

# **The Co-operative Republic of Guyana**

## **Annual Report**

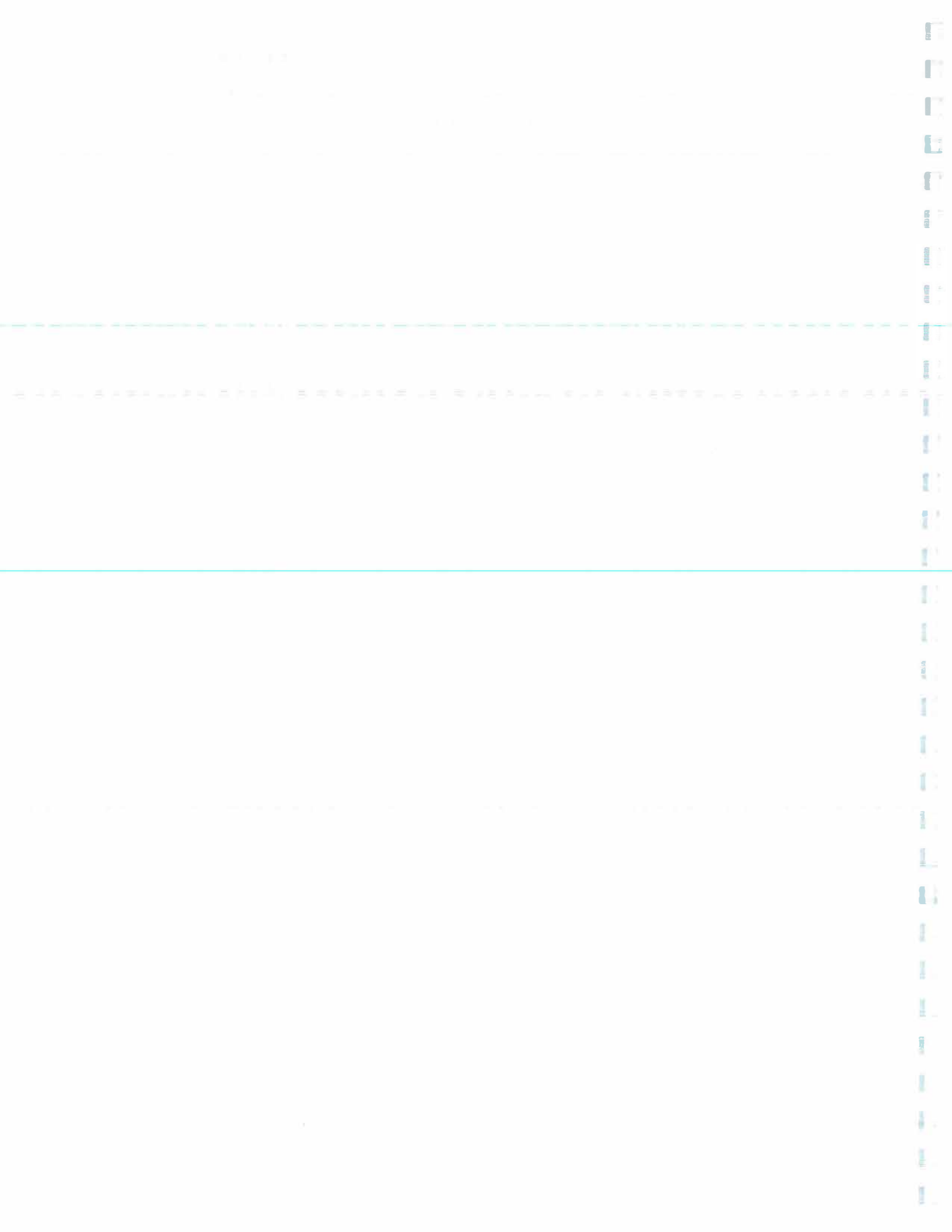
**2019**

### **Public Service Appellate Tribunal**

*Submitted to: Mr. Sherlock Isaacs, A.A.*

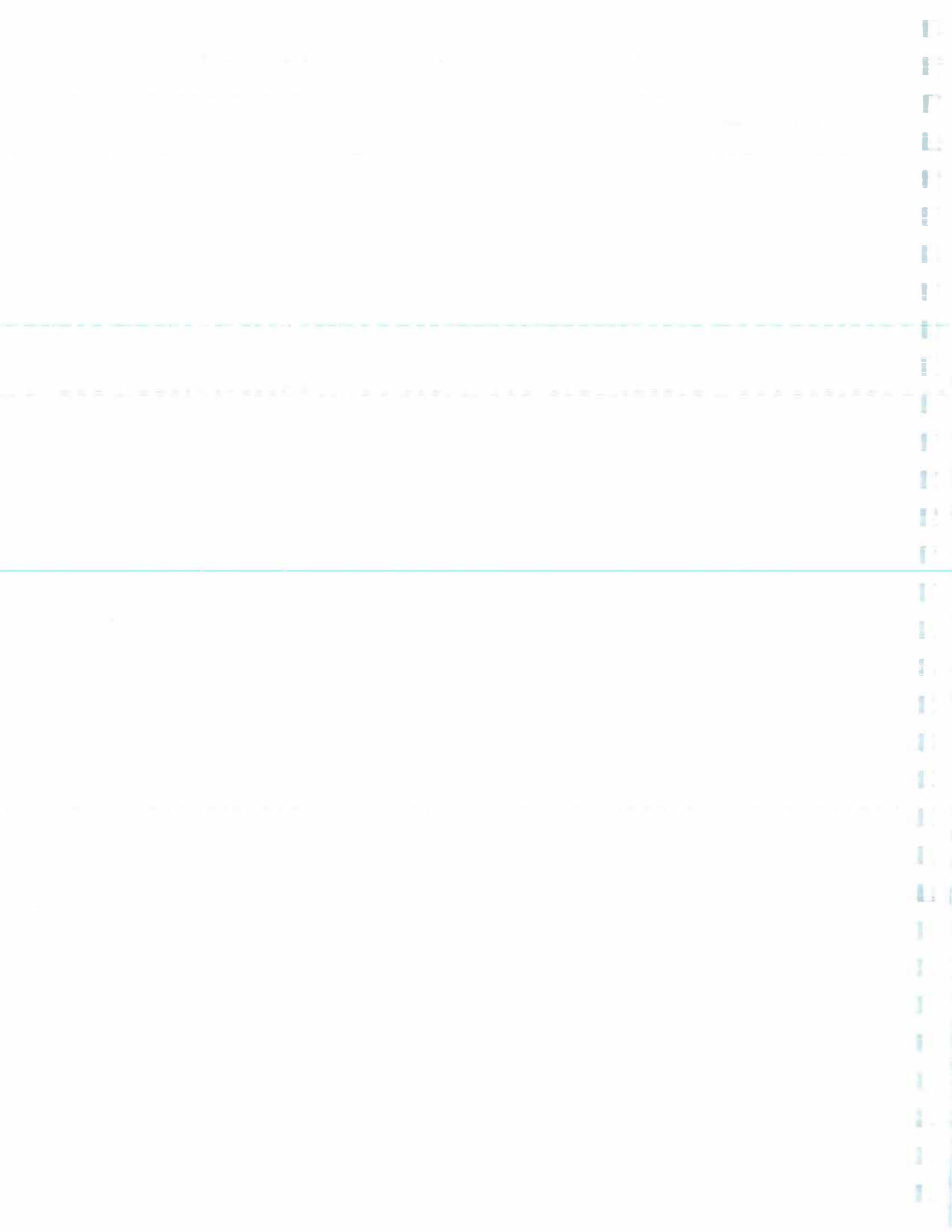
*Clerk of the National Assembly*

*Date: June 30, 2020*



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## **About the Public Service Appellate Tribunal**

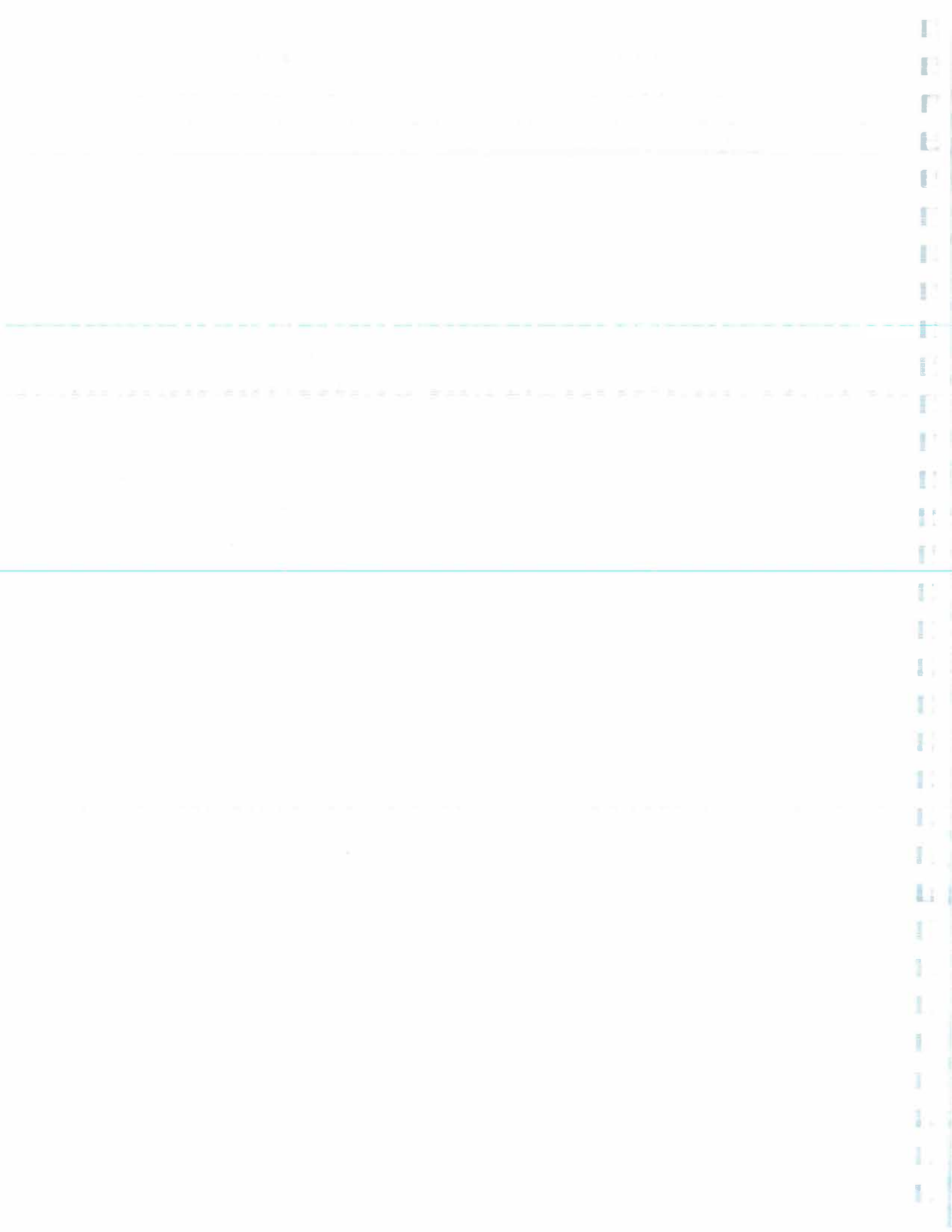
The Public Service Appellate Tribunal, hereinafter referred to as the “Tribunal”, was established by the Public Service Appellate Tribunal Act (**Cap. 27:01**) in 1984, hereinafter referred to as the “PSAT Act”, in accordance with Article 215A of the Constitution of the Co-operative Republic of Guyana, hereinafter referred to as the “Constitution”.

By virtue of s.9 of the Public Service Appellate Tribunal Act the Tribunal is empowered to hear and determine Appeals of aggrieved Public Officers from any decision of the Public Service Commission in respect of appointment by promotion of any person in a Public Office and exercise of disciplinary control over any person holding, or acting in, any Public Office.

An Appeal may be brought to the Tribunal by the aggrieved Officer within a period of ninety (90) days computed from:

- a) The date of receipt of the decision by him; or
- b) The date on which he otherwise came to know of the decision.

The Tribunal is an alternative to the Courts for the Public Officers under the jurisdiction of the Public Service Commission that is fair, cheaper, simpler and more expeditious.



