

GOVERNANCE ACTION

on the Parliamentary Ombudsman
Annual Report 2022



public service



GOVERNMENT OF MALTA
OFFICE OF THE PRINCIPAL PERMANENT SECRETARY
OFFICE OF THE PRIME MINISTER

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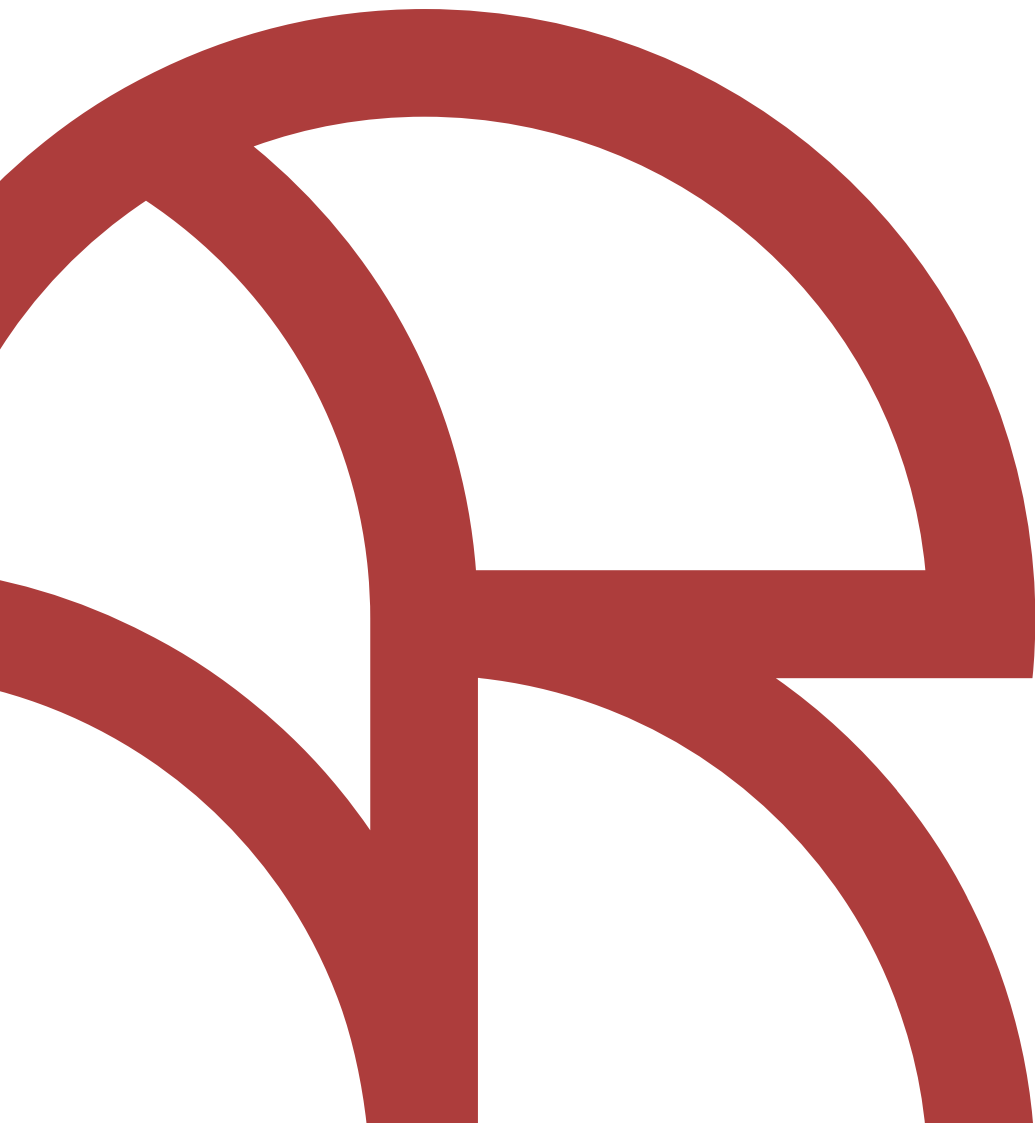
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Annual Report 2022

February 2024



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LIST OF ABBREVIATIONS

6 Ombudsman cases report

AACC	Active Ageing & Community Care
ACHCB	Action Committee on Health Care Benefits
ADF	Academy for Disciplined Forces
ADHD	Attention Deficit Hyperactivity Disorder
ADR	Adverse Drug Reaction
AFM	Armed Forces of Malta
AHD	Allied Health Directorate
ARO	Assistance and Rescue Officer
ARMS	Automated Revenue Management Services Limited
ARPA	Agriculture and Rural Payments Agency
ART	Assisted Reproductive Technology
ATM	Automated Teller Machine
BCA	Building and Construction Authority
BoQ	Bill of Quantities
BWR	Bord tal-Warrant tar-Restawraturi
CCF	Corradino Correctional Facility
CEO	Chief Executive Officer
CEP	Commissioner for Environment and Planning
CfE	Commissioner for Education
CfH	Commissioner for Health
CfR	Commissioner for Revenue
CIO	Chief Information Officer
CMO	Chief Medical Officer
CN	Combined Nomenclature
CoS	Conditions of Service for Officers serving Overseas
COVID-19	Corona Virus Disease 2019
CPCM	Council for Professions Complementary to Medicine

CPD	Civil Protection Department
CPR	Cardiopulmonary Resuscitation
CPS	Child Protection
CPSU	Central Procurement and Supplies Unit
CRPD	Commission for the Rights of Persons with Disability
CSA	Court Services Agency
CVU	Central Visa Unit
DCC	Digital Covid Certificate
DH	Department of Health
DIER	Department for Industrial and Employment Relations
DNA	Do Not Attempt
DNO	Development Notification Order
DNR	Do Not Resuscitate
DoC	Department of Contracts
DPA	Directorate for Pharmaceutical Affairs
DPSA	Danish Patient Safety Authority
DSS	Department of Social Security
EAS	Estate Agents Section
ECG	Electrocardiogram
ECTS	European Credit Transfer System
EHD	Environmental Health Directorate
EHIC	European Health Insurance Card
EHO	Environmental Health Officer
EIRA	Employment and Industrial Relations Act
EMA	European Medicines Agency
EMTC	Exceptional Medicinal Treatment Committee
EPA	Embryo Protection Authority

8 List of abbreviations

EPC	Energy Performance Certificate
ERA	Environment and Resources Authority
ESP	Employee Support Programme
EU	European Union
EWA	Energy and Water Agency
FAQ	Frequently Asked Questions
FDG	Fluorodeoxyglucose
FSWS	Foundation for Social Welfare Services
FTS	Foundation for Tomorrow's Schools
GCC	General Contracts Committee
GDPR	General Data Protection Regulation
GFL	Government Formulary List
GFLAC	Government Formulary List Advisory Committee
GGH	Gozo General Hospital
GHRC	Grand Harbour Regeneration Corporation
GOSH	Great Ormond Street Hospital
HA	Housing Authority
HCPAC	Health Care Professions Appeals Committee
HQ	Headquarters
HR	Human Resources
ICP	Integrated Care Pathway
ICT	Information and Communication Technology
ID	Identity
IM	Infrastructure Malta
IMA	Identity Malta Agency

INDIS	Industrial Innovative Solutions
IOL	Intra Ocular Lens
IPA	International Protection Agency
IPCB	Independent Police Complaints Board
IPS	Institute for the Public Services
IRD	Inland Revenue Department
IRU	Internal Relations Unit
ITA	Income Tax Act
ITS	Institute of Tourism Studies
IT	Information Technology
IVF	In Vitro Fertilisation
JO	Joint Office
LA	Lands Authority
LC	Local Council
LEOC	Late Entry Officer Course
LESA	Law Enforcement System Authority
LGD	Local Government Division
LOI	Letter of Intent
LSE	Learning Support Educator
MAC	Malta Autism Centre
MAM	Medical Association of Malta
MATSEC	Matriculation and Secondary Education Certificate
MCAST	Malta College of Arts, Science & Technology
MCCAA	Malta Competition & Consumer Affairs Authority
MCCF	Malta Community Chest Fund
MCM	Medical Council of Malta

10 List of abbreviations

MCOPI	Medical Centre for Orthotics and Prosthetics International
MDA	Malta Developers Association
MDH	Mater Dei Hospital
ME	Malta Enterprise
MEEE	Ministry for the Environment, Energy and Enterprise
MEDE	Ministry for Education and Employment
MEDS	Ministry for Education and Sports
MEFL	Ministry for the Economy, European Funds and Lands
MEIB	Ministry for the Economy, Investment and Small Business
MELP	Malta Embellishment and Landscaping Project
MEYR	Ministry for Education, Sports, Youth, Research and Innovation
MFA	Category A: Commercial Fishing Vessels – Full-time
MFAA	Ministry for Active Ageing
MFB	Category B: Commercial Fishing Vessels – Part-time
MFC	Category C: Non-commercial Fishing Vessels
MFE	Ministry for Finance and Employment
MFEA	Ministry for Foreign and European Affairs
MFED	Ministry for Education
MFET	Ministry for Foreign and European Affairs and Trade
MFH	Ministry for Health
MFHEA	Malta Further and Higher Education Authority
MFJ	Ministry for Justice
MFOPD	Malta Federation of Organisations Persons with Disability
MFT	Ministry for Tourism
MG2i	MCAST Gateway to Industry
MGA	Malta Gaming Authority
MGOZ	Ministry for Gozo
MHAL	Ministry for National Heritage, the Arts and Local Government
MHS	Mental Health Services

MHSE	Ministry for Home Affairs, National Security and Law Enforcement
MHSR	Ministry for Home Affairs, Security, Reforms and Equality
MIMCOL	Malta Investment Management Company Limited
MIVC	Ministry for Inclusion, Voluntary Organisations and Consumer Rights
MITA	Malta Information Technology Agency
MMA	Malta Medicines Authority
MoU	Memorandum of Understanding
MPPB	Malta Psychology Profession Board
MPF	Malta Police Force
MPWP	Ministry for Public Works and Planning
MQF	Malta Qualifications Framework
MSFC	Ministry for Social Justice & Solidarity, the Family and Children's Rights
MSHR	Ministry for National Security, Home Affairs, Reforms and Equality
MSPC	Ministry for Social Policy and Children's Rights
MTA	Malta Tourism Authority
MTIP	Ministry for Transport, Infrastructure and Capital Projects
MUMN	Malta Union of Midwives and Nurses
MUT	Malta Union of Teachers
NACE	Nomenclature of Economic Activities
NAO	National Audit Office
NCFHE	National Commission for Further and Higher Education
NEA	National Employment Authority
NHS	National Health Services
NGO	Non-Governmental Organisation
NPICU	Neonatal Paediatric Intensive Care Unit
NSO	National Statistics Office
OAFS	Office of the Arbiter for Financial Services

12 List of abbreviations

OCA	Outside Catering Area
OCS	Outdoor Catering Areas
OPM	Office of the Prime Minister
OVR	Over Voltage Relay
P&SD	People & Standards Division
PA	Planning Authority
PAYE	Pay As You Earn
PCR	Polymerase Chain Reaction
PCRB	Public Contracts Review Board
PET-CT	Positron Emission Tomography and Computed Tomography
PHC	Primary Health Care
PMP	Performance Management Programme
PO	Parliamentary Ombudsman
POYC	Pharmacy of Your Choice
PPE	Personal Protective Equipment
PPP	Public-Private Partnership
PPS	Principal Permanent Secretary
PS	Permanent Secretary
PSC	Public Service Commission
PSMC	Public Service Management Code
REWS	Regulator for Energy and Water Services
RPL	Recognised Prior Learning
SAMOC	Sir Anthony Mamo Oncology Centre
SCH	Superintendence of Cultural Heritage
SCSA	Social Care Standards Authority
SEBD	Social, Emotional and Behavioural Difficulties

SHC	Steward Health Care
SL	Subsidiary Legislation
SLH	St Luke's Hospital
SLSL	Special Long Service Leave Scheme
SMB	Sanctions Monitoring Board
SMP	Statement Moderating Panel
SLC	Siggiewi Local Council
SMT	Senior Management Team
SOP	Standard Operating Procedure
STO	Senior Technical Officer
SVP	St Vincent De Paul
THPN	Temporary Humanitarian Protection New
TM	Transport Malta
TMC	Traffic Management Committee
TOIL	Time-off-in-lieu
UAE	United Arab Emirates
UHM	Union Haddiema Maghqudin
UK	United Kingdom
UM	University of Malta
USA	United States of America
VAT	Value Added Tax
VEGF	Vascular Endothelial Growth Factor
WSC	Water Services Corporation
WHO	World Health Organisation



Foreword

The governance action exercise on cases dealt with by the Ombudsman is regarded as a valuable means to facilitate and expedite the implementation of suggestions and recommendations made for each case, whenever applicable, and when implementation is possible.

Notwithstanding the time-consuming nature of this exercise, the gains achieved outweigh the laborious process as it holds public employees accountable for their actions; enhances the quality, effectiveness and timeliness of the service provided to the public; monitors that the public is being treated with equity; and brings to the forefront areas which require improvement.

In view of the benefits reaped from this governance action exercise, several actions have been taken and will be taken in the coming months to boost this function:

- investment has been made to strengthen the method of reporting Ombudsman cases and related developments by Ministries, by means of a digital system which promotes timely reporting while providing a log of all user activity in the system for each case.
- cooperation with the office of the Ombudsman and other institutions of oversight is being fostered and reinforced through regular meetings.
- during the coming year, outreach sessions with public entities will be introduced to promote the principles of good governance as the basis of all actions and decisions taken by public employees, with specific focus on service delivery and customer service.

