



OFFICE OF THE PRINCIPAL PERMANENT SECRETARY  
OFFICE OF THE PRIME MINISTER

**GOVERNANCE**  
*Action on the Parliamentary Ombudsman's  
Annual Report 2017*

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The Malta Public Administration has set for itself the ambitious objective to strengthen its governance and accountability framework. The ultimate objective is to challenge the status quo and achieve a tangible improvement in the performance and provision of quality public services. Achieving customer centricity is the focal point of this strategy.

Despite all our sterling efforts for internal improvement, it is inevitable that there will be cases where limitations and shortfalls become evidenced. The sterling work of those Parliamentary Offices charged with the oversight of the Public Administration's performance and accountability provide the Public Administration with invaluable insight.

These efforts help us to continue with our mission to achieve excellence. Their observations and recommendations help us address lacunae that may have slipped through the net of our efforts and attention.

The Ombudsman's Annual Report for 2017, which was published in May of 2018, does however also highlight the need to improve the mechanisms with which the Public Administration and the Ombudsman's Office collaborate to facilitate the timely conclusion of investigations undertaken by his Office and that of the Commissioners.

The Public Administration already has a number of appointed liaison officers spread across Ministries and public entities. These are already active in the pursuit of a positive working relationship with the Office of the Ombudsman and Commissioners.

With satisfaction, I can state that we are taking this a step further. The Public Administration is already taking action to strengthen its internal structures to better facilitate and support Ombudsman investigations.

Taking cue from similar initiatives taken by the Public Administration in relation to reports of the National Audit Office, I have directed my Office to report on how investigations by the Parliamentary Ombudsman are leading to improvements in the performance and quality of Public Service delivery.

I have ensured that this effort leads to Permanent Secretaries and all public entities to shoulder their responsibilities and to be transparent on the facts for each case investigated by the Ombudsman including the implementation of conclusions and recommendations made.

It is with pleasure that the Malta Public Administration publishes this report. It provides a transparent account of the nature, findings, conclusions, and action taken for each case reported on in the Ombudsman Annual report for 2017.

In itself, the report provides testimony to a number of facts that I feel are important to emphasise.

### **The Facts**

Firstly, and taken in context,

**it is evident that complaints reaching the Office of the Ombudsman and each of the Commissioners represent an almost insignificant fraction of all transactions handled by the Public Administration**

or the corresponding public entity. In itself, this is testimony to the success of our initiatives to improve service delivery and customer centricity.

This is not to say that any shortcoming is in any way acceptable. Our commitment is to strive to ensure that we achieve such high

levels of satisfaction that no individual will feel the need to request the intervention of the Parliamentary Ombudsman to resolve outstanding issues around his / her case.

Secondly, that

**there are several instances where the immediacy of action taken by the Public Administration to resolve shortfalls brought to its attention by the Office of the Ombudsman resulted in the conclusion of the Ombudsman's effort without the need to investigate further.**

Our in-depth analysis of these cases has shed light on the fact that in their vast majority (if not all) these could have been resolved if the complainant had approached the Public Administration's customer care facilities. In this we echo the observation made in the Ombudsman 2017 Annual Report:

*"Sometimes the complainant would have given incorrect information to the department or would have been completely unaware of the rules that applied to his particular case."*

We would like to promote and emphasise the message that in the case of dissatisfaction with a public service, customers should consider the various customer care facilities, including Servizz.gov, as their first port of call. As outlined below, most of these cases would have been satisfactorily resolved if they had been first referred to the customer care facilities before the Office of the Ombudsman opened a formal investigation. The 96% success rate of complaints and requests handled by Servizz.gov goes a long way to substantiate this conviction on the part of the Public Administration. We would

also like to see that customers access our myriad sources of guidance and information, including official websites, mobile apps, and similar information portals. As part of our commitment to improve service design and delivery, the Public Administration makes continuous efforts to ensure these are not only accurate and comprehensive reference sources, but are customer friendly in design, presentation, and content.

Thirdly, it is with pleasure that we note the fact that in a significant percentage of cases (40% in 2017) we found that these were resolved without the need for investigation by the Office of the Parliamentary Ombudsman or any of the Commissioners.<sup>1</sup> For the remaining cases, it is indeed rare for the Public Administration not to have taken immediate corrective action. In fact, our data shows that of all cases considered in the Ombudsman 2017 Annual Report, 70% of cases either:

- Needed no further action by the Public Administration. These amounted to 51% of all cases reported by the Ombudsman 2017 Annual Report; or
- The recommendation(s) presented were already fully implemented by the time of reporting. This was true for 19% of all cases reported on by the Ombudsman in his Annual Report for 2017.

The Public Administration did not remain complacent or dormant. In fact, our analysis shows that by September 2018, in 85% of

**cases closed by the Ombudsman in 2017, the Public Administration had already implemented the recommendations presented to it.**

<sup>1</sup> This includes those cases where the first management clarification was accepted by the Office of the Ombudsman as sufficient. With these, cases deemed as invalid or could not be investigated by The Office of the Ombudsman are also included.

## The Analysis

Our in-depth

**analysis has shown that there were no instances or cases that uncovered any breach of law, policy or abuse of power by the Public Administration.**

On the contrary. In a significant 51% of cases considered in 2017, immediate management explanations on the case were sufficient for the Ombudsman to close the case without making any recommendations to the Public Administration for corrective action, as none were deemed necessary.

I would like to emphasise that our in-depth assessment has shown that the Public Administration gives significant importance to investigations made by the Parliamentary Ombudsman and any of his Commissioners.

Particularly, the Public Administration was taken aback by the stern assertions regarding its willingness to be transparent and held accountable by the Office of the Ombudsman and his Commissioners as attested by the following excerpts:

*“The Commissioners rightly stress that the failure of the public authorities to respond immediately to their queries ... showed a lack of awareness of the function of the Ombudsman institution but also disrespect ...” (page 13)*

And elsewhere attests that this:

*“...generates suspicion and favours abuse and corruption ...” (page 11)*

*“Administering in a shroud of secrecy is indicative of a siege mentality and instils a sense of insecurity and doubt as to whether the public administration can withstand legitimate scrutiny...appears to have adopted*

*a generally negative approach towards its duty to disclose information...” (page 11)*

Such worrying assertions could not be overlooked. In fact, the main priority of this effort was to identify and nullify the reasons that led the Ombudsman to make such uncompromising remarks.

Having truthfully and with determination executed the task of rooting out these elements of concern, we have to admit that the Public Administration has struggled to find the basis on which such pervasive conclusions could be drawn. It is true that there were instances where delay due to the sharing of information from either the end of the Public Administration or that of the Ombudsman emerged, but nowhere was it found to be so extensive and widespread as to merit such comments in this regard.

Significantly, we noted that

**there were no instances where information requested was not provided by the Public Administration. In many instances, the information provided was so comprehensive as to lead to the case being resolved without investigation.**

Admittedly, however, the exercise did identify instances when the Public Administration needed time to collate the requested information, and hence the submission was delayed. Rarely was the delay unnecessarily prolonged. In fact, our analysis shows that 22 cases are still pending due to requests being processed by the Public Administration. On the other hand, 46 cases were found to be pending a reply from the Office of the Ombudsman.

In this regard, it must be appreciated that giving a comprehensive, sound, and accurate reply with supporting evidence,

especially in complicated cases, takes its time. However, any such delay needs to be as short as possible. It is to this end that, as I have already stated, my Office and the Public Administration, will be strengthening the interface with the Office of the Ombudsman and each Commissioner such as to eliminate any unjustified delay. It is also to be noted that in exceptional cases, legal provisions complicated or refrained the sharing of requested information. This is, however, not to excuse the finding. Changes to our administrative modus operandi seek to ensure that information requested is processed and delivered in the shortest timeframe possible.

### **Some Observations**

It needs to be stated that several observations presented in the Ombudsman Annual Report of 2017 concern matters which could not be analysed by the Public Administration. Here it must be emphasised that these elements could not be included in this reporting for one of two main reasons: some due to the general nature of the observation itself, whilst in other instances, this was due to the fact that the considerations made fall outside the remit or control of the Public Administration.

Certainly, the report and the Public Administration will not deal with those elements presented in the Ombudsman Annual Report 2017 which are, by their very nature, of a political character. Consequently, we will limit ourselves to some observations.

One such observation is the assertion that *“the Ombudsman and his Commissioners had, throughout the year, felt the need to highlight issues that needed to be addressed because they were a cause of complaints as a result of decisions of grievance boards and the engagement of persons in positions of trust”* (Page 19).

**In this regard it needs to be reiterated that the engagement of persons in positions of trust are made in line with, and in compliance to, the provisions of the Constitution governing employment in the Public Administration.**

Two facts are to be noted. Firstly, that persons of trust are engaged for a definite term and we thus firmly believe that this is not tantamount to employment with the Public Administration as governed by the Constitution. This practice was introduced in the 1990s and hence is now part of the fabric of the organisation of Government support structures. The need to highlight the issue at this tardy stage also jars with two realities. The first is that today we find a number of persons of trust that coincides with historical levels.

Secondly, **we note today that the regulatory framework governing these positions is the most detailed and publicly available that ever existed in Malta.**

These are designed on international good practice to better ensure that the principles of good governance for such engagements are suitably enshrined, and adhered to.

In respect of the observation on decisions made by Grievance Boards, it is reiterated that it is within the interest of good governance to afford public employees internal administrative structures geared to remedy any injustice incurred due to possible flaws in the internal administrative decision-making process. This helps both the identification, and the correction of such unintended consequences of adopted policies and procedures. They also allow for immediate and amicable conflict resolution.

Moreover, the procedures followed are publicly available to ensure maximum transparency. Hence, we do not believe that such internal mechanisms go counter to good governance but actually go to strengthen it.

### **Concluding Remarks**

As this report lays out, the Public Administration is achieving positive results and surely, the culture of continuous improvement and customer centricity is being inculcated. Behind this achievement is the daily and silent commitment of all our customer-facing staff, customer care officers and those executing back-office functions geared towards achieving excellence in service delivery. Our commendation is merited.

Our commitment to stronger governance, improved transparency and a quality service is very much alive. It is not just that we speak about it, but a statement that is supported by factual evidence, as this report again demonstrates.

The seriousness and detail with which this in-depth analysis was executed leads me to unequivocally conclude, and with conviction state, that in several of its assertions, the Ombudsman's Annual Report was somewhat unfairly critical of the Public Administration.

I conclude with a commendation to all involved in carrying out this analysis. We hope to have given the deserved recognition for the hard work, dedication, and sterling efforts of all public officers, who day-in-day-out ascertain that the Public Administration acts fairly, equitably and with transparency to all those that legitimately seek its services and support.

There is always room for improvement. Indeed, our commitment is to never stop improving.

**MARIO CUTAJAR**  
Principal Permanent Secretary







|  |            |
|--|------------|
| <b>List of Abbreviations</b>   | <b>14</b>  |
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| Ministry for the Economy, Investment and Small Businesses                | <b>39</b>  |
| Ministry for Education and Employment                                    | <b>43</b>  |
| Ministry for Energy and Water Management                                 | <b>59</b>  |
| Ministry for European Affairs and Equality                               | <b>65</b>  |
| Ministry for Family, Children’s Rights and Social Solidarity             | <b>69</b>  |
| Ministry for Finance   | <b>83</b>  |
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| Ministry for Gozo  | <b>99</b>  |
| Ministry for Home Affairs and National Security                          | <b>103</b> |
| Ministry for Justice, Culture and Local Government                       | <b>115</b> |
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| Follow-up on pre-2017 cases  | <b>267</b> |

## LIST OF ABBREVIATIONS

|       |  |        |   |
|-------|--|--------|---|
| ACHCB | Advisory Committee on Healthcare Benefits          | ECTS   | European Credit Transfer System                                   |
| ACM   | Arts Council Malta                                 | ECVET  | European Credit system for Vocational Education and Training      |
| ACM   | Asbestos Containing Material                       | EIRA   | Employment and Industrial Relations Act                           |
| ADSC  | Access Disability Support Unit                     | EMTC   | Exceptional Medicinal Treatment Committee                         |
| AFM   | Armed Forces of Malta                              | EPC    | Energy Performance Certificate                                    |
| AG    | Attorney General                                   | EPC    | Environment and Planning Commission                               |
| ARMS  | Automated Revenue Management Services              | EPRT   | Environment and Planning Review Tribunal                          |
| AWAS  | Agency for the Welfare of Asylum Seekers           | ERA    | Environment and Resources Authority                               |
| BM    | Budgetary Measure                                  | ERL    | Engineering Resources Limited                                     |
| BRO   | Building Regulation Office                         | ESP    | Employment Support Programme                                      |
| BTI   | Binding Tariff Information                         | ETC    | Employment and Training Corporation                               |
| CCF   | Corradino Correctional Facility                    | EU     | European Union  |
| CEO   | Chief Executive Officer                            | FMS    | Foundation for Medical Services                                   |
| CfR   | Commissioner for Revenue                           | FSWS   | Foundation for Social Welfare Services                            |
| CMO   | Chief Medical Officer                              | GAPSE  | General Accounting Principles for Smaller Entities                |
| CPSU  | Central Procurement and Supplies Unit              | GAPSME | General Accounting Principles for Small and Medium-Sized Entities |
| CTD   | Capital Transfer Duty                              | GFL    | General Formulary List  |
| CTP   | Council for the Teaching Profession                | GFLAC  | Government Formulary List Advisory Committee                      |
| DCO   | Deputy Chief Officer                               | GPD    | Government Property Department                                    |
| DCS   | Directorate Corporate Services                     | GWU    | General Workers Union   |
| DES   | Directorate for Educational Services               | HA     | Housing Authority   |
| DFA   | Department of Fisheries and Aquaculture            | HR     | Human Resources   |
| DG    | Director General                                   | HS     | Harmonized System   |
| DIER  | Department for Industrial and Employment Relations | IAID   | Internal Audit and Investigation Directorate                      |
| DLG   | Director Local Government                          | ICT    | Information and Communications Technology                         |
| DN    | Development Notice                                 | IDPC   | Information and Data Protection Commissioner                      |
| DPA   | Data Protection Act                                | IMA    | Identity Malta Agency   |
| DPA   | Directorate for Pharmaceutical Affairs             | INCO   | Inclusive Network Co-ordinators                                   |
| DPAR  | Development Planning Act Report                    |        |   |
| DSS   | Department of Social Security                      |        |   |
| DSWS  | Department for Social Welfare Standards            |        |   |
| EC    | European Commission                                |        |   |
| ECA   | English Communication Aptitude                     |        |   |
| ECO   | Ecological   |        |   |

|       |  |        |  |
|-------|--|--------|--|
| IRU   | Industrial Relations Unit  | MHAS   | Ministry for Home Affairs and National Security                    |
| IT    | Information Technology   | MIB    | Malta Insurance Bureau   |
| ITS   | Institute for Tourism Studies  | MIMCOL | Malta Investment Management Company Limited                        |
| IVF   | In Vitro Fertilisation   | MJCL   | Ministry for Justice, Culture and Local Government                 |
| LA    | Lands Authority  | MOT    | Ministry for Tourism   |
| LC    | Local Council  | MoU    | Memorandum of Understanding  |
| LESA  | Law Enforcement System Authority   | MPF    | Malta Police Force   |
| LLB   | Bachelor of Laws   | MPT    | Malta Public Transport   |
| LN    | Legal Notice   | MQF    | Malta Qualifications Framework                                     |
| LPG   | Liquefied Petroleum Gas  | MQRIC  | Malta Qualifications Recognition Information Centre                |
| LSA   | Learning Support Assistant   | MRA    | Malta Resource Authority   |
| LTD   | Licensing and Testing Department   | MSD    | Manufacturing and Services Division                                |
| MAM   | Medical Association of Malta   | MSDC   | Ministry for Social Dialogue, Consumer Affairs and Civil Liberties |
| MCCAA | Malta Competition & Consumer Affairs Authority                           | MTIP   | Ministry for Transport, Infrastructure and Capital Projects        |
| MCAST | Malta College of Arts, Science and Technology                            | MUMN   | Malta Union for Midwives and Nurses                                |
| MCH   | Mount Carmel Hospital  | MUT    | Malta Union of Teachers  |
| MDH   | Mater Dei Hospital   | NACE   | Nomenclature of Economic Activities                                |
| MEAE  | Ministry for European Affairs and Equality                               | NCFHE  | National Commission for Further and Higher Education               |
| MEDE  | Ministry for Education and Employment                                    | NCPE   | National Commission for the Promotion of Equality                  |
| MEIB  | Ministry for the Economy, Investment and Small Business                  | NHS    | National Health Services   |
| MEPA  | Malta Environment and Planning Authority                                 | NPICU  | Neonatal Paediatric Intensive Care Unit                            |
| MESDC | Ministry for the Environment, Sustainable Development and Climate Change | NSO    | National Statistics Office   |
| MEW   | Ministry for Energy and Water Management                                 | OPM    | Office of the Prime Minister                                       |
| MFC   | Malta Freeport Corporation   | PA     | Planning Authority   |
| MFCS  | Ministry for the Family, Children's Rights and Social Solidarity         | PACBU  | Public Administration Collective Bargaining Unit                   |
| MFH   | Ministry for Health  | PAHRO  | Public Administration Human Resources Office                       |
| MFIN  | Ministry for Finance   | PBS    | Public Broadcasting Services                                       |
| MFSA  | Malta Financial Services Authority                                       |        |  |
| MFTP  | Ministry for Foreign Affairs and Trade Promotion                         |        |  |
| MGOZ  | Ministry for Gozo  |        |  |

|       |  |
|-------|--|
| PGCE  | Postgraduate Certificate of Education    |
| PS    | Permanent Secretary                      |
| PSC   | Public Service Commission                |
| PSMC  | Public Service Management Code           |
| PV    | Photovoltaics                            |
| P&SD  | People and Standards Division            |
| REWS  | Regulator for Energy and Water Services  |
| RHKG  | Karen Grech Rehabilitation Hospital      |
| RID   | Roads and Infrastructure Directorate     |
| RSSL  | Resource Support and Services Limited    |
| SAMOC | Sir Anthony Mamo Oncology Centre         |
| SCH   | Superintendence of Cultural Heritage     |
| SL    | Subsidiary Legislation                   |
| SMGB  | Students Maintenance Grants Board        |
| SPH   | Superintendence of Public Health         |
| SVPR  | St. Vincent De Paule Residence           |
| TAC   | Treatment Abroad Committee               |
| TCC   | Traffic Control Committee                |
| TM    | Transport Malta                          |
| TP    | Teaching Practice                        |
| TSD   | Trade Services Directorate               |
| UADB  | University Assessment Disciplinary Board |
| UHM   | Union Haddiema Magħqudin                 |
| UK    | United Kingdom                           |
| UoM   | University of Malta                      |
| VAT   | Value Added Tax                          |
| VOA   | Voluntary Organisations Act              |
| VO    | Voluntary Organisation                   |
| VRS   | Voluntary Redundancy Scheme              |
| WSC   | Water Services Corporation               |
| WS    | Water Services                           |
| XL    | Extra Large                              |

*N.B. Nomenclatures denoting the male gender are used in this report to denote the complainant and therefore also indicate the female gender.*





The Public Administration is herewith presenting its report on cases handled by the Parliamentary Ombudsman, Commissioner for Education, the Commissioner for Environment & Planning, and the Commissioner for Health during the period January to December 2017.

In drawing up this report, a myriad of meetings were held between the Office of the Permanent Secretary, OPM (Strategy & Implementation), and the Permanent Secretaries of each Ministry. These were supported by the liaison officers of the individual Ministry and concerned public entity. The provided evidence is being reported in this account.

For each case handled, the report provides an outline of the case itself and its current status. The report also presents the conclusions or recommendations made by the Ombudsman and his Commissioner and how these have been acted upon by the Public Administration. These are presented in the relevant sections of this report.

The tables and diagrams below provide a snapshot of this analysis. They provide an overview of the cases handled by the Parliamentary Ombudsman and the Commissioners during 2017, and their outcomes.

## **OVERVIEW**

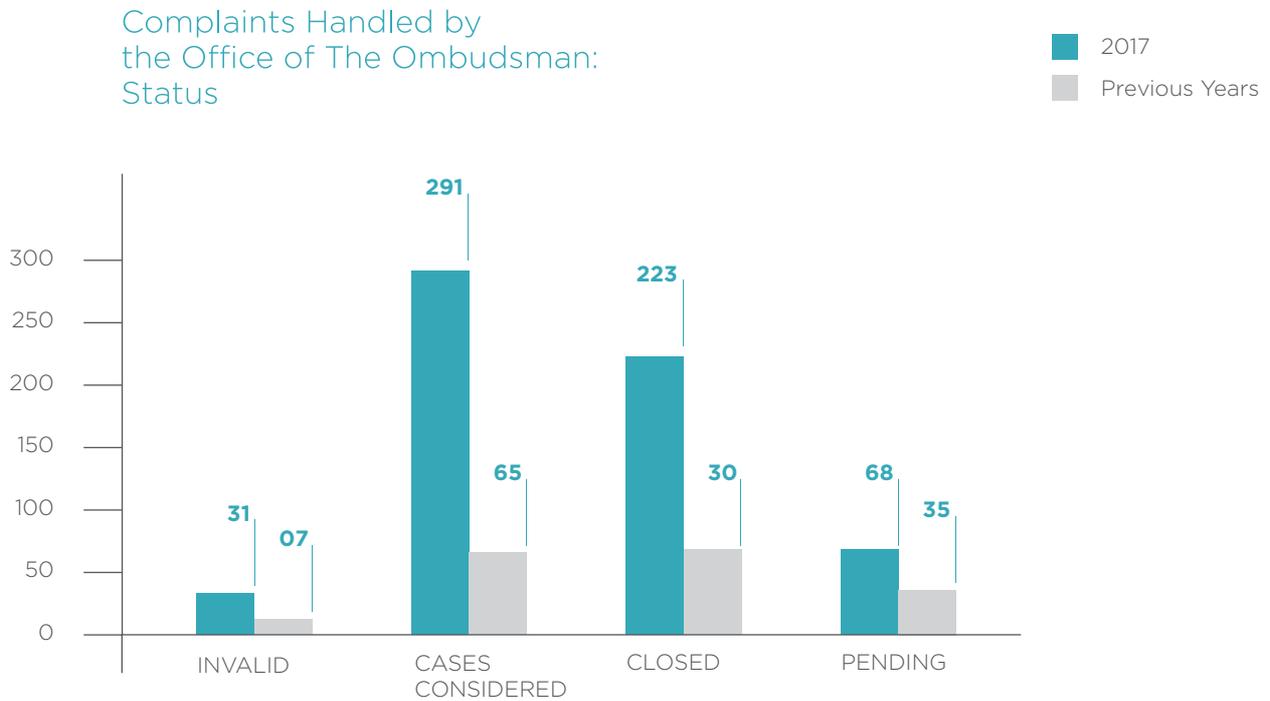
### **Cases received by the Office of the Parliamentary Ombudsman and Commissioners**

The data available to the Public Administration shows that the Office of the Ombudsman (i.e. the Parliamentary Ombudsman and individual Commissioners) has, during 2017 investigated a total of 291 new complaints.

Our in-depth situation assessment shows that of these, 223 cases (77% of investigated 2017 complaints) were closed by the Office of the Ombudsman. Another 30 (47% of pre-2017 pending cases) were also closed during this period.

DIAGRAM 01

**Depicting the status of cases considered in 2017 and those pending from previous years.**



Correspondingly, our analysis shows that in a significant number of cases, the Office of the Ombudsman concluded the investigation once his Office had received management's explanation and technical considerations of the case, as handled by the Public Administration.

In fact, in 149 cases (i.e. 51% of total cases reported on in the Ombudsman 2017 Annual Report), the investigation was closed without any recommendations for corrective action to be taken by the management of the concerned public entity being presented. In these cases, it can be concluded that the Parliamentary Ombudsman gave an unreserved vote of confidence to the way in which the public administration acted.

In another 55 cases (i.e. 19% of closed cases) the public entity in question had already implemented the recommendations

presented to it by the time of this internal verification exercise.

This means that, for complaints considered by the Parliamentary Ombudsman in 2017, the complaint was suitably addressed in 164, or 70%, of cases reported on in the Ombudsman 2017 Annual Report.

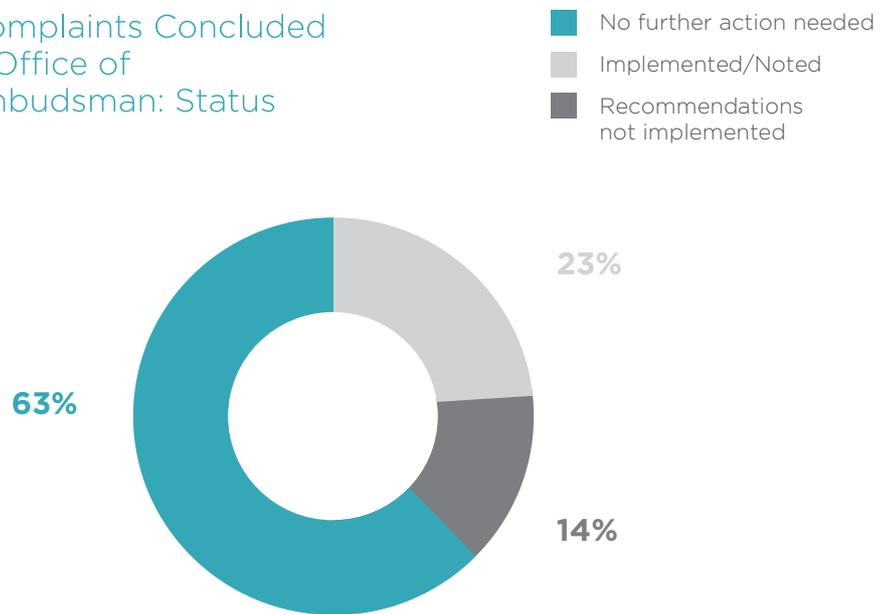
In the minority of cases (33 in all), recommendations presented were not implemented. Generally, it was found that such recommendations could not be implemented as they required further policy or in some instances, statutory analysis or revision that did not allow for their immediate adoption by the Public Administration. It is however asserted that in none of these cases was the Ombudsman recommendation not given serious and responsible consideration.

This is summarised in **Diagram 02** below.

DIAGRAM 02

**Depicting the status of cases received and concluded in 2017 by the Office of the Ombudsman.**

2017 Complaints Concluded  
by the Office of  
The Ombudsman: Status



NOTE: Corresponding data for case load predating 2017: 22% implemented or otherwise no further action was needed. 25% where recommendations are yet to be implemented. 54% of cases - investigations by Ombudsman are ongoing.

As identified, our analysis concludes that 68 (23%) of 2017 cases remain pending at the time of reporting. 35 (54%) other cases which pre-date 2017 also remain pending. In this regard, it was noted that 40% (27 cases) of 2017 cases remain pending as a result of the fact that the public administration has yet to fully execute the required actioning. Twelve, or 34% of cases pre-dating 2017 remain pending for the same reason.

Although this represents the minority of pending cases, instruction has been issued to ensure that pending actions from the side of any public entity is completed as soon as possible, such that the Office of the Ombudsman may continue with investigations at hand.

In conclusion, it can be said that all in all, complaints made to the Ombudsman are not always justified, leading to some being halted without investigation.

### **In many other instances, the Ombudsman's findings confirm a clean bill of health to the Public Administration.**

Where investigations conclude that things could be done better, then in the main the Public Administration adheres to the Ombudsman's outlook, and implements the recommendations without undue delay. This is surely commendable.

One may propose that the only blemish lies in those instances where the complex considerations that need to be made sometimes lead to a delay in the adoption of proposed recommendations and courses of action. From my perspective, this approach confirms the seriousness and the thorough consideration given to these reports and the responsible attitude of a Public Administration cognisant of its wider responsibilities today.

To put things in perspective, it is to be noted that the Public Administration handles millions of customer transactions during any year. In this context, 322 complaints made to the Office of the Ombudsman become in themselves a certificate of overall good performance.

Just to mention a few examples:

- 138,406 active patients entitled to free medicines under Schedule 2 and 5 together interact a minimum of half-a-million times.

- 950 beds at Mater Dei, each of which is catered for on a 24/7 basis totalling in itself millions of direct customer interactions annually.

- In 2017, ARMS handled 277,093 complaints that were directly submitted to its customer care officers via email, telephone or by means of a personal visit.

- In 2013, State Schools had over 30,000 students of various age groups being educated during the said academic year.

- In 2017, almost 92,000 pensions were issued monthly. During the same year, almost 143,000 requests for short-term benefits were processed, as were over 229,000 medical certificates.

### **Cases Handled by the Parliamentary Ombudsman**

On the basis of the Public Administration's findings, the Parliamentary Ombudsman has, during the year 2017 been presented with 182 cases.

Of these, it has been reported that 17 cases (i.e. 9.3% of all complaints received in 2017) were complaints presented but which the Office of the Ombudsman could not investigate. This may have been a result of the complaint being withdrawn by the complainant himself. In other instances, proceedings in Court or the Grievance Board meant that the Ombudsman investigation could either not begin, or had to be suspended pending a decision by the Courts or Board.

This is presented in **Table 01** below.

Table 01

**Depicting the reasons for received complaints that could not be considered by the Parliamentary Ombudsman.**

|   | 2017 Cases       | Pre-2017 Cases  |
|---|------------------|-----------------|
| Withdrawn by Complainant                      | 7                | 2               |
| Suspended due to Court Proceedings            | 4                | 1               |
| Suspended due to referral to Grievances Board | 2                | 0               |
| Other   | 4                | 0               |
| <b>TOTAL</b>                                  | <b>17 (9.3%)</b> | <b>3 (7.5%)</b> |

Of the remaining 165 cases submitted in 2017, our analysis brings to the fore the significant number of cases that are concluded without the need for any detailed investigation on the part of the Parliamentary Ombudsman.

In fact, in many instances (57 cases, or 35%) the Parliamentary Ombudsman deemed management's first explanatory account as sufficient to close the case without any recommendation for corrective action being necessary.

**Diagram 03** below maps the status (September 2018) of the 165 cases raised during 2017 and which were considered by the Parliamentary Ombudsman.

Diagram 03

**Mapping the status of the 2017-reported Parliamentary Ombudsman caseload.**

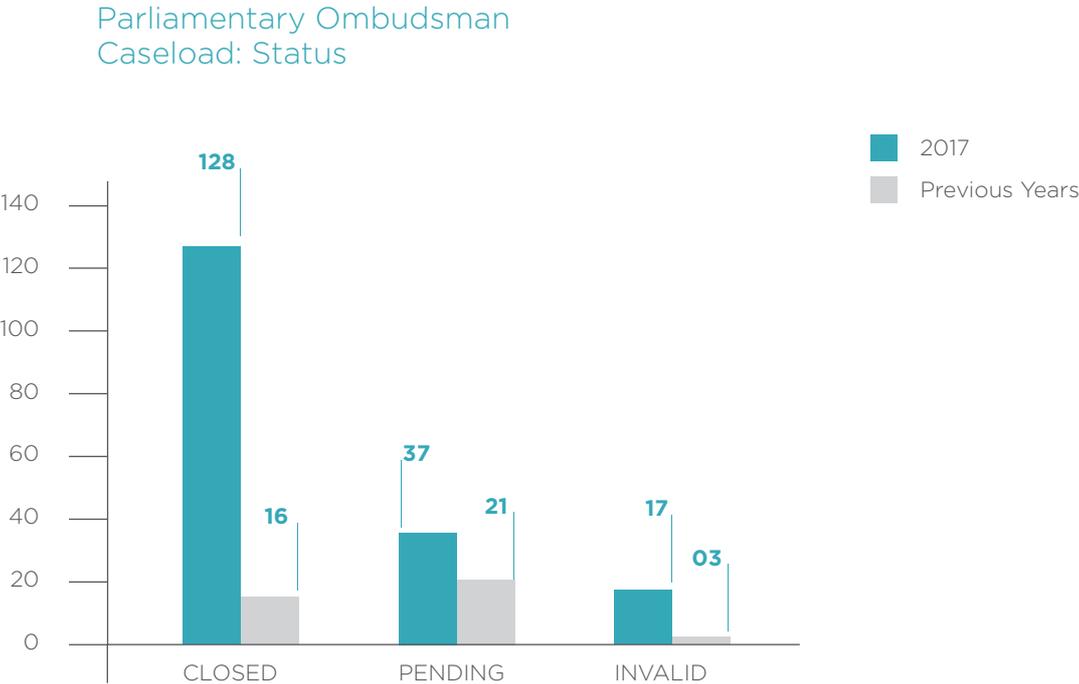
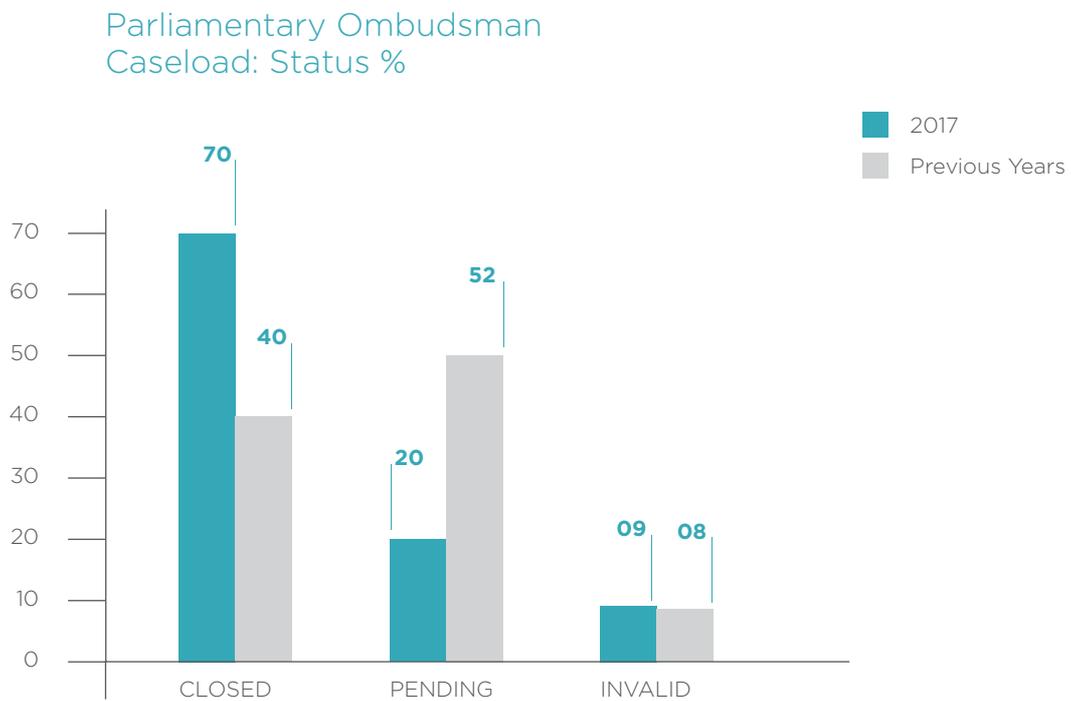


Diagram 04

**Mapping the status of the 2017-reported Parliamentary Ombudsman caseload presented as a percentage of the total number of cases accepted (n=165).**



NOTE: Corresponding data for caseload predating 2017: From a total of 40 cases pre-dating 2017, 16 (40%) were closed; 21 (52%) remain pending and 3 (8%) were not investigated as they were either withdrawn by the complainant or are currently subject to Court proceedings, and hence cannot be investigated by the Parliamentary Ombudsman at this stage.

Further assessment shows that for the 128 cases investigated, the Ombudsman considered the Public Administration to have acted correctly in 100 (78%) cases. In another 20 cases (16%), the recommendations presented were implemented in full at the time of reporting.

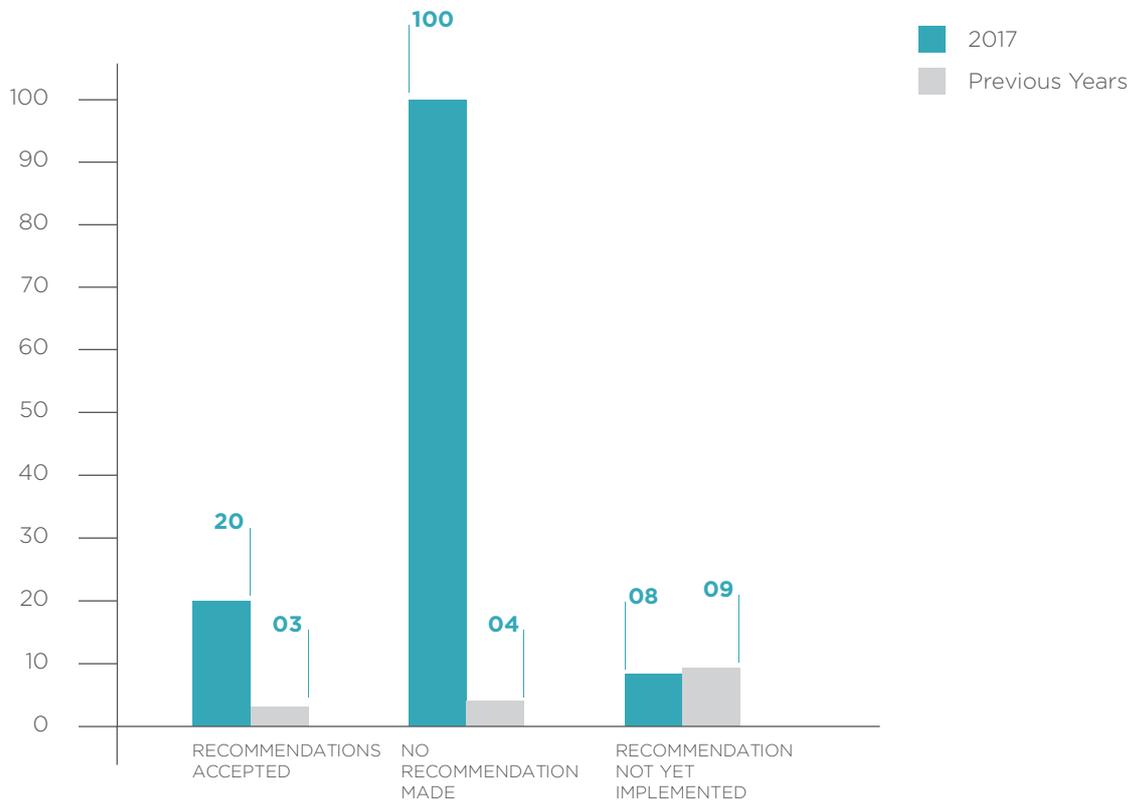
This leaves a small minority of cases (8 of the total cases investigated in 2017) where the

Public Administration has yet to implement the recommendations made. As already asserted beforehand, this is not due to any disregard of the recommendations made, but mostly arise from the need to evaluate these recommendations such as to ensure that remedial action is suitable, sustainable, and in line with governing policies and protect the right for equitable treatment.

Diagram 05

**Identifying the outcome of cases investigated by the Parliamentary Ombudsman and the degree to which the Public Administration implemented recommendations made.**

### Parliamentary Ombudsman Investigation Outcomes & Compliance



37 cases originating in 2017 remain pending conclusion. From our analysis it transpires that in 9 (24% of total pending caseload) instances, the investigation cannot proceed due to a shortcoming from the Public Administration (including cases where the processing of a request for complex information would still be pending). At the time of reporting, concerned entities were taking measures to comply with the request made as soon as possible such that investigations may proceed.