## **Executive Summary**

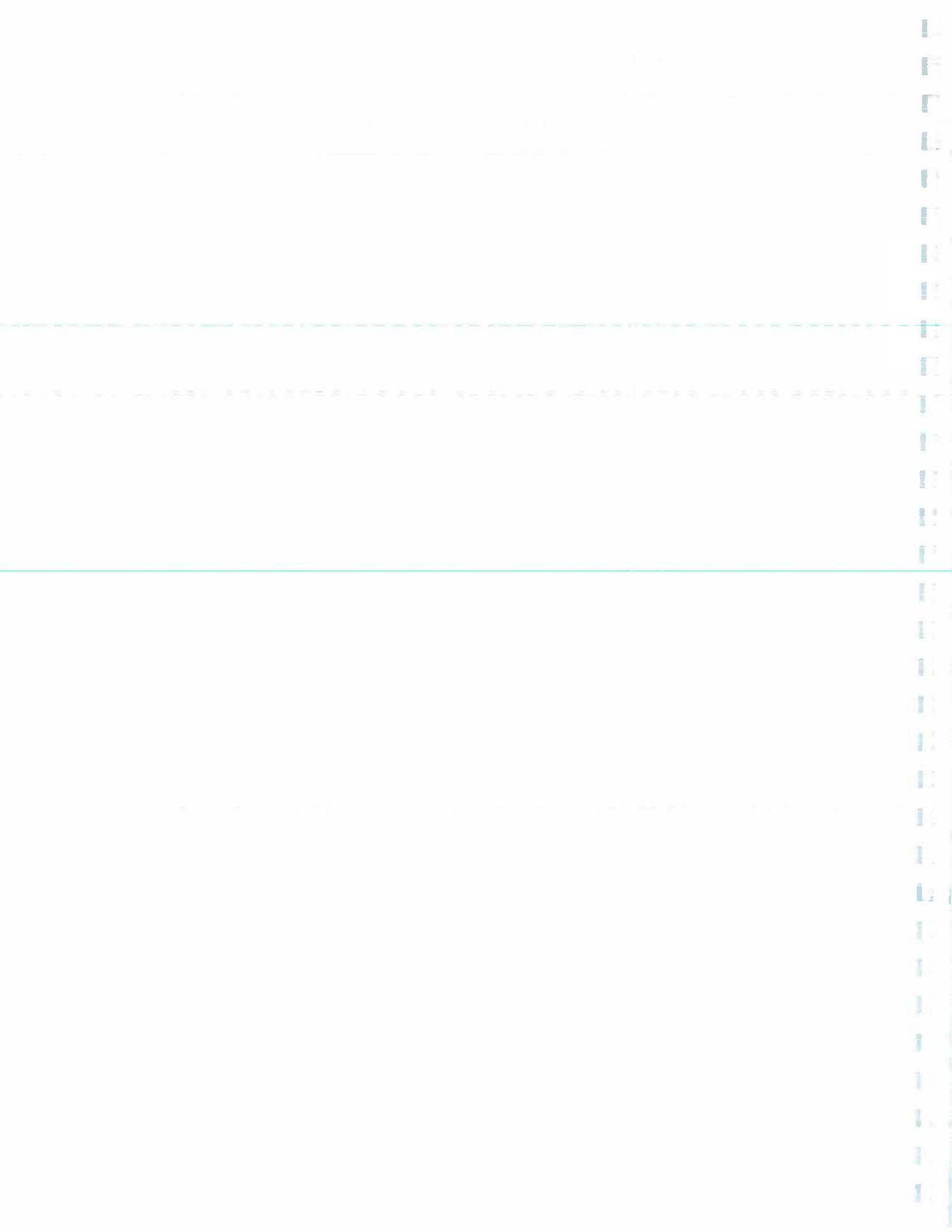
Since the nature of the work of the Tribunal has little or no variability, the main focus of this 2019 Report is to compare and contrast the changing circumstances in which its work was executed and the eventual outcomes.

The operating medium is one in which the Tribunal is reasonably expected to produce decisions flowing from cogent representations of Appeals that had their genesis from the decision of the Public Service Commission. As such, the perennial search of the Tribunal for the dispensation of due process/natural justice is embedded in its psyche. So, in this Report, a few of the hurdles to the Tribunal achieving its goals are mentioned.

As in the previous Reports, the Tribunal seeks innovative ways within the confines of the law and improved tools (legal architecture etc) for more efficient and sound judgments.

It has also been illustrated herein that with an adequately trained and motivated staff since its reconstitution, the appropriate tools and the enabling ambience entrenched with the hygiene factors have been created and maintained.

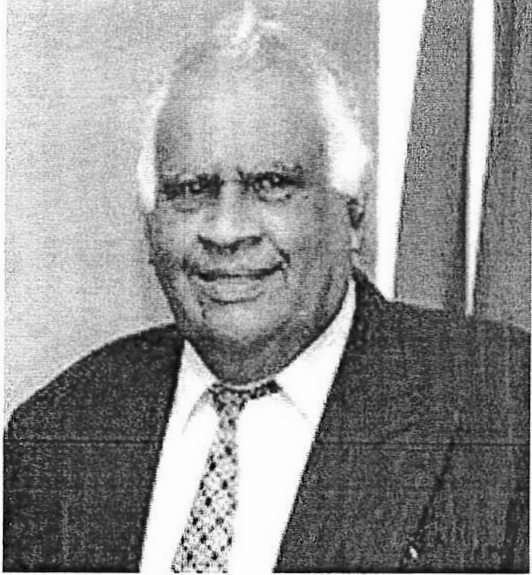
However, the need for minor legislative tinkering to give the Tribunal greater reach and potency is still amiss, as apart from articulation, it is yet to be purposefully initiated to be duly considered even a work in progress.





## Message from the Chairman

### 2019 in Retrospect

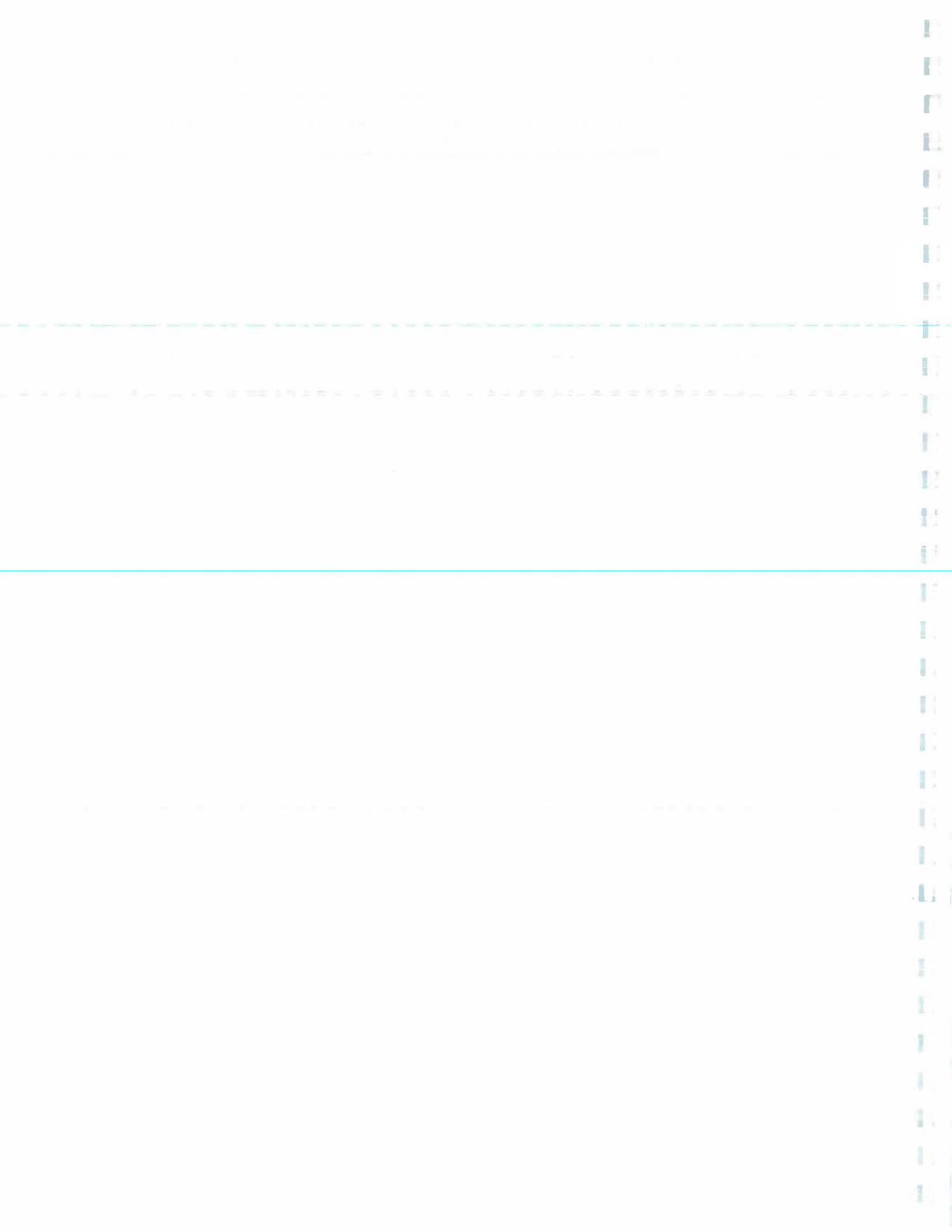


I wish to state the importance of the Tribunal because of the history of struggles by Public Servants for protection. Article 38G of the Constitution of the Co-operative Republic of Guyana, the supreme law of the land, makes provisions for the public service to be free from political influence.

Before 1953, the Public Service of British Guiana was administered under the traditional colonial system.

Constitutional responsibility for all staff matters was assigned to the Chief Secretary and discharged through the “Establishment Department”. The selection of candidates for promotion and appointments were generally referred by the Chief Secretary to two (2) Standing Committees for advice and then to the Governor for decision.

When the Ministerial system of Government was recommended by the Constitution Commission of 1950-51, the usual device was suggested for guaranteeing the political neutrality of the Public Service, namely, the setting up of an independent Public Service Commission. The Government accepted this recommendation and established the Commission in 1953. Its functions at that stage were purely advisory, the Governor still having absolute discretion in matters of appointment, promotion, transfer, training and discipline.



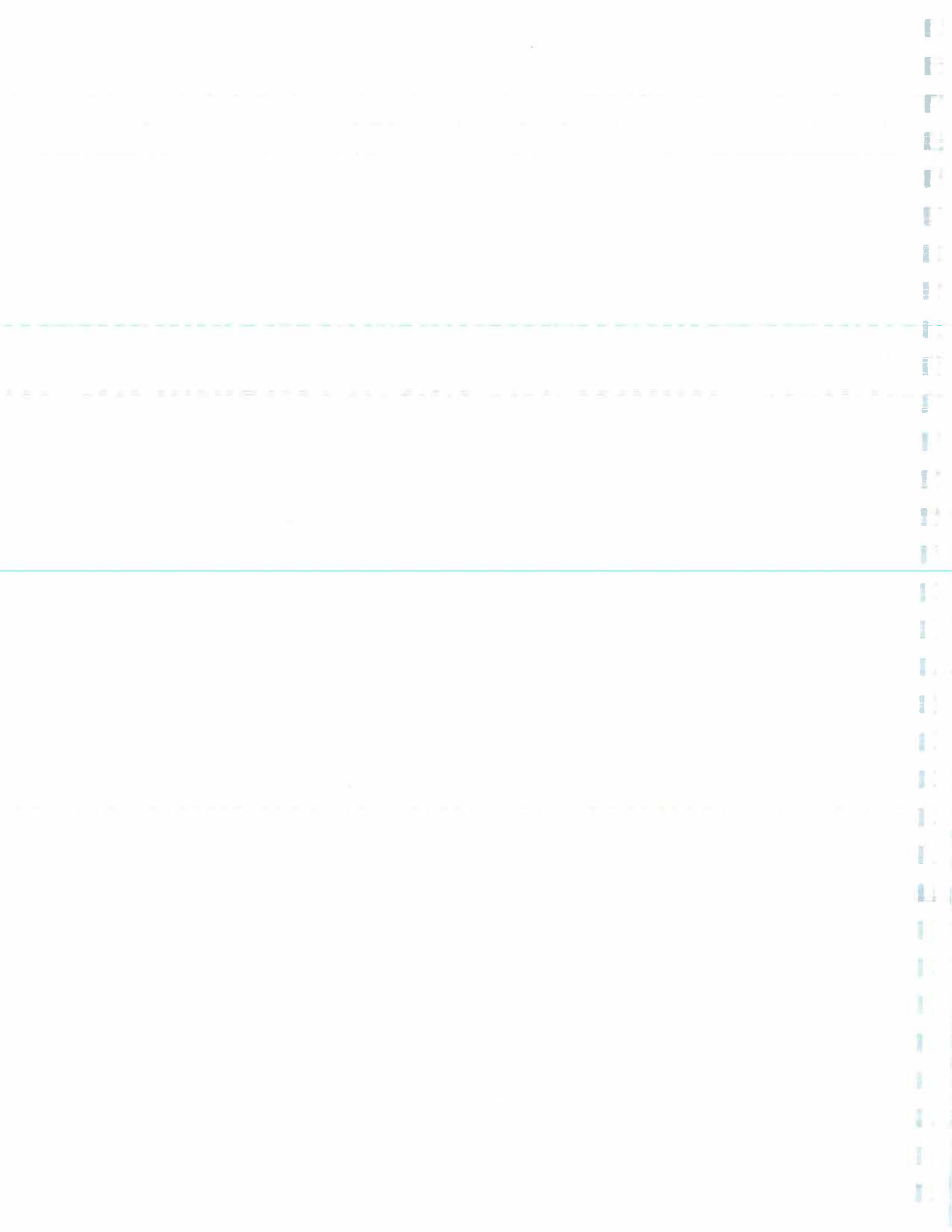
The Public Service Commission was set up in 1953 to advise the Governor on appointments and discipline.

In the year 1962, the Colonial Governor of British Guiana, Sir Ralph Grey, in whom the power to make appointment to offices in the public service was vested, on the recommendation of the Public Service Commission, delegated certain powers to make appointment, to dismiss and to exercise disciplinary control over specified public officers to the Chairman of the Public Service Commission and in certain circumstances, the Permanent Secretary of the Ministry in which the appointment or discipline is to be undertaken.

Authority was also given to the Registrar of the Supreme Court to make appointments of certain categories of workers in the Department of the Supreme Court, the Deeds Registry and in the Magistrates' Department.

The Registrar of the Supreme Court was also delegated the power to dismiss certain categories of officers serving in the Department of the Supreme Court, the Deeds Registry and the Magistrates' Department.

Prior to the Public Service Commission, the officers in the public service were dismissed at the pleasure of the State. (**Nobrega v Attorney General of Guyana 1967**).



