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TO ALL HEADS OF NATIONAL/PROVINCIAL DEPARTMENTS AND GOVERNMENT COMPONENTS

STRATEGY FOR THE MANAGEMENT OF POOR PERFORMANCE FOR MEMBERS OF THE SENIOR MANAGEMENT SERVICE (SMS)

PURPOSE

1. The purpose of this circular is to:-
 - 1.1 Apprise departments of the Strategy for the Management of Poor Performance for members of the SMS that the Minister for the Public Service and Administration approved; and
 - 1.2 Inform departments of their roles and responsibilities in regard to the execution of the Strategy.

BACKGROUND

2. Government has adopted 12 outcomes as a key focus of work between 2010 and 2014. Each outcome has specific measurable outputs with targets. Each output is linked to a set of activities aimed at achieving the targets set for that outcome. Each of the 12 outcomes has a Delivery Agreement which, in most cases, involves all spheres of Government and a range of partners outside Government.
3. The Minister for the Public Service and Administration (MPSA) is the custodian for the Delivery Agreement for Outcome 12 (An efficient, effective and development oriented Public Service) that focuses on the entire Public Service. Output 2 (Human resource management and development) of this outcome deals with matters related to human resource management and development; in particular with the aim to improve areas that currently contributes to inadequate service delivery. Output 2 comprises the following four sub-outputs:
 - 3.1 Sub-output 1: Performance development, performance agreements and assessment.
 - 3.2 Sub-output 2: Recruitment, retention and career pathing.
 - 3.3 Sub-output 3: Discipline.
 - 3.4 Sub-output 4: Human resource planning, skills development and cadre development.

4. The aforementioned sub-outputs are to be achieved by 31 March 2014, which require that concerted and continuous efforts be made by all departments throughout the Public Service. This Strategy deals with the sub-output 1: Performance development, performance agreements and assessment.


NEED FOR A STRATEGY

5. The question of management of poor performance has been raised in response to various monitoring reports. The Public Service Act and the Public Finance Management Act provide a system for managing poor performance and the Misconduct and Incapacity Code and Procedures in the Senior Management Service Handbook (Chapter 7), issued as a Directive by the Minister for Public Service and Administration, is sufficiently clear on the processes to be undertaken.
6. As far back as 2007 the Public Service Commission (PSC) in its Report on the Management of Poor Performance in the Public Service indicated that the legal framework and guidelines to manage performance in the public service is thorough and the detailed measures are provided to facilitate the management of poor performance at all levels in the Public Service. The major challenge is the extent to which these measures are applied consistently in practice or applied at all.
7. While much information about poor performance is available, such information is often not acted upon. Addressing the problem of a lack of consistency in the management of poor performance is an important step towards improving the performance of government at individual and organisational levels. In terms of the current regulatory frameworks, poor performance must be dealt with through a number of processes or steps, including support and / or training, verbal warnings, and/or written warnings before disciplinary charges are laid.
8. The Minister for the Public Service and Administration in March 2013 approved that the Strategy for the Management of Poor Performance for members of the SMS be communicated to departments. This Strategy seeks to overcome the inconsistencies and weaknesses in the application of the Misconduct and Incapacity Code and Procedures and consequences for poor performance.

IMPLEMENTATION OF STRATEGY AND ROLES AND RESPONSIBILITIES

9. As indicated, the existing regulatory framework provides a system and procedures for managing poor performance. The problem is that these measures are neither applied at all, nor applied consistently. To respond to these challenges of application, timeousness and consistency, the interventions and roles and responsibilities are being introduced as per Annexure A to this circular.
10. It is imperative that Departments and Offices of the Premier, in particular the management echelons, institutionalize and ensure consistent application of the existing measures for the management of poor performance. This should include the following:

- 10.1 Ongoing monitoring of measures introduced in the management of poor performing managers, including six-monthly reports to the DPSA;
 - 10.2 Institution of the interventions outlined in the Strategy; and
 - 10.3 Locating an oversight responsibility within the Department and Offices of the Premier to monitor and report on the implementation and efficacy of the interventions included in the Strategy.
11. The DPSA will in due course commence with the process to engage departments on the implementation of the interventions outlined in the Strategy. For this purpose and further liaison with your Department in future, kindly provide the details of the designated official in your Department that will be responsible for the oversight responsibility suggested in paragraph 10.3, to Mr. T Shabane whose contact details appear above within 14 days from the date of the letter.
12. Your cooperation in the implementation and further roll-out of the interventions will be highly appreciated.



