

For discussion
on 28 April 2025

LEGISLATIVE COUNCIL PANEL ON PUBLIC SERVICE

Enhanced Measures under the Civil Service Disciplinary Mechanism

Purpose

This paper briefs Members on the implementation progress of various enhanced measures under the civil service disciplinary mechanism and our further enhancement proposals.

Overview of the Civil Service Discipline

2. The Government has zero-tolerance against staff who have breached the law or misconducted themselves. In the five financial years from 2019-20 to 2023-24, a total of 1 073 civil servants were punished with formal disciplinary action for serious misconduct or criminal conviction, and 2 080 with summary disciplinary action for misconduct of less serious nature. Among those who were punished with formal disciplinary action during the above period, 214 were removed from the service. In 2024-25 (up to 31 December 2024), 194 civil servants were punished with formal disciplinary action including 25 officers removed from the service, and 458 with summary disciplinary action (**Annex**).

Enhanced Measures under the Civil Service Disciplinary Mechanism

3. In recent years, the Government has endeavoured to improve the efficiency and effectiveness of the civil service disciplinary mechanism by rolling out various enhancement measures. We updated the Legislative Council Panel on Public Service on the implementation progress of our enhancement measures in February 2024 (LC Paper No. CB(4)215/2024(03)). The progress of the major measures is summarised below.

Monitoring Scheme on Disciplinary Action by Bureaux/Departments (“B/Ds”)

4. The Civil Service Bureau (“CSB”) introduced the monitoring scheme in January 2024 that requires all B/Ds to provide the senior departmental management (at Deputy Head of Department level) and the Secretariat on Civil Service Discipline (“SCSD”) with half-yearly returns on progress updates of their handling of disciplinary cases for stepping up the monitoring of the processing time of disciplinary cases and the appropriateness of the level of punishment imposed. SCSD received two half-yearly returns so far and gave feedback and assistance to the B/Ds concerned. The scheme has allowed us to effectively monitor B/Ds’ work on handling disciplinary cases.

Strengthening B/Ds’ Monitoring of Summary Disciplinary Action against Officers on Probationary Terms

5. To ensure that minor misconducts of officers on probationary terms are corrected by appropriate summary disciplinary action taken by B/Ds in a timely manner, and for determination of passage or extension of the probationary service before the officers are due for confirmation to the permanent establishment, CSB since October 2024 has required all B/Ds that their Departmental Secretary (“DS”) be informed in advance whenever a departmental manager or frontline supervisor intends to take summary disciplinary action against an officer on probationary terms. The measure can facilitate DS’s monitoring of the time taken to handle the case, including ensuring the timely submission of the recommendation of extension of probationary service to the Public Service Commission (“PSC”) and giving views on the appropriate level of punishment, while CSB provides feedback and advice to B/Ds as necessary after examining their quarterly returns. This measure also applies to officers on trial terms¹.

Ongoing effort in capacity building for B/Ds on investigating disciplinary cases

6. In 2024, SCSD conducted three workshops for about 140 departmental managers on the requisite skills in conducting departmental investigation on misconduct cases (including investigation and interviewing

¹ Officers on trial terms refer to officers who are confirmed to the permanent establishment and are appointed on transfer without a break in service to another established office under trial terms.

techniques). All were well received. A dedicated class for about 80 managerial staff of a department with a relatively large number of disciplinary cases was organised as a train-the-trainer session in late 2024. SCSD has enriched the content of the workshop to cover skills and tips on investigation for prompt processing of disciplinary cases, and will continue to organise workshops and train-the-trainer session for B/Ds in 2025.

“Knowing More About Civil Service Disciplinary Mechanism” Booklet

7. CSB will issue a booklet on “*Knowing More about Civil Service Disciplinary Mechanism*” to all civil servants and other government employees in mid-2025 for introducing the disciplinary mechanism to them and sharing disciplinary cases to raise their awareness of compliance with the relevant rules and discipline requirements.

