

MANAGING PEOPLE IN A TRANSFORMED PUBLIC SERVICE

White Paper on a New Employment Policy for the Public Service

1st Draft

Department of Public Service and Administration

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CHAPTER 1 INTRODUCTION

Purpose of the White Paper

1.1 South Africa's first democratically elected Government inherited a Public Service whose role in bringing about economic and social equity is pivotal, but whose capacity to do so is severely limited. Not only were the operational objectives of the pre-1994 Public Service at odds with the needs and legitimate expectations of the majority of South African citizens, the old Public Service was operated on a command and control model which is inappropriate for the management of a modern, democratic country.

1.2 Transforming the Public Service into an instrument capable of fulfilling its role in bringing about the new South Africa depends on many things but, above all, it depends on the commitment and effectiveness of public servants themselves, which in turn depends on the way in which those public servants are managed. The transformation of human resource management is, therefore, the catalyst for the transformation of the Public Service.

1.3 The purpose of this White Paper is therefore to provide a policy framework within which the Public Service can develop human resource management practices in line with its transformation goals.

Context and background

1.4 The Constitution sets out nine principles which should govern the Public Service. These are:

- A high standard of professional ethics must be promoted and maintained.

- Efficient, economic and effective use of resources must be promoted.
- Public administration must be development oriented.
- Services must be provided impartially, fairly, equitably and without bias.
- Peoples' needs must be responded to, and the public must be encouraged to participate in policy-making.
- Public administration must be accountable.
- Transparency must be fostered by providing the public with timely, accessible and accurate information.
- Good human resource management and career-development practices, to maximise human potential, must be cultivated.
- Public administration must be broadly representative of the South African people, with employment and personnel practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.

1.5 The White Paper on the Transformation of the Public Service sets out a comprehensive framework for change, in line with these constitutional principles. Its vision is of a Public Service which is "... representative, coherent, transparent, efficient, effective, accountable and responsive to the needs of all". The White Paper identifies eight priority areas which are key to the transformation process:

- Rationalisation and restructuring the Public Service.
- Institution building and management.
- Representativeness and affirmative action.
- Transforming service delivery.
- Democratising the state.
- Human resource management and training.
- Employment conditions and labour relations.
- The promotion of a professional service ethos.

1.6 The transformation agenda is being taken forward on all fronts through a series of policy initiatives, such as the White Paper on Education and Training in the Public Service, the White Paper on Service Delivery, the development of White Paper on Affirmative Action, and the development of new remuneration arrangements and the introduction of a job evaluation system. These developments are underpinned by a programme of Public Service legislation which is progressively clarifying the roles and responsibilities of the Minister and Department of Public Service and Administration, the Public Service Commission, and national departments and provincial administrations, with the aim of delegating and in some cases devolving responsibility and accountability for public service management to national and provincial departments.

1.7 The transfer of responsibility to national and provincial departments will be undertaken within a framework of national norms and standards which will ensure that the Public Service remains unified. These norms and standards will be incorporated into a new Public Service Code which will replace the existing Staff Code. This White Paper lays down principles which will form the basis for the new Code in respect of human resource management.

1.8 The White Paper has been developed in the light of responses to Department of Public Service and Administration's Green Paper, published in May 1997 on a New Employment Policy for a New Public Service.

The need for change

1.9 The Department of Public Service and Administration knows, from its own involvement in administering the existing personnel management procedures, that these procedures are ineffective, discriminatory and inefficient. For example:

- it takes around 3 months, and extreme cases up to 12 months to recruit a new entrant;
- some 79% of public servants are black; however only 0,16% of black public servants are employed at Director level and above;
- the Public Service Staff Code and Regulations comprise a total of approximately 1700 pages; the Personnel Administration Standards around a further 3600 pages.

1.10 The responses to the Green Paper make clear that national and provincial departments are overwhelmingly dissatisfied with human resource management in the Public Service, which is perceived to be over-centralised; excessively bureaucratic and rule-bound; and focused on process at the expense of results. Human resource planning barely exists; many levels of the Public Service are still effectively closed to external applicants; post-filling and promotion criteria place too much emphasis on educational qualifications, seniority and performance in the existing post, and too little on the requirements of the job to be done. Performance management is under-developed.

1.11 In short, the Public Service's capacity to predict and meet its human resource capacity requirements, and to manage its human resources effectively and efficiently is wholly inadequate. The Public Service is facing the immense challenges of transformation with human resource management tools designed in a different era for different purposes. The transformation of these tools is an essential prerequisite to enable the Public Service to fulfil its transformation role.

Scope and structure of the White Paper

1.12 The scope of this White Paper is confined to those aspects of employment which relate to the human resource planning, and to the recruitment, management and termination of public servants. It does not cover remuneration, service benefits or labour relations, which are the subject of separate, although linked initiatives.

