



PRESENTATION TO PORTFOLIO COMMITTEE ON PUBLIC SERVICE AND ADMINISTRATION

BRIEFING ON MANAGEMENT OF PRECAUTIONARY SUSPENSION IN THE PUBLIC SERVICE

2 MAY 2012

PRESENTATION OUTLINE

- **Introduction**
- **Sources of reference / information**
- **Key Findings of various reports on suspensions**
- **Challenges faced by Departments**
- **Recommendations**
- **Conclusion**

INTRODUCTION

- Over the past years, there has been a growing perception that ‘thousands’ of employees in the Public Service are placed on precautionary suspensions over lengthy period
- This perception is intensified when intermittent news is broadcast about early exit from Public Service by some of the Senior Management Service members who were placed on precautionary suspension
- The PSC conducted a study on this subject in a sample of departments covering financial years 2008/2009 and 2009/2010
- To further compare the findings of the research for the period 2008 – 2010, the PSC has also conducted a quick assessment of the numbers of suspended employees over the financial year 2010/2011 in national departments as well as the remuneration cost involved

INTRODUCTION

- The Labour Relations Act 28 of 1956 provided the regulatory framework for precautionary suspensions prior to 1994 and was not prescriptive on matters relating to suspensions
- Prior to 1994 Departments relied on the precedents from the decisions of the courts for guidance on whether or not to suspend an employee
- During the pre-1997 era, an HoD could also use her/his discretion to suspend an employee as a precautionary measure with or without compensation
- The Constitution 1996 brought about changes including the repeal of provisions in the Public Service Act on precautionary suspension without remuneration and the corresponding Public Service Regulation
- *Section 23 (1) of the Constitution of the Republic of South Africa provides that every employee has a right to fair labour practice – including to be presumed innocent*
- Furthermore, if there is a need for any changes on the provisions of policy on precautionary suspension that will be subject to negotiations

SOURCES OF REFERENCE

One of the sources of information for this presentation is the PSC's report on the study into the management of precautionary suspension conducted in 2010/2011. The study included desktop research, literature review and interviews conducted with relevant officials in the following Departments –

- National Departments of Home Affairs and Public Works
- In KwaZulu-Natal Province: Department of Transport, Department of Education and Department of Public Works
- In Mpumalanga Province: Department of Education and Department of Public Works, Roads and Transport
- In the Eastern Cape: Department of Education, Department of Transport and Department of Public Works

The other primary sources of information are the annual reports of the 34 national departments for the financial year 2010/2011. The data relating to the provincial departments could not be obtained

KEY FINDINGS

Reasons for precautionary suspensions

The sampled Departments indicated that officials are put on precautionary suspensions depending on the nature of the charges

The nature of charges, which employees placed on precautionary suspension faced included –

- *Financial misconduct*
- *Insubordination*
- *Failure to bank state money*
- *Theft, fraud*
- *Misuse of state property*
- *Drunken driving*
- *Corruption*
- *Sexual harassment/ sexual assault*
- *Unauthorized expenditure*
- *Gross negligence resulting in loss of state money*
- *Violation of tender process*

KEY FINDINGS Cont.

How long do the precautionary suspensions last?

The PSC established the following –

- Generally there is non-compliance with the prescribed 60 days period to institute disciplinary hearings
- On average sampled departments took more than three months to conclude the investigations
- KwaZulu-Natal Department of Transport reported that it takes more than 10 months before instituting disciplinary hearings
- Mpumalanga Department of Education reported that on average precautionary suspensions last for 2 months, which is the shortest period compared with other sampled departments

KEY FINDINGS Cont.

Reasons for extension of precautionary suspensions

The sampled departments provided the PSC with the following reasons for the extension of the period for precautionary suspensions -

- Unavailability of representatives of the employees charged
- Witnesses not being available
- Request for additional information unavailable at the date of disciplinary hearing
- Interpreter not available
- Employee being booked off sick
- A criminal case was opened and must run concurrently with the disciplinary procedure
- The recusal of the presiding officer

The review of precautionary suspensions done in the sampled departments was performed on average between weekly and every three months

KEY FINDINGS Cont.