Amendments to the Public Service (Administration) Order (“PS(A)O”) and the Public Service (Disciplinary) Regulation (“PS(D)R”)²

8. The Chief Executive’s 2024 Policy Address announced that the Government would review PS(A)O and PS(D)R to further enhance the civil service disciplinary mechanism. CSB has completed the review and will propose amendments in the following three major areas.

(1) Streamlining disciplinary procedures

9. We will amend relevant parts of PS(D)R to **streamline the disciplinary procedures under section 9, 10 and 11 of PS(A)O³** to –

- i. Currently, if the accused officer indicates “plead guilty” before the

² PS(A)O is an executive order made by the Chief Executive under Article 48(4) of the Basic Law. It sets out the Chief Executive’s authority in regard to the management of the civil service, including disciplinary matters. PS(D)R is made in accordance with the rules and procedures for conducting disciplinary proceedings under section 9 or 10 of PS(A)O.

³ Section 9 of PS(A)O deals with misconduct not warranting dismissal or compulsory retirement (i.e. non-removal punishment); and section 10 handles misconduct warranting dismissal or compulsory retirement (i.e. removal punishment). Independent inquiry will be set up for hearing the disciplinary cases under these two sections. Section 11 of PS(A)O governs disciplinary actions further to conviction of officer on criminal charge which requires no inquiry hearing and could lead to removal, non-removal or no disciplinary punishment.

hearing, a hearing will still be conducted mainly for the accused officer to provide his mitigation for punishment in the inquiry hearing; but after the hearing, we still issue a letter to the accused officer inviting him to put forward representation(s) for mitigation. To reduce the repetitive procedures, we consider that **if the accused officer pleads guilty, it is not necessary to conduct hearing**, in order to improve the efficiency of the handling of the disciplinary cases. With the amendment, the accused officer will still have chances to put forward his mitigation for punishment by making representations at two stages (after he has indicated to plead guilty in writing for the disciplinary authority (“DA”)’s consideration of punishment; and before punishment is determined by DA);

- ii. To effectively address delaying tactics or uncooperative acts by the accused officers, **to allow the hearing to continue in the absence of the accused officer if the accused officer fails to show up or walks out from an on-going hearing, even for the first time, with no reasonable grounds accepted by the Inquiry Officer (“IO”) or the Inquiry Committee (“IC”)**⁴. With the proposed provision enabling the hearing to continue in this situation, the accused officer will be clearly informed afterwards in writing that the hearing has been proceeded with in his absence and provided with the copy of the video record taken for the scheduled session. The proposal can reduce any incentive of the accused officer to delay the hearing procedure since the present requirement is that the hearing will continue in the accused officer’s absence only if he fails to attend an inquiry for the third time and provide reason(s) accepted by IO / IC; and
- iii. **expressly empower IO / IC to make directions to maintain conduct of hearing in an orderly manner**, including (i) calling for a break; (ii) offering instruction to proceed with the hearing by stopping the filibuster of the accused officer and his friend(s) or legal representative(s); (iii) disallowing the accused officers’ defence⁵ to attend the hearing if they do not follow the rules and

⁴ An IO and IC (which comprises a chairman and one or more members) are appointed to conduct independent inquiry under section 9 and 10 of PS(A)O respectively.

⁵ According to section 8(3) of the PS(D)R, the accused officer may be assisted in his defence by another public servant or such other person as the Chief Executive may authorise. The latter include friend(s) or legal representative(s) of the accused officer.

instructions of IO / IC, etc. IO / IC is currently given the authority to determine the procedures for conduct of hearing in an orderly manner if those set out in PS(D)R cannot be applied. Nevertheless, there have been challenges put forward by the accused officer querying the propriety of IO / IC's use of such authority in order to disrupt the proceedings of the hearing. The revised PS(D)R will contain specific provisions to empower IO / IC to give directives to maintain the conduct of hearing in an orderly manner.