1.13 Chapter 2 of the White Paper sets out the vision, missions and principles which will underpin human resource management in the Public Service. Chapter 3 provides a framework within which national and provincial departments can develop their human resource policies and procedures. Chapter 4 explains how the new human resource management framework will be implemented, monitored and evaluated.

CHAPTER 2

VISION, MISSION AND VALUES FOR HUMAN RESOURCE MANAGEMENT IN A TRANSFORMED PUBLIC SERVICE

Vision

2.1 The vision of human resource management in the Public Service is of a representative, competent and well-managed workforce, capable of and committed to delivering high quality services to the people of South Africa.

Mission

2.2 The mission of human resource management in the Public Service is that it should become a model of excellence, in which the management of people is seen everyone's responsibility and is conducted in a professional manner.

Values

2.3 The values which will underpin human resource management in the Public Service are:

Fairness:

All public servants will be treated fairly, without favouritism or bias, on the basis of their performance of their duties and with due regard for their personal career aspirations. Public servants will have the right to appeal against human resource management decisions or actions which they believe are unlawful, unfair or discriminatory.

Equity:

The Public Service will be broadly representative of the people of South Africa. Its human resource management practices will be free from all forms of unfair discrimination. Previously disadvantaged groups will be advanced within the Public Service.

Accessibility:

The Public Service will be open to all citizens of South Africa.

Transparency:

Human resource management practices will be open to internal and external scrutiny.

Accountability:

Responsibilities for human resource management within the Public Service will be clearly defined, and individual public servants will be held accountable for the discharge of those responsibilities.

Efficiency:

Human resources will be managed with a minimum of waste and in a manner which provides maximum value for money.

Effectiveness:

Human resources will be managed in a manner which is focused on the delivery of results, specified in terms of quality and quantity.

Flexibility:

Human resources will be managed flexibly, taking account of both the operational needs of the organisation and the human needs of employees.

Decentralisation:

The management of human resources will, to the greatest extent possible, be undertaken by those closest to the point of delivery. Where appropriate, functions will be devolved from the centre and become wholly the responsibility of departments. Where devolution is inappropriate, the centre will delegate maximum possible authority and responsibility for management of human resources.

Participation:

Human resources will be managed on the basis of a co-operative relationship with organised labour based on mutual interests, and the participation of individual employees.

Professionalism:

Human resource practitioners and line managers will have the necessary expertise to undertake their duties competently.

CHAPTER 3

A NEW FRAMEWORK FOR HUMAN RESOURCE MANAGEMENT

Introduction

3.1 The Public Service, like all other employers, is bound by the Labour Relations Act, 1995, which lays down certain fundamental employment requirements, as well as other legislation, such as the Occupational Health and Safety Act, 1995. The policies set out in this chapter of the White Paper are based on this legislation, and explain how human resource management in the Public Service will be brought in line with its provisions.

3.2 Implementation of the policies set out in the paragraphs below, will have a profound impact on the management of people within the Public Service, and on the careers of individual public servants. The old idea of the Public Service as a closed shop providing a job for life will disappear. Open competition and more innovative recruitment practices will open the Public Service up to a far wider pool of talent and ensure the inclusion of all sections of society. Fresh skills will be more easily absorbed, and operational requirements more efficiently managed through the use of fixed-term contracts.

3.3 Competition will also increase the opportunities for those from previously disadvantaged groups both to join and to advance within the Public Service. This will be underpinned by transparent human resource strategies based on sound planning which includes targets for the achievement of employment equity goals.

3.4 Competition will also put an end to automatic promotion: in future, promotion will be achieved only by those who can demonstrate, in competition with others, that they are the most suitable person for the position in question. Employees will have more control over their own career development: there will be no barriers to applying for jobs at higher levels, or in other occupational groups.

3.5 Greater transparency and more competent and accountable management of human resources will mean that it will no longer be possible to manipulate human resource management procedures, such as qualifications, health requirements, probation, temporary

employment, and ill-health retirements, to restrict the careers of those from disadvantaged groups, and to avoid dealing with poor performers.

Human Resource Planning

3.6 Human resource planning is essential in order to ensure that an organisation's human resources are capable of meeting its operational objectives. Human resource planning ensures that an organisation:

- Obtains the quantity and quality of staff it requires.
- Makes the optimum use of its human resources.
- Is able to anticipate and manage surpluses and shortages of staff.
- Develops a multi-skilled, representative and flexible workforce, which enables the organisation to adapt rapidly to a changing operational environment.

3.7 Human resource planning consists of three main steps:

- An assessment of the human resources which will be required to deliver the operational objectives in the organisation's strategic plan.
- An assessment of the organisation's existing human resource capacity.
- A plan for how the gap between existing human resource capacity and the future human resource requirement will be filled, within the financial resources available.

Assessment of human resource requirements

3.8 Based on the department's short-, medium- and long-term operational objectives as set out in its strategic plan, the assessment of human resource requirements will identify not only the numbers of staff and skills required, but also targets within these for meeting the goals of employment equity, in relation to race, gender and disability. The assessment should also take account of the department's future organisational and management structure, and other factors such as geographical disposition.