The consideration of transferring an employee as an alternate to placing her/him on precautionary suspension

- Only 3 departments indicated that they prefer transferring an employee as an alternative to precautionary suspensions
- The Department of Transport in KZN considered potential financial loss to be incurred by the employer in having employees placed on precautionary suspension but not performing their duties
- The Department of Home Affairs assesses the image of the Department in considering the transfer of an employee
- The Public Works Department stated that transfer of employees instead of placing them on precautionary suspension is also considered. However, the profile of such employees is checked first

Overall, departments were not effectively using the option of transferring employees for various reasons instead of suspending them. Transfers of employees could potentially save a lot of money for the employer

KEY FINDINGS Cont.

Employees placed under precautionary suspensions during FY 2008-2009 and FY 2009-2010 in the sampled departments

- A total number of 293 employees were placed on precautionary suspension
- During the FY 2008-2009 103 employees were put on precautionary suspensions compared with 190 employees in the FY 2009-2010.
- The number of employees placed on precautionary suspension per level are as follows –
 - At levels 1-8 (228)
 - At levels 9-12 (46)
 - SMS members (19)

KEY FINDINGS Cont.

The cost implications of precautionary suspensions

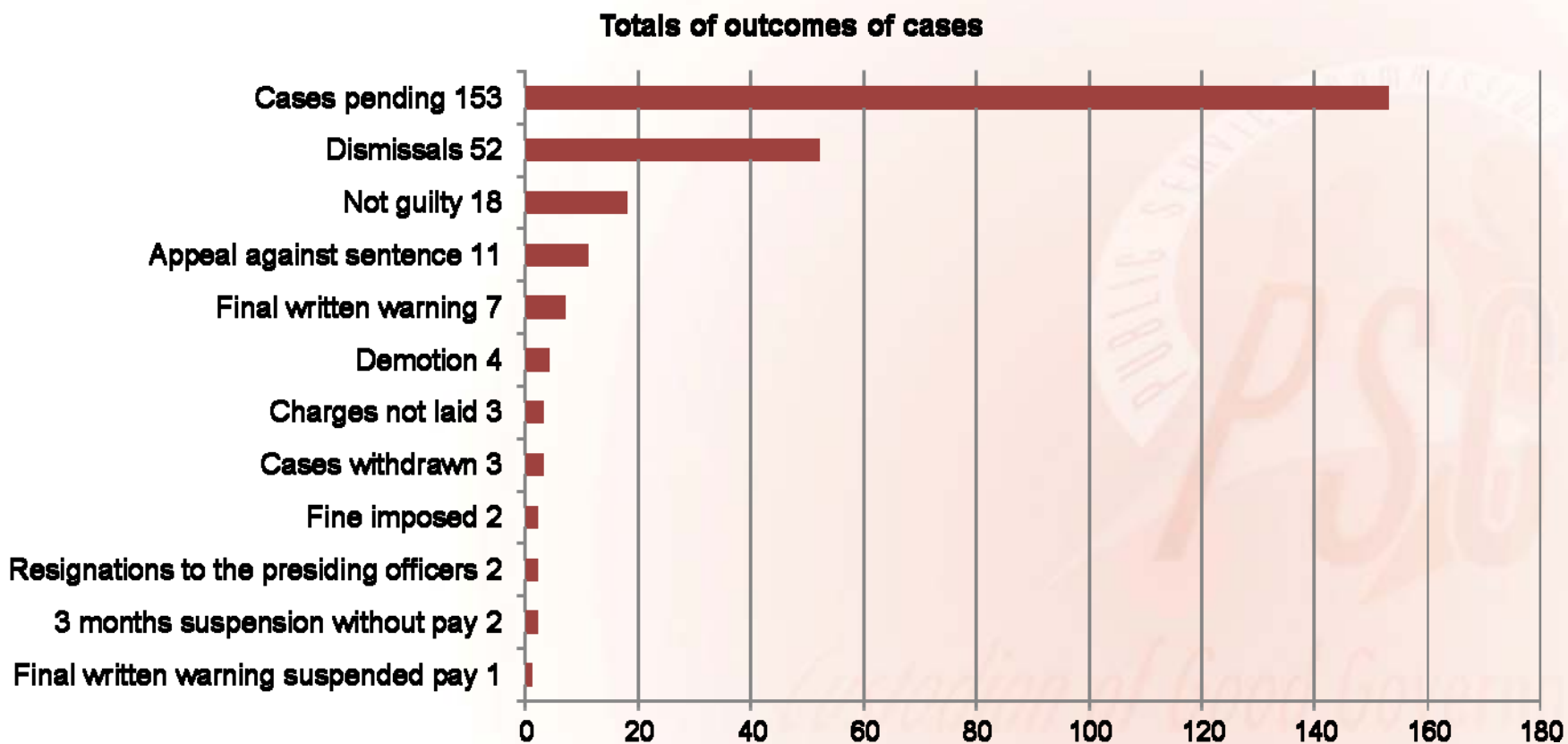
- The 2 sampled national departments indicated that they spent a total amount of **R5 402 384** for the FYs 2009/2009 and 2009/2010
- The 8 provincial departments spent **R15 601 776** for the same periods collectively
- For the two periods under review, the sampled departments collectively paid employees placed on precautionary suspension a total of **R21 004 160**