The results achieved from this exercise are clearly positive, with 86.1% of Ombudsman cases received during 2022 having been closed. This highly commendable rate is an improvement on last year's laudable rate of 85.5% and confirms the public administration's commitment to delivering the best possible service to the public.

I thank all those involved for this accomplishment which was only possible through the cooperation and effort of Permanent Secretaries, liaison officers, heads of entities, and all the public employees engaged in this process.

Tony Sultana

Principal Permanent Secretary



Introduction

This report presents the action taken to address cases referred by the Ombudsman and Commissioners to the Public Administration during 2022 and cases which remained pending from previous years. The action reported in the sixth edition of this report is correct up to 31 October 2023.

The report is divided by ministry. Each section includes all cases pertaining to the respective ministry, including cases referred by the Commissioners and cases pre-dating 2022. During this governance action exercise, each case was reviewed to ensure that details presented for publication respected the complainants' privacy also by using gender-neutral language, and that each case was suitably managed by the Ministry or entity concerned.

Subsequently, a closure meeting was held with each ministry with the aim to discuss and clarify issues, and to resolve, whenever possible, problems which could be hindering the implementation of actions. During these closure meetings, commitments on actions taken or in the process of being taken were agreed upon, and were later endorsed by the respective Permanent Secretary, prior to the publication of this report. The assistance of Liaison Officers was crucial to finalise this publication.

For the first time this year, a new section has been included giving details of action taken by the Public Administration regarding cases which had been reported with the status: *The Ombudsman stated that the case was referred to the Prime Minister in terms of the Ombudsman Act*, in last year's publication, leading to the conclusion of these cases. Similar details are given in sections by ministry, for cases which were referred to the Prime Minister during 2022 and 2023 and were subsequently concluded.

A snapshot of the cases covered in this report is presented hereunder:

- Of the 385 cases (267 cases in 2022 plus 118 pre-2022 cases) deemed as meriting further inquiry by the Parliamentary Ombudsman and the Commissioners, a substantial 76.6% (295 cases) were closed by the Ombudsman by the end of October 2023.
- From the 267 new cases received in 2022, 230 cases (86.1%) were closed by the Office of the Parliamentary Ombudsman and Commissioners by the end of October 2023.
 - In 211 cases (that is 91.7% of the 2022 cases which were closed), the investigation was closed without the presentation of any recommendations for corrective action to be taken by the management of the public entity concerned.
 - 19 other closed cases (8.3% of the 2022 cases which were closed) included recommendations made by the Ombudsman or the Commissioners.
 - In 17 of the 19 cases closed with recommendations (89.5%), the recommendations made had already been implemented or noted, by the time of reporting. The recommendations related to the other two cases (10.5%) were not accepted.
- This means that 99.1% of the cases received during 2022 which had been closed by the end of October 2023, were suitably addressed.
- Seven cases (2.6%) of the cases received in 2022, have been referred by the Ombudsman to the Prime Minister in terms of article 22(4) of the Ombudsman Act. In two other cases (0.8%), which had been referred by the Ombudsman to the Prime Minister, action was taken to address the recommendations made and a reply to the Ombudsman has been sent accordingly.
- 28 cases received in 2022 (10.5%) remain pending. 13 cases are pending at Ministry level while 15 cases are pending at the Ombudsman.

This positive outcome is a sound indication of the commitment and adaptability of public employees to improve on established practices to provide a better service to the public on the principles of good governance. This encouraging result was possible through the collaboration between the Governance Action team and Liaison Officers and Focal Persons of the ministries and entities involved, and the cooperation of their respective Permanent Secretaries and Heads.

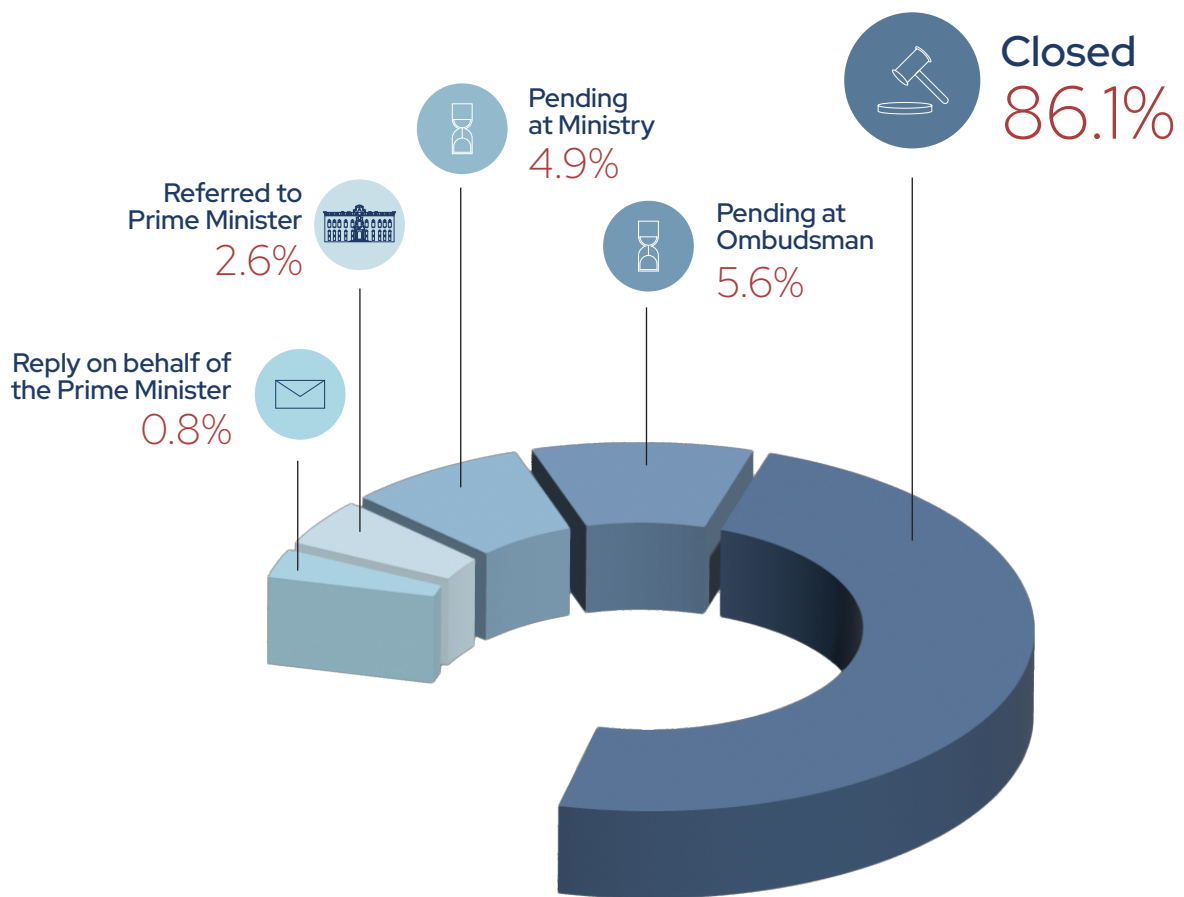


STATISTICS OVERVIEW

(as at end of October 2023)

Registered cases in 2022

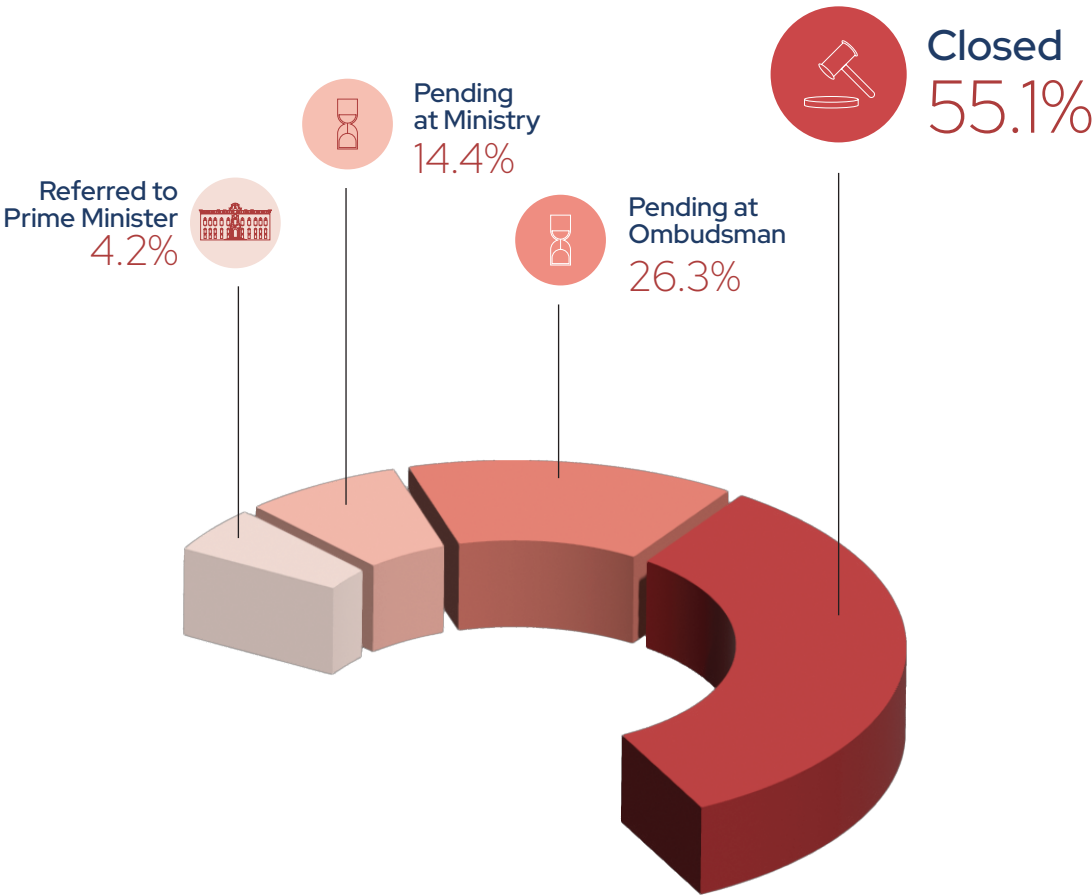
267



Rate of closed cases per year	2017	2018	2019	2020	2021
	76.6%	65.2%	66.4%	73.6%	85.5%

Cases carried forward from previous years

118





REPORT IN NUMBERS

A statistical analysis was carried out to establish the status and outcomes of the caseload handled by the Office of the Ombudsman, including the three Commissioners, during January to December 2022.

Ministries and public entities were requested to submit to the Governance Action Directorate, a detailed outline of the status and outcome of each case identified in the Ombudsman's Annual Report for 2022. Each case was subsequently discussed in detail.

This introductory section presents an exhaustive snapshot of this analysis. It provides an overview of the cases handled by the Parliamentary Ombudsman and the Commissioners during 2022 and their status and / or outcomes by the end of October 2023.

Overview

Cases received by the office of the Parliamentary Ombudsman and Commissioners in 2022

During 2022, the Office of the Ombudsman, comprising the Parliamentary Ombudsman and the three Commissioners, investigated a total of 267 new complaints. 118 additional cases were carried forward from previous years. Hence, the total caseload for the Office of the Parliamentary Ombudsman and Commissioners amounted to a total of 385 cases. This represents a decrease of 90 cases (or 18.9%) over the total caseload for 2022 which stood at 475 cases.

Diagram 1 depicts the total caseload pertaining to the Office of the Parliamentary Ombudsman and Commissioners in 2022.

DIAGRAM 1
Summary of total caseload dealt with in 2022

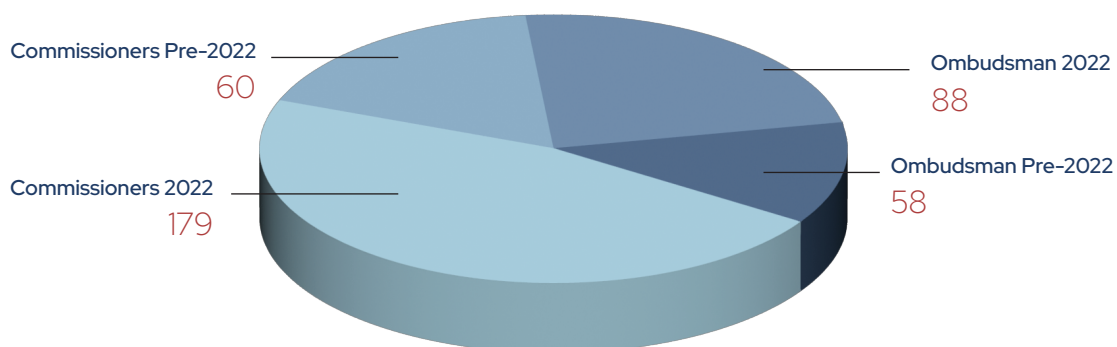


Diagram 2 indicates the status of complaints handled by the Ombudsman and Commissioners in 2022.