The Sovereign had the power to dismiss any Officer. This followed due to the fact that the Officer received his commission from the Sovereign. The Officer held the commission at the pleasure of the Sovereign and it was in the will of the Sovereign to withdraw it.<sup>1</sup>

“The Crown’s absolute power of dismissal can only be restricted by statute, and anything short of a statute, which purports to restrict it, is void as contrary to public policy.”<sup>2</sup>

In the same case of *Nobrega*, Stoby C. quoted the Privy Council in its stating of the law in *Shenton v. Smith [1895] AC 234* thus:

“They (their Lordships) consider that unless in special cases where it is otherwise provided, servants of the Crown hold their offices during the pleasure of the Crown; not by virtue of any special prerogative of the Crown but because such are the terms of their engagement, as is well understood throughout the Public Service. If any Public Servant considers that he has been dismissed unjustly, his remedy is not by a law-suit but by an official or political kind”.

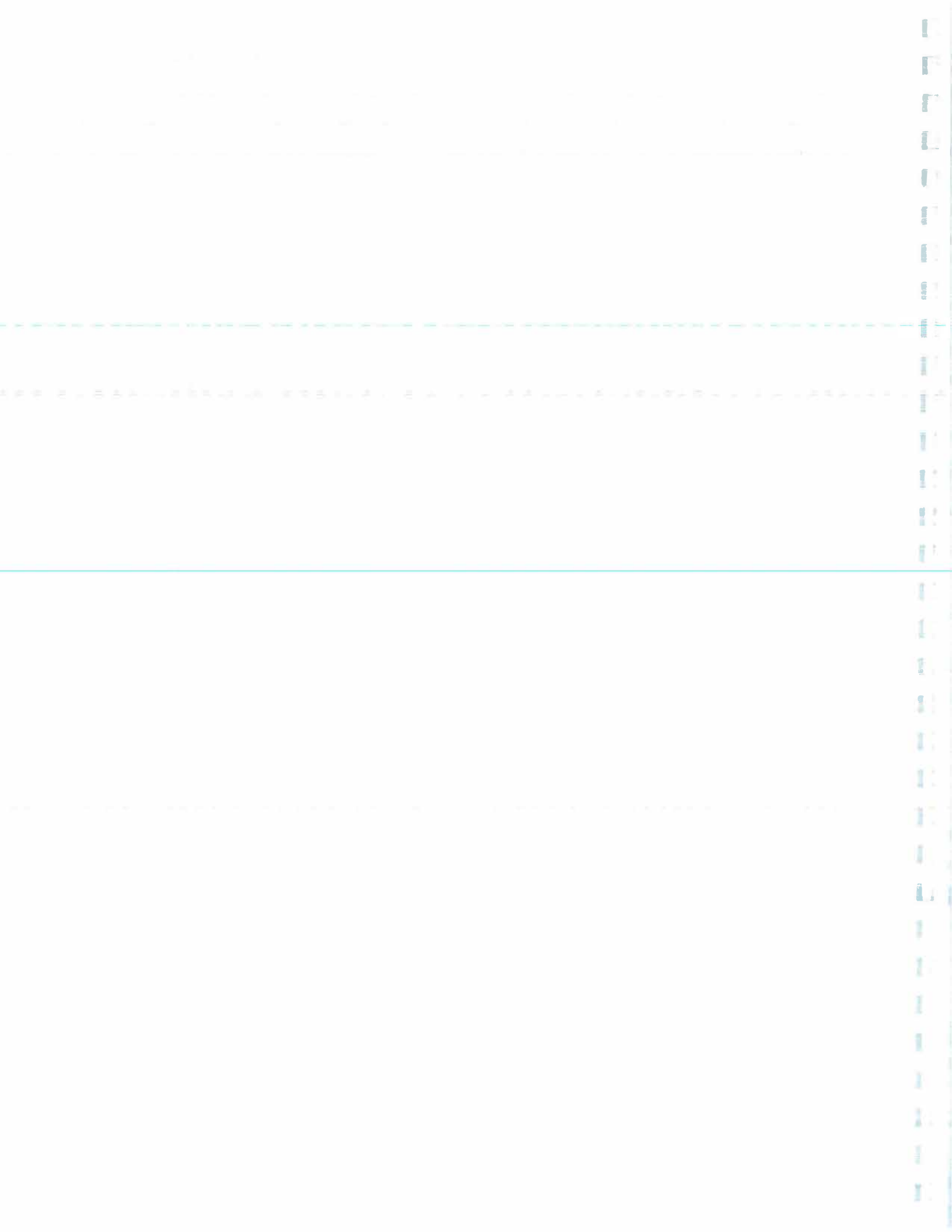
It is worth noting that the Public Service Commission did not become an executive body until 26<sup>th</sup> May, 1966 and became an entrenched Organ in the Constitution. The functions vested in the Commission are “the power to make appointments to public offices and to remove and exercise disciplinary control over persons holding or acting in such offices.”

The Commission and its delegated authority were solely responsible for discipline and promotion of officers but the workers' representatives were not satisfied with some of the decisions of the

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<sup>1</sup>Dickinson v. Combermere (1863) p. 185, Cockburn CJ

<sup>2</sup>Nobrega v. Attorney General of Guyana (1967) p. 192– Stoby C: [Diplock J in *Riordan v The War of Office* ]



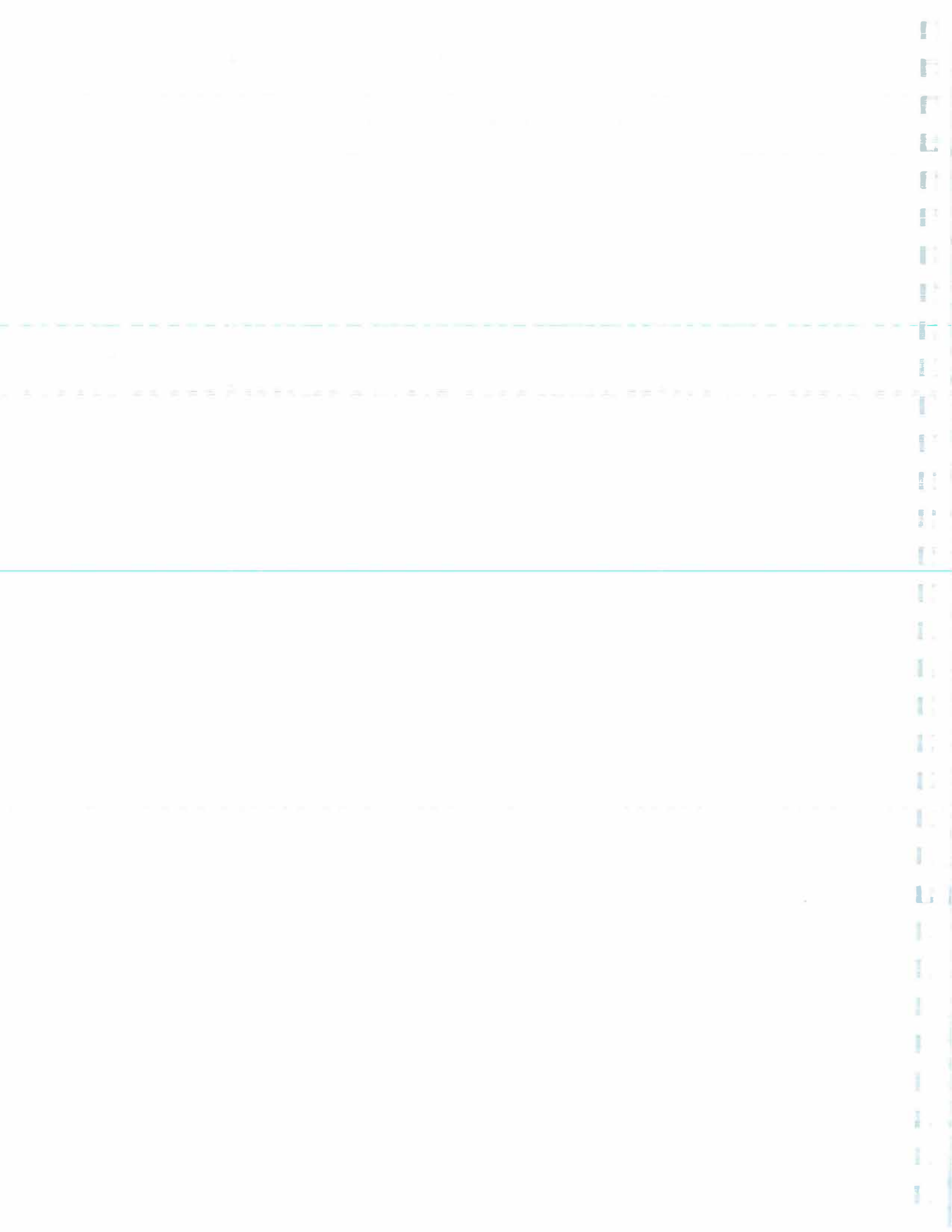
Public Service Commission as certain members were suspended and/or superseded and others were summarily or capriciously dismissed and there was no recourse to justice. Essentially, the workers' representatives were dissatisfied with this system of workers having no recourse to justice.

The workers' representatives were not the only persons to express dissatisfaction with this system. By Recommendation 139 of the Report on Public Administration in Guyana, Prepared for the Government of Guyana (1966), G. Burgess and J.K. Hunna stated that:

*“For the good of the public service, however, to say nothing of the good of the country, it is essential that the Public Service Commission enjoy public confidence in its integrity. Where political opinions and feelings run deep some suspicion and distrust are inevitable, but they could be minimized by opening up the Commission’s proceedings for review on appeal if it ever became constitutionally possible to do so.”*

The representations did not fall on deaf ears because with a working-class government and for the protection of Public Officers, the Constitution was amended to add Art. 215A to establish the Public Service Appellate Tribunal and the Public Service Appellate Tribunal Act 17/1984, now cap.27:01 was enacted. It is under this Act that the Tribunal functions.

Unfortunately, there was a hiatus of the Tribunal for the 2005-2017 period.





In the report of the Commission of Inquiry into the Public Service of Guyana (May 11, 2016) chaired by Professor Harold Lutchman, it was recognised that disputes arising out of matters falling under the purview of the Public Service are appealable to the Tribunal and recommended (Recommendation 60) the early re-appointment of the Public Service Appellate Tribunal and the Tribunal was reconstituted in 2017.

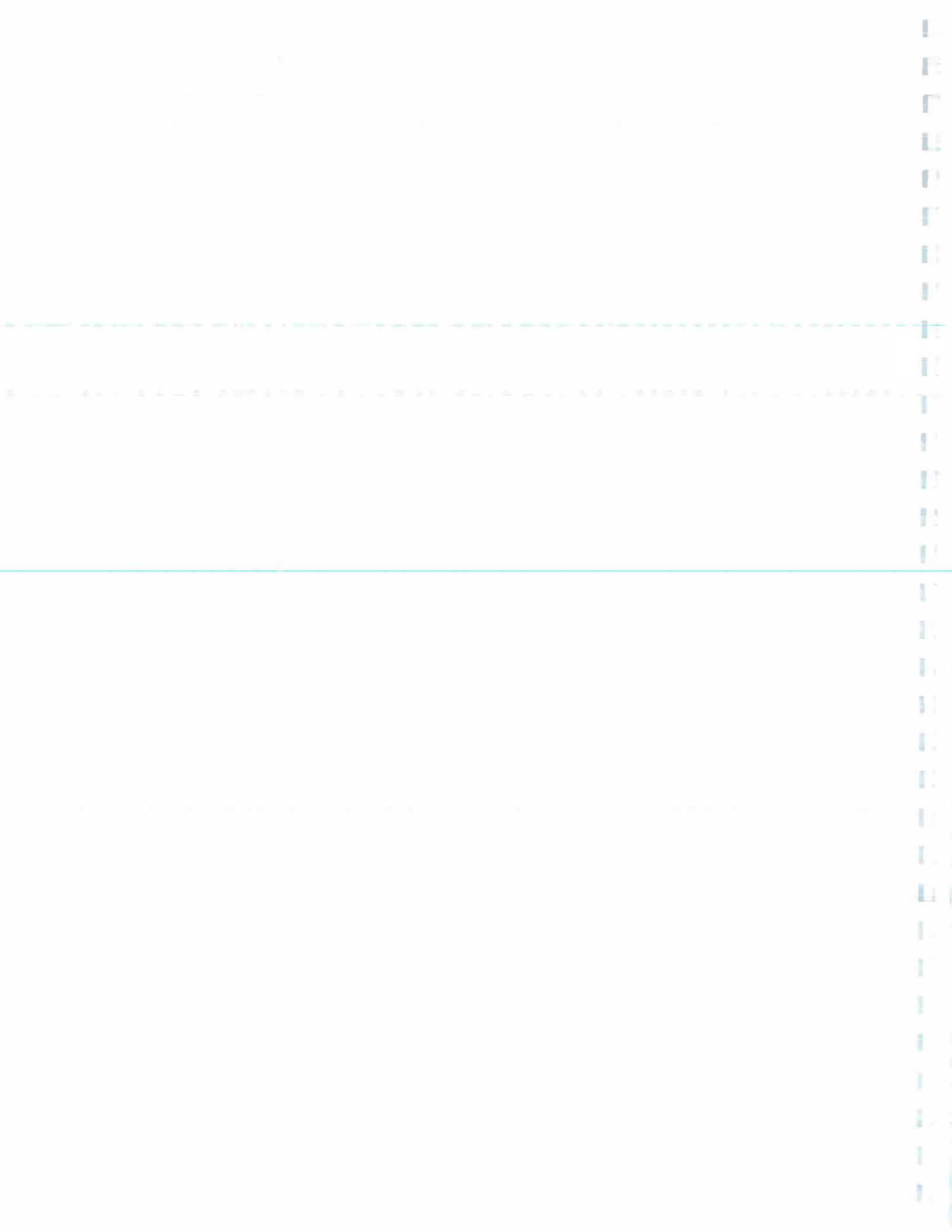
For the period under review, the general ambience of the workstations was most convenient for though-invigorating examination discourse and sound decisions on matters brought before it. The fact that the Bench of the Tribunal was fully supported by a coterie of adequately trained and affable staff made work far more pleasurable than arduous. Team work was at its zenith for the greater part.

