



PARLAMENT TA' MALTA

## IT-TLETTAX-IL LEGIŻLATURA

P.L. 6094

Dokument imqiegħed fuq il-Mejda tal-Kamra tad-Deputati fis-Seduta  
Numru 432 tal-24 ta' Frar 2021 mill-Ispeaker, l-Onor. Anġlu Farrugia.

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Skrivan tal-Kamra

## UFFIĊĊJU TAL-KUMMISSARJU TAL-ISTANDARDS FIL-HAJJA PUBBLIKA – IMPJEGATI

**48. L-ONOR. GLENN BEDINGFIELD** staqsa lill-Ispeaker: Jista' l-Ispeaker jagħti informazzjoni lill-Kamra liema kienu l-vakanzi fl-Uffiċċju tal-Kummissarju tal-Istandards minn mindu twaqqaf? Meta harġu s-sejhiet u min kien eligibbli li japplika għalihom?

Kemm hemm impjegati fl-istess Uffiċċju llum il-ġurnata, min huma, il-karigi tagħhom u l-livell tas-salarju individwali skont l-iskali taċ-Ċivil?

25.1.2021

**SPEAKER (Onor. Anġlu Farrugia):** Is-Sedja hi informata li l-postijiet kollha li jidhru fl-organigramma annessa, li turi l-istruttura preżenti tal-Uffiċċju tal-Kummissarju għall-Istandards fil-Hajja Pubblika, kienu vakanti meta twaqqaf dan l-uffiċċju.

S'issa l-Uffiċċju tal-Kummissarju hareġ zewġ sejhiet għall-applikazzjonijiet. It-tnejn kienu sejhiet pubbliċi li ġew riklamati fis-*Sunday Times of Malta* u fis-sit elettroniku [keepmeposted.com.mt](http://keepmeposted.com.mt).

L-ewwel sejha kienet għall-kariga ta' **Assistent Direttur (Riċerka u Komunikazzjoni)** u harget f'Marzu 2019. Inizjalment saret talba biex din il-kariga tintela permezz tad-*detailing* ta' persuna mis-servizz pubbliku, iżda deher li dan ma kienx se jkun possibbli u għalhekk ittiehdet id-deċiżjoni li tinhareġ sejha pubblika. Seta' japplika min kellu:

- *Master's degree* jew kwalifika professjonali komparabbli fil-liġi, *public policy*, amministrazzjoni pubblika, *management*, xjenzi soċjali, jew ekonomija, kif ukoll tliet snin esperjenza f'xogħol relevanti; jew
- Baċellerat jew kwalifika professjonali komparabbli f'wiehed mill-istess oqsma, kif ukoll hames snin esperjenza f'xogħol relevanti.

Il-proċess tal-għażla twaqqaf għaliex eventwalment sar id-*detailing* li kien ġie mitlub. Il-persuna li ġiet *detailed* kienet tissodisfa dawn ir-rekwiziti.

It-tieni sejha kienet għall-kariga ta' **Research Analyst and Investigator** u harget f'Novembru 2019. Seta' japplika min kellu:

- *Master's degree* jew kwalifika professjonali komparabbli fil-liġi, *public policy*, amministrazzjoni pubblika, *management*, ekonomija jew soċjoloġija, kif ukoll sena esperjenza f'xogħol relevanti; jew
- Baċellerat jew kwalifika professjonali komparabbli f'wiehed mill-istess oqsma, kif ukoll tliet snin esperjenza f'xogħol relevanti.

Din il-kariga mtliet wara proċess tal-għażla skont il-mertu li kien jinkludi eżerċizzju prattiku fil-kitba bl-Ingliż u bil-Malti.

Fir-rigward ta' kemm hemm impjegati fl-istess Uffiċċju, is-Sedja hi informata li hemm sitt impjegati fl-Uffiċċju tal-Kummissarju għall-Istandards. Id-dettalji mitluba jidhru fit-tabella hawn taht, hliel għall-ismijiet tagħhom li qegħdin jingħataw separatament.