DIAGRAM 2
Status of cases referred by Parliamentary Ombudsman and Commissioners

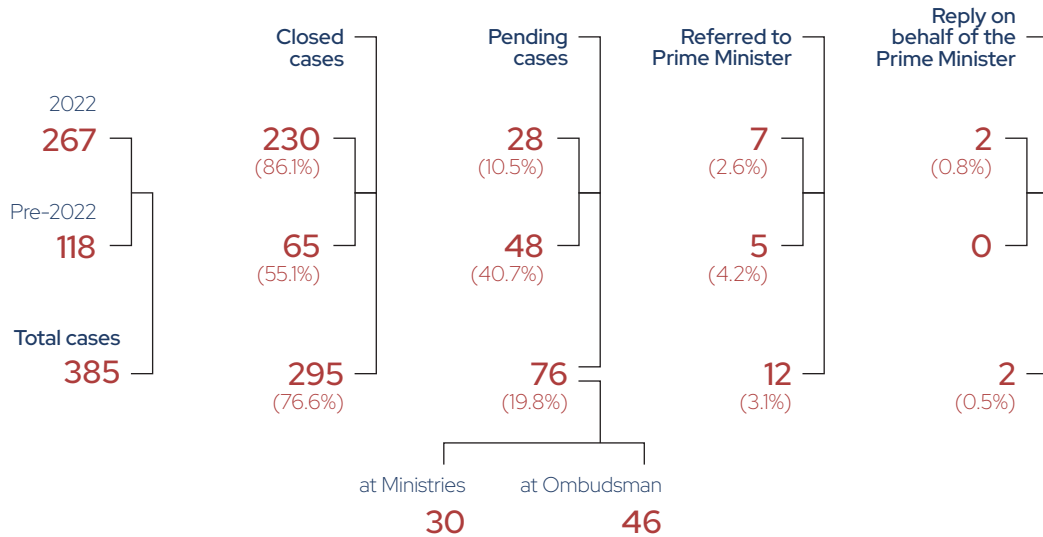
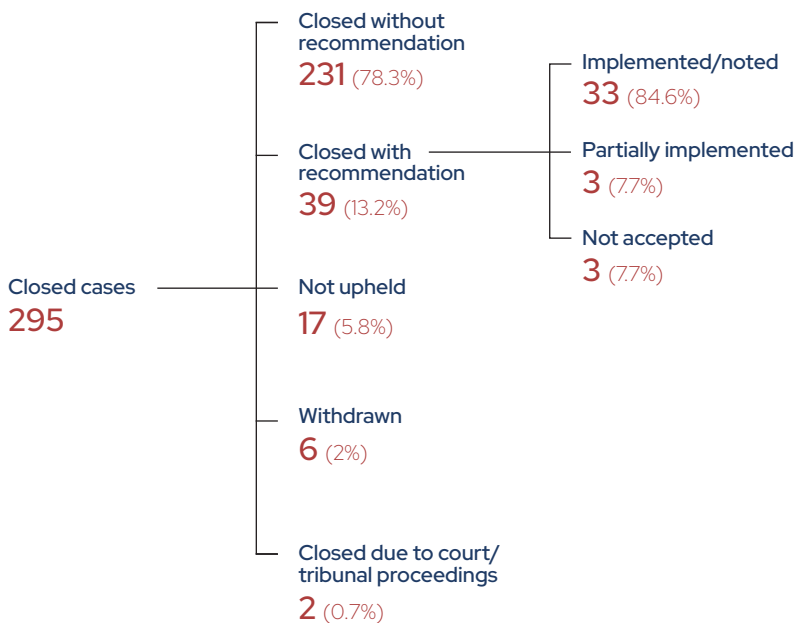


Diagram 3 depicts the categories of closed cases:

DIAGRAM 3
Outcome of closed cases



Cases handled by the Parliamentary Ombudsman

Based on the Public Administration's findings, the cases handled by the Parliamentary Ombudsman during 2022 are depicted in diagram 4 below.

DIAGRAM 4
Cases handled by the Parliamentary Ombudsman during 2022

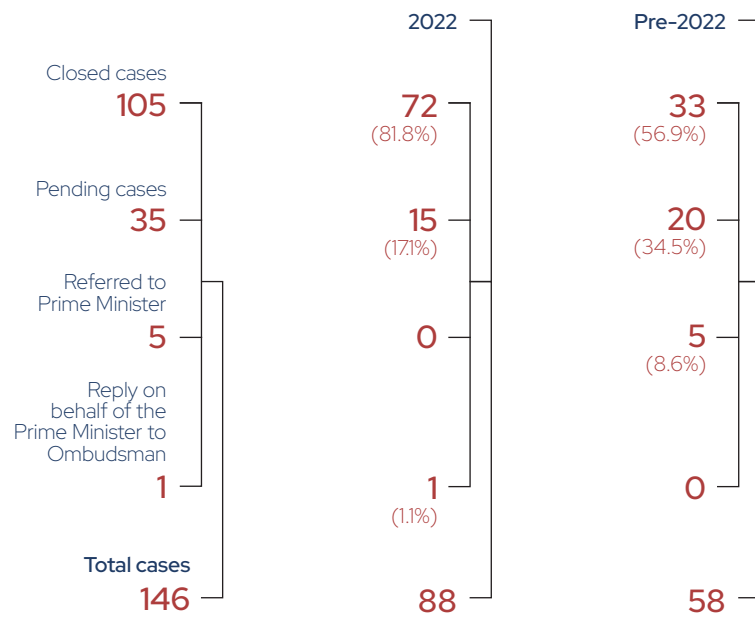
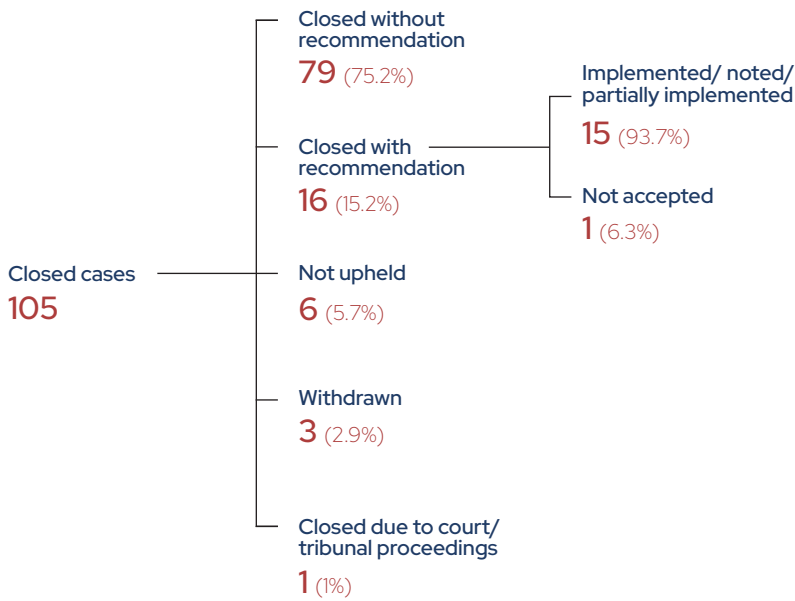


Diagram 5 gives details of the outcomes of cases concluded by the Parliamentary Ombudsman.

Our analysis of the 105 cases, closed from the total caseload of the Parliamentary Ombudsman for 2022 and pre-2022 brought to the fore the significant number of cases that were concluded without the need for any detailed investigation on the part of the Parliamentary Ombudsman. It is to be noted that of the 35 pending cases, only 6 cases (17.1%) were still being processed by the Public Administration. The remaining 29 cases (82.9%) are pending action from the Ombudsman.

DIAGRAM 5
Outcome of closed cases



It is with satisfaction to note that the analysis carried out indicates that, with the exception of one case, in all the other cases closed by the Parliamentary Ombudsman, either the Public Administration was found to have acted correctly, or otherwise, where investigations have uncovered areas that could be improved on, the Public Administration implemented the recommendations made by the Parliamentary Ombudsman.

Overview: Cases received or handled by the offices of the Commissioner for Education, Commissioner for Environment & Planning and the Commissioner for Health

Data analysed by the Public Administration shows that in 2022, together the Commissioners handled a total of 239 cases, representing 62.1% of the total caseload handled by the Office of the Ombudsman. The total cases handled by the Commissioners and the caseload distribution are shown in diagram 6 and 7 respectively.

DIAGRAM 6
Cases handled by Commissioners

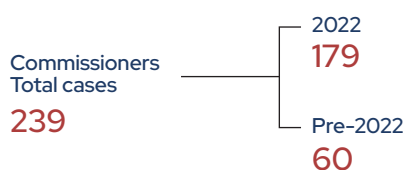
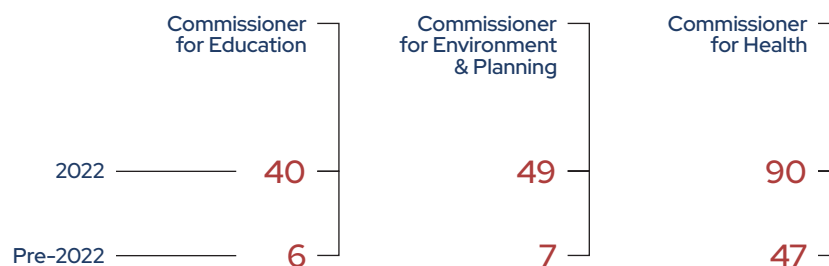


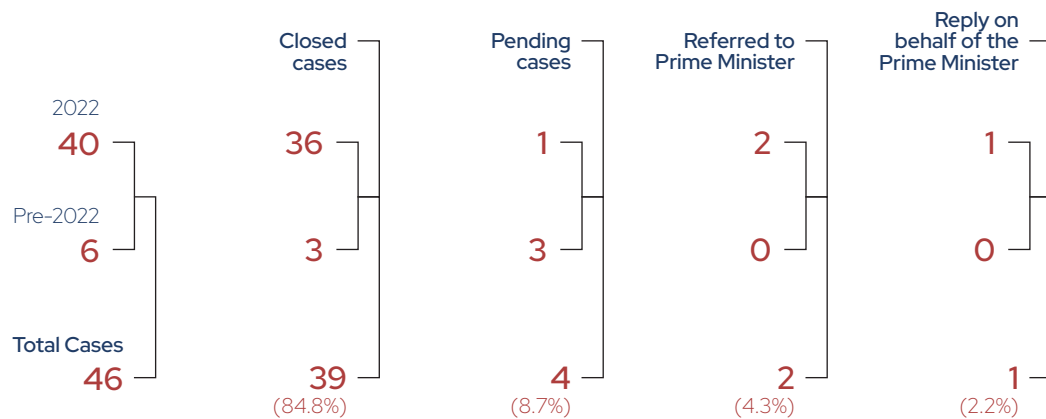
DIAGRAM 7
Caseload by Commissioners



Cases handled by the Commissioner for Education

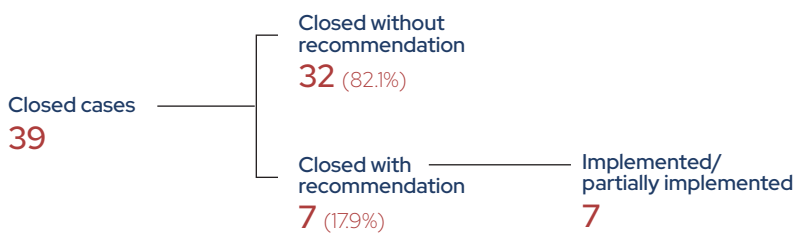
Data compiled by the Public Administration indicates that, during 2022, the Commissioner for Education (CfE) referred 39 new cases to the Ministry for Education, Sport, Youth, Research and Innovation and 1 new case to the Ministry for Tourism. The status of the cases handled by the Commissioner for Education is shown in Diagram 8 below:

DIAGRAM 8
Cases handled by the Commissioner for Education



Details of the cases closed by the Commissioner for Education are given in Diagram 9:

DIAGRAM 9
Cases closed by the Commissioner for Education

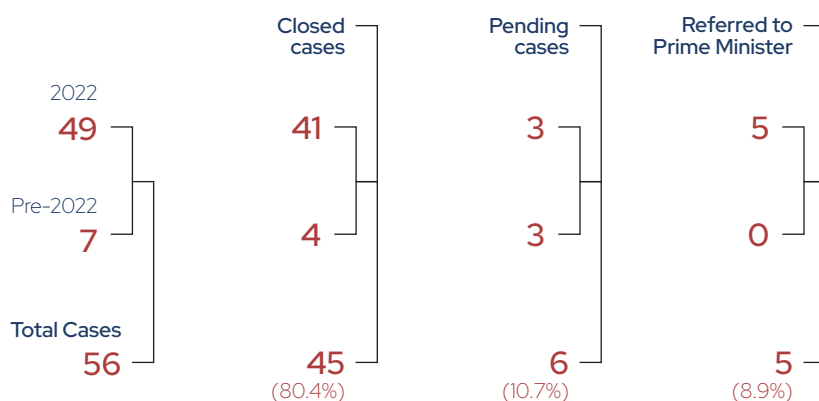


Cases handled by the Commissioner for Environment and Planning

Data compiled by the Public Administration indicates that, during 2022, the Commissioner for Environment and Planning (CEP) referred 49 new cases to ministries/entities. These cases are to be added to the 7 cases the Commissioner had on his caseload prior to 2022, adding up to a total caseload of 56. The status of the cases handled by the CEP is given in Diagram 10.