It is with some satisfaction that the analysis carried out evidences that

**in the great majority of cases investigated (i.e. 94%) either the Public Administration is found to have acted correctly or otherwise, where investigations have uncovered areas that could be improved on, the Public Administration acted without hesitation to correct identified shortfalls**

by implementing the recommendations made by the Parliamentary Ombudsman.





| SECTOR                             | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS  |
|------------------------------------|--------------------------|---|---------------------------------|---|---|
| Identity Malta                     | R 0300                   | Complainant concerned about a lack of adequate replies from various quarters within public administration including IMA, after repeatedly asking for information concerning voting rights of Maltese citizens and the sale of citizenship by individuals. | No recommendation               | IMA replied to the query by complainant and copied-in the Ombudsman.<br><br>The Ombudsman had informed complainant that the office will not be investigating the complaint concerning voting rights of Maltese citizens and the sale of citizenship by individuals, but enquiries were being made with regards to lack of reply from IMA.   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| Identity Malta (Central Visa Unit) | R 0240                   | Complainant alleged injustice following an internal call for application for the post of administrative officer.  | No recommendation               | Following the receipt of the complaint by the Ombudsman, a fresh review of eligibility for the post in question was carried out by Identity Malta management. It resulted that complainant was eligible, and hence the IMA took immediate action to rectify the situation, and the promotion was awarded. Ombudsman was duly informed of this development.<br><br>Complainant was posted to another office where a vacancy existed. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

## STATUS

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## SECTOR

| SECTOR   | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS                                 |
|--|--------------------------|---|---------------------------------|---|--|
| <b>Identity Malta (Central Visa Unit)</b>                  | R 0326                   | Complaint lodged regarding an application for the issue of a working visa, which had been pending for 146 days.   |                                 | <p>The Ombudsman asked IMA for comments and views about this case. Following the reply sent by IMA, the Ombudsman suggested that a meeting would be useful to discuss the complaint and the relevant procedures adopted by IMA, Jobsplus and the Immigration Office. Such meeting was held in May 2018.</p> <p>IMA informed the Ombudsman that complainant had applied for an employment licence with Jobsplus. This licence is required to be eligible to apply for a residence permit with IMA.</p> <p>When IMA was made aware about this issue, the complainant had already exhausted the original authorisation periods to stay in Malta, and therefore was in Malta illegally. The Ombudsman has now referred this case to Jobsplus.</p> | Pending at Ombudsman.                  |
| <b>Identity Malta (Citizenship and Expatriate Affairs)</b> | R 0032                   | Complaint concerned the withdrawal of the Call for the Post of Senior Administrative Officer, which was subsequently re-issued with different eligibility criteria. |                                 | <p>IMA replied to the Ombudsman, and on 30<sup>th</sup> March 2017 the Ombudsman acknowledged the receipt of the clarification presented in the said reply. No further communication has been forthcoming from the Ombudsman. IMA has since been informed that claimant has written to the Ombudsman to withdraw the case.</p>  | Closed, case withdrawn by complainant. |

| SECTOR   | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS  |
|--|--------------------------|---|---------------------------------|---|---|
| <b>Identity Malta (Citizenship and Expatriate Affairs)</b> | R 0058                   | Complainant claimed that since he was not issued with a residence permit, he was unable to verify if he was eligible for a Maltese pension. |                                 | The Ombudsman requested IMA to clarify whether it was true that the complainant needed a residence document to check his eligibility for a pension.<br><br>IMA inquired with MFCS whether it was true that the complainant needed a residence document to verify eligibility for a pension or not. MFCS confirmed that complainant did not need to present a residence document to check the eligibility for a pension.<br><br>Ombudsman was informed accordingly.<br><br>Complainant's eligibility for a pension may determine immigration status in Malta. The immigration status of claimant was not known at the time of the complaint. | Pending at Ombudsman.   |
| <b>Identity Malta (Citizenship and Expatriate Affairs)</b> | R 0124                   | Complaint concerned the alleged lack of reply regarding an application for a permanent residence permit in Malta.                           | No recommendation               | IMA had already provided guidance to the complainant before claim with the Ombudsman was filed. Evidence of such communication was passed on to the Ombudsman.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

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| <p><b>Identity Malta<br/>(Citizenship<br/>and Expatriate<br/>Affairs)</b></p> | <p>R 0195</p> | <p>Complaint by an EU citizen on behalf of his partner who alleged an injustice in that the application of Directive 2004/38 on the freedom of movement of EU nationals and members of their family is being applied in a discriminatory manner. It was claimed that his relationship with a national of a third country outside the European Union is depriving his partner of legitimate rights and is causing prejudice even with respect to an indefinite work permit and to foster a stable family relationship with him. Complainant insisted that being an EU national residing in Malta entitled his partner to all the EU family membership rights.</p> |  | <p>The Ombudsman requested IMA views on the matter and any documents related to the case.</p> <p>IMA replied to the Ombudsman that the request for admittance and residence of the complainant's partner cannot be considered under the provisions of Directive 2004/38, which were transposed into the Maltese Legislation by SL 460.17-Free Movement of European Nationals and their Family Members Order. IMA submitted links to documents in its reply to the Ombudsman to show that the request can only be considered under national legislation and policies.</p> | <p>Pending at Ombudsman.</p> |
|---|---------------|--|--|--|------------------------------|

| SECTOR  | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS   |
|---|--------------------------|--|---------------------------------|--|--|
| Identity Malta (Citizenship and Expatriate Affairs) | R 0216                   | Complainant concerned an application for family reunification under Subsidiary Legislation 217.06. Complainant claimed that he never received a reply to the request, and that various visits were made to IMA offices to seek an update about such request or to speak with agency's officials, but all had been to no avail. | No recommendation               | IMA had referred the case to Refugee Commissioner as there were doubts on whether claimant actually faced persecution in the country of origin. Doubts were raised on status after complainant presented an official marriage certificate issued by the authorities in claimant's country of origin. The processing time of the application was in accordance with the deadline established in Sub-article (1) of Article 9 of the Subsidiary Legislation 217.06.<br><br>Following receipt of complaint from the Ombudsman, IMA informed complainant that refugee status was being reconsidered by the Refugee Commissioner. Claimant was also summoned for an interview on the same matter by the Refugee Commission. | Closed by the Ombudsman after management replied to one request for information. |
| Identity Malta (Citizenship and Expatriate Affairs) | R 0218                   | Complaint on behalf of a parent concerned about the alleged lack of reply regarding an application for a permanent residence permit in Malta.  | No recommendation               | IMA had already provided guidance to the complainant before claim with the Ombudsman was launched. Evidence of such communication was passed on to the Ombudsman.  | Closed by the Ombudsman after management replied to one request for information. |

| SECTOR   | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS   |
|--|--------------------------|---|---------------------------------|--|--|
| <b>Identity Malta (Citizenship and Expatriate Affairs)</b> | R 0243                   | Complaint concerned an alleged lack of reply regarding citizenship application. Claimant alleged that after attending an interview in connection with an application for citizenship on the 15 <sup>th</sup> February 2017, and following several enquiries about the status of the application, claimant was still without a reply by the time of lodging complaint on the 18 <sup>th</sup> August 2017. | No recommendation               | Citizenship application was in its final stages of processing at the time of receipt of complaint from the Ombudsman, and IMA replied accordingly.<br><br>Claimant was eventually granted Maltese citizenship in October 2017. | Closed by the Ombudsman after management replied to one request for information. |
| <b>Identity Malta (ID Cards)</b>                           | R 0165                   | Complainant alleged injustice regarding an internal call for applications for the post of Administrative Officer.   |                                 | The Ombudsman was informed that an agreement had been reached with the officer concerned, who then withdrew the complaint.   | Closed, case withdrawn by complainant.   |

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| <p><b>Identity Malta<br/>(Public Registry)</b></p> | <p>R 0333</p> | <p>Complainant, who arrived in Malta in March 2011 together with his partner, claimed that they were married clandestinely in an Orthodox Church in Tripoli. He stated that his marriage could not be registered in Tripoli as it was not a civil marriage. During their interview with the office of the Refugee Commissioner, both stated that they were <i>'married' (not officially)</i>. Complainant and his two children have been granted refugee status in November 2017. His request to the Public Registry to allow him and his wife to get married officially here in Malta was refused. It was refused because as explained to the complainant, once they had declared they were married in the interview carried out by the Office of the Refugee Commissioner, no banns could be issued. Complainant insisted that this is in breach of his rights to family life, and therefore requested the assistance of the Ombudsman so that his marriage in the Orthodox Church can be consolidated and officially registered.</p> | <p>No recommendation</p> | <p>IMA informed the Ombudsman that complainant had to present to the Public Registry a copy of the certificate of marriage celebrated in Libya, and to call at the Marriage Registry in order that he may be given direction regarding the procedures in connection with the celebration of his civil marriage in Malta. Following the reply by IMA, the Ombudsman sought a way forward in view of the fact that complainant informed Marriage Registry that he did not have a copy of the certificate requested, and that it was not possible for him to obtain a copy as the Orthodox Church where the ceremony was celebrated had been destroyed. IMA noted that in one of the birth certificates of his children the mother of the child was indicated as his wife.</p> <p>The Ombudsman was informed that an inspection of the birth certificates of complainant's two children was carried out, and it was noted that the mother was indicated as <i>'Wife of the said complainant'</i> was the partner in question.</p> <p>Following legal guidance, IMA requested further information and a sworn detailed <i>Affidavit</i> from both complainant and his <i>'wife'</i>. The Ombudsman informed IMA that they had communicated with the complainant explaining what needs to be done, so that he can present the requested documentation.</p> | <p>Investigated and closed without recommendation.</p> |
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|--------------------------------------|--------------------------|--|--|---|---|
| <b>Office of the Prime Minister</b>  | R 0010                   | Complainant, whose detailing with an agency was revoked, claimed that he was entitled to the arrears as provided in the Agency Collective Agreement for the period during which he was detailed with the entity. | Ombudsman recommended that the complainant should not be penalised because he ceased to be detailed with the Agency to pursue another appointment with the Public Service, and therefore, he should be paid the arrears as provided in the Agency Collective Agreement.  | P&SD replied that:<br>i) The date when the collective agreement was signed was considered as the cut-off date. Given that the detailing of the complainant had been revoked before the date when the agreement was signed, he could not benefit from such agreement.<br>ii) The administration was also keeping in mind that awarding arrears to employees whose detailing had been revoked prior to the signing of the agreement could potentially put forward claims both from the Agency and across the wider Public Administration. | Closed and recommendation not accepted. |
| <b>People and Standards Division</b> | R 0068                   | The case concerned a request for compensation for outstanding vacation leave upon termination of employment with the Public Service.   | Article 7 of Directive 2003/88/EC should apply in this case: <i>The minimum period of paid annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated.</i><br><br>Necessary action should be taken to bring the Maltese law in line with the EU Regulations, so that public officers are treated in the same manner as employees in the private sector.<br><br>Steps will be taken to bring this breach to the attention of the appropriate EU institutions, including the European Ombudsman. | P&SD replied that in terms of the EIRA, the provisions lying within such Act are not applicable to the Public Service, unless any specific provision from the EIRA is made applicable to the Public Service. It was also explained that a solution to the issue was sought by advising the complainants to agree with management to postpone the termination date by an equivalent number of days/hours, to coincide with the amount of their outstanding vacation leave.<br><br>An appropriate solution was proposed by P&SD.          | Closed and recommendation not accepted. |

| SECTOR                        | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS  |
|-------------------------------|--------------------------|--|---------------------------------|---|---|
| People and Standards Division | R 0083                   | The case concerned the eligibility criteria in calls for the position of Procurement Officer, whereby the complainant claimed that he should be eligible for the position in view of the fact that he was in possession of a Diploma in Procurement. | No recommendation               | <p>P&amp;SD replied to the Ombudsman, stating that:</p> <ul style="list-style-type: none"> <li>i) given that the position of Procurement Officer is equivalent to salary Scale 9 the following eligibility criteria apply: <ul style="list-style-type: none"> <li>a) a recognized Bachelor's qualification at MQF Level 6 (subject to a minimum of 180 ECTS/ECVET credits) and 1 year relevant work experience;</li> <li>b) in a scale not below Scale 12 and with 4 years relevant work experience.</li> </ul> </li> <li>ii) A call was ready to be issued for the position of Procurement Officer, whereby a one-time only waiver will be included in the eligibility criteria, enabling public officers in possession of a Diploma in Procurement to be eligible to apply for the position.</li> </ul> <p>In actual fact P&amp;SD Circular No. 11/2017 "Position of Procurement Officer in the Malta Public Service" was issued on 13<sup>th</sup> April 2017 when complaint was received by P&amp;SD from the Ombudsman on 5<sup>th</sup> April 2017.</p> | Investigated and closed without recommendation. |

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| <b>People and Standards Division</b> | R 0286                   | The complainant stated that having carried out duties in the position of Director for over 4 years, complainant was entitled to be tenured as officer in Grade 4 in terms of OPM Circular No. 05/2017. |                                 | The Ombudsman requested the views of the P&SD on this case.<br>P&SD replied that:<br>i) in order to be eligible to be tenured as Officer in grade, a 're-appointment' in a Category A position is required.<br>ii) The period during which the complainant continued to serve in a Headship position, over and above the fixed term of her Performance Agreement, was an 'extension' to the same Performance Agreement and not a 're-appointment'. Therefore, the complainant was not eligible for tenureship in Grade 4 in terms of the OPM Circular No. 05/2017. | Pending at Ombudsman.   |
| <b>Resource Support and Services</b> | R 0081                   | Claim by an employee of RSSL, regarding under payment during the period 2003 and 2010.   | No recommendation               | RSSL complied with the Ombudsman's request for information.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

MINISTRY FOR THE ECONOMY, INVESTMENT  
AND SMALL BUSINESSES



| SECTOR            | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS  |
|-------------------|--------------------------|--|---------------------------------|--|---|
| Commerce Division | R 0144                   | Complaint by minor staff member that hard copies of circulars were not being received, with particular reference to Circular No. 06/2017 regarding post of Senior Operative. | No recommendation               | Action to address complaint had been taken by the Commerce Department before receipt of the Ombudsman's query. Moreover, management stated that hard copies of circulars are being forwarded to all employees that do not have access to emails. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |



MINISTRY FOR EDUCATION  
AND EMPLOYMENT



| SECTOR                                 | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS   |
|--|--------------------------|---|---------------------------------|---|--|
| Commission for Voluntary Organisations | R 0294                   | <p>Case concerned a Voluntary Organisation (VO) that on 29<sup>th</sup> November 2017, alleged the following:</p> <ul style="list-style-type: none"> <li>objected to the request that the Commissioner made to the VO to submit audited financial statements for the years 2011 – 2013 because it alleged that “There was no legal requirement for the submission of audited accounts as the VO fell under Category 2 of the VO Act”;</li> <li>VO presented financial statements under GAPSE (2015) (submitted) and GAPSME (2016) (not yet submitted). VO claimed that financial statements were audited, but that the department did not accept the level of detail disclosed in the financial statements for 2015. VO alleged that as a result: “... the VO would end up disclosing more information than a company though both are preparing the accounts under the same accounting framework. GAPSME was created to reduce the reporting requirements and consequently, costs for SMEs. There is no accounting standards for the VO and these are the most appropriate for entities of this size.”</li> </ul> |                                 | <p>The Ombudsman noted, in a letter sent to the VO, that in terms of the Voluntary Organisations Act, an organisation aggrieved by a decision or a request of the Commissioner can appear or object to the Commission made or decision taken in front of the Administrative Review Tribunal in terms of Articles 25 (1).</p> <p>The Ombudsman concluded that since the Commissioner for VO in accordance with the Voluntary Organisations Act, article 7(2), in his role as watchdog and regulator of the voluntary sector “shall not be subject to the direction of any other person or authority” in the exercise of his functions, and as the VO in question has/had means of redress available to it in terms of applicable legislation, the Ombudsman decided not to take further cognisance of this complaint, in line with article 13(3) of the Ombudsman Act which provides that “...the Ombudsman may, if he considers it desirable so to do, decline to exercise his powers under this article in any case where adequate means of redress are or have been available to the complainant under any other law....”. The Ombudsman, thus, did not investigate further and considered this case as closed.</p> | <p>Investigated and closed without recommendation.</p> <p>Case was not upheld.</p> |

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|--|--------------------------|--|---------------------------------|----------------------------|--------|
| <p><b>Commission for Voluntary Organisations</b></p> |                          | <ul style="list-style-type: none"> <li>the VO has been presented with a statement that it is not well-regulated in line with the Voluntary Organisations Act, Chapter 492 of the Laws of Malta.</li> </ul> <p>The Commissioner for Voluntary Organisations opened an investigation on VO in question in terms of article 34 (1) of the Voluntary Organisations Act. The organisation's statute (clause 10) stipulates that "<i>Auditors shall be nominated by Council....</i>"</p> <p>The Commissioner requested the organisation to provide him with evidence that it was acting in compliance with the aforementioned clause of its statute, which clause he maintained indicates that the organisation has to prepare audited accounts. He had highlighted that in terms of the Voluntary Organisations Act, an enrolled organisation is required to comply with its statute.</p> |                                 |                            |        |

**SECTOR**                      **OMBUDSMAN CASE REFERENCE**                      **BRIEF DETAILS OF CASE**                      **RECOMMENDATION BY THE OMBUDSMAN**                      **ACTION MANAGEMENT COMMENTS**                      **STATUS**

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| <b>Education Department</b> | R 0040 | Complainant concerned the request for a transfer by an employee due to another employee's behaviour.                                    | No recommendation | MEDE explained that the two officers were separated from each other. MEDE also explained that disciplinary action was taken against the other staff member.<br><br>MEDE provided necessary information, both through written communication and meetings with the Ombudsman. | Investigated and closed without recommendation.   |
| <b>Education Department</b> | R 0041 | Complainant alleged unfair treatment for not being granted unpaid special leave.  | No recommendation | Department complied with the Ombudsman's request for information on the circumstances of the case.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Education Department</b> | R 0042 | Complainant alleged that he had to resign from work since he did not receive enough help, mainly through resources to carry out duties. | No recommendation | Department complied with the Ombudsman's request for information, and also explained how resources are allotted to the different colleges. Complaint was not upheld by the Ombudsman.   | Investigated and closed without recommendation.   |

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| SECTOR                             | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS   | STATUS                       |
|------------------------------------|--------------------------|--|--|--|------------------------------|
| <p><b>Education Department</b></p> | <p>R 0055<br/>R 0063</p> | <p>Cases concerned the appointment of a number of officers in technical grades after a call for applications in 2012/13. A number of officers lodged a complaint to the Grievances Board, alleging that the whole process was unjust. Their case was upheld, and it was recommended that those who suffered an injustice are appointed officers-in-scale. This prompted the group who were promoted through the interview to complain that it was not fair that the others are now being paid the same salary with different responsibilities and that the others were given the salary backdated when they were not performing the duties of the scale now given.</p> | <p>The Ombudsman so far suggested (verbally) that MEDE issues a job description for the Officers in Scale and to try and assimilate as many of these instead of issuing new calls.</p> | <p>This is a very complicated case. Neither side is ready to accept that everyone suffered a degree of injustice and a degree of compensation. Suggestions made by MEDE were not accepted by complainants.</p> <p>Various meetings were held with staff from the Ombudsman's Office and by the Ombudsman's staff with both groups.</p> | <p>Pending at Ombudsman.</p> |

**SECTOR**                      **OMBUDSMAN CASE REFERENCE**                      **BRIEF DETAILS OF CASE**                      **RECOMMENDATION BY THE OMBUDSMAN**                      **ACTION MANAGEMENT COMMENTS**                      **STATUS**

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| <b>Education Department</b> | R 0098 | A complaint was lodged by MUT on behalf of a teacher. It was alleged that complainant was employed on a definite basis despite having qualifications of a teacher and requested that employment be converted to indefinite status. | No recommendation  | Complainant was not in possession of the required PGCE qualification at the time of application. In reality, the officer was employed as a supply teacher and not as a teacher on definite status. Request to convert position to indefinite as per OPM circular 4/17 does not apply to the position of supply teacher, as these are regulated by a 2009 MoU with MUT.<br><br>The department complied with the Ombudsman's request for information. | Closed by the Ombudsman after management replied to <u>one</u> request for information.<br><br>Complaint was not upheld. |
| <b>Education Department</b> | R 0106 | Case concerned the termination of an LSA employment of an LSA by a Church school.  | Ombudsman requested information on working conditions of LSAs. | MEDE complied with the Ombudsman's request and provided information on working conditions of LSAs.<br><br>This was not a case but only a request for information.   | Closed by the Ombudsman after management replied to <u>one</u> request for information.                                  |
| <b>Education Department</b> | R 0117 | Complaint regarding a request for transfer from one school to another.   | No recommendation  | MEDE explained to the Ombudsman the circumstances of the case, and that the vacancy in dispute was still vacant and will be filled in accordance with the established procedure.<br><br>In fact, MEDE followed the established procedure during the deployment period, and complainant was satisfied that MEDE acted in the right way.  | Closed by the Ombudsman after management replied to <u>one</u> request for information.                                  |

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|------------------------------------|--------------------------|--|---|--|---|
| <p><b>Education Department</b></p> | <p>R 0141</p>            | <p>Case concerned the waiting list of teachers to be transferred to Gozo. The issue complicated itself due to an officer in the list who, for a period of time, was seconded with another ministry and then returned to his role as a teacher. During the period of secondment, the name of this teacher was removed from the list (<i>genuine mistake by an officer who has now retired</i>). This gave the complainant the false impression of being ranked as number one on the list of teachers to be transferred to Gozo. When the teacher seconded with another Ministry returned to MEDE, he was once again placed first due to his seniority, resulting in a sense of injustice from the complainant's side.</p> | <p><i>According to the 'Manual on Resourcing Policies and Procedures', this Office is not of the opinion that complainant's request to retain the first place in the Gozo seniority list is justified. Such conclusion will give rise to another injustice. The final decision taken by MEDE to amend the Gozo seniority list was definitely in accordance with the 'Manual on Resourcing Policies and Procedures', and therefore, the error of the Directorate for Educational Services that gave rise to this complaint was justifiably rectified.</i></p> <p><i>Nevertheless, the principal issue here is that in the first instance, the Directorate for Educational Services should not have misled the complainant time and again, who had every right to question and verify her position in the Gozo seniority list. It is to be noted that</i></p> | <p>The Human and Education Resources Department took necessary action and issued clear guidelines that officers on secondment should still be retained on the transfer list to avoid future repetitions of such issues. However, the Ombudsman's recommendation to hold official accountable could not be implemented since officer had retired quite some time ago. Besides, this was a genuine mistake and not a case of maladministration or malpractice.</p> | <p>Closed and recommendation implemented.</p> |

| SECTOR | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS | STATUS |
|--------|--------------------------|-----------------------|--|----------------------------|--------|
|        |                          |                       | <p>the confirmation that complainant was positioned first in the Gozo seniority list was not a one-time occurrence, but a recurrence of misinformation. As a result, complainant was led to believe that [the] placement in the seniority list was officially authorised by the Ministry for Education and Employment.</p> <p>“Nemmen li hawn seta’ kien hemm nuqqas mill-MEDE u l-għalliem qatt ma kellu jitnehha minn fuq il-lista għax kien sekondar, u l-lista kienet tibqa tirrifletti l-pożizzjoni reali ta’ kull għalliem.”</p> <p>[...] Clearly, the Directorate for Educational Services should have been aware of the policy and guidelines regulating the transfer of staff from Malta to Gozo.</p> <p>Administration-wise, this is considered as malpractice. The office of Human Resources and Administration within Government</p> |                            |        |

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| SECTOR                      | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN   | ACTION MANAGEMENT COMMENTS | STATUS  |
|-----------------------------|--------------------------|--|---|----------------------------|---|
| <b>Education Department</b> | R 0157                   | Complaint regarding the granting of marriage leave bridged with school holidays. | <p>Departments are required to perform at a high standard of professional responsibility. They must be conversant with applicable legislation and policies that regulate the relationship between Public Administration and its staff.</p> <p>In conclusion, the Ministry for Education and Employment should be more cautious when responding to requests by public officers. Negligence will definitely cause serious hardship to employees and convey an adverse image of the Department's management.</p> <p>This Office is of the opinion that senior officer/s responsible for this maladministration that gave rise to this complaint should be held accountable.</p> <p>No recommendation</p> |                            | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

| SECTOR               | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS   |
|----------------------|--------------------------|---|---------------------------------|--|--|
| Education Department | R 0170                   | <p>Complaint regarding an officer in the grade of technician who was downgraded in the salary scale after he applied for a particular post. He was pre-warned that such a change would mean a reduction in salary scale after he applied for a particular post, despite being informed that such a change would mean a lower salary.</p> <p>Complainant claims that there were others in the same situation that retained their previous grade.</p> | No recommendation               | MEDE explained to the Ombudsman that the other cases referred to in the complaint were not identical, and thus cannot be compared. | <p>Investigated and closed without recommendation.</p> <p>Case was not upheld.</p> |

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| SECTOR                      | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS  |
|-----------------------------|--------------------------|--|---------------------------------|--|---|
| <b>Education Department</b> | R 0190                   | <p>Case refers to a number of complaints brought forward by officers in the grade of Assistant Director with the Directorate for Quality and Standards in Education, who claimed that their position is less favourable than Assistant Directors in the Public Service.</p> <p>The complainants requested that they be paid the remuneration at the maximum of Scale 5; be given the communication allowance, the expense allowance, and any other allowances listed in the Manual Regarding Positions of Assistant Directors in the Public Service.</p> | No recommendation               | <p>Case was not addressed to MEDE but OPM (P&amp;SD). MEDE was only kept in copy and provided some information to OPM (P&amp;SD) to enable them to answer the Ombudsman.</p> <p>The Ombudsman requested PS (P&amp;SD) to submit remarks on the matter and to declare what action was taken to resolve the case.</p> <p>P&amp;SD explained to the Ombudsman that the position of Assistant Director (Education) pertains to the teaching class profession and that therefore, the position is regulated by a different sectoral agreement from that of Assistant Director in the Public Service, which is a position of an 'administrative' nature.</p> | <p>Closed by the Ombudsman after management replied to one request for information.</p> <p>Case was not upheld.</p> |
| <b>Education Department</b> | R 0200                   | <p>A complaint against alleged delay in taking a decision by the Grievances Board.</p>   | No recommendation               | <p>The department complied with the Ombudsman's request for information and once the UoM Council confirmed the promotion of complainant, case was closed.</p>  | Investigated and closed without recommendation.   |
| <b>Education Department</b> | R 0262                   | <p>Complaint regarding the seniority in a particular subject.</p>  | No recommendation               | <p>MEDE explained to the Ombudsman's Office the criteria used in calculating seniority.</p> <p>Department complied with the Ombudsman's request for information.</p>   | Investigated and closed without recommendation.   |

| SECTOR                             | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN   | ACTION MANAGEMENT COMMENTS   | STATUS   |
|------------------------------------|--------------------------|---|---|--|--|
| <p><b>Education Department</b></p> | <p>R 0275</p>            | <p>Case regarding service of child support workers in summer schools. Policy was that service was offered for 20 hours a week split into 4 hours per day.</p> | <p><i>MEDE's implementation of the Scheme was carried out in terms of clear criteria that were communicated to participating schools. Its rigid implementation may, however, have unwittingly caused hardship to those entitled to benefit from the Scheme. This is especially so where parents were not at liberty to pick and choose any summer school programme, such as the case at hand. This notwithstanding, MEDE's implementation of the scheme cannot be viewed as an act of bad administration. This Office is therefore of the opinion that complainant is not entitled to the reimbursement of €250.92.</i></p> <p><i>Although MEDE has not committed an act of maladministration, this does not mean that the criteria and parameters of the</i></p> | <p>Parent was pre-advised that it was not possible to use more than 4 hours a day. However, the child was still sent for more than 4 hours per day (but not exceeding 20 hours per week) and afterwards parent demanded compensation.</p> <p>Recommendation was communicated to relevant department in order to improve criteria of service. While no wrongdoing was found by the Ombudsman, MEDE took the initiative to be more flexible from this scholastic year. To this end, 2018 criteria were adjusted as follows:</p> <p>Total of 160 hours to be used between 6<sup>th</sup> July and 7<sup>th</sup> September.</p> | <p>Investigated and closed and recommendation noted.</p> |

| SECTOR | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS | STATUS |
|--------|--------------------------|-----------------------|--|----------------------------|--------|
|        |                          |                       | <p><i>Scheme would not benefit from some 'fine-tuning'. Should this service be provided to Non-State Summer Schools again, care should be taken in setting out the criteria and parameters for its implementation so as not to cause undue hardship due to lack of flexibility. The fact that Non-State Summer Schools may structure their programmes in a variety of ways (as regards hours and days of operation) must be given due consideration when setting out parameters and criteria. Requests for some flexibility should be allowed and examined, bearing in mind the needs and best interest of the child/student. A measure of discretion should therefore be built into the Scheme to avoid situations such as the one that complainant found herself in.</i></p> |                            |        |

| SECTOR                    | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS  | STATUS  |
|---------------------------|--------------------------|--|--|---|---|
| <b>Life-Long Learning</b> | R 0007                   | Complainant contested a decision on plagiarism for a study module.   | Complainant was to be awarded grade for assignment and module considered as completed since there was not enough evidence to prove that assignment was plagiarised.  | A meeting was held with the complainant, where it was evident that the complainant was not able to respond to basic questions about the content of the module, thus further strengthening the suspicion of plagiarism. Complainant was asked to sit for a re-sit in the form of open book examination but refused to do so.<br><br>Case closed and grade awarded as per recommendation. | Closed and recommendation not accepted.                           |
| <b>Malta Libraries</b>    | R 0174                   | A complaint against alleged injustice regarding results for a post with the National Library. Complainant also alleged political discrimination. | [...] Fuq dan l-aspett, dan l-Uffiċċju jirakkomanda lil-Librerija Nazzjonali li taqa' taht ir-responsabbiltà tal-Ministeru għall-Edukazzjoni u x-Xogħol sabiex fil-futur il-frażi "in the field" tkun sostanzjata b'aktar dettalji ċari li ma jhallux dubbji u suspetti fost l-applikanti. [...] | Recommendation taken on board by Malta Libraries administration to avoid future possible misunderstandings.   | Closed and recommendation noted.<br><br>Case was not upheld.      |
| <b>Malta Libraries</b>    | R 0182                   | A complaint against alleged injustice regarding results for a post with the National Library. Complainant also alleged political discrimination. | [...] Fuq dan l-aspett, dan l-Uffiċċju jirakkomanda lil-Librerija Nazzjonali li taqa' taht ir-responsabbiltà tal-Ministeru għall-Edukazzjoni u x-Xogħol sabiex fil-futur il-frażi "in the field" tkun sostanzjata b'aktar dettalji ċari li ma jhallux dubbji u suspetti fost l-applikanti. [...] | Recommendation taken on board by Malta Libraries administration to avoid future possible misunderstandings.   | Closed and recommendation noted.<br><br>Complaint was not upheld. |

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| <b>SECTOR</b>   | <b>OMBUDSMAN CASE<br/>REFERENCE</b> | <b>BRIEF DETAILS<br/>OF CASE</b>   | <b>RECOMMENDATION<br/>BY THE OMBUDSMAN</b> | <b>ACTION<br/>MANAGEMENT COMMENTS</b>   | <b>STATUS</b>   |
|---|-------------------------------------|--|--|---|---|
| <b>National<br/>Commission<br/>for Further and<br/>Higher Education</b> | R 0070                              | Complaint about the selection process for the post of Head Accreditation.  |  | NCFHE replied to the Ombudsman inquiry.<br><br>No further information has been requested from NCFHE, and NCFHE is waiting for Ombudsman's communication.  | Pending at Ombudsman.   |
| <b>National<br/>Commission<br/>for Further and<br/>Higher Education</b> | R 0115                              | Complaint regarding alleged delay in pronouncing an Appeals decision put forward by complainant.                                     | No recommendation                          | Decision by Appeals Board was taken during the period of investigation. Decision was communicated to Ombudsman, and case was closed.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>National<br/>Commission<br/>for Further and<br/>Higher Education</b> | R 0202                              | Complaint about accreditation of a course (Bavarian Monastery Works) conducted by the Directorate for Lifelong Learning within MEDE. |  | NCFHE replied to the Ombudsman on 17 <sup>th</sup> October 2017 informing him that same case had already been investigated before by the Ombudsman. NCFHE referred the Ombudsman's own report that was concluded after same case was investigated previously. | Pending at Ombudsman.   |

MINISTRY FOR ENERGY  
AND WATER MANAGEMENT



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| SECTOR      | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS  | STATUS  |
|-------------|--------------------------|---|--|---|---|
| <b>ARMS</b> | R 0029                   | Complaint concerning the refund of €4.66 that was charged when client requested a bill out of the normal cycle.   | The Ombudsman recommended that whenever no access is granted for the meter reader to take the readings, ARMS should inform consumer on the hit left by the meter reader that if the readings are not being submitted in time, a charge of €4.66 applies. | As per ARMS procedure, when a consumer requests an up-to-date bill out of the normal cycle, a charge of €4.66 applies. In this case, the client requested such a bill and the meter reader visited the premises several times to take the readings and did not have any access to take actual readings to meet clients' request, since he did not have access to do so. Bill was issued, and therefore there were no grounds to reverse the charge.   | Closed and recommendation not accepted.   |
| <b>ARMS</b> | R 0110                   | Account registered in the name of a client who is now deceased. Client's son occupied premises without a valid title at law and the owners proceeded with eviction and managed to obtain a favourable decision which was confirmed on appeal. Owners have now submitted a request for electricity and water supply, and have lodged a complaint with the ombudsman with regard to payment of arrears and applicable fees. |  | ARMS stated that this case is not yet concluded due to legal implications as account holder is deceased. ARMS presented the owners with two options:<br>1. to apply for a new service and pay applicable fees together with dues from date of eviction;<br>2. to contact the tenant and come to an agreement, in the sense that, tenant should pay arrears pre-date of eviction and owners pay arrears post date eviction. Following this, a transfer form signed by both parties should be submitted.<br><br>ARMS have contacted the person representing the owners who confirmed that a reply on way forward will be communicated to ARMS after discussion with the owners. | Pending at Ministry.  |
| <b>ARMS</b> | R 0148                   | Complaint concerned water leakage.  | No recommendation  | Case referred to Water Services well after action has been taken and the rebate on <i>ex gratia</i> basis was given to the client.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

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|--------|--------------------------|--|---------------------------------|---|---|
| ARMS   | R 0169                   | Case concerned pending dues left from previous tenant.                               | No recommendation               | The new owner has been given the new service option.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| ARMS   | R 0181                   | Case concerned a high bill received upon meter change.                               | No recommendation               | The old electricity meter was found to be faulty and had stopped. Therefore, a revision of bills was effected and client had to pay dues.   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| ARMS   | R 0185                   | Case concerning client not receiving bills.  | No recommendation               | Meter readings were checked and invoices issued accordingly.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| ARMS   | R 0209                   | Complaint concerned contestation of charges raised due to missing electricity meter. |                                 | The missing meter charges were raised by Enemalta. ARMS have forwarded case to Enemalta for a reply from their end.   | Pending at Ministry.  |
| ARMS   | R 0224                   | Case concerned an excessive bill received by consumer.                               | No recommendation               | A meeting was held with the consumer and invoices issued were explained in detail. Bill was correct.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| ARMS   | R 0239                   | Complaint lodged due to a transfer of account.                                       | No recommendation               | After previous tenant settled the pending dues, the account has been transferred to the new owner.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| ARMS   | R 0247                   | Complaint lodged due to suspension of service and the tariff being applied.          | No recommendation               | A revision of bills to spread consumption has been effected, with regard to the tariff being applied. ARMS followed Legal Notice No: 164/09 whereby application of the tariff is done from date of its submission. A monthly installment agreement has been reached with consumer, and the service reconnected. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

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|-----------------|--------------------------|---|---------------------------------|---|---|
| <b>ARMS</b>     | R 0259                   | Case concerned pending dues left from previous tenant.  | No recommendation               | The new owner has been given the new service option.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>ARMS</b>     | R 0276                   | Complaint lodged due to high water bills received with wrong readings.  | No recommendation               | A revision of bills has been effected due to wrong automated readings. WSC was contacted to effect calibration of the water meter to transmit correct readings. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>ARMS</b>     | R 0277                   | Unable to transfer account due to pending dues.   | No recommendation               | ARMS reached an internal agreement with consumer.   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>ARMS</b>     | R 0290                   | Unable to transfer account due to pending dues.   | No recommendation               | Agreement reached with consumer internally.   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>ARMS</b>     | R 0303                   | Complaint lodged due to receiving bills issued with no readings.  | No recommendation               | A revision of bills has been effected in order to issue actual bills.   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>ARMS</b>     | R 0331                   | Complaint concerned missing water meter.  |                                 | ARMS is awaiting direction on way forward from WSC due to legal implications, as account holder is deceased.  | Pending at Ministry.  |
| <b>Enemalta</b> | R 0168                   | Case with undisclosed details.  | No recommendation               | The matter was resolved amicably with the Ombudsman being involved in brokering the settlement.   | Investigated and closed without recommendation.   |
| <b>Enemalta</b> | R 0317                   | Case was never referred to Enemalta, thus no details can be provided. The Ombudsman confirmed that case was closed in 2018. |                                 |   |   |

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| <b>Engineering Resources Ltd.</b>              | R 0037                   | An ERL employee claimed that he was being paid less than other employees doing same duties.                                    | No recommendation               | No action required to be taken by ERL. The Ombudsman was satisfied with the information and clarifications submitted by ERL, and closed the case.                                    | Closed by the Ombudsman after management replied to one request for information. |
| <b>Engineering Resources Ltd.</b>              | R 0102                   | An employee requested compensation for carrying out duties above salary scale.   | No recommendation               | No action required to be taken by ERL. The Ombudsman was satisfied with the information and clarifications submitted by ERL and closed the case.                                     | Closed by the Ombudsman after management replied to one request for information. |
| <b>Engineering Resources Ltd.</b>              | R 0119                   | A Professional Executive contested the mark allocated in an interview for a higher position, as the pass mark was not reached. |                                 | ERL submitted all the requested information and clarifications.  | Pending at Ombudsman.  |
| <b>Regulator for Energy and Water Services</b> | R 0272                   | Complaint contesting the non-approval of a grant on PV system.   |                                 | Management replied to the Ombudsman on 6 <sup>th</sup> March 2018, informing him that there is no reason to reverse the rejection of the applicant's claim for payment of the grant. | Pending at Ombudsman.  |
| <b>Water Services Corporation</b>              | R 0093                   | Claim by third party for alleged damages suffered in connection with a water leak.   | No recommendation               | An agreed amount for damages was paid out in full and final settlement following the Ombudsman's intervention.   | Investigated and closed without recommendation.                                  |
| <b>Water Services Corporation</b>              | R 0194                   | Claim by a Water Services Corporation employee for payment of allowance.   | No recommendation               | WSC took necessary remedial action. The Ombudsman intervened and an amicable settlement was reached.   | Investigated and closed without recommendation.                                  |

MINISTRY FOR EUROPEAN  
AFFAIRS AND EQUALITY



| SECTOR                               | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS   |
|--------------------------------------|--------------------------|---|---------------------------------|--|--|
| <b>European Affairs and Equality</b> | R 0206                   | An EU Funds Manager claimed and felt that the objective reason clause in the definite employment contract should not apply due to the number of years worked previously as an EU Fund Officer, and later as EU Fund Manager. Complainant also alleged that other officers who have been employed indefinitely were treated differently. |                                 | MEAE replied to the Ombudsman, rebutting claims by complainant and stating that there was no discrimination. A degree of delay in sending the reply was due to pending internal issues concerning the objective reason clause related to the EU Funds Manager position.  | Investigated and closed without recommendation.                                  |
| <b>European Affairs and Equality</b> | R 0130                   | Complainant claimed that an extension of the previous conditions of service onto a new higher position was not consonant with the conditions of service of this new appointment, and that this amounted to discriminatory treatment.  |                                 | No further action by the Ministry as case is at the Parliamentary Ombudsman for decision.  | Case pending.  |
| <b>Social Dialogue</b>               | R 0155                   | The issue concerned a complaint by a tradesman who had requested payment for compensation for work carried out in a specific Directorate. Same complaint was lodged with MSDC Grievances Board.   | No recommendation               | The Ombudsman requested to peruse the Grievances Board file concerning this case. MSDC informed the Ombudsman that the MSDC Grievances Board had considered cases falling under three Ministries namely MSDC, MOT, and MEIB. Complainant's file and personal papers, including the Grievances Board file, were in fact being retained at the MOT, and therefore the Ombudsman was advised to treat the matter accordingly. | Closed by the Ombudsman after management replied to one request for information. |



MINISTRY FOR THE FAMILY,  
CHILDREN'S RIGHTS AND  
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| SECTOR                               | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS  |
|--------------------------------------|--------------------------|--|---------------------------------|---|---|
| <b>Department of Social Security</b> | R 0067                   | A 90-year-old pensioner complained that a pension cheque which was lost and found after 104 weeks (2 years) could not be cashed.   | No recommendation               | DSS cheques cannot be re-issued beyond the 2-year period stipulated by law. However, due to the particular circumstances of this case, the pension payment due was re-issued.<br><br>In the meantime, the complainant's pension is being directly credited into the complainant's personal bank account.<br><br>The Ombudsman was informed accordingly and appreciated the assistance received from the Department, and closed the case.  | Investigated and closed without recommendation.   |
| <b>Department of Social Security</b> | R 0080                   | Complaint about an overpayment that was incurred in the Service Pension amounting to over eight thousand euro. Complainant also claimed that due to this mistake the annual pension entitlement was going to be drastically reduced. | No recommendation               | The Ombudsman requested DSS to investigate this case.<br><br>Following such investigation that involved the Treasury Pensions Section, it resulted that the over-paid amount was due to the incorrect information submitted by complainant's employer. This resulted in both gratuity and pension being assessed on a higher number of years in employment, and hence the overpayment.<br><br>Overpayment was paid in full on 4 <sup>th</sup> May 2017. Ombudsman was informed accordingly. | Investigated and closed without recommendation.   |
| <b>Department of Social Security</b> | R 0095                   | Complainant raised an objection against an alleged unjust refusal of unemployment benefit.   | No recommendation               | The Ombudsman requested DSS remarks on this case.<br><br>Complainant did not satisfy the second contribution test as the claimant did not pay at least 20 contributions in the last two consecutive years prior to submitting an application for unemployment benefit. Hence, he did not qualify for an unemployment benefit.<br><br>The Ombudsman was informed accordingly.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

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|---|--------------------------|--|---------------------------------|--|--|
| <p><b>Department of Social Security</b></p> | <p>R 0097</p>            | <p>Complainant argued that he was misguided when DSS accepted his claim to pay backdated social security contributions in 1990. Now he cannot be awarded a Canadian pension as contributions were paid for such period that he was abroad in Canada and requested a refund of contributions paid.</p>                    | <p>No recommendation</p>        | <p>The Ombudsman requested DSS remarks and comments on this case.</p> <p>DSS wrote to the Canadian authorities that social security contributions were paid on a voluntary basis against an amnesty scheme issued by the Government in the beginning of the nineties and not due to the fact that claimant was in a gainful occupation.</p> <p>It transpired that contributions paid were on a voluntary basis since contributions paid were prior to 1978 and claimant's request was accepted. After several exchanges of correspondence, the Canadian authorities accepted DSS clarifications and complainant was awarded a Canadian pension.</p> <p>The Ombudsman was informed accordingly and appreciated the assistance received from the Department.</p> | <p>Investigated and closed without recommendation.</p>   |
| <p><b>Department of Social Security</b></p> | <p>R 0100</p>            | <p>Complainant had obtained all the necessary documentation to apply for a Treasury Pension, only to be told that he was not entitled. Claimant provided correspondence and emails to make the case of being entitled to a pension, and also complained that when the Union was contacted, no feedback was provided.</p> | <p>No recommendation</p>        | <p>DSS informed the Ombudsman that Article 8 of The Schedule (Pensions Regulations) states that the service has to be unbroken and the complainant had a lapse of two years unpaid leave to work with a government entity and eventually resigned from Government employment.</p> <p>A degree of delay in replying to the Ombudsman's request was due to the fact that they had to request information from other departments and from archives.</p>   | <p>Closed by the Ombudsman after management replied to <u>one</u> request for information.</p> |