Mr. N Nkontwana
Acting Director-General
Date: 20/5/2013

ANNEXURE A TO CIRCULAR: STRATEGY FOR THE MANAGEMENT OF POOR PERFORMANCE FOR MEMBERS OF THE SMS

Part A: Interventions

1. Intervention 1: Departments and Offices of the Premier (OTPs) to regularly report on the assessment outcomes of poor performing SMS members

1.1 Chapter 2, section 6 (1) and (2) of Public Service Act, 1994, as amended, provides that *"(1) the Minister, or any person authorised in writing by the Minister, has access to such official documents or may obtain such information from executive authorities and employees in the public services as may be necessary for the performance of his or her functions under this Act or any other law. (2) Any employee who willfully or in a grossly negligent manner fails to furnish documents or information as contemplated in subsection (1) or section 3(6)(b), shall be guilty of an offence and be liable on conviction to a fine or imprisonment not exceeding 12 months"*.

1.2 Departments will report on a DPSA template in March for mid-year or two quarterly assessments and September for the final assessment of the previous cycle on all SMS members who have scored below a satisfactory rating in the mid-year and/or annual assessment. Departments must also report on the areas, the frequency of such poor performance, and what plans are in place to address poor performing members of the SMS. The Offices of the Premier will coordinate the report for the departments in the province. The DPSA will use the information to monitor and report on the state of management of poor performance in the public service.

2. Intervention 2: The DPSA will issue a Directive on the management of Poor Performance of SMS members

2.1 The DPSA will issue a directive to assist managers in the management of poor performing employees. The directive will among other prescribe the process for early identification of poor performers and clarify the application of the Incapacity Code and Procedure contained in Chapter 7 of the SMS Handbook. For example, the MPSA may direct that the poor performance procedure must be initiated against an employee who has performed at an unsatisfactory level for two consecutive quarterly assessments, a mid-year assessment or if the assessment outcome for the full cycle was unsatisfactory.

3. Intervention 3: The DPSA will issue an updated PSC Toolkit for the Management of Poor Performance

3.1 The PSC in 2007 issued a Toolkit for the Management of Poor Performance in the Public Service. The Toolkit was intended to provide managers with

practical guidelines and consistent approach to managing poor performance. The primary orientation of the toolkit was developmental; however in extreme cases of poor performance, the application of the steps outlined in the Toolkit may lead to dismissal. However there is little evidence to suggest that departments actually implemented or utilised the guidelines. It is therefore the considered view that the PSC Toolkit is comprehensive and that the DPSA will in support of this strategy issue an updated Toolkit for support to departments in the application thereof.

4. Intervention 4: Regulate the Process for Managing Poor Performance of DGs and HODs

4.1 The process to initiate a case of poor or unsatisfactory performance against a HOD may be instituted at any time during the performance cycle. The DPSA will issue a directive to regulate the process to follow for managing poor performing DGs and HODs where the outcome of a performance review, either mid cycle or Annual reflects poor performance. The process must be followed in conjunction with the Chapter 7 of the SMS Handbook, which contains the procedures that must be applied in the cases of misconduct, incapacity due to poor performance and incapacity due to ill health.

5. Intervention 5: HODs to be held responsible to ensure disciplinary steps are taken against members of SMS in his or her department who fail to institute either corrective action, incapacity procedure and/or the requisite disciplinary process against poor performing subordinates

5.1 In terms of Section 16A(2) of the Public Service Act, 1994, the Head of Departments is responsible to *"immediately take appropriate disciplinary steps against an employee of the department who does not comply with a provision of this Act or a regulation, determination or a directive made thereunder"*. Section 16a(2) further provides that Executive Authorities are required to take disciplinary steps against Heads of Department where necessary.