DIAGRAM 10

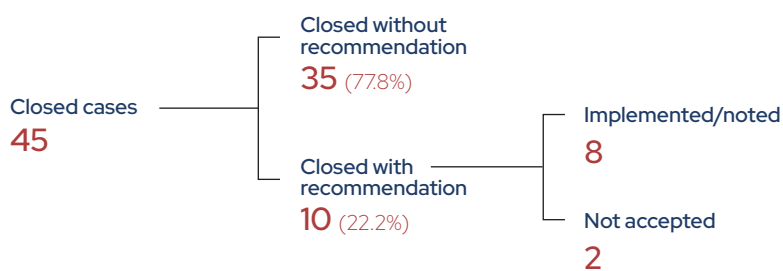
Cases handled by the Commissioner for Environment and Planning



Details on the 45 concluded investigations are given in Diagram 11:

DIAGRAM 11

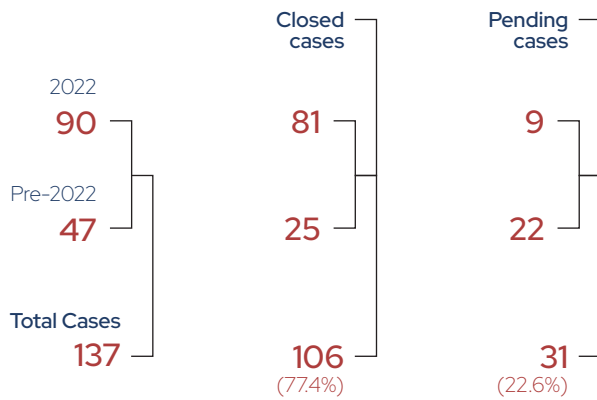
Cases closed by the Commissioner for Environment and Planning



Cases handled by the Commissioner for Health

The Public Administration’s findings indicate that during 2022 the Commissioner for Health handled a total of 137 cases. Diagram 12 below gives details of the cases handled by the Commissioner for Health:

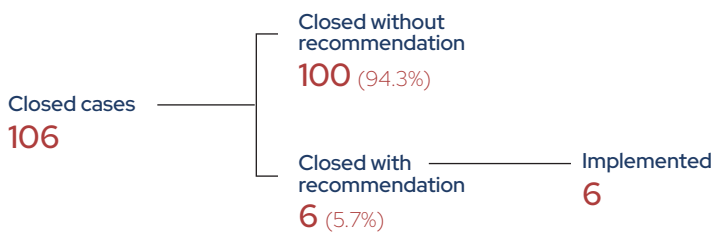
DIAGRAM 12
Cases handled by the Commissioner for Health



At the time of reporting, 20 cases were pending at the pertinent Ministry, while 11 cases were pending at the Commissioner for Health.

Diagram 13 shows the outcome of the cases closed by the CfH:

DIAGRAM 13
Cases closed by the Commissioner for Health



The ensuing sections in this report present a detailed assessment of the caseload handled by the Parliamentary Ombudsman and each of the Commissioners.







OFFICE OF THE PRIME MINISTER

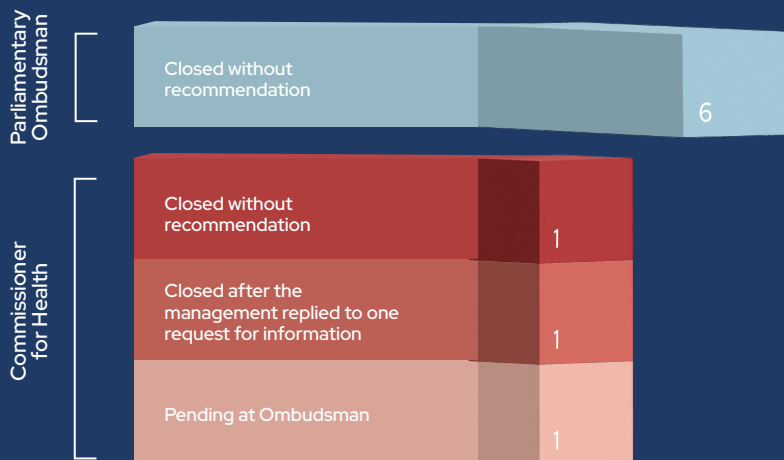
In 2022, six cases were referred to the Office of the Prime Minister (OPM) by the Ombudsman. All cases were closed in 2022 without any recommendation being made by the Ombudsman.

Three cases were referred in 2022 by the Commissioner for Health. One case was closed by the Commissioner after management replied to one request for information, one case was closed without any recommendation being made, and another case is pending at the Office of the Ombudsman.

There were three cases referred by the Ombudsman which were pending from previous years. One case was closed and recommendation implemented, one case was closed and recommendation noted, whilst another case is pending at the Office of the Ombudsman.

Two cases which had been referred by the Commissioner for Health and which were pending from previous years, were closed by the Commissioner without making a recommendation.

OPM Total Cases 2022 - 9



OPM
Parliamentary Ombudsman 2022



Sector/Department

Cabinet Office

Ombudsman case reference

OMB-22-3061

Brief details of case

A complaint from a former chairperson of an Authority established by law, stating that they had to resign following a change in Administration. According to the complainant, the request to resign was *ultra vires* as they were answerable to a different body.

Action taken and management comments

The case was received on 24 August 2022. The Ombudsman queried the established policy followed, after a change in administration, whereby the chairpersons, members, as well as secretaries of boards and committees were expected to resign.

The Ombudsman asked whether there was a written policy regarding this practice and whether this policy applied to chairpersons of authorities who were appointed by a Minister in terms of the legislation regulating the Authority. A response was provided on 1 September 2022, stating that once a new administration is elected, the Principal Permanent Secretary issues a letter-circular to Permanent Secretaries requesting that Chairpersons and Members of Boards and Committees falling within their portfolio resign. A list of bodies to which this circular was not applicable was also provided to the Ombudsman.

On 31 January 2023, the Ombudsman informed OPM that case was closed.

Status

Closed without recommendation

Sector/Department

Department for Industrial and Employment Relations (DIER)

Ombudsman case reference

OMB-22-2579

Brief details of case

A complaint regarding several issues, including teachers' entitlement to vacation leave. The complainant questioned whether they were only entitled to school holidays and not vacation leave. They referred to the Organisation of Working Time Regulations and argued that they were subject to less favourable conditions when compared to regular workers. On this basis, the complainant maintained that the DIER should not support such a position as school holidays should not be as part of their annual leave.

Action taken and management comments

The case was received on 17 January 2022.

The DIER clarified that teachers were not entitled to vacation leave but were entitled to school holidays as specified in the regulation, and the pertinent collective agreement.

Status

Closed without recommendation

Sector/Department**Department for Industrial and Employment Relations (DIER)****Ombudsman case reference****OMB-22-2981****Brief details of case**

A complaint regarding the issue of a licence for the operation of a recruitment agency. The Department for Industrial and Employment Relations (DIER) acknowledged the complainant's application. The acknowledgement stated that if all the required documents in conformity with the applicable legislation were provided, the licence would be issued within 21 working days from the date of application. After the set timeframe expired, the complainant requested an update on their application from DIER, but no reply was forthcoming.

Action taken and management comments

The complaint was received on 20 July 2022.

The Ombudsman requested the DIER to provide feedback to the complainant.

On 22 July 2022, the DIER replied to the Ombudsman, stating that the complainant had applied for two employment agencies under the same company. It was not permissible to have two employment agencies under the same company, and thus the complainant had to inform DIER which application they intended to keep. Once the DIER received the necessary information, the vetting process would proceed and if all was in order, the licence would be issued.

DIER also offered to contact the complainant directly to resolve the issue.

Status

Closed without recommendation

Sector/Department**Department for Industrial and Employment Relations (DIER)****Ombudsman case reference****OMB-22-3025****Brief details of case**

A complaint regarding unpaid dues to the complainant by their former employer. The complainant referred their issue to the DIER, and a disagreement ensued between DIER and the complainant on the amount due to the latter.

The complainant, when citing their employment contract, stated that their basic salary included the car cash allowance, payable monthly in arrears. DIER, on the other hand, stated that the former employee could only claim salary, excluding any allowances.

Action taken and management comments

The complaint was received on 8 July 2022.

On 28 July 2022, the DIER confirmed the information given to the complainant, that its decision was based on the definition of 'wages' under article 2 of the Employment and Industrial Relations Act (EIRA), stating that wages were remuneration or earnings, payable by an employer to an employee and included any bonus payable under article 23, other than any bonus or allowance related to performance or production. Moreover, NI contributions were calculated solely on the basic salary.

The Ombudsman upheld the decision taken by the DIER.

Status

Closed without recommendation

Sector/Department

Electoral Office

Ombudsman case reference

OMB-22-2778

Brief details of case

A complaint regarding the renaming of a street in 2014, despite the opposition of several residents. An application was filed by the residents and presented to the Local Council, asking that the street is renamed with its original title. This request was forwarded to the Street Naming Committee within the Electoral Office. After consideration, the Committed decided to keep the new street name to avoid the repeated inconvenience to the residents to rechange the street name, postal matters, and other issues related to services.

Action taken and management comments

The case was received on 26 April 2022. The Ombudsman requested information regarding the manner changes to street names were carried out and the reasons which led to changing of the name of this street.

On 6 July 2022 the Ministry provided the current practice adopted by the Street Naming Committee when renaming streets. However, no information could be provided regarding the practice adopted in 2014 as the Committee did not form part of the same Ministry.

Status

Closed without recommendation

Sector/Department

People & Standards Division

Ombudsman case reference

OMB-22-2748

Brief details of case

A complaint relating to the complainant's ineligibility to apply for the Pilot Project on Recognised Prior Learning (RPL) of Senior Technical Officers (STOs) since at the time the application was submitted, the complainant did not fulfil the requirement of four years in the grade of STO. Subsequently, the complainant discovered that their peers had been deemed eligible on the basis of additional documentation.

Action taken and management comments

The case was received on 7 March 2022.

On 4 April 2022, P&SD replied to the Ombudsman stating that the Selection Board could not accept any further documentation past the closing date since this practice would have been unfair to other applicants. Nothing precluded the complainant from submitting additional relevant documentation as their peers had done.

The P&SD stated also that any perceived future possible injustice is mere speculation. Given the unique nature of the RPL programme and the fact that the complainant had, in the interim, applied for a subsequent call for the RPL programme, they have not at any point been disadvantaged.

The Ombudsman suggested that the Institute for the Public Services (IPS) takes steps to ensure that the process is expedited so that the complainant would not be placed at a disadvantage.

The P&SD replied that the Ombudsman's suggestion was noted, and the Ombudsman closed the case on 5 May 2022.

Status

Closed without recommendation





OPM
Parliamentary Ombudsman Pre-2022



Sector/Department

People & Standards Division

Ombudsman case reference

OMB-21-2391

Brief details of case

A complaint relating to the assimilation exercise in the Managerial Stream. The complainant claimed that they were subject to less beneficial conditions, owing to assimilation in comparison to the substantive grade previously held.

Action taken and management comments

The case was received on 5 November 2021.

A meeting was held between the P&SD and the complainant on 10 January 2022 to understand better the elements of the claim.

On 18 April 2022, the P&SD explained to the Ombudsman the assimilation exercise within the Managerial Stream, and that officers concerned were given two career streams to choose from. Employees benefited from the conditions pertaining to the chosen stream. The complainant chose to be assimilated in the Managerial Stream and thus was eligible to the conditions and benefits which applied to this stream. These options had been amply discussed with the complainant.

On 21 June 2022, the Ombudsman requested a comparison between the remuneration packages for both streams. On 1 July 2022, the P&SD provided this information. Furthermore, on 13 July 2022, the Ombudsman requested clarification regarding payment of arrears. On 19 July 2022, the P&SD provided these clarifications.

As at 31 October 2023, the case was pending at the Office of the Ombudsman.

Status last year

Pending at Ombudsman

Status

Pending at Ombudsman

Sector/Department**People & Standards Division****Ombudsman case reference****T 0198****Brief details of case**

A complaint from an officer claiming entitlement to allowances under a sectoral agreement as well as objecting to have been deprived of a transfer.

Action taken and management comments

The case was received on 4 October 2019.

On 6 November 2019, the P&SD clarified that constant information was provided to the officers concerned, including the complainant, during the assimilation process. In accordance with Public Service practice, one cannot concurrently hold two substantive grades, and that the salary was defined by the grade one held.

On 3 June 2020, it was communicated that instructions had been issued with respect to the transfer requested.

On 6 July 2022, the Ombudsman issued his Final Opinion.

Several exchanges of correspondence ensued. On 12 September 2022, the P&SD stated that should this recommendation be implemented, it would be unjust on other officers working in this class. Nevertheless, the P&SD informed the Ombudsman that further investigations will be carried out.

On 26 October 2022, it was approved that the complainant be deemed as having held their previous grade for the duration between the assimilation and the transfer out of the respective department on the basis that they continued to carry out specialised duties related to that department.

On 4 November 2022, the Ombudsman informed P&SD that the case is now closed.

Recommendation by Ombudsman

The Ombudsman recommended that the complainant should be paid allowances, effective from the moment of assimilation until the complainant was transferred.

The Ombudsman also recommended that where decisions, processes or guidelines change or affect the conditions of work of employees in the public service, employees should be provided with written information on the effects which will be brought about on their employment.

Status last year

Pending at Ministry

Status

Closed and recommendation implemented

Sector/Department

People & Standards Division

Ombudsman case reference

T 0293

Brief details of case

A complaint concerning claims of discrepancies in the salary paid to officers with the same nomenclature in different ministries.

Action taken and management comments

The case was received on 9 December 2019.

On 3 January 2020, the P&SD explained that the roles and duties involved were different. The duties associated with those of the higher salary were more onerous.

On 1 October 2021, the Office of the Ombudsman sought further clarifications from the P&SD on the reasoning behind the decision of the Grievances Board.

On 8 November 2021, the P&SD provided clarifications on how the Grievances Board had reached its conclusions.

On 31 January 2023, the Ombudsman issued his Final Opinion.

On 21 February 2023, the P&SD stated that the recommendations made were being implemented.

On 1 March 2023, this Ombudsman acknowledged this information.

Recommendation by Ombudsman

The Ombudsman recommended that decisions related to these types of complaints were at the Management's discretion. The Ombudsman concluded that the P&SD was not unjust in its decision. Additionally, the Ombudsman provided administrative recommendations relating to the manner in which the Grievances Board's decisions were to be issued.