**SECTOR**

**OMBUDSMAN CASE REFERENCE**

**BRIEF DETAILS OF CASE**

**RECOMMENDATION BY THE OMBUDSMAN**

**ACTION MANAGEMENT COMMENTS**

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| Department of Social Security | R 0106 | Complainant made a request for an Invalidity Pension due to a medical condition which hinders claimant from carrying out the duties of his present post. Moreover, the treatment for the condition is affecting his mental state, and complainant is stating that this hinders his ability to do any job. | The Ombudsman stated: 'that they will not investigate this complaint because the Umpire has decided on the merits of the case. However, given the circumstances of the case, we ask whether it would be possible for your Ministry to assist complainant'. | Action not taken by the Ombudsman because the Umpire had decided on the merits of the case. However, assistance was requested from DSS to guide the complainant.<br><br>The Department of Social Security informed the Ombudsman that complainant was registering for employment and was in receipt of unemployment benefit.<br><br>The assessing Medical Panel stated that complainant is in fact 'fit for suitable employment'. Therefore, the Department had no other option but to abide by the Umpire's decision. |   |
|-------------------------------|--------|---|--|--|---|
| Department of Social Security | R 0131 | Claim that Social Assistance was not being paid, although complainant was instructed to apply by the Director.  | The Ombudsman requested DSS to investigate and to resolve the case.  | Payment of Social Assistance was pending due to further clarifications requested from the complainant regarding sale of properties and income from rents. These were subsequently presented, and complainant was awarded Social Assistance.  | Closed and recommendation implemented.          |
| Department of Social Security | R 0171 | Complainant requested to have a revision of the retirement pension.   | DSS was requested to review the retirement pension.  | Pension was revised, and current pension rate was increased, and arrears were awarded as from January 2007.  | Closed and recommendation implemented.          |
| Department of Social Security | R 0172 | A pensioner complained that the retirement pension was not issued from the date of the first application that was submitted.  | No recommendation  | The Ombudsman requested DSS to investigate this complaint.<br><br>Complainant did not appeal the decision on the first application. A rejection was also issued on a second application submitted in June 2014, and after appealing this decision, DSS Umpire decided in claimant's favour in May 2017. Arrears were awarded.  | Investigated and closed without recommendation. |
|                               |        |   |  | The Ombudsman was informed accordingly.  |   |

| SECTOR                        | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS  |
|-------------------------------|--------------------------|---|---------------------------------|---|---|
| Department of Social Security | R 0188                   | Person claimed that the amount indicated on FS3 does not reflect the amount actually received as pension.   | No recommendation               | <p>The Ombudsman requested DSS to submit comments about complainant's contentions.</p> <p>It was explained to the complainant that there is a difference between the amount indicated on the FS3 and the amounts deposited every 4 weeks in advance.</p> <p>The amounts indicated on FS3 are the pension due for a calendar year from 1st January to 31<sup>st</sup> December, while pension payments deposited every 4 weeks in advance include the last payment of the previous year.</p> | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| Department of Social Security | R 0193                   | Complaint that due to unpaid social security contributions by previous employer, complainant cannot receive a pension.  | No recommendation               | <p>The Ombudsman requested DSS to forward remarks.</p> <p>Claimant was requested to submit FS3s for period of employment, which complainant did not have. DSS contacted complainant's previous employer and after some time these were submitted. In the meantime, a liaison form was sent to Bulgarian Authority regarding employment in Bulgaria.</p>   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| Department of Social Security | R 0213                   | The Ombudsman did not initiate a formal investigation on this case, as this complaint concerns an alleged grievance, an event that happened 24 years ago, with regards to a contributory pension. |                                 | <p>The Ombudsman requested DSS for guidance on whether complainant's parents could be entitled to a contributory pension.</p> <p>Case was investigated, and it transpired that the parent has been receiving a widow's pension since 2016 apart from other benefits. It also resulted from the employment records and NI contributions records that the parent could have never qualified for a contributory pension on reaching age 60.</p>  | Pending at Ombudsman.   |

| SECTOR                                      | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS                       |
|---|--------------------------|--|---------------------------------|---|------------------------------|
| <p><b>Department of Social Security</b></p> | <p>R 0231</p>            | <p>Complaint regarding the contributory Old-age Pension. Claimant alleged that the National Insurance contributions for the years spent in gainful employment until 1985 were not being considered. Claimant further alleged that only the National Insurance contributions credited to him are those pertaining to years 1995 to 2001 when he was receiving a Carer's Allowance for taking care of his parent. Following the parent's death, claimant started receiving a non-contributory pension. However, the amount received is also being contested.</p> |                                 | <p>Case was considered closed by DSS following the reply to the Ombudsman in October 2017, because claimant's parent is not entitled to another pension other than the widow's pension.</p> <p>Case was re-opened in 26<sup>th</sup> April 2018 because complainant insisted that parent was entitled to a contributory pension in her own right.</p> <p>The Ombudsman requested comments of the Permanent Secretary about this complaint, together with any documents related to this matter. He also asked whether complainant could benefit from Section 126 of the Social Security Act.</p> <p>Following the first reply by the Permanent Secretary on the 6<sup>th</sup> October 2017 the Ombudsman presented further allegations from complainant and requested that in line with Section 19 of the Ombudsman Act that any file, documentation and investigation papers in claimant's name be sent to his Office. Files were referred on 17<sup>th</sup> November 2017 as requested. On 17<sup>th</sup> April 2018, the Ombudsman requested a meeting with Director Non-Contributory Benefits to discuss this complaint further. The meeting was held on 24<sup>th</sup> April 2018 and nothing has been received from the Ombudsman since.</p> <p>In its reply to the Ombudsman, DSS explained in great detail the possible permutation under contributory and non-contributory pension entitlement that the complainant could benefit from. The provisions of Section 126 do not apply in this case. The conclusion is that with or without the contributory pension, complainant would still get the same amount of pension.</p> | <p>Pending at Ombudsman.</p> |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN CASE  
REFERENCE**

**SECTOR**

| Sector                                      | Ombudsman Case Reference | Brief Details of Case   | Recommendation by the Ombudsman                                | Action Management Comments  | Status  |
|---|--------------------------|---|--|---|---|
| <p><b>Department of Social Security</b></p> | <p>R 0256</p>            | <p>Complaint regarding the revision of pension rate.</p>  | <p>Ombudsman requested DSS to review and verify this case.</p> | <p>Complainant's pension was revised, and current pension rate increased from €209.47 per week to €227.74 per week.<br/>Furthermore, adjustments were also affected from January 2011 with the result that arrears of €4664.26 were awarded.<br/>Complainant was informed accordingly by DSS.<br/>Pension was revised, and current pension rate was increased, and arrears were awarded as from January 2011.</p> | <p>Closed and recommendation implemented.</p> |
| <p><b>Department of Social Security</b></p> | <p>R 0323</p>            | <p>Complainants explained that they had informed DSS in August 2017 that they were moving to Malta on a permanent basis and requested that their pension payments are not transferred into the foreign bank account as it was going to be closed. Complainants contended that they not received some of their pension payments and when they sought information from DSS they were told that these payments had been sent abroad.</p> | <p>Ombudsman requested investigation and remedial action.</p>  | <p>Case was investigated and following confirmation that complainants' pension was not deposited, DSS paid the couple the amount due.</p>   | <p>Closed and recommendation implemented.</p> |

| SECTOR  | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS   |
|---|--------------------------|---|---------------------------------|---|--|
| <b>FSWS</b><br><i>(listed as Appoíg in Ombudsman publication)</i> | R 0225                   | A client, who was undergoing a rehabilitation programme for alcohol abuse, claimed discrimination when discharged from the programme as a disciplinary measure. |                                 | This case is still being investigated. A meeting was requested by the Senior Investigating Officer within the Office of the Ombudsman to discuss allegations with HR Manager – FSWS and the persons responsible for the treatment of complainant. Such meeting was held, and reports were drawn up and sent to the Ombudsman.<br><br>The case is not closed as the Ombudsman has requested the details of more persons whom he would like to speak to prior to finalising the report. This new request was recently made, and information was given immediately upon request.<br><br>Delay on this case is definitely not caused by lack of action on the part of FSWS. | Pending at Ombudsman.                                  |
| <b>Housing Authority</b>  | R 0011                   | Case details undisclosed.   |                                 | Case closed as matter has been resolved as informed by the Office of the Ombudsman.   | Investigated and case closed.                          |
| <b>Housing Authority</b>  | R 0018                   | Case details undisclosed.   |                                 | Case closed as matter has been resolved as informed by the Office of the Ombudsman.   | Investigated and case closed.                          |
| <b>Housing Authority</b>  | R 0023                   | Complainant requested an acting position for the duration of acting in a higher position.   |                                 | The HA did not take any action on this case because it was informed by the complainant that he was in the process of withdrawing the complaint made at the Ombudsman.<br><br>Complaint was withdrawn.   | Closed, case withdrawn by complainant.                 |
| <b>Housing Authority</b>  | R 0035                   | Case details undisclosed.   |                                 | The HA did not take any action as complaint was withdrawn by the Ombudsman.   | Closed, case withdrawn by the Office of the Ombudsman. |

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**ACTION  
MANAGEMENT COMMENTS**

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**SECTOR**

| <b>SECTOR</b>                | <b>OMBUDSMAN CASE<br/>REFERENCE</b> | <b>BRIEF DETAILS<br/>OF CASE</b>  | <b>RECOMMENDATION<br/>BY THE OMBUDSMAN</b> | <b>ACTION<br/>MANAGEMENT COMMENTS</b>   | <b>STATUS</b>                                   |
|------------------------------|-------------------------------------|---|--|---|---|
| <b>Housing<br/>Authority</b> | R 0049                              | Complaint by owner that property was not built according to the plans provided by the HA. When the project was finalised, the HA did not apply with the then MEPA to update plans.  |  | The Ombudsman requested that the HA itself applies for sanction of plans.<br><br>The HA considered this case and it was deemed not feasible to carry out sanctioning of plans to properties which were built several years ago, and in which the current owners have already carried out alterations both internal and external.<br><br>The Ombudsman was informed accordingly. | Pending at Ombudsman.                           |
| <b>Housing<br/>Authority</b> | R 0074                              | The Senior Investigating Officer at the Office of the Ombudsman brought to the attention of the Ministry an issue which is causing great concern. Several persons had acquired property from the HA without legal title, with the consequence that they cannot sell their property as banks will not finance any prospective buyers for the simple reason that legal title is not vested in the vendors. To mitigate this situation, the HA issues a Bank Guarantee for a specific amount of money which does not suffice to remedy such situation. |  | The Ombudsman asked whether there is any proposal aimed at addressing this situation and also requested the Ministry's comments.  | Investigated and closed without recommendation. |

| SECTOR            | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN   | ACTION MANAGEMENT COMMENTS   | STATUS   |
|-------------------|--------------------------|---|---|--|--|
| Housing Authority | R 0203                   | Case details undisclosed.   |   |  | Closed, case withdrawn by the Office of the Ombudsman. |
| Housing Authority | R 0248                   | A complaint was lodged by a client who benefitted from a shared ownership scheme, specifically on the valuation regarding rescission of contract. Clients have the right emanating from the contract to sell back their share of the property to the HS. The HA then appoints its architect to carry out a valuation of the share to be returned, together with a valuation of the works carried out in the property. The complainants did not agree with this valuation. |   | The HA did not take any action as complaint was withdrawn by the Office of the Ombudsman.<br>Investigation is still ongoing. | Pending at Ministry.                                   |
| Housing Authority | R 0278                   | A complaint was lodged by a client who benefitted from a cash grant to repair his damaged property. The HA gave a cash grant to construct and repair the property. The cash grant was given subject to the condition that if the complainants initiate court proceedings against the individual who caused the damage, they would subrogate their rights to the HA.   | The Ombudsman recommended to the Housing Authority to cancel hypothecs registered against the complainants. | Case was closed as the HA acceded to the complainants' request.  | Closed and recommendation implemented.                 |

**STATUS**

**ACTION MANAGEMENT COMMENTS**

**RECOMMENDATION BY THE OMBUDSMAN**

**BRIEF DETAILS OF CASE**

**OMBUDSMAN CASE REFERENCE**

**SECTOR**

| SECTOR                   | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN   | ACTION MANAGEMENT COMMENTS  | STATUS                                     |
|--------------------------|--------------------------|--|---|---|--|
| <b>Housing Authority</b> | R 0279                   | A complaint was lodged by a client who benefitted from a cash grant to repair his damaged property. The HA gave a cash grant to construct and repair the property. The cash grant was given subject to the condition that if the complainants initiate court proceedings against the individual who caused the damage, they would subrogate their rights to the HA.  | The Ombudsman recommended to the Housing Authority to cancel hypothecs registered against the complainants.   | Case was closed as the HA acceded to the complainants' request.   | Closed and recommendation implemented.     |
| <b>Housing Authority</b> | R 0282                   | A complaint was lodged by a member of staff regarding the points awarded in a selection process for a particular post. The main point of contention was that one of the requisites was highly-specific, asking for several years of experience in a particular position, without the option of similar experience being considered. Although the complainant did not have the specific requirement but only the equivalent, he still applied. He is further claiming that in previous calls for applications for similar posts, the requisites to qualify did not include the highly-specific requisite. | The Ombudsman concluded that the complaint was justified, and that the call for the position was tailor-made. Therefore, Ombudsman recommended that complainant be given a symbolic compensation of €2,000. | The recommendation made by the Ombudsman was issued in late June 2018. The HA is still considering the way forward. | Closed and recommendation not implemented. |

|             |        |  |                   |   |   |
|-------------|--------|--|-------------------|---|---|
| <b>MFCS</b> | R 0127 | <p>Complainant alleged discriminatory treatment because the formal letter of appointment was given after 15<sup>th</sup> January 1979 yet complainant was not afforded equivalent treatment as other colleague whose payment was authorised <i>ex gratia</i>.</p> <p>Complainant referred to the fact that both were employed as teachers in the Ministry for Education and Employment.</p>                            | No recommendation | <p>Complainant's case is not analogous to that being referred to in the complaint. Claims of discriminatory treatment were unfounded, because the complainant was part of one group that unlike the other group, could have never been employed in the public service through the course they were following, prior to 15<sup>th</sup> January 1979.</p> <p>No action was taken by the Ministry, because claims of discriminatory treatment were unfounded.</p> <p>The Ombudsman was given all the details, and appreciated the assistance of by the Ministry and closed the case.</p>  | Investigated and closed without recommendation.   |
| <b>MFCS</b> | R 0138 | <p>Two female complainants on behalf of Beyond Borders Adoption Agency lodged a complaint in connection with the decision taken by the Maltese Adoption Central Authority not to issue any documentation required by the Authorities in Kazakhstan for the Agency to be recognised as an accredited agency in Malta, thus allowing the Agency to commence the process for inter-country adoptions from Kazakhstan.</p> | No recommendation | <p>The Ombudsman requested feedback from the Department for Social Welfare Standards.</p> <p>The department furnished the Ombudsman with a detailed and exhaustive reply as to how it concluded that it was not in a position to issue any documentation for inter-country adoptions in order to be presented by Beyond Borders Adoption Agency in Kazakhstan.</p> <p>The Maltese Central Authority gave ample attention to this matter, and evaluated all the information gathered, and it was concluded that it is not the role of the Office of the Ombudsman to issue any documentation related to inter-country adoption in order to be presented by Beyond Borders Adoption Agency in Kazakhstan.</p> | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

| SECTOR | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS |
|--------|--------------------------|-----------------------|---------------------------------|--|--------|
|        |                          |                       |                                 | <p>The Maltese Central Authority evaluated all the information gathered, and a result of these evaluations, the DSWS concluded that it was not in a position to issue any documentation related to inter-country adoption in order to be presented by Beyond Borders Adoption Agency in Kazakhstan. This decision was forwarded to the Minister and Permanent Secretary, MFCS and subsequently communicated to Beyond Borders Adoption Agency.</p> |        |





| SECTOR                                    | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS  |
|---|--------------------------|--|---------------------------------|--|---|
| <b>Accountancy Board</b>                  | R 0304                   | Complainant claimed that a qualification offered by a local institution 'Certificate in Tax Advisory' should be recognised as an appropriate qualification in tax for the purposes of obtaining a warrant to practise the profession of accountant.                            | No recommendation               | <p>The Ombudsman was informed that the complainant was duly notified of the decision of the Accountancy Board.</p> <p>The granting of the warrant of a Certified Public Accountant necessitates a high level of professional competence in view of its public interest connotations. Consequently, the Accountancy Board undertook the necessary exercise to appropriately assess the certificate in question. As a result, the method of assessment was found to be insufficient. Furthermore, it results that the level of this certificate is MQF 4 which is below the MQF Level 7 required in terms of the Accountancy Profession Act. Therefore, this course does not meet the requirements and cannot be recognised as an appropriate qualification in tax for the purposes of obtaining a warrant to practise the profession of accountant. The applicant was informed accordingly.</p> | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Commissioner for Revenue (Customs)</b> | R 0142                   | Complainant claimed that no feedback was received from the Customs Department in respect of a parcel which was never received, which seems to have been misplaced or withheld after arriving at Malta Customs. Maltapost insisted that this was an issue of a missing invoice. | No recommendation               | <p>Withheld parcel was subsequently successfully delivered to complainant on 25<sup>th</sup> May 2017. The Ombudsman was informed accordingly.</p> <p>Complainant was contacted by Maltapost and was informed that Malta Customs required an invoice or a proof of payment (which is the normal procedure for withheld parcels selected for control). Given that the complainant failed to submit the requested documentation, the claimant was once again contacted by Maltapost on the 16<sup>th</sup> of May 2017, informing that an invoice or a proof of payment had yet not been submitted to Maltapost to kick start the clearance process. As soon as the complainant supplied the invoice, Maltapost presented the necessary documents to Customs for the release of the said parcel.</p>   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

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| <b>SECTOR</b>                                    | <b>OMBUDSMAN CASE<br/>REFERENCE</b> | <b>BRIEF DETAILS<br/>OF CASE</b>  | <b>RECOMMENDATION<br/>BY THE OMBUDSMAN</b> | <b>ACTION<br/>MANAGEMENT COMMENTS</b>   | <b>STATUS</b>  |
|--|-------------------------------------|---|--|---|--|
| <b>Commissioner for Revenue (Customs)</b>        | R 0232                              | Complaint was raised regarding an international package addressed to the complainant that had not been released by Customs. | No recommendation                          | <p>On 24<sup>th</sup> of May parcel was sent for delivery by Maltapost but without success but then it was delivered on the following day.</p> <p>On the 19<sup>th</sup> October 2017, the Customs Department replied to the Office of the Ombudsman that the certificates presented by the complainant were not in conformity with the MCCA A legislation, and therefore the parcel could not be released by Customs.</p> <p>The MCCA A legislation provides quality and safety standards for products entering Malta. The complainant purchased an electrical item from a Third Country which did not conform to EU standards. Such items are never released in conformity with relevant legislation.</p> | Closed by the Ombudsman after management replied to one request for information. |
| <b>Commissioner for Revenue (Inland Revenue)</b> | R 0022                              | Complaint against being charged an additional tax [penalty] after complainant failed to pay Provisional Tax for 2015.       | No recommendation                          | <p>The Commissioner for Revenue (CfR) explained to the Ombudsman that the complainant was classified as a provisional tax payer, according to information submitted in the claimant's declaration for year of assessment 2012. The complainant was therefore obliged to submit the provisional tax payments. Since such payments were not submitted, a €26 fine was incurred by the claimant.</p> <p>As per Rule 14 of the Provisional Tax Rules, in SL 372.18, the complainant incurred an additional tax [penalty] after the claimant failed to pay Provisional Tax for 2015.</p>   | Investigated and closed without recommendation.                                  |

| Commissioner for Revenue (Inland Revenue) | R 0118 | Additional tax charged for failure to submit the Income Tax Return for Y/A 1999, when the complainant produced an acknowledgment received from the Commissioner for Revenue that the return for Y/A 1999 had been received. | The Ombudsman requested remedial action. | The tax return under reference was misplaced and so was not processed. Complaint was therefore upheld and remedial action was taken, resulting in the cancellation of the additional tax.  | Closed and recommendation implemented. |
|---|--------|---|--|--|--|
| Commissioner for Revenue (Inland Revenue) | R 0236 | A refund due to a local undertaking by the International Tax Unit was not issued to the company.  |  | Although the complainant satisfied the criteria, no refund was due since this was absorbed by interest generated after non payment by the company of taxes due (offsetting).   | Pending at Ombudsman.                  |
| Commissioner for Revenue (Inland Revenue) | R 0237 | A refund due to an undertaking by the International Tax Unit was not issued to the company.   |  | Refunds are due to the shareholders of the company and not to the company. The company cannot rely on such refunds to pay tax due, since the company and its shareholders are two separate legal entities. Furthermore, no refund was given since the amount due has been absorbed by interest generated by lack of payment (offsetting).  | Pending at Ombudsman.                  |
| Commissioner for Revenue (Inland Revenue) | R 0258 | Claim of capital losses against employment income.  |  | The CFR explained to Ombudsman that Capital allowances may be claimed only against a relative business income. Therefore, a number of losses claimed were not allowable. This resulted in tax due [including additional tax and interest].<br><br>Article 5 (10) of the Income Tax Act specifies that there is an upper limit to the number of allowances that may be claimed against earnings derived from an undertaking. The complainant made claims in excess of what is lawfully allowed, and incurred tax and interest from non payment. | Pending at Ombudsman.                  |

**STATUS**

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| <b>SECTOR</b>                                    | <b>OMBUDSMAN CASE<br/>REFERENCE</b> | <b>BRIEF DETAILS<br/>OF CASE</b>   | <b>RECOMMENDATION<br/>BY THE OMBUDSMAN</b> | <b>ACTION<br/>MANAGEMENT COMMENTS</b>  | <b>STATUS</b>                                   |
|--|-------------------------------------|--|--|--|---|
| <b>Commissioner for Revenue (Inland Revenue)</b> | R 0260                              | Complaint against the non applicability of parent tax rate.  | No recommendation                          | <p>The CfR explained to the Ombudsman that for a taxpayer's tax computation to be reassessed against child support, court documents specifying amount of maintenance being paid out must be supplied.</p> <p>Article 56 (1)(b) of the Income Tax Act provides the applicability of the Parent tax rate, that is, for how tax is calculated on chargeable income of any taxpayer, including in cases of legal spousal separations. An individual who does not have custody of a child needs to produce a Court document which stipulates the amount of maintenance being paid towards the child for his tax computation to be reassessed.</p> | Investigated and closed without recommendation. |
| <b>Commissioner for Revenue (Inland Revenue)</b> | R 0291                              | Interest on Refund requested from the date of submission of an 'Adjustment Form' to the date of payment of the refund. | No recommendation                          | <p>The CfR explained to the Ombudsman that refunds become due within one calendar year from the date of submission of the appropriate adjustment form.</p> <p>In terms of Article 48 (2B) of the Income Tax Act, refunds become due within one year from date of submission of an Adjustment Form; Interest is due after the expiration of the said year. The CfR acted correctly within the provisions of the law.</p>  | Investigated and closed without recommendation. |

| SECTOR                                | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS   |
|---------------------------------------|--------------------------|--|---------------------------------|---|--|
| <b>Commissioner for Revenue (VAT)</b> | R 0046                   | Complainant paid VAT twice on an electric car he had originally purchased from the UK. This means that he paid tax in the UK and again in Malta. | No recommendation               | <p>Subsequent to his complaint, complainant was advised by the local tax authorities that he should inform the UK VAT office that a refund on VAT was due, since he had also paid VAT in Malta.</p> <p>According to the VAT Act, any imported vehicle that exceeds a maximum dimension stipulated by law or has a mileage of less than 6,000 km, is considered to be new. The Maltese government will, according to both the local VAT Act and EU VAT legislation, tax such an import accordingly. The complainant alleges that he was charged VAT in the UK, as well as in Malta.</p> <p>However, it is his responsibility to claim the taxes paid in the UK. The Malta VAT department levied tax according to law and is not responsible for the alleged double taxation.</p> | Closed by the Ombudsman after management replied to one request for information. |

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| <p><b>Commissioner for Revenue (VAT)</b></p> | <p>R 0103</p> | <p>Complainant is an undertaking of imported products that were classified under one particular NACE code. The Undertaking feels that these products could be classified under a different NACE code which did not incur tax. The undertaking's request to be reimbursed tax was refused.</p> |  | <p>ECO-tax is assessed through the taxpayer's self-declaration, whereby the HS (NACE) code relevant to a product on which tax is due is specified on the relevant forms. In this case, the taxpayer indicated a given HS (NACE) code and even provided documentation which supports that these products may be classified under this HS (NACE) code.</p> <p>After a significant lapse of time after the self-declaration was made and the tax paid, the taxpayer was informed that these products could possibly be classified under a different HS (NACE) code. A taxpayer who is unsure what HS (NACE) code to assign to a product, may request a ruling by the Customs Department, which has the facility of scientifically inspecting each product and determining the correct HS (NACE). The ensuing Binding Tariff Information (BTI) is valid across the EU and will remain valid for a certain period of time to ensure certainty for the importer. In this case, a BTI was not obtained by the taxpayer and the taxpayer provided no evidence confirming the claim that the products were classified under this HS (NACE) Code erroneously.</p> | <p>Pending at Ombudsman.</p> |
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|---------------------------------------|--------|--|-------------------|--|---|
| <b>Commissioner for Revenue (VAT)</b> | R 0229 | The undertaking complained that it was wrongfully treated by the VAT Department when it insisted that the directors of a foreign company, who applied for registration, had to be present in person. However, the CfR (VAT) Department did not require that the directors of another company to be present in Malta, when the latter applied for VAT registration under the same criteria. |                   | The complainant wished to obtain a VAT registration number on behalf of its client, in terms of Articles 10 to 17 of the VAT Act. The complainant made reference to another case of another undertaking known to have obtained the same registration without its foreign clients being present. This is because the latter company presented all documentation, including the power of attorney, required by the registration process, whilst the complainant failed to provide all necessary documentation. | Pending at Ombudsman.   |
| <b>Finance</b>                        | R 0045 | Complaint received by the Ministry from an ex-employee of Air Malta, regarding a tax refund from Air Malta. Case was resolved when same undertaking settled the overpaid tax and informed MFIN accordingly.  | No recommendation | The case was closed when complainant, who was one of a larger group, was refunded the overpaid tax through MIMCOL.<br><br>This case was only referred to MFIN because the issue involved taxation. However, while the CfR is responsible for levying taxes, the percentages deducted from employees' salaries are calculated by their employers. MFIN only acted as an intermediary by obtaining relevant information from MIMCOL, which acted as a paying agency for refunding excess tax obo Air Malta.    | Investigated and closed without recommendation.   |
| <b>Finance</b>                        | R 0163 | Complaint received regarding a refund of tax after a change in legislation. Complainant alleged maladministration on the part of CfR in terms of LN 180/2015.  | No recommendation | The Ombudsman found the complainant's allegations to be unfounded. The Commissioner for Revenue did not commit an act of maladministration.<br><br>Article 6 of LN 180/2015 exempts CfR from refunding any taxes already paid.   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN CASE  
REFERENCE**

**SECTOR**

| <b>Finance</b>                    | R 0283 | Collision between complainant and an uninsured Government Vehicle (which nonetheless remains covered by the agreement between the Malta Insurance Bureau and the Protection and Compensation Fund). AFM are contesting liability and complainant is demanding compensation through his insurance company.  |                   | The complainant's claim regarding a collision with an AFM vehicle was sent by the Malta Insurance Bureau on behalf of the Protection and Compensation Fund to MFIN. Each time a claim is lodged with the MIB against government, in connection with such vehicles, MFIN is notified and forwards such notice to the department owning the vehicle. In this case, AFM are refusing to accept liability and MFIN is currently waiting for further notifications from the Ombudsman. | Pending at Ombudsman.   |
|-----------------------------------|--------|--|-------------------|---|---|
| <b>National Statistics Office</b> | R 0329 | In 2017, an employee with the NSO had been on career break. After having the career break extended for another year, the claimant notified the NSO with the intention to resign. The NSO requested the employee to work the 3-month notice period as per legislation, a line of action which was confirmed with the Department for Industrial and Employment Relations. The employee was unable to work the notice period because an employment was found elsewhere. | No recommendation | On 17 <sup>th</sup> April 2018, the NSO informed the Ombudsman that the request for payment of the period of notice as per Article 36 of the Employment and Industrial Relations Act had been withdrawn by the NSO. The NSO considered that the matter was now resolved.<br><br>Having considered all the facts of the case, the NSO reconsidered its decision and waived its request for payment of half the employee's wages covering the period of notice.                     | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

| SECTOR                       | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS  |
|------------------------------|--------------------------|--|---------------------------------|--|---|
| Investor Compensation Scheme | R 0308                   | <p>The employee was requested to pay the NSO a sum equal to half the wages in respect of the period of notice, in line with Article 36 of the Employment and Industrial Relations Act. The employee requested that the amount due be waived on humanitarian grounds.</p> | No recommendation               | <p>Following further supporting evidence received, the Scheme paid the claimant with the full amount claimed. The case is now closed.</p> <p>The previous decision was reconsidered and it was agreed to pay the claimed amount to claimant in the light of further evidence provided by a psychiatrist in 2018.</p> | Investigated and closed without recommendation. |



MINISTRY FOR FOREIGN AFFAIRS AND  
TRADE PROMOTION



| SECTOR                                     | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS                |
|--|--------------------------|---|---------------------------------|--|-----------------------|
| <b>Foreign Affairs and Trade Promotion</b> | R 0211                   | Complaint by an officer who was not appointed to a higher position following a call for applications in which the first placed candidate was appointed but moved to a private secretariat. Furthermore, complainant claimed that despite continuing to carry out the duties of this higher position, no deputising allowance was awarded. |                                 | MFTP made a request to P&SD for complainant to be appointed on a back-to-back basis. The request was not approved as it did not conform with the <i>'Manual regarding Positions of Assistant Director, Senior Manager, Manager and Assistant Manager in the Public Service'</i> and with P&SD Circular No: 05/2017 <i>'Policy Update to avoid Temporary Appointments on a Back-to-back Basis'</i> , and therefore, such a request could not be acceded.<br><br>Complainant never submitted a request for a deputising allowance. | Pending at Ombudsman. |
| <b>Foreign Affairs and Trade Promotion</b> | R 0284                   | Complainant contested a transfer to another Ministry, alleging that this was a vindictive action.   |                                 | MFTP replied to the Ombudsman that transfer order was issued by P&SD and that this was due to the exigencies of the service.<br><br>There have been no further communications from the Ombudsman.  | Pending at Ombudsman. |







| SECTOR              | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN   | ACTION MANAGEMENT COMMENTS   | STATUS                              |
|---------------------|--------------------------|---|---|--|-------------------------------------|
| <b>Gozo Affairs</b> | R 0099                   | <p>Complaint by an employee who felt aggrieved after missing out on a promotion for a particular position. Sometime after the publication of the interview results, two officers were transferred on a temporary basis to fill vacancies in the grade for which the complainant had applied. Complainant claimed that he should have been promoted to fill the vacancy instead of such temporary redeployments.</p> | <p>The Ombudsman recommended MGOZ to review this case, with the aim of providing redress.</p> | <p>MGOZ could not implement the Ombudsman's recommendation, since there were no vacancies for the position in question. Two other officers in this grade were moved temporarily to the site where the complainant had applied for due to the seasonality of their work, and in accordance with the principle of flexibility of employees and exigencies of the service.</p> <p>The complainant filed a Judicial Protest and the matter is now at the Law Courts.</p> | Suspended due to court proceedings. |



MINISTRY FOR HOME AFFAIRS AND  
NATIONAL SECURITY



**SECTOR** OMBUDSMAN CASE REFERENCE BRIEF DETAILS OF CASE RECOMMENDATION BY THE OMBUDSMAN ACTION MANAGEMENT COMMENTS STATUS

| SECTOR                       | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS  |
|------------------------------|--------------------------|---|---------------------------------|---|---|
| <b>Armed Forces of Malta</b> | R 0048                   | Officer complained that he was not promoted in the 2015 promotion exercise because there was no vacancy in his section. Officer expected to be treated as a special case due to duties performed. |                                 | MHAS replied to the Ombudsman, addressing the points being raised in this case, and submitted the requested documentation.  | Pending at Ombudsman.   |
| <b>Armed Forces of Malta</b> | R 0052                   | Claim of alleged injustice consequent to the promotion exercise to a higher rank.   |                                 | MHAS received request from the Ombudsman on 3 <sup>rd</sup> March 2017 and replied on 18 <sup>th</sup> April 2017, addressing the points being raised in this case and submitted the requested documentation. | Pending at Ombudsman.   |
| <b>Armed Forces of Malta</b> | R 0264                   | Case concerning the promotion of a civilian at AFM.   | No recommendation               | On 24 <sup>th</sup> January 2018, MHAS replied to the Ombudsman's request for information and the documentation on this case dated 24 <sup>th</sup> October 2017.   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Armed Forces of Malta</b> | R 0309                   | Complainant is alleging that he was not put on Scale 13 like several of his colleagues who joined the AFM as civilian employees in the eighties.  | No recommendation               | MHAS received notification of this case from the Ombudsman dated 2 <sup>nd</sup> February 2018.<br>MHAS investigated the case, and sent a reply to the Ombudsman on 15 <sup>th</sup> March 2018.              | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Armed Forces of Malta</b> | R 0310                   | Complainant is alleging that he was not put on Scale 13 like several of his colleagues who joined the AFM as civilian employees in the eighties.  | No recommendation               | MHAS received notification of this case from the Ombudsman dated 6 <sup>th</sup> February 2018.<br>MHAS investigated the case and sent a reply to the Ombudsman on 15 <sup>th</sup> March 2018.               | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Armed Forces of Malta</b> | R 0311                   | Complainant is alleging that he was not put on Scale 13 like several of his colleagues who joined the AFM as civilian employees in the eighties.  | No recommendation               | MHAS received notification of this case from the Ombudsman dated 2 <sup>nd</sup> February 2018.<br>MHAS investigated the case, and sent a reply to the Ombudsman on 15 <sup>th</sup> March 2018.              | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

**STATUS**

**ACTION MANAGEMENT COMMENTS**

**RECOMMENDATION BY THE OMBUDSMAN**

**BRIEF DETAILS OF CASE**

**OMBUDSMAN CASE REFERENCE**

**SECTOR**

| SECTOR                       | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN   | ACTION MANAGEMENT COMMENTS   | STATUS                                  |
|------------------------------|--------------------------|--|---|--|---|
| <b>Armed Forces of Malta</b> | R 0318                   | Complaint with respect to a number of promotions issued following complaints submitted to the AFM Complaints Board set up by the Ministry. It was alleged that promotions were given to junior officers following the recommendations of the AFM Complaints Board. |   | The AFM Complaints Board is external to the AFM, and the AFM is not able to investigate the merits of those complaining with said body, and therefore the Ombudsman was directed to the Ministry.  | Pending at Ombudsman.                   |
| <b>AWAS</b>                  | R 0249                   | Confidential case concerning professional services to AWAS.  |   | Meetings have been held with AWAS to determine whether payments are actually due to complainant. A meeting has been set with AG's Office to seek legal advice on the matter.   | Pending at Ministry.                    |
| <b>Correctional Services</b> | R 0299                   | Complainant is requesting to be released from one posting and assigned to another indicated posting.   | After reviewing the case, the Ombudsman recommended that complainant is to be allocated a different posting as suggested by the court-appointed psychiatrist. | Prior to implementing the Ombudsman's recommendation, DG Correctional Services is requesting the Office of the Ombudsman to inform him about the shortages that resulted vis-à-vis the medical care given to the complainant.<br><br>Furthermore, CCF Authorities are discussing the matter with the Attorney General's Office in order to be in a position to decide a way forward. | Closed and recommendation not accepted. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
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**OMBUDSMAN CASE  
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**SECTOR**

| <b>Correctional Services</b>              | R 0332 | Inmate complained about not being given certain medication that was prescribed to him, and of not receiving treatment for his condition.  | No recommendation   | MHAS informed the Ombudsman that treatment was not being given since inmate could not afford to buy such medication. However, arrangements have been made to get the said medication through the Community Chest Fund, and inmate started receiving the required treatment from Mater Dei.<br><br>Although this case was closed, another case was opened (S0075) following further submissions to the Ombudsman from this complainant. In fact, the Ombudsman is to communicate with the Parole Board on this new case. | Investigated and closed without recommendation.   |
|---|--------|---|---|---|---|
| <b>Correctional Services</b>              | R 0336 | Complaint by a parolee against the revocation of his parole licence by the Parole Board after he failed to follow the conditions of his parole, even though he was warned more than once to toe the line. | No recommendation   | MHAS replied to the Ombudsman on the merits of this case.<br><br>Although this case was closed, another case was opened (S0076) following further submissions to the Ombudsman from this complainant. In fact, the Ombudsman is to communicate with the Parole Board on this new case.  | Investigated and closed without recommendation.   |
| <b>Home Affairs and National Security</b> | R 0019 | Alleged case of injustice following an expression of interest to be assigned duties with Malta's Presidency of the Council of the European Union in Vienna.   | <i>As it had already been expressed, MHAS cannot be held liable of having caused an injustice by not selecting complainant as the chosen candidate for the post. However, the procedure that was implemented in conducting the selection leaves much to be desired.</i> | MHAS took note of the suggestions by the Ombudsman.   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN CASE  
REFERENCE**

**SECTOR**

|  |               |   |  |  |   |
|--|---------------|---|--|--|---|
| <p><b>Home Affairs and National Security</b></p> | <p>R 0140</p> | <p>Complainant is alleging injustice following the promotion of a colleague. The promotion of his colleague was backdated by the board and accepted by the Ministry to 1<sup>st</sup> January 2001. Complainant said that colleague had complained to the Ombudsman on the same merits as he had.</p> | <p><i>In conclusion, the Ministry for Home Affairs and National Security should be more cautious when accepting applications by public officers for positions that require expertise, as well as a proficient and high level of experience and knowledge. Such negligence can cause serious distress to job-seeking applicants, and convey a negative image of the department's management. It is therefore recommended that the Ministry for Home Affairs and National Security should take note of the aforementioned omissions.</i></p> | <p>MHAS received notification of commencement of case on 27<sup>th</sup> October 2016. The Ombudsman closed the case, since the person who initiated the case withdrew his complaint. MHAS was later informed by the Ombudsman that complainant had reopened the case and requested information from the Ministry. MHAS informed the Ombudsman that complainant had informed them that he had no interest in pursuing the case further, to which the Ombudsman confirmed that complainant had requested to close the case.</p> | <p>Closed, case withdrawn by complainant.</p> |
|--|---------------|---|--|--|---|

| SECTOR | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS  |
|--------|--------------------------|---|---------------------------------|--|---|
| Police | R 0015                   | Complaint by twenty-eight police officers, alleging that they had suffered discrimination at the hands of the Police Corps following a call for applications for the vacant post of Sergeant Majors – First and Second Class. |                                 | 30 <sup>th</sup> May 2017 - MHAS received notification of commencement of case and requested feedback from Police.<br>13 <sup>th</sup> June 2017 - MPF replied to the Ombudsman.<br>23 <sup>rd</sup> June 2017 - The Ombudsman requested MPF documentation that was submitted to the Police Board.<br>23 <sup>rd</sup> June 2017 - MPF replied to the Ombudsman.<br>8 <sup>th</sup> August 2017 - The Ombudsman requested MHAS copy of reports.<br>9 <sup>th</sup> August 2017 - MHAS forwarded requested reports to the Ombudsman.  | Suspended due to court proceedings.   |
| Police | R 0017                   | Complainant claimed that bar patrons stayed outside a bar and caused nuisance to neighbours, even up to the early morning hours. In addition, several requests for police assistance and intervention took place.             | No recommendation               | 24 <sup>th</sup> January 2017 - MPF received notification of commencement of the case. The Ombudsman requested documentation and comments.<br>16 <sup>th</sup> February 2017 - The Ombudsman sent a reminder to MPF regarding submission of remarks of the case.<br>17 <sup>th</sup> - 20 <sup>th</sup> May 2017 - Inspections by Police were carried out on the premises referred in the case.<br>8 <sup>th</sup> - 9 <sup>th</sup> July 2017 - Inspections by Police were carried out on the premises referred in the case.<br>18 <sup>th</sup> - 19 <sup>th</sup> July 2017 - Inspections by Police were carried out on the premises referred to in the case. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN CASE  
REFERENCE**

**SECTOR**

| <b>SECTOR</b> | <b>OMBUDSMAN CASE<br/>REFERENCE</b> | <b>BRIEF DETAILS<br/>OF CASE</b>  | <b>RECOMMENDATION<br/>BY THE OMBUDSMAN</b> | <b>ACTION<br/>MANAGEMENT COMMENTS</b>  | <b>STATUS</b>                                   |
|---------------|-------------------------------------|---|--|--|---|
| <b>Police</b> | R 0128                              | Complaint regarding behaviour and investigation by Hamrun division Police.                                    | No recommendation                          | <p>4<sup>th</sup> September 2017 - MPF replied to the Ombudsman.</p> <p>17<sup>th</sup> January 2018 - Acknowledgement from the Ombudsman to the letter sent by the MPF dated 4<sup>th</sup> September 2017.</p> <p>19<sup>th</sup> May 2017 - Case closed by Ombudsman.</p> <p>2<sup>nd</sup> June 2017 - MPF received email notification from the Ombudsman. The Ombudsman requested remarks from MPF on this case.</p> <p>29<sup>th</sup> August 2017 - MPF sent remarks on case to the Ombudsman.</p> <p>30<sup>th</sup> August 2017 - The Ombudsman gave notice of closure of case.</p> | Investigated and closed without recommendation. |
| <b>Police</b> | R 0146                              | Complaint filed by a high-ranking officer alleging discrimination in the selection process for a higher rank. |  | <p>19<sup>th</sup> June 2017 - MPF received notification of case, and the Ombudsman requested comments and documentation.</p> <p>30<sup>th</sup> June 2017 - Police Commissioner replied with remarks and documentation to the Ombudsman.</p> <p>6<sup>th</sup> October 2017 - The Ombudsman requested documentation (files relative to the selection process) from MHAS.</p> <p>8<sup>th</sup> October 2017 - MHAS replied to the Ombudsman.</p> <p>9<sup>th</sup> October 2017 - MPF replied to the Ombudsman on the request for documentation.</p>  | Pending at Ombudsman.                           |

| SECTOR        | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS  |
|---------------|--------------------------|---|---------------------------------|---|---|
|               |                          |   |                                 | 18 <sup>th</sup> October 2017 - The Ombudsman requested more documentation related to the case.<br>6 <sup>th</sup> December 2017 - The Ombudsman communicated with MPF to return the requested documentation.<br>12 <sup>th</sup> December 2017 - Return of the requested documentation to the MPF.   |   |
| <b>Police</b> | R 0186                   | Complaint by an officer regarding an on-call allowance.   |                                 | Complaint was communicated to the MPF on the 11 <sup>th</sup> September 2017.<br>MPF provided a reply to the Ombudsman's Office on 18 <sup>th</sup> September 2017.   | Pending at Ombudsman.   |
| <b>Police</b> | R 0199                   | Complaint about the lack of replies by the Police Board.  |                                 | An amendment to the Police Act to allow the Independent Police Complaints Board to take over cases from the former Police Board is currently awaiting third reading stage in Parliament.  | Pending<br>recommencement of board under the new legislation. |
| <b>Police</b> | R 0223                   | Complainant claimed that he was promised to be promoted to a higher rank by the then Commissioner and said promotion was not awarded. | No recommendation               | 27 <sup>th</sup> October 2017 - MPF received notification of case and the Ombudsman requested information on the case.<br>27 <sup>th</sup> October 2017 - Police Commissioner replied to the Ombudsman.<br>3 <sup>rd</sup> January 2018 - The Ombudsman requested information from MPF.<br>3 <sup>rd</sup> January 2018 - MPF replied to the Ombudsman.<br>26 <sup>th</sup> January 2018 - The Ombudsman communicated with Police informing with closure of case. | Investigated and closed without recommendation.               |

| SECTOR        | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS  |
|---------------|--------------------------|---|---------------------------------|--|---|
| <b>Police</b> | R 0234                   | Complaint by foreigner regarding failure by the Police to initiate court proceedings.                         | No recommendation               | 12 <sup>th</sup> September 2017 - The Ombudsman sent notification and requested feedback from Police on the case.<br>1 <sup>st</sup> November 2017 - The Ombudsman closed case following feedback from the MPF.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Police</b> | R 0254                   | Complaint regarding a travel ban to enter Malta that was issued by the Malta Immigration Police in July 2015. | No recommendation               | 10 <sup>th</sup> October 2017 - The Ombudsman sent notification and requested feedback from Police on the case.<br>11 <sup>th</sup> October 2017 - MPF replied with remarks to the Ombudsman.<br>19 <sup>th</sup> October 2017 - The Ombudsman closed case following feedback from the MPF.  | Closed by the Ombudsman after management replied to one request for information.        |
| <b>Police</b> | R 0261                   | Complaint by an officer claiming discrimination in the selection process to a higher rank.                    |                                 | 19 <sup>th</sup> June 2017 - MPF received notification of commencement of case, and the Ombudsman requested comments and documentation.<br>30 <sup>th</sup> June 2017 - Police Commissioner replied with remarks and documentation to the Ombudsman.<br>6 <sup>th</sup> October 2017 - The Ombudsman requested documentation (files relative to the selection process) from MHAS.<br>8 <sup>th</sup> October 2017 - MHAS replied to the Ombudsman.<br>9 <sup>th</sup> October 2017 - MPF replied to the Ombudsman on the request for documentation.<br>18 <sup>th</sup> October 2017 - The Ombudsman requested more documentation related to the case. | Pending at Ombudsman.   |

| SECTOR        | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS                              |
|---------------|--------------------------|--|---------------------------------|--|-------------------------------------|
| <b>Police</b> | R 0281                   | Complaint filed by an officer regarding not being promoted to a higher rank.             |                                 | <p>6<sup>th</sup> December 2017 - The Ombudsman communicated with MPF to return the requested documentation.</p> <p>12<sup>th</sup> December 2017 - Return of the requested documentation to the MPF.</p> <p>Case was opened by complainant with Ombudsman on 31<sup>st</sup> October 2017. Ombudsman first notified MPF of this case on the 10<sup>th</sup> May 2018, 7 months later.</p> <p>In the meantime, discussions are taking place within MPF in order to submit a reply.</p>   | Pending at Police.                  |
| <b>Police</b> | R 0312                   | Complaint filed by a shop owner in the absence of Police Action against a fixed hawkker. |                                 | <p>1<sup>st</sup> December 2017 - MPF received notification of commencement of the case. The Ombudsman requested comments from MPF.</p> <p>23<sup>rd</sup> April 2018 - MPF sent reminder to Trade Services Directorate (TSD) on remarks on the case.</p> <p>24<sup>th</sup> April 2018 - TSD replied with feedback.</p> <p>26<sup>th</sup> April 2018 - MPF replied to the Ombudsman with details on case.</p> <p>23<sup>rd</sup> May 2018 - The Ombudsman requested clarifications from MPF.</p> <p>15<sup>th</sup> July 2018 - MPF replied to Ombudsman's queries.</p> <p>16<sup>th</sup> July 2018 - MPF sent further details on the case to the Ombudsman, together with charges against hawkker.</p> <p>Hearing scheduled for 4<sup>th</sup> September 2018.</p> | Suspended due to court proceedings. |