Assessment of existing human resource capacity

3.9 The human resource capacity assessment will identify the numbers and skills of staff currently employed, and their potential for meeting future requirements through, for example, development and training. It will also identify the gaps in numbers and skills and employment equity targets which need to be filled. On the basis of this information, together with information about likely future retirements, staff turn-over etc., the department will be able to identify the extent to which existing human resource capacity matches the requirement.

Drawing up a human resource strategy

3.10 Having identified the 'gap' between its requirement and existing capacity, a department can then begin to devise strategies to meet its needs. A critical factor in devising these strategies will be the financial resources available. Strategies will therefore be developed within the overall budgeting process and are likely to be wide-ranging, including, for example, organisational redesign, process re-engineering and outsourcing, as well as standard human resource management instruments such as recruitment, training, promotion, redeployment, career management and, where necessary, staff reductions.

3.11 Once drawn up, the human resource strategy will drive all human resource management activities. Its effectiveness will depend, however, on its continuing relevance in the light of experience, and it will therefore need to be supported by human resource management information systems which provide accurate and timely information on how the strategy is operating in practice.

Employment Contracts

3.12 The human resource strategy will determine not only the numbers and types which are to be filled through how positions will be filled, but the contractual capacity in which staff are to be employed. The Public Service operates in an increasingly fast-moving operational environment, in which the demands placed upon it can vary greatly in nature and volume over short periods of time. Although some operational trends can be predicted in advance, others may arise quite suddenly. The Public Service therefore requires flexible contractual options which enable numbers and skills to be adjusted as requirements change. To meet this need, public servants will in future be employed on one of three types of employment contract: continuous; fixed-term; or temporary.

Continuous employment

3.13 A continuous contract is one in which the employee is engaged for an unspecified period for as long as the Public Service has need of his or her services. Continuous contracts will most often be used for staffing core activities of an on-going nature. Most employees on continuous contracts can expect to remain in the Public Service until retirement age, but there is no entitlement to this: continued employment will depend not only on the employee's performance, but also on the extent to which his or her skills and potential match the organisation's operational requirements.

Fixed-term employment

3.14 Fixed-term contracts are the primary means of engaging public servants for work of limited duration, and are thus an important method of managing fluctuating or rapidly changing operational requirements. Fixed-term can also be used for:

- Obtaining particular and urgently-needed skills that are temporarily or more permanently unavailable from within the Public Service.
- Ensuring the regular rotation of staff in positions where the injection of fresh experience is essential.
- Activities whose long-term nature is uncertain.

3.15 Fixed-term contracts will normally be for periods of 1 - 3 years, and may not be longer than 5 years. The terms of such contracts will be individually negotiated, but may not be used either to deny the employee a fair level of remuneration or to award an excessive remuneration package.

Temporary employment

3.16 Temporary contracts are the means of meeting very short-term ad hoc work requirements, for example, seasonal employment. Temporary contracts may not extend beyond 12 months.

Written contracts

3.17 All public servants must have a written contract, which sets out the period of employment, and the terms and conditions on which he or she is employed.

Approved establishment

3.18 An organisation's approved establishment will consist of the total of posts to be filled either by continuous or fixed-term contracts. All employees, whether on continuous, fixed-term or temporary contracts, are public servants, although their conditions of service may vary, depending on the terms of their contract. Employees may be engaged on a full- or part-time basis whether employed on a continuous, fixed-term or casual contract.

Principles Governing the Filling of Posts

Competition

3.19 Positions at all levels within the Public Service will normally be filled by competition, with the aims of:

- Identifying the most suitable person for the job from the widest possible pool of talent.
- Making the Public Service accessible to all sections of society.
- Achieving employment equity.

3.20 For practical purposes, competition may be divided into three categories:

- Open:

National competition open both to public service and external applicants.

- Limited:

Competition open to Public Service and external applicants recruited from within a defined area, provided that the limitation does not conflict with the principles of accessibility and employment equity.

- Internal:

Competition restricted to the Public Service or sectors thereof.

3.21 National and provincial departments' human resource policies should define clearly which positions will be filled by open, limited and internal competition, and the rationale for this. Decisions to restrict competition must not undermine the principles of accessibility and the achievement of employment equity. As a *minimum*, the following norms will apply:

- All posts at Deputy Director and equivalent level and above must be filled by open competition.
- All entry positions (i.e. positions on level 1 to level 6 of the salary grading system) must be filled by limited competition.
- All posts *above* entry grades and *below* Deputy Director level must be filled by internal competition.

3.22 The only exceptions are posts which may be filled by lateral transfer, or by secondment, loan or exchange (see paragraphs 3.32 and 3.33).