10. In accordance with section 11 of PS(A)O, punishment can be inflicted on an officer convicted on a criminal charge which requires no inquiry. Currently, DA must obtain the relevant court documents before deciding on the disciplinary punishment to be inflicted on the convicted officer. The process of obtaining the court documents can take months, and this has substantially delayed the meting out of the punishment. After revision, **the authority can impose punishment on an officer convicted on a criminal charge, especially those convicted of a serious offence, by considering the court sentence of the convicted officer and other facts and circumstances of the case (i.e. nature and gravity of the conviction), without having to obtain records of the court proceedings.** DA may, however, still await the court documents if the facts and circumstances of the case are not clear to him.

(2)(i) Enhancing the interdiction arrangements – extending the scope of interdiction

11. Currently, officers may be interdicted from duty by virtue of section 13(1) of PS(A)O on the following grounds: (i) disciplinary proceedings under section 10 of PS(A)O taken against him; (ii) criminal proceedings instituted against him; or (iii) inquiry of his conduct is being undertaken and it is contrary to the public interest for him to continue to exercise the powers and functions of his office. We will amend the relevant arrangements under section 13 of PS(A)O⁶ to **extend the scope of interdiction to cover officers who receive the Letter-of-intent issued by his Head of Department (“HoD”) / Head of Grade (“HoG”) under section 12 of PS(A)O (“Section**

⁶ According to section 13 of PS(A)O, interdiction is an administrative measure instead of disciplinary action.

12 action”⁷⁾ on the ground of persistent sub-standard performance. By this stage, the observation period, being the last chance for the officer to improve his performance, has ended and the officer has not shown sufficient improvement to justify the cessation of Section 12 action. Considering that these officers are truly unable to perform their expected roles in their positions, and keeping them in the office would add to the workload of other colleagues, reducing the office efficiency and even causing management issues, it is highly necessary to extend the scope of interdiction to these officers for safeguarding the public interest.

(2)(ii) Enhancing the interdiction arrangements – tightening the arrangement of withholding emoluments during interdiction

12. At present, there is no withholding of emoluments for interdicted officers undergoing departmental / criminal investigation before any disciplinary / criminal charges are laid against them, or for officers undergoing section 12 proceedings on the ground of “loss of confidence”. The current applicable scope for withholding emoluments has been considered as being too narrow, especially when cases with alleged serious misconducts or illegal acts are not included. Although interdiction is a decision made by the management side, the officer concerned should have the monthly salary deducted under the “no work, no pay” principle. In this regard, we propose to allow withholding up to half of the emoluments during interdiction for (i) an officer interdicted during departmental / criminal investigation; or (ii) an officer interdicted when undergoing proceedings under section 12 of PS(A)O. Consequential to extending the scope of interdiction to officers undergoing section 12 proceedings on the ground of “persistent sub-standard performance”, the above proposal of withholding emoluments will also apply to them.

13. At present, section 13(2)(b) of PS(A)O provides that the emoluments will be withheld in full for an interdicted officer who is convicted

⁷ According to section 12 of PS(A)O, retiring civil servants in the public interest is an administrative action instead of disciplinary action. Such action can be taken on the following two grounds of safeguarding public interest: (1) an officer has persistent sub-standard performance; or (2) the management loses confidence in the officer’s suitability to continue discharging his duties as a public officer. Officers with “Section 12 action” being taken against him on the ground of “loss of confidence” may be interdicted under the current arrangement, i.e. category (iii) in this paragraph.

of a criminal charge serious enough to warrant dismissal punishment⁸. Under the civil service disciplinary mechanism, cases with punishment of “compulsory retirement” inflicted are also considered serious. Hence, we propose a new arrangement under PS(A)O that if an interdicted officer is convicted of a criminal charge serious enough to warrant “compulsory retirement” as disciplinary punishment, the emoluments will also be withheld in full pending the decision on the punishment by DA. The interdiction authority will have the discretion to decide the actual percentage to be withheld having regard to the merits and relevant circumstances of individual cases⁹.

