

## NATIONAL ASSEMBLY

### WRITTEN REPLY

#### PARLIAMENTARY QUESTION 567

**DATE OF PUBLICATION: 23 AUGUST 2019**

**Mr M J Cuthbert (DA) to ask the Minister of Trade and Industry:**

- (1) With reference to the 10 disciplinary cases and three suspensions in the Annual Performance Plan for 2019-2022 of his department, (a) what are the reasons for each (i) disciplinary action and (ii) suspension being instituted against each person, (b) what is the job title of each person in each case, (c) what are the reasons each disciplinary case has not been finalised and (d) how long has each person been suspended;
- (2) has each person in each case been receiving a monthly salary; if not, why not; if so, what are the relevant details? NW1564E

### Reply

The Director General's Office has compiled a detailed list in response to the question, as well as the reasons for delays, which I attach below, and I have taken note of the challenges the Department notes with regard to completion of some cases of disciplinary action.

Clearly, it is necessary to review the systems relating to disciplinary matters to enable a fair and expeditious process of completing such cases, as lengthy periods of suspension of staff on full pay is not in the interest of the public nor of the employees concerned. I have asked the Director General to consider appropriate ways, within the legislative framework and prescripts to avoid lengthy suspensions in future.

The response of the Corporate Management Services Division of the Department to the question is as follows:

“It should be noted that there is a general challenge in the Public Service with regard to acquiring experienced chairpersons for disciplinary proceedings. The reasons provided by trained chairpersons are due to the shortage of staff in their own areas, reluctance to deal with complex cases as well as the fact that the chairperson needs to be on a more senior level than the employee who is being charged.

Cases cannot proceed before forensic reports are concluded as thorough work needs to be done prior to an employee being charged for misconduct. In a number of cases, the forensic reports were awaited for the Department to have a sound case.”

	Reason for Disciplinary Action	Job Title	Reasons why matter has not been finalised	Length of suspension
1	Gross Negligence	Deputy Director	<p><b>Reasons:</b> The disciplinary enquiry was scheduled shortly after the charges were laid. However, the Employee party requested postponement for the recordings to be availed and software had to be procured for the reproduction of the recordings. Challenges were experienced with the recordings and the disciplinary enquiry was scheduled for 13 June 2018 and 5 July 2018 but had to be postponed. The matter was escalated to the Director-General for a decision.</p> <p><b>Status:</b> The matter has been finalized.</p>	N/A
2	Disgraceful Conduct	Deputy Director	<p><b>Reasons:</b> The disciplinary enquiry was scheduled shortly after the charges were laid. However, the Employee party requested postponement. The matter was postponed to 14 and 27 March 2018, 7 June 2018, 22 June 2018, 27 June 2018. The sanction was issued.</p> <p><b>Status:</b> The matter has been finalized.</p>	N/A
3	Dereliction of duties	Deputy Director	<p><b>Reasons:</b> The disciplinary enquiry was scheduled shortly after the charges were laid. However, the Employee party requested postponement as he challenged the level of the initiator. The matter was responded to in writing and the hearing took place on 13 April 2018. Another request was received for postponement by the employee and postponement was granted until 9 May 2018. Further hearings were conducted on 29 May 2018 and 16 July 2018. The matter was withdrawn.</p> <p><b>Status:</b> The matter has been finalized.</p>	N/A
4	Alleged fraud	Assistant Director	<p><b>Reasons:</b> A forensic investigation was conducted and the final report was issued during October 2018. Non-availability of an experienced chairperson and initiator posed challenges.</p> <p><b>Status:</b> Counsel has been appointed and consultation took place on 4 April 2019. The Department is in the process of sourcing the services of a chairperson and initiator in the matter.</p>	N/A
5	Disgraceful Conduct	Deputy Director	The employee has resigned shortly after he was charged. The matter has been finalized.	N/A

	Reason for Disciplinary Action	Job Title	Reasons why matter has not been finalised	Length of suspension
6	Dereliction of duties	Deputy Director	<p><b>Reasons:</b> The employee was suspended pending the disciplinary process. Challenges were experienced to acquire the services of a chairperson as well as initiator. The precautionary suspension was lifted and he resumed duties. Counsel was appointed to advise on the matter and a legal opinion was received.</p> <p><b>Status:</b> The Department is in the process of appointing the initiator and chairperson.</p>	N/A
7	Gross Negligence and Dishonesty	Chief Director	<p><b>Reasons:</b> The Department appointed on two occasions, chairpersons to chair the internal disciplinary enquiry and the employee requested the matter to be referred to the GPSSBC for appointment of an arbitrator. The disciplinary enquiry chaired by an arbitrator from GPSSBC took place on 8 and 15 May 2017. The Commissioner recused himself because he had foreknowledge about the case. Another Commissioner was secured. The enquiry took place on 4 and 5 July 2017 and a referral to CCMA was received. The arbitration at the CCMA was concluded on 20 November 2017.</p> <p>The matter was set down at the GPSSBC on 26-28 March 2018. The employee party requested the Commissioner to recuse herself from the proceedings, because they were of the opinion that the Commissioner was biased. The Commissioner recused herself from the proceedings and the GPSSBC appointed a new Commissioner. The matter has been set down for 3 August 2018, 20 May 2019, 24 June 2019 and 2-4 July 2019.</p> <p><b>Status:</b> The parties are awaiting the outcome.</p>	N/A
8	Disgraceful/unprofessional conduct	Chief Director	<p><b>Reasons:</b> The employee referred the matter to the GPSSBC after suspension and various postponements were experienced. The Director-General notified the GPSSBC of the delays and the need to expedite the process. They are, however, of the view that there is a need to strictly follow due process.</p> <p><b>Status:</b> The disciplinary enquiry took place on 3-5 April 2019, 24-25 April 2019, 15 May 2019 and 11-12 June 2019. The Department concluded the testimonies of all its witnesses and the employee also</p>	729 days

	Reason for Disciplinary Action	Job Title	Reasons why matter has not been finalised	Length of suspension
			concluded the testimony of one (1) of his witnesses. The employee is currently on the stand and the matter has been postponed until 14 and 18 October 2019.	
9	Alleged Fraud	Trade and Invest Advisor	<p><b>Reasons:</b> A forensic investigation was conducted and the final report was issued during October 2018. Non-availability of an experienced chairperson and initiator posed challenges.</p> <p><b>Status:</b> Counsel has been appointed and consultation took place on 4 April 2019. The Department is in the process of sourcing the services of a Chairperson and Initiator in the matter.</p>	325 days
10	Alleged Fraud	Director	<p><b>Reasons:</b> A forensic investigation was conducted and the final report was issued during October 2018. Non-availability of an experienced chairperson and initiator posed challenges.</p> <p><b>Status:</b> Counsel has been appointed and consultation took place on 4 April 2019. The Department is in the process of sourcing the services of a Chairperson and Initiator in the matter.</p>	235 days

(2) Each of the officials mentioned above received their monthly salaries, in line with the provisions of Clause 7.2(a) of PSCBC Resolution 1 of 2003: *“Disciplinary Code and Procedures for the Public Service”* and Clause 2.7(2)(a) of Chapter 7 of the SMS Handbook of 2003, as amended: *“Disciplinary Code and Procedures for Members of the SMS”*.

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