<b>Kariga</b>	<b>Skala ta' salarju</b>	<b>Rimarki</b>
Direttur Ġenerali	Skala 3	<i>Detailed</i> minn mas-servizz pubbliku, fejn kien jokkupa kariga ta' Direttur Ġenerali bl-istess kundizzjonijiet
Assistent Direttur (Riċerka u Komunikazzjoni)	Skala 5	<i>Detailed</i> minn mas-servizz pubbliku
Research Analyst and Investigator	Skala 7	Mahtura wara sejha għall-applikazzjonijiet
Office Manager and Personal Assistant (risponsabbli għall-amministrazzjoni tal-uffiċċju inkluż il-logistika, iż-żamma tal-kontijiet u l-ħlas tal-pagi)	Ekwivalenti għal Skala 5	Ingaggata b'urgenza billi l-uffiċċju kien għadu qed jitwaqqaf
Driver	Ekwivalenti għal Skala 9	Ingaggat b'urgenza billi l-uffiċċju kien għadu qed jitwaqqaf
Messagġier	Skala 18	Ingaggat b'urgenza billi l-uffiċċju kien għadu qed jitwaqqaf

Il-metodi tal-ingagg tal-impjegati preżenti jirrifletti l-fatt li hekk kif inħatar il-Kummissarju għall-Istandards fil-Ħajja Pubblika kellu jiehu azzjoni urgenti sabiex ikun jista' jibda jiffunzjona skont il-liġi. L-Att dwar Standards fil-Ħajja Pubblika diġà kien inġieb fis-seħh qabel ma l-Kummissarju ħa l-gurament u la kellu *staff* u lanqas uffiċċju minn fejn jaħdem, billi dan kien uffiċċju ġdid għal pajjżna.

Sussegwentement il-Kummissarju mela l-kariga ta' Research Analyst and Investigator permezz ta' sejha pubblika, u bihsiebu jimla vakanzi futuri bl-istess mod.

Hija wkoll l-intenzjoni tal-Kummissarju li bhala regola ġenerali jzomm ir-relattività mas-servizz pubbliku fis-salarji tal-impjegati tal-uffiċċju tiegħu, minkejja li mhux obligat bil-liġi li jagħmel dan.

Il-Kummissarju għall-Istandards ifakkar li fit-30 ta' Ottubru 2019 huwa ressaq proposti dwar tibdil fil-Konstituzzjoni ta' Malta sabiex, fost affarijiet ohra –

- (a) il-prinċipju tal-mertu fil-hatriet jibda jghodd għall-impjegati kollha fl-amministrazzjoni pubblika, hlief persuni ta' fiduċja fis-segretarjati tal-ministri;
- (b) il-Kummissjoni dwar is-Servizz Pubbliku, bħala entità indipendenti stabbilita mill-Kostituzzjoni biex tħares il-prinċipju tal-mertu, tingħata awtorità fuq l-amministrazzjoni pubblika kollha, mhux is-servizz pubbliku biss kif inhu l-każ illum;
- (ċ) madankollu, il-Kummissjoni jkollha s-setgħa li tawtorizza hatriet mingħajr sejha għall-applikazzjonijiet jekk fil-fehma tagħha dan ikun ġustifikat fl-interess pubbliku. Ta' kull sena l-Kummissjoni tkun obbligata tgħid kemm-il hatra awtorizzat b'dan il-mod u f'kull każ għal liema raġuni.<sup>1</sup> Il-paġni relevanti (paġni 36-37) mir-rapport *Towards Higher Standards in Public Life: Proposals to Modernise the Provisions of the Constitution on Parliament, the Judiciary and Public Administration* huma hawn annessi.