The role of labour relations components

- The LR components must provide advice to management on matters relating to disciplinary procedure including precautionary suspensions
- However, it was established that not all supervisors and labour relations officers are familiar with disciplinary matters such that some supervisors in the provincial departments did not even know the meaning of precautionary suspensions (*one of the PSC's major concerns*)

KEY FINDINGS Cont.

The PSC established that the following were the outcomes of some of the disciplinary cases concluded where employees were placed on precautionary suspension in the sampled departments during the period under review –



KEY FINDINGS Cont.

Do departments have internal policies relating to precautionary suspensions?

▪ Out of 10 sampled departments 1 produced a departmental policy (KwaZulu-Natal Department of Transport), 3 indicated they had policies but copies were not provided, the rest did not have policies but indicated that they rely on PSCBC's Resolution 1 of 2003

NB: the PSCBC Resolution does not elaborate much on the procedure to be followed when precautionary suspension is under consideration

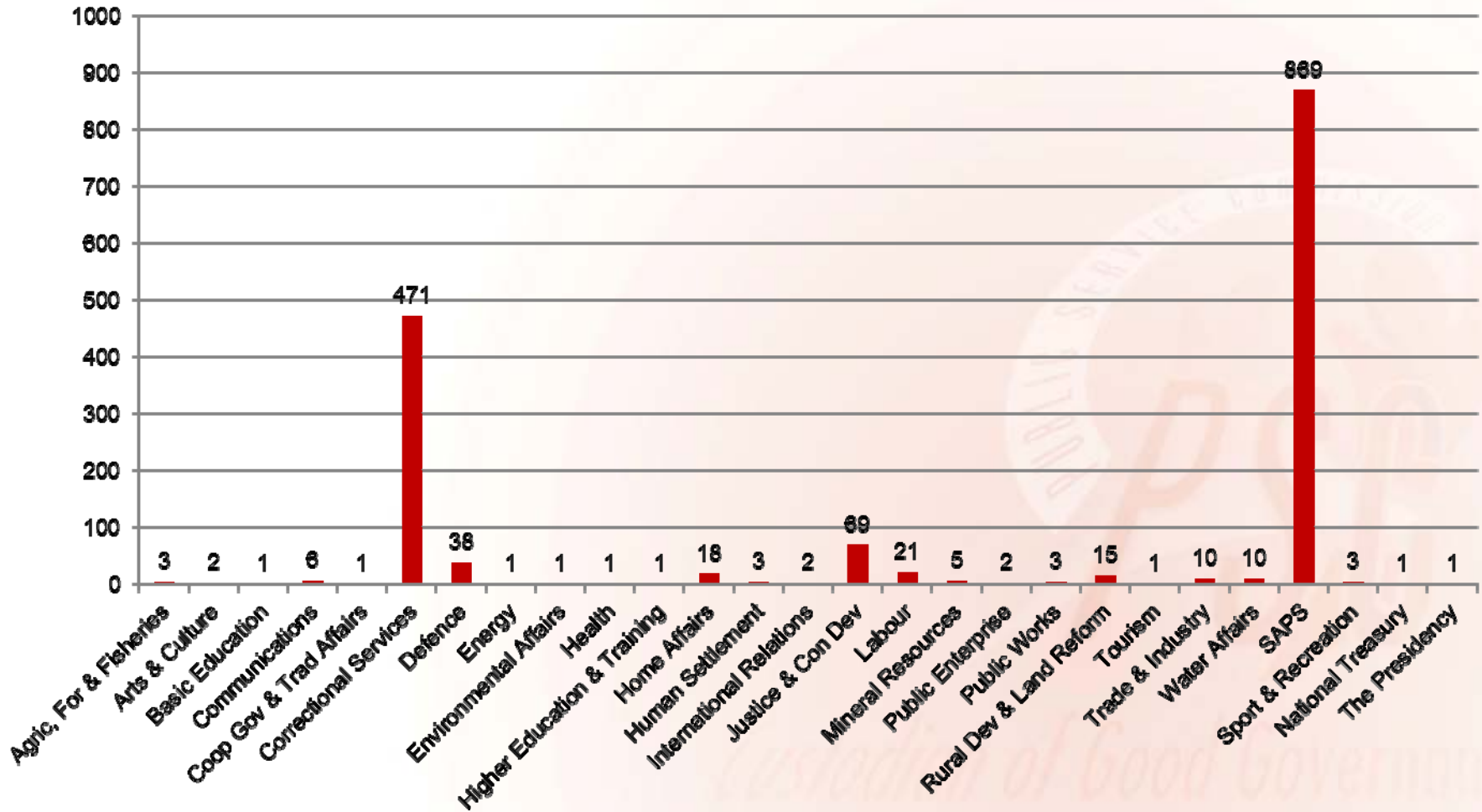
▪ The Departmental policy is an important tool in managing discipline including precautionary suspension as it ideally should address aspects such as –

- reasons for suspending and employee
- charges preferred
- consideration of transfers as an alternative
- reasons for extension of the suspension period

EMPLOYEES ON PRECAUTIONARY SUSPENSION IN 2010/2011: KEY DEPARTMENTS

- A total of 1559 employees were placed on precautionary suspensions during the 2010/2011 financial year in all national departments
- The highest number of employees placed on precautionary suspensions were reported in the following departments –
 - South African Police had 869
 - Correctional Services had 471
 - Justice and Constitutional Development had 69
 - Department of Defence had 38
 - In 18 departments it was reported that less than 10 employees were placed on precautionary suspensions - that include Agriculture, Forestry and Fisheries; Arts and Culture; Basic Education; Communications; CoGTA; Energy; Environmental Affairs; Health; Higher Education and Training; Human Settlement; Public Works; International Relations, etc.
 - Five departments reported nil employees on suspension, viz. Economic Development; Military Veterans; DPSA; Science & Technology; & WCPD

