provided with information on various national and international commitments and critical stakeholders that he/she should engage with as soon as possible.
• Finally and if possible, the EA should be introduced to staff through various mechanisms such as staff meetings, email and internal newsletters.

8.4 Handing over to Newly Appointed Heads of Departments

In the preparation of new HoDs assuming their duties, state institutions at all levels of government should facilitate this process to avoid any unintended consequences and close the gaps that could hamper the smooth transition of the process. In this instance the EA, through their Office and in collaboration with the outgoing HoD or Acting HOD and key senior managers in the department, such as the CFO, COO and the Branch heads must ensure that all information relevant to the induction and orientation of the new HoD is prepared in advance.

An introductory meeting should first be held between the EA and HoD involving the Deputy Minister if applicable. During this meeting the high level strategic objectives and policy objectives of the EA should be highlighted. This should be followed by a meeting that includes the EA with EXCO to familiarise the HoD with the key role players in managing the department and the details of the portfolios that they are responsible for. A key meeting that should follow would be with the Head of Corporate Services and the CFO to provide information relating to financial and human resource management holistically and also alert the HOD to emerging trends and issues that need urgent attention. Finally a meeting with all staff of the Department, if possible at once, or if not, a series of meetings must be held to introduce the HoD to staff.

8.5 Ensuring Structured Hand-over

To ensure a structured hand-over process the following example can be applied and augmented in the development of a hand-over template or checklist by departments:
<table>
<thead>
<tr>
<th>Action</th>
<th>Responsible Person</th>
<th>Status</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OPERATIONAL CONTINUITY</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Brief history of the Organisation</td>
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<tr>
<td>Strategic Plan (latest document)</td>
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</tr>
<tr>
<td>Work plan: Organisational Performance (key successes/failures)</td>
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</tr>
<tr>
<td>Challenges/Issues of Concern</td>
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CHAPTER 9: RELEVANT OVERSIGHT REPORTS/INSTRUMENTS

9.1 Introduction

Institutions such as the PSC, the Department of Performance Monitoring and Evaluation, the DPSA and National Treasury, emanating from the execution of their mandates, produce oversight reports that provide invaluable information for the improvement of management and administrative practices within departments. The web sites of these institutions should be continuously visited for updates on the latest reports published (www.psc.gov.za, www.dpme.gov.za, www.dpsa.gov.za and www.nationaltreasury.gov.za). These institutions also apply instruments that generate oversight information that can be accessed by EAs and HoDs.

9.2 Important Reports/Instruments of the PSC

9.2.1 State of the public service report

The annual State of the Public Service (SOPS) report reflects on and analyses key trends and issues affecting public administration and the public service. The issues in the SOPS are informed by the body of work of the PSC in a particular year, as well as important work by other institutions. It diagnoses the causes of and/or the reasons why the Public Service does not achieve the excellence that it aspires to achieve. The SOPS is a single, integrated, evidence-based synthesis of the work of the PSC that draws on empirical data to offer a nuanced and sophisticated analysis of the state of the Public Service based on the values and principles governing public administration as enshrined in Chapter 10 of the Constitution, 1996.

Each year the report is organised around selected principles that govern public administration. The report is released along with the Public Service Barometer discussed in the next section.

Data supporting the writing of the SOPS is mainly sourced from the work of the PSC, including research on professional ethics, investigations, data from the anti-corruption hotline, and monitoring and evaluation reports. Information is also sourced from official data such as PERSAL (personnel and payroll system of the public service), data held by the Auditor-General (A-G), Statistics South
Africa, the National Treasury, the Department of Public Service and Administration and departments’ annual reports. The PSC also sources data from key government delivery programmes.

In its research for the SOPS report the PSC may approach departments for information, as well as referral to key reports that may have been produced by the department that reflect on key aspects of public administration and the state of the public service. The PSC might also want to conduct interviews with leaders of public administration and other officials in departments who may have been involved in setting up key public administration processes or who contributed significantly to improvements in public administration. Sometimes officials who have evaluated and reflected upon key processes or systems of public administration are also interviewed.

9.2.2 Public Service Barometer

The Barometer was designed around carefully selected performance indicators for each of the principles governing public administration as enshrined in Chapter 10 of the Constitution, 1996. These indicators will stay fairly constant from year to year so that trends in performance can be established. The aim of the Public Service Barometer is to provide data that will, over time, allow for greater comparability, monitoring, evaluation and oversight of the progress made by any particular government entity in implementing Section 195(1) of the Constitution. The initial set of indicators is based on the PSC’s experience of what were useful indicators. However, the PSC is constantly reviewing the indicators with a view to selecting indicators that are the most telling of the state of the Public Service but still use easily accessible data (not requiring new research).

The PSC may from time to time approach departments for information for the Public Service Barometer. The basis of the Barometer is to use easily accessible data in the form that it is stored by departments, so the PSC’s requests for information should not be too intrusive or require a lot of time from departments to collect. Since the Barometer is also a product that will be produced annually so that trends in the change in indicators over time can be established, the PSC will enter into agreements with departments to supply information on a periodic basis.

In future the Public Service Barometer will provide the hard data that will be part of the evidence for all conclusions drawn in the State of the Public Service report.
Up to now, the data collected covered all national and provincial departments but it is envisaged that it will also cover local government.