Selection on merit

3.23 Selection on merit is fundamental to ensuring that the Public Service recruits and promotes people of the highest calibre. The aim is to ensure that the person selected is, of the available applicants, the person best suited for the position, on the basis of his or her skills,

experience, abilities and personal attributes. Unfortunately, the principle of selection on merit has been eroded and misused in the past by drawing up narrow, exclusive position requirements which discriminated both against external candidates and against certain groups of internal candidates, to the detriment of the quality of human resource capacity within the Public Service. The time has come to restore to the word merit its true meaning, and to ensure that the principle of selection on merit underpins the filling of all posts within the Public Service.

3.24 In drawing up their selection procedures, whether for recruitment or for promotion, departments must apply the following principles:

- Job-related selection criteria

The criteria on which selection is made must relate only to the inherent requirements of the duties to be undertaken. They should, however, take account of the wide variety of ways in which suitability can be assessed including, for example, competencies acquired through previous experience or training, and demonstrable interpersonal skills, decision-making capacity and learning potential are all equally important. Educational qualifications should not, alone, predetermine suitability. The criteria should not be used to undermine the goal of achieving representation and advancing previously disadvantaged groups.

- Fairness

The process of selection must not discriminate against external applicants, nor against any applicant on the grounds of race, colour, gender, disability, age, religion, belief, culture, marital status, sexual orientation, pregnancy, or domestic circumstances.

- Equity

Merit must be defined in the context of equity, which aims to advance persons who have been disadvantaged by unfair discrimination. All candidates must be measured against the same objective criteria, which must be drawn up in writing in advance of the selection process. A minimum of three people should undertake the selection, including an independent chairperson to ensure fairness and objectivity. All applicants for a particular post should be assessed by the same selection group. The normal selection procedure should comprise of an interview, on the basis of a written application. If the number of applicants is so great as to require pre-interview shortlisting, written criteria must be drawn up in advance.

- Transparency

A written record must be kept of the criteria used in selection, and the assessment of individual candidates, which justify the decisions reached.

Recruitment

3.25 Recruitment is not only one of the most important ways in which the Public Service meets its human resource capacity requirements; it is also the prime instrument for achieving employment equity, by opening up the Public Service to all sections of society. In drawing up their recruitment policies and procedures, targets must therefore be set for achieving specified employment equity objectives, and in particular for achieving race, gender and disability

balance, as well as for achieving the skills necessary to meet the department's operational needs.

3.26 Identifying and attracting suitable applicants depends on the effectiveness of departmental advertising, both in terms of the substance of the advertisement and the extent to which it reaches the target audience. In drawing up advertisements, the following principles must be applied:

- The advertisement should include an accurate description of the duties to be undertaken, and the qualifications required.
- Qualifications should not be defined primarily or solely in terms of educational attainment, but should include skills, relevant experience, and other criteria. Where educational requirements are considered to be essential, these must be set at the minimum level.
- The language and style of the advertisement must be clear and simple, and designed to attract candidates from all sections of the target audience, particularly those whom the Public Service wishes to attract in order to achieve employment equity.
- The method or methods of advertising must be designed to reach the widest possible number of people within all the target groups in the most cost-effective manner. New and innovative methods of advertising must be explored to reach those unlikely to be able to respond to traditional methods such as newspaper insertions.
- The effectiveness of advertising campaigns must be reviewed from time to time in order to improve future recruitment efforts.
- The requirement for additional health or security checks must be clearly stated in the advertisement.

3.27 Skills search, often known as 'head-hunting' may be used to identify candidates where, exceptionally, it can be demonstrated that the special requirements of the position in question are likely to render more traditional advertising methods ineffective. Once candidates have been identified, however, the principles of selection on merit must be applied as for any other method of recruitment.

Entry Requirements

3.28 In addition to suitability for the job, there are certain minimum requirements for employment in the Public Service. These are:

Citizenship:

Employment in the Public Service is open to all South African citizens, including those who have legally acquired citizenship. Non-South African citizens may be employed on fixed-term contracts for up to a maximum of five years. Extensions of contract beyond 5 years may be mutually agreed by the employer and employee on the merits of the individual case.

Age:

Employment in the Public Service is open to anyone between the ages of sixteen and sixty.

Health:

Health requirements must relate solely to the inherent nature of the duties to be undertaken. This means that employees who are in normal health will be eligible for most positions in the Public Service, and no pre-entry health check will be required. Particular care must be exercised, however, to ensure that potential applicants who suitable for a job but who are

physically disabled are not discriminated against because the organisation lacks facilities to accommodate them. Where particular health or physical requirements are essential for performance of the job, these must be clearly stated in the job advertisement.

Good character:

Employment in the Public Service is open to all persons of good character, that is, persons who are law-abiding and prepared to conform with the high standards of conduct required by the Code of Conduct for Public Servants. This is essential to protect the public interest. Potential employees may therefore be asked to provide information about past convictions or misdemeanours which could have a bearing on their suitability for employment in the Public Service. However such incidents will not necessarily be a bar to employment, if it can be demonstrated that the nature of the incident poses no threat to the public interest, or the incident was sufficiently long ago, and the person's subsequent behaviour indicates that he or she is now rehabilitated.