(2)(iii) Enhancing the interdiction arrangements – tightening the arrangement of forfeiting the withheld emoluments during interdiction

14. At present, section 13(4) of PS(A)O provides that if a punishment other than dismissal is inflicted, an interdicted officer may be paid a proportion of the emoluments withheld, while section 13(3) of PS(A)O provides that if the disciplinary proceedings do not result in any punishment of the officers, the withheld emoluments will be repaid to them. We propose to revise the arrangement of repaying withheld emoluments to an interdicted officer by giving DA the discretion to decide whether to forfeit the withheld emoluments in full under specified circumstances as detailed below –

- i. if an officer leaves the service before completion of the disciplinary proceedings (e.g. resign / retire), the disciplinary proceedings will naturally be unable to conclude, resulting in no punishment imposed on the officer. To plug the loophole, we propose amending the current provision(s) that, DA may **forfeit** the withheld emoluments

⁸ Though the officer has been convicted of criminal charge by court, due consideration should still be given pursuant to section 11 of PS(A)O for imposing a disciplinary punishment. The period of emoluments that will be withheld in full as provided under section 13(2)(b) of PS(A)O refers to the period between criminal conviction and imposition of punishment by DA. Although this period will be shortened following the implementation of the proposals in paragraph 10 of this paper, no emoluments should be paid to the officers convicted of criminal offence during this interval.

⁹ Factors to be considered include the nature and gravity of the alleged misconduct or criminal offence (as the prime consideration); the position and rank of the officer concerned; whether the offence or misconduct is duty-related; record of conduct and performance of the officer; the basis of the allegations; the stage of the investigation or proceedings; and the officer’s personal circumstances, etc., and will be set out in the guidelines to B/Ds provided by CSB.

in full if the officer leaves service before completion of criminal / disciplinary proceedings and, as assessed by DA, is likely to be awarded a punishment of dismissal or compulsory retirement on conviction / substantiation of the misconduct upon completion of the disciplinary proceedings;

- ii. likewise, we propose to also **forfeit** the withheld emoluments **in full** if the officer **leaves service before completion of proceedings under section 12 of PS(A)O** and is **likely to be ordered to retire in the public interest upon completion of the proceedings as assessed by the authority**; and
- iii. as currently provided under PS(A)O, DA may forfeit the withheld emoluments in full of an interdicted officer if the disciplinary punishment of dismissal is inflicted. We propose to also **forfeit** the withheld emoluments **in full** if (i) the officer is awarded a disciplinary punishment of **compulsory retirement**; or (ii) the officer **is ordered to retire in the public interest** under section 12 of PS(A)O.

15. Consequential to the above changes, we also propose amendments to empower DA to **forfeit** the withheld emoluments **in part** under the following circumstances –

- i. the officer is awarded a disciplinary punishment other than dismissal or compulsory retirement; or
- ii. the officer leaves service before completion of criminal / disciplinary proceedings and is likely to be awarded a punishment other than dismissal or compulsory retirement on conviction / substantiation of the misconduct upon completion of the disciplinary proceedings as assessed by DA. In determining whether to forfeit the withheld emoluments and the percentage of forfeiture, the B/D will assess each case with regard to a basket of factors¹⁰.

¹⁰ Factors to be considered include the nature and gravity of the misconduct, criminal offence or the ground of Section 12 action (as the prime consideration); the level of punishment to be imposed had the disciplinary proceedings taken place and been completed; the stage of the criminal, disciplinary or section 12 proceedings taken against the officer at the time of leaving the service; and mitigating factors.