MINISTRY FOR JUSTICE, CULTURE AND  
LOCAL GOVERNMENT



**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN CASE  
REFERENCE**

**SECTOR**

| <b>SECTOR</b>            | <b>OMBUDSMAN CASE<br/>REFERENCE</b> | <b>BRIEF DETAILS<br/>OF CASE</b>   | <b>RECOMMENDATION<br/>BY THE OMBUDSMAN</b> | <b>ACTION<br/>MANAGEMENT COMMENTS</b>  | <b>STATUS</b>  |
|--------------------------|-------------------------------------|--|--|--|--|
| <b>Courts of Justice</b> | R 0091                              | A clerk, who was assigned duty with a member of the Judiciary, claimed compensation for acting as a Deputy Registrar when still at the Law Courts. Claim was made after complainant left employment at the Law Courts.   | No recommendation                          | Management replied to the Ombudsman, and no action was required.   | Closed by the Ombudsman after management replied to one request for information. |
| <b>Courts of Justice</b> | R 0246                              | A member of the public lodged a complaint that the refusal on the part of the Law Courts Registry to accept the application for self-representation, was in breach of a right which is prescribed within the provisions of Article 48(2) of the EU Charter and Art. 6 (3)(b) of the European Convention of Human Rights. |  | No action required by MJCL.<br>Ombudsman suspended the investigation in line with Article 13 (5) of the Ombudsman Act due to court proceedings.<br>Case will be decided by the First Hall Civil Court in its Constitutional Jurisdiction.  | Suspended due to court proceedings.  |
| <b>Data Protection</b>   | R 0162                              | Confidential case concerning the Office of the Data Protection Commissioner.   | No recommendation                          | With regards to this specific case, an ad-hoc meeting was held between the Information and Data Protection Commissioner (IDPC) and the Ombudsman.<br><br>IDPC explained that any form of external interference in the performance of his tasks will seriously impinge on the independence of his office. IDPC moreover proposed that at the first opportunity, when legislative amendments are envisaged to be made to the Ombudsman Act, his office should be included under Part A of the First Schedule thereof, which lists those bodies to which the provisions of CAP. 385 do not apply. | Investigated and closed without recommendation.                                  |

**STATUS**

**ACTION  
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| <b>Heritage Malta</b>                        | R 0075 | The complainant alleged an unjust result during an interview for a post. Claimant contended that qualifications marks were not awarded adequately, because the call requirement was for a diploma and complainant was in a possession of a Masters. | No recommendation | Heritage Malta replied to the Ombudsman, giving all the details of this case. Ombudsman closed the case on the grounds that no irregularity was found.   | Investigated and closed without recommendation.   |
|--|--------|---|-------------------|--|---|
| <b>Justice, Culture and Local Government</b> | R 0025 | Complaint raised by third party on behalf of an inmate currently serving a prison sentence at the Corradino Correctional Facility. Complainant requested the transfer to Spain of the inmate in question, who is of Spanish nationality.            | No recommendation | On 3 <sup>rd</sup> May 2018, MJCL replied to the Ombudsman that from inquires made by the Office at the Attorney General, it results that the evidence of the inmate in question is required in another criminal trial and that the request for transfer of the sentenced person cannot therefore be processed at this stage.                            | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Justice, Culture and Local Government</b> | R 0077 | Confidential case.  | No recommendation | This case was of a very sensitive nature. The complaint was closed in February 2018 following in terms of relevant legislation, and therefore no further action is required by MJCL and no further action is being taken by the Ombudsman.   | Investigated and closed without recommendation.   |
| <b>Justice, Culture and Local Government</b> | R 0134 | A complaint was lodged on 8 <sup>th</sup> May 2017 regarding alleged injustice following a call for applications for the post of Manager.   |                   | Ombudsman requested information on 4 <sup>th</sup> January 2018, and reply with necessary information was provided on the 9 <sup>th</sup> January 2018. On 22 <sup>nd</sup> January 2018, Ombudsman formally requested the original file of the selection process, and on 31 <sup>st</sup> January 2018 the original file was referred to the Ombudsman. | Pending at Ombudsman.   |

| SECTOR                                | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS  |
|---------------------------------------|--------------------------|--|---------------------------------|--|---|
| Justice, Culture and Local Government | R 0214<br>R 0250         | Complaints by two staff members of the Arts Council Malta (ACM), who claimed unfair transfers to another Ministry and that ACM had recruited other officer in their place. Furthermore, one of the complainants complained about being given a second placing in an interview process for a post within MJCL when the placing should have been more appropriate. | No recommendation               | MJCL replied to queries by the Ombudsman regarding both cases. On 21 <sup>st</sup> March 2018, Ombudsman informed MJCL that the cases have been suspended due to complainants filing their case with the Grievances Board.<br><br>MJCL accepts that there was delay in replying to the Ombudsman's queries due to the sensitive nature of the matter of these cases. | Suspended due to referral to Grievances Board.  |
| Local Council                         | R 0005                   | Request for reimbursement of damages sustained to vehicle.   |                                 | The Local Council concerned has given its position on this case to the Ombudsman by means of a legal letter.<br><br>Last communication by the Local Council lawyer was on the 14 <sup>th</sup> April 2018, for which no feedback has yet been received from the Ombudsman.   | Pending at Ombudsman.   |
| Local Council                         | R 0008                   | Contractor filed a complaint about not receiving payment due from Local Council. The Housing Authority was actually the responsible entity for such payment.   | No recommendation               | Letter from the Ombudsman was sent to Local Council on 8 <sup>th</sup> February 2017 but was withdrawn on 13 <sup>th</sup> February 2017 since Local Council had already paid the dues by cheque issued by Housing Authority on 12 <sup>th</sup> January 2017. That is, payment was made well before complaint was raised by the Ombudsman.                          | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

| SECTOR                  | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS  |
|-------------------------|--------------------------|---|---------------------------------|---|---|
| <b>Local Council</b>    | R 0030                   | Request for compensation for damages sustained to vehicle.                          | No recommendation               | <p>On 17<sup>th</sup> February 2017, the Local Council received the complaint from the Ombudsman.</p> <p>On 15<sup>th</sup> March 2017, Ombudsman sent reminder and the Local Council replied on 11<sup>th</sup> April 2017.</p> <p>Ombudsman replied on 4<sup>th</sup> October 2017 stating that the case has been closed from their office.</p>                                   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Local Council</b>    | R 0217                   | An inconvenience caused by damaged road humps.                                      | No recommendation               | <p>On 16<sup>th</sup> August 2017, Ombudsman referred complaint to the Local Council.</p> <p>On 24<sup>th</sup> August 2017, Local Council replied to Ombudsman stating that the road humps in question were repaired.</p>  | Closed by the Ombudsman after management replied to <u>one</u> request for information  |
| <b>Local Council</b>    | R 0230                   | Complaint regarding lack of action taken regarding two blocked public water drains. | No recommendation               | <p>Remedial action taken by the Local Council upon receipt of case from the Ombudsman on 5<sup>th</sup> September 2017.</p> <p>No delays were encountered on this case because culverts were cleaned and widened by 25<sup>th</sup> October 2017.</p>   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Local Government</b> | R 0054                   | Request to be paid for unused vacation leave and time off.                          | No recommendation               | <p>Complaint was received from Ombudsman on 6<sup>th</sup> March 2017, with a reminder being received on 30<sup>th</sup> March 2017 and a second one on 16<sup>th</sup> May 2017. On 24<sup>th</sup> May 2017 DLG replied to the Ombudsman, giving details of the situation and explaining the department's reasons why the complainant will not be receiving any compensation.</p> | Investigated and closed without recommendation.   |

| SECTOR  | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN           | ACTION MANAGEMENT COMMENTS   | STATUS  |
|---|--------------------------|--|---|--|---|
| <b>Malta Council for Culture and the Arts</b>           | R 0250<br>R 0214         | Complaints by two staff members of the Arts Council Malta (ACM). Both claimed unfair transfers to another Ministry, and that ACM had recruited other officer in their place. Furthermore, one of the complainants complained about being given a second placing in an interview process for a post within MJCL when the placing should have been more appropriate. | No recommendation                         | MJCL replied to queries by the Ombudsman regarding both cases. On 21 <sup>st</sup> March 2018, Ombudsman informed MJCL that the cases have been suspended due to complainants filing their case with the Grievances Board.<br><br>MJCL accepts that there was delay in replying to the Ombudsman's queries due to the sensitive nature of the matter of these cases.   | Suspended due to referral to Grievances Board.  |
| <b>Public Broadcasting Services</b>                     | R 0233                   | Complaint about a salary increment not awarded in breach of the relevant agreement.  | Ombudsman recommended award of increment. | Management reviewed the case, and it resulted that the request was justified. Increment was awarded and dues paid by PBS. This was also confirmed by complainant in a letter sent to the Ombudsman.<br><br>Delays on this case were due to the matter being referred to the PBS Board where several discussions were undertaken, including discussions with the Union. | Closed and recommendation implemented.  |
| <b>Malta Competition and Consumer Affairs Authority</b> | R 0151                   | Public officer detailed with the Authority claimed not being correctly assimilated as per the collective agreement 2013-2016.  | No recommendation                         | Ombudsman referred case to MCCA on 2 <sup>nd</sup> June 2017 and on 10 <sup>th</sup> July MCCA replied.<br><br>The Ombudsman decided that the grievances brought forward by complainant could not be sustained, and closed the case on 9 <sup>th</sup> October 2017.   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN CASE  
REFERENCE**

**SECTOR**

|  |               |  |   |  |   |
|--|---------------|--|---|--|---|
| <p><b>Malta<br/>Competition and<br/>Consumer Affairs<br/>Authority</b></p> | <p>R 0159</p> | <p>Complaint about excessive and inordinate delay in the processing of a call for application.</p> | <p><i>This Office strongly recommends that the selection process be finalised with further avoidable delay. MCCA should moreover, in the circumstances, ensure that the whole selection process, including the selection of members of the Selection Board and the selection criteria be totally transparent.</i></p> | <p>MCCA proceeded with the selection process which was finalised, but there were no eligible candidates. The Authority informed the Ombudsman of this outcome and that since the post was still vacant, a new call with revised requisites was to be issued.</p> <p>In fact the call was published in April 2018, short-listing done on 1<sup>st</sup> August 2018 and interviews are scheduled for September 2018.</p> <p>For the entity to be able to reply to the final opinion of the Ombudsman, it was necessary for the Board of Governors to meet and carry out the eligibility assessment. This resulted in some delay, as final opinion by Ombudsman was dated 30<sup>th</sup> November 2017 and the Board met on the 24<sup>th</sup> January 2018.</p> | <p>Closed and recommendation implemented.</p> |
|--|---------------|--|---|--|---|

MINISTRY FOR THE ENVIRONMENT,  
SUSTAINABLE DEVELOPMENT AND  
CLIMATE CHANGE



| SECTOR                           | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS  | STATUS                                 |
|----------------------------------|--------------------------|--|--|---|--|
| <b>Fisheries and Aquaculture</b> | R 0047                   | The complainant bought a fishing vessel believing the tuna license was still attached to such vessel. It turned out that the license was transferred to another fishing vessel prior to such transaction. The complainant lodged a complaint for not being made aware of this by the authorities before the transfer, and claimed that the authorities were fully aware of the previous transaction. |  | The DFA replied to the Ombudsman, and explained the rules and procedures on the transfer quota allocation.<br><br>The latest communication by the Ombudsman was 31 <sup>st</sup> May 2017, informing the DFA that complainant had withdrawn the case.   | Closed, case withdrawn by complainant. |
| <b>Fisheries and Aquaculture</b> | R 0051                   | A fisherman lodged a complaint against the policy to provide duty-free diesel only to fishermen members of co-operatives.  | The Ombudsman recommended a change in policy to include all fishermen eligible for the incentive.  | Response by the DFA was provided on 18 <sup>th</sup> May 2017, whereby the justification behind such policy was explained.<br><br>The case is considered to be closed since there was no further communication on this, following the recommendation by the Ombudsman on 24 <sup>th</sup> May 2017.<br><br>DFA changed policy and applied the Ombudsman's recommendation. | Closed and recommendation implemented. |
| <b>WasteServ</b>                 | R 0158                   | Case regarding a decision taken by the Disciplinary Board against complainant.   | The Ombudsman recommended a review of the penalty that was deemed to be too harsh, in view of the special circumstances and gravity of the case, and since accused was found guilty of only the second part of the accusation. | The decision taken by the Disciplinary Board was reviewed, and subsequently penalty was reduced as recommended by the Ombudsman.  | Closed and recommendation implemented. |







| SECTOR    | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN   | ACTION MANAGEMENT COMMENTS   | STATUS                                  |
|-----------|--------------------------|--|---|--|---|
| Air Malta | R 0009                   | <p>The complainant filed a claim with the Ombudsman on the 9<sup>th</sup> January 2017 regarding an alleged injustice suffered while employed with the Company, and was also complaining about the lack of feedback and delay following the application claim with the Grievance Unit. It is important to note that the Grievance Unit issued a letter with their decision on the 19<sup>th</sup> September 2016.</p> <p>The complainant had also complained about an alleged compensation the claimant was entitled to, as was given to senior management employees, although this was not within the same grade.</p> | <p><i>It is suggested that this issue is brought to the attention of the Unit, and inform back whether grievance is justified or not without further delay.</i></p> | <p>Through its legal advisor, the company replied to the Ombudsman on the 16<sup>th</sup> February 2017, and it was highlighted that the Grievance Unit had the function to make the necessary recommendations for each particular case, and that a person cannot complain about discrimination by comparing the recommendations made by the Unit with respect to other cases.</p> <p>It was also remarked that the stipulated time to forward such claim had expired by more than six (6) months [Art. 14 (2) Cap. 385].</p> <p>Additionally, the Unit ceased its function with the decision given, and could not be asked to reconsider.</p> | Closed and recommendation not accepted. |

**STATUS**

**ACTION MANAGEMENT COMMENTS**

**RECOMMENDATION BY THE OMBUDSMAN**

**BRIEF DETAILS OF CASE**

**OMBUDSMAN CASE REFERENCE**

**SECTOR**

| SECTOR           | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS  | STATUS                                  |
|------------------|--------------------------|--|--|---|---|
| <b>Air Malta</b> | R 0088                   | <p>The complainant filed a claim with the Ombudsman on the 3<sup>rd</sup> April 2017 regarding an alleged injustice suffered whilst employed with the company.</p> <p>The complainant claimed that there was discrimination following the claimant's resignation on December 2006, when the officer opted for the VRS, which was at the time being offered by the Company.</p> <p>It was claimed that other employees who at the time had the same agreement and conditions had received monetary compensation after going to the Grievance Board.</p> | <p><i>Request to submit remarks and declare what action has been taken to resolve this complaint. Revert this case to Review Board for evaluation.</i></p> | <p>Through its legal advisor, the company replied to the Ombudsman on 26<sup>th</sup> December 2017, highlighting the fact that the stipulated time to forward such claim had expired by more than six (6) months [Art. 14(2) Cap. 385], and it resulted as well that the complainant had never presented any claim to be reviewed by the Grievance Unit; thus the prerogative of discrimination is unfounded.</p> <p>The Review Board's function was to evaluate decisions taken by the Grievance Unit and as such cannot consider this complaint.</p> <p>The company takes note of the recommendation given, but it cannot proceed accordingly, since it provided a mechanism for individuals to apply, with specific administrative procedures, thus making any claims time-bound, and in this regard being a commercial entity it cannot keep liabilities pending on its books from year to year.</p> | Closed and recommendation not accepted. |
| <b>Air Malta</b> | R 0090                   | <p>The complainant filed a claim with the Ombudsman on the 4<sup>th</sup> April 2017 regarding an alleged injustice suffered whilst employed with the Company. It was claimed that other employees who at the time had the same agreement and conditions had received monetary compensation after going to the Grievance Board.</p>  | <p><i>Request to submit remarks and declare what action has been taken to resolve this complaint.</i></p>  | <p>The complainant was given compensation for arrears due and pension adjustment.</p>   | Closed and recommendation implemented.  |

| SECTOR                | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS  |
|-----------------------|--------------------------|--|---------------------------------|---|---|
| <b>Air Malta</b>      | R 0325                   | Complainant claimed with the Ombudsman on the 16 <sup>th</sup> December 2017 about the alleged injustice suffered following termination of employment with Air Malta. Complainant is claiming that other employees have received monetary compensation for the period when there was the wage freeze. Claimant also reported not being aware of the need to apply through the Grievance Unit.  |                                 | The Ombudsman requested Air Malta to submit remarks to resolve this issue.<br><br>The case was internally investigated, and Ombudsman was informed that contrary to what complainant is claiming, in actual fact he filed a Grievance Case in 2014 and was given a reply through a letter dated 19 <sup>th</sup> September 2016 concluding that the applicant did not suffer any injustices. Furthermore, Ombudsman incorrectly stated that the complainant had retired from Air Malta, when in reality he had applied for alternative employment scheme. | Pending at Ombudsman.   |
| <b>Malta Freeport</b> | R 0137                   | The complainant filed a claim with the Ombudsman on the 12 <sup>th</sup> May 2017, whereby it was stated that the claimant experienced damages to the car wheels on two occasions while going through the South Road (Triq Kalafrana), due to the bad state of the tarmac surface and various potholes present.<br><br>Reports were made to the Birżebbuga Police Station regarding these incidents, and complaints were also made directly to the Birżebbuga Local Council and Transport Malta. | No recommendation               | The entity, through its legal advisor, contacted the Ombudsman on the 26 <sup>th</sup> June 2017, whereby it was advised that this case pertains to Transport Malta since the issue has to do with a public road, and such road is outside the Freeport Zone. This road was built by the Malta Freeport Corporation (MFC) and maintained accordingly for some time until the Freeport was privatised, however this road does not fall within its official premises and subsequently MFC does not carry the responsibility.                                | Closed by the Ombudsman after management replied to <u>one</u> request for information. |



MINISTRY FOR TRANSPORT,  
INFRASTRUCTURE AND CAPITAL PROJECTS



|  |               |  |                          |   |  |
|--|---------------|--|--------------------------|---|--|
| <p><b>Lands Authority (Joint Office)</b></p> | <p>R 0321</p> | <p>On 12<sup>th</sup> December 2017, complainant claimed that in 2014 a letter was sent to the Joint Office, expressing a wish to purchase a property which is adjacent to another property owned by complainant. The requested property was transferred to the HA to be allocated to third parties, while the complainant's request dated 2014 remained unanswered.</p> |                          | <p>On 16<sup>th</sup> February 2018, the Ombudsman was informed that the property in question was passed on to the Housing Authority for social accommodation purposes. Property in question was allocated in line with Government Policy, and hence the complainant could not assume that there was a right over this property.</p>  | <p>Pending at Ombudsman.</p>                           |
| <p><b>Lands Authority (Lands)</b></p>        | <p>R 0014</p> | <p>Two complainants claimed that they had filed an application under the 2012 Scheme to redeem the ground rent of a garage but up until 2017, the redemption had not been finalised.</p>   | <p>No recommendation</p> | <p>On 8<sup>th</sup> May 2018, the Lands Authority communicated with one of the complainants, who was informed that the request for the redemption of ground rent had been approved, and that a notary of the complainant's choice should contact the Lands Authority to prepare for the publication of the contract.</p> <p>In this case, administrative difficulties during the changeover from GPD to Lands Authority were experienced, which led to delays in handling the complaint and in replying to the Ombudsman. However the complainant's request was eventually upheld.</p> | <p>Investigated and closed without recommendation.</p> |
| <p><b>Lands Authority (Lands)</b></p>        | <p>R 0121</p> | <p>Owners complained that they had not been compensated for land expropriated for the widening of a particular street while at the same time they had been compensated for other, larger land which formed part of the same street-widening project.</p>   | <p>No recommendation</p> | <p>On 17<sup>th</sup> November 2017, Lands Authority replied to the Ombudsman, stating that the issue with compensating the complainants was the lack of resources. Complainants were also informed about this.</p> <p>On 13<sup>th</sup> July 2018, Ombudsman informed the Lands Authority that the case has been closed.</p>  | <p>Investigated and closed without recommendation.</p> |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN CASE  
REFERENCE**

**SECTOR**

| SECTOR                  | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS                |
|-------------------------|--------------------------|---|---------------------------------|--|-----------------------|
| Lands Authority (Lands) | R 0245                   | On 15 <sup>th</sup> September 2017, a complainant alleged that the redemption of the ground rent of a residence was long overdue. It was also requested that the complainant should be recognised as the sole emphyteuta on the house in question, thus terminating his ex-spouse's entitlement as they were legally separated.   |                                 | On 13 <sup>th</sup> November 2017, the Authority contacted the complainant, requesting documents which were necessary to process the request. On 15 <sup>th</sup> June 2018, the complainant was informed by the Lands Authority that the complainant was recognised as the sole emphyteuta of the property in question and that an annual ground rent burdens the property. | Pending at Ombudsman. |
| Lands Authority (Lands) | R 0296                   | A complaint was lodged by several complainants in connection with the expropriation of part of a residence in Zúrricq. The said expropriation occurred in the 1970s. The declaration, which was published in the Government Gazette, stated that the expropriated land had an area of 65m <sup>2</sup> . The complainants are arguing that in actual fact, the land had an area of 85.48m <sup>2</sup> , hence the measurements as provided in the said declaration were substantially incorrect. The plot was measured once again. However complainants are arguing that no progress was made ever since, and have received no compensation. |                                 | File is currently being reviewed by the Lands Authority's Board of Governors.  | Pending at Ministry.  |

**SECTOR**      **OMBUDSMAN CASE REFERENCE**      **BRIEF DETAILS OF CASE**      **RECOMMENDATION BY THE OMBUDSMAN**      **ACTION MANAGEMENT COMMENTS**      **STATUS**

|                                |        |  |                   |   |   |
|--------------------------------|--------|--|-------------------|---|---|
| <b>Lands Authority (Lands)</b> | R 0302 | Confidential case concerning the transfer of an encroachment permit.   | No recommendation | On 7 <sup>th</sup> March 2018, the Authority informed the Ombudsman that the encroachment in question will be terminated, as encroachment permits are not transferable. The evaluation procedure of every case is a rather lengthy process, as it involves looking into the history of the property and scrutinising the contents of the related file. Although it would appear that this case has not yet been closed, the Authority had provided a detailed explanation of the facts of the case to the Office of the Ombudsman. The case involves a dispute between two private individuals. | Investigated and closed without recommendation. |
| <b>Lands Authority (Lands)</b> | R 0335 | Confidential case concerning the contestation of an eviction order from two properties following the demise of a parent.   |                   | On 13 <sup>th</sup> November 2017, the Authority provided the Ombudsman with the details of this case. A termination letter was served to the occupier of these properties back in 2013. In 2017, former GPD management had agreed to issue a call for tenders for the disposal of both these properties, hence the reason for the eviction and for the retrieval of the keys. Pertinent files were forwarded to the Ombudsman's office as requested.   | Pending at Ombudsman.                           |
| <b>Transport Malta</b>         | R 0033 | Contestation of the registration tax computation when registering a new vehicle bearing a UK registration number imported to Malta to be registered locally as a limo van. | No recommendation | The applicability of the relevant laws and the computation equation of registration tax were explained to the complainant. The complainant agreed to pay the amount of registration tax which the vehicle attracts by 15 <sup>th</sup> February 2017, while Transport Malta has agreed to refund the said amount should it result it is in breach of the application of the law or of any EU Directive pertaining to registration tax. The case has been closed by having the vehicle in question registered accordingly as a limo van.   | Investigated and closed without recommendation. |
| <b>Transport Malta</b>         | R 0071 | Complaint lodged by TM employee regarding a selection process within the Authority.  | No recommendation | The case was investigated by the Ombudsman and a thorough analysis of the recruitment process was carried out. The Ombudsman concluded that there were no irregularities within the selection process in question.  | Investigated and closed without recommendation. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN CASE  
REFERENCE**

**SECTOR**

| Sector          | Ombudsman Case Reference | Brief Details of Case  | Recommendation by the Ombudsman | Action Management Comments  | Status                |
|-----------------|--------------------------|--|---------------------------------|---|-----------------------|
| Transport Malta | R 0078                   | Landowner complaint that during road works, the contractor, at the behest of TM, invaded the complainant's property and in effect expropriated it without paying any compensation. |                                 | <p>TM stated that it did not take over any land belonging to the claimant. The street had already been formed by the private owners, when the asphalt was laid. LN 29/10 (Clause 12) specifies that the street should be formed prior to the commencement of any new building, so it was the complainant's duty to form the road prior to the construction works on his property. Once the street is formed to its proper level, TM does the finishing works, such as the kerbs and asphaltting.</p> <p>Clause 13 of LN 29/10 specifies that "[...] no person may commence the construction of any building having access to, or having any window or other opening on to, any public road, before paying to the Malta Environment and Planning Authority, in respect to the formation of the said road, a contribution equal to the cost, as at the time of payment of the contribution, of the formation of such road (such cost to include the value, as at the time of payment of the contribution, of the land required for the formation of the road) [...]"</p> <p>The complainant could not have asked to pay this contribution, because the road area fronting the property that was developed was also part of the claimant's property, but if hypothetically the complainant were to be compensated for this road area, PA could ask him to pay back the compensation in terms of Clause 13.</p> <p>The vast majority of roads within urban areas (such as this case) are formed through private development, and no compensation is ever paid by Government for these roads. Should the complainant's request be acceded to, it would go counter to LN 29/10 and create a very serious and dangerous precedent.</p> | Pending at Ombudsman. |

| SECTOR                 | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS  |
|------------------------|--------------------------|--|---------------------------------|--|---|
| <b>Transport Malta</b> | R 0122                   | Complaint regarding delay in issuing a driving licence when it was changed from Australian to Maltese. | No recommendation               | <p>During 2017, no application was received at TM from the complainant through mail. Unless an application is returned to TM, one is not able to exchange his driving licence. To proceed with exchanging an Australian driving licence to a Maltese one, TM has an agreement with Australia.</p> <p>However, Australia is not an EU country as stated by the complainant in the email sent to the Ombudsman, and hence the exchange is not straightforward.</p> <p>The complainant never asked for a meeting with TM, and this is being stated since in the last sentence which is found in the same letter sent by the complainant to the Ombudsman, the complainant stated that a meeting was refused by the Management - hence this last statement is false.</p> | Investigated and closed without recommendation. |
| <b>Transport Malta</b> | R 0135                   | Confidential case concerning the refusal by TM to issue driver permit tag to the complainant.          | No recommendation               | <p>The Deputy Chief Officer informed complainant that TM will be able to issue the tag for chauffeur driven vehicles in October 2018. Complainant could not be issued with such a tag due to a court sentence delivered on 3<sup>rd</sup> October 2013.</p> <p>When the decision of the refusal to issue the driver permit tag was forwarded to complainant, TM had pointed out that claimant could appeal such decision at the Administrative Tribunal within 30 days, but the complainant did not make use of such appeal.</p> <p>Pertaining to the outcome of this case in question, a subsidiary legislation was drawn up for the purpose, it being SL 65:11 "Motor Vehicle Regulations".</p>  | Investigated and closed without recommendation. |

**STATUS**

**ACTION MANAGEMENT COMMENTS**

**RECOMMENDATION BY THE OMBUDSMAN**

**BRIEF DETAILS OF CASE**

**OMBUDSMAN CASE REFERENCE**

**SECTOR**

| SECTOR                 | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS  | STATUS  |
|------------------------|--------------------------|--|--|---|---|
| <b>Transport Malta</b> | R 0137                   | Car owner claimed compensation for damages to rim due to lack of upkeep/maintenance of a particular road.  | <i>TM should immediately commence the necessary reconstruction works on the said road, so that all hazards to other road users are completely removed without further delay. These works should also include the installation of proper light fixtures and road markings / traffic signs to be structured according to the directives of the Traffic Signs and Carriageway Markings Regulations.</i> | TM states its position with regards to this public road which falls under the direct responsibility of the Local Council and therefore said road, due to lack of upkeep and maintenance on the part of the Local Council has deteriorated to a state which necessitates the re-laying of asphalt and other ancillary work.<br><br>Having said that, TM had committed itself to reconstruct the road in question, and has started such process. In fact, an estimate has been prepared by the Roads and Infrastructure Directorate and the reconstruction work has been included in the programme of works 2018.   | Closed and recommendation implemented.          |
| <b>Transport Malta</b> | R 0145                   | Complainant claimed compensation for vehicle damages caused by a manhole.  | Ombudsman recommended compensation.  | The Roads and Infrastructure Directorate deemed this complaint as being justified, and hence proceeded to pay damages pertaining to the complainant's vehicle.  | Closed and recommendation implemented.          |
| <b>Transport Malta</b> | R 0217                   | Complaint regarding inconvenience cause by a road hump located near the complainant's residence. Complainant claimed that the Local Council was already informed about this nuisance. However, no action has been taken.<br><br>Complainant also suggested the use of traffic lights, or installing speed cameras. | No recommendation  | With regards to the road hump in question, TM had approved the application from the Local Council to install the road hump as a solution and an alternative to bollards which were originally done by TM.<br><br>In its reply to the Ombudsman, TM explained that the procedure to install traffic lights requires an application raised by the LC to TM that considers and installs if approved. The installation of speed cameras is done by the LESA after the LC raises an application.<br><br>This case is also covered under MJCL, where it is reported that the damaged road hump has been repaired, and that there are conflicting views amongst the neighbours about which traffic-calming measures are the most suitable. | Investigated and closed without recommendation. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN CASE  
REFERENCE**

**SECTOR**

| SECTOR                 | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN   | ACTION MANAGEMENT COMMENTS   | STATUS   |
|------------------------|--------------------------|--|---|--|--|
| <b>Transport Malta</b> | R 0226                   | <p>TM employee alleged discrimination in his regard since he was not refunded the cost of legal fees related to a criminal case initiated against him by TM, when he was liberated by the Criminal Court of Appeal. Another employee who was likewise accused and found not guilty too was refunded the cost of legal fees.</p>  | <p>The Ombudsman requested TM to look into the allegations, and to take remedial action as necessary.</p> | <p>After internal consultation, a decision was taken by TM to refund the complainant the cost of legal fees.</p>   | <p>Closed and recommended implemented.</p>             |
| <b>Transport Malta</b> | R 0265                   | <p>The complainant claimed that although there are currently only four shops operating for business, two un/loading parking bays have been painted along the road which is not designated as a commercial area. Furthermore, nearby there is another un/loading bay in front of a butcher's shop, thus making a total of three un/loading for five small shops located in a residential road.</p> <p>The complainant feels aggrieved that there are three un/loading parking bays within a few metres from each other, and where none of the four/five small shops that are currently operating are specifically licensed as per the above indicated commercial outlets.</p> | <p>No recommendation</p>  | <p>TM did the necessary internal records checks, and it resulted that out of the three un/loading bays present in the area, the one mentioned in the case in caption is not approved from TM's end, and hence it was decided to consult with the Local Council in question to remove one of the two un/loading bays located closest to each other.</p> | <p>Investigated and closed without recommendation.</p> |

**STATUS**
**ACTION  
MANAGEMENT COMMENTS**
**RECOMMENDATION  
BY THE OMBUDSMAN**
**BRIEF DETAILS  
OF CASE**
**OMBUDSMAN CASE  
REFERENCE**
**SECTOR**

| SECTOR   | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS  | STATUS  |
|--|--------------------------|--|--|---|---|
| <b>Transport Malta</b>                                   | R 0270                   | Complaint against the removal of rain water drain in pavement that was constructed to protect storm water from entering inside the common area of underground garages when other pavement gutters were not removed.  | No recommendation  | <p>TM replied to the Ombudsman making reference to the principles of public road safety and to the possibility of providing specific legal references relating to the use of rain water gutters in pavements and that matter should have been forwarded to the LC.</p> <p>A meeting between TM and Ombudsman is to be convened to discuss this case further.</p>  | Pending at Ministry.                            |
| <b>Transport Malta</b>                                   | R 0314                   | Complainant wrote to TM with regards to problems he experienced in obtaining insurance cover for his vehicle.  | No recommendation  | <p>TM provided feedback accordingly via normal administration lines, and case was closed.</p>   | Investigated and closed without recommendation. |
| <b>Transport and Infrastructure and Capital Projects</b> | R 0205                   | <p>Complaint by a public employee alleging discrimination as no danger money allowance was being paid.</p> <p>The complainant alleged that other employees in different trade sections within the public works were receiving a danger money allowance, whilst the complainant was not getting any.</p> <p>It was added that employees at the Marsa garage are not working in a good working environment, due to lack of maintenance and cleaning.</p> | <p>The Office of the Ombudsman recommended that there should be a revision of the allowances so that if there are any anomalies, these are adjusted. This Office also recommended that action needs to be taken in connection to the roof maintenance. Besides, it was also recommended that verifications are to be made to see if there is any presence of asbestos. It was also recommended that the actions that needed to be taken in connection with the risk assessment are to be taken immediately, and not left pending from one assessment to another.</p> | <p>Management replied to the Ombudsman and explained that those employees who are entitled to danger/height allowance are those who work at a height of more than 6.5m. Management also stated that risk assessments are carried out on a regular basis. In a letter dated 11<sup>th</sup> September 2017, the Ombudsman requested information on the allowances being paid to the employees, and also a copy of the risk assessments of the last two years. These were duly forwarded, and in its reply management pointed out that allowances are always accompanied by a valid justification.</p> <p>Management confirmed that an exercise is being carried out with the HR Department to revise the allowances.</p> <p>With regards to the issue of Asbestos Containing Material (ACM), this was dealt with according to Health and Safety Regulations and all safeguards were taken to ensure that employees were not exposed.</p> | <p>Closed and recommendation implemented.</p>   |

| SECTOR   | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS | STATUS |
|--|--------------------------|---|---------------------------------|----------------------------|--------|
| <b>Transport and Infrastructure and Capital Projects</b> | R 0315                   | Case was never referred to MTIP, thus no details can be provided. The Ombudsman confirmed that case was closed in 2018. |                                 |                            |        |



FOLLOW-UP ON PRE-2017 CASES  
(ALL MINISTRIES)



| MINISTRY                     | SECTOR                             | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS                |
|------------------------------|------------------------------------|--------------------------|---|---------------------------------|--|-----------------------|
| Office of the Prime Minister | Malta Financial Services Authority | Q 0231                   | Complaint with regards to an ETC Public Call by MFSA. Complainant alleged that the procedure followed during the selection process was unjust, and in certain aspects discriminatory. It was further claimed that the selection process lacked transparency, and was totally subjective, in breach of the guidelines issued by PAHRO, and not in line with the best practices applicable in such cases. |                                 | Ombudsman asked MFSA to submit its comments and information on the case, and to forward the documents in relation to the selection process and clarifications with regards to the eligibility of the selected candidate. MFSA complied with the requests by the Ombudsman and forwarded the report drawn up by the MFSA, together with relevant documentation. In view of the reply submitted by the MFSA, the Ombudsman requested to review the selection process file. The file was returned to MFSA on 11 <sup>th</sup> January 2017. | Pending at Ombudsman. |
| Office of the Prime Minister | OPM                                | Q 0213                   | Ombudsman requested the contact details of a supervising officer to be able to process a claim by a public officer regarding the payment of performance bonus.  |                                 | OPM complied with the Ombudsman's request.   | Pending at Ombudsman. |

| MINISTRY | SECTOR               | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS                 |
|----------|----------------------|--------------------------|--|---------------------------------|--|------------------------|
| MEDE     | Education Department | Q 0001                   | Two employees in the position of Inclusive Network Co-ordinators (INCO) complained that they were not receiving a qualification allowance. Explanation was provided, and though they did accept the explanation, they remarked that with such reasoning, other people in the same grade should not receive the said allowance.                           |                                 | There were a couple of exchanges, and quite a number of personal files. Information required was provided, and handed over to the Ombudsman. | Pending at Ombudsman.  |
| MEDE     | SportMalta           | Q 0150                   | One of the Heads who had a definite contract with SportMalta claimed that his duties are in line with the scale of a Director. He stated that he was promised a promotion which never materialised. After the restructuring of SportMalta in 2017, a new call was issued and complainant is now in Scale 4; however he is still asking for compensation. |                                 | Ombudsman sought SportMalta's views. Case was put forward, and will be discussed by Board of Directors.                                      | Pending at SportMalta. |
| MEAE     | NCPE                 | Q 0025                   | Confidential case.   |                                 | MEAE was not copied-in with the details of this confidential case, since the Ombudsman communicated directly with the NCPE.                  | Pending at Ombudsman.  |

|             |                                       |        |   |  |   |   |
|-------------|---------------------------------------|--------|---|--|---|---|
| <b>MFCS</b> | <b>Housing Authority</b>              | P 0161 | Complainant, who lives in sub-standard housing, requested alternative accommodation.  | Ombudsman recommended that complainant should be given alternative accommodation.  | The HA carried out the necessary evaluation including a social assessment, and it was confirmed that this was a deserving case. Case is pending before the Housing Allocation Board for a decision.   | Pending at Ministry.  |
| <b>MFIN</b> | <b>Commissioner for Revenue (CTD)</b> | Q 0356 | The complainant alleged that the calculation of Causa Mortis stamp duty levied from the clients was not based on the applicable rate of the year under reference, and that the departmental error resulted in additional taxes charged to the clients. The complainant refused to pay the additional charges on their behalf. | The Ombudsman stated that the complainant's argument was not convincing, and that therefore the complaint could not be upheld. | The Department in question explained to the Ombudsman how it calculated the stamp duty, in terms of Article 49 of the Income Tax Act, by using the rate applicable to the year in which the transfer Causa Mortis occurred. The department may lawfully reassess the duty paid and issue additional charges for outstanding dues.<br><br>It was confirmed that the CfR applied the correct rates in line with Article 49 of the Income Tax Act which contemplates additional charges, such that should the original calculation of Causa Mortis stamp duty be incorrect, the duty be incorrect, the notary responsible for the publication of Causa Mortis is responsible in solidum in respect of his clients. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

| MINISTRY | SECTOR                                   | OMBUDSMAN<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE OMBUDSMAN | ACTION<br>MANAGEMENT COMMENTS   | STATUS                              |
|----------|--|-----------------------------|---|------------------------------------|---|-------------------------------------|
| MFIN     | Commissioner<br>for Revenue<br>(Customs) | O 0339                      | The complainant is one of three company directors who were found to be in possession of alcoholic consignments on which neither VAT, nor excise duty, had been paid. The complainant was then refused an importation licence on the basis that he and the other two company directors did not pass the 'fit and proper test' as defined by the Customs Ordinance. |                                    | When the taxable imported goods were seized by Customs officials, via the relevant Seizure Notes, the complainant chose to settle out of Court by signing an agreement to admit to the non-payment of tax and to settle that same tax due. However, such an incident made complainant fail the definition of the 'fit and proper' test as defined by the Customs Ordinance. This resulted in a refusal by the Customs Department to grant a further importation licence to complainant. | Suspended due to court proceedings. |

| MINISTRY    | SECTOR                                | OMBUDSMAN<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE   | RECOMMENDATION<br>BY THE OMBUDSMAN   | ACTION<br>MANAGEMENT COMMENTS   | STATUS                                     |
|-------------|---------------------------------------|-----------------------------|--|--|---|--|
| <b>MFIN</b> | <b>Commissioner for Revenue (VAT)</b> | P 0009                      | A complaint lodged in 2014 by a person who applied for the position of VAT inspector under a call for applications issued by HR/MFIN circular 7/2014. The complainant requested an explanation of the result due to non-selection. |  | The complainant was provided with an explanation of his result, and a breakdown of how marks were given to him during the selection process.<br><br>The selection process in question, like every other HR call issued, had a set of defined pre-requisites applicants were assessed against and marked accordingly. The complainant was not selected for the position and requested an explanation of how he was assessed during that selection process. The Chairman of the Selection Board provided an explanation of the results. | Pending at Ombudsman.                      |
| <b>MHAS</b> | <b>Armed Forces of Malta</b>          | N 0269                      | Complaint by a senior officer who alleged of not being fairly considered in the selection process for the promotion to a higher rank.  | <i>Ministry is to take the necessary steps to redress the injustice. Ministry should review and revise promotion procedures to ensure a high level of transparency that ensures a fair process that allows eligible candidates to compete equally based on qualifications, meritocracy and suitability. The process should be auditable and objective.</i> | Ministry is not in agreement with Ombudsman's recommendation.   | Closed and recommendation not implemented. |

| MINISTRY | SECTOR                | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS                                    | STATUS                                     |
|----------|-----------------------|--------------------------|--|--|---|--|
| MHAS     | Armed Forces of Malta | N 0272                   | A senior officer complained that he was passed over for promotion to a higher rank by individuals who were less qualified, less experienced and less senior. |  | Pending investigation outcome.                                | Pending at Ombudsman.                      |
| MHAS     | Armed Forces of Malta | N 0280                   | Complaint by a senior officer who alleged of not being fairly considered in the selection process for the promotion to a higher rank.                        | <i>Ministry is to take the necessary steps to redress the injustice. Ministry should review and revise promotion procedures to ensure a high level of transparency that ensures a fair process that allows eligible candidates to compete equally based on qualifications, meritocracy and suitability. The process should be auditable and objective.</i> | Ministry is not in agreement with Ombudsman's recommendation. | Closed and recommendation not implemented. |
| MHAS     | Armed Forces of Malta | N 0292                   | Complaint by a senior officer who alleged of not being fairly considered in the selection process for the promotion to a higher rank.                        |  |   | Case withdrawn by complainant.             |

| MINISTRY | SECTOR                | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS                                    | STATUS                                     |
|----------|-----------------------|--------------------------|--|--|---|--|
| MHAS     | Armed Forces of Malta | N 0294                   | Complaint by a senior officer who alleged of not being fairly considered in the selection process for the promotion to a higher rank.  | <i>Ministry is to take necessary steps to redress the injustice. Ministry should review and revise promotion procedures to ensure a high level of transparency that ensures a fair process that allows eligible candidates to compete equally based on qualifications, meritocracy and suitability. The process should be auditable and objective.</i> | Ministry is not in agreement with Ombudsman's recommendation. | Closed and recommendation not implemented. |
| MHAS     | Armed Forces of Malta | N 0296                   | A senior officer complained that he was passed over for promotion to a higher rank by individuals who in his view had lower professional and academic qualification and who were less qualified, less experienced and less senior. |  | Pending investigation outcome.                                | Pending at Ombudsman.                      |

| MINISTRY | SECTOR                | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS                                    | STATUS                                     |
|----------|-----------------------|--------------------------|---|--|---|--|
| MHAS     | Armed Forces of Malta | N 0299                   | Complaint by a senior officer who alleged of not being fairly considered in the selection process for the promotion to a higher rank. | <i>Ministry is to take necessary steps to redress the injustice. Ministry should review and revise promotion procedures to ensure a high level of transparency that ensures a fair process that allows eligible candidates to compete equally based on qualifications, meritocracy and suitability. The process should be auditable and objective.</i> | Ministry is not in agreement with Ombudsman's recommendation. | Closed and recommendation not implemented. |
| MHAS     | Armed Forces of Malta | N 0301                   | Complaint by a senior officer who alleged of not being fairly considered in the selection process for the promotion to a higher rank. | <i>Ministry is to take necessary steps to redress the injustice. Ministry should review and revise promotion procedures to ensure a high level of transparency that ensures a fair process that allows eligible candidates to compete equally based on qualifications, meritocracy and suitability. The process should be auditable and objective.</i> | Ministry is not in agreement with Ombudsman's recommendation. | Closed and recommendation not implemented. |

| MINISTRY | SECTOR                | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE OMBUDSMAN  | ACTION MANAGEMENT COMMENTS  | STATUS                                     |
|----------|-----------------------|--------------------------|--|--|---|--|
| MHAS     | Armed Forces of Malta | N 0307                   | A senior officer complained that he was passed over for promotion to a higher rank by individuals who were less qualified, less experienced and less senior. |  | Pending investigation outcome.  | Pending at Ombudsman.                      |
| MHAS     | Armed Forces of Malta | N 0310                   | A senior officer complained that he was passed over for promotion to a higher rank by individuals who were less qualified, less experienced and less senior. |  | Pending investigation outcome.  | Pending at Ombudsman.                      |
| MHAS     | Armed Forces of Malta | N 0325                   | Complaint by a senior officer who alleged of not being fairly considered in the selection process for the promotion to a higher rank.                        | <i>Ministry is to take necessary steps to redress the injustice. Ministry should review and revise promotion procedures to ensure a high level of transparency that ensures a fair process that allows eligible candidates to compete equally based on qualifications, meritocracy and suitability. The process should be auditable and objective.</i> | Ministry is not in agreement with Ombudsman's recommendation.   | Closed and recommendation not implemented. |
| MHAS     | Armed Forces of Malta | N 0326                   | Complainant directed his grievance against Permanent Secretary's decision to transfer him from one command post to another.                                  |  | 6 <sup>th</sup> January 2014 - MHAS received notification from the Ombudsman who requested comments on this case. | Pending at Ombudsman.                      |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN  
CASE REFERENCE**