There was a greater realisation among the support staff at every level of the importance of the Tribunal which motivated them to keep their sleeves rolled up and never resting at their oars.

The Bench of the Tribunal worked organically and where necessary applied the matrix model of management for greater effectiveness under ever-changing circumstances and need for purposeful direction. This did not in any way inhibit any member from performing his/her ascribed role.


Challenges, whenever they presented themselves, were dealt with expeditiously and, for the most part, collectively for greater ventilation and remedy.

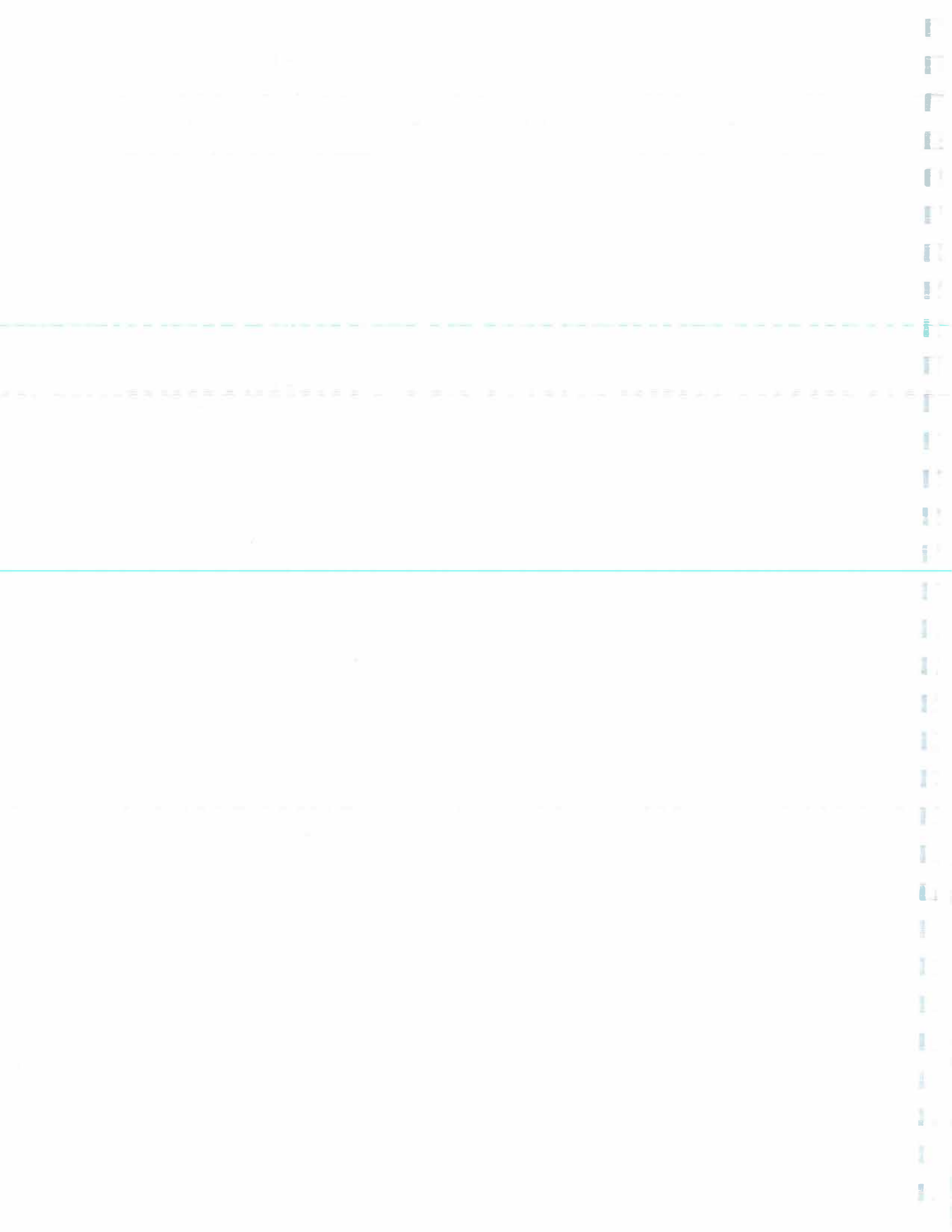
There was, however, a sullied occurrence; the unresolved theft of a computer from the Chairman's office towards the end of the year.



Despite a hiatus between 2005 and 2017, the Tribunal made significant grounds in re-establishing its identity, purpose and reach among public officers, it still had to strive for recognition. In order to abridge this deficient recognition, the Tribunal was engaged in self-promotion by way of outreaches across Ministries and Administrative Regions.

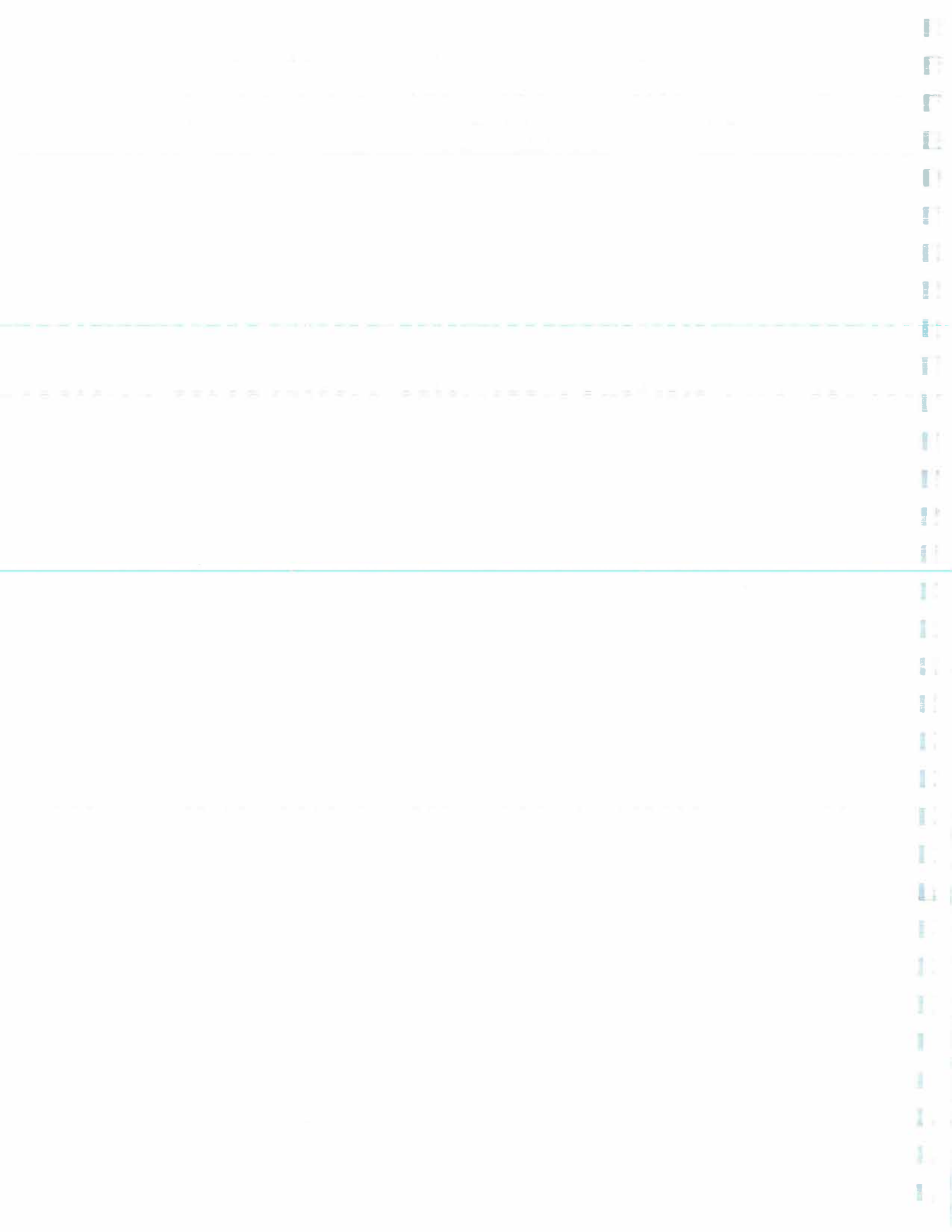
Those outreaches undertaken so far have invoked concerns by Public officers and worse still, consternation by others when they learnt that they (officers not administered by the Public Service Commission) did not have appellate coverage. Some of the officers who learnt such were contract workers and agency workers from agencies such as the Guyana Revenue Authority and Central Housing and Planning Authority and they requested that recommendation be made on their behalf that the Public Service Appellate Tribunal (PSAT) Act be amended so that Public Servants have a right of appeal to the Tribunal.

  
.....  
**Hon. Justice (Rtd) Nandram Kisson**  
**Chairman**



## **Mission Statement**

In keeping with s. 9 of the PSAT Act, the mission of the Tribunal is to see justice granted to any person holding or acting in any public office aggrieved by the decision of the Public Service Commission in respect of appointments by promotion and exercise of disciplinary control



## **Assessment of Performance**

### **❖ Activities of the Bench of the Tribunal**

#### **a) Appeals**

For the period under review, the work of the Tribunal was dispatched with efficiency.

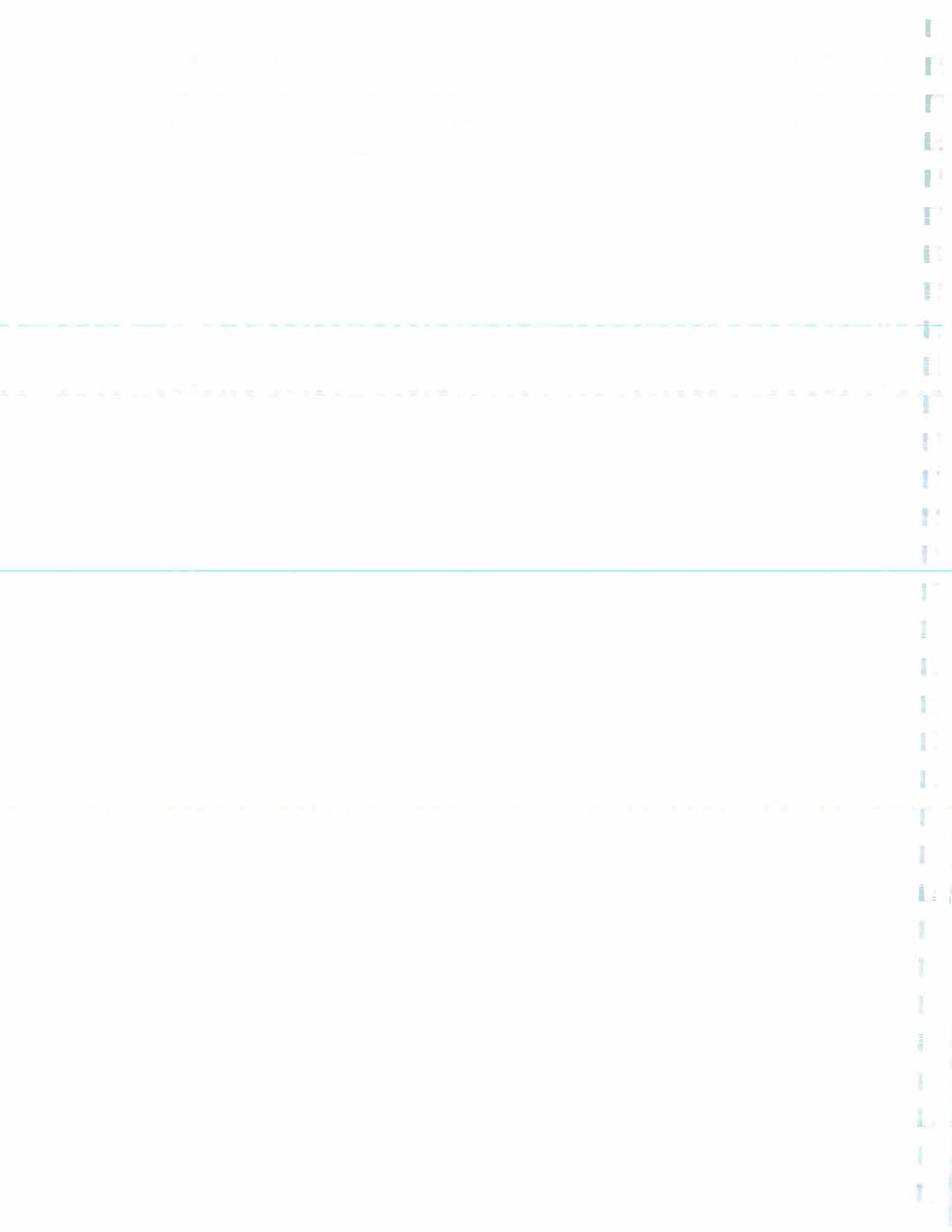
One (1) appeal that was filed in 2018 was concluded early in 2019.

Three (3) appeals were filed in 2019 and decisions have been rendered for all of them.