Probation

3.29 All new employees on continuous contracts will be required to undergo a period of probation which will be determined by the nature of the position and the time required to determine the employee's suitability for continued employment. The probationary period may vary from position to position but must not be less than three nor more than 12 months. During probation the employee should be given training, instruction, orientation, guidance, evaluation and counselling to assist him or her to render satisfactory service.

3.30 Clear criteria must be laid down for how the probationary period will be assessed. These must include arrangements for the possible extension of probation, and for the discharge of an employee who fails to complete his or her probationary period satisfactorily. A decision to discharge an employee will take account of :

- whether the employee was given appropriate training, instruction, orientation, guidance, evaluation and counselling; and
- whether the employee was given a reasonable period of time in which to improve his or her performance.

Promotion

3.31 In line with the principle of competition, promotion will take place only when a serving employee successfully competes for a job at a higher level. Seniority will not be a factor in promotion. Performance reports will be relevant in so far as they demonstrate whether or not the employee may be capable of doing the job for which he or she has applied.

Lateral Transfers

3.32 It is in the interests of good management, in terms both of the organisation's operational effectiveness and the employee's development, that staff should, from time to time, be rotated between different jobs within his or her department and within the wider Public Service. Transfers of staff at the same level may therefore be instigated by both the employer and the employee. However, in transferring staff, the following principles must be applied:

- The operational requirements of the organisation must be paramount.
- Transfers may not be used to avoid dealing with staff whose performance or conduct is unsatisfactory, neither may they be used to move staff on the basis of personal prejudice.

- Transfers may not be used to avoid filling a vacant post through competition.

Secondments, Loans and Exchanges

3.33 It is in the public interest to encourage greater mobility between the Public Service and the private sector and other external organisations. Secondments, loans or exchanges may therefore be instigated either by the employer or the employee, provided that there is a clear and specific public interest in the additional experience to be gained, over and above the individual's personal development, and subject to the following principles:

- No additional public expenditure costs may be incurred.
- The public servant remains subject to Public Service regulations and to the Code of Conduct.
- The employee's existing financial position will be maintained.

Re-Employment

3.34 Former employees who have resigned or retired may be re-employed if they successfully apply for a post through open or limited competition, other than employees whose termination was subject to restrictions on their further employment in the Public Service. Previous service will be taken into account in selection only in as far as it demonstrates their suitability to undertake the duties of the post for which they are applying. Since former employees are no longer public servants they may not compete for posts which are restricted to serving public servants.

Performance Management

3.35 The success of the Public Service in delivering its operational and development goals depends primarily on the efficiency and effectiveness with which public servants carry out their duties. Managing performance is therefore a key human resource management tool to ensure that:

- Employees know what is expected of them.
- Managers know whether employee's performance is delivering the required objectives.
- Poor performance is identified and improved.
- Good performance is recognised and rewarded.

3.36 Performance management is an ongoing process, in which the employee and employer, together, strive constantly to improve the employee's individual performance and his or her contribution to the organisation's wider objectives. Since the performance of every employee contributes to the overall delivery of the organisation's objectives, it follows that the performance of every employee must be managed. The performance management procedures may vary from one group or level of employees to another, depending on their tasks, but the following principles should underpin all performance management procedures:

- Results orientation:

The employee's performance should be assessed on the basis of a work plan covering a specified period, setting out clearly the his or her responsibilities and the objectives to be achieved. These objectives should be expressed in terms of outputs to be delivered within a given timescale, and should include personal development as well as operational objectives. The assessment

process should include both a written assessment completed at no less yearly intervals, and regular discussions at least every 6 months to monitor progress. Where performance has not matched the requirements in the work plan, the assessment, both written and verbal, should be focused on identifying the reasons for this, and on reaching mutual agreement on the steps which need to be taken to effect improvement.

- Participation:

The work plan should be mutually agreed between the employee and his or her supervisor.

- Openness, fairness and objectivity:

The employee must be given a copy of the written assessment. The reporting officer's written assessment must be reviewed by his or her own supervisor in order to ensure that reporting standards are objective and uniform.

Career Management

3.37 The Public Service values employees who are willing to devote themselves to a career in the service of the public, and wishes to provide opportunities for self-development and advancement in line with their individual skills and abilities within the Public Service's operational requirements. Career management is the process by which the career aspirations of the individual employee are reconciled with the operational objectives of the organisation. It is closely linked to performance management, but is distinct from it. Effective career management:

- Enables employees to maximise their career potential by availing themselves of job opportunities, training and development.
- Enables employers to develop the organisation's human resource capacity while supporting, as far as possible, employees' career aspirations.