Status last year

Pending at Ombudsman

Status

Closed and recommendation noted



OPM
Commissioner for Health 2022



Sector/Department**People & Standards Division****Ombudsman case reference****CH-22-3034****Brief details of case**

A complaint relating to 10 Assistant Clerks, claiming that they have not progressed to a higher scale for several years. The complainants drew comparisons with other Assistant Clerks working within the Customer Care Stream who had been promoted to a higher scale.

Action taken and management comments

The case was received on 7 July 2022.

On 3 August 2022, the P&SD replied to the Ombudsman stating that the Assistant Clerks in question had been assimilated to their current grade based on their previous grade of Ward Clerical Assistant, a grade which did not have any prospects for career progression. With this assimilation, the complainants entered the General Service Class which allowed them to advance to the next higher grade of Clerk, in Scales 16-15 by selection, after three years of satisfactory service. The P&SD also referred to the call for applications for the post of Clerk which was published on 8 July 2022, and which closed on 27 July 2022.

The P&SD further explained that officers within the Customer Care Stream undergo an entirely separate process for progression.

The case was closed by the Ombudsman without recommendation on 25 August 2022.

Status

Closed after the management replied to one request for information

Sector/Department**People & Standards Division****Ombudsman case reference****CH-22-3055****Brief details of case**

A complaint relating to a request for compensation for the loss of allowances and overtime pay during the period when the complainant had been on precautionary suspension. Subsequently, the Disciplinary Board had acquitted the complainant of the charges brought against them.

Action taken and management comments

The case was received on 19 July 2022.

On 3 October 2022, the newly appointed Commissioner for Health (CfH) requested feedback on the issue. On 3 October 2022, P&SD replied stating that the Office was seeking legal advice related to the case.

On 12 January 2023, the CfH requested information regarding the legal advice sought. On 16 January 2023, the P&SD stated that, similar to the opinion established in another case, the legal advice sought concluded that the principle of non-retroactivity with respect to legal provisions was to apply.

The CfH subsequently requested that this legal advice be sought in writing.

On 18 September 2023, the P&SD obtained the legal advice in writing, and this was subsequently forwarded to the CfH.

Status

Pending at Ombudsman

Sector/Department**People & Standards Division****Ombudsman case reference****CH-22-3302****Brief details of case**

A complaint relating to a request for clarification by the Commissioner for Health (CfH) on the Medical Board's decision relating to a public officer who was deemed unfit to carry out duties.

Action taken and management comments

The case was received on 3 March 2023. A clarification was being sought as to whether the officer had been deemed unfit to carry out duties related to patient care or unfit to carry out any duties. This query was posed as, in the interim, the officer concerned had been transferred from the Ministry for Health (MFH) to another Ministry.

On 15 March 2023, P&SD stated that the Medical Board's conclusion was that the public officer was deemed fit to work in the Ministry they were transferred to.

On 17 April 2023, the CfH requested a copy of the related Medical Board reports. These were provided to the CfH on 2 May 2023. On the same date, the CfH replied that the reports were open to interpretation.

On 24 May 2023, the P&SD stated that:

- i. The second report was meant to be read in conjunction with the first report and therefore the complainant was fit to continue working at the department they had been transferred to;
- ii. The former department was to be contacted for their view on whether the complainant be transferred back; and
- iii. The complainant could always request the Medical Board to carry out a review if circumstances change. These conditions were communicated to complainant by the Medical Board.

On 24 May 2023, the CfH replied that he will inform the complainant of their right to contact the Medical Board.

On 19 June 2023, the CfH closed the case.

Status

Closed without recommendation



OPM
Commissioner for Health Pre-2022



Sector/Department

People & Standards Division

Ombudsman case reference

CH-21-2073

Brief details of case

A complaint relating to the promotion of officers from Scale 7 to Scale 6, while others were not promoted.

Action taken and management comments

The case was received on 28 May 2021.

On 20 July 2021, the P&SD explained to the Commissioner for Health (CfH) the provisions of the respective Memorandum of Understanding (MoU). Nevertheless, given that the MoU was signed by MFH, it was recommended that queries are directed to MFH.

On 29 July 2021, the CfH referred the case to MFH.

On 23 February 2022, the MFH informed the CfH that no changes were envisaged to the MoU.

On 27 April 2022, the CfH requested a clarification from the pertinent union regarding an issue relating to an oversight in the agreement between the Government and the Union.

On 31 October 2022, a meeting was held between MFH and the CfH. The points discussed during the meeting were subsequently sent in writing to the CfH by MFH, and included an explanation on the basis assimilations to salary scale were made. The CfH was also informed that there were vacancies in the respective grade and that a call for applications would be issued soon.

On 13 February 2023, MFH informed the CfH that the call for applications was issued in November 2022 and that the selection process was being carried out.

On 14 February 2023, the CfH replied that he would be contacting the claimants to confirm their position following the issue of the call for applications.

On 16 October 2023, the CfH informed that the case was closed as the complainant had been accepted for the post.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**People & Standards Division****Ombudsman case reference**

CH-21-2204/
CH-21-2665 (appeal)

Brief details of case

A complaint relating to an applicant's ineligibility to sit for the examinations of Assistant Principal and Principal as the applicant was not considered as holding the post of Officer in Scale 11.

Action taken and management comments

The case was received on 22 July 2021.

On 29 August 2021, the P&SD replied that the substantive grade of Officer in Scale 11 and the position of Office Management Assistant in salary scale 11 were not the same. The complainant had been informed that they would have obtained the substantive grade of Officer in Scale 11 if the position on a definite contract held as Office Management had been renewed. However, this engagement had not been renewed. The complainant's definite position had been converted to an indefinite one by virtue of OPM Circular 4/2017 and not in terms of how one could attain Officer in Scale status. Furthermore, the complainant had the possibility for career advancement based on their substantive grade.

On 31 May 2022, the CfH stated that the complainant should have been given further clarifications on the implication of her decision.

On 23 June 2022, the P&SD replied to the CfH, stating that the complainant could have approached P&SD or the Ministry's HR for further explanations. The P&SD maintained that no discrimination took place since all applicants were accorded the same treatment.

The CfH closed the case on 29 July 2022.

Status

Closed without recommendation







MINISTRY FOR ACTIVE AGEING

In 2022, the Ministry for Active Ageing (MFAA) investigated 11 cases which were referred by the Commissioner for Health. All cases were closed by the Commissioner for Health without making a recommendation.

Two cases, which had been referred by the Commissioner for Health in 2020, are pending at the Ministry.

MFAA Total Cases 2022 - 11



MFAA
Commissioner for Health 2022



Sector/Department

Active Ageing and Community Care (AACC)

Ombudsman case reference

CH-22-3094

Brief details of case

A complaint by a relative of an elderly resident regarding placement at a residence for the elderly.

Action taken and management comments

The case was received on 5 August 2022.

On 11 August 2022, the AACC replied to the Commissioner for Health (CfH), informing him that the complainant's relative was to be admitted to a residence for the elderly on that same day, after having carried out the usual procedure of assessing the applicant.

On 28 October 2022, the CfH informed AACC that the case had been closed.

Status

Closed after the management replied to one request for information

Sector/Department

Active Ageing and Community Care (AACC)

Ombudsman case reference

CH-22-3258

Brief details of case

A complaint regarding the discharge of an elderly person from a residential home due to alleged aggressive behaviour.

Action taken and management comments

The case was received by AACC on 2 November 2022.

On 9 November 2022, MFAA replied to the Commissioner for Health (CfH), explaining that AACC did not have any relation with the residential home concerned and therefore, it was neither within AACC's remit nor power to investigate the case.

On 15 December 2022, the CfH requested further information.

On 19 December 2022, MFAA explained that the assessment carried out by AACC indicated that the elderly person would benefit if they were relocated to a dementia-friendly environment.

The CfH was informed on 19 January 2023 that the respective elderly person was relocated to another residential home.

On 8 February 2023, the CfH informed MFAA that the case was closed.

Status

Closed without recommendation

Sector/Department	Malta Medicines Authority (MMA)
Ombudsman case reference	CH-22-2637
Brief details of case	A complaint by an MMA employee, complaining that one of their emails, regarding a post of Senior Head, had remained unanswered.
Action taken and management comments	<p>The case was received on 25 January 2022.</p> <p>On 27 January 2022, MMA informed the Commissioner for Health that the Authority replied to the email sent by the complainant on 25 January 2022, enclosing a copy of the correspondence.</p> <p>The Commissioner closed the case in April 2022.</p>
Status	Closed after the management replied to one request for information
<hr/>	
Sector/Department	Malta Medicines Authority (MMA)
Ombudsman case reference	CH-22-3069
Brief details of case	A complaint by an employee of the Authority regarding their performance bonus. The complainant claimed that their emails addressed to MFAA had remained unanswered.
Action taken and management comments	<p>The case was received on 26 July 2022.</p> <p>MMA replied to the Commissioner for Health (CfH) on 25 October 2022, explaining the Authority's version of events on this case.</p> <p>On 27 October 2022, the CfH informed the complainant that following the explanations provided by MMA, the case was considered closed.</p> <p>On 31 October 2022, the complainant wrote directly to the Ministry requesting an increase in their performance rating.</p> <p>On 22 November 2022, the CfH requested the Ministry's comments on the complainant's email of 31 October 2022.</p> <p>On 2 January 2023, MFAA replied to the complainant and the CfH. Following a meeting between the complainant and the CfH, held on 24 March 2023, MFAA was informed by the CfH that the case was being considered as closed.</p>
Status	Closed without recommendation

Sector/Department

Malta Medicines Authority (MMA)

Ombudsman case reference

CH-22-3120

Brief details of case

A complaint regarding the negotiation process of the new collective agreement for employees of the MMA.

Action taken and management comments

The case was received on 12 August 2022 and a reply was provided to the CfH on 29 August 2022, stating that negotiations had not been yet initiated. However, proposals put forward by the complainant were noted and that they would be informed in due course when negotiations take place.

On 28 October 2022, the CfH requested an update on the case.

On 2 January 2023, MFAA replied to the CfH, stating that although the negotiations relating to the top management structures are not covered by the sectoral agreement, these can only commence once the discussions on the sectoral agreement for MMA employees are concluded.

On 23 May 2023, the CfH informed MFAA that the case was considered closed.

Status

Closed without recommendation

Sector/Department

Malta Medicines Authority (MMA)

Ombudsman case reference

CH-22-3192

Brief details of case

A complaint regarding an exemption of medicinal products on the local market, in line with article 20 of the Malta Medicines Act.

Action taken and management comments

The case was received on 23 September 2022.

On 11 October 2022, the MMA replied to the Commissioner for Health (CfH), explaining why the exemption requested by complainant could not be granted.

The CfH informed MFAA that the case was considered closed on 17 November 2022.

Status

Closed after the management replied to one request for information

Sector/Department	Social Care Standards Authority (SCSA)
Ombudsman case reference	CH/5/P76
Brief details of case	A complaint regarding alleged deficiencies in a home for elderly residents.
Action taken and management comments	<p>The case was received on 21 July 2022.</p> <p>On 11 August 2022, following a monitoring visit carried out at the elderly residence in question, the SCSA sent its feedback to the Commissioner for Health (CfH).</p> <p>Based on this visit, SCSA concluded that the home in question was taking all necessary action, had the proper policies and procedures in place to ensure that the quality of care, cleaning services and the quality of food were of the required standard.</p> <p>Upon enquiring, on 28 October 2022, MFAA was informed by the CfH that the case was closed.</p>
Status	Closed without recommendation

Sector/Department	St Vincent de Paul (SVP)
Ombudsman case reference	CH/5/P78
Brief details of case	The Commissioner for Health (CfH) requested a copy of an inquiry report conducted at St Vincent de Paul.
Action taken and management comments	<p>The request was received on 3 August 2022.</p> <p>On 6 September 2022, MFAA replied to CfH, informing him that the report was made public on 30 August 2022.</p>
Status	Closed after the management replied to one request for information

Sector/Department

St Vincent de Paul (SVP)

Ombudsman case reference

CH-22-2926

Brief details of case

A complaint by an SVP employee, claiming a missed opportunity for their career advancement, due to the fact that they did not have an electronic email account, and did not receive the circular advertising the respective call for applications.

Action taken and management comments

The complaint was received on 23 May 2022.

On 27 June 2022, MFAA replied to CfH, stating that all SVP employees had been informed by means of an internal circular that, with effect from 3 August 2015, all circulars and memos were to be forwarded by electronic mail. The circular advised all employees to activate a government email account. Assistance by SVP's IT section was also offered. The complainant did not adhere to the circular requirements and did not apply for a government email account.

On 28 June 2022, the CfH requested clarifications which were provided on 1 July 2022.

On 28 October 2022, MFAA communicated with the CfH and was informed that this case was considered closed.

Status

Closed without recommendation

Sector/Department

St Vincent de Paul (SVP)

Ombudsman case reference

CH-22-2835

Brief details of case

A complaint from an SVP employee claiming that a transfer was effected against their will.

Action taken and management comments

The case was received on 14 April 2022, and a reply to the Commissioner for Health (CfH) was sent on the same day, stating that the employee in question had been offered a placement at the Day Hospital. The complainant had accepted this placement on a trial basis. The complainant eventually changed their mind and, consequently, the official transfer was never issued. The management had agreed to allow the complainant to revert to their previous place of work.

MFAA followed up with the CfH and on 28 October 2022 was informed that the case was considered closed.