It must be noted, as was noted in the previous Annual Report, that apart from the appeals properly filed with the Tribunal, there were instances where Public Servants approached the Tribunal to make inquiries and/or file appeals but were informed that the Tribunal could not entertain such appeals because it lacked jurisdiction. Some of the Public Servants were from the Central Housing and Planning Authority (CHPA) and the Guyana Police Force (GPF). Additionally, some of the decisions that the Public Servants desired to appeal included their salary. The Tribunal, having no jurisdiction for the aforementioned, recommended that the concerned Public Servant either approach the Office of the Ombudsman or seek means to approach the High Court to resolve such matters.

#### **b) Outreaches**

One of the main aims of the Tribunal since its reconstitution has been to inform and infuse awareness into the psyche of our nation's public officers of the Tribunal's existence and functions. As a result, the Tribunal embarked on hosting a series of outreaches in the





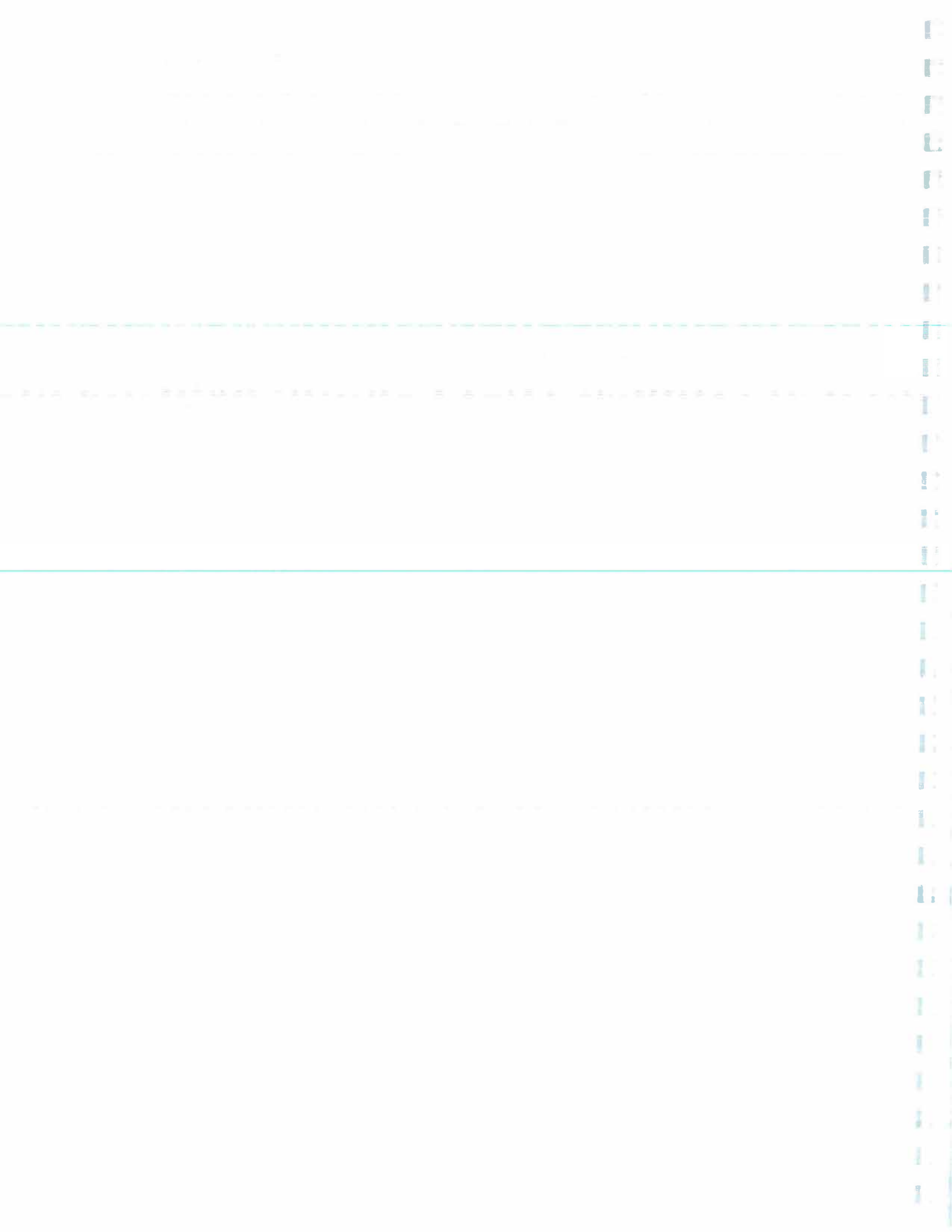
administrative regions and was able to successfully do so in Georgetown, Region 5 and Region 10 in the year 2019.

Outreaches were held in Georgetown on July 23, 2019 to July 25, 2019 at the Regency Suites Hotel; in Region 5 on October 30, 2019 at the Hopetown Multipurpose Co-op Society Building, and; in Region 10 on Friday, December 13, 2019 at the Watooka Guest House.

One hundred and ninety-four (194) public servants attended the 3 outreaches. The Tribunal also invited representatives from the Public Service Commission and the Guyana Public Service Union to the outreaches so as to create a balance and also to revive the relationship between the Tribunal and these bodies. The Tribunal is very appreciative of the support and co-operation of the PSC and the GPSU as it greatly contributed to the success of these outreaches.

Each attendee was provided with a folder containing a copy of the programme, a brochure outlining the roles and functions of the Public Service Appellate Tribunal writing material and evaluation forms. Evaluation sheets consisted of open-ended questions and close-ended statements with optional responses ranging from “strongly agree” to “strongly disagree”. These evaluation sheets were completed by participants and collected at the end of the program. Evaluation sheets aided the Tribunal in determining the effectiveness of the outreach and areas that needed to be strengthened/improved for future outreaches.

The programme for the sessions was scheduled to commence at 8:30 hrs and end at 12:00 hrs. The sessions opened with the National Pledge; welcome by the Registrar; Overview of the Public Service Appellate Tribunal by Winston Browne, Member; Legal Framework and Historical Review by Justice (rtd.) Nandram Kissoon, Chairman; Procedure for filing of Appeal by Petronilla Browne-Stewart, Registrar, and; Synopsis of the workings of the Tribunal by Abiola



Wong-Inniss, Member. There was a snack/tea break at approximately 10:30 hrs and a lunch served at the end of the program.

Plenary sessions were conducted at the outreaches to test the receptiveness of the attendees to the information presented. In the circumstances, plenary questions were based on the presentations made that day and it was evident from the responses to these questions that the attendees not only listened to the presentations but had a clear understanding of functions of the Tribunal. Further, though the plenary sessions were intended to test the employees, the representatives of the PSC and GPSU joined the groups to work with the employees in answering the questions to further consolidate the understanding of the functions of the Tribunal.

It must be noted that aside from the plenary exercise, attendees were encouraged to ask questions throughout the presentations and the presenters also intermittently solicited questions from the audience so as to provide clarification on the material presented. It was of utmost importance to the Tribunal that attendees left the sessions fully informed and aware of the workings of the Tribunal.

At the outreach sessions in Georgetown, the Tribunal quickly discovered that most in attendance were not Public Officers under the remit of the Public Service Commission, but rather contracted employees and employees of Semi-autonomous agencies. These individuals expressed disappointment that they could not and would not benefit from the existence of the Tribunal in the long run because they were not Public Officers.

Upon careful analysis of evaluation sheets, it was concluded that the goal of the outreaches were met and surpassed expectations. By request of those in attendance, the Tribunal will also embark



on going into the respective Ministries/Agencies to meet with Public Officers on a frequent basis.

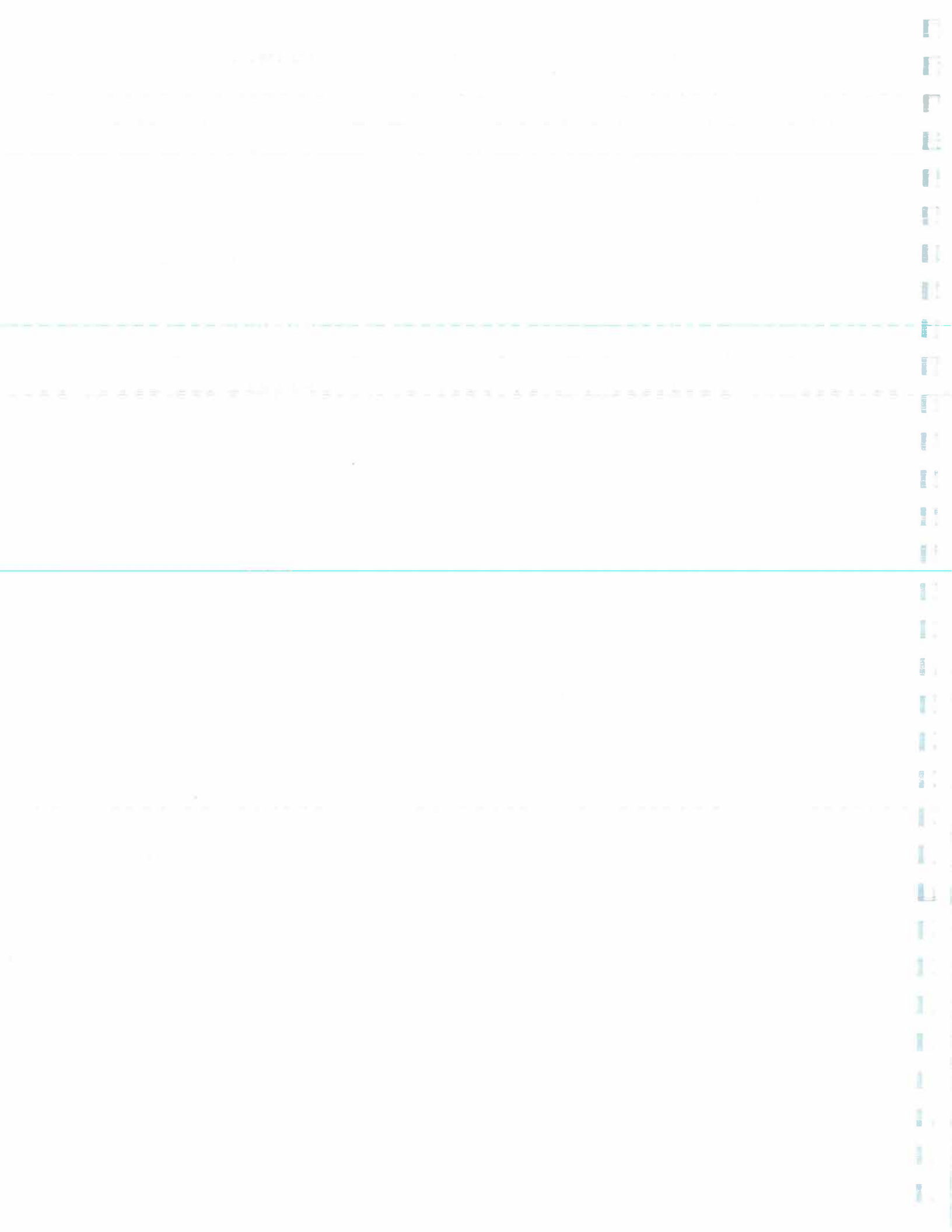
Notwithstanding its fervent efforts to make Public Officers aware of the existence of the Tribunal, a measure of reticence still exists as affected officers were tardy in seeking redress by/through the body. Such officers are more likely to be those who entered the Public Service eons ago and ensconced in a comfort zone (not seeking upward mobility nor acquaintance with operable rules, opportunities or general knowledge) by not making succeeding years different from bygone ones.

### **❖ Unfulfilled Aspirations**

In its last Annual Report, the Tribunal adumbrated quite a few issues that it would like tinkering on; such as the method of swearing in of the Registrar, catering for provisional Members of the Bench to facilitate, among other things, recusal of Members if the likelihood of bias raises so that hearings would not be a stillbirth for Appellants and the giving of the Tribunal greater legislative teeth in awarding of costs, penalties and discretion under certain circumstances.

However, it is acknowledged that efforts have not been strident enough to the epicenter of power, nor has sufficient time elapsed since last proffered in the most recent Annual Report.

Further, the Tribunal stated in its previous Annual Report that it would work towards establishing a website/social media presence. However, regrettably, such an initiative did not become a reality. Efforts were made to establish the presence as mentioned but the service providers were unable to meet the needs of the Tribunal.



## ❖ Outcomes and Future Expectations

During 2019, the Tribunal adequately achieved its goal of recognition. Since there was sustained efforts to forge its identity in every quarter, by the year's end there was no need for an intense struggle to re-establish it as a viable and desirable port of call for Officers in distress.

The Tribunal was quite impactful in ensuring that natural justice prevailed in determining whether or not it was dispensed at every stage of the disciplinary proceedings. Even Officers who do not have appellate coverage appealed to the Tribunal were given clear reasons of the inability of the tribunal to deal with their matters.

It is the expectation of the tribunal that with publications in the printed media, continued outreaches and televised programmes in the ensuing year, Public Officers would be more aware of the existence and functions of the Tribunal and feel compelled to utilise the services of the Tribunal should the need arise.

Notwithstanding, the Tribunal would also see it as its civic duty to spread the message of public probity as a condition of service to/by all and sundry.

It is also the expectation of the Tribunal that the jurisdiction of Tribunal will be expanded to include all permanent public servants.

## ❖ Introspection

Although the new initiatives are in their formative stages, the Tribunal engaged in introspective and scenarios formulation in:

- (a) Understanding the Genesis and History of the Tribunal.