EMPLOYEES ON SUSPENSION IN 2010/2011 PER DEPARTMENT



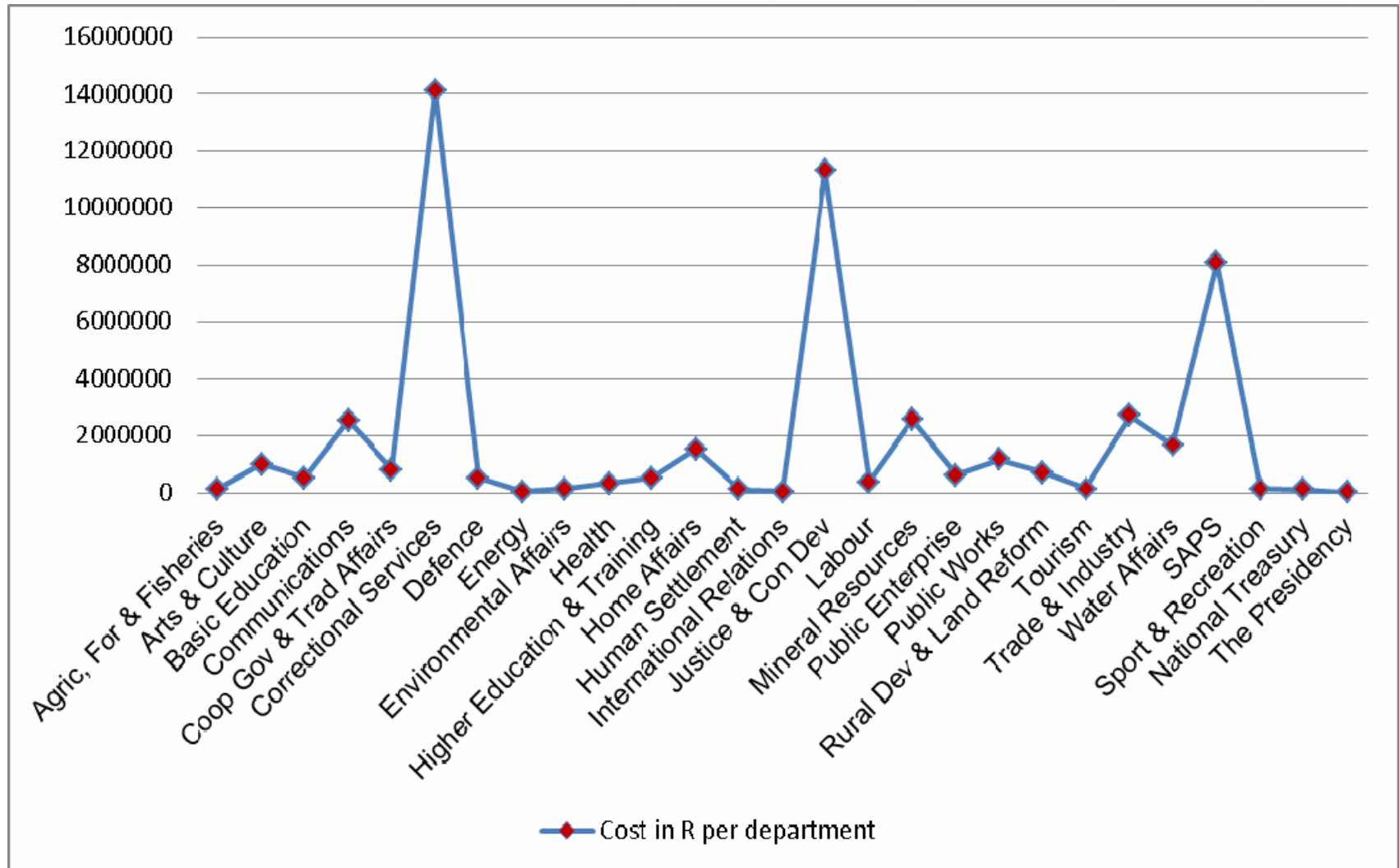
EMPLOYEES ON SUSPENSION IN 2010/2011 PER DEPARTMENT

- The following were the totals number of employees in the Public Service excluding the Department of Defence for the respective financial years, according to Vulindela
- 2008 – 1 114 032
- 2009 – 1 152 873
- 2010 – 1 182 368
- 2011 – 1 211 311
- In comparison to the total number of employees placed on precautionary suspension for the two FYs included in the PSC's study as well as the snap survey for the 2010/2011 FY, the respective percentages are very low. For example in 2010/2011 it was only 0.12% (1559 employees suspended on precaution out of 1, 2 million)