16. In addition, we also propose to clearly set out the circumstances under which DA may **repay** the withheld emoluments **in full** as follows –

- i. the officer is not required to retire in the public interest upon completion of proceedings under section 12 of PS(A)O against him or due to the withholding of further action leading to Section 12 action; or
- ii. the officer leaves the service during departmental / criminal investigation and **before** disciplinary / criminal proceedings or proceedings under section 12 of PS(A)O are taken / instituted. Considering that the officer leaves the service before any prima-facie case of alleged action can be established or the commencement of disciplinary / criminal proceedings, repayment of withheld emoluments is an appropriate and balanced approach.

(3) Other proposals

17. We will also make the following technical amendments to PS(A)O and PS(D)R –

- i. specify that an officer must report to his HoD if arrested by a law enforcement agency and for HoD to report to CSB depending on the nature of case. This requirement is not in PS(D)R now but has been promulgated by administrative arrangement and we propose to codify it;
- ii. make it clear that Section 12 action may be initiated by a report from HoD / HoG, while retaining the possibility for the Chief Executive (or the Secretary for the Civil Service or her representatives with the delegated authority) to call for such a report from HoD / HoG for launching Section 12 action;
- iii. expand the party responsible for filing a report leading to Section 12 action from “HoD” to “HoD / HoG”;
- iv. according to the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (“NSL”) Article 35, a person convicted of an offence endangering national security by a court will be removed

from office. With the legal provision already in place, the Government does not need to impose a punishment of dismissal on such officer pursuant to section 11 of PS(A)O. Currently, section 16 of PS(A)O provides that an officer who is dismissed forfeits all claims to retirement benefits or other like benefits and to any other benefits or advantages of an officer, but there is no provision in PS(A)O which can be applied to removal case involving NSL Article 35. We thus propose amending the provision to cater to the national security conviction cases.

We have already made consequential amendments to the pension legislations and the Terms and Conditions of the Civil Service Provident Fund (“CSPF”) Scheme. Following the passage of the Safeguarding National Security Ordinance, the Government has correspondingly amended the pension legislations and the Terms and Conditions of CSPF Scheme in 2024 which stipulate that, officers who left the service and convicted of any offence endangering national security may have his pension cancelled, suspended or reduced; and the accrued benefits attributable to the Government’s Voluntary Contributions and the Government’s Special Disciplined Services Contributions (if applicable) already paid to an officer under the CSPF Scheme may be recovered, either wholly or in part; and

- v. provide for transitional arrangement as appropriate.

Way forward

18. We consulted PSC on the proposed amendments to PS(A)O and PS(D)R in early April 2025 and obtained their full support. We briefed the Staff Side on the above proposals on 14 April 2025. Taking into account the views from the Staff Side and the Legislative Council Panel on Public Service, we will commence the drafting work. Our objective is to implement the enhanced arrangements under PS(A)O and PS(D)R in 2026.

Advice sought

- 19. Members are invited to note the content of this paper.

Civil Service Bureau
April 2025

Number of Removal Punishment from 2019-20 to 2024-25

		2019- 20	2020- 21	2021- 22	2022- 23	2023- 24	2024-25 (up to 31.12.2024)
PS(A)O:	Dismissal	6	5	19	28	13	3
	Compulsory	8	7	5	8	13	8
	Retirement						
	<i>Sub-total</i>	<i>14</i>	<i>12</i>	<i>24</i>	<i>36</i>	<i>26</i>	<i>11</i>
DSL:	Dismissal	9	8	16	19	14	7
	Compulsory	6	2	12	5	11	7
	Retirement						
	<i>Sub-total</i>	<i>15</i>	<i>10</i>	<i>28</i>	<i>24</i>	<i>25</i>	<i>14</i>
Total:	Dismissal	15	13	35	47	27	10
	Compulsory	14	9	17	13	24	15
	Retirement						
	<i>Total Removal cases</i>	<i>29</i>	<i>22</i>	<i>52</i>	<i>60</i>	<i>51</i>	<i>25</i>

PS(A)O: Public Service (Administration) Order

DSL: Disciplined Services Legislation