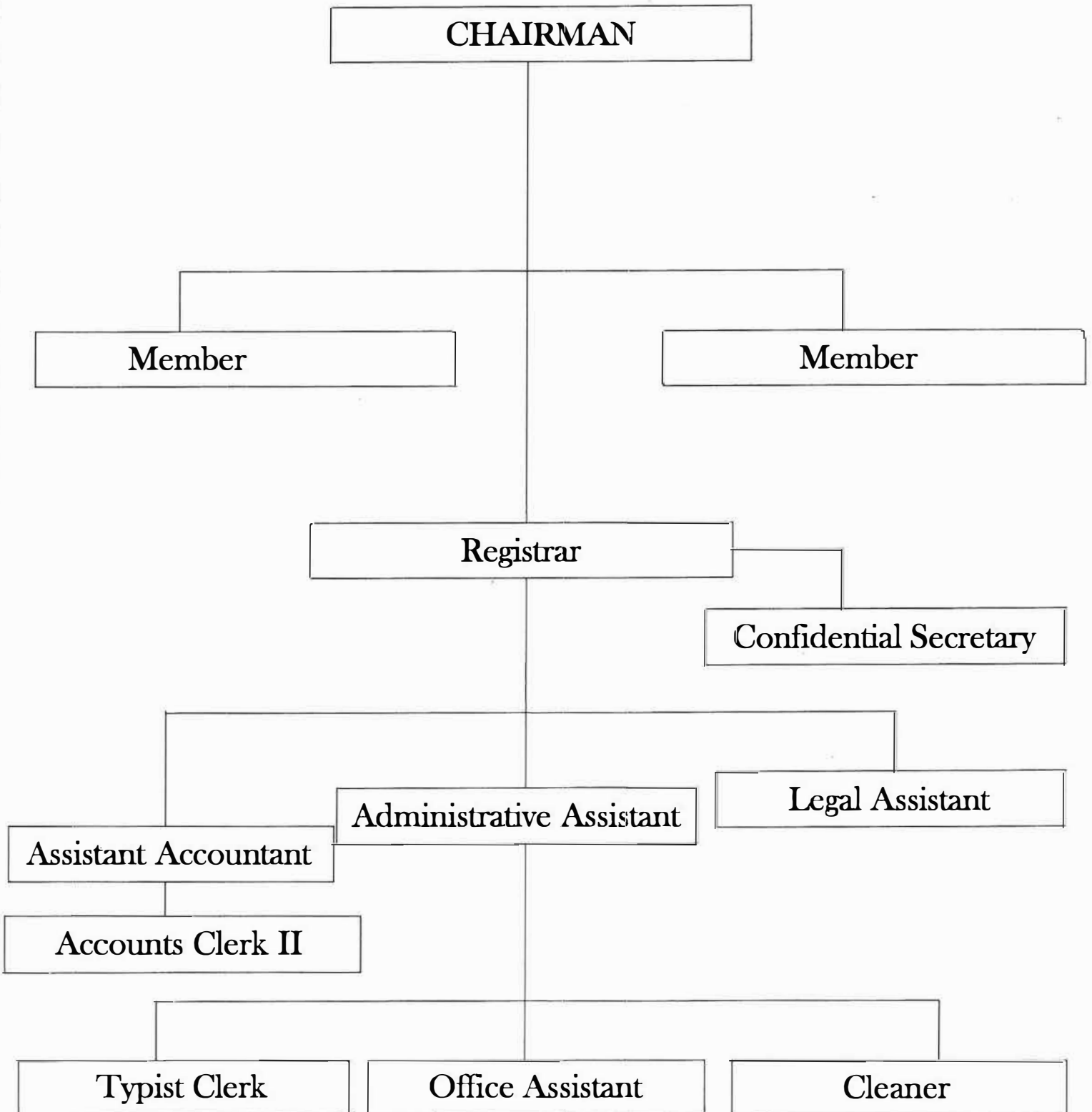


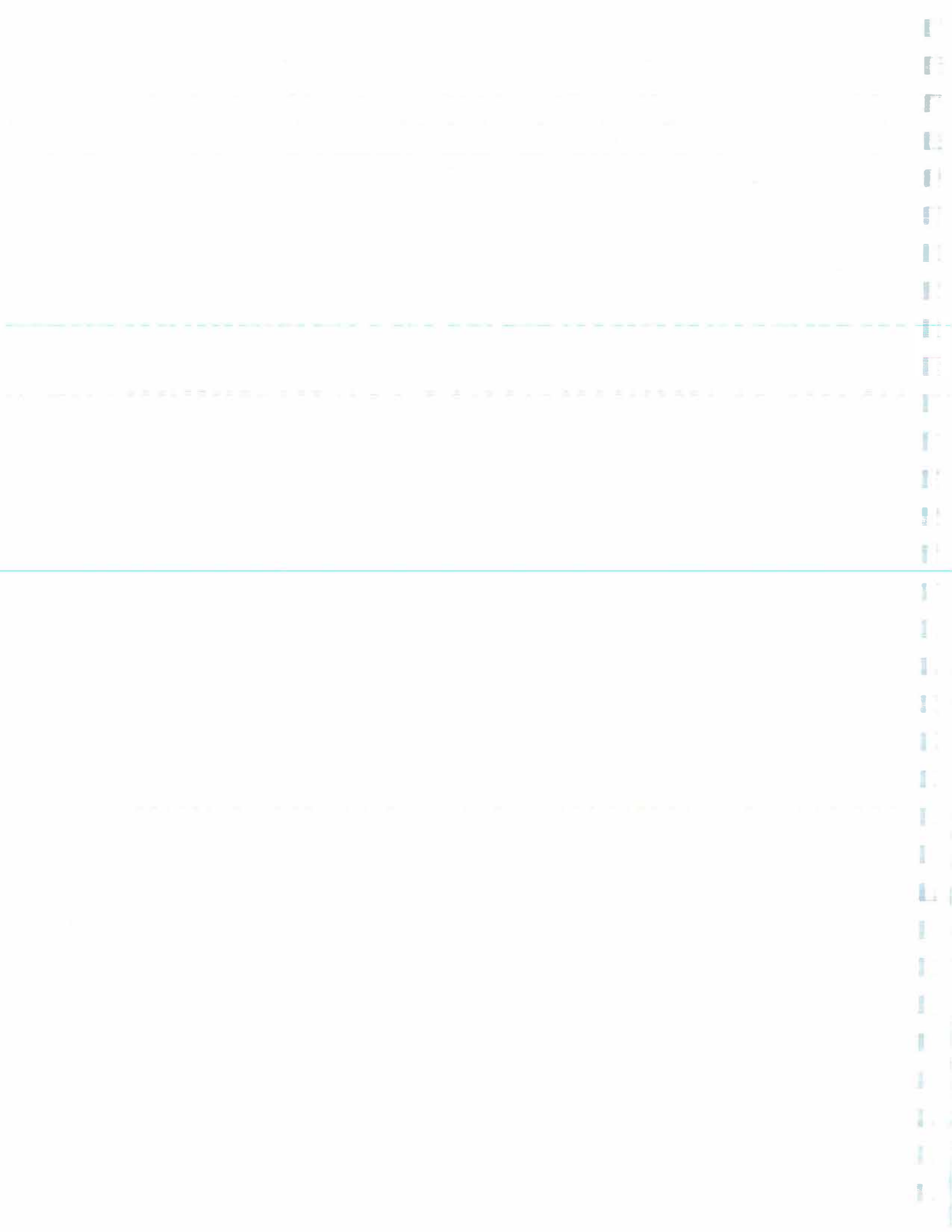


- (b) How the Tribunal can be retooled/reconfigured for greater relevance and applicability for a wider sweep of Public Officers.
- (c) With respect to (a), observed how the Public Service has metamorphosed throughout the last three (3) years and how impactful those fundamental changes have been on security of tenure and nature of tenure of Public Servants and also how they can impact on institutional memory and upward mobility of Public Servants, directly impacting on the work of the Tribunal.



**Organisation and Management**  
**Organisational Chart**





## **Organisation and Management (Cont'd)**

### **Description of Divisions and Departments**

The Tribunal consists of two sections:

- ✓ Administrative
- ✓ Legal

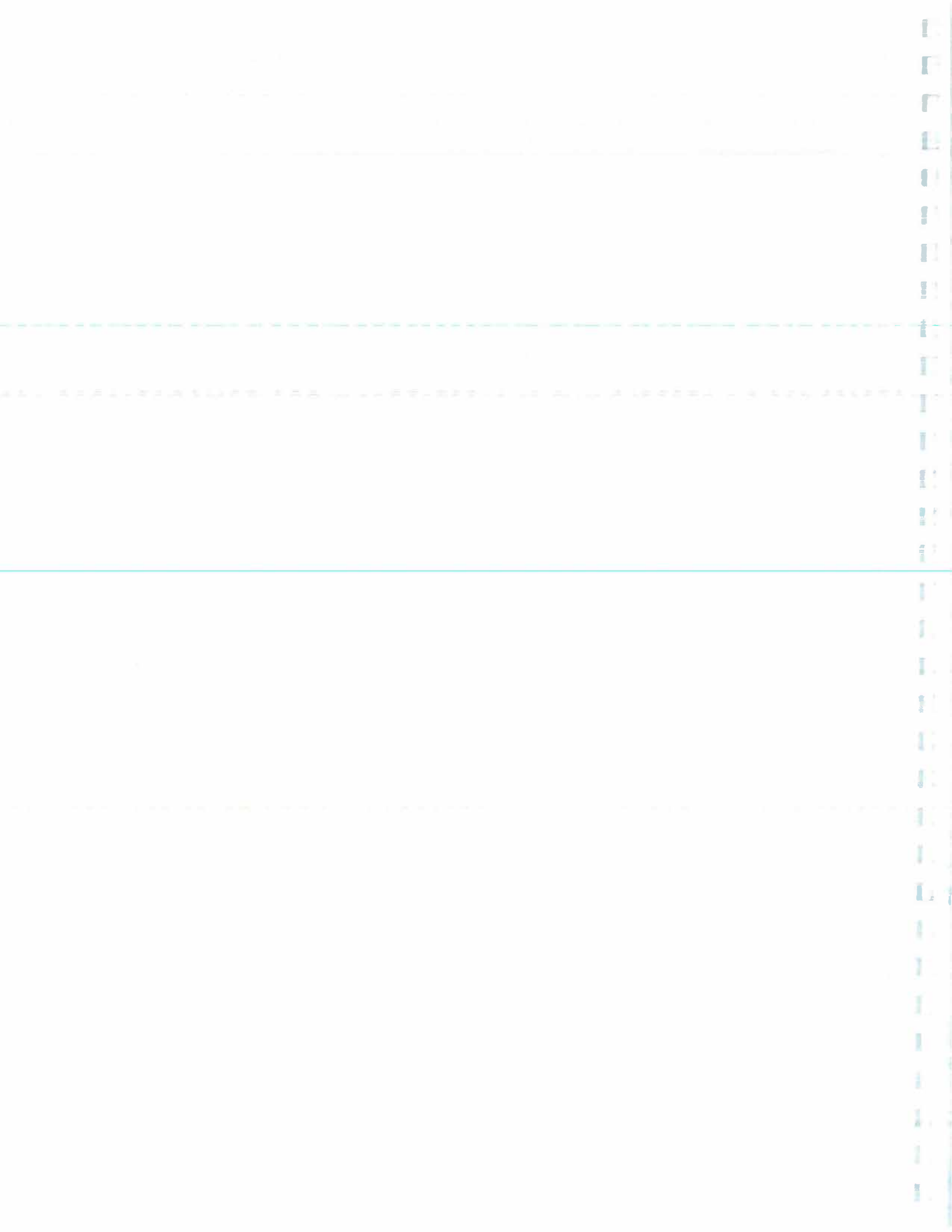
#### **The Administrative Section**

This section is supervised by the Registrar of the Tribunal and is responsible for the general administration of the Office and the smooth running of the departments. The Registrar handles, with the assistance of the Administrative Assistant, all personnel matters such as leave, resignations, Staff Appraisal Reports and the overall discipline of the office staff. The Typist Clerk aids in the typing of the various correspondences and the Office Assistant delivers same.

Accounting matters are handled by the Assistant Accountant with the assistance of the Accounts Clerk II. The Assistant Accountant reports to the Registrar. Accounting matters entail the preparation of pay sheets, remittances and withdrawals from the Consolidated Fund, recoupment of Imprest, keeping of Imprest, payment vouchers, cheque orders, bank deposits, taking vouchers to the Treasury, preparing monthly Financial Statements and Imprest Ledgers along with other related accounting duties.