Status

Closed after the management replied to one request for information

Sector/Department	St Vincent de Paul (SVP)
Ombudsman case reference	CH-22-3144
Brief details of case	A complaint by an ex-SVP employee, regarding payment due for services rendered.
Action taken and management comments	<p>The case was received on 19 August 2022.</p> <p>On 13 September 2022, MFAA informed the Commissioner for Health (CfH) that the payment due was approved and effected accordingly.</p> <p>The CfH informed MFAA that the case was considered closed on 28 October 2022.</p>
Status	Closed without recommendation



MFAA
Commissioner for Health Pre-2022



Sector/Department

Malta Medicines Authority (MMA)

Ombudsman case reference

HU 0009 & HU 0026

Brief details of case

A complaint regarding the Collective Agreement. The complainants requested that the revised market corrector allowance should not be restricted to registered Pharmacists only.

Action taken and management comments

The case concerning one of the complaints was referred to the Malta Medicines Authority (MMA) for further investigation on 20 February 2020. The other complaint, regarding the same issue, was included in the exchange of correspondence.

The Commissioner for Health (CfH) recommended that an allowance should be introduced for Medical Doctors who were carrying out pharmaceutical duties.

On 2 October 2020, MMA informed the CfH that his recommendations shall be taken into consideration during negotiations on the new Collective Agreement.

The negotiations started on 25 June 2021. On 28 January and 29 August 2022, MMA informed CfH that negotiations were underway.

On 21 April 2023, the CfH stated that the matter had been ongoing for more than three years and requested a definite reply as to how these issues were going to be addressed. The Ministry informed the CfH that a meeting between MMA and IRU was scheduled for May 2023, following which any further developments would be reported to CfH.

A meeting with the CfH was scheduled for 2 August 2023, to discuss the issues related to these cases. On 3 August, the Ministry forwarded all related documentation as agreed during the meeting.

On 7 August 2023, the CfH requested the interpretation of the Ministry regarding a specific clause. On 8 August 2023, the Ministry provided its interpretation as requested by the CfH.

In his reply dated 9 August 2023, the CfH disagreed with the interpretation provided by the Ministry and insisted that the wording was open to a different interpretation.

In its reply of the 9 August 2023, the Ministry explained that although the wording could have been clearer, MMA always understood that this clause was applicable to officers holding a warrant as Pharmacists.

On 15 September 2023, the CfH requested that, in view of the interpretation given by MFAA, the Ministry should check whether the complainants were entitled to allowances originating from the collective agreement for Medical Doctors.

MFAA replied on 19 September 2023, stating that if the officers in question believed that they were entitled to such allowances, they should submit a new claim to the MMA.

On 17 October 2023, the CfH presented his Final Opinion.

CfH's recommendations are currently being discussed internally.

Recommendation**HU 0009**

- The request by the complainant to benefit from such class allowance cannot be sustained since they are not in possession of the requisites for such an allowance, as stated in the agreement between the Government of Malta and the UHM-Voice of the Workers.
- It was strongly recommended by the CfH that this matter is explored and discussed in detail during the negotiations of the new Collective Agreement, to avoid such unhappy situations.
- The CfH recommended that since the complainant is in possession of a degree of Doctor of Medicine (but not registered with Malta Medical Council), the employer should check if any allowances negotiated in the current Collective Agreement between the Medical Association of Malta and the Government of Malta are applicable in this specific case.

HU 0026

- The request by the complainant to benefit from such class allowance cannot be sustained since they are not in possession of the requisites for such an allowance, as stated in the agreement between the Government of Malta and the UHM-Voice of the Workers.
- It was strongly recommended by the CfH that this matter is explored and discussed in detail during the negotiations of the new Collective Agreement, to avoid such unhappy situations.
- The CfH recommended that since the complainant is a medical doctor duly registered with the Malta Medical Council, the employer should check if any allowances negotiated in the current Collective Agreement between the Medical Association of Malta and the Government of Malta are applicable in this specific case.

Status last year

Pending at Ministry

Status

Pending at Ministry





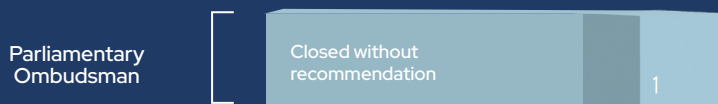


**MINISTRY FOR
AGRICULTURE,
FISHERIES AND
ANIMAL RIGHTS**

In 2022, one case was referred by the Ombudsman to the Ministry for Agriculture, Fisheries and Animal Rights. This case was closed by Ombudsman, soon after it was submitted, without making a recommendation.

There were no cases pending from previous years.

MAFA Total Cases 2022 - 1



MAFA
Parliamentary Ombudsman 2022



Sector/Department

Agriculture and Rural Payments Agency (ARPA)

Ombudsman case reference

OMB-22-2711

Brief details of case

A complaint regarding the decision taken by ARPA, whereby the complainant was not awarded subsidies related to rearing of calves. The basis for this decision was that the complainant had failed to notify the department with the birth of these calves within the timeframe stipulated by law as stated in Subsidiary Legislation (SL) 146.03 Paying Agency Regulations.

Action taken and management comments

The case was received on 28 February 2022.

On 2 March 2022, a reply was provided to the Parliamentary Ombudsman, stating that the administrative decision was communicated to the complainant in the first half of 2021, well over six months before the submission of the complaint to the Ombudsman.

Furthermore, the complaint had been submitted to the Ombudsman without exhausting the remedies available to complainants as stipulated in regulation 13 of SL 146.03, stating:

'Any dispute arising from claims made to the Paying Agency shall be settled by arbitration and shall be referred to arbitration as provided in the Fourth Schedule to the Arbitration Act within twenty days from the date when a person has been informed by the Paying Agency of its decision ... or in alternative by recourse to the ordinary Courts of Justice.'

The Ombudsman closed the case on 21 March 2022.

Status

Closed without recommendation







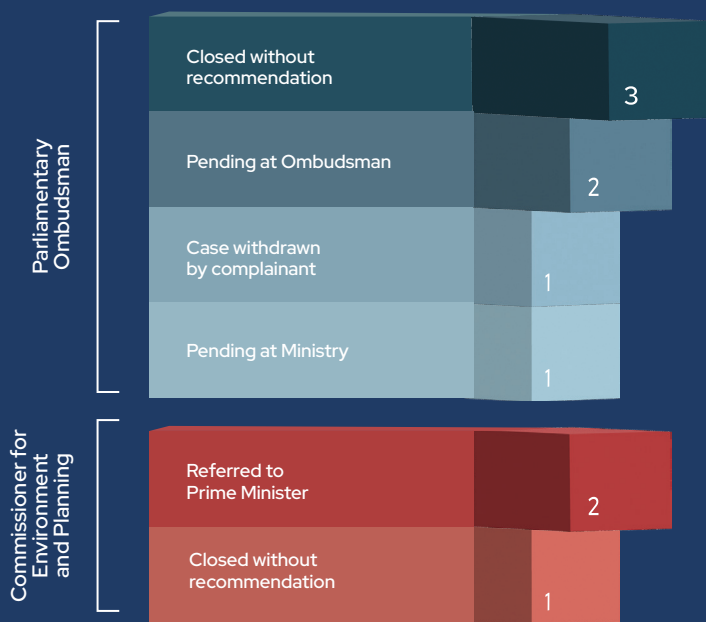
**MINISTRY FOR THE
ECONOMY, EUROPEAN
FUNDS AND LANDS**

In 2022, seven cases were referred by the Parliamentary Ombudsman to the Ministry for the Economy, European Funds and Lands (MEFL). Three cases were closed without any recommendation being made by the Ombudsman. One case was withdrawn by the complainant. One case was pending at the Ministry, whilst two cases were pending at the Office of the Ombudsman.

Three cases were referred in 2022 by the Commissioner for Environment and Planning (CEP). One case was closed without any recommendation being made by the CEP, whilst two cases were referred by the CEP to the Prime Minister in terms of article 22(4) of the Ombudsman Act.

There were 12 cases which had been referred by the Ombudsman and were pending from previous years. Three of these cases were closed without any recommendation having been made by the Ombudsman. Two cases were closed and the recommendations made were implemented. Seven cases are pending at the Office of the Ombudsman.

MEFL Total Cases 2022 - 10



MEFL
Parliamentary Ombudsman 2022



Sector/Department

Joint Office (JO)

Ombudsman case reference

OMB-22-3333

Brief details of case

A complaint regarding a request to benefit from pre-retirement leave.

Action taken and management comments

The case was received on 3 January 2023, wherein it was stated that an employee detailed with the JO requested to benefit from pre-retirement leave and who was, in turn, informed that the provisions of the pre-retirement leave in terms of article 1.1 of the Manual on Special Leaves were applicable for periods of employment in the public service.

The complainant felt aggrieved as they claimed that there were similar cases and for which approval had been granted. The cases in question took place prior to March 2022, and the related decisions were taken by a different administration.

On 8 March 2023, MEFL clarified that the applicant could benefit from pre-retirement leave only if they request a revocation of detailing and return to their public service status. The new administration with a new headship team could not be held accountable for past decisions.

On 18 July 2023, the Office of the Ombudsman stated it had communicated with People & Standards Division at the OPM and provided them with a copy of the decision taken by the Industrial Tribunal of a similar case. P&SD had nothing to add to what was already communicated to the Ministry. The Office of the Ombudsman brought the same decision to the attention of the Ministry and requested it to confirm its final stance about the case, before issuing a Final Opinion.

On 4 August 2023, MEFL communicated to the Ombudsman that its stance remained unchanged.

As on 31 October 2023, the case was still under investigation at the Office of the Ombudsman.

Status

Pending at Ombudsman

Sector/Department	Lands Authority (LA)
Ombudsman case reference	T 0010
Brief details of case	<p>A complaint regarding the redemption of ground rent.</p> <p>This case had been closed in November 2021, but it was reopened under the same reference number in May 2022.</p>
Action taken and management comments	<p>The case was received on 11 May 2022, with another correspondence dated 5 January 2023.</p> <p>In a communication dated 16 November 2021, the Ombudsman had suggested that the LA communicate with the complainant. The LA could not reach the complainant. The lack of communication led the complainant to inform the Office of the Ombudsman who reopened the case.</p> <p>On 7 February 2023, the complainant was contacted again and was asked to provide documentation which was required by the Legal Section to be able to proceed with the redemption and recognition process of the property, keeping in copy the Office of the Ombudsman Office as proof.</p> <p>On 23 March 2023, the complainant's lawyer contacted the LA's Legal Directorate requesting the details of the required documentation for finalising the redemption process. The officer in charge of the case provided a reply to the query put forward by the complainant's lawyer.</p> <p>As on 31 October 2023, LA was still awaiting feedback from the client.</p>
Status last year	Closed without recommendation
Status	Pending at Ministry

Sector/Department	Lands Authority (LA)
Ombudsman case reference	OMB-22-2734
Brief details of case	A complaint regarding land which was utilised for the formation of a road.
Action taken and management comments	<p>The case was received on 23 March 2022.</p> <p>The complainant stated that they spoke to an official from the LA and that their lawyer had filed a form sent by LA to establish ownership of immovable property subject to expropriation proceedings. The complainant claimed that they did not receive any correspondence from the Authority regarding this application.</p> <p>The complaint was addressed by the LA and, subsequently the case was closed by the Ombudsman on 25 March 2022.</p>
Status	Closed without recommendation

Sector/Department**Lands Authority (LA)****Ombudsman case reference****OMB-22-2870****Brief details of case**

A complaint regarding the refusal of an application by the LA related to the redemption of ground rent.

Action taken and management comments

The case was received on 24 May 2022. The complainant requested that their application be reconsidered and that a new inspection be carried out by LA. Upon receipt of the complaint, the Joint Office confirmed that the complainant's original application satisfied all the eligibility criteria.

On 15 February 2023, LA communicated with the complainant.

On 13 March 2023, the LA informed the Office of the Ombudsman that the Board of Governors had reconsidered the application by the complainant for the redemption of ground rent and approval was granted to proceed with the redemption.

On 23 August 2023, LA informed the Ombudsman that the contract had been signed. On the same day the Ombudsman informed LA that the case was closed since the matter had been resolved.

Status

Closed without recommendation

Sector/Department**Lands Authority (LA)****Ombudsman case reference****OMB-22-2961****Brief details of case**

A complaint in connection with a parcel of land on agricultural lease (*qbiela*).

Action taken and management comments

The case was received on 9 June 2022.

Through their lawyer, the complainant requested the LA to answer legal letters related to the division of an inherited parcel of agricultural land.

The complainant claimed that the LA was not adhering to a court of appeal decision. LA investigated the case and on 17 February 2023, submitted detailed background information to the Office of the Ombudsman and confirmed that the Authority had undertaken all the necessary action and all the complainant's issues had been addressed. The complainant had the right to lodge an appeal with the Administrative Review Tribunal, but they failed to do so. On 7 March 2023 the Ombudsman Office requested further documentation.

On 30 March 2023, LA replied to the Ombudsman, providing copies of the required documentation.

On 8 June 2023, the Ombudsman notified the LA that the case was closed.