3.38 Primary responsibility for career management rests with the employee. It is for individuals to determine, in the light of their personal aspirations, the direction in which they wish their careers to advance, whether within or outside the Public Service. Departments also have a responsibility for career management, given its importance in developing the organisation's human resource capacity to meet its operational and organisational objectives. National and provincial departments should therefore develop career management procedures, linked to their performance management system, which comply with the following principles:

- The individual employee is responsible for his or her own career management. Employees therefore have a duty to inform themselves of job, training and development opportunities, and to avail themselves of such opportunities as they occur.
- The employee's immediate supervisor is responsible for informing him or herself at regular intervals about the employee's career aspirations, and for reaching an understanding with him or her about how these can best be met within the organisation's future operational objectives.
- The supervisor must keep up to date with job, training and development opportunities which are likely to assist in meeting both the employee's career aspirations and the organisation's operational objectives, and to inform the employee of these and support his or her efforts to avail him or herself of them.
- Supervisors have a particular duty in respect of staff whose careers have been or are still hampered through no fault of their own, such as employees who have been educationally disadvantaged, or

women who are trying to combine a career with child-rearing responsibilities, or employees who are disabled.

- The supervisor's own performance should include an assessment of the extent to which they have carried out their career management responsibilities.

Management of Conduct

3.39 All public servants are required to comply with the law, and to abide by the Code of Conduct for Public Servants. Failure to do so constitutes a breach of discipline for which an employee can be penalised. It is therefore the duty of national and provincial departments to ensure that every employee is aware of the legislation which impacts on their area of work, and is provided with a personal copy of the Code of Conduct for Public Servants when they take up their duties.

3.40 The Code of Conduct sets general norms for the behaviour required of public servants in respect of the public, the legislature, and their professional colleagues. However departments should also draw up their own codes to guide employees in relation to their particular tasks. For example, staff who deal directly with the public should be given clear guidance about the standards of courtesy and behaviour which is expected. These departmental codes should be agreed with the appropriate employee representative bodies and promulgated in writing to every employee.

3.41 The key to ensuring good conduct on the part of employees is to create an environment where a high standard of professional behaviour is the norm. While every employee is responsible for his or her own conduct, most employees will take their cue from their seniors, and therefore supervisors and managers have a particular duty to set and maintain high standards of honesty, responsible use of resources, courtesy, punctuality, and conscientious performance of their duties. This applies above all to top managers, who are ultimately accountable for their employees' conduct.

3.42 When cases of misconduct occur, they should be identified and dealt with swiftly. It is the duty of every employee to report any incident which they suspect to be a breach of conduct to their superior officer, whether or not the incident is related to their own area of work. Unlawful or criminal activity must be referred to the Police immediately to be dealt with under due legal process.

3.43 Breaches of discipline falling short of illegal activity should be dealt with by departmental measures which are appropriate to the seriousness of the offence, and which are focused on correcting the employee's conduct while also protecting the public interest. Departments' disciplinary procedures should therefore contain a range of measures which can be applied flexibly to meet the circumstances of the case. Minor infringements should be dealt with on the spot by means of a verbal warning from the employee's supervisor. More serious infringements, or repeated minor infringements may be dealt with by means of a written warning or formal reprimand, or a more substantial measure such as demotion, or withholding a pay increase. Serious cases of misconduct may result in dismissal, which may be instantly imposed in the most serious circumstances.

3.44 Whatever the nature of breaches of conduct, procedures for dealing with them should be swift, fair, equitable and effective. The following principles should be observed:

- The breach of conduct must be objectively substantiated.

- The employee must be informed of the charges against him or her, and be given adequate opportunity to respond.
- Action as a result of misconduct must be appropriate and implemented swiftly.

Termination of Service

General principles

3.45 Employees who have served loyally and well must be treated with consideration when they leave; equally, employees for whom there is no further operational requirement, or who can no longer serve competently and effectively, or whose conduct falls below the high standards required of public servants, may not be permitted to remain within the Public Service.

Categories of termination

3.46 A public servant's service can be terminated in one of three ways:

- Termination initiated by the employee.
- Termination by mutual agreement.
- Termination initiated by the employer.

Termination initiated by the employee

3.47 Resignation:

An employee may resign from the Public Service of his or her free will at any time by giving the employer notice in writing as stipulated in his or her contract of employment. The two exceptions to this are:

- An employee must resign from the Public Service if her or she: accepts a nomination or stands as a candidate as a member for parliament at national or provincial level; or accepts employment elsewhere in the public sector, for example in a parastatal organisation, or in local government. An employee who fails to offer his or her resignation in these circumstances will be deemed to have resigned.
- An employee may not resign in order to avoid the consequences of disciplinary action. The resignation of an employee who has been suspended or who has been accused of misconduct may not be accepted until disciplinary procedures have been completed and a decision reached not to dismiss the employee.

3.48 Retirement at own request.

An employee may request to retire from the Public Service at any time between the age of 55 and 60 years, subject to the agreed period of notice. The request may only be refused if there are proven operational reasons for doing so. In such cases, the employee must be given a date on which a request for retirement will be accepted.