#### **The Legal Section**

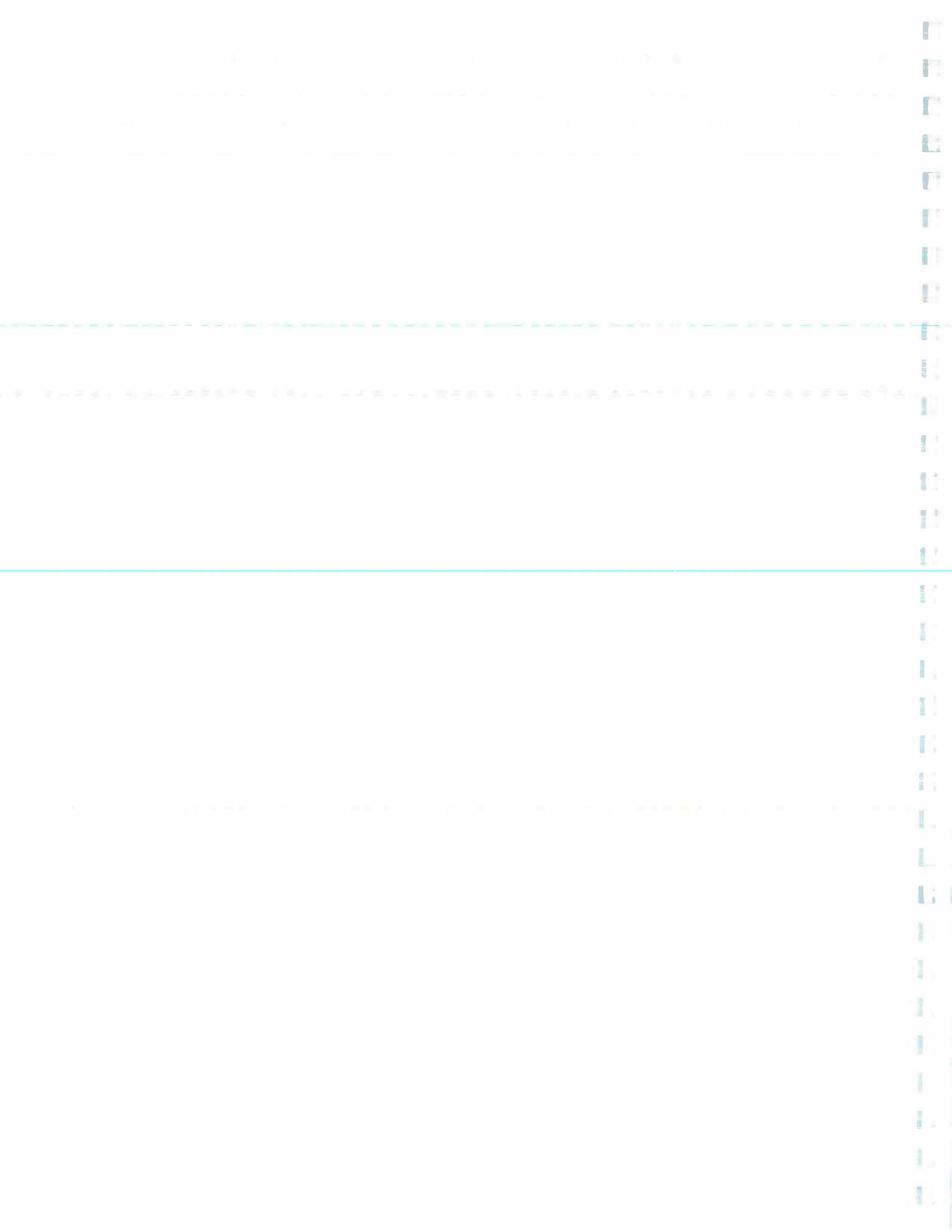
This section comes directly under the purview of the Chairman who is *primus inter pares* as it regards the other two (2) Members. This section deals expeditiously with all the appeals that come to the Tribunal from the Public Officers.



In addition to the administrative functions, the Registrar accepts appeals from Public Officers and processes same for hearing by the Bench of the Tribunal, takes notes at the various hearings, maintains the cause book and dispatches the required notices of hearings.

The Legal Assistant conducts research for the Bench of the Tribunal.

After the appeals are heard, the decisions are given in writing. These decisions can be obtained from the Registrar for the payment of a small fee.





## **Summary and Review of the Programme (2019)**

### **Legal Section**

Three (3) new Appeals were brought to the Tribunal in the year 2019:

- Kimshaw Todd-Braithwaite –v-Public Service Commission
- Sherwin Pearce–v-Public Service Commission
- Sharon Anthony–v-Public Service Commission

In addition to the hearing of these new Appeals, the bench of Tribunal also heard and ruled on outstanding Appeals.

### **Bench of the Tribunal**

There has been no change during this year to the Bench of the Tribunal.

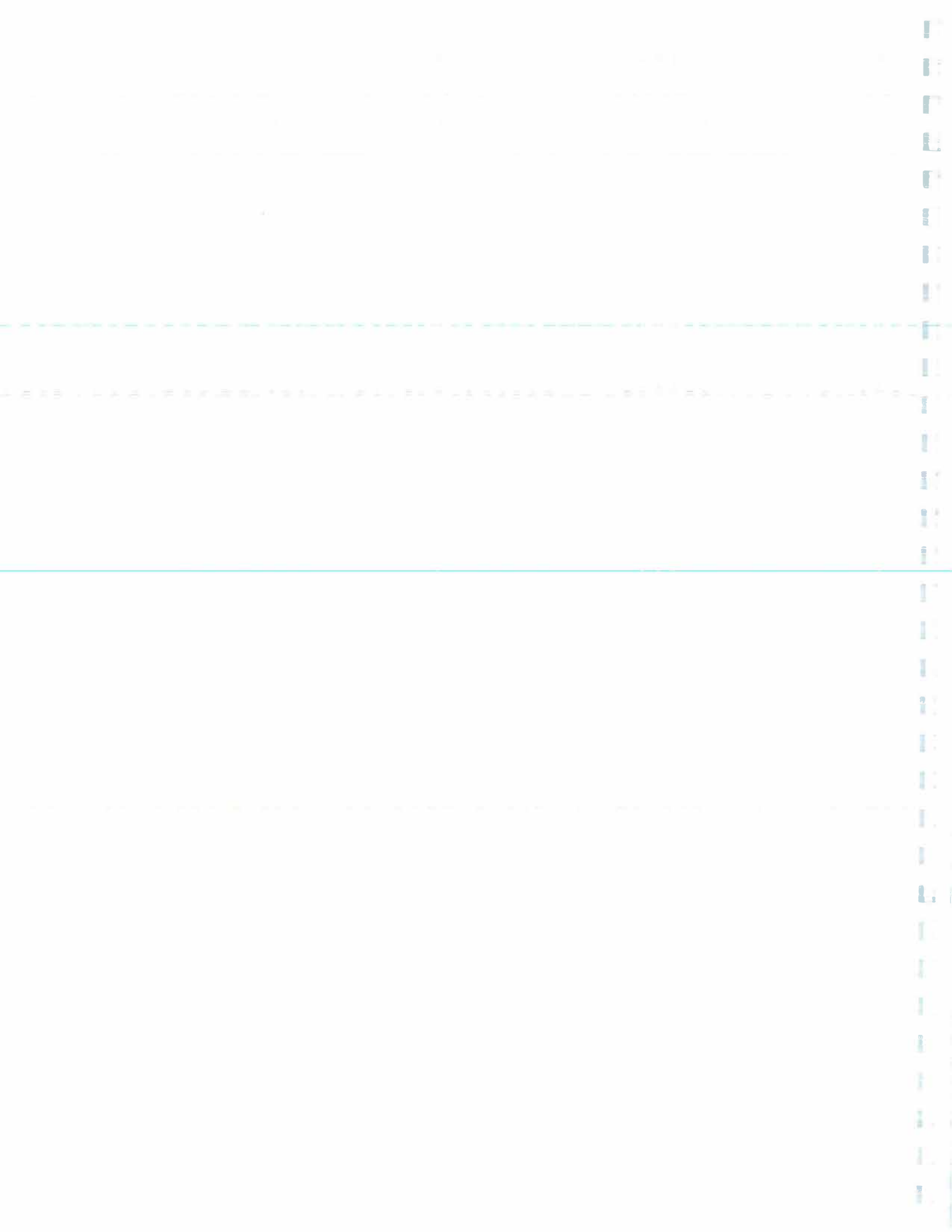
### **Administrative Section**

The Tribunal experienced relative stability in its staff complement with minor attrition, acquisition and upward mobility. For the greater part, this was to the benefit of the work ethic which was poised for greater efficiency.

### **Staff Changes**

The staff changes that occurred during the year 2019 were as follows:

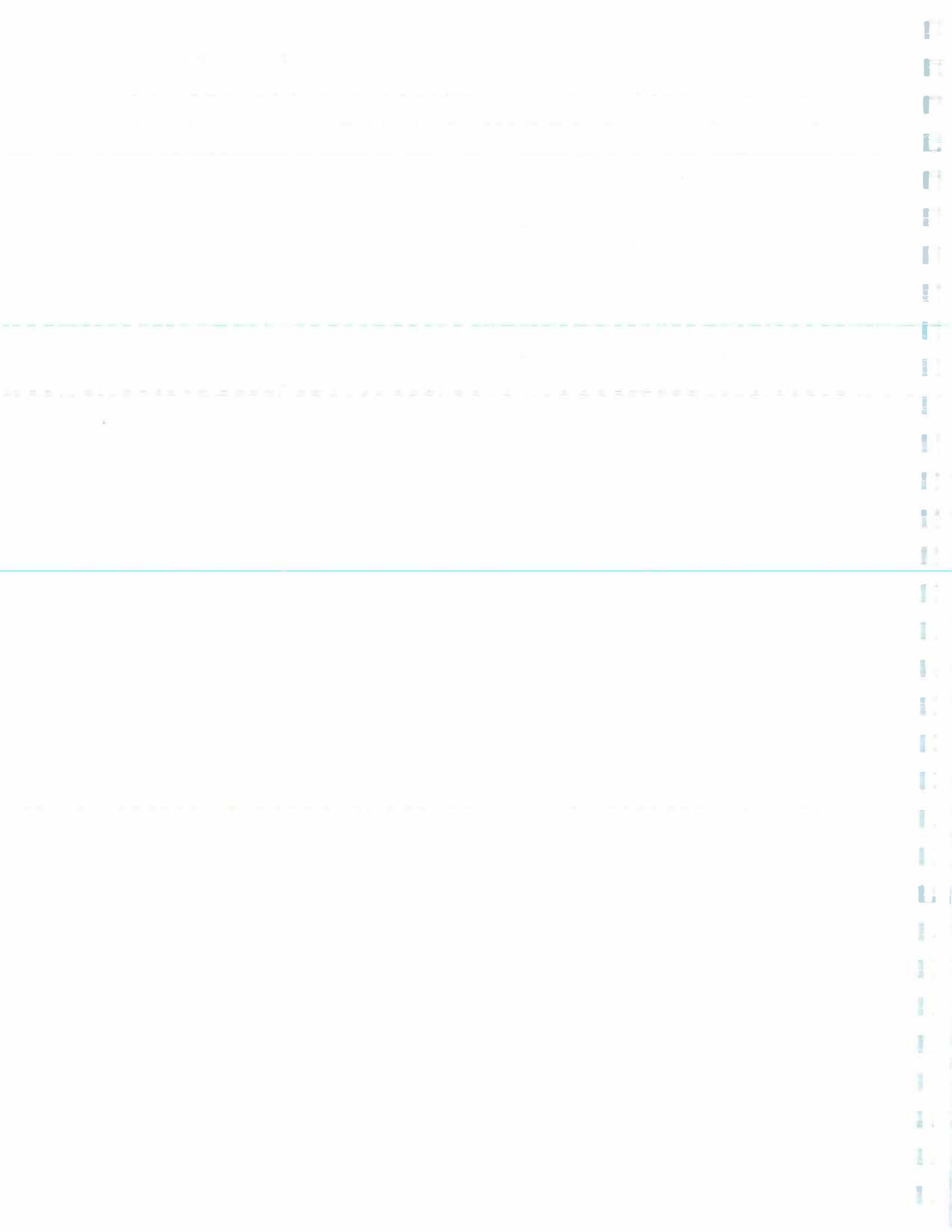
- (i) Jon Felicien was appointed Administrative Assistant with effect from January 2, 2018
- (ii) Akeeta Kingston was appointed Legal Assistant with effect from August 19, 2019
- (iii) Cipriana Barry Typist Clerk resigned with effect from August 15, 2019



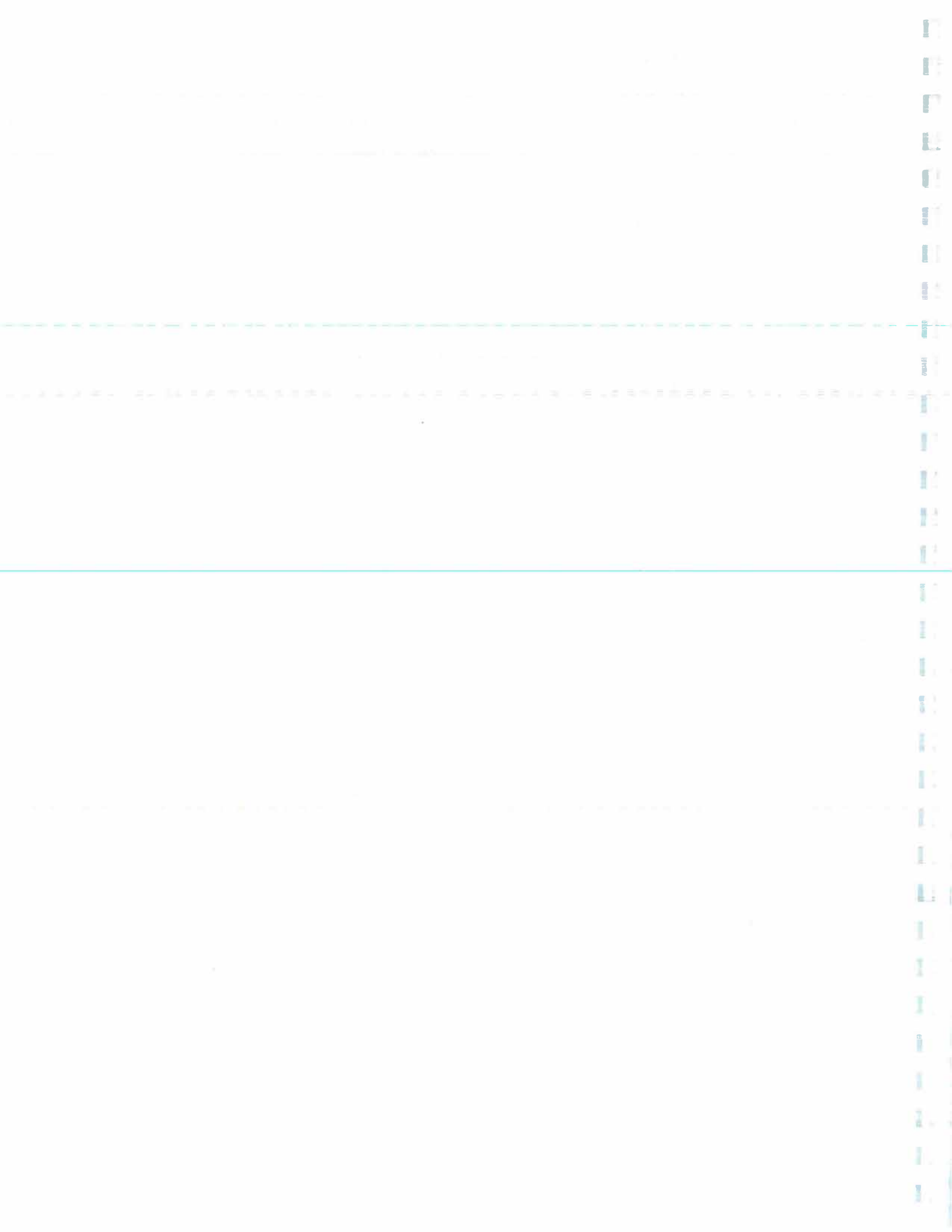
Staff members attended training programs facilitated by the Department of Public Service to aide them in improving and performing effectively in their respective posts. Such programs included:

- Personnel Policies and Practices
- Occupational Safety and Health
- Principles of Supervisory Management
- Records and Registry Management
- Communication in the Office
- Monitoring and Evaluation
- Principles of Human Resource Development
- Procurement and Stores Management
- Government Accounting Procedures
- Principles of Human Resource Development

The Tribunal also motivated staff members' pursuit of academic studies at private institutions so that they could be poised for upward mobility not only in this agency, but in other streams in the wider Public Service.