### 9.2.3 Institutional assessments

The PSC has designed an evidence and indicator-based Monitoring and Evaluation (M&E) tool to assess the governance and institutional performance of all government departments. The M&E tool consists of indicators and standards for each of the values and principles in Section 195 of the Constitution, and departments’ performance against the indicators and standards are translated into a score for each of the values, and a total score. The M&E tool has been applied since 2001 and has produced 169 reports (127 first assessments and 42 second assessments) as well as 11 “consolidated” reports. Information/data for the institutional assessments/departmental M&E reports is sourced from departments’ annual reports, policies, guidelines, projects, programmes and human resource management records.

These reports allow for comparisons:

- between the samples of departments covered in subsequent years – giving a trend over time;
- of each department against itself when it comes up for re-assessment; and
- between similar departments in a sector.

The PSC is already using the A-G’s audit opinions and findings to complement its own evaluations and could in future also use the scores from the Management Performance Assessment Tool (MPAT) that is administered by the Department of Performance Monitoring and Evaluation (DPME), or scores from the Financial Management Capability Maturity Model of the National Treasury.

### 9.2.4 Programme evaluations

The PSC also from time to time conducts programme evaluations. A programme evaluation assesses:

- the success/failure of a specific programme;
- the success/failure of a programme in relation to the needs of citizens and the societal problem the programme is supposed to address;
- contextual factors that may have influenced the success/failure of the programme;
how the design of the programme influenced its success/failure; and
how the implementation of the programme influenced its success/failure.

As in the case with the Barometer the PSC approaches departments from time to time for information.

9.2.5 Evaluation of institutional features of departments

The Constitution provides in Section 196(4)(b) that the PSC can monitor and evaluate the organization and administration of the public service. The PSC more and more also undertakes projects to evaluate aspects of bureaucracy and public administration such as organisational structures, coordination mechanisms, accountability frameworks, service delivery models and many more.

As in the case with the Barometer the PSC approaches departments from time to time for information.

9.2.6 Other important oversight reports of the PSC

The PSC produces on an annual basis a variety of reports covering the broad spectrum of public administration. These reports are circulated to EAs and HoDs and copies should be kept in the Offices of EAs and HoDs. Such reports can also be accessed on the PSC’s website www.psc.gov.za. Recent reports include the following:

- Compliance with Human Resource and Financial Management Delegation Frameworks – May 2014;
- Blockages in the filling of posts – May 2014;
- Fact sheet on the financial disclosure framework for the 2011/2012 financial year;
- Various reports on inspections of regional courts, 2013;
- Assessment of the State of Human Resource Management in the Public Service, 2010; and
- The Turn-over Rate of Heads of Department, 2008.

9.2.7 Oversight reports by DPSA, DPME, the Auditor-General and National Treasury

Reports by the DPSA that can be consulted for oversight information include:

The PSC also undertakes projects to evaluate aspects of bureaucracy and public administration.

The PSC produces on an annual basis a variety of reports covering the broad spectrum of public administration.
• Guide for employment equity in the public service;
• Convention on combating bribery of foreign public officials in international business transactions and related documents;
• Batho Pele Service directory of public services;
• Third report on the implementation of South Africa’s APRM programme of action;
• Machinery of Government;
• A Performance Agreement to fast track service delivery 2010/14; and
• Presentation to parliament: An overview of South Africa’s progress in the implementation of the Millennium Development Goals (MDGs): The Governance and Administration Cluster Perspective.

The Department of Performance Monitoring and Evaluation annually publishes the results of its Management Performance Assessment Tool, which reflects on individual departmental performance. It has recently published “The Twenty Year Review” launched by President Zuma on 11 March 2014. The Review reflects on how the country has progressed since the dawn of democracy in 1994, the challenges it still faces and how these can best be addressed.

The DPME also manages outcomes based performance planning and reporting system for government. The system was introduced in 2009 to achieve more effective spending and performance through coordination across departments and spheres of government and ensure strategic focus on a limited number of priority outcomes. Performance Agreements were introduced between the Ministers and the President for this purpose and delivery agreements linked to key outcomes were developed. Reports on progress can be accessed on http://www.dpme.gov.za/ and http://www.poa.gov.za.

The National Evaluation Policy Framework (NEPF) is one of three policy elements introduced in the Policy Framework for the Government-Wide Monitoring and Evaluation System, which was approved by Cabinet in 2005. Also managed by the DPME, the Policy Framework provides the basis for a minimum system of evaluation across government. Its main purpose is to promote quality evaluations which can be used for learning to improve the effectiveness and impact of government, by reflecting on what is working and what is not working and revising interventions accordingly. Results are published annually and are available on the DPME website.
The **Auditor-General**’s reports on individual departments’ financial management are crucial instruments for EAs and HoDs to identify and address weaknesses in financial management. The Auditor General also publishes the following:

- PFMA General Reports;
- MFMA General Reports;
- Performance Audit Reports; and
- Investigations Audit Reports.

**National Treasury** publishes the following reports/guidelines that are designed to provide monitoring and oversight information as well as guidance:

- Intergovernmental Fiscal Reviews
- Tax Statistics
- Annual Reports of Consolidated Financial Statements
- Provincial in-year publications
- Treasury Guidelines
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<td>Eastern Cape</td>
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<td>91 Alexandra Road, King William’s Town</td>
<td>(043) 643-4704</td>
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<td>Free State</td>
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<td>KwaZulu-Natal</td>
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