5.2 Heads of Department must therefore ensure that managers institute the necessary corrective, incapacity and/or disciplinary action against a SMS member who is allegedly guilty of poor performance. Therefore, when the direct supervisor of a SMS member fails to take disciplinary action when required, it is the responsibility of the Head of Department to institute the required disciplinary action against the manager and the affected SMS member.

5.3 Departments must submit reports to the DPSA on a six-monthly basis in March and September on disciplinary action(s) taken against members of the SMS who are guilty of poor performance (See paragraph 1.2).

6. Intervention 6: Continuous monitoring of the management of poor performance in national and provincial departments

6.1 The DPSA, Presidency and the Offices of the Premier will play a more proactive role in the monitoring of poor performance and to ensure that the necessary steps are being taken in departments. This monitoring will be done by drawing on various sources of information regarding the performance of departments and individuals, which include but are not limited to the PMDS, departmental performance reports, Auditor General Reports, Public Service Commission reports and National Treasury financial monitoring reports.

6.2 In instances where there has been evidence of poor performance and that nothing has been done, about it either at the level of development or consequence, the Presidency or the Offices of the Premier will write to the relevant Executive Authority requesting the Executive Authority to institute the necessary corrective and/or disciplinary action against the Head of Department, within a certain timeframe.

6.3 The Presidency, PSC and Offices of the Premier will on a six-monthly basis in March and September report to DPSA on disciplinary steps taken against DGs and HODs who performed poorly or failed to execute development or consequences for poor performance against members of the SMS.

7. Intervention 7: Review the Incapacity Code and Procedures for members of the SMS

7.1 The Incapacity Code and Procedures in Chapter 7 of the SMS Handbook outlines detailed processes to be followed in the management of poor performing SMS members. Whilst the rationale and principles are sound, the practical execution is seen as a lengthy and complicated process. The Incapacity Code and Procedures applicable to members of the SMS will be reviewed with the view to simplifying it. Since the Incapacity Code and Procedures contained in the SMS Handbook is derived from PSCBC Resolution 10 of 1999, it may be needed that certain aspects of the resolution be renegotiated.

Part B: Roles and Responsibilities

1. Different stakeholders within the Public Service will be involved in the implementation of the Strategy. The roles and responsibilities of the different stakeholders and the timeframes, within which the interventions will be dealt with, are as follows:

Relevant intervention	Responsible entity	Activity	Relevant timeframe
Intervention 1	Offices of the Premier, National and provincial departments	Report to the DPSA: Branch HRMD on the poor performing managers and steps taken to address poor performance	6 monthly in March and September annually.
Intervention 2	DPSA	Issue Directive on the management of poor performance	First quarter of 2013/2014 financial year
Intervention 3	DPSA, Office of the Public Service Commission	Update and reissue the PSC Toolkit for Management of Poor Performance in the Public Service	Second quarter of 2013/2014 financial year
Intervention 4	DPSA	Adopt process map for managing poor performance for DGs and HODs.	First quarter of 2013/2014 financial year
Intervention 5	DGs and HODs of national and provincial departments	Report to DPSA on disciplinary action(s) taken against SMS members who are guilty of gross poor performance	6 monthly in March and September annually.
Intervention 6	DPSA, The Presidency and Office of the Premier	Report to DPSA on disciplinary steps taken against DGs and HODs who failed to execute development or consequences for poor performing SMS members	6 monthly in March and September annually.
Intervention 6	DPSA and the Presidency	Delegate authority to institute disciplinary action against DGs/ HODs to relevant executive authority.	First quarter of 2013/14 financial year
Intervention 7	DPSA	Amend the Incapacity Code applicable to members of SMS	Fourth quarter of 2013/14