3.49 Abscondment.

An employee who absents him or herself from duty for a period of 21 days or more without prior authority will be deemed to have resigned. Procedures to implement termination in cases of abscondment must comply with the following principles:

- All reasonable attempts to contact the employee must be exhausted prior to implementation.
- Adequate opportunity must be provided for the employee to present his or her case why termination should not be proceeded with.

- The case must be speedily and objectively considered.
- The return to work and remuneration of employees who are, after a period of absence, deemed not to have absconded, must be dealt with in a fair and dignified manner.

Termination by mutual agreement

3.50 Early retirement

An employee between the ages of 45 and 60 can request to be retired early, and the employer may agree, provided early retirement is in the interests of the organisation.

3.51 Voluntary severance

From time to time, voluntary severance may be offered to individuals or groups of employees for whom there is no further operational requirement. Voluntary severance schemes will be designed case by case to meet the particular operational needs of the organisation concerned. In devising voluntary severance schemes, the following principles must be applied:

- All eligible employees (i.e. employees within the specified target group) wishing to take voluntary severance must be given an equal opportunity to apply.
- Objective selection criteria must be drawn up which set out clearly for the benefit of employees the basis on which applications will be accepted. These criteria must be focused firmly on operational requirements and be consistent with the principles of employment equity.
- The final decision to accept an application will rest with the employer.

Termination initiated by the employer

3.52 Age retirement

The normal retirement age for all public servants is the day following their 60th birthday. All contracts of employment should make clear that employment will automatically cease on this date. Employees should be sent a written reminder of their impending retirement, together with notification of their retirement benefits, at least one calendar month before their 60th birthday. Employment beyond the age of 60 is only permitted only in exceptional circumstances where:

- The employer can clearly demonstrate that the employee in question is the only person who can carry out the duties in question.
- The employee is willing to extend his or her service.

3.53 Extensions of service beyond the age of sixty must be on the basis of a fixed-term contract for a specified period of not more than 12 months at a time, and not extending beyond the employee's 62nd birthday.

3.54 Completion of fixed-term contract

The service of employees on fixed-term contracts will automatically cease at the end of the contract period. No notice period is required on either side. Extensions to fixed-term contracts can be instigated only by the employer and must comply with the following principles:

- The extension is required because of additional operational requirements in relation to the original contract, and does not constitute a completely new requirement.
- The extension is not required because the employee has failed, through his or her own shortcomings, to deliver the required outcomes in the original timescale.

- There are clear operational grounds for extending the contract rather than creating a new contract filling the position through competition.
- The employee's performance during the period of the original contract has been wholly satisfactory.
- The period of extension does not exceed [2] years.

3.55 Involuntary severance

From time to time the Public Service may find it necessary to dispense with the services of individuals or groups of employees for whom there is no further operational requirement. In these circumstances, the services of the employees concerned will be terminated in accordance with an involuntary severance scheme negotiated with the relevant staff representative body. Such schemes will be drawn up in accordance with the following principles:

- Selection criteria must be objective, consistent with the principles of employment equity, and focused firmly on operational requirements. Wherever possible, preference in selection should be given to those who wish to volunteer over those who wish to remain.
- The employer must take active steps to redeploy employees to other positions within the Public Service before implementing severance.
- The financial compensation package should provide fair compensation for the loss of employment, taking account of the employee's age, length of service, and future employment prospects.
- Adequate notice of severance must be given to employees.
- Severance arrangements must include measures to assist employees to make a successful transition from the Public Service to other fields of employment or early retirement.

3.56 Termination due to ill-health

Most employees suffer occasional bouts of ill-health which prevent their attendance at work, or diminish their performance of their duties. These are covered by the normal sick leave provisions. Where, however, an employee's health deteriorates so seriously as to render him or her permanently unfit for duty for the foreseeable future, his or her services may be terminated on grounds of ill-health. In terminating service on ill-health grounds the following principles must be applied:

- The degree of incapacity and confirmation that there is no early prospect of recovery must be established by a professional medical authority acting independently of the interests of either the employee or employer.
- The employer must demonstrate that there is no other suitable job which the employee can perform elsewhere in the organisation, even given his or her current state of health.

3.57 An employee who has been retired on ill-health grounds may be considered for re-employment on the basis of independent medical evidence that he or she is now fit to resume the duties required of him or her.