Status

Closed without recommendation

Sector/Department	Lands Authority (LA)
Ombudsman case reference	OMB-22-3229
Brief details of case	A complaint regarding tenders for <i>ċens</i> (<i>perpetwu rivedibbli</i>) payable to the LA.
Action taken and management comments	<p>The case was received on 19 October 2022. The complainant remarked on the price discrepancy noted between different tenders issued by the Authority for plots of land situated within the same area.</p> <p>On 20 January 2023, the LA provided an in-depth explanation.</p> <p>On 21 February 2023, the Ombudsman requested clarifications to which the Authority replied on 13 March 2023.</p> <p>As on 31 October 2023, the case was still under investigation at the Office of the Ombudsman.</p>
Status	Pending at Ombudsman

Sector/Department	Lands Authority (LA)
Ombudsman case reference	OMB-22-3347
Brief details of case	A complaint regarding a selection process.
Action taken and management comments	<p>The case was received on 3 January 2023.</p> <p>The complainant felt aggrieved by the marks awarded in the selection process leading to their failing the interview. The complainant communicated with the Chief Executive Officer (CEO) about this matter, but no formal feedback was received by the complainant with regard to their performance at the interview.</p> <p>Another communication from the Office of the Ombudsman was received on 11 January 2023, informing LA that the complainant did not wish to pursue this complaint further, leading to the closure of the case.</p>
Status	Case withdrawn by the complainant



MEFL
Parliamentary Ombudsman Pre-2022



Sector/Department

Lands Authority (LA)

Ombudsman case reference

OMB-21-2163

Brief details of case

A complaint in connection with the transfer of an agricultural lease.

Action taken and management comments

The case was received on 5 October 2021. The Office of the Ombudsman requested a copy of the agricultural lease of a government-owned portion of land and the file dealing with the transfer of the agricultural lease in question.

On 12 October 2021, the Lands Authority (LA) explained that the field in question was not transferred in its entirety, but a third party was recognised as part of the in-solidum following an AGRI 1 application to the LA, and with the consent of all other tenants. The requested documentation was provided to the Ombudsman.

Further to additional queries raised by the Ombudsman, the LA explained that the objectives of AGRI 1 applications and that acceptance of the application consequently meant that all three tenants would be equally responsible for the same tenancy.

The LA reiterated that the inclusion of the third party as a lessee in-solidum with the original tenants was carried out in line with SL 573.06.

As on 31 October 2023, the case was still under investigation at the Office of the Ombudsman.

Status last year

Pending at Ombudsman

Status

Pending at Ombudsman

Sector/Department**Lands Authority (LA) / Joint Office (JO)****Ombudsman case reference****OMB-21-2256****Brief details of case**

A complaint relating to a portion of land in Gozo. The complainant had been the lessee of nine plots and had always paid the respective lease punctually. However, when paying for the lease due for years 2014 and 2015, the respective receipts only referred to five of the plots, without any prenotification or justification regarding the exclusion of the remaining four plots and without any reduction in the amount paid.

Action taken and management comments

The case was received on 10 November 2021.

In its reply to the Ombudsman dated 24 January 2022, LA informed that this case required liaison and discussion between the Joint Office (JO) and Lands Authority (LA).

On 12 April 2023, a site inspection was carried out with the complainant on the 9 plots of agricultural land.

On 13 April 2023, LA and JO sent a joint reply to the Office of the Ombudsman, forwarding a site inspection report and attaching correspondence from JO, providing further clarifications. LA stated that the complainant had been rightfully invoiced for the plots of land, according to the referenced Property Sheet. Following the onsite inspection, LA confirmed that the complainant had no basis for the case.

On 2 May 2023, the Ombudsman requested clarifications, and on 25 May 2023, LA provided the Ombudsman with the required explanation, adding that the complainant was made fully aware of the situation regarding the 9 plots and that a meeting was to be set up by JO with all the tenants, including the complainant, to discuss the way forward.

On 14 July 2023, JO held a meeting on site with the complainant and one other tenant.

On 25 July 2023, JO provided the Ombudsman with information relating to the two inspections carried out on site. In both inspections the complainant was present. JO also provided the Ombudsman with relevant documentation, notably a Land Registry Plan and photos of the site in question.

As on 31 October 2023, the case was still under investigation at the Office of the Ombudsman.

Status last year

Pending at Ministry

Status

Pending at Ombudsman

Sector/Department**Lands Authority (LA)****Ombudsman case reference****OMB-21-2329****Brief details of case**

A complaint regarding a bill issued by Lands Authority (LA) in March 2021, in connection with the rent of a property.

Action taken and management comments

The case was received on 10 September 2021.

The complainants stated that they had informed the Joint Office (JO) that they were receiving bills concerning years prior to buying the property, and that the main emphyteuta was liable to pay such dues. In view of prescription, the latter agreed to pay the dues for the last five years. Since this payment had been refused, it was deposited at the Law Courts.

Concurrently, the complainants issued a cheque payment to cover settlement for emphyteusis and "lawdemju" covering years 2015 to 2020, clearly indicating that it was "in full and final settlement". However, the complainants received bills for already settled payments and for which they were not liable.

On 30 September 2022, the LA submitted its reply to the Office of the Ombudsman, informing him that the complainants were bound to pay their share as from 2012 onwards.

The Ombudsman replied on 28 October 2022 asking for clarifications on the reply submitted and suggested that the Authority speak to the complainants to resolve the issue.

On 20 March 2023, the LA informed the Office of the Ombudsman that action has been taken from its end to redeem the schedules of deposits (*žbankar ta' ċedoli*).

On 25 July 2023, the Office of the Ombudsman informed the LA that the complainants were notified about the laudemium and legal fees and that their lawyer understood that the issue regarding accrued arrears has been resolved.

Two additional points were raised. The complainants lawyer argued that the laudemium has been paid to the emphyteuta and not to the JO, and that the law was clear in stating that no one can be obliged to pay the laudemium more than once or in an amount greater than one year's worth of ground rent. Regarding legal fees, it was argued that these were to be paid by those at fault. Based on the points raised by the complainants' lawyer, the Ombudsman stated that the LA should withdraw its pretences regarding the laudemium and court fees and that the case is closed definitively.

In its reply on 26 July 2023, LA stated that the laudemium must be paid irrespective of whether the applicant was the emphyteuta or sub-emphyteuta. As to deposit fees, the LA stated that these were always paid by the applicant who applied for the redemption of emphyteutical grants. Such expenses were deducted by the court, irrespective of the case. For these reasons, it was not possible for the Authority to renounce the payment of expenses by the complainants.

As on 31 October 2023, the case was still under investigation at the Office of the Ombudsman.

Status last year

Pending at Ombudsman

Status

Pending at Ombudsman

Sector/Department	Lands Authority (LA)
Ombudsman case reference	OMB-21-2365
Brief details of case	A complaint regarding a request for the redemption of ground rent.
Action taken and management comments	<p>The case was received on 18 October 2021.</p> <p>The Lands Authority (LA) replied on 26 October 2021 explaining that the dossier concerning the property in question did not include any documents evidencing the root of title transfers of this property. In this regard one could not determine if the divided emphyteusis amount totalled to the global amount according to the original concession.</p> <p>In the circumstances, the complainant was requested to provide details on the apportionment of land, failing which the division of land/emphyteusis must be verified by architects or technical officers at the LA.</p> <p>On 1 February 2022, the Office of the Ombudsman informed LA that as stated by the architect, the contract for the redemption of ground rent of the land in question was published in 2018, therefore any information request by the complainant should be found in the same file.</p> <p>The emphyteusis were redeemed in May 2022, and no further action was required from the LA. The complainant also notified the Office of the Ombudsman about the redemption.</p> <p>Following a request for an update from MEFL, on 10 March 2023, the Office of the Ombudsman informed that the case had been closed on 3 May 2022.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	Lands Authority (LA)
Ombudsman case reference	OMB-21-2421
Brief details of case	A complaint lodged by an employee of the Authority regarding a selection process held for a senior managerial position. The complainant felt aggrieved by the marks awarded and alleged that the appointee did not satisfy the eligibility criteria stipulated in the call for applications.
Action taken and management comments	<p>The complaint was received on 25 October 2021.</p> <p>On 25 January 2022, the Ombudsman requested further information regarding the qualifications of the appointee. The Ombudsman requested Lands Authority (LA) to explain in detail how the appointee had satisfied the eligibility criterion related to experience.</p> <p>The LA replied to the Ombudsman on 14 June 2022, providing justifications about the successful candidate's working experience which had been taken into consideration by the Selection Board. A meeting was subsequently held between the members of the Selection Board and the Office of the Ombudsman.</p> <p>On 9 August 2022, the Office of the Ombudsman requested further documentation, to which the LA replied on 20 January 2023.</p> <p>As on 31 October 2023, the case was still under investigation at the Office of the Ombudsman.</p>
Status last year	Pending at Ministry
Status	Pending at Ombudsman

Sector/Department:	Lands Authority (LA)
Ombudsman case reference	T 0247
Brief details of case	A complaint relating to the transfer of a divided portion of land in Gozo. The complainant alleged that, despite their interest in purchasing the land in question and their submission of a notice of first refusal, the Lands Authority (LA) was apparently preparing to transfer this land to another bidder.
Action taken and management comments	<p>The case was received on 18 November 2019.</p> <p>On 16 December 2019, the LA informed the Office of the Ombudsman that the complainant had lodged the application, requesting the right of first refusal after the tender had been adjudicated. Further clarifications were sought by the Office of the Ombudsman also through a meeting.</p> <p>Following a query by MEFL, on 10 March 2023, the Office of the Ombudsman informed the former that the case was closed on 14 November 2022.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department**Lands Authority (LA)****Ombudsman case reference****T 0302 (ex-T 0194)****Brief details of case**

A complaint relating to another case which had been handled by the Office of the Ombudsman earlier the same year and which was closed off but reopened with a different case reference.

The case related to a tender which was not accepted, but the reasons given were deemed unjustifiable.

Action taken and management comments

The case was received on 9 December 2019 (under a different Ministry).

On 21 February 2020, the Legal Section within the Lands Authority (LA) communicated with the Office of the Ombudsman, providing the reasons why the right of first refusal was not accepted in this tender – the tender was submitted in the name of a company whilst the request for right of first refusal was done in the name of an individual.

The case was closed by the Ombudsman on 13 February 2023.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**Lands Authority (LA)****Ombudsman case reference****U 0200****Brief details of case**

A complaint concerning a Lands Authority (LA) employee, alleging that they suffered an injustice when they were not chosen for a vacant managerial post, notwithstanding their vast experience in the field, on grounds that they did not possess a specific licence, which was one of the requisites in the call for applications.

Action taken and management comments

The case was received on 3 December 2020.

On 5 January 2021, the LA informed the Office of the Ombudsman that the applicant in question was not in possession of a specific licence at the time of the submission of their application and, therefore, their application could not be considered by the Board. A meeting was held on 22 June 2021 with the Investigation Officer from the Office of the Ombudsman to discuss the case in more detail.

On 25 June 2021, the LA provided the documentation in relation to the selection process and personal files of the applicants involved, as requested by the Office of the Ombudsman. The Ombudsman also requested a clarification on the fact that the selected candidate had signed reports indicating that they held the position in question, prior to having been selected.

On 1 July 2021, the LA explained that the signature was an error since it should have indicated an Acting position. LA once again provided a copy of a report prepared by the Selection Board outlining the competences of the employee to be assigned "Acting" duties.

A Final Opinion was issued by the Ombudsman on 23 November 2022 and on 28 November 2022, the Ombudsman informed that the case has been closed.

The Authority communicated with the Ombudsman on 11 January 2023, informing that the remedial actions recommended in the Final Opinion have been implemented and assured that LA shall continue to ensure their adherence.

Recommendation by Ombudsman

A Selection Board report should be drawn up and notes are kept following the allocation of marks to the respective candidate.

The management should issue a notification internally and inform if any acting appointments are issued.

Status last year

Pending at Ombudsman

Status

Closed and recommendations implemented

Sector/Department	Malta Gaming Authority (MGA)
Ombudsman case reference	S 0110 (N 0211)
Brief details of case	A complaint regarding dues owed when a gaming company became insolvent.
Action taken and management comments	<p>The case was received on 21 May 2018.</p> <p>On 9 March 2019, the MGA provided clarifications to the Office of the Ombudsman. The case was reopened after it had been closed due to pending criminal proceedings against the former director of the insolvent company. The complainant was not amongst those who testified in court; hence their case was reopened.</p> <p>As on 31 October 2023, the case was still under investigation at the Office of the Ombudsman.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	Malta Gaming Authority (MGA)
Ombudsman case reference	S 0111 (ex- N 0281)
Brief details of case	A complaint regarding dues owed when a gaming company became insolvent.
Action taken and management comments	<p>The case was received on 21 May 2018.</p> <p>On 9 March 2019, the MGA provided clarifications to the Office of the Ombudsman. The case was reopened after it had been closed due to pending criminal proceedings against the former director of the insolvent company. The complainant was not amongst those who testified in court; hence their case was reopened.</p> <p>As on 31 October 2023, the case was still under investigation at the Office of the Ombudsman.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department**Malta Investment Management Co Ltd (MIMCOL)****Ombudsman case reference****U 0227****Brief details of case**

A complaint lodged by a group of NGOs in connection with the concession granted to a private shipyard.

The complainants referred to an agreement that MIMCOL had to review to determine whether the company was adhering to contractual obligations tied to the concession. The complainants were enquiring on the overdue review and requested that the results be published to respect the fundamental rights of the population.

Action taken and management comments

The case was received on 9 December 2020.

A reply was sent to the Ombudsman on 26 January 2021, stating that the concession agreement governing this arrangement provided for a review to take place, however it did not specify which entity was tasked with conducting such a review. MIMCOL had been entrusted by government, on an ad hoc basis, to carry out a review in 2013 and 2020. The results emerging from the review had been referred to the pertinent authorities, but MIMCOL had no authority to decide whether to make the findings public or not. The claim that NGOs were being treated unfairly by MIMCOL was thus unfounded.

In a subsequent communication dated 29 March 2021, MIMCOL explained that the matters raised by the NGOs concerned were the direct competence of specific regulatory authorities whose duty was to verify operational compliance, or otherwise, in accordance with the relevant laws and regulations on a regular basis.