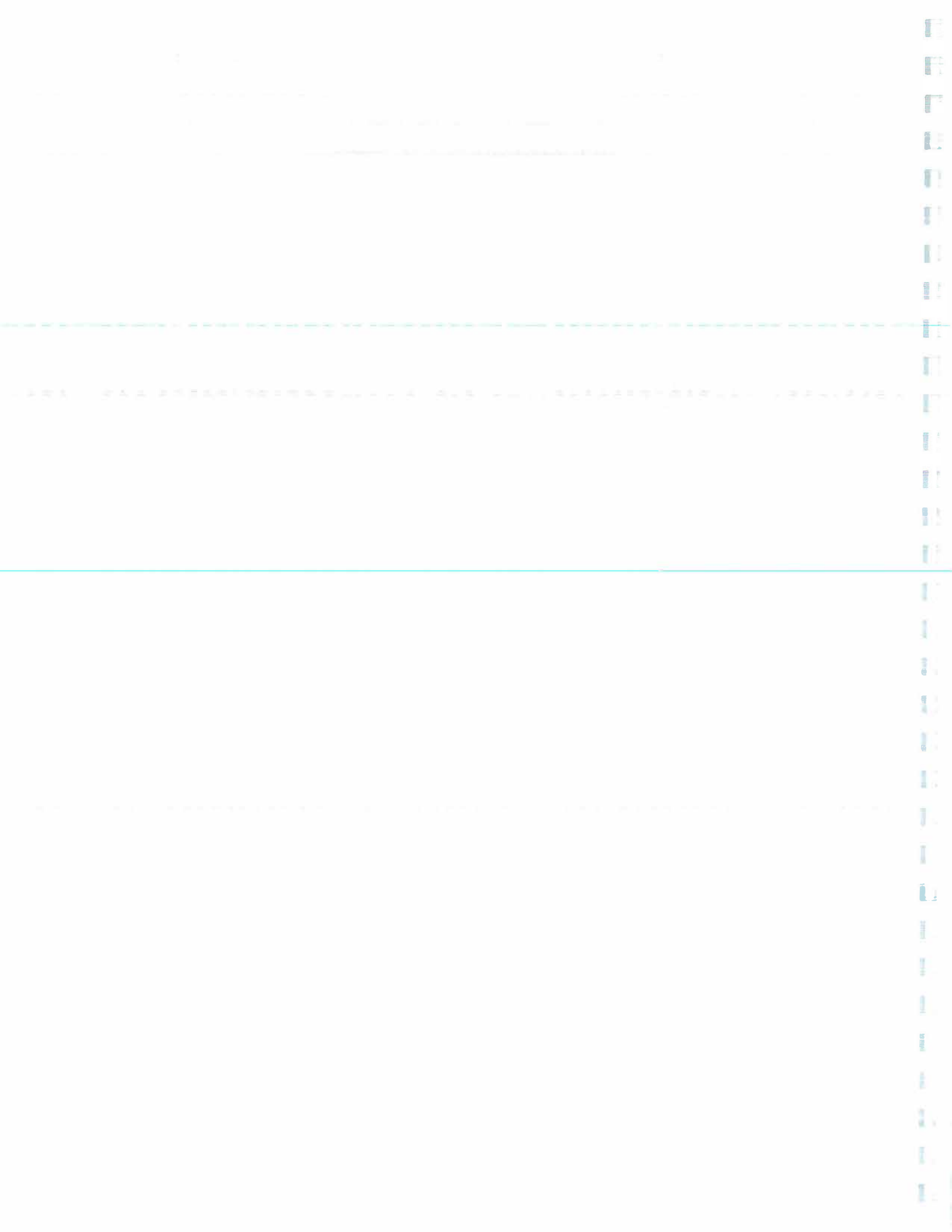
# APPENDIX



**PUBLIC SERVICE APPELATE TRIBUNAL**  
**NOTES TO FINANCIAL STATEMENT**  
**FOR THE YEAR ENDED 31 DECEMBER 2019**

**5. Payments**

	G\$ 2019	G\$ 2018
Statutory Wages & Salaries	34,994,265	31,764,780
Statutory Benefits & Allowances	1,356,000	1,356,000
Wages & Salaries	12,451,898	10,779,229
Material, Equipment & Supplies	390,533	558,226
Janitorial Supplies	571,883	629,293
Print & Non Print	1,060,437	618,700
Local Travel & Subsistence	637,488	1,047,686
Telephone	686,924	235,171
Electricity	3,505,505	1,664,477
Water	1,061,720	602,680
Meals & Refreshments	428,060	560,187
Other Expenses	4,565,551	2,279,738
Capital – Furniture & Equipment	0	2,914,583
Return to Consolidated Fund	0	2,085,417
Equipment Maintenance	46,000	0
Rates and Taxes	442,307	0
<b>Total</b>	<b><u>62,198,571</u></b>	<b><u>57,096,167</u></b>

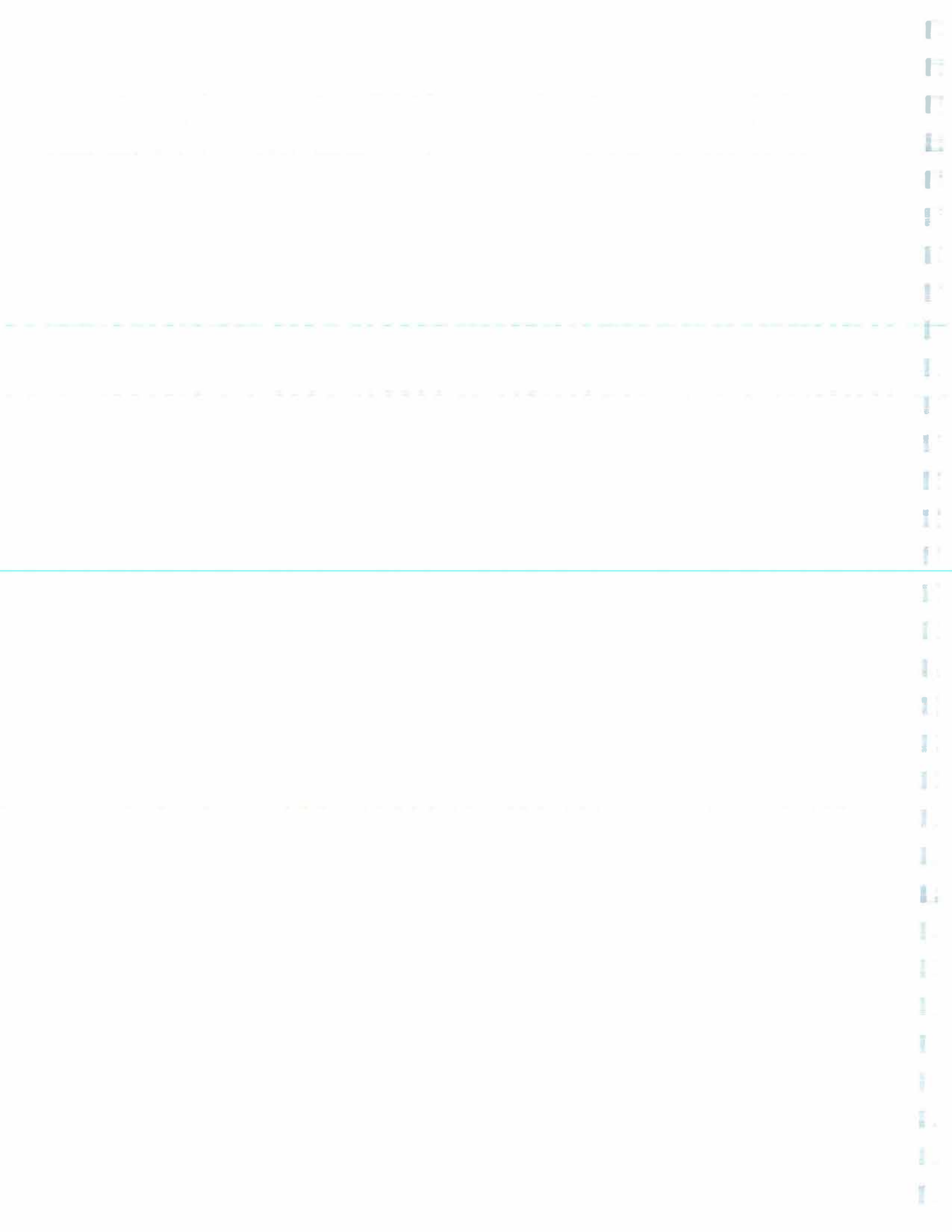




PUBLIC SERVICE APPELLATE TRIBUNAL

CURRENT APPROPRIATION ACCOUNTS FOR THE FISCAL YEAR  
ENDED 31st DECEMBER, 2019

SUB HEAD	DESCRIPTION	VOTED PROVISION	SUPPLEMENTARY PROVISION	YEAR TO DATE VIREMENT	REVISED PROVISION	TOTAL EXPENDITURE	UNDER THE REVISED ESTIMATES	OVER THE REVISED ESTIMATES
6011	Statutory Wages and Salaries	25776	-	-	26654	26654	-	-
6012	Statutory Benefits and Allowances	7100	-	-	6759	6759	-	-
6111	Administrative	-	-	-	4294	4294	-	-
6113	Other Technical and Craft Skilled	-	-	-	-	-	-	-
6114	Clerical and Office Support	1120	-	-	2113	2113	-	-
6115	Semi-Skilled Operatives and Unskilled	-	-	-	771	771	-	-
6116	Contracted Employees	9645	-	-	2610	2610	-	-
6117	Temporary Employees	2341	-	-	-	-	-	-
6131	Other Direct Labour Costs	180	-	-	660	660	-	-
6133	Benefits and Allowances	107	-	-	546	546	-	-
6134	National Insurance	94	-	-	565	565	-	-
6221	Drugs and Medical Supplies	30	-	-	30	30	-	-
6223	Office Materials and Supplies	750	-	-	750	750	-	-
6224	Print and Non-Print Materials	1500	-	-	1500	1500	-	-
6242	Maintenance of Buildings	220	-	-	220	220	-	-
6243	Janitorial and Cleaning Supplies	1385	-	-	1385	1385	-	-
6261	Local Travel and Subsistence	1000	-	-	1000	1000	-	-
6263	Postage, Telex and Cablegrams	20	-	-	20	20	-	-
6271	Telephone Charges	604	-	-	604	604	-	-
6272	Electricity Charges	2420	-	-	2420	2420	-	-
6273	Water Charges	871	-	-	871	871	-	-
6282	Equipment Maintenance	675	-	-	675	675	-	-
6283	Cleaning and Extermination Services	300	-	-	300	300	-	-
6284	Other	2000	-	-	2000	2000	-	-
6291	National and Other Events	40	-	-	40	40	-	-
6293	Refreshments and Meals	1100	-	-	1100	1100	-	-
6294	Other	3000	-	-	3000	3000	-	-
6311	Rates and Taxes	550	-	-	550	550	-	-
	<b>TOTAL</b>	<b>62828</b>	<b>-</b>	<b>-</b>	<b>61437</b>	<b>61437</b>	<b>-</b>	<b>-</b>



PUBLIC SERVICE APPELLATE TRIBUNAL

CURRENT APPROPRIATION ACCOUNTS FOR THE FISCAL YEAR  
ENDED 31st DECEMBER, 2019

Voted Provision refers to the funds requested by the Tribunal

Revised Provision refers to the funds granted to the Tribunal by Parliament

Total Expenditure refers to the total funds spent by the Tribunal.

**NOTE:** The shortfall experienced by the Tribunal was satisfied through Inter/Intra Departmental Allocation Warrant #97/2018 dated 2018/12/20 (Ministry of Finance) and direct payment from the Ministry of Finance.