**SECTOR**

**MINISTRY**

| MINISTRY | SECTOR | OMBUDSMAN<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE | RECOMMENDATION<br>BY THE OMBUDSMAN | ACTION<br>MANAGEMENT COMMENTS  | STATUS |
|----------|--------|-----------------------------|--------------------------|------------------------------------|--|--------|
|          |        |                             |                          |                                    | <p>27<sup>th</sup> January 2014 - MHAS replied to the Ombudsman.</p> <p>3<sup>rd</sup> February 2014 - The Ombudsman sent email communication to MHAS and asked for further comments.</p> <p>28<sup>th</sup> April 2014 - MHAS replied to the Ombudsman.</p> <p>13<sup>th</sup> January 2017 - The Ombudsman sent mail communication to MHAS and asked for more comments.</p> <p>23<sup>rd</sup> January 2017 - Reply by MHAS sent to the Ombudsman.</p> <p>23<sup>rd</sup> March 2017 - The Ombudsman asked for documentation from MHAS.</p> <p>11<sup>th</sup> April 2017 - MHAS replied to the Ombudsman.</p> <p>19<sup>th</sup> April 2017 - The Ombudsman asked for more documentation and remarks.</p> <p>3<sup>rd</sup> May 2017 - MHAS replied to the Ombudsman.</p> |        |

| MINISTRY | SECTOR                   | OMBUDSMAN<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE OMBUDSMAN | ACTION<br>MANAGEMENT COMMENTS   | STATUS                |
|----------|--------------------------|-----------------------------|---|------------------------------------|---|-----------------------|
| MHAS     | Armed Forces of<br>Malta | P 0008                      | The grievance arises out of a General Order whereby complainant's appointment was relinquished. He was later informed that he would be transferred to another place and was allegedly given no operational reason for this. |                                    | 15 <sup>th</sup> July 2015 - MHAS received notification about commencement of case P0008 and was requested to provide comments to the Ombudsman.<br><br>5 <sup>th</sup> January 2016 - MHAS replied to the Ombudsman.<br><br>8 <sup>th</sup> March 2017 - The Ombudsman requested documentation from MHAS.<br><br>28 <sup>th</sup> March 2017 - MHAS replied to the Ombudsman.<br><br>29 <sup>th</sup> March 2017 - The Ombudsman sent reminder to MHAS.<br><br>30 <sup>th</sup> March 2017 - Acknowledgement from the Ombudsman to MHAS was sent regarding letter dated 28 <sup>th</sup> March 2017. | Pending at Ombudsman. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN  
CASE REFERENCE**

**SECTOR**

**MINISTRY**

| MINISTRY | SECTOR                   | OMBUDSMAN<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE   | RECOMMENDATION<br>BY THE OMBUDSMAN  | ACTION<br>MANAGEMENT COMMENTS   | STATUS                                     |
|----------|--------------------------|-----------------------------|--|---|---|--|
| MHAS     | Armed Forces of<br>Malta | P 0021                      | After refusing to attend the course for Officer Commissioning (requirement as determined by Minister since 2011) in 2014, complainant complained in respect of two individuals who were commissioned following recommendations of the AFM Complaints Board with effect from 2006 because they were occupying officer posts. Complainant claims he was occupying an officer's post and should be commissioned without need to attend the aforementioned course. | The Ombudsman recommended that the Commander AFM take the necessary steps to carry out an evaluation of the complainant's service with the AFM until his retirement, keeping fore the considerations and facts of this investigation with the express view of remedying the injustice complainant has suffered. | Ministry does not agree with the Ombudsman's recommendation.  | Closed and recommendation not implemented. |
| MHAS     | Armed Forces of<br>Malta | P 0022                      | Complainant is claiming that he suffered an injustice following the relinquishment of his appointment.   |   | 15 <sup>th</sup> July 2015 - MHAS was requested to provide comments to the Ombudsman.<br>5 <sup>th</sup> January 2016 - MHAS replied to the Ombudsman.<br>8 <sup>th</sup> March 2017 - The Ombudsman requested documentation from MHAS.<br>28 <sup>th</sup> March 2017 - MHAS replied to the Ombudsman. | Pending at Ombudsman.                      |



**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN  
CASE REFERENCE**

**SECTOR**

**MINISTRY**

| MINISTRY | SECTOR                                | OMBUDSMAN<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE OMBUDSMAN | ACTION<br>MANAGEMENT COMMENTS   | STATUS                |
|----------|---------------------------------------|-----------------------------|---|------------------------------------|---|-----------------------|
| MHAS     | Home Affairs and<br>National Security | Q 0288                      | Complaint by an officer with regards to the decision of the Commission for Injustices in the Armed Forces of Malta that a favourable redress could not be given. Complainant was not satisfied with the decision of the Commission for Injustices in the Armed forces of Malta, and thus initiated a case with the Ombudsman. |                                    | 17 <sup>th</sup> October 2016 - MHAS received notification of complaint. The Ombudsman requested copy of report from the Commission for Injustices.<br><br>5 <sup>th</sup> October 2017 - MHAS replied to the Ombudsman that his office has no documentation at their end.<br><br>16 <sup>th</sup> November 2017 - The Ombudsman communicated with MHAS.<br><br>23 <sup>rd</sup> November 2017 - MHAS replied to earlier communication. | Pending at Ombudsman. |
| MHAS     | Police                                | O 0237                      | Complaint filed by a foreign couple with regard abuse of power by the Divisional Police following wrongful arrest.  |                                    | Complaint was communicated to MPF on the 3 <sup>rd</sup> September 2014.<br><br>The investigator assigned to the case in question has presented the Ombudsman with all the information requested on 24 <sup>th</sup> October 2014. He then gave witness at Ombudsman's Office on the 8 <sup>th</sup> January 2016.  | Pending at Ombudsman. |

| MINISTRY | SECTOR | OMBUDSMAN<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE OMBUDSMAN | ACTION<br>MANAGEMENT COMMENTS   | STATUS  |
|----------|--------|-----------------------------|---|------------------------------------|---|---|
| MJCL     |        | N 0253                      | Complaint concerned the issue that the public registry was not registering marriages between illegal immigrants done the family way abroad. |                                    | <p>This case was referred to MHAS on 30<sup>th</sup> October 2013 by the Ombudsman. It concerned a legal matter that was discussed internally with the management of the then Land and Public Registry and the Refugee Commissioner.</p> <p>It was concluded that even though such weddings are not registered, it does not mean that these type of weddings (the family way) are not valid since registration is not a condition for the validity of a wedding. Such weddings are to be legally recognised by the laws of the country where that wedding took place. The Public Registry cannot accept an application for marriage from persons that appear to be already married.</p> <p>Further correspondence ensued, with the Ombudsman, and on 9<sup>th</sup> February 2016, MHAS referred this case to MJCL.</p> | Investigated and closed without recommendation. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN  
CASE REFERENCE**

**SECTOR**

**MINISTRY**

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|  |  |  |  |  |  | <p>MJCL looked into the legal issues of this case, and on 28<sup>th</sup> April 2016 informed the Ombudsman that it was concluded that the Public Registry cannot register weddings done the family way abroad with the couple not being Maltese citizens.</p> <p>Furthermore, the Public Registry cannot authorise and register a wedding where the claimants are stating that they are already married.</p> <p>Last communication from the Ombudsman was on 29<sup>th</sup> April 2016 acknowledging receipt of reply from MJCL. On 30<sup>th</sup> August 2018, MJCL requested Ombudsman to inform them about the status of this case and the Ombudsman confirmed that this case is being considered as closed.</p> |  |
|--|--|--|--|--|--|--|--|

| MINISTRY | SECTOR | OMBUDSMAN<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE OMBUDSMAN  | ACTION<br>MANAGEMENT COMMENTS   | STATUS                                  |
|----------|--------|-----------------------------|---|---|---|---|
| MJCL     | LES    | P 0269                      | Complaint regarding a request for compensation for burst tyres while driving along a main road. | <i>...That the complainant be paid the actual cost of the burst tyre - €85 - in settlement of the damages incurred by him whilst driving...</i> | <p>Local Council is refusing to follow the recommendation by the Ombudsman.</p> <p>The Ombudsman is requesting the intervention of the Minister as well as the Director DLG Monitoring and Control to enforce the implementation of the recommendation.</p> <ul style="list-style-type: none"> <li>29<sup>th</sup> August 2015 - Complaint lodged with Ombudsman</li> <li>17<sup>th</sup> August 2017 - Final report from Ombudsman</li> <li>15<sup>th</sup> September 2017 - Legal letter from Local Council stating that recommendation will not be implemented</li> <li>4<sup>th</sup> October 2017 - Ombudsman writes to Director Monitoring and Control to intervene for payment to be processed.</li> </ul> | Closed and recommendation not accepted. |

| MINISTRY | SECTOR | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS |
|----------|--------|--------------------------|-----------------------|---------------------------------|--|--------|
|          |        |                          |                       |                                 | <ul style="list-style-type: none"> <li data-bbox="890 398 1029 488">• 25<sup>th</sup> October 2017 - Director Monitoring and Control wrote to Local Council to carry out recommendation.</li> <li data-bbox="890 488 1029 766">• 2<sup>nd</sup> January 2018 - Ombudsman sent letter to Director Monitoring and Control stating that payment has not yet been processed.</li> <li data-bbox="890 766 1029 2047">• 5<sup>th</sup> March 2018 - Letter to Minister from Ombudsman explaining the case and insisting that recommendation is to be implemented.</li> </ul> |        |

| MINISTRY | SECTOR   | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN   | ACTION MANAGEMENT COMMENTS   | STATUS                                     |
|----------|----------|--------------------------|---|---|--|--|
| MOT      | Airmalta | Q 0330                   | <p>The complainant filed a claim with the Ombudsman on the 18<sup>th</sup> November 2016 regarding an alleged injustice suffered while employed with the Company.</p> <p>The complainant claimed that he suffered discrimination following his resignation on November 2016, when he opted for the VRS which was at the time being offered by the Company. He claimed that other employees who at the time had the same agreement and conditions received monetary compensation after going to the Grievance Board.</p> | <p><i>...Request to submit remarks and declare what action has been taken to resolve this complaint. Revert this case to Review Board for evaluation...</i></p> | <p>Through its legal advisor, the company replied to the Ombudsman on the 26<sup>th</sup> December 2017, highlighting the fact that the stipulated time to forward such claim had expired by more than six months [Art. 14(2) Cap. 385], and it resulted as well that the complainant had never presented any claim to be reviewed by the Grievance Unit, thus the prerogative of discrimination is unfounded.</p> <p>The Review Board function was to evaluate decisions taken by the Grievance Unit, and as such cannot consider this complaint.</p> <p>The company takes note of the recommendation given, but it cannot proceed accordingly since it provided a mechanism for individuals to apply with specific administrative procedures, thus making any claims (time-barred, and in this regard being a commercial entity it cannot keep liabilities pending on its books from year to year.</p> | Closed and recommendation not implemented. |

| MINISTRY | SECTOR                     | OMBUDSMAN<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE   | RECOMMENDATION<br>BY THE OMBUDSMAN   | ACTION<br>MANAGEMENT COMMENTS  | STATUS  |
|----------|----------------------------|-----------------------------|--|--|--|---|
| MOT      | Malta Tourism<br>Authority | Q 0303                      | <p>The complainant had presented a case in front of the Grievances Unit in March 2014, whereby it was being alleged that claimant was doing the job of Manager within the MTA.</p> <p>The Grievances Board accepted this allegation, and recommended that the complainant be given an allowance to cover the difference in salary, and that ideally if the manager post is effectively vacant, to publish a call for applications.</p> <p>Eventually the complainant contacted the Ombudsman to action the recommendation by the Grievances Board.</p> | <p><i>Request to submit remarks in respect of issuing of post for Manager.</i></p> | <p>Following internal meetings, it was clarified that the complainant was not doing the job of a Manager, but that of an Assistant Manager, and it was thus agreed that a substitute hour payment in line with that of an Assistant Manager grade and in proportion to hours carried out doing these extra duties would be paid accordingly.</p> <p>This substitute hour payment could only start being paid as from 2014, due to the fact that the present department director took up his position in 2014, and therefore could only confirm from that period onwards that the complainant indeed deserved the substitute hour payment to be in line with that of an Assistant Manager role.</p> <p>It is also to be noted that the complainant already reports to a Manager who is overall responsible.</p> | <p>Closed and recommendation partially implemented.</p> |

| MINISTRY | SECTOR                  | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS  | STATUS  |
|----------|-------------------------|--------------------------|---|---------------------------------|---|---|
| MTIP     | Lands Authority (Lands) | Q 0256                   | <p>On the 31<sup>st</sup> August 2016, the complainant wrote to the Ombudsman alleging that the GPD declared a private passage way, leading to the complainant's property and belonging to other family member, as being Public Land.</p> <p>The complainant also stated that this declaration was done in favour of a neighbour in an irregular manner and requested its revocation. Communication from the Ombudsman was received by the GPD on the 13<sup>th</sup> September 2016.</p> |                                 | <p>On the 10<sup>th</sup> November 2017, the Lands Authority, former Ombudsman a detailed explanation of the case where the Authority clarified that the passage is not the exclusive property of the complainant, who only enjoys right of passage over it. It was concluded that the issue is not one that the Lands Authority (as the successor of the GPD) is to intervene in, but should be sorted out by the complainant and the neighbour alone. The GDP had declared that the passage was Government-owned as it formed part of a parcel of land which was vacant, and according to Article 327(2) of the Maltese Civil Code, Cap. 16 of the Laws of Malta, "Vacant property belongs to the Government".</p> <p>The evaluation procedure of every case is a rather lengthy process, as it involves looking into the history of the property</p> | Investigated and closed without recommendation. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN  
CASE REFERENCE**

**SECTOR**

**MINISTRY**

| MINISTRY | SECTOR                     | OMBUDSMAN<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE OMBUDSMAN | ACTION<br>MANAGEMENT COMMENTS  | STATUS                |
|----------|----------------------------|-----------------------------|---|------------------------------------|--|-----------------------|
| MTIP     | Lands Authority<br>(Lands) | Q 0337                      | <p>The complainant claimed that a property that was requisitioned for a social accommodation project was not used for this project; however the requisition order was never revoked.</p> <p>This meant that the complainant could not dispose of this property.</p> |                                    | <p>and scrutinising the contents of the related file. Although it would appear that this case has not yet been closed, the Authority had provided a detailed explanation of the facts of the case to the Office of the Ombudsman. The case involves a dispute between two private individuals.</p> <p>Besides the lengthy evaluation procedure involved, which necessitates looking into the history of the property and scrutinising the contents of the related file, in this case the input of the HA was required. In March 2017, the Ombudsman was informed that for the release of the property in question to take place, the endorsement of the Minister responsible for the HA was needed, and that the HA was informed accordingly. Following feedback from the Lands Authority, the Ombudsman pursued communication directly with the HA.</p> | Pending at Ombudsman. |

| MINISTRY | SECTOR          | OMBUDSMAN<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE                                      | RECOMMENDATION<br>BY THE OMBUDSMAN | ACTION<br>MANAGEMENT COMMENTS   | STATUS  |
|----------|-----------------|-----------------------------|---|------------------------------------|---|---|
| MTIP     | Transport Malta | O 0046                      | Claim for compensation for land allegedly expropriated by TM. | No recommendation                  | <p>Meeting was held on 23<sup>rd</sup> December 2013 with complainant and her lawyer wherein TM informed them of the obligation, as a developer, to form the road as per provisions of S.L.499.57 which states the following:</p> <ul style="list-style-type: none"> <li>• <i>Regulation 12 - No building abutting on a new road in an inhabited area shall be erected before the road has been levelled to the proper line fixed by the Malta Environment and Planning Authority, in consultation with the Authority. The length of the road to be so levelled shall extend from any existing inhabited road already opened to the public to the extreme end of the frontage of the building to be erected.</i></li> </ul> | Investigated and closed without recommendation. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE OMBUDSMAN**

**BRIEF DETAILS  
OF CASE**

**OMBUDSMAN  
CASE REFERENCE**

**SECTOR**

**MINISTRY**

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|  |  |  |  |  |  |  | <ul style="list-style-type: none"> <li>Regulation 2 - "new road" includes the extension of an existing road; "inhabited area" means any area in which there is an aggregation of residential buildings inhabited or capable of being inhabited by more than one hundred persons.</li> </ul> <p>Complainant was legally obliged to form the road prior to the construction of the house (as per above) something which she failed to do in its entirety.</p> <p>Complainant's contractual obligation to leave a 3m-wide passageway to allow for the passage of owners of adjacent fields is simply a purchase arrangement with third parties and does not exempt or exonerate complainant from legal obligations to form the road.</p> |
|--|--|--|--|--|--|--|---|

| MINISTRY | SECTOR | OMBUDSMAN<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE | RECOMMENDATION<br>BY THE OMBUDSMAN | ACTION<br>MANAGEMENT COMMENTS   | STATUS |
|----------|--------|-----------------------------|--------------------------|------------------------------------|---|--------|
|          |        |                             |                          |                                    | <p>With regard to the area that has been designated as a parking lot, although the standard notification procedure was not followed in this case, the area in question falls within the parcel of land which the client was obliged to cede by Law.</p> <p>It is to be noted that claimants, during the meeting held in December had mentioned that they would be verifying the road's alignments with MEPA, as they claimed that the area designated for parking was not part of main road. Complainant never substantiated her claim.</p> <p>TM concluded that for the reasons outlined above, complainant's claim for compensation could not be entertained.</p> <p>This case has been pending since and on 17<sup>th</sup> August 2018, Ombudsman informed TM that this case is closed.</p> |        |

| MINISTRY | SECTOR          | OMBUDSMAN CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE OMBUDSMAN | ACTION MANAGEMENT COMMENTS   | STATUS               |
|----------|-----------------|--------------------------|---|---------------------------------|--|----------------------|
| MTIP     | Transport Malta | P 0404                   | <p>Complainant requested the extension of a footpath/pavement to ensure the safety of pedestrians, other residence, family and business clients.</p> <p>Complainant also alleged that the lack of a footpath is resulting in damage to the façade by passing vehicles, apart from the safety aspect of traffic passing right against the façade in front of the entrance.</p> |                                 | <p>This is transferred from another case from the Commissioner for Environment &amp; Planning and still ongoing.</p> <p>Latest developments were that TM Ombudsman liaison officer accompanied Ombudsman senior investigating officer on a site visit to discuss the case directly with complainant on 8<sup>th</sup> August 2018.</p> | Pending at Ministry. |

CASES HANDLED BY THE  
COMMISSIONER FOR EDUCATION



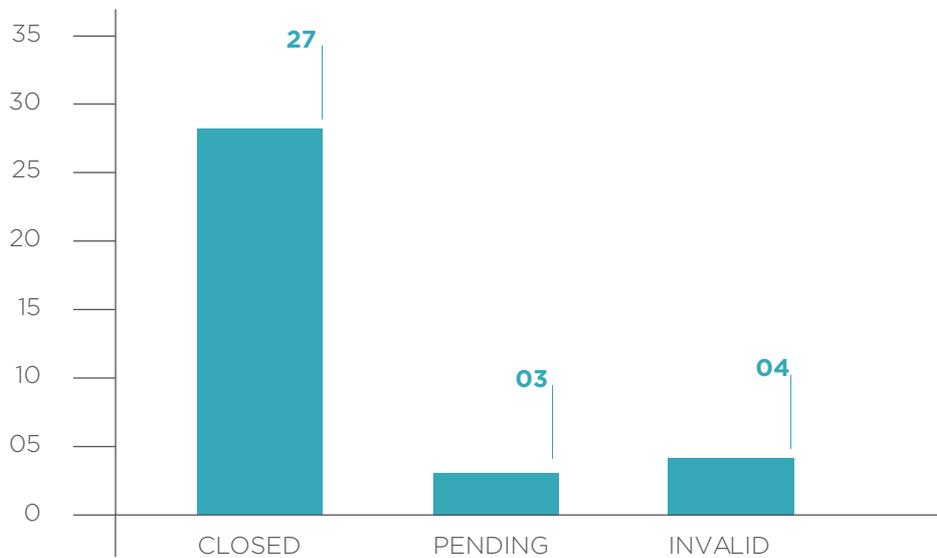
On the basis of the Public Administration’s findings, the Commissioner for Education has, during the year 2017, been presented with 34 cases. Of these, 4 were not investigated leaving 30 cases that were accepted for investigation.

The analysis carried out identified that the vast majority of investigations were concluded. In fact, 27 (90%) were thus concluded by the time of reporting. The remaining 3 were pending but none of these was pending due to a shortcoming from the concerned public entity.

DIAGRAM 06

**Diagram 06 showing the status of Commissioner for Education caseload during 2017**

Commissioner for Education  
2017 Caseload: Status



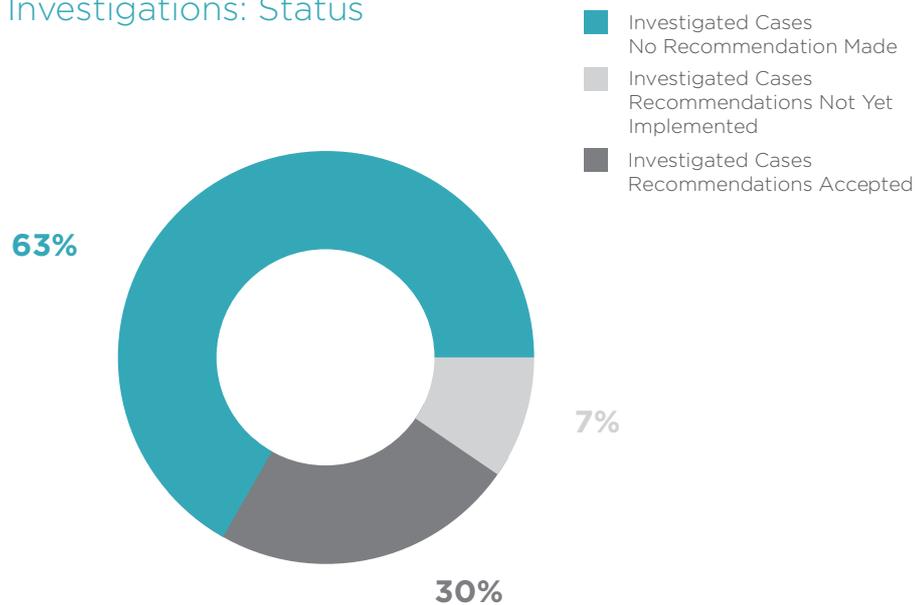
A more in-depth analysis of the investigations concluded revealed that in 17 (63%) instances, no recommendations were made thus confirming that the public entity acted correctly. In 8 (30%) other cases, the recommendations made were implemented by the time of reporting.

Consequently, the concerned public entity had not yet implemented the recommendations made to it by the Commissioner in 2 of the concluded investigations. Further detail on a case by case outline is presented in the relevant Section of this report.

DIAGRAM 07

**Showing the status of concluded investigations of the Commissioner for Education during 2017**

Commissioner for Education  
Concluded Investigations: Status



From this analysis,

**it is evident that in the vast majority of investigated cases, the Public Administration was either found to have acted correctly or otherwise has taken immediate corrective action.**

Given that this is true for 93% of investigations carried out in 2017, one can conclude that this is laudable.

COMMISSIONER FOR  
EDUCATION



| SECTOR                 | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER  | ACTION<br>MANAGEMENT COMMENTS   | STATUS  |
|------------------------|--------------------------------|---|--|---|---|
| University of<br>Malta | UR 0002                        | Complainant contested the final teaching practice result in B.Ed (Hons) course. | <p><i>...I conclude that your TP session was conducted without any discrimination against you; four tutors, including the External Examiner, observed your teaching on several occasions and found it wanting even when they had given you sufficient warnings and advice to improve your instructional methods. I find no reason to question the Fail grade, and consequently, I cannot sustain your complaint. I consider the Faculty's regulation disallowing you a re-sit TP session an exacting one, especially when applied at the end of a fourth year course. At the same time, I cannot request the University and the Faculty to break or ignore their own regulations. I can suggest, however, that they can revisit the decision not to allow you a re-sit if you present sufficient mitigating reasons explaining your shortcomings. While I can understand your disappointment at the outcome of my investigation, for the above reasons, I cannot support your complaint and will be closing this case.</i></p> | Course in case is being phased out and student did not present any mitigation circumstances. Student awarded Bachelor in General Studies. | Closed without recommendation. Case not upheld. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE COMMISSIONER**

**BRIEF DETAILS  
OF CASE**

**COMMISSIONER  
CASE REFERENCE**

**SECTOR**

| SECTOR              | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER  | ACTION<br>MANAGEMENT COMMENTS   | STATUS   |
|---------------------|--------------------------------|---|--|---|--|
| University of Malta | UR 0004                        | Complainant claimed that he was denied a promotion that he was entitled to.   | <i>When one considers all factors involved, I do not find any flaws in the promotion procedure adopted in your case.</i>   | The University of Malta refutes the applicant's assertion that he was treated unfairly, and that the process was flawed in his regard.  | Closed by the Ombudsman after management replied to one request for information. |
| University of Malta | UR 0005                        | Complainant claimed that the University discriminated against him when he was denied a full-time Resident Academic post in Biology. | <p><i>I do not sustain the applicant's complaint that the University treated him unfairly or discriminated against him when it placed him second in the order of preference for the post in question.</i></p> <p><i>That said, after having considered his case, I am of the opinion that his current employment status of Resident Part-Time Academic at T1 level does not reflect accurately his work-load in the Department. I therefore recommend that the University should re-evaluate the applicant's lecturing, tutoring and students' supervision load – including the use of his private laboratory facilities – to grant him the academic status that would be compatible with his University duties.</i></p> | <p>The University of Malta has reviewed the applicant's appointment to reflect his workload in the Department.</p> <p>It is not possible to accede to his request for a Resident Academic post since his current post is of a Visiting Senior Lecturer. He will need to apply for a future call for application and be successful, in order to change his status.</p> | Closed and recommendation implemented.   |

| SECTOR              | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER | ACTION MANAGEMENT COMMENTS  | STATUS   |
|---------------------|-----------------------------|---|------------------------------------|---|--|
| University of Malta | UR 0009                     | Student complained that he cannot proceed to a Master's level course because he has not attained 65% overall mark by one percentage mark. |                                    | The UoM sent reply to the Commissioner for Education on 13 <sup>th</sup> September 2017. No reply from Commissioner for Education has been received to date.<br><br>Student is not eligible to proceed to the Master in Accountancy course as byelaws stipulate " <i>The Course shall be open to applicants in possession of: (1) the Bachelor of Commerce degree from this University with one of the two main areas of study being Accountancy, obtained with a Category II classification and with a minimum average mark of 65% obtained in the study-units of Years 2 and 3 of the Accountancy main area of study.</i> " | Pending at Ombudsman.  |
| University of Malta | UR 0010                     | Complaint regarding the conditions for admission into B.Psy (Hons) course for mature students.  |                                    | The UoM explained to the Commissioner for Education the conditions for admissions of mature students.   | Closed by the Ombudsman after management replied to one request for information. |
| University of Malta | UR 0011                     | Complaint regarding student not being eligible to proceed to the dissertation study-unit.   |                                    | The UoM sent reply to the Commissioner for Education on 14 <sup>th</sup> September 2017. No reply from the Commissioner for Education was received.<br><br>Student is not eligible to proceed to the dissertation study-unit since he obtained an average mark of 58.6% when an average of 65% is required. The Postgraduate Diploma was awarded to the student.  | Pending at Ombudsman.  |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE COMMISSIONER**

**BRIEF DETAILS  
OF CASE**

**COMMISSIONER  
CASE REFERENCE**

**SECTOR**

| SECTOR                            | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS   | STATUS  |
|-----------------------------------|-----------------------------|---|--|--|---|
| <p><b>University of Malta</b></p> | <p>UR 0015</p>              | <p>Complaint regarding arrangements for student with learning difficulties during MATSEC language examinations.</p> | <p>The Commissioner for Education sent a copy of the document 'ADSH: Guidance for Good Practices for Making practices for dyslexic students' for consideration by the University of Malta.</p> | <p>The ADSC recommended to the Senate that students who have severe dyslexia be allowed the use of a computer during their examinations, and may also be allowed to have the spell-checker enabled, provided that the spell-checker does not result in their gaining an unfair advantage over other students and provided that it does not change the examination's objectives. At its meeting held on 25<sup>th</sup> January 2018, the Senate unanimously approved this recommendation, which came into force in the beginning of the academic year 2017/18.</p> | <p>Closed and recommendation implemented.</p>   |
| <p><b>University of Malta</b></p> | <p>UR 0017</p>              | <p>Student failed the 4<sup>th</sup> attempt of the study unit POD4003.</p>   | <p><i>... I regret to inform you that my Office is not in a position to offer you any form of redress, and, much against my wishes, I have no option but to close the case.</i></p>            | <p>The Commissioner requested a meeting with a number of lecturers.<br/><br/>Student failed all available attempts in a study unit, including taking an additional year. All members of the Board of Examiners, including the External Examiner, agreed on the failing mark. Student withdrew from the course and was awarded the Degree of Bachelor in General Studies, since the student had successfully completed 180 ECTS credits.</p>  | <p>Closed by the Ombudsman after management replied to one request for information.</p> |

| SECTOR                 | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE   | RECOMMENDATION<br>BY THE COMMISSIONER   | ACTION<br>MANAGEMENT COMMENTS  | STATUS                                     |
|------------------------|--------------------------------|--|---|--|--|
| University of<br>Malta | UR 0026                        | Parents of student met with the Commissioner for Education, asking that their offspring should not be enrolled for the English Communicative Aptitude Programme. | <p><i>... I am making the following recommendations in order that problems may be avoided:</i></p> <p><i>1. ... Perhaps it would be beneficial to consider whether Accounts and Economics should continue being considered as Arts or Humanities for MATSEC purposes, since their relegation to the Sciences would constrain students to choose a language subject.</i></p> <p><i>2. ... I believe that all University students should be exposed to the major elements of the Course; naturally, this would be logistically impossible as things stand, so I propose that a diluted form be imparted to all students in all undergraduate Courses. A system of bi-mental (rather than weekly) lectures, together with a small increase in the lecturing cohort on a part-time basis might be feasible.</i></p> | <p>Letter was sent to the Commissioner for Education, addressing the inaccuracies in recommendation number 4.</p> <p>The Commissioner acknowledged that the parents did realise that they had been labouring under a number of misconceptions. The JoM confirmed to the student that he was required to follow ECA Programme. The student complied and started the ECA programme in 2017/18.</p> | Closed and recommendation not implemented. |

STATUS

ACTION  
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RECOMMENDATION  
BY THE COMMISSIONER

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OF CASE

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|  |  |  | <p>3. As the system stands, the students selected for the English Communication Aptitude Course naturally feel stigmatised, and therefore tact and diplomacy need to be used in order to explain the selection process and convince them of the benefits accruing. Some students may be very trying, and so I strongly urge the Centre to exercise all its patience and to persist in engaging in serene dialogue whenever strong reactions are encountered.</p> <p>4. My suggestion is that any grammatical content should be delivered as lightly as possible, and only when it is strictly essential to do so. It should not be too difficult to re-design certain areas of the course-content in order to diminish the apprehension many students feel about 'grammar', but individual technique is of paramount importance, and therefore any ancillary staff selection process should give creativity and student-engagement maximum priority.</p> |  |  |

| SECTOR              | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS   | STATUS  |
|---------------------|-----------------------------|---|--|--|---|
| University of Malta | UR 0028                     | Student claimed that he was not accepted as a probationary student to follow the Architecture course. |  | The byelaws of the course selected by the student do not provide for entry as probationary students. | Closed by the Ombudsman after management replied to one request for information.        |
| University of Malta | UR 0029                     | Student claimed eligibility for stipend.  | <p><i>It transpires that you received your stipend uninterruptedly for the period between 25 May to the end of August 2017, when you were not actually following your course. You will appreciate that you cannot be paid twice during the same Semester, nor can you claim it unjust of the Students' Maintenance Board not to pay your stipend for the period between February and August 2018 once it has detected the shortcoming, because, indeed, it is bound to do so by law. This, then, does not amount to injustice, discrimination or maladministration but is simply the result of a human error being rectified. Your case, therefore does not qualify for any redress in material terms by the University of Malta or Students' Maintenance Board. The Commissioner is therefore closing the case without upholding your claim. No further correspondence on the matter shall be accepted.</i></p> | The UoM complied to the Commissioner's request for information.                                      | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE COMMISSIONER**

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OF CASE**

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| SECTOR                         | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE   | RECOMMENDATION<br>BY THE COMMISSIONER  | ACTION<br>MANAGEMENT COMMENTS   | STATUS  |
|--------------------------------|--------------------------------|--|--|---|---|
| <b>University of<br/>Malta</b> | UR 0030                        | Complaint by student since he was deemed not eligible to proceed to the 4 <sup>th</sup> year of the LLB course or to be readmitted to the 3 <sup>rd</sup> year of the course since the student failed 22 ECTS credits. |  | The Commissioner for Education requested a meeting for Monday 8 <sup>th</sup> January 2018 with UoM, but this was not held. No further communication was received from the Commissioner.<br><br>Student had been accepted for the Bachelor in European Studies in October 2017, attended a few lectures and resigned from the course. | Pending at Ombudsman.   |
| <b>University of<br/>Malta</b> | UR 0031                        | Student requesting to repeat CVL5036 instead of repeating the whole year.  |  | The student failed the two attempts allowed for study units at Postgraduate level and, according to the Regulations, the student was required to repeat the whole year with no exemptions.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>University of<br/>Malta</b> | UR 0033                        | Complainant claimed that a lecturing post had been awarded to a less qualified person through unfair means.  | <i>The Commissioner cannot but close the case without upholding complainant's claim, declaring that the UoM did not commit any breach of procedure or ethics in the matter investigated, and that the complainant was not treated unfairly or in a discriminatory manner by UoM.</i> | The University of Malta feels confident that the selection process was carried out in accordance with procedures, and that the most suitable person was selected to serve the needs of the Junior College.  | Closed by the Ombudsman after management replied to one request for information.        |

**SECTOR**

**COMMISSIONER  
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**BRIEF DETAILS  
OF CASE**

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BY THE COMMISSIONER**

**ACTION  
MANAGEMENT COMMENTS**

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| <p><b>University of<br/>Malta</b></p> | <p>UR 0035</p> | <p>Complainant claimed that he was unfairly denied a promotion.</p> | <p><i>The Commissioner cannot but proceed to close the case by not upholding complainant's claim since UoM clearly observed the established procedures and reached a conclusion which in the circumstances, proves to be unassailable and completely correct.</i></p>  | <p>The complainant is encouraged to identify a specific area within his field and to concentrate on it, in order that he may submit a fresh application which would be favourably considered.</p> | <p>Closed by the Ombudsman after management replied to one request for information.</p> |
| <p><b>University of<br/>Malta</b></p> | <p>UR 0036</p> | <p>Student complained that he was not awarded the PhD degree.</p>   | <p><i>... it is the Commissioner's considered opinion (comforted and sustained by the documents to which he is privy) that:</i></p> <ol style="list-style-type: none"> <li><i>1. The complainant was, in fact, given a fair and just opportunity to make his formal presentation of his thesis;</i></li> <li><i>2. The complainant was not 'rushed through' the session, but had all the time at his disposal to produce a solid defence;</i></li> <li><i>3. The conclusions of the Board were based on the expert opinion of five academics working independently of each other at a preliminary stage, who reached consensus and gave clear technical indications of the specific areas in which the thesis was to be considered as</i></li> </ol> | <p>Student awarded MPhil degree in 2017.</p>  | <p>Investigated and closed without recommendation.<br/><br/>Case was not upheld.</p>    |

| SECTOR              | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE                       | RECOMMENDATION BY THE COMMISSIONER  | ACTION MANAGEMENT COMMENTS  | STATUS  |
|---------------------|-----------------------------|---|---|---|---|
| University of Malta | UR 0037                     | Student failed referred study unit MDS4013. | <p><i>being below the standard required for the award of a Ph.D., with many of the same deficiencies being repeated in the second attempt after having these deficiencies pointed out in his previous submission of 2015; and</i></p> <p><i>4. The Commissioner cannot identify any grounds for redress in any form being due by the University of Malta towards the complainant.</i></p> <p><i>... I have to declare that I cannot uphold your claim, and shall proceed to close the case, pronouncing that no blame attaches to the University of Malta, since it dealt with you correctly and according to procedure throughout your entire course of studies.</i></p> | <p>Awarded degree of Bachelor in General Studies.</p> <p>Student was not eligible to follow an additional year of studies to sit for the 4<sup>th</sup> attempt of the referred study unit MDS4013, since he had already availed himself of an additional year of studies. Regulation 5(3) of the Doctor of Medicine and Surgery – MD – Degree Course Regulations, 2013 states that the Faculty Board may allow students an additional year of studies only once throughout the Course.</p> | Investigated and closed without recommendation. |