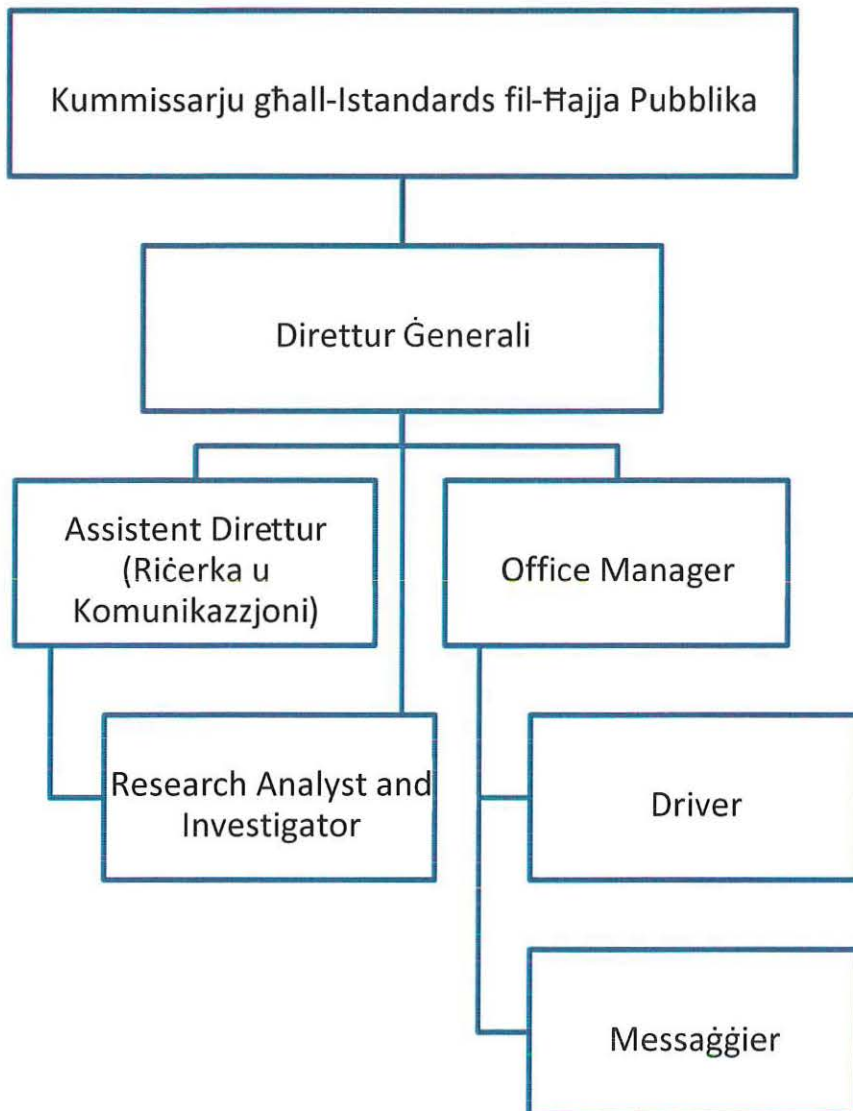
Il-proposta (ċ) taħseb għal sitwazzjonijiet bħal dik li kien fiha l-Kummissarju għall-Istandards meta ġie maħtur. Il-Kummissarju mexa b'mod konsistenti ma' dawn il-proposti fl-ingaġġ tal-impjegati tiegħu, iżda xorta wahda ppropona li anki l-uffiċċju tiegħu għandu jibda jaqa' taħt l-awtorità tal-Kummissjoni dwar is-Servizz Pubbliku. B'hekk ikun hemm mekkaniżmu indipendenti li jiċcertifika li l-eċċezzjonijiet fil-prinċipju tal-hatriet skont il-mertu jsiru biss fejn ikun hemm bżonn ġenwin u ġustifikat.

24.2.2021

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<sup>1</sup> *Towards Higher Standards in Public Life: Proposals to Modernise the Provisions of the Constitution on Parliament, the Judiciary and Public Administration*, paġni 36–37. Aċċessibbli minn <https://standardscommissioner.com/wp-content/uploads/constitutional-reform-proposals.pdf>.