3.58 Termination due to poor performance

From time to time, most employees go through a 'bad patch', during which the standard of their work falls. This may be for domestic or health reasons, or because their tasks or working environment fail to bring out the best in them. Such lapses are usually temporary, and should be dealt with through normal performance management practices. Sometimes, however, an

employee's performance deteriorates so seriously and permanently, that the Public Service can no longer justify employing him or her. In such circumstances, an employee's service may be terminated. Procedures for terminating service in these circumstances must comply with the following principles:

- The employer can demonstrate that the employee has consistently failed to perform to the required standard, notwithstanding the application of all possible remedial measures, including opportunities for improvement provided by the performance management system.
- The employer can demonstrate that the employee is incapable of improving or unwilling to improve his or her performance.
- There is no other job within the organisation which the employee is capable of filling within his or her capacity and willingness to perform to a satisfactory standard.
- The employee is provided with an adequate opportunity to appeal against the decision to terminate his or her services, with the assistance of a personal representative of his or her choice.

3.59 Dismissal for misconduct

Public servants are required to uphold the highest standards of professional and personal behaviour, as laid down in the Code of Conduct for Public Servants. An employee who is guilty of misconduct so serious as to render him or her unsuitable for employment in the Public Service is, in effect, in breach of his or her contract and may be dismissed. Procedures for dismissing an employee on grounds of misconduct must comply with the following principles:

- There must be proven evidence of the alleged misconduct.
- Disciplinary action short of dismissal must be considered before a decision to dismiss is taken.
- The employee must be given written notice of the intention to dismiss him or her, and adequate opportunity to defend him or herself, with the assistance of a personal representative of his or her choice.
- The employee must be given an opportunity to appeal against the decision on the basis of new evidence not previously considered.

3.60 Dismissal due to industrial action

Industrial action, including legally constituted - 'protected' - strikes, are deemed to be 'functional' to the collective bargaining process. Participation in a protected strike, or for any conduct in contemplation or furtherance of such a strike, is therefore not regarded as a breach of contract, and does not constitute grounds for dismissal. However if, in the course of a protected strike, an employee is guilty of misconduct, for example by carrying out acts of violence or intimidation, this may provide grounds for dismissal.

3.61 Employees who participate in unprotected strikes may be dismissed, but may also have recourse to legal redress if, for example, it is proved that the employer caused the strike through its own actions. Procedures for dismissing employees as a result of unprotected strike action should comply with the following principles:

- The intended action should be discussed with the relevant trade union or unions.
- Employees should be given a clear ultimatum advising them to return to work and informing them of the intention to dismiss them if they fail to do so.
- Employees should be given a reasonable period of time within which to consider and respond to the ultimatum.

CHAPTER 4

IMPLEMENTATION

The challenge

4.1 In the past, personnel management in the Public Service was centralised, with the former Public Service Commission developing all policies and practice. Personnel components within national and provincial departments were expected to administer these rules and regulations without active participation in their development. The purpose of this White Paper is to transform personnel administration into modern human resource management, in order to fulfill its key role in the transformation of the Public Service. Implementing the White Paper poses a number of challenges:

- The development of human resource management policy and practice capacity at national and provincial level.
- The transformation of personnel components into full-fledged human resource management units.
- The empowerment of human resource management practitioners to discharge their tasks.
- Ensuring that the managing people becomes the responsibility of all line managers, and that they have the requisite skills to fulfill this responsibility.

4.2 A radical shift of this kind cannot be achieved overnight. A systematic, phased approach will be required in order to create institutional mechanisms and capacity, and to ensure that these are dovetailed with other transformation initiatives.

Institutional mechanisms

4.3 The mandatory aspects of the policies in this White Paper will be incorporated into the new Public Service Management Code now under preparation by the Department of Public Service and Administration, which is due to be published in [April 1998]. The policies will also inform the development of the Good Management Guides which are expected to follow the publication of the new Code.

Capacity building

4.4 As a result of the way in which personnel matters were administered in the past, many national and provincial departments lack human resource management skills. Building capacity will therefore be a priority in implementing the White Paper. The Department of Public Service and Administration, in conjunction with departments and other key players such as the South African Management Development Institute, will develop a capacity-building programme. The first stage will be a capacity assessment exercise to determine the readiness of individual departments to discharge exercise powers and delegated responsibilities. The exercise will determine, among other things:

- The existing level of human resource management skills.
- Whether sound human and financial resource management systems exist.
- The institutional capacity to exercise devolved powers and delegated responsibilities.

4.5 This will be followed by a capacity-building programme to develop human resource management skills among practitioners and line managers. The programme will be dovetailed with the capacity-building programme which will follow the publication of the new Public Service Management Code.

Timescale

4.6 The need to reform human resource management is urgent, because of its central role in the transformation of the Public Service. National and provincial departments should not, therefore, wait for the commencement of the capacity-building programme before embarking on reform, but should begin on their implementation programmes as soon as possible within their current capacity.

Monitoring and evaluation

4.7 Individual department's progress in implementing the White Paper will be monitored by the Public Service Commission, as part of their regular monitoring activities. The Department of Public Service and Administration will evaluate the policies in the White Paper and submit a report to Parliament on overall progress [12 months] after the publication of the White Paper.

Footnote:

¹ The term "black" also refers, as in the White Paper on the Transformation of the Public Service, to Coloured and Indian people.