**SECTOR**

**COMMISSIONER  
CASE REFERENCE**

**BRIEF DETAILS  
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| University of Malta | UR 0038 | Appeal against a University Assessment Disciplinary Board decision.  | ... The Commissioner acted only as honest broker between the two parties, but cannot fault the University for taking the measures it took, except for noting that the measures were the harshest available and the Institution displayed no sense of proportion or inclination to review them.       | During its meeting held on 25 <sup>th</sup> January 2018, Senate members unanimously agreed and confirmed that the decision of the UADB should stand. Student was informed accordingly. | Investigated and closed without recommendation. |
|---------------------|---------|--|--|---|---|
| <b>MCAST</b>        | UR 0013 | A prospective lecturer complained that he sat for an interview during a call for the recruitment of an English Language lecturer. He topped the list but was then not employed since MCAST's projections were wrong and the recruitment was no longer necessary due to the number of students. | Whilst drawing the Principal's attention to the shortcomings outlined in this letter, I cannot but consider this case closed. A copy of this letter is being sent to the Principal.  | MCAST complied with the Commissioner's advice.  | Closed and recommendation implemented.          |
| <b>MCAST</b>        | UR 0016 | A student complained that the administration of a foreign online exam was not administered in full and as per normal procedure, since there were technical faults during the administration of this online assessment.   | I [...] shall draw the attention of MCAST (a) to their gravity and (b) to the necessity of tightening up their operations, especially in Gozo, issuing a reprimand to whoever was involved. There must be no repetition of these incidents, and this must be achieved through tighter co-ordination. | Action taken accordingly, and student dropped the case against MCAST.   | Closed and recommendation implemented.          |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE COMMISSIONER**

**BRIEF DETAILS  
OF CASE**

**COMMISSIONER  
CASE REFERENCE**

**SECTOR**

| SECTOR       | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS   | STATUS                                 |
|--------------|-----------------------------|---|--|--|--|
| <b>MCAST</b> | UR 0020                     | A student complained that MCAST owed him a stipend refund related to his apprenticeship, since he was not given his due.          | The Commissioner for Education recommended MCAST to refund the student.  | Action taken accordingly, and student was refunded.<br>It transpired that there was a mistake in his initial apprenticeship contract, which was duly amended.  | Closed and recommendation implemented. |
| <b>MCAST</b> | UR 0022                     | A part-time lecturer complained that he was unfairly dismissed by MCAST when he had applied for another part-time job with MCAST. |  |  | Case withdrawn by complainant.         |
| <b>MCAST</b> | UR 0027                     | A student alleged a breach of contractual obligation in connection with stipends in his 3 <sup>rd</sup> year of the course.       | <i>The Students Maintenance Board in charge of administering the stipend system is correctly and legally refusing to pay out the monies which the students are contractually entitled to, and therefore it is clearly up to MCAST to assume financial responsibility to defray the student. In view of the unassailable position of the student, I consider that the matter requires no further investigations and I am, by means of this letter, effectively closing this case, only returning to you at the end of four weeks from today, to see whether MCAST has adhered to my conclusion.</i> | The conclusion from the Commissioner for Education will be implemented by September 2018 since the complainant had anticipated a payment-related problem at the start of the course, which is due to happen at the end of this period. | Closed and recommendation implemented. |

| SECTOR                                  | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE   | RECOMMENDATION<br>BY THE COMMISSIONER   | ACTION<br>MANAGEMENT COMMENTS   | STATUS  |
|---|--------------------------------|--|---|---|---|
| <b>Institute of<br/>Tourism Studies</b> | UR 0023                        | The complainant had contacted the Ombudsman to request for a mediation with ITS, in order to be able to complete a specific module prior to the end of the semester and sit earlier for the exam due to particular circumstances.                                  | <i>The student is formally requesting to allow her to complete her present module ..., sitting for the exam before the end of November, in order to be able to graduate on the 4<sup>th</sup> of December. She is aware of the risks this would entail, and is willing to give any written assurance or assurances which may be requested by ITS authorities in order that her request may be acceded to.</i><br><br><i>In view of the brevity of time at our disposal, I entreat you give this request maximum priority.</i> | ITS demanded certain conditions and assurances from the student, in order to acknowledge the request made. This was provided through a written declaration and thus arrangement between ITS and the student was carried out.  | Closed and recommendation implemented.          |
| <b>Education<br/>Authorities</b>        | UR 0021                        | Teacher complained that though she sat for an interview to teach another subject and she was found to be suitable, she was never given the opportunity to teach that subject, but was kept teaching her present subject, and instead a supply-teacher was engaged. |   | MEDE provided the necessary information required by the Commissioner.<br><br>In this particular case, the subject which the teacher was already teaching was lacking teachers, and it did not make sense to shift a teacher and create a bigger problem in that particular subject. | Investigated and closed without recommendation. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE COMMISSIONER**

**BRIEF DETAILS  
OF CASE**

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**SECTOR**

| <b>Education<br/>Authorities</b> | UR 0032 | Complainant was employed on a definite contract to teach a particular subject. His one-year contract was not renewed, due to negative reports from his superiors. He alleged that this was done due to his medical conditions which developed in due course, and not due to his performance. He also got a recommendation from the Medical Board to be given alternative duties from those of a teacher. |  | MEDE insisted that due to negative reports, the contract could not be extended and furthermore, it does not make sense to extend a contract of a teacher with the knowledge that he cannot work as a teacher but has to be given alternative duties.<br><br>MEDE provided the necessary information required by the Commissioner.  | Investigated and closed without recommendation. |
|----------------------------------|---------|--|--|--|---|
| <b>Education<br/>Authorities</b> | UR 0039 | Complainant is employed by an independent school and is a temporary warrant holder, due to the fact that he is not in possession of the necessary qualifications. Since he has been teaching for a number of years, he is expecting that he is awarded a permanent warrant because this would make him eligible for a better salary due to his school's agreement with MUT.                              | <i>In view of all this, the Commissioner cannot find in favour of the complainant. Neither the Minister in person, nor his Ministry, nor the CTP, have acted in any way which is discriminatory towards the complainant or in breach of the prevailing laws and regulations.</i> | The Commissioner made certain statements and recommendations which MEDE and the CTP were not in agreement with. A number of legal misunderstandings were cleared following a meeting between parties.<br><br>The Commissioner did not uphold the complaint, and declared that neither Minister nor Ministry and CTP acted in a discriminatory way, or in breach of laws and regulations. | Investigated and closed without recommendation. |

| SECTOR                       | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS   | STATUS   |
|------------------------------|-----------------------------|--|--|--|--|
| <b>Education Authorities</b> | UR 0006                     | Case dealt with the recognition of a qualification by the Council for the Teaching Profession. | On the 3 <sup>rd</sup> July 2017, following a reply from the CTP, the Commissioner informed the complainant that since he lacks study units in the methodology of teaching Music and a properly supervised teaching practice, the Ombudsman could not sustain the claims that the CTP has treated him unfairly or has discriminated against him. Complainant has been urged by the Commissioner to seek to acquire the missing components required by law to attain a teacher's (permanent) warrant. | The Office of the Ombudsman requested reactions from the Council for the Teaching Profession regarding a claim that the Council did not deem the PGCE in Online and Distance Learning from Open University comparable to the PGCE awarded from the UoM in terms of Article 24 (2)(d)(iv) of the Education Act. Complainant lacked certain study units and hence was found ineligible for the post of Regular Teacher of Music. | Closed by the Ombudsman after management replied to one request for information. |
| <b>Education Authorities</b> | UR 0014                     | Undisclosed details.   |  | This complaint was <u>not</u> investigated. Hence, it was not officially transmitted or communicated to the Ministry.  |  |
| <b>Education Authorities</b> | UR 0018                     | Undisclosed details.   |  | Case was dropped by complainant before any correspondence was exchanged with MEDE.   | Case withdrawn by complainant.   |
| <b>Education Authorities</b> | UR 0025                     | Undisclosed details.   |  | Case was dropped by complainant before any correspondence was exchanged with MEDE.   | Case withdrawn by complainant.   |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE COMMISSIONER**

**BRIEF DETAILS  
OF CASE**

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**SECTOR**

| <b>Education<br/>Authorities</b> | UR 0029 | Complainant alleged that, after suspending and resuming his studies, his maintenance grant was stopped.  |  | The Students Maintenance Grants Board explained to the Commissioner that the student was obliged to inform the SMGB that he had suspended his studies, something he had failed to do. This resulted in 6 payments being affected which he was not entitled to. Thus, the 6 extra payments were set off with other payments which he was entitled to once he resumed his studies. | Closed by the Ombudsman after management replied to one request for information. |
|----------------------------------|---------|--|--|--|--|
| <b>Education<br/>Authorities</b> | UR 0034 | Complainant was a Learning Support Educator, who complained that no call was issued for the grade of LSA I when he finished his studies. He complained that usually such a call was issued every year. He complained that this resulted in a disadvantage for his progression since it will take him longer to achieve the necessary experience to attain the grade of LSA II. | Complainant refused to consider applying for the 30-week course which would guarantee his progression and the Commissioner felt that, in the circumstances, he should not uphold his case. | Complaint could not be upheld even if complainant agreed to further his studies since MEDE issues calls for applications when there is the need and it is not something MEDE is obliged to do annually. MEDE's suggestion to complainant to further his studies was only to help him accelerate his progression.   | Investigated and closed without recommendation.                                  |

| SECTOR | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER  | ACTION MANAGEMENT COMMENTS   | STATUS  |
|--------|-----------------------------|--|---|--|---|
| Health | UR 0008                     | <p>A Paramedic Aide claimed discriminatory treatment when in June 2016 the said Paramedic Aide was first appointed at Scale 13, which appointment was then rescinded and an appointment to Scale 14 was issued in July 2016. The reasons quoted for the downgrade given by the MFH was that the Paramedic Aide was in possession of 'awards' not 'qualifications' (certificates) as required by the Collective Agreement signed by the MFH and GWU in February 2016.</p> | <p>Ombudsman recommended:</p> <ol style="list-style-type: none"> <li>1. <i>re-instate aide in the grade achieved through the application for a promotion on 3<sup>rd</sup> February 2016 on the strength of the certificates presented;</i></li> <li>2. <i>refund any monies deducted from salary as a result of the application of MQRIC's original pronouncement regarding the erroneous and unlawful re-classification of the certificates; and</i></li> <li>3. <i>award claimant all arrears accrued to date as a result of having operated at a lower grade than the one claimant is entitled to, and this without further delay.</i></li> </ol> | <p>The MFH abided by the direction communicated by the P&amp;SD and the provisions laid down in the Referencing Reports issued by the NCFHE in respect of eligibility criteria concerning qualifications and awards. The Ombudsman was informed accordingly on 12<sup>th</sup> April 2018.</p> <p>A final opinion in favour of complainant was delivered by the Commissioner, but the MFH was instructed by P&amp;SD (OPM) not to comply. Complainant has since presented case to the 'One-stop-shop' for the Public Service.</p> <p>Case delayed due to lack of agreement between the OPM and the Commissioner's final opinion.</p> | <p>Closed and recommendation not implemented.</p> <p>Ombudsman considers this case on hold pending decision by the Grievances Unit.</p> |



CASES HANDLED BY THE COMMISSIONER  
FOR ENVIRONMENT & PLANNING



On the basis of the Public Administration’s findings, the Parliamentary Ombudsman has, during the year 2017, been presented with 49 new cases and had an additional pending caseload (cases pre-dating 2017) of 4.

As presented in **Diagram 08** below, from the caseload in hand, 35 (71% of the new cases presented during 2017) new cases and 3 (or equivalent to 75%) of the older cases were closed during 2017. Another 6 cases (five for 2017 and one other previously pending) were considered as ones that could not be investigated by the Commissioner. This leaves a pending caseload of 9 cases from the original total.

**DIAGRAM 08**  
**Identifying the status of the**  
**Commissioner for Environment & Planning caseload.**

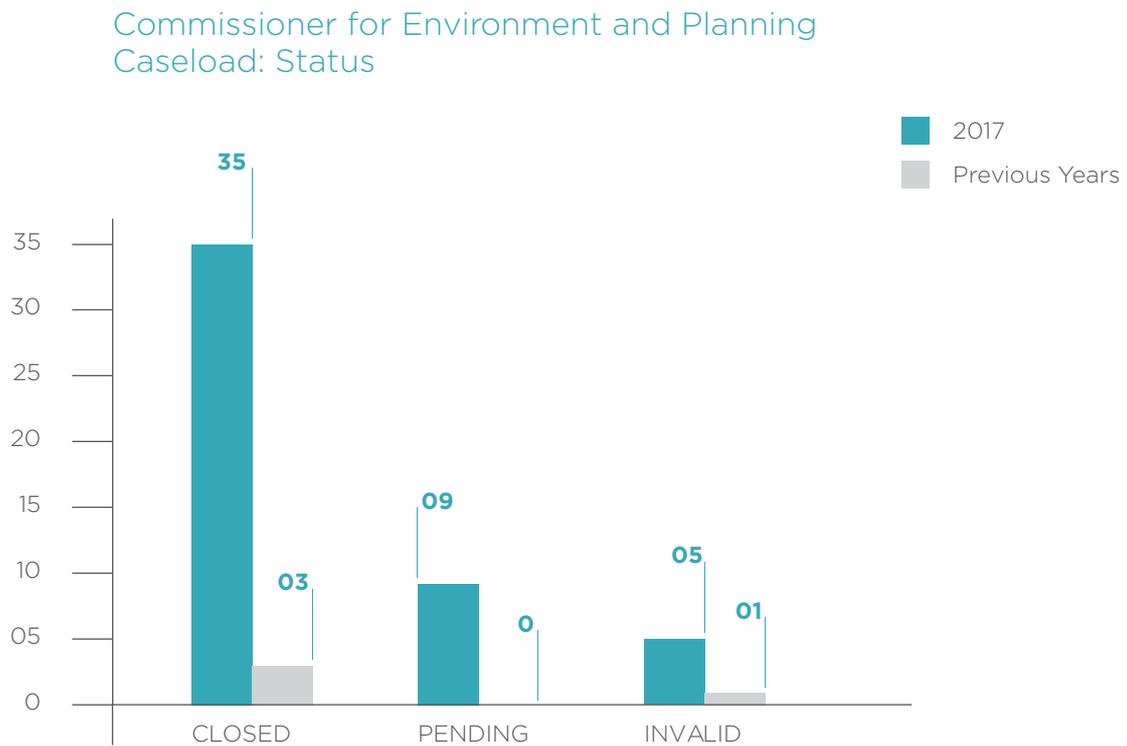
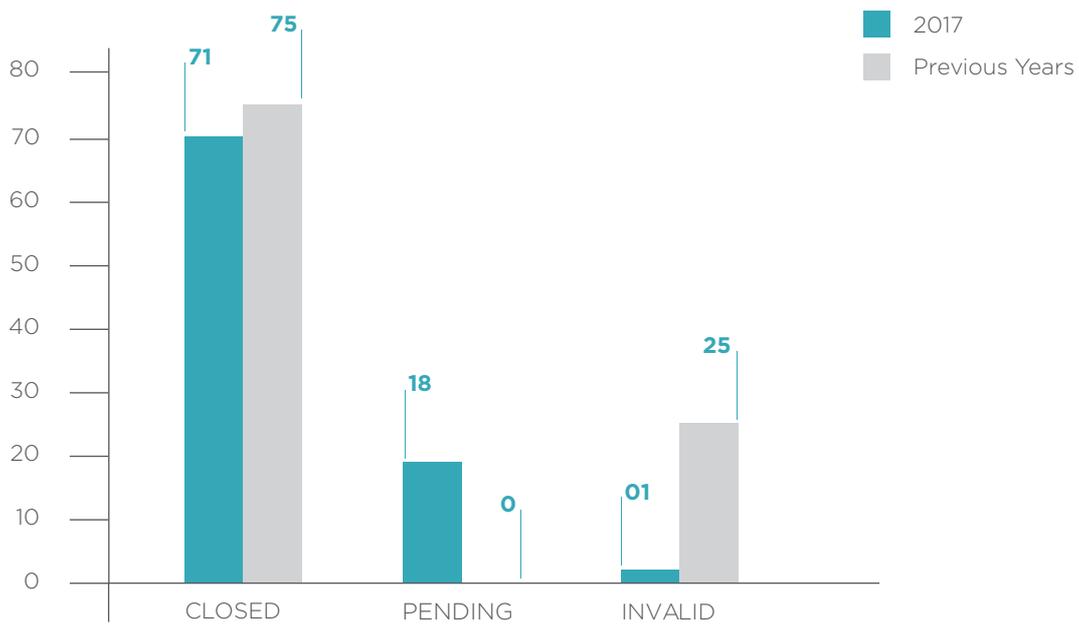


DIAGRAM 09

**Identifying the status of the Commissioner for Environment & Planning caseload as a percentage of the total caseload (n=53).**

Commissioner for Environment and Planning  
Caseload: Status %



On closer inspection, it emerges that of the 38 concluded investigations:

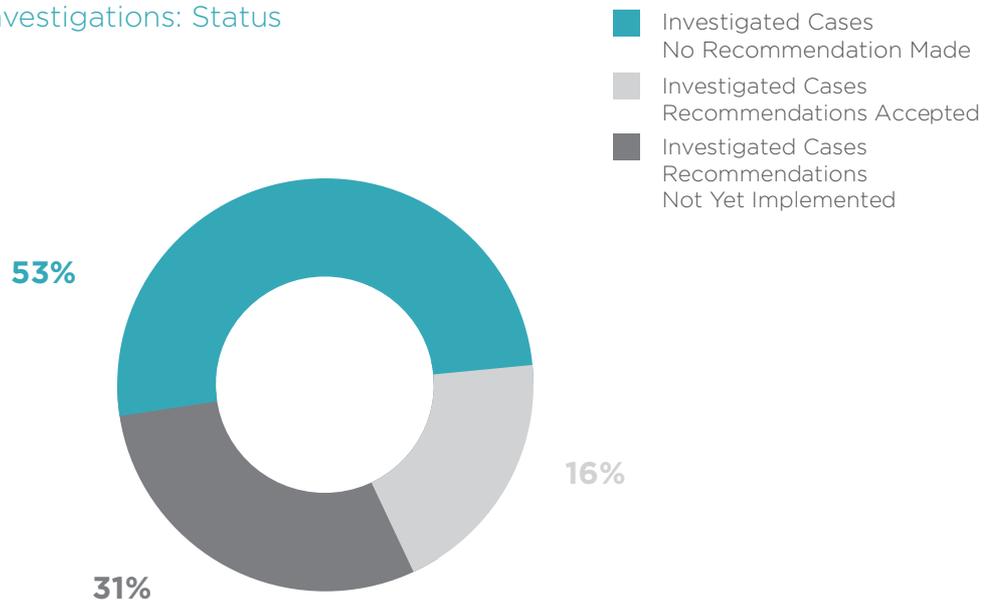
- In 20 instances (53%), no recommendations were made.
- In 6 instances (16%), the recommendations were implemented at the time of reporting leaving.
- 12 investigations (31%) for which the recommendations presented were yet to be implemented at the time of reporting.

This is summarised in **Diagram 10** below.

**DIAGRAM 10**

**Mapping out the status of concluded investigations executed by the Commissioner for the Environment & Planning in 2017.**

Commissioner for Environment and Planning  
Concluded Investigations: Status



It is to be noted, that the vast majority (8 of 9) of cases pending are due to pending action by the concerned public entity. Although the details of the reasons why this state of affairs has emerged, concerned public entities have been directed to execute pending actions as soon as possible such that the Commissioner may proceed with his investigations.

In conclusion, it appears that the Public Administration has some difficulty in adhering with the recommendations of the Commissioner in this area. In fact in around 1 of every 3 investigations, recommendations had not yet been implemented. A detailed account on a case by case basis is presented in the relevant Case Sheets presented in this report.

**Although evidently this statistic can be improved upon, it is noteworthy to consider that despite everything, this default remains almost insignificant when compared to the hundreds of customer interactions the concerned entities execute on a daily basis.**

Positively, it is noted that in every 1 of 2 cases presented, the Commissioner concluded that the concerned public entity acted correctly.

COMMISSIONER FOR  
ENVIRONMENT AND PLANNING



| SECTOR                    | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER   | ACTION<br>MANAGEMENT COMMENTS   | STATUS  |
|---------------------------|--------------------------------|---|---|---|---|
| <b>Planning Authority</b> | ER 0001                        | Alleged unfair application of fine on works on a particular site, subject to enforcement action.  | No recommendation   | Investigation opened on 12 <sup>th</sup> January 2017. The PA replied on the 10 <sup>th</sup> April 2017 and sent further clarifications on 17 <sup>th</sup> April 2017. No further correspondence was received from the Commissioner.  | Investigated and closed without recommendation.   |
| <b>Planning Authority</b> | ER 0002                        | Alleged lack of proper application of procedure in processing and determining a specific application on a particular site near San Ġwann. | <i>With reference to this case, after having reviewed the complaint as well as the Authority's response, I feel that although there were issues that could have raised justifiable grounds for comment at the processing stage, the fact remains that at the time at the Board took a decision, it had the full facts of the case, including the issues raised by the representees and that the outcome was a result of the decision taken by each board member on the case as presented.</i><br><br><i>In the circumstances I do not feel that further investigation is warranted and I am therefore closing this investigation.</i> | Investigation opened on 7 <sup>th</sup> February 2017. The PA replied on 10 <sup>th</sup> April 2017, stating that approval was granted for a particular development planning application for the construction, within the complex, of a residence to one of the farmers in line with Policy 2.2A of the Rural Policy and Design Guidance 2014. Moreover, it was stated that the farmer's needs for the proposed developments was confirmed by the Agriculture Advisory Committee during the processing of the application, while the relative executable permit will only be issued following an agreement with applicant, through a public deed.<br><br>The case was closed by the Commissioner on 26 <sup>th</sup> April 2017. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Planning Authority</b> | ER 0007                        | Alleged incorrect application of policies and procedures in processing and determination of a specific application on a site in Qrendi.   | No recommendation   | Investigation suspended pending the decision on the appeal which was lodged by the applicant against the refusal.   | Suspended, pending decision by the EPRT Tribunal.                                       |

| SECTOR                    | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS   | STATUS   |
|---------------------------|-----------------------------|---|--|--|--|
| <b>Planning Authority</b> | ER 0012                     | Complaint with regard to lack of proper application of procedures in processing a particular Planning application.                                      | <i>Thank you for your reply dated 8<sup>th</sup> March 2017 giving the Authority's response to issues raised by the complainant. After reviewing its contents, I wish to inform you that I am closing the investigation on this case.</i>  | PA replied to the Commissioner's query on 8 <sup>th</sup> March 2017, stating that the Enforcement Directorate learnt that there were illegal works being carried out on the site on 27 <sup>th</sup> February 2017. Subsequently, an inspection was urgently carried out, and it transpired that works pertaining to a newly- construed balcony in a particular street had been carried out. The Enforcement Directorate communicated with the developer and responsible architect and ordered works related to the particular planning application to stop with immediate effect and this was complied with.<br><br>Case closed by the Commissioner on 9 <sup>th</sup> March 2017. | Closed by the Ombudsman after management replied to one request for information. |
| <b>Planning Authority</b> | ER 0014                     | Complaint regarding incorrect application of policies and procedures in processing and determination of a specific application on a site in Birkirkara. | <i>In the circumstances, no remedy can be provided since the merits of complainant's objection were duly recorded and dealt with as shown by the case officer's report. The issues raised by complainant were therefore brought to the Board's notice, which then took a decision after evaluating all the submissions made.</i> | Final Opinion dated 14 <sup>th</sup> June 2017 received.<br><br>The PA replied on 21 <sup>st</sup> June 2017, noting the Commissioner's recommendations and comments, and stating that such recommendations will be forwarded to the Executive Chairman for his attention and action. Action was taken accordingly.<br><br>Case closed by the Commissioner on 27 <sup>th</sup> June 2017.  | Closed and recommendation implemented.   |

| SECTOR                    | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER  | ACTION<br>MANAGEMENT COMMENTS  | STATUS                                     |
|---------------------------|--------------------------------|---|--|--|--|
|                           |                                |   | <p><i>The injustice in complainant's case cannot be rectified by the recalling of the permit issued in terms of Article 80 of the Planning Act, as it does not justify the application on this case.</i></p> <p><i>After reply from the Planning Authority dated 27<sup>th</sup> June, Commissioner's reply dated 27<sup>th</sup> followed:</i></p> <p><i>Thank you for your response to the final report, where you indicated that you are taking action to implement the recommendations.</i></p> <p><i>I feel that these administrative improvements will serve to enhance the Authority's quality of service towards the general public.</i></p> |  |  |
| <b>Planning Authority</b> | ER 0016                        | Alleged incorrect information supplied with a specific planning application on a site in Siema. | <p><i>The standard condition in all Planning Authority permits that 'This development permission is granted saving third party rights.'</i></p>  | Investigation opened on 10 <sup>th</sup> April 2017. After several communications, the Commissioner's final correspondence dated 28 <sup>th</sup> May 2018 stated that the Authority's reasoning regarding his recommendation is being accepted. | Closed and recommendation not implemented. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE COMMISSIONER**

**BRIEF DETAILS  
OF CASE**

**COMMISSIONER  
CASE REFERENCE**

**SECTOR**

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|  |  |  |   |  |  |
|  |  |  | <p><i>This permission does not exonerate the applicant from obtaining any other necessary permission, license, clearance or approval required from any Government department, local council, agency or authority, as required by any law or regulation' is instigating developers to infringe the law, in that the Planning Authority is excluding the neighbours from the same condition, when the Planning Authority should have gone a step further in the processing of each application by requesting the applicant to provide proof that all the owners of the boundary walls surrounding the site have been informed through the established Certificate of Ownership 'B' procedure, which procedure can only be waived if the applicant submits a declaration that a new boundary wall will be erected and that no works are to be affixed or made to lean against all common walls surrounding the site.</i></p> |  |  |

**SECTOR**

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**BRIEF DETAILS  
OF CASE**

**RECOMMENDATION  
BY THE COMMISSIONER**

**ACTION  
MANAGEMENT COMMENTS**

**STATUS**

|                                      |                |   |                          |   |  |
|--------------------------------------|----------------|---|--------------------------|---|--|
| <p><b>Planning<br/>Authority</b></p> | <p>ER 0017</p> | <p>Complaint regarding failure to act in reinstating site notice affixed on premises in Zurrig.</p> | <p>No recommendation</p> | <p>The Authority replied to the Commissioner on 12<sup>th</sup> June 2017, quoting Article 6(2) (a) of LN 162 of 2016, and noting that the onus for keeping the site notice affixed on site is of the applicant. However, no administrative fine (as stated in the LN) has ever been imposed by the Authority for non-compliance. It was also noted that three letters of objections were received dated 30<sup>th</sup> March 2017, 6<sup>th</sup> April 2017, and 7<sup>th</sup> April 2017. In the meantime, application was suspended at the applicant's request.</p> <p>On 19<sup>th</sup> June, the Commissioner replied that complainant was informed of the contents of the PA letter, to which a reply was sent informing that, contrary to what was stated, the application was not suspended and in fact applicant submitted fresh drawings on 12<sup>th</sup> and 14<sup>th</sup> June 2017.</p> <p>The PA replied on same day, noting that on the 25<sup>th</sup> May 2017, the architect requested a time extension in order to submit further documentation. On the same day the Authority informed the applicant and his architect that the application was being suspended for a period which shall not exceed the 23<sup>rd</sup> November 2017. It was only on the 12<sup>th</sup> June 2017 that the architect uploaded revised plans, and these must have been uploaded after letter from the PA had already been dispatched. Registered objectors were informed of the submission of the revised plans on the 15<sup>th</sup> June 2017.</p> <p>The application was withdrawn by applicant on 3<sup>rd</sup> July 2017.</p> <p>No further communication or final report was received by the Commissioner.</p> | <p>Investigated and closed without recommendation.</p> |
|--------------------------------------|----------------|---|--------------------------|---|--|

**STATUS**

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**SECTOR**

| SECTOR                    | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS  | STATUS                                  |
|---------------------------|-----------------------------|--|--|---|---|
| <b>Planning Authority</b> | ER 0019                     | Alleged failure to act on illegal development on a site in Nadur.  | The Authority's submission that the invocation of Article 80 becomes obsolete is incorrect, and hence the Planning Authority should initiate revocation procedures due to an error in the face of the record, as this permit was issued counter to Article 17(4) of Subsidiary Legislation 552.13. | Investigation opened on 3 <sup>rd</sup> April 2017.<br><br>On 8 <sup>th</sup> January 2018, the Authority informed the Commissioner that the illegal structures have been removed, and in the circumstances the invocation of Article 80 becomes obsolete.<br><br>On 15 <sup>th</sup> January 2018, the Commissioner noted that from photos submitted, it is evident that not all illegal structures have been removed, together with the concrete platforms and steel poles that supported the structures.<br><br>After several communications, the Commissioner's latest correspondence dated 15 <sup>th</sup> January 2018 stated that he did not agree with the submissions made by the Authority on 8 <sup>th</sup> January 2018.<br><br>No further correspondence was made.   | Closed and recommendation not accepted. |
| <b>Planning Authority</b> | ER 0021                     | Alleged incorrect application of policies and procedures in issuing permit in a particular planning application on premises in Zabbar. | On 15 <sup>th</sup> May 2017, the Commissioner requested the Authority to confirm that applicant cannot use the premises for the approved activity until the room is built.  | The Commissioner opened investigation on 8 <sup>th</sup> May 2017.<br><br>The PA replied on 15 <sup>th</sup> May 2017, stating that the planning application was approved by the Planning Commission. However, the Planning Commission noted the concern of the objector, and to ensure that there is no nuisance to neighbours requested the permit to upload plan (which is complemented by an updated engineer's report). The Objectors were informed of the date of application and some of them were present during all the hearings and seemed to be satisfied by the Commission's request to be satisfied by the Commission's request and outcome.<br><br>Following the 15 <sup>th</sup> May recommendation by the Commissioner, the PA replied on 21 <sup>st</sup> June 2017, quoting Condition No. 5, and stating that from this it is quite clear that the permitted use cannot commence prior to the installation of the sound- proof booth. | Closed and recommendation not accepted. |

| SECTOR                | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER  | ACTION<br>MANAGEMENT COMMENTS  | STATUS                                     |
|-----------------------|--------------------------------|---|--|--|--|
| Planning<br>Authority | ER 0024                        | Alleged incorrect application of policies and procedures in determining two planning applications on a site in Żurrieq. | <p><i>L-ilment imressaq dwar it-twaħħil tal-avviż m'huwiex sostnut għaliex fil-każ tal-permess PA 2627/16 il-complainants kienu raw l-avviż iżda naqsu milli jressqu l-oġġezzjoni tagħhom għal kunsiderazzjoni tal-Kummissjoni.</i></p> <p><i>L-Awtorità applikat il-Policy [...] b'mod korrett għaliex il-kriterju tad-distanza minima ta' 100 metru bejn il-bini tal-istalel u l-eqreb żona ta' żvilupp ġie rispettata.</i></p> <p><i>Ir-rapport (DPAR) imnejji fl-applikazzjoni PA 1627/16 għalkemm applika [...] bħala waħda mill-Policies li jolqtu l-iżvilupp propost, naqas li jsemmi li l-kriterju tad-distanza minima ta' 200 metru ma kienx qiegħed jiġi rispettata.</i></p> <p><i>Għalhekk jirriżulta li kien hemm informazzjoni importanti nieqsa fir-rapport li ngħieb għal kunsiderazzjoni tal-Kummissjoni.</i></p> <p><i>Fid-dawl ta' dan, qiegħed jiġi rakkomandat li l-applikazzjoni terġa' tingħieb quddiem l-Awtorità taht il-provizjonijiet tal-Art. 80 tal-Att dwar l-Ippjanar.</i></p> | <p>Final Opinion dated 24<sup>th</sup> July 2017 received.</p> <p>PA reply dated 17<sup>th</sup> August 2017.</p> <p>Recommendation to revoke permit declined by the PA.</p> | Closed and recommendation not implemented. |

**STATUS**

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**SECTOR**

| SECTOR                    | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER | ACTION MANAGEMENT COMMENTS  | STATUS  |
|---------------------------|-----------------------------|---|------------------------------------|---|---|
| <b>Planning Authority</b> | ER 0028                     | Alleged lack of action on removing illegal billboard on the facade of a premises in Fgura.  | No recommendation                  | <p>Investigation opened on 7<sup>th</sup> July 2017.</p> <p>The contravener was contacted by the PA and was given a 2-week time-period, as per the PA Enforcement Section Protocol. The site was visited again on the 16<sup>th</sup> June 2017 and a call letter was left with the shop attendant, informing that if no communication from contravener's end is done, further action will be taken. On the 5<sup>th</sup> July 2017, contravener made contact with PA and was committed to remove the bill board from the facade by 13<sup>th</sup> July 2017.</p> <p>Site was visited again on the 13<sup>th</sup> July and it was noted that the alleged fixing of advertisement board on the facade was not removed as was previously agreed with the contravener. Therefore, an Enforcement Notice with daily file was issued as contravener did not comply.</p> <p>On the 17<sup>th</sup> July 2017, the PA were informed that the contravener removed the alleged billboard from the facade. Site was also visited for verification.</p> | Investigated and closed without recommendation. |
| <b>Planning Authority</b> | ER 0029                     | Complaint submitted regarding alleged unfair treatment in handling a submission for sites to be included within the public domain law data collection exercise being conducted by the Planning Authority. | No recommendation                  | <p>Investigation opened on 19<sup>th</sup> July 2017.</p> <p>Communication from the PA dated 27<sup>th</sup> July 2017 stated that the documentation will be presented to the Parliamentary Standing Committee. Moreover, the Commissioner was informed that a decision of the Executive Council on the submission will be taken after the PA has all the information following the public consultation. The decision, together with the reasoning for such, will be part of the report that will be presented to the Parliamentary Standing Committee to which the public is invited to attend, and any clarifications can be sought during the same sitting.</p> <p>No further communication or Final Opinion was received from the Commissioner.</p>   | Investigated and closed without recommendation. |

| SECTOR             | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER  | ACTION MANAGEMENT COMMENTS   | STATUS   |
|--------------------|-----------------------------|---|---|--|--|
| Planning Authority | ER 0031                     | Alleged unfair treatment in capping allowance for upgrade of optical lenses.                              | The Commissioner recommended removal of capping and payment of dues in arrears. | Investigation opened on 17 <sup>th</sup> July 2017. PA considered the merits of this case, and a decision was taken to reimburse the complainant. The Commissioner was informed accordingly. Reimbursement was paid on 7 <sup>th</sup> September 2017.   | Closed and recommendation implemented.   |
| Planning Authority | ER 0034                     | Alleged unfair treatment for lack of compensation in relation to withdrawal of a planning permit in Gozo. | No recommendation   | Investigation opened on 21 <sup>st</sup> November 2017. PA replied on 4 <sup>th</sup> December 2017, stating that at its sitting on the 22 <sup>nd</sup> June 2017, the PA decided to revoke the permit and refer it back for a decision with an updated Development Planning Act Report (DPAAR). Furthermore, the Commissioner was informed that when revocation procedures are initiated, applicants are always informed of the action being contemplated by the Authority, and in this case, the applicant was informed on 19 <sup>th</sup> June 2017, the same day that the Authority decided to initiate revocation procedures. | Closed by the Ombudsman after management replied to one request for information. |
|                    |                             |   |   |  | No further communication or Final Opinion from the Commissioner was received.    |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
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**BRIEF DETAILS  
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**SECTOR**

| <b>Planning Authority</b> | <b>COMMISSIONER CASE REFERENCE</b> | <b>BRIEF DETAILS OF CASE</b>  | <b>RECOMMENDATION BY THE COMMISSIONER</b> | <b>ACTION MANAGEMENT COMMENTS</b>  | <b>STATUS</b>  |
|---------------------------|------------------------------------|---|---|--|--|
| <b>Planning Authority</b> | ER 0038                            | Complaint regarding alleged incorrect handling of request for enforcement action and invocation of Article 80 of the Planning Act on illegal development on a site in Marsascula. | No recommendation                         | <p>The Commissioner opened the investigation on 16<sup>th</sup> August 2017.</p> <p>The Planning Authority replied on 17<sup>th</sup> August 2017, stating that the invocation of Article 80 in connection with a particular PA application will be considered after another PA application is determined.</p> <p>On 21<sup>st</sup> December 2017, the Commissioner replied that in view that the second planning application was approved in November (on which a third-party appeal is pending), he requested whether invocation procedures against the first planning application will be initiated.</p> <p>On 22<sup>nd</sup> December 2017, the Planning Authority replied that in view of pending appeal, it is only prudent to await the outcome of the Environment and Planning Review Tribunal (EPRT), before considering the invocation of Article 80 on the first planning application.</p> <p>No further communication or Final Opinion was received from the Commissioner.</p> | Pending at Ministry.   |
| <b>Planning Authority</b> | ER 0041                            | Alleged incorrect application of policies and procedures in setting out cul-de-sac on a site in Żurrieq.  | No recommendation                         | <p>Investigation opened on 4<sup>th</sup> October 2017.</p> <p>The PA replied on 16<sup>th</sup> October 2017, stating that at the time of application, Planning Control applications were regulated by LN 76/1997, and therefore, in line with the Legal Notice, the PA followed the provision of Article 8(2), and thus the Authority was not bound to address the points mentioned by the complainant.</p> <p>Final Opinion referred by the Commissioner to the complainant on 22<sup>nd</sup> November 2017 stated that complaint was unsubstantiated.</p>   | Closed by the Ombudsman after management replied to one request for information. |

| SECTOR                    | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER  | ACTION MANAGEMENT COMMENTS   | STATUS   |
|---------------------------|-----------------------------|---|---|--|--|
| <b>Planning Authority</b> | ER 0042                     | Objection against a particular planning application for an additional floor at a site in the North of Malta.  | No recommendation   | Investigation opened on 7 <sup>th</sup> September 2017.<br>The PA replied on 4 <sup>th</sup> December 2017, stating that a site notice was duly placed on site. Moreover, the application was published in the Government Gazette of the 28 <sup>th</sup> June 2017.<br>The Commissioner was also informed that the building is constructed according to the official alignment and therefore the width of the street was not compromised.<br>No further correspondence from the Commissioner or Final Opinion was received. | Closed by the Ombudsman after management replied to one request for information. |
| <b>Planning Authority</b> | ER 0044                     | Complaints in connection with demolition and excavation works in Tourist Areas during the precluded period established in the Environmental Management Construction Site Regulations. | The Commissioner recommended an amendment to the standard clause in permits allowing works in tourist areas during the summer months:<br><i>The same permit holder is to ensure that no excavation and demolition works are carried out during the summer period in 'Tourism Areas' as defined and designated by the Malta Tourism Authority.</i> | Investigation opened on 25 <sup>th</sup> September 2017.<br>The PA considered and accepted the Commissioner's recommendation.<br>Standard clause in permits amended accordingly.   | Closed and recommendation implemented.   |
| <b>Planning Authority</b> | ER 0046                     | Complaint about failure to take note of previous Audit Officer report in processing a planning application.   | No recommendation   | Awaiting reply re: email dated 16 <sup>th</sup> October 2017.<br>Information is being collated internally to enable a reply to the Commissioner.   | Pending at Ministry.   |

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| <p><b>Planning Authority</b></p> | <p>ER 0048</p> | <p>Alleged incorrect application and policies for a site in Northern Malta.</p> | <p><i>The complaint alleging incorrect application of policies and procedures by the Planning Authority when excluding storage areas from the total floor area of small shops within residential areas is sustained.</i></p> <p><i>Small shops shall be allowed within residential areas strictly as established in the Local Plan, that is, not exceeding a total floor area of 50 square meters for shops of any nature and not exceeding a total floor area of 75 square meters for convenience shops. The total floor area is always to be taken to mean the combined sales and storage area.</i></p> <p><i>The Planning Authority should initiate revocation procedures against [this particular permit] since this permit was issued following an error on the face of the record as the Planning Commission was misled in this regard by the case officer.</i></p> | <p>Final opinion dated 22<sup>nd</sup> December 2017 received.</p> <p>A reply was sent by the PA on 25<sup>th</sup> May 2018, stating that the PA has always been consistent with its interpretation on the issue of local shops and was further clarified with the Flexibility Policy.</p> <p>The Commissioner's latest communication dated 30<sup>th</sup> May 2018 stated that the Planning Board is to decide on the invocation of Article 80 to one of the planning applications and to determine the second planning application.</p> | <p>Closed and recommendation not implemented.</p> |
|----------------------------------|----------------|---|---|---|---|

| SECTOR                    | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER | ACTION MANAGEMENT COMMENTS  | STATUS  |
|---------------------------|-----------------------------|---|------------------------------------|---|---|
| <b>Planning Authority</b> | ER 0050                     | Complaint about lack of archaeological monitoring for a site in Mosta.  | No recommendation                  | Investigation opened on 7 <sup>th</sup> November 2017.<br>The PA replied on 5 <sup>th</sup> December 2017, confirming that an archaeology monitor was approved by the SCH and appointed on the 11 <sup>th</sup> October 2017. SCH also confirmed that that an archaeology monitor was appointed, and works are being monitored under the direction of the Superintendence as per permit conditions.<br>No further communication from the Commissioner or final opinion was received.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Planning Authority</b> | ER 0055                     | Complaint regarding failure by the Planning Authority to act against alleged illegal use of a dwelling in Birkirkara. | No recommendation                  | Investigation opened on 24 <sup>th</sup> November 2017.<br>PA replied on 12 <sup>th</sup> December 2017, confirming that several permits were granted for further additions and alterations. In view of this, the Commissioner was informed that the permitted use of this building is not a single dwelling unit but a residential home for intellectual and/or physically challenged persons. It was also confirmed that after recent inspections, it was revealed that all the rooms are being used as permitted.<br>No further communication or Final Opinion was received from the Commissioner. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

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| <p><b>Planning<br/>Authority</b></p> | <p>ER 0056</p> | <p>Complaint for failure to abide by law in approving the demolition of ex-SeaMalta building.</p> | <p><i>The complaint lodged against the Planning Authority on alleged failure to abide by law in authorising the demolition of ex-Sea Malta building at Marsa is sustained.</i></p> <p><i>The authorisation issued by the Planning Authority on 27 October 2017 for the demolition of part of the Sea Malta Building at Xatt l-Għassara tal-Gheneb, Marsa should be rendered null and void since the Planning Authority did not appoint a Perit to inspect the site.</i></p> <p><i>The appointment of a Perit by the Planning Authority to inspect the site should be done at the very early stages of the processing of similar applications for the removal of dangerous structures.</i></p> <p><i>A minor amendment to the relative application form for the removal of dangerous structures is being suggested, requiring applicants to state whether the building, rather than the site, is scheduled.</i></p> | <p>The Commissioner opened investigation on 24<sup>th</sup> November 2017.</p> <p>Reply by the Planning Authority to the Final Opinion was sent on 25<sup>th</sup> April 2016, noting the conclusions and the recommendations in the Final Opinion, and stating that they are not in agreement with the Commissioner’s opinion that the authorisation issued by the Authority for the demolition of part of the SeaMalta Building should be rendered null and void.</p> <p>The Commissioner was also informed that the Authority appointed a Perit in private practice to carry out inspections of properties to be demolished and to report thereon before it authorises their demolition.</p> | <p>Suspended due to court proceedings.</p> |
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| SECTOR             | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER  | ACTION MANAGEMENT COMMENTS  | STATUS               |
|--------------------|-----------------------------|---|---|---|----------------------|
| Planning Authority | ER 0059                     | Complaint regarding a regularisation procedure application in the South of Malta. | <p><i>The Planning Authority or any other relevant Authority should be equipped to immediately tackle issues related to imminent danger or illegal demolition works for a few days until a preliminary 'prima facie' site inspection is carried out by a Perit appointed by the Authority.</i></p> <p>No recommendation</p> | <p>Investigation opened on 18<sup>th</sup> December 2017.</p> <p>Last PA reply is dated 5<sup>th</sup> February 2018, confirming that the notice of objection to this Regularisation Application was uploaded on the PA's system, and therefore was officially notified to the Authority on 5<sup>th</sup> February 2018.</p> <p>Moreover, it was clarified that in the Lands Authority's No Objection Letter dated 20<sup>th</sup> July 2017, the LA had stated that 'this clearance is also being issued without prejudice to a final decision being taken by the Lands Authority in respect of any development that is permitted by the PA', and that 'the LA also reserved the right to refuse granting the necessary final clearance for any planning permit that might be issued.'</p> <p>DN file cannot be traced.</p> | Pending at Ministry. |
| Planning Authority | ER 0061                     | Complaint regarding an alleged missing DN file.                                   | No recommendation   | DN file cannot be traced.   | Pending at Ministry. |