SUSPENSIONS SALARY COST 2010/2011

- According to the annual reports of national departments a total amount of R51 938 509, 24 was paid to 1559 employees who were placed on precautionary suspension during the financial year 2010/2011
- The total amount of salaries paid to employees in the departments which reported the highest number of suspensions follows –
 - South African Police spent over R8 million on 869 employees
 - Correctional Services spent over R14 million on 471 employees
 - Justice and Constitutional Development spent R11million on 69 employees
 - Department of Defence spent R511 481 on 38 employees
 - Departments that paid less than R50 000 remuneration for suspended employees were the Presidency; International Relations; and Energy
 - The rest of the departments (except nil reports) spent between R100 000 to over R1 million on salaries for employees placed on suspension

SUSPENSIONS SALARY COST 2010/2011



CHALLENGES FACED BY DEPTS

During interaction with officials, the challenges identified in the management of precautionary suspensions included –

- Poor monitoring of precautionary suspensions results in officials on suspension not rendering any service to the department for extensive periods pending the finalisation of cases (unless such posts are vacated by suspended employee, they cannot be filled)
- Other employees are burdened with taking responsibilities and functions of those who are placed on suspension
- Inadequate training of key role players in disciplinary procedure that leads to unnecessary lengthy periods of precautionary suspensions
- Poor compliance with timeframes by investigators and Presiding officers
- Investigations take too long leading to delays in charges formulation

The PSC established as a contributory factor a high level of inadequate competency levels of Presiding officers, employee representatives, employer representatives/investigators, leads to delays and extensions

RECOMMENDATIONS

To address all these issues identified during the study, the PSC made the following recommendations –

- Departments must develop their own internal policies through the assistance of the DPSA
- Employees, must attend training on disciplinary procedure including management of precautionary suspensions
- Each department must develop a database and profile the systematic issues that contribute to the extension of precautionary suspensions
- Precautionary suspension cases must be recorded in detail and reviews conducted often, preferably weekly
- Due to high cost implications, departments must immediately prioritise to finalisation of all the outstanding cases from previous years

RECOMMENDATIONS cont.

- The labour relation units must play an active role in keeping track of all cases of misconduct and ensure a consistent manner of reporting on the management of precautionary suspension
- There must be a database of capable presiding officers and investigators internally within departments, and centrally through the DPISA and offices of the Premier
- There should be a requirement for departments to explain what measures departments take against managers who delay conclusion of disciplinary procedures and in the case of precautionary suspension of SMS members (including HoDs) extension of the 60 days period should only be made after consultation with MPISA
- Departments must prior to placing employees on precautionary suspension seriously consider transfers as an alternative

CONCLUSION

- The PSC remains concerned by the low levels of compliance with timeframes prescribed in the management of discipline resulting from a lack of understanding of disciplinary procedures in the Public Service
- One of the factors that remain evident throughout several studies which the PSC has conducted on HRM Practices is the lack of departmental policies as well as inadequate training of all employees on basics such as disciplinary procedures
- The PSC directs that departments must maintain accurate records of all employees on precautionary suspensions to monitor progress and address challenges
- There is a dire need to expedite investigations and finalisation of hearings of cases to avoid disappearance of witnesses and documents as well as to improve service delivery in the Public Service
- The departments need to improve on adherence to prescribed timeframes that will result in reduced costs relating to salaries of employees who are on precautionary suspensions for lengthy periods



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