In the meantime, the Ombudsman took up the case with the Environment and Resources Authority (ERA).

On 15 February 2023, the Lands Authority (LA) informed the Office of the Ombudsman that it was not within the Authority's remit to verify operational compliance. Furthermore, the Authority also reiterated that it was never notified with any enforcement notices issued by the responsible authority.

On 17 April 2023, the Ombudsman requested a meeting to take place on 4 May 2023 with CEO (LA) and Permanent Secretary (MEFL). On 31 May 2023, in reference to the meeting that took place on 4 May 2023, it was agreed that LA/MEFL would provide a final reply to the Ombudsman by 15 June 2023. Should the Ombudsman not receive feedback by the set deadline, the Ombudsman would proceed to issue its Final Opinion. On 14 June 2023, the LA sent the requested feedback to the Ombudsman.

As on 31 October 2023, the case was still under investigation at the Office of the Ombudsman.

Status last year

Pending at Ministry

Status

Pending at Ombudsman

Sector/Department**Commerce Department****Ombudsman case reference****T 0107****Brief details of case**

A complaint regarding an alleged breach of application conditions relating to an annual competition open for local artisans organised by the Commerce Department.

This case was in connection with a previous case (T 0004) which had been closed but was reopened with a new reference number.

Action taken and management comments

The case was received on 10 May 2019.

Upon the Ombudsman's request, files and documentation in connection with the case were forwarded to the Office of the Ombudsman on 24 May 2019. Other queries were raised which were replied to on 17 September 2019, providing details on the Selection Committee, and clarifications related to some conditions of the competition.

The Ombudsman issued a Final Opinion on 20 February 2023.

The Official reply to the Ombudsman's Final Opinion was issued on 28 March 2023.

The matter was settled between the Department and the complainant on 18 May 2023.

Recommendations by Ombudsman

The Ombudsman concluded that the complainant unfairly lost out on the first prize. A series of failures in the way the application form was structured and the way the winning submission was evaluated resulted in an unfair and unjust outcome. Any possible remedy was seemingly nullified due to inconsistencies in the different language versions of the application form.

The Ombudsman recommended that the complainant be awarded the €5000 monetary prize and return the €1000 which was originally awarded.

Status last year

Pending at Ombudsman

Status

Closed and recommendation implemented



MEFL

**Commissioner for Environment
and Planning 2022**



Sector/Department

Lands Authority (LA)

Ombudsman case reference

CEP-22-2590

Brief details of case

A case regarding an advert relating to the lease of a site for beekeeping.

Action taken and management comments

On 28 January 2022, the Commissioner for Environment and Planning (CEP) informed the Lands Authority (LA) that it was carrying out an investigation in relation to an advert relating to the lease of a site for the purposes of beekeeping.

On 18 February 2022, the CEP informed LA that following confirmation that the tender had been withdrawn, any further investigation was deemed unnecessary and that the case was closed.

Status

Closed without recommendation

Sector/Department

Lands Authority (LA)

Ombudsman case reference

CEP-22-2975

Brief details of case

A complaint alleging that no action was taken by the Lands Authority (LA) against the illegal occupation of public land with tables and chairs.

Action taken and management comments

This case was received from the Commissioner of Environment and Planning (CEP) on 23 June 2022.

The CEP alleged that no action was taken by the LA against the occupation of public land. The Commissioner requested the LA, the Malta Tourism Authority (MTA), and the Planning Authority (PA) to confirm whether they issued any authorisation for the occupation/development of this land.

A Final Opinion was issued on 15 September 2022.

On 26 October 2022, the CEP referred the case to the Prime Minister as provided for in the Ombudsman Act.

On 15 February 2023, the LA replied to the Commissioner, stating that the Authority's remit was that of enforcing the submission of applications for encroachment concessions and the related development permissions.

Legal actions, evictions and other drastic measures were only resorted to when all else failed. The LA was preparing a master plan for the area, which shall serve as the main instrument to apportion the use of public areas and subsequently enforce the approved apportionment.

The LA also stated that it did not accede to encroachment requests in the absence of a development permit. The information referred to in the Ombudsman's conclusions was accessible to the public through the PA's Mapservers.

Recommendation

CEP recommended that LA was to provide and publish all encroachments on public land, preferably through a system like the PA Mapservers. Furthermore, he recommended that action was to be taken immediately against any illegal encroachment and fine the contraveners in line with the LA Act.

Status

The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act

Sector/Department**Lands Authority (LA)****Ombudsman case reference****CEP-22-3138****Brief details of case**

An investigation by the Commissioner for the Environment and Planning (CEP) regarding the lack of official markings for Outdoor Catering Areas (OCS).

Action taken and management comments

The case was received on 24 August 2022. The investigation concerned the lack of official markings for outdoor catering areas to control intrusions onto the public road and/or pavement from establishments with structures for tables and chairs. The Malta Tourism Authority (MTA), the Planning Authority (PA) and Transport Malta (TM) were copied with the letter issued by the CEP.

A Final Opinion was issued on 16 November 2022.

On 23 December 2022, the LA replied to the Final Opinion issued by the Commissioner, stating that LA was the administrator of public property and, therefore, not a regulatory or permitting authority.

The LA stated also that its role was limited to grant consent to applications to proceed to the next stage to submit an application for development on public property. Subsequently, the LA issues the related encroachment concession after permission is issued by the permitting authorities.

On 11 January 2023, the case was referred to the Office of the Prime Minister, as provided for in the Ombudsman Act.

On 1 March 2023, the LA wrote to the CEP, reiterating its position as communicated in December 2022. However, the LA would be willing to participate in the recovery of costs incurred for marking OCS through its invoicing mechanism for encroachment concessions.

Recommendations by Ombudsman

The CEP recommended that LA formulates rules and procedures for the fixing of markings to define such concessions and to enforce the fixing of these markings in line with the terms of the relevant concession.

Status

The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act





**MINISTRY FOR
EDUCATION, SPORT,
YOUTH, RESEARCH
AND INNOVATION**

In 2022, the Parliamentary Ombudsman referred five cases to the Ministry for Education, Sport, Youth, Research and Innovation (MEYR). One case was closed without recommendation, whilst another case was closed after the management replied to one request for information. Two cases were not upheld and one case was pending at the Ministry.

There were three cases referred by the Ombudsman to MEYR which had been pending from previous years. The three cases were closed without recommendation.

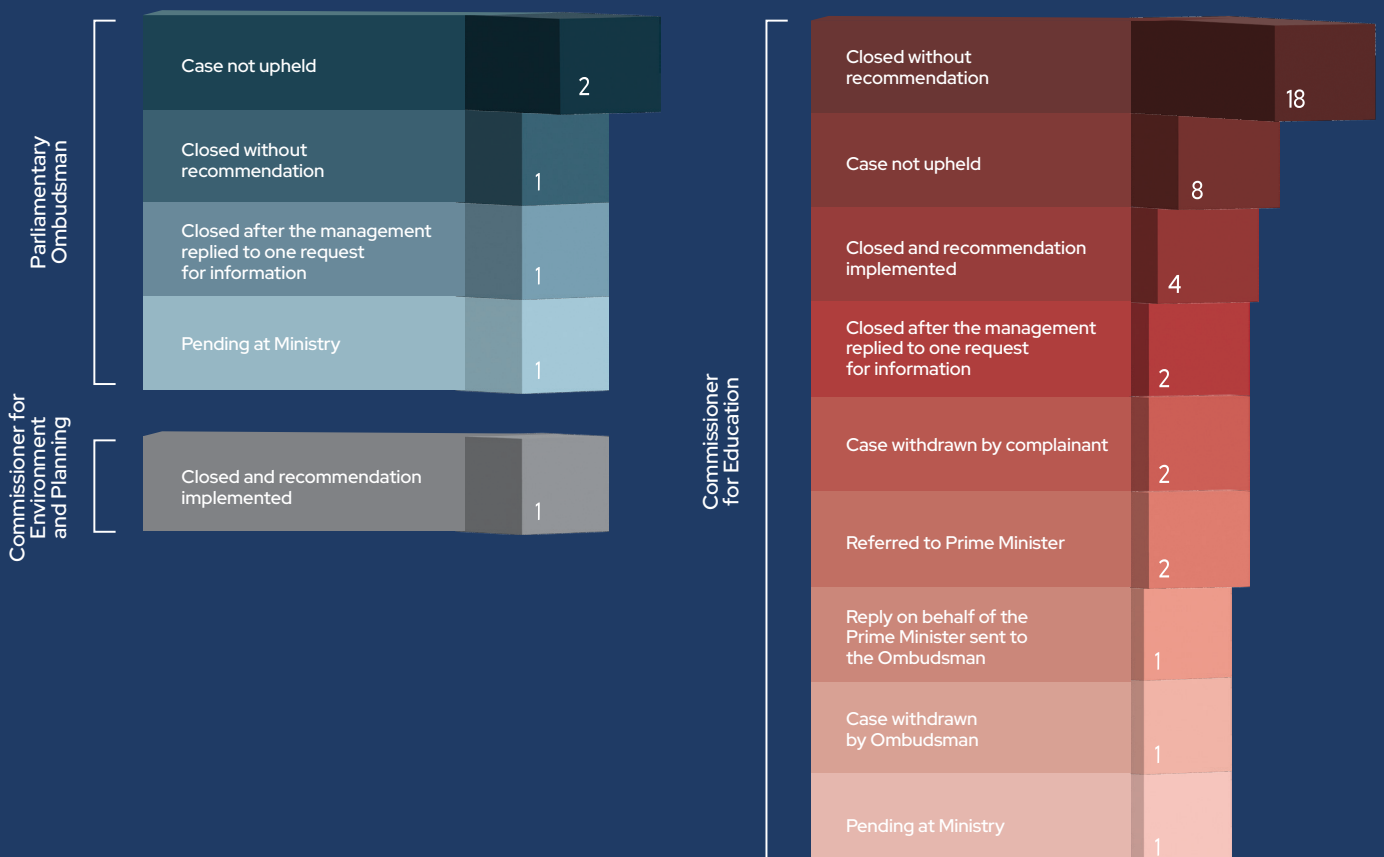
In 2022, the Commissioner for Education referred 39 cases to MEYR. 18 cases were closed without any recommendation being made. Four cases were closed and the recommendations made by the Commissioner were implemented. Two cases were withdrawn by the complainant and another case was withdrawn by the Commissioner. Eight cases were not

upheld by the Commissioner. Two cases were closed after the management replied to one request for information. One case was pending at the Ministry. Two cases were referred to the Prime Minister in terms of article 22(4) of the Ombudsman Act. A reply on another case was sent to the Commissioner on behalf of the Prime Minister, concerning another case which had been referred to the Prime Minister.

There were six cases referred by the Commissioner for Education which had been pending from previous years. One case was closed and the recommendation made was implemented. Two cases were closed and the recommendations made were partially implemented. Three cases were pending at the Office of the Ombudsman.

In the year under review the Commissioner for Environment and Planning referred one case to MEYR, which was closed and the recommendation made was implemented.

MEYR Total Cases 2022 - 45



MEYR
Parliamentary Ombudsman 2022



Sector/Department

Foundation for Tomorrow's Schools (FTS)

Ombudsman case reference

OMB-22-2648

Brief details of case

A complaint regarding the termination of an expense allowance.

Action taken and management comments

The case was received on 4 February 2022.

On 7 February 2022, the Foundation for Tomorrow's School (FTS) replied to the Ombudsman, explaining the career path of the complainant including their salary and allowances, contradicting the accusations that the new conditions offered were never implemented.

It transpired that the expense allowance was not covered by statutory approvals by the Industrial Relations Unit (IRU) nor by the FTS grading and salary structure. During the negotiations for the FTS Collective Agreement, FTS was instructed by the IRU for the expense allowance to be absorbed in the complainant's basic pay and that the maximum of their salary scale should not be exceeded. Thus, FTS terminated the allowance and informed the complainant that it would be absorbed in the basic salary, in accordance with the Collective Agreement.

On 28 February 2022 the Office of the Ombudsman informed FTS that the complaint was not upheld. The expense allowance was extraneous to the FTS's salary and grading structure and was not approved by the IRU, thus its termination cannot be criticised. Moreover, the expense allowance was not included in the new collective agreement.

Status

Case not upheld

Sector/Department

Foundation for Tomorrow's Schools (FTS)

Ombudsman case reference

OMB-22-2649

Brief details of case

A complaint regarding discrimination between employees who were not receiving the disturbance allowance like others of the same grade.

Action taken and management comments

The case was received on 3 February 2022.

On 3 February 2022, the Foundation for Tomorrow's Schools (FTS) replied that allowances were tied to the profession (job description) and not to the grading structure.

On 10 May 2022, the Office of the Ombudsman informed FTS that no discrimination was found and closed the case. The complainant was not treated any differently when compared to their colleagues who belonged to the same cohort.

Status

Closed after the management replied to one request for information

Sector/Department**Malta Further and Higher Education Authority (MFHEA)****Ombudsman case reference****OMB-22-3205****Brief details of case**

A complaint regarding an application for parental leave and teleworking.

Action taken and management comments

The case was received on 30 September 2022.

The complainant had filed an application for telework and they alleged that they received no reply from the HR.

On 4 October 2022, the Malta Further and Higher Education Authority (MFHEA) replied to the Office of the Ombudsman, explaining that the reason for not replying to the complainant. On 5 September 2022, a charge letter was issued against the complainant and the disciplinary process had a bearing on the whole process of the complainant's application. Moreover, the application should have been submitted two months prior to