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| SECTOR                    | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS  | STATUS                                 |
|---------------------------|-----------------------------|---|--|---|--|
| <b>Planning Authority</b> | CEP/1/2/P1                  | The Commissioner requested a list of PA file numbers where final decisions, including refusals, overturned the original recommendation/recommendation/decision both for EPC/Planning Board decisions against Case Officer's report and Planning Review Tribunal against EPC/PA decisions. | The Commissioner requested information on own initiative.  | The PA compiled and referred the list of cases as requested by the Commissioner excluding EPRT cases. | Closed and recommendation implemented. |
| <b>Transport Malta</b>    | ER 0010                     | Failure to take action to complete road formation in the North of Malta.  | <p><i>The complaint that TM acted unfairly by refusing to carry out final formation works on the road is not sustained. The road has not yet been formed to its full width as, in order to do so, expropriation of land opposite complainant's property is necessary.</i></p> <p><i>This entails considerable expense, which will ultimately have to be borne by the owners of the development fronting onto that part of the road. The complaint that TM acted in a discriminatory manner by prioritising completion works on other streets [...] which were not so deserving of attention is likewise not sustained.</i></p> | Not applicable.   | Closed without recommendation.         |

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|        |                                |                          | <p><i>It is not the state of the road surface but the degree of completion which is the determining factor.</i></p> <p><i>The streets mentioned in the case have development on both sides, which means that the roadway has been formed to its full width, unlike the case in question. To this effect, Ombudsman recommended the Complainant that one can opt either to apply for permission to reduce the street width, thereby minimising the expropriation costs, or come to an agreement with the residents to carry out temporary surfacing works to remove the present inconvenience until the issue on the full width formation of the roadway is finally determined.</i></p> |                               |        |

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| SECTOR                 | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER | ACTION MANAGEMENT COMMENTS   | STATUS                         |
|------------------------|-----------------------------|--|------------------------------------|--|--------------------------------|
| <b>Transport Malta</b> | ER 0011                     | Complaint about failure to implement regulations to curb engine noise by stationary buses.   | No recommendation                  | <p>In agreement with the Commissioner's office the following will take place:</p> <ul style="list-style-type: none"> <li>Malta Public Transport (MPT) will be conducting preliminary sound readings from two streets to measure the funnel sound effect emanated by buses in these 2 streets. Further tests will be conducted, whereby tests will be conducted with buses located in other places within the square.</li> <li>Following this, contact was made in order to conduct these tests jointly with the Authority that has raised the issue with the Commissioner.</li> <li>MPT also provided to the complainant a telephone number that he can call when he notices such incidents for MPT to take immediate action.</li> </ul> | Closed without recommendation. |
| <b>Transport Malta</b> | ER 0013                     | Complaint about the implementation of cycling rules along public promenades. Transport Malta has given the green light for a bicycle-sharing scheme locally, which is certainly a positive step to encourage diversification in transport modes available to the public. It would seem that there are already encouraging signs of a take-up of this scheme. An interesting detail is that one can now notice people enjoying cycling at a leisurely rate along the promenade. | No recommendation                  | <p>Meeting arrangements have been done by TM Chairman's Office. Awaiting feedback from the Commissioner for Environment and Planning.</p>  | Pending at Ombudsman.          |

| SECTOR          | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER   | ACTION<br>MANAGEMENT COMMENTS  | STATUS                                 |
|-----------------|--------------------------------|---|---|--|--|
| Transport Malta | ER 0039                        | <p>Unfortunately, this is a contravention at present, since local regulations prohibit cycling by adults on public promenades. However, the matter requires further looking into, since there could possibly be situations where carefully-controlled use would be beneficial.</p> <p>The Commissioner has opened an 'own-initiative' investigation on this issue, and wishes to hold a meeting with designated person in charge.</p> | <p><i>Recommendation addressed solely to the BRO states that the BRO should apply rigorously LN 295 of 2007 when issuing similar approvals; consider removal of demolition debris from site as excavation works when applying the same legal notice; ensure that developers carry out demolition works under strict mitigation measures and that these works are not embarked upon just before the start of summer; and approve similar works to be carried out and</i></p> | <p>The Office of the Commissioner referred recommendation to the Building Regulation Office (BRO) on 4<sup>th</sup> October 2017.</p> <p>BRO took onboard and discussed the observations highlighted by the Commissioner for Planning and the Environment with the Enforcement Directorate of Transport Malta for any eventual occurrence of a similar nature.</p> | Closed and recommendation implemented. |

| SECTOR | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER  | ACTION MANAGEMENT COMMENTS | STATUS |
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|        |                             | <p>More specifically, the complaint alleged that Transport Malta is not the competent authority to grant such permits as it should have been the Police or the Local Council, in terms of the Traffic Regulation Ordinance (Chap. 65) Art. 52(1). In such cases, it is normal to issue a notice in the Government Gazette. This was not done in this case.</p> <p>It is alleged that Transport Malta is only authorized to close roads in the case of road works. No road works were to be carried out in this case.</p> | <p><i>approve similar works to be carried out in tourist areas and/or at night in exceptional circumstances and under stricter control.</i></p> |                            |        |

| SECTOR                     | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS   | STATUS  |
|----------------------------|-----------------------------|---|--|--|---|
| Planning Authority         | ER 0052                     | Complaint regarding the lack of provision of no stopping signs fixed in front of a particular building. | No recommendation  | <p>TM acted immediately without awaiting recommendation due to the hazardous context of the case. To this effect, the case in question was discussed during the Traffic Control Committee meeting dated 7<sup>th</sup> December 2016 for the erection of tower crane and request for reserved parking spaces to construction vehicles. Approval has been given.</p> <p>The sign has been erected by the project owner/contractor. The sign was placed facing the side of the road and probably the arrow sign was painted horizontal to show start of prohibition. The sign should be facing oncoming traffic and the arrow vertical.</p> <p>The project owner/contractor was contacted to take remedial action.</p> | Investigated and closed without recommendation. |
| Building Regulation Office | ER 0005                     | Complaint about unfair treatment by BRO in requesting EPC of a sold property in Birkirkara.             | The Commissioner recommended that BRO send letter of notification to buyer.            | Action taken as per recommendation by the Commissioner.<br>Recommendation was accepted by BRO and remedial action was taken.   | Closed and recommendation implemented.          |
| Building Regulation Office | ER 0018                     | Complaint about unfair treatment by BRO requesting EPC of sold property in the south of Malta.          | The Commissioner recommended that BRO send letter of notification to buyer.            | Action taken as per recommendation by the Commissioner.<br>Recommendation was accepted by BRO and remedial action was taken.   | Closed and recommendation implemented.          |
| Building Regulation Office | ER 0037                     | Complaint about unfair treatment by BRO requesting EPC of sold property in the south of Malta.          | The Commissioner recommended that BRO send letter of notification to buyer.            | Action taken as per recommendation by the Commissioner.<br>Recommendation was accepted by BRO and remedial action was taken.   | Closed and recommendation implemented.          |
| Building Regulation Office | ER 0039                     | Alleged lack of procedures in permitting removal of construction debris at night.                       | The Commissioner recommended better co-ordination between Transport Malta and the BRO. | Action taken as per recommendation by the Commissioner.<br>Recommendation was accepted by BRO and remedial action was taken.   | Closed and recommendation implemented.          |

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|--|-----------------------------|--|--|--|---|
| <b>Superintendence of Cultural Heritage</b>    | ER 0025                     | Case about alleged improper assessment of the heritage cultural value of a site in Gozo.   | No recommendation  | The Superintendence of Cultural Heritage (SCH) issued an order of Conservation and Protection on 1 <sup>st</sup> September 2017.<br><br>Nonetheless, till now the SCH has not yet replied to the Commissioner's request made on 14 <sup>th</sup> September 2017 for information about what actions have been carried about to fulfil the conservation order. | Pending at Ministry.  |
| <b>Superintendence of Cultural Heritage</b>    | ER 0026                     | Case about an alleged improper assessment of the heritage cultural value of a site in Gozo.  | No recommendation  | Case opened on 23 <sup>rd</sup> June 2017, and was closed on 24 <sup>th</sup> July 2017, since the complaint was not accepted.<br><br>It was found that the SCH had made all the requested consultations about this application, and also because the complainant had every opportunity to file an appeal during the process.                                | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Regulator for Energy and Water Services</b> | ER 0015                     | Complaint was lodged against the then Malta Resources Authority regarding lack of action against removal of LPG storage tank on premises in central Malta. | No recommendation  | No action needed to be taken by REWS since complaint was not sustained.  | Investigated and closed without recommendation.   |
| <b>Regulator for Energy and Water Services</b> | ER 0051                     | Complaint was lodged against the Regulator for Energy and Water Services (REWS) regarding alleged lack of fairness or balance in renewable energy rights.  | <i>This investigation calls for the promotion of collective schemes rather than individual schemes, such as solar farms or large systems installed on educational or industrial buildings that are most cost-effective and less susceptible to over-shading from nearby buildings due to their detached character.</i> | No action needed to be taken by REWS since complaint was not sustained.  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

| SECTOR          | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER | ACTION<br>MANAGEMENT COMMENTS  | STATUS               |
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| Lands Authority | ER 0059                        | Alleged undue interference by one of the Authority's employees, when a no objection which had been issued was revoked and changed to an objection.  | No recommendation                     | The Internal Audit and Investigation Directorate investigated this case and communicated its conclusions to the Commissioner on 15 <sup>th</sup> June 2018.<br><br>Further to a meeting held between the Lands Authority and the Commissioner, the latter requested further clarifications on the case. LA is in process of submitting required information. | Pending at Ministry. |
| Lands Authority | ER 0062                        | An enforcement notice was issued by MEPA in 2014 for an infringement concerning an illegal planter and extension to pavement without permit.<br><br>The enforcement notice was issued against the Commissioner of Lands after:<br><br>- a private individual applied to sanction the built planter and MEPA refused permission; and<br><br>- the Žejtun Local Council had widened the footpath without obtaining the necessary permits. | No recommendation                     | Although this case has been referred to the Lands Authority, Žejtun Local Council is responsible for the road in question.<br><br>A formal reply has not yet been forwarded to the Commissioner, since the Authority was still awaiting information related to this case.  | Pending at Ministry. |

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| <b>Office of the Prime Minister</b>                                | ER 0004                     | Refers to a complaint received at the Commissioner for Environment and Planning on 6 <sup>th</sup> February 2017 regarding the alleged conflict of interest by a consultant recruited by the Parliamentary Secretary for the Environment and Planning, which at the time used to form part of the Office of the Prime Minister. The complaint was in relation to the same consultant performing private work in the same line of his profession. | No recommendation                  | Perit Alan Saliba, Commissioner for the Environment and Planning, Office of the Ombudsman has informed this Office that the case was closed on 17 <sup>th</sup> February 2017, where after a meeting held with the complainant, the Commissioner found that there were no sufficient reasons for an investigation to be made on the case.  | Investigated and closed without recommendation. |
| <b>Ministry for Transport, Infrastructure and Capital Projects</b> | ER 0009                     | A complaint regarding maintenance works, including cleaning a site in Mosta.   | No recommendation                  | The Marine and Storm Water Unit is no longer responsible for the requested cleansing and maintenance since the Valley Management no longer forms part of this Unit. This has been transferred to MESDC.<br><br>A reply was provided to the complainant, stating that such restoration will take place within the implementation of RAINWIN project, which at the time was still at drafting stage. A request for funding for this project was made on 12 <sup>th</sup> September 2018, and outcome of such application is awaited. | Pending at Ministry.                            |

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|---|---------|--|--|--|---|
| <b>Environment and Planning Review Tribunal</b> | ER 0058 | Case was not communicated to the Environment and Planning Review Tribunal because it was outside jurisdiction.   | No recommendation  | The EPRT was contacted by Perit David Pace over the phone, where he explained the nature of the complaint he received. He was informed him that as per the Ombudsman Act (Cap. 385), the Planning and Environment Commissioner does not have any remit to investigate complaints regarding the Tribunal, since the Ombudsman Act, precisely in according to Article 12(3)(a) and Schedule 1A, does not apply to the Tribunal which is a quasi-judicial board constituted by law, and urged him that any complaint, in particular since it was related to a pending appeal case, should be referred directly to the Tribunal through normal formal pleas. No further communication has been received from the Commissioner.   | Investigated and closed without recommendation. |
| <b>Environment and Resources Authority</b>      | ER 0043 | Complaint lodged by a resident in the south of Malta on issues relating to toxic fumes, noise, abnormal operating times and fire hazard, allegedly all emanating from a Plant. | One key recommendation by the Commissioner in the interim was to change air monitoring stations. This request was sent on 7 <sup>th</sup> November 2017. | WasteServ replied to a specific request for information sent by the Commissioner on air monitoring, noise pollution, fire prevention, risk management operations and operating times. This was sent on 17 <sup>th</sup> October 2017. Further clarifications of operations and requests for readings of monitoring were also provided on 10 <sup>th</sup> November and 7 <sup>th</sup> December 2017.<br><br>As the regulator, ERA replied to the request by the Commissioner, specifically on air quality monitoring on 30 <sup>th</sup> October 2017.<br><br>The case is not closed, and communication between the Commissioner and the entities, particularly WasteServ has been ongoing, with latest communication taking place on 1 <sup>st</sup> July 2018 with WS clarifying further. | On hold.  |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE COMMISSIONER**

**BRIEF DETAILS  
OF CASE**

**COMMISSIONER  
CASE REFERENCE**

**SECTOR**

| SECTOR                            | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER   | ACTION<br>MANAGEMENT COMMENTS   | STATUS  |
|-----------------------------------|--------------------------------|---|---|---|---|
| <b>Wasteserv</b>                  | ER 0043                        | <p>Inconveniences caused by the Sant Antnin Recycling Plant.</p> <p>A complaint by a resident in the south of Malta on issues relating to toxic fumes, noise, abnormal operating times and fire hazard, allegedly all emanating from the plant.</p> | <p>The Commissioner requested WSM to provide:</p> <ol style="list-style-type: none"> <li>1. Air-monitoring procedures that are carried out around Triq il-Gemmugha area and relative results.</li> <li>2. Noise pollution mitigation measures.</li> <li>3. Fire prevention measures.</li> <li>4. Risk management operations, particularly near gas production and gas storage facilities.</li> <li>5. Operating times.</li> </ol> | <p>Following communication by ERA that the air monitoring station cannot be changed, ERA asked WS to monitor the area requested in addition at its own expense. In view that the complainant is just one resident, WS didn't deem it valuable to uphold such cost.</p> <p>Information requested was submitted to the Commissioner on 17<sup>th</sup> October 2017 providing all details requested.</p> <p>Wasteserv supported all requests from the Commissioner and collaborated.</p> <p>Remedial action is being taken to mitigate the complaint.</p> | On hold.  |
| <b>Water Services Corporation</b> | ER 0023                        | A complaint regarding an alleged blockage and malfunctioning system.  |   | Blockage was removed and the system started functioning properly.   | Investigated and closed without recommendation. |
| <b>Enemalta</b>                   | ER 0040                        | A case regarding the installation of a service box in Valletta.   | No recommendation   | The issue was settled amicably with the complainant, and case was closed.<br><br>No opinion was provided by the Commissioner for Environment and Planning, as matter was settled amicably.  | Investigated and closed without recommendation. |

| SECTOR        | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER | ACTION<br>MANAGEMENT COMMENTS  | STATUS                                 |
|---------------|--------------------------------|---|---------------------------------------|--|--|
| Local Council | ER 0032                        | Case was about alleged lack of action to provide public access to a part of a site in the north of Malta. | No recommendation                     | Case was closed on 27 <sup>th</sup> July 2017 on request of the complainant, with no need of a final opinion, as tenders regarding the concessions of the land in question were published. | Closed, case withdrawn by complainant. |



COMMISSIONER FOR ENVIRONMENT AND PLANNING -  
FOLLOW-UP ON PRE-2017 CASES



| SECTOR                | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE   | RECOMMENDATION<br>BY THE COMMISSIONER  | ACTION<br>MANAGEMENT COMMENTS  | STATUS                                  |
|-----------------------|--------------------------------|--|--|--|---|
| Planning<br>Authority | EQ 0027                        | Complaint against alleged incorrect procedures in deadline with objection by interested parties with regard to a particular planning application for a site in Sliema. | <p><i>L-ilmenti mressqa m'humieq sostnuti h'ief dak li jirrigwarda l-obbligu tal-Awtorità li tgħarraf lill-objectors, bhala l-persuni li kienu ser jintlaqtu mid-decizjoni, dwar id-data u l-hin tal-laqgħa meta t-talba kienet ser tkun ikkunsidrata u li f'każ li dawn jattendu, li tisma' s-sottomissjonijiet tagħhom. Nuqqas dan li, fil-fehma tiegħi, ma incidieq materjalment fuq id-decizjoni tal-Awtorità billi l-complainant naqas li jipprova l-ilment tiegħu fis-sustanza.</i></p> <p><i>Għalhekk qiegħed jigi rakkomandat li t-talba għar-revoka tal-permessi [...] magħmula mill-complainants skont l-ittra tal-Perit [...] terga' tigi ikkunsidrata mill-gdid mill-Bord tal-Awtorità u li qabel ma tiegħu decizjoni fuq it-talba, issegwi l-procedura stabbilita mil-Ligi billi tgħarraf lil kull persuna li tista' tintlaqat minn din id-decizjoni bid-data u l-hin tal-laqgħa u li tisma' s-sottomissjonijiet ta' min minnhom ikun preżenti.</i></p> | Investigation opened by the Commissioner on 26 <sup>th</sup> October 2016. The Planning Authority replied on 14 <sup>th</sup> November 2016, stating that prior to April 2016, all cases dealing with the revocation of permits in accordance with Article 77 were all decided by the MEPA Board behind closed doors. It was only after the enactment of the DPA 2016 that such cases are being decided by the PA board in a public sitting. | Closed and recommendation not accepted. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE COMMISSIONER**

**BRIEF DETAILS  
OF CASE**

**COMMISSIONER  
CASE REFERENCE**

**SECTOR**

| SECTOR                    | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER  | ACTION MANAGEMENT COMMENTS  | STATUS                                 |
|---------------------------|-----------------------------|---|---|---|--|
| <b>Planning Authority</b> | EQ 0028                     | Complaint against alleged failure to take remedial action against incorrect information supplied with a particular planning application on a site in Gormi. | <i>It is recommended that the Authority should recall application [...] and reassess the application in the light of the foregoing so that the Board can have the full facts before it when taking a decision on this application.</i>  | Final Opinion dated 17 <sup>th</sup> March 2017 received.<br>The PA replied to the Final Opinion on 20 <sup>th</sup> April 2017, stating that the Authority contends that the reassessment of the particular planning application does not arise.<br>The Commissioner replied on 24 <sup>th</sup> April 2017, insisting that file should be recalled and re-assessed. A further email was sent on 22 <sup>nd</sup> June 2017 after meeting with the complainant's legal advisor.<br>The PA replied on 26 <sup>th</sup> June 2018 contemplating on invoking Article 80 to a planning application.<br>The Commissioner replied on 2 <sup>nd</sup> October 2017.<br>The PA discussed in public the invocation of Article 80 to the planning application and rejected this request. An appeal has been submitted by the objector against refusal to revoke permit. Awaiting decision of appeal. | On hold.                               |
| <b>Planning Authority</b> | EQ 0050                     | Alleged incorrect application of policy in relation to withholding access to information and determination of particular planning application.              | <i>It is being recommended that PA should:<br/>Publish the applicant architect's reply to the case officer's report in PA 3913/16 and in all other cases so that this document is available to all architects and representees; and<br/>Establish the parking requirement of any new development in relation to the original permit</i> | Final Opinion dated 25 <sup>th</sup> September 2017 received.<br>The PA replied on 12 <sup>th</sup> December 2017, noting the Commissioner's conclusions and remarks, and communicated remarks on same.   | Closed and recommendation implemented. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
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**BRIEF DETAILS  
OF CASE**

**COMMISSIONER  
CASE REFERENCE**

**SECTOR**

| SECTOR                            | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER  | ACTION<br>MANAGEMENT COMMENTS  | STATUS   |
|-----------------------------------|--------------------------------|---|--|--|--|
| <p><b>ORNIS<br/>Committee</b></p> | <p>EQ 0030</p>                 | <p>Complaint against alleged discriminatory treatment by ORNIS Committee in handling application for a scientific study project.</p> <p>The complainant submitted a proposal dated 8<sup>th</sup> April 2016 to capture and fit satellite tags on up to ten Blue Rock Thrushes. This was discussed by the Ornis Committee on 20<sup>th</sup> April 2016 and 18<sup>th</sup> May 2016.</p> <p>The Committee refused the study and the complainant was informed on 19<sup>th</sup> May 2016 with a detailed explanation behind the decision.</p> <p>On 27<sup>th</sup> May 2016, the complainant submitted an objection and requested the points raised in his letter to be discussed by the ORNIS Committee so that the original decision is reconsidered.</p> | <p><i>issued according to the policies established at the time the original permit was issued, and not applying more recent policies to previously approved permits.</i></p> | <p>Case was opened by the Commissioner on 24<sup>th</sup> April 2017. The case was discussed by the ORNIS Committee on 10<sup>th</sup> May 2017, but no decision was taken at that sitting.</p> <p>On 31<sup>st</sup> July 2017 the Permanent Secretary wrote to the Commissioner, concluding that <i>in recognition and respect for the Committee's autonomy, the Ministry can only request the Committee to re-consider its position in relation to a fresh project proposal but cannot force the Committee to necessarily approve such a proposal.</i></p> <p>On 2<sup>nd</sup> October 2017, the Secretary of the ORNIS Committee informed the complainant that the Committee is willing to consider a fresh proposal and invited him to discuss the project during the meeting held on 18<sup>th</sup> October 2017. The complainant attended the ORNIS meeting of 18<sup>th</sup> October 2017 and confirmed that the project is the same as submitted in 2016. The Chairman queried the reasons behind the complainant's reluctance to accept the bird ringing component. The complainant explained that the main reason is that the project activities are envisaged to take place on privately-owned land, and that the landowner would not permit access to his land to Birdlife Malta bird ringers.</p> | <p>Investigated and closed without recommendation.</p> |

**STATUS**

**ACTION  
 MANAGEMENT COMMENTS**

**RECOMMENDATION  
 BY THE COMMISSIONER**

**BRIEF DETAILS  
 OF CASE**

**COMMISSIONER  
 CASE REFERENCE**

**SECTOR**

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|  |  |  | <p>On 9<sup>th</sup> June 2016, the ORNIS Committee discussed the proposal afresh but it was once again refused.</p> |  | <p>The other reason is that the project involves partnership with the members of the hunting community, and these members would be reluctant to accept BLM involvement. Finally, bird ringing was not envisaged as part of the project's design or seen as being necessary to the project's aims. Therefore, the complainant saw no reason why bird ringing must be imposed, when there is no legal requirement. The Chairman asked whether the complainant may consider performing bird ringing recommended by ORNIS without direct involvement from Birdlife Malta. The complainant indicated that although this is not strictly necessary, bird ringing can be performed by his foreign partner in the project who has EURING-endorsed bird ringing licence.</p> <p>The ORNIS Committee approved the complainant's project subject to a condition that the birds caught are fitted with a scientific ring as this was deemed to be best practice.</p> |  |
|--|--|--|--|--|--|--|

CASES HANDLED BY THE  
COMMISSIONER FOR HEALTH



On the basis of the Public Administration’s findings, the Commissioner for Health has, during the year 2017, been presented with 57 new cases. On top of this, the Commissioner had another 28 cases pending from previous years. This means that in 2017, the total caseload was of 85 complaints.

Of these, for 5 new cases and 3 of previously pending cases, the Commissioner concluded that the complaint could not be investigated by his Office. This represents approximately 10% of the total caseload.

Consequently, in 2017 the Commissioner concluded the investigations in 33 of newly presented complaints and 11 of the previously pending caseload. Hence, 52% of investigations were concluded during 2017.

DIAGRAM 11

**Identifying the caseload and status of complaints and investigations carried out by the Commissioner for Health in 2017**

Commissioner for Health  
Caseload: Status

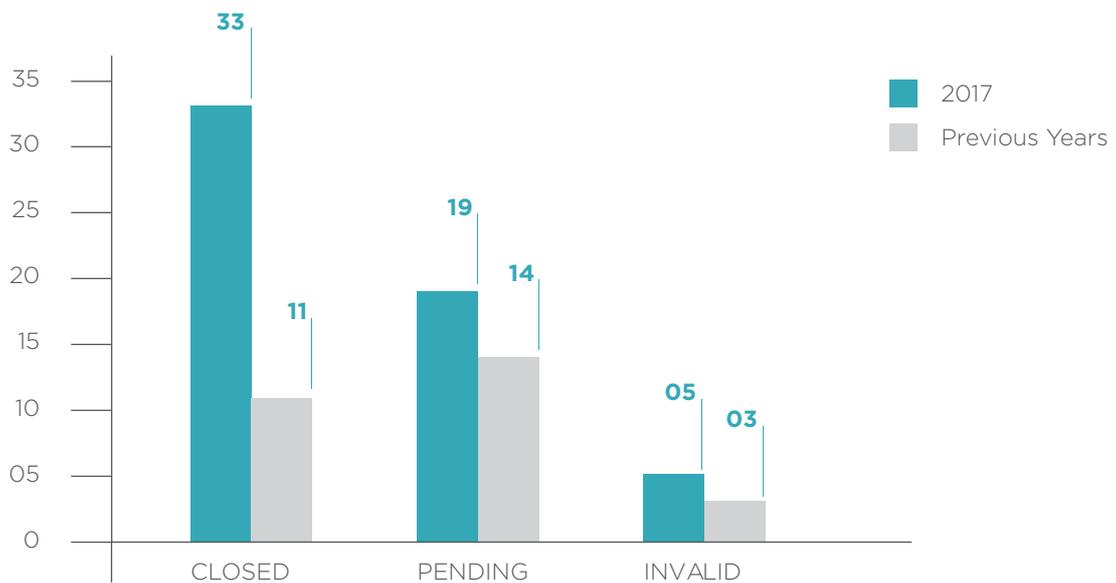
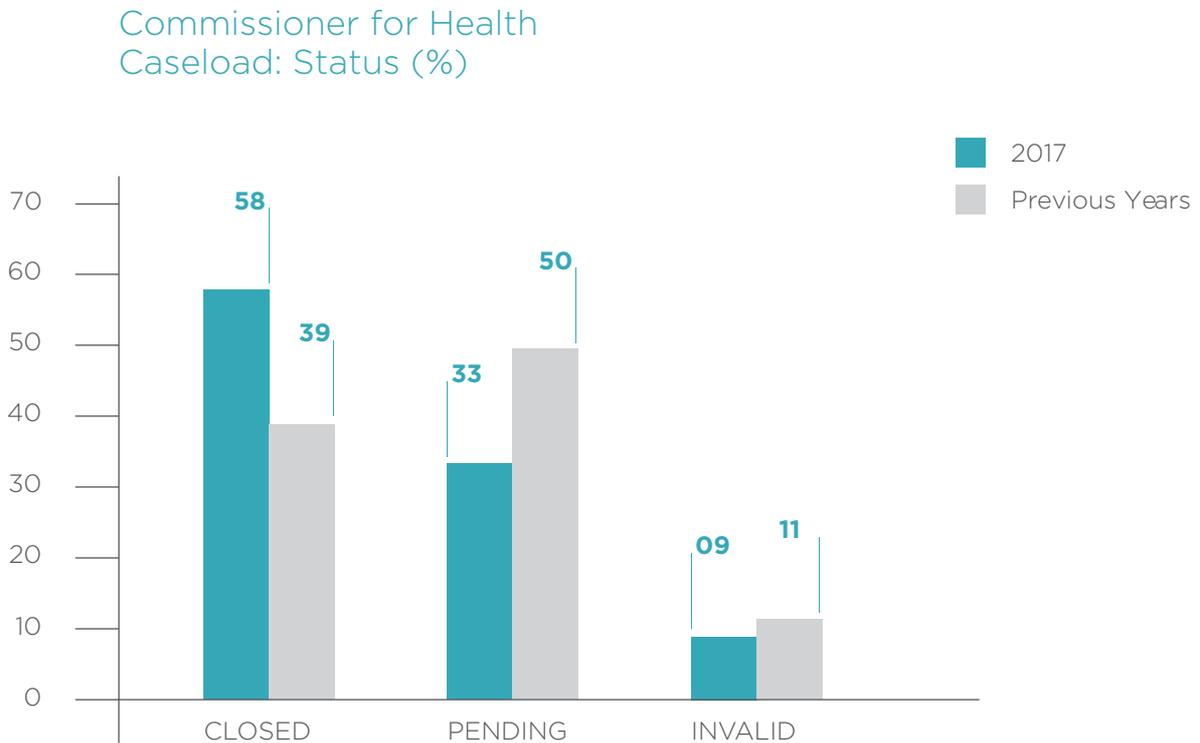


DIAGRAM 12

Identifying the case load and status of complaints and investigations carried out by the Commissioner for Health in 2017 presented as a % of total caseload (n=85)



The assessment executed during the course of this situation audit concluded that there remained a total of 33 (39%) investigations remained pending at the end of 2017. Of these, it emerged that in 19 (56%) instances, the investigation was pending action by the concerned public entity. Whilst a case by case outline is presented in the relevant Section of this report, the concerned public entities have been instructed to conclude pending actions as soon as practical.

Directing attention to the 44 (52% of total caseload) concluded investigations, it emerges that in approximately 39% of complaints investigated, the Commissioner

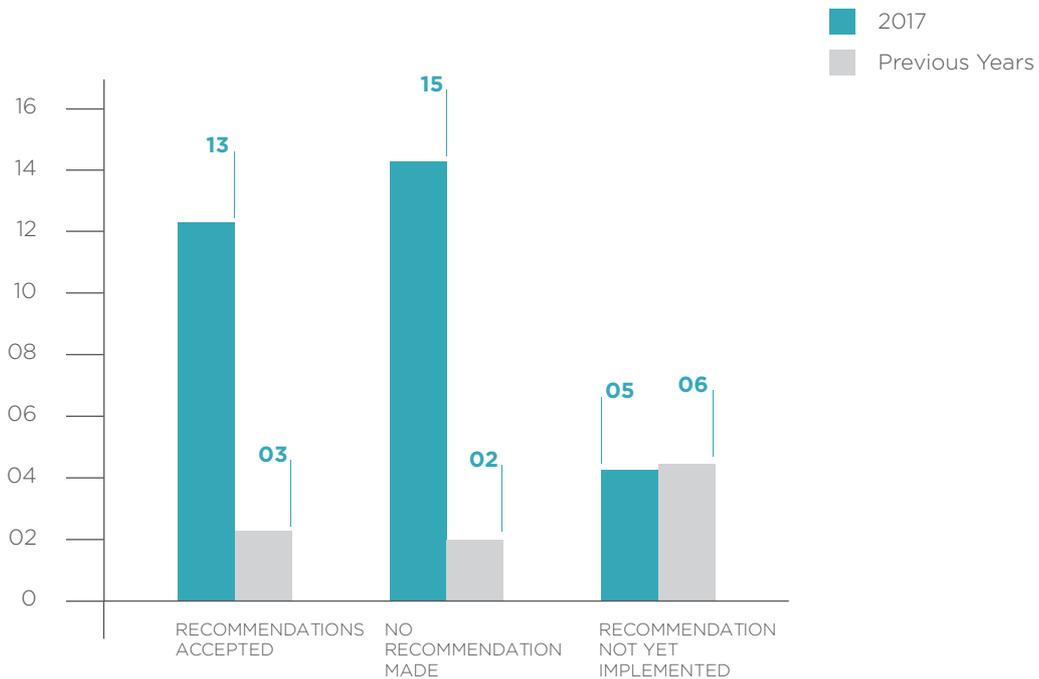
concluded that the Public Administration acted correctly. In another 36%, the Public Administration had already implemented any recommendations presented to it by the Commissioner.

This however means that for reasons identified in the relevant case by case outline presented in this report, the Public Administration had yet to implement the recommendations made in 25% of concluded investigations. Again it is asserted that the analysis and audit carried out by the Public Administration did not find evidence to conclude that the recommendations were not being taken seriously and acted upon.

DIAGRAM 13

**Identifying status of concluded investigations carried out by the Commissioner for Health in 2017.**

Commissioner for Health  
Concluded Investigations: Status



To put things in perspective however, it is to be noted that the number of complaints investigated by the Commissioner for Health and more so the number of instances where emerging recommendations have yet to be fully implemented pales in consideration of the thousands of customer interactions that the Ministry for Health handles on a daily basis.

This is no excuse and our commitment remains as strong as it has ever been. However, sometimes, it is necessary and important to put things in some perspective. Otherwise the dedication, sacrifice and reputation of the big team of highly dedicated professionals risks being overlooked instead of commended.



COMMISSIONER FOR  
HEALTH



**SECTOR**

**COMMISSIONER  
CASE REFERENCE**

**BRIEF DETAILS  
OF CASE**

**RECOMMENDATION  
BY THE COMMISSIONER**

**ACTION  
MANAGEMENT COMMENTS**

**STATUS**

|                      |  |  |   |  |   |
|----------------------|--|--|---|--|---|
| <p><b>Health</b></p> | <p>HR 0002</p>   | <p>Complaint from doctor who specialised in one field but was placed in a different specialty, and who requested to be placed in field of choice.</p>  | <p>Commissioner requested rectification of situation.</p>   | <p>Doctor was placed in speciality of choice, and Commissioner informed accordingly.</p>   | <p>Closed and recommendation implemented.</p> |
| <p><b>Health</b></p> | <p>HR 0004</p>   | <p>Case referred to a claim submitted by a lawyer representing a staff member at Gozo General Hospital. The hospital management formally informed the individual to start performing duties related to higher position which he accepted. However, after one year performing such duties, salary was not adjusted to reflect the new duties, and a call for the vacant higher post was never issued.</p> | <p>Commissioner recommended that staff member be given backdated deputising allowance to date and until claimant continues to carry out the duties of the higher position.</p>  | <p>MFH engaged in discussions with Gozo General Hospital Management in order to establish a structure and a career stream for the post in question. Consultations are now in the final stages. Case is being delayed, given these consultations. This was communicated to the Commissioner in May 2018 and Commissioner commented that a reply is still waited for.</p>  | <p>Pending at Ministry.</p>                   |
| <p><b>Health</b></p> | <p>HR 0006<br/>HR 0065<br/>HQ 0016<br/>HS 0039<br/>HS 0044</p> | <p>Cases of several patients with specific different pathologies who claimed discrimination at not being entitled to obtain medication that was on the government formulary list.</p>  | <p>Commissioner insisted and requested MFH to issue medication that was on the government formulary list even though the criteria established in the protocols for eligibility for such medication were not met by these cases.</p> | <p>MFH informed Commissioner that Schedule V protocols take into consideration the sustainability of the health care services, amongst other things, and that adhering to established protocols did not place MFH in breach of the law as alleged by the Commissioner. Such communication was referred to the Commissioner in October 2017.<br/><br/>Moreover, on 7<sup>th</sup> August 2018, Health reiterated and maintained the position stated in various previous correspondences - namely that protocols are established by the Ministry's competent authorities as set up by law.</p> | <p>Pending at Ministry.</p>                   |

**STATUS**

**ACTION  
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**BRIEF DETAILS  
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**COMMISSIONER  
CASE REFERENCE**

**SECTOR**

| SECTOR | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER  | ACTION MANAGEMENT COMMENTS   | STATUS                                    |
|--------|-----------------------------|--|---|--|---|
| Health | HR 0007                     | <p>Claim raised by staff member at MDH, who stated that on having obtained the MQRIC Level 4 qualification, complainant was formally informed in writing by HR at MDH of being placed in salary Scale 12, as per February 2016 Collective Agreement with the GWU. However, in July 2016 complainant was informed of being placed in Salary Scale 13. The justification given by MFH was that there were not sufficient credits for placing in salary scale 12. Claimant complained that the number of credits was not specified in the Collective Agreement, and nor were credits mentioned during discussions prior to the commencement of the said course.</p> | <p>Commissioner insisted that protocols are discriminatory and in breach of Social Security Act, and hence should be amended so that these patients become entitled for free treatment.</p> | <p>The protocols are a necessity, indeed an obligation, to ensure that maximum clinical benefit is achieved within the Ministry's resources.</p> <p>On 9<sup>th</sup> August 2018, Commissioner replied and asked MFH to reconsider position, and MFH is seeking further legal advice on the matter.</p> <p>MFH decided on the merits of this case based on the provisions laid down in the Referencing Reports issued by the NCFHE in respect of eligibility criteria concerning qualifications and awards. MFH considered that in this case, it was an award and not a qualification.</p> <p>This case is similar to Case Number UR 0008 under the Commissioner for Education.</p> <p>Case delayed due to lack of agreement between OPM and Commissioner decision.</p> | Closed, case referred to Grievances Unit. |

| SECTOR | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER  | ACTION MANAGEMENT COMMENTS  | STATUS   |
|--------|-----------------------------|---|---|---|--|
| Health | HR 0009                     | Patient injured in 2010, and requiring surgical intervention, claimed disagreement with managing consultant plan. Moreover, patient requested to be sent overseas or seen locally by visiting consultant for second opinion.  | Commissioner requested that patient in question be sent overseas for second opinion or be seen locally by visiting consultant.  | Case was reviewed, but did not align with applicable policy requirements for overseas treatment, and Commissioner was notified accordingly.<br><br>Commissioner was also informed that patient has been transferred under the care of a different consultant for a new review, and that the report by said consultant confirmed what the patient was told by the previous consultant. Copy of report was sent to the Commissioner on 13 <sup>th</sup> April 2018. | Closed and recommendation implemented.   |
| Health | HR 0011                     | Case concerned a complaint by a patient that Gozo General Hospital does not have designated rehabilitation beds.  | No recommendation   | Case resolved as patient was retained in acute wards at Gozo General Hospital.  | Closed by the Ombudsman after management replied to one request for information. |
| Health | HR 0013                     | Complainant was injured at workplace and intended to sue former employer. Therefore, complainant requested medical certificates from MDH regarding percentage disability sustained. MFH replied that certificates were not issued by MDH but court experts against payment and MDH offered to give complainant a copy of medical history. | Commissioner initially requested MDH to give complainant medical certificates regarding percentage disability. Later, this was change to a request for a medical history. | MFH provided complainant with a copy of the Medical History.  | Closed and recommendation implemented.   |

**STATUS**

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**SECTOR**

| SECTOR        | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS   | STATUS  |
|---------------|-----------------------------|---|--|--|---|
| <b>Health</b> | HR 0015                     | Staff member at MFH who referred a case to the Grievances Unit on 28 <sup>th</sup> October 2014 stated that case was not heard, and that he was told that file was lost, and it is not known whether case will be investigated or not.                          | No recommendation  | MFH met with the Commissioner on this case and stated that matter related to miscommunication as file was not lost. Individual has submitted another claim to the Grievances Unit. MFH and the Commissioner agreed to put this case on hold and to await the outcome from the Grievances Unit.   | On hold, as case referred to Grievances Unit. |
| <b>Health</b> | HR 0017                     | Claim concerned three individuals who stated that their pay is pegged below their role and responsibility.  | No recommendation  | MFH communicated repeatedly with the Commissioner informing that the outcome of this claim is dependent on negotiations with relevant Union that were ongoing. Case is delayed for this reason.<br><br>On 14 <sup>th</sup> August 2018, MFH informed the Commissioner that case is on hold, given that UHM are requesting arbitration, as opposed to the conciliation meeting proposed by IRU. | On hold.                                      |
| <b>Health</b> | HR 0019                     | Complainant stated that he was not aware of entitlement to a Disturbance Allowance for duties carried out at MDH between 2002 and 2014. Therefore, complainant claimed payment of such allowance, and presented relevant official documents to substantiate it. | <i>For the sake of the argument, it is accepted that the prescription laws be applied, I think that, if the Department wants to be fair and lead by example of being the ideal employer, the allowance should be given for the whole period even if on an 'ex-gratia' basis.</i> | Action was taken by MFH. An agreement was entered into between CEO MDH and the complainant and payment due was issued.   | Closed and recommendation implemented.        |

| SECTOR        | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS   | STATUS                                 |
|---------------|-----------------------------|---|--|--|--|
| <b>Health</b> | HR 0021                     | Case concerned overpayment of the Qualification Allowance. Claimant stated being unaware of Circular issued in 2011 whereby it was clear that claimant was not entitled to a Qualification Allowance. | <i>This Office is therefore recommending a maximum of two years in respect of its claim for refund. The Department is invited to inform this Office of action it intends to take to implement this recommendation.</i> | MFH accepted that complainant can refund overpayment over a period of two years as recommended by the Commissioner.<br><br>Case delayed, as a further claim was raised by the Commissioner to refund two years payment only, and not total amount due.   | Closed and recommendation implemented. |
| <b>Health</b> | HR 0023                     | Complainant stated that sizes of elastic stockings are only available up to size XL and requested that stockings in larger sizes for obese patients be stocked.                                       | Commissioner requested that this complaint be considered, and all sizes of stockings should be stocked at MDH.   | MFH reviewed request and informed the Commissioner that not all sizes can be included in one tender. If MHF had to issue a tender with non-standard sizes, this would possibly lead to an appeal by those suppliers that cannot supply these sizes, as they would claim discrimination over fair and open competition. This would result in delay for acquisition and stock out on the normal sizes.<br><br>Moreover, not having standard sizes creates gross wastages that lead to an unsustainable process, that would lead to lack of funds to procure other essential materials.<br><br>Central Procurement and Supplies Unit (CPSU) informed Commissioner on 19 <sup>th</sup> June 2018 that larger sizes for obese patients, requests for which are not very common, can be procured on a named patient basis. Therefore, complainant can be accommodated in this way. | Pending at Ministry.                   |
|               |                             |   |  | On 7 <sup>th</sup> August 2018 CMO reiterated long-standing position as stated by CPSU. The Commissioner replied on 14 <sup>th</sup> August 2018 requesting reconsideration.   |  |