**ORGANIGRAMMA TAL-UFFIĊĊJU TAL-KUMMISSARJU  
GHALL-ISTANDARDS FIL-ĦAJJA PUBBLIKA**



5.2.5 The other mechanism, the public employment service, is problematic in that the Constitution puts more weight on it than it can bear. The role of Jobsplus (formerly the Employment and Training Corporation) is to find jobs for the unemployed, not to ensure that jobs go to the most deserving candidates. Typically, Jobsplus forwards to the employing body the names of all those in its registers who appear qualified for the vacancy to be filled. It is then up to the employing body to winnow these names down to one, and the process by which this is done can be opaque. Recourse to the public employment service does not guarantee that the merit principle will be upheld.

5.2.6 It is proposed that articles 110(2)(c) and 110(6) of the Constitution should be replaced by a definition of the merit principle which requires that –

- (a) the vacancy should be advertised in such a manner as to afford those eligible a reasonable chance to apply;
- (b) there should be an impartial selection process based on eligibility requirements and selection criteria that reflect solely the duties of the vacant post and the legitimate needs of the employing body;
- (c) the person appointed should be the most suitable from among eligible and available candidates, as determined by the aforementioned selection process; and
- (d) the selection and appointment process should meet such other standards as the Public Service Commission may set for it.

5.2.7 This definition of merit is based on that in the Public Service Commission Appointments Regulations. It is not tied to any particular selection mechanism, thus enabling any selection mechanism to be used as long as it truly reflects merit. Any mechanism that does not would be open to challenge: no mechanism should automatically be assumed to be satisfactory.

5.2.8 The new definition of the merit principle should –

- (a) apply to internal promotions as well as to external recruitment;
- (b) extend throughout public administration, subject to such exceptions as the Constitution itself may permit;
- (c) allow for situations in which all those who meet the requirements for particular posts stand to be appointed, that is to say no selection process is necessary; and
- (d) enable the Public Service Commission to permit direct appointments without recourse to a competitive selection process in other cases where the Commission finds it justified in the public interest to do so (for example, the re-employment of former public employees in their old posts where such posts have remained vacant), provided that every year the Commission should publish a report saying how many waivers it has granted and why it has granted each one.

5.2.9 These proposals imply an extension of the jurisdiction of the Public Service Commission to encompass the wider public sector. This issue is dealt with next.

### **5.3 Monitoring the application of the merit principle in the wider public sector**

5.3.1 While staffing in the Public Service is overseen by an independent constitutional body, no such mechanism exists to oversee staffing in the wider public sector. This anomaly has become more pronounced over the years as public entities have assumed an increasingly important role in Maltese public administration.

5.3.2 The Public Administration Act of 2009 (chapter 497) sought to address this anomaly by establishing a Merit Protection Commission to oversee staffing in public entities. Rather than create a new body, the Act assigned the role of Merit Protection Commission to the Public Service Commission. However, the relevant provisions of the Act were never brought into force.

5.3.3 The Public Administration Act of 2019 (chapter 595), which has superseded the earlier Act, retains the concept of a Merit Protection Commission for the wider public sector, but as a separate body. The relevant provisions have still to be brought into force.

5.3.4 There should preferably be a single body acting as the guardian of merit in both the Public Service and the wider public sector. This was recognised during the parliamentary debate preceding the enactment of the current Public Administration Act. It was stated that the Merit Protection Commission was being established as a separate body because of legal advice that the Public Service Commission could not be assigned additional functions through ordinary legislation, and the unification of the two roles would require constitutional reform.<sup>21</sup>

5.3.5 It is accordingly proposed that the Constitution should recast the Public Service Commission as the guardian of merit throughout public administration, that is to say including public entities, disciplined forces, the Parliamentary Service and the proposed new Judicial Service. To this end the Commission should be retitled Public Services Commission (in the plural). This title is being proposed because it represents a minimal change, thus emphasising continuity as well as change in Maltese constitutional development.

### **5.4 Removals from office and discipline**

5.4.1 The role of the Commission should also change with respect to disciplinary cases and dismissals.

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<sup>21</sup> Speech by Parliamentary Secretary Julia Farrugia Portelli during the second reading debate on the Public Administration Bill (Bill no. 63), 10 December 2018.