**STATUS**

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**SECTOR**

| SECTOR | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER  | ACTION MANAGEMENT COMMENTS   | STATUS                                  |
|--------|-----------------------------|--|---|--|---|
| Health | HR 0024                     | Case refers to a retired staff nurse who was re-engaged post-retirement, and whose contract was not renewed by MDH.  | Commissioner recommended that complainant be re-employed.   | This case was delayed to be settled, because the individual was not ready to work in line with hospital requirements. Finally, the individual accepted to work flexible hours according to hospital needs, and so complainant was re-employed on flexible hours.   | Closed and recommendation implemented.  |
| Health | HR 0027                     | Patient requested refund of costs of treatment incurred abroad. Such treatment did not have prior authorisation from local authorities.  | Commissioner requested that patient be refunded all costs or at least the difference that would have been incurred by government had patient followed procedure.  | MFH replied to Commissioner that patient did not go through Treatment Abroad Committee but, if the patient had gone through TAC prior to going abroad, MFH would still not have incurred any fees due to reciprocal agreement in place with the country where treatment was given.<br><br>Case was closed after verbal agreement by CMO with Commissioner. | Closed and recommendation not accepted. |
| Health | HR 0028                     | Complainant requested recognition of profession, as no specialist register exists for this professional field.   | Commissioner requested MFH to consider this issue in order to allow professional to work in Malta.  | MFH considered the case and sought AG's advice, and on 25 <sup>th</sup> June 2018 replied to the Commissioner informing of the possibilities available to complainant according to the National policies.  | Pending at Ombudsman.                   |
| Health | HR 0030                     | Case concerned a refugee, who was not entitled to free treatment and who required treatment as SAMOC. He was told that he would need to pay before receiving treatment, which he could not afford to do. Oncology consultant raised the request for the patient to be provided with treatment and services required despite being unable to pay. | <i>Commissioner requested that fees be waived on humanitarian grounds - patient was exempt from payment for the treatment he received as requested by Commissioner and on the direction of the CMO and MDH CEO.</i> | Patient provided with required treatment for free as requested.  | Closed and recommendation implemented.  |

| SECTOR | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER  | ACTION MANAGEMENT COMMENTS   | STATUS                                  |
|--------|-----------------------------|--|---|--|---|
| Health | HR 0031                     | Patient with a complex medical situation who had surgery claimed that during the stay in hospital was never seen by the consultant, and that complications arose because the operation was performed by specialist trainee and resident specialist and hence requested compensation. | Commissioner requested investigation into case and suggested out-of-court settlement.   | MFH carried out the necessary investigation and the Commissioner was informed of findings. Since certain claims concerned management of patient during stay at MDH, the clinical director was asked to address these complaints and communicate further with the patient as necessary.<br><br>Furthermore, MFH again made a statement to the Commissioner that request for financial compensation fall under the remit of the Law Courts.<br><br>Meeting held between MDH Management, Office of CMO and patient at MDH on 26 <sup>th</sup> July 2018. On 27 <sup>th</sup> July 2018, Commissioner forwarded further queries from patient. On 3 <sup>rd</sup> August 2018, MFH replied to queries sent by the Commissioner. | Pending at Ombudsman.                   |
| Health | HR 0033                     | Claim raised by the Commissioner directly regarding the situation at a specific Health Centre where a particular nurse was creating a bad atmosphere.  | <i>In the circumstances the Ministry may wish to consider that a Board of Inquiry from outside Primary Health Care Directorate be appointed as soon as possible to go into the matter and make recommendations.</i> | Case settled following communication between CEO Primary Health and the Commissioner. An agreement was reached, and Primary Health took note of the Commissioner's recommendation and agreed to set up an independent Board of Inquiry to gain insight on the situation to propose recommendations as a way forward.   | Closed and recommended implemented.     |
| Health | HR 0035                     | Patient travelled for surgery abroad without prior authorisation and requested refund of costs incurred.   | Commissioner was supportive of patient's request.   | MFH declined request as patient did not follow protocol. Case considered closed as agreed with the Commissioner on 3 <sup>rd</sup> April 2018.   | Closed and recommendation not accepted. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE COMMISSIONER**

**BRIEF DETAILS  
OF CASE**

**COMMISSIONER  
CASE REFERENCE**

**SECTOR**

| SECTOR | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER   | ACTION<br>MANAGEMENT COMMENTS   | STATUS  |
|--------|--------------------------------|---|---|---|---|
| Health | HR 0036<br>HO 0076<br>HQ 0078  | Claim for the reimbursement of Hepatitis C treatment bought out of pocket by patient/patients who were not on the priority list for such treatment.   | Commissioner requested that patient/patients be refunded for treatment bought privately.  | Case was reviewed by MFH, however it resulted that claims did not align with applicable policy requirements. Commissioner was notified accordingly but he still insisted that policy related to protocols needs to be changed, and that he will go to Parliament to address this.<br><br>Repeated communications were sent to the Commissioner, informing him of MFH stand that these requests are denied and explaining the reasons why. Last such communication was sent again on 25 <sup>th</sup> May 2018. MFH considers this case as closed.<br><br>Last correspondence to Commissioner was sent by MFH on 15 <sup>th</sup> June 2018, to inform that position remains the same and complainants cannot be reimbursed. | Closed and recommendation not accepted.<br><br>Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act. |
| Health | HR 0037                        | Case concerned a doctor who trained in a non-EU University and applied to be registered as a doctor in Malta. Complainant requested that examination fee worth €1,218.20 be waived as doctor couldn't afford it.                            | Commissioner requested that exam fee be waived.   | Request to waive fee was denied.  | Closed and recommendation not accepted.   |
| Health | HR 0038                        | Case concerned the transfer of a Manager from one hospital to another. Complainant stated that no justification was given for this transfer. However, CEO stated that decision was taken to provide a well-deserved service to the patient. | <i>Concern regarding CEO taking such advice against advice given, including also lack of consultation with the Nursing Management. Commissioner raised question whether CEO over- rules the Nursing Management without giving an explanation of his/her decision.</i> | This case was first presented to MFH by MUMN. However, following discussions it was no longer pursued by the said Union. Case was then referred by the individual concerned to the Commissioner.<br><br>MFH replied to the Commissioner on 16 <sup>th</sup> July 2018. Commissioner requested further information, and a delay ensued to reply as MFH is collecting the requested information.  | Pending at Ministry.  |

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| <b>Health</b> | HR 0039 | An allied Health Professional alleged being treated unfairly and not given the opportunity to perform overtime.  |  | MFH looked into the matter, and it resulted that complainant was found to have committed a number of mistakes and is claiming that management is finding faults.<br><br>Reply to the Commissioner was delayed due to a personal situation that developed unexpectedly and prevented management from replying. Commissioner agreed to allow a reasonable time to be given a reply.                                    | Pending at Ministry.  |
| <b>Health</b> | HR 0041 | A public officer employed at MDH raised a claim for the entitlement to work on reduced hours and utilize responsibility leave for having to look after a six-year old child.   | Commissioner recommended MFH to consider acceding to this request. | MDH management held a meeting with individual to try and find iteration (or close ones) that fits individual's requirements without creating more individual work legends.<br><br>Case settled to the satisfaction of both MDH and the individual. Commissioner informed accordingly.  | Closed and recommendation implemented.  |
| <b>Health</b> | HR 0044 | Case concerned a request by an individual to be provided with NRT for free in order to quit smoking tobacco.   | No recommendation  | Commissioner was informed that Health Promotion and Disease Prevention Smoking cessation services include advice and support over the phone by calling a free phone. Government does not provide NRT, as it is not on the National Formulary List.   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Health</b> | HR 0045 | Case concerned a claim raised by a retired staff nurse who wanted to be re-instated to work as a staff nurse. The main focus of this claim was discriminatory treatment on the basis that, other candidates have been re-instated. | No recommendation  | MFH contacted the individual to clarify his allegations that there was a candidate who was listed in the result sheet and allegedly did not sit for the interview. When the individual was challenged to name this candidate and provided also the names of successful candidates listed in the result sheet it was confirmed that the person being referred to was not included and confirmed that he was mistaken. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

**STATUS**

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MANAGEMENT COMMENTS**

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**BRIEF DETAILS  
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**SECTOR**

| SECTOR | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER  | ACTION MANAGEMENT COMMENTS   | STATUS  |
|--------|-----------------------------|--|---|--|---|
| Health | HR 0047                     | Claim by a patient for financial compensation due to alleged negligence and mismanagement following surgery.   | Commissioner requested an investigation into the case and recommended financial compensation. | Investigation was carried out. After obtaining legal advice, Commissioner was informed that allegations have been rebutted and claim for compensation is unfounded.<br><br>Commissioner was also informed on 22 <sup>nd</sup> March 2018 that patient is now under the care of a different consultant.<br><br>MFH states that requests for financial compensation fall under the remit of the Courts of Justice. | Suspended due to court proceedings.             |
| Health | HR 0048                     | Trainee doctor complained about being given the incorrect information regarding training and examination requirements.   | Commissioner requested clarification.   | MFH replied that complainant had misunderstood the information given, which was all correct, and therefore there were no grounds for this complaint.<br><br>During meeting held on 3 <sup>rd</sup> April 2018, it was agreed to consider this case as closed   | Investigated and closed without recommendation. |
| Health | HR 0050                     | Claim referred to a request for unpaid leave by an individual, whereby the management could not accommodate request, given that a replacement was required in order to release the claimant. | No recommendation   | Case addressed and settled, given that, the individual has been allowed one-year unpaid leave on the basis to find alternative employment.   | Investigated and closed without recommendation. |
| Health | HR 0051                     | Claim concerned request for payment by a company that carried out works at the Oncology Centre.  | No recommendation   | MFH stated that problems arose as to who commissioned this work, and the lack of official submission of documents confirming such work. Since no concrete evidence was provided by the company, Commissioner could not proceed with the claim raised.  | Investigated and closed without recommendation. |

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**SECTOR**

| SECTOR | COMMISSIONER<br>CASE REFERENCE                      | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER | ACTION<br>MANAGEMENT COMMENTS   | STATUS  |
|--------|---|---|---------------------------------------|---|---|
| Health | HR 0052   | Complaint raised by a radiography student stating that complainant and fellow classmates signed a deed of hypothecation which was offered to others in previous years. Claimant stated that the benefits within the contract remained the same, while the collateral did not.   | No recommendation                     | MFH informed the Commissioner that changes in amounts of hypothec over the years 2010, 2011, and 2012 was a result of a change in policy direction.   | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| Health | HR 0054<br>HR 0055<br>HR 0056<br>HR 0057<br>HR 0058 | Case raised by two complainants and concerned management issued at the place of work.   |                                       | MFH stated that case outcome is dependant on negotiations with Union, which are ongoing.<br><br>Various meetings have been held with the officers and union representing them to find a solution.<br><br>Delay resulted from a complicated case which required the involvement of meetings with OPM Industrial Relations Unit to address the issues raised. | Pending at Ministry.  |
| Health | HR 0059   | Supplier claimed unfair treatment by CPSU regarding the purchase of Paracetamol 500mgs in line with a three-year contract. CPSU took action to quarantine a quantity of Paracetamol 500mg whose colour was not white, but yellow. The supplier complained that the colour turned from white to yellow because of poor storage facilities at CPSU. | No recommendation                     | MFH replied to Commissioner through its legal office. The Commissioner in turn replied that case was closed on 8 <sup>th</sup> August 2018, stating that complainant was informed that in the circumstances, Commissioner cannot meet their claim.  | Investigated and closed without recommendation.   |

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| SECTOR        | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS   | STATUS  |
|---------------|-----------------------------|---|--|--|---|
| <b>Health</b> | HR 0062                     | Claim by an individual, availing of the provision of free oxygen cylinders, who requested that instead of refilling three oxygen cylinders at a time, four cylinders are refilled to minimise travelling times. |  | Case discussed with Commissioner by CEO CPSU.<br><br>Case delayed in view that request raised by Commissioner is not in line with established protocols regarding the refilling of oxygen cylinders. Over time MFH identified other solutions to the problem and communicated such solutions to the Commissioner.  | Pending at Ombudsman.   |
| <b>Health</b> | HR 0067                     | Patient requested the inclusion of hormonal treatment for transgender care on the General Formulary List.   | Commissioner requested that patient be given hormonal treatment for transgender care for free through Schedule V protocol. | MFH informed Commissioner on 6 <sup>th</sup> June 2018 that a Transgender Multi-Disciplinary Team is to be set up very shortly and will be able to prescribe treatment to transgender clients.<br><br>PS sent reply on 4 <sup>th</sup> June 2018 providing further information on the matter and informing Commissioner that case was considered as closed from MFH's end. Commissioner sent e-mail on 16 <sup>th</sup> July 2018 requesting further updates. Reply sent from Office of CMO on 23 <sup>rd</sup> July 2018. No further communication to date. | Pending at Ombudsman.   |
| <b>Health</b> | HR 0068                     | Patient with Hepatitis C inquiring whether included on priority list for treatment.   | Commissioner requested this information and, if affirmative, when patient can expect to receive treatment.                 | Commissioner was notified that patient was on priority list as determined by clinicians who order the treatment administration. Commissioner wants to keep case open until patient is given treatment, but following letter from MFH to Commissioner sent on 19 <sup>th</sup> January 2018, no further reply was forthcoming.  | Closed and recommendation implemented.                        |
| <b>Health</b> | HR 0070                     | Claimant contested not being awarded the 'contact with patient allowance' which was granted to employees posted within the Ambulance Garage from 1 <sup>st</sup> April 2014.                                    | No recommendation  | Case was reviewed and found not to align with respective sectoral agreements, and therefore claim for the award of the allowance could not be met. Commissioner was notified accordingly; however, the Commissioner was not in agreement with the content of the Sectoral Agreement regarding the entitlement of Category A.   | On hold, as complainant referred the case to Grievances Unit. |

| SECTOR        | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER | ACTION MANAGEMENT COMMENTS   | STATUS               |
|---------------|-----------------------------|---|------------------------------------|--|----------------------|
| <b>Health</b> | HR 0071                     | Complainant contested management's decision to assign duties that limited contact with patients, given that this particular staff member was found guilty by the criminal court of committing violent indecent assault and committing a crime which the person was duty-bound to prevent against one of Mater Dei Hospital patients. The court handed down a suspended two-year sentence. It was claimed that the assigned duties do not reflect the job description. |                                    | Repeated communications sent to the Commissioner ensued, stating that the Category A allowance is paid to employees in the eligible categories who perform 'primarily nursing duties', and not 'contact with patient' as erroneously stated in complainant's claim. This is reflected in the respective sectoral agreements. On 13 <sup>th</sup> June 2018, MFH sent a letter to the Commissioner stating that the case was considered as addressed. | Pending at Ministry. |
|               |                             |   |                                    | Claim raised by Commissioner ignores the criminal court ruling and the subsequent initiative by the MFH to limit patient contact to avoid a possible recurrence of the violent assault leading to the Court sentence.<br><br>Case was delayed at MFH due to the deployment problems arising from the criminal court decision and also Union directives regarding the individual's work placement.  |                      |

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| SECTOR        | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER                         | ACTION MANAGEMENT COMMENTS   | STATUS                |
|---------------|-----------------------------|--|--|--|-----------------------|
| <b>Health</b> | HR 0076                     | Complaint by a Health Assistant who was injured on duty claimed incorrect salary adjustments, following deductions in salary based on sick leave and not injury leave. |  | <p>Case was followed by CEO Primary Health, who replied to the Commissioner on 19<sup>th</sup> July 2018. Commissioner was informed that case was investigated by Primary Health, and complainant's salary was amended accordingly with sick leave being changed to injury on duty.</p> <p>CEO also expounded on solutions to the problem, and that the individual concerned was certified medically boarded out by the P&amp;SD on 7<sup>th</sup> May 2018.</p> <p>Delay was due to a misunderstanding that case was already solved through discussion with Commissioner; however, this was not the case.</p>                 | Pending at Ombudsman. |
| <b>Health</b> | HR 0077                     | Complainant claimed reduced efficacy of a generic drug, and that he must buy branded drug out-of-pocket.   | Commissioner requested that patient be given branded drug. | <p>MFH informed Commissioner of procedure in place for the patient to submit a request to the Exceptional Medicines Treatment Committee for consideration.</p> <p>Such request can also be made by the complainant's consultant.</p> <p>Commissioner informed MFH that he was awaiting a reply from the EMTC. However, MFH confirmed that the EMTC has not received any submission on behalf of the patient. MFH's position with regards to correspondence with the Commissioner therefore remains as it was as the last communication was that sent by MFH on 22<sup>nd</sup> March 2018, to which no reply was received.</p> | Pending at Ombudsman. |

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| <b>Health</b> | HR 0078 | Claim raised by a patient who attended a specific Health Centre and who was disappointed at the way treatment was given.   | No recommendation   | MFH investigated this case, and it resulted that the version of events through the medical notes recorded, which are considered reliable, are different from the version provided by the individual. Therefore, it is being concluded that the Commissioner was not given the correct facts and the sequence of how events developed.<br><br>Commissioner was informed accordingly.                                  | Investigated and closed without recommendation.                                  |
| <b>Health</b> | HR 0079 | Relatives of deceased patient complained about lack of care of patient while in hospital, which may have contributed to his passing away, and requested a proper investigation into what happened. | Commissioner requested investigation and communication with relatives about findings. | MFH informed the Commissioner on 6 <sup>th</sup> June 2018 that an investigation was carried out by MDH administration and that Clinical Director MDH contacted patient's relatives and communicated report findings to them.<br><br>Commissioner requested a copy of the report concerning this case, which was sent to him on 13 <sup>th</sup> August 2018.  | Pending at Ombudsman.  |
| <b>Health</b> | HR 0080 | Commissioner enquired about waiting list for neurology services at Gozo General Hospital due to insufficient staff.  | Commissioner requested that back-log be addressed, and staffing issue tackled.        | CMO informed Commissioner on 4 <sup>th</sup> May 2018 that matter was being followed up, and should be addressed shortly as per newly signed agreement between Government and MAM.   | Closed by the Ombudsman after management replies to one request for information. |
| <b>Health</b> | HR 0083 | Complaint by an applicant for the position of house officer (foundation programme) following a call for applications, who alleged that he was not accepted for the foundation programme.           |   | MFH informed the Commissioner that applicant was found to be ineligible because he did not satisfy paragraph 5.1.(i)(e) i.e. because he had not 'been granted long-term resident status in Malta...'. In a reply to Commissioner on 11 <sup>th</sup> April 2018, MFH confirmed that it could not call him for an interview as requested by the Commissioner, since he did not fulfil the basic eligibility criteria. | Closed by the Ombudsman after management replied to one request for information. |

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| SECTOR | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER                                     | ACTION MANAGEMENT COMMENTS   | STATUS   |
|--------|-----------------------------|--|--|--|--|
| Health | CH/5/P34                    | Commissioner asked for information on which medication related to IVF prospective parents need to pay for.   | Commissioner requested information on IVF medication.                  | MFH provided the Commissioner with the requested information   | Closed and recommendation implemented.   |
| Health | CH/5/P37                    | Commissioner sent MFH queries regarding treatment of patients abroad.  | <i>Requesting information related to treatment of patients abroad.</i> | MFH replied to the request for information by the Commissioner.<br><br>Case closed as agreed verbally with the Commissioner during meeting on 3 <sup>rd</sup> April 2018.  | Closed by the Ombudsman after management replied to one request for information. |
| MFCS   | HR 0043                     | Complainant is a foreign citizen who had come to Malta in 1978 to study medicine. He was sponsored by the Maltese Government and graduated as a doctor in 1984. He became a Maltese citizen in 1986. Complainant requested to be considered for the Once-Only Grant scheme for persons officially joining the Public Service after 16 <sup>th</sup> January 1979 and who had worked in Government Departments before 1979. |  | The Commissioner concluded that complainant was not entitled to the grant even if he had applied for it, because at the time he was not a member of one of the labour corps but a student worker. However, the Commissioner still requested the Ministry's views.<br><br>The Permanent Secretary replied that complainant does not qualify for this scheme. However he informed the Commissioner that if his situation coincides with that of a group of medical practitioners who lodged an official request with the Permanent Secretary (People & Standards) to be awarded full Treasury Pension Rights, his claim might be similarly considered. | Closed by the Ombudsman after management replied to one request for information. |

| SECTOR            | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER   | ACTION<br>MANAGEMENT COMMENTS  | STATUS  |
|-------------------|--------------------------------|---|---|--|---|
| <b>MFCS (DSS)</b> | HR 0014                        | Complainant was injured at work on 2 <sup>nd</sup> April 2015 and sustained several serious injuries. He sought help from the Commissioner's Office, claiming that he had stopped receiving sickness benefit. | Commissioner requested that the case be evaluated on its own merits.  | The DG of Social Security Department considered the case and provided a reply to the Commissioner Office.<br><br>The reason why the Sickness Benefit was only paid up to 9 <sup>th</sup> August 2016 was that the number of contributions paid was exhausted, since a person is paid one benefit day against one paid social security contribution. After providing a copy of FS3 for basic year 2016 to indicate the number of contributions paid, his sickness benefit was revised accordingly. However, he was not being entitled to further sickness benefit, because he exhausted his sickness benefit entitlement.<br><br>Complainant was awarded Injury Benefit, after he was injured on duty on 2 <sup>nd</sup> April 2015; this benefit was awarded up till 3 <sup>rd</sup> April 2016, on which date his injury claim was converted to a Sickness Benefit claim, paid up to 9 <sup>th</sup> April 2016. After the entitlement of one year as Injury Benefit, he was medically certified with a resultant disability of 11%, and was paid a one-time gratuity of €2,660.30, in July 2016. | Investigated and closed without recommendation. |
| <b>MFCS (DSS)</b> | HR 0053                        | Pensioner complained that pension was erroneously reduced following spouse admission to residential care.   | Commissioner recommended that complaint be investigated to ascertain that complainant is given full pension from an indicated date. | Pension rate was revised and arrears due were paid.  | Closed and recommendation implemented.          |

**STATUS**

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| SECTOR             | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS  | STATUS                                 |
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| <b>MFCS (SVPR)</b> | HR 0042                     | The son of an elderly resident in long-term care logged a complaint with the Commissioner about alleged physical abuse and requested CCTV cameras in his parent's room.  | Commissioner for Health suggested that complainant meets with the CEO (SVPR) and with Medical Superintendent to discuss these concerns.  | SVPR management looked into this case upon examination by Medical Officer on duty; there were no signs of abuse on resident. The charge nurse of the ward stated that the resident was at no time in any danger. Consultant geriatrics explained that bruises tend to show on patients who, like the complainant's parent, are on warfarin.<br><br>All necessary documentation has been sent to the Commissioner, including correspondence related to CCTV issue from Data Protection Commissioner and lawyer dated 17 <sup>th</sup> January 2018 and 20 <sup>th</sup> March 2018. Feedback from SVPR Customer Care Unit is that complainant was happy with the service SVPR provided. Complainant requested that parent be moved to a new ward of their choice and SVPR accommodated this request.   | Closed and recommendation implemented. |
| <b>MFCS (SVPR)</b> | HR 0063                     | An allied health professional at SVP Long Term Facility complained that he was being denied the opportunity to progress in his career because a vacant higher position was being filled with by someone in an acting position. | Commissioner for Health requested the Ministry's comments because <i>'since the Support Service Manager has confirmed that the post is at present being occupied by someone in an Acting position, the Commissioner for Health sees no reason why the post cannot now be filled permanently by a person who qualified following a Call for Application.'</i> | The SVPR Long Term Facility replied that the vacancy for Senior Allied Practitioner was included in the SVPR 2018 HR Plan. The vacancy will be filled should approval for this position in the HR Plan be forthcoming from the P&SD.<br><br>In 2017, the central direction regarding the clinical and the caring sector was for the MFH and the MFCS to issue calls jointly to ensure flexibility and movement across both ministries. This does not necessarily mean that each entity within both ministries would have identical HR plans, as each entity naturally has its own exigencies.<br><br>Complainant has submitted a request to be transferred to SVPR to fill the vacant position of Allied Health Practitioner. SVPR would have no objection to this transfer since the said vacancy will be filled. However, this transfer is dependent on the approval of its HR Plan and the consequential provision of a replacement for complainant's present posting. | Pending at Ombudsman.                  |

| SECTOR   | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER                    | ACTION MANAGEMENT COMMENTS   | STATUS  |
|--|-----------------------------|--|---|--|---|
| <b>MFCS (ACTIVE AGEING AND COMMUNITY CARE)</b> | HR 0040                     | Complainant, an assistant care attended a course organised by the Department for the Elderly to advance from Social Assistant to Care Worker. The hours spent at the course were considered as time-off. Claimant requested that the course duration, 600 hours, be compensated and considered as study leave. | No recommendation                                     | Commissioner for Health requested MFCS comments.<br>The Department for Active Ageing and Community Care informed the Commissioner for Health that complainant was not entitled to paid study leave, since at the time of the course claimant was not a government employee but had applied for the course on own initiative. | Investigated and closed without recommendation. |
| <b>Health</b>                                  | CH/5/P38                    | Claim raised by the Commissioner, who requested information about the pertinent public health regulations in connection with the setting-up of manure clamp in Munxar Gozo.  | Commissioner requested information on own initiative. | Environmental Health Directorate provided the Commissioner with the requested information.   | Closed and recommendation not implemented.      |



COMMISSIONER FOR HEALTH  
FOLLOW-UP ON PRE-2017 CASES



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| SECTOR        | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE   | RECOMMENDATION<br>BY THE COMMISSIONER  | ACTION<br>MANAGEMENT COMMENTS  | STATUS   |
|---------------|--------------------------------|--|--|--|--|
| <b>Health</b> | CH/5/P24<br>HM 0029            | Claim raised by the Commissioner, stating that certain drugs should be introduced in the General Formulary List, and sent MFH a list of oncology drugs introduced on the NHS (list) in the UK. | The Commissioner stated that MFH protocols are discriminatory, and moreover he indicated that certain drugs, of which details were provided, should be introduced in the General Formulary List. It was added that the NHS list was being sent to MFH for them to compare with the local scenario. | MFH reiterated and maintained their position, stating disagreement with claims that protocols are discriminatory, and that these are established by the Ministry's competent authorities as set up by law.<br><br>On 19 <sup>th</sup> January 2018, MFH informed the Commissioner of an exercise being carried out on the General Formulary List that confirmed that some of the drugs detailed by the Commissioner are already available locally. Furthermore, the Commissioner was informed that a particular drug that he specifically indicated to be introduced on the GFL was considered by GFLAC and ACHCB, and not accepted to be introduced. It was instead replaced by a better drug, and the said entities can only reconsider the drug in question if new evidence is provided.<br><br>On 27 <sup>th</sup> August 2018, CMO replied to the Commissioner's letter dated 24 <sup>th</sup> August 2018. | Pending at Ombudsman.  |
| <b>Health</b> | HN 0030                        | Claim raised by the Commissioner for the introduction of analogue insulin for all diabetic patients, irrespective of diabetes types.   | The Commissioner recommended the introduction of analogue insulin for all diabetic patients, citing discrimination between patients with different types of diabetes.  | The Commissioner was informed that the introduction of analogue insulin is a Budgetary Measure (BM) 192/2018, and that it is to be introduced in 2018. MFH considers this case as addressed.<br><br>The Commissioner was further informed that procurement process was initiated, and will be concluded in 2018.   | Recommendation to be implemented.  |
| <b>Health</b> | HO 0076<br>HQ 0078             | Claim for the reimbursement of Hepatitis C treatment bought out-of-pocket by patient/patients who were not on the priority list for such treatment.  | The Commissioner requested that patient/patients be refunded for treatment bought privately.   | Case was reviewed by MFH; however it resulted that claims did not align with applicable policy requirements.<br><br>The Commissioner was notified accordingly, but he still insisted that policy related to protocols needs to be changed, and that he will go to Parliament to address this.  | Closed and recommendation not accepted.<br><br>The Ombudsman stated that these cases were referred to the Prime Minister as provided for in the Ombudsman Act. |

**STATUS**

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| <b>SECTOR</b> | <b>COMMISSIONER<br/>CASE REFERENCE</b> | <b>BRIEF DETAILS<br/>OF CASE</b>   | <b>RECOMMENDATION<br/>BY THE COMMISSIONER</b>                  | <b>ACTION<br/>MANAGEMENT COMMENTS</b>  | <b>STATUS</b>         |
|---------------|--|--|--|--|-----------------------|
| <b>Health</b> | HO 0077                                | Case concerned the transfer of a Manager from one hospital to another. Complainant alleged that duties of present posting were not those applicable to his post, but to that of a head of residence, and requested appropriate allocation to another place. Claimant is now assuming responsibility in the current place of work and feels more in charge. |  | <p>Repeated communications were sent to the Ombudsman, informing him of MFH stand that these requests are denied, and explaining the reasons why. Last such communication was sent again on 25<sup>th</sup> May 2018. MFH considers this case as closed.</p> <p>Last correspondence to the Commissioner was sent by MFH on 15<sup>th</sup> June 2018, to inform that position remains the same and complainants cannot be reimbursed.</p> <p>This case is being treated together with two other identical cases, HQ 0078 and HR 0036.</p> <p>MFH considered communication from the Commissioner, that included a suggestion for a meeting with the Director Nursing.</p> <p>In a meeting held between the Ministry and the Director, clarification was sought regarding the actual duties of a Manager. The duties of the present posting of the complainant are all operational responsibilities pertaining to the role of manager.</p> <p>Letter from Commissioner dated 19<sup>th</sup> July 2018 requested that Manager be assigned duties related to his post.</p> <p>Case is being delayed since claimant did not accept the current role, despite the fact that the duties assigned to him pertained to his post.</p> <p>A meeting was also held between Director and the individual. MFH replied to the Commissioner on 16<sup>th</sup> August 2018.</p> | Pending at Ombudsman. |
| <b>Health</b> | HP 0014                                | Request for branded medication.  | The Commissioner requested that patient be given branded drug. | The Commissioner was informed on 25 <sup>th</sup> May 2018 that a procedure is in place for such patients to submit a request to appropriate committee (EMTC). MFH considers this case as closed.  | Pending at Ombudsman. |

**SECTOR**

**COMMISSIONER  
CASE REFERENCE**

**BRIEF DETAILS  
OF CASE**

**RECOMMENDATION  
BY THE COMMISSIONER**

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**STATUS**

| Health | HP 0028            | Complaint raised by a second-place candidate for the Post of Practice Nurse. The call stipulated that the chosen candidate will need to <i>'...undertake studies which would lead to successfully obtaining the relevant qualifications ...'</i>  | The Commissioner recommended that the Ministry is to ensure that the person selected for this post has started studies to obtain the Master's Degree as stipulated in paragraph 4.1.2 of the Call for Applications. | MFH informed the Commissioner that the Ministry is following on the case, and confirmed that case is delayed as a result that actions can only be taken by the third year of candidate's appointment. In the case that no evidence is provided regarding commencement of relevant qualification in the stipulated time, action would be taken to terminate the appointment of the first-selected candidate. | On hold.  |
|--------|--------------------|---|---|---|---|
| Health | HP 0075            | Patient who travelled for surgery abroad without prior authorisation requested refund of costs incurred.  | The Commissioner was supportive of patient's request.   | MFH declined request, as patient did not follow protocol. Case considered closed as agreed with the Commissioner on 3 <sup>rd</sup> April 2018.   | Closed and recommendation not accepted.   |
| Health | HQ 0009            | Patient experienced anaphylactic shock while in hospital, and claimed it was due to negligence.   | The Commissioner requested investigation into this case.  | MFH informed Commissioner of the initiating of Court proceedings and during meeting on 3 <sup>rd</sup> April 2018 it was agreed to consider case as closed.   | Suspended due to court proceedings.   |
| Health | HQ 0023            | Request for branded medication as patient had adverse reaction with biosimilar.   | The Commissioner requested that patient be given branded drug.  | The Commissioner was informed on 22 <sup>nd</sup> March 2018 that a procedure is in place for such patients to submit a request to appropriate committee (EMTC). MFH considers this case as closed.<br><br>The Commissioner then wrote to Director DPA in July 2018, following which a reply was sent by PS MFH informing him that position remains same as per letter sent in March.                       | Closed and recommendation not accepted.   |
| Health | HQ 0024<br>HP 0044 | Patient with Hepatitis C who used to be employed by the national health service claimed that the infection was contracted through occupational exposure many years ago. Hence a refund of Hepatitis treatment bought out-of-pocket was requested. | The Commissioner requested that patient be reimbursed with the costs incurred to acquire treatment.   | MFH reviewed this case, and it was decided to refund complainant with part of costs incurred. Patient was issued with a cheque for the sum decided for settlement by MFH in June 2017. The Commissioner was informed accordingly, however still requesting full refund. MFH is maintaining its position for a partial refund.   | Closed and recommendation implemented.<br><br>The Ombudsman is insisting that a full refund should be given and hence considers this case as pending and has referred case to PM. |

**STATUS**

**ACTION  
MANAGEMENT COMMENTS**

**RECOMMENDATION  
BY THE COMMISSIONER**

**BRIEF DETAILS  
OF CASE**

**COMMISSIONER  
CASE REFERENCE**

**SECTOR**

| SECTOR        | COMMISSIONER<br>CASE REFERENCE | BRIEF DETAILS<br>OF CASE  | RECOMMENDATION<br>BY THE COMMISSIONER                                 | ACTION<br>MANAGEMENT COMMENTS  | STATUS  |
|---------------|--------------------------------|---|---|--|---|
| <b>Health</b> | HQ 0025<br>HN 0020             | Case concerned a complaint by an officer that neither the post of Hospital IT Trainer, nor the post of Manager, Hospital IT Trainer are included in the Memorandum of Understanding pertaining to the ICT Class as has been promised by his superiors.                        |   | Communication with the Commissioner on 27 <sup>th</sup> August 2018 by the Ministry clarified that the role of Hospital IT Training Officer is mainly premised on training (design and delivery), logistical arrangements and administration - hence why it was not deemed as an ICT role in substance and function.<br><br>The Commissioner wrote to MFH on 13 <sup>th</sup> September 2018 requesting further comments.                    | Pending at Ministry.                            |
| <b>Health</b> | HQ 0027                        | A public officer claimed that the disciplinary action taken against complainant was extremely intimidating, abusive, and motivated by personal motives. The individual is seeking compensation.   | No recommendation   | Case was reviewed, and it was established that the disciplinary action taken was in line with established policy and guidelines, thus nullifying the claim. Action was taken in terms of the Public Service Management Code, and the process was conducted in a fair and legitimate way with no abuse of power.<br><br>The officer concerned was not found guilty by the disciplinary board and moreover no redress or compensation was due. | Investigated and closed without recommendation. |
| <b>Health</b> | HQ 0046                        | Relative of patient complained about approach and attitude by a consultant visiting patient, following which patient was taken privately overseas for consultation. Complainant also requested reimbursement for consultation and other costs incurred during overseas visit. | The Commissioner requested thorough investigation of complaints made. | MFH carried out the necessary investigations and consulted with legal advisors, following which the allegations were rebutted, and it was established that there was no entitlement to reimbursement. This was communicated to the Commissioner on 22 <sup>nd</sup> February 2018.   | Closed and recommendation not accepted.         |

**STATUS**

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**SECTOR**

| SECTOR        | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE   | RECOMMENDATION BY THE COMMISSIONER   | ACTION MANAGEMENT COMMENTS  | STATUS  |
|---------------|-----------------------------|---|--|---|---|
| <b>Health</b> | HQ 0057                     | Patient claimed mismanagement that led to further health complications, and requested financial compensation.<br>Confidential case.   | The Commissioner requested investigation of allegations.   | MFH investigated the allegations that resulted unfounded. The Commissioner was informed accordingly, and on 3 <sup>rd</sup> April 2018 it was agreed to consider case as closed.  | Investigated and closed without recommendation. |
| <b>Health</b> | HQ 0061                     | Confidential case.  |  | The Commissioner was informed on 31 <sup>st</sup> May 2018 that case is being directly dealt with by higher authorities.  | Pending at Ministry.                            |
| <b>Health</b> | HQ 0063                     | An officer raised claim with the Commissioner after receiving compensation from the Grievance Unit on 18th December 2015 as full and final settlement to claim. It is understood that the claim raised to the Grievance Unit regarding reinstatement was also part of the full and final settlement decision reached by the Grievance Unit, and therefore claim to Commissioner has already been addressed. | No recommendation  | Case was reviewed, and it was established that it was settled through the Grievance Unit. The Commissioner was informed accordingly on 19 <sup>th</sup> July 2018.<br><br>Last communication from MFH was referred to the Commissioner on 16 <sup>th</sup> August 2018. The Commissioner replied to MFH on 23 <sup>rd</sup> August 2018.  | Pending at Ministry.                            |
| <b>Health</b> | HQ 0071                     | Patient claimed complications following surgical intervention, requesting compensation for physical and financial damages.  | The Commissioner requested an investigation into the case, and suggested an out-of-court settlement. | MFH carried out the necessary investigation and the ensuing report by managing clinicians was sent to the Ombudsman. MFH further stated that requests for financial compensation fall under the remit of the Law Courts.<br><br>Office of the CMO and MDH administration held an internal meeting in August 2018 to review this case, and to send a further reply to the Commissioner.<br><br>Letter describing outcomes and conclusions of this meeting was sent from PS MFH to the Commissioner on 13 <sup>th</sup> September 2018. | Pending at Ombudsman.                           |

**STATUS**

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 MANAGEMENT COMMENTS**

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**SECTOR**

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| <p><b>Health</b></p> | <p>HQ 0075</p> | <p>This case refers to three complainants working at the Oncology Centre, who have been asked to be transferred to Mater Dei Hospital, reason being for rotation purposes. Claimants have complained that if rotation is to be applied, this should have been applicable to all staff, and not solely to them. Matter was referred to GWU, which did not involve itself due to conflict of interest. Claimants referred case to UHM, whereby the latter issued directives and ordered the three complainants to return to Oncology. The situation became more complex as the three claimants transferred from Mater Dei Hospital to Oncology have remained at Oncology, resulting in a situation whereby the former three claimants have been idle for a long time given that their work was being performed by others.</p> | <p><i>Now that the situation has become precarious, or in the words of the GWU, 'mhux tenibbli' because of 'pressjoni tax-xoghol fenominali' may I once again ask you to exert pressure on the Mater Dei Hospital Management to solve this problem as soon as possible. May I suggest that Management meets urgently with the GWU and UHM to find a way out of this impasse.</i></p> | <p>Ministry approached both Unions, but no solution was found. Case has been prolonged due to the complicated situation resulting from the involvement of two Unions. The Commissioner was notified accordingly, and no further response was received.</p> | <p>Pending at Ombudsman.</p> |
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|--------|-----------------------------|---|--|---|---|
| Health | HQ 0078<br>HO 0076          | Claim for the reimbursement of Hepatitis C treatment bought out-of-pocket by patient/patients who were not on the priority list for such treatment. | The Commissioner requested that patient/patients be refunded for treatment bought privately. | <p>Case was reviewed by MFH, however it resulted that claims did not align with applicable policy requirements. The Commissioner was notified accordingly, but he still insisted that policy related to protocols needs to be changed, and that he will go to Parliament to address this.</p> <p>Repeated communications were sent to the Ombudsman, informing him of MFH stand that these requests are denied, and explaining the reasons why. Last such communication was sent again on 25<sup>th</sup> May 2018. MFH considers this case as closed.</p> <p>Last correspondence to the Commissioner was sent by MFH on 15<sup>th</sup> June 2018, informing him that position remains the same and complainants cannot be reimbursed.</p> <p>This case is being treated together with two other identical cases, HO 0076 and HR 0036.</p> | <p>Closed and recommendation not accepted.</p> <p>The Ombudsman stated that these cases were referred to the Prime Minister as provided for in the Ombudsman Act.</p> |

| SECTOR                        | COMMISSIONER CASE REFERENCE | BRIEF DETAILS OF CASE  | RECOMMENDATION BY THE COMMISSIONER                             | ACTION MANAGEMENT COMMENTS  | STATUS   |
|-------------------------------|-----------------------------|--|--|---|--|
| People and Standards Division | HO 0069                     | The case concerned a request for compensation regarding a provision in a Sectoral Agreement. | The Commissioner recommended compensation on a personal basis. | <p>P&amp;SD explained that when negotiations are made with the Unions and an agreement is reached, the Administration is obliged to respect the provisions of that agreement. In this regard, making adjustments on a personal basis would go against the principle of industrial collective negotiations.</p> <p>Further to the reply provided by P&amp;SD, the Commissioner requested the opinion of the Union involved in the negotiations regarding the Sectoral Agreement, without prior consultation with the P&amp;SD, which is responsible for collective bargaining in the Public Administration. To this effect, P&amp;SD expressed its disagreement to the Commissioner, explaining that public collective negotiations fall under the remit of the P&amp;SD, and that consequently, it was not ethically correct that the Commissioner seeks the opinion of the unions privately. The Commissioner replied that he took umbrage by the P&amp;SD's replies, emphasising that the Commissioner has the legal right to investigate whichever party he deems appropriate.</p> | <p>Closed and recommendation not accepted.</p> <p>The Ombudsman stated that he will write to PM.</p> |

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|------------------------|--------------------------------|---|--|---|----------------------|
| <b>Social Dialogue</b> | HQ 0026                        | An officer complained about not being promoted to a position in Salary Scale 5 and about not being awarded two specific allowances as provided for in pertinent Sectoral agreement. | During the course of this case, complainant was appointed to the position in Salary Scale 5. Following discussions, Commissioner did accept that complainant was not entitled to the arrears of one of the allowances. However, the Commissioner kept insisting on its other recommendation that claimant be paid the arrears of the second allowance. | A call for applications was issued in December 2016 through which complainant was eventually appointed. A meeting was also held with the Office of the Commissioner and with Industrial Relations Unit (IRU) in April 2017, in an attempt to reach a mutually- acceptable solution.<br><br>MEAE cannot accept to pay the arrears of the allowance in question unless this is cleared by P&SD, because such action could have an impact across public service.<br><br>Delay in replying to the Commissioner did occur. This was due to the fact that the Ministry engaged in a series of consultations with the entity concerned, another Ministry and IRU, to ensure that an exhaustive reply is presented covering all the points raised by the Ombudsman. | Pending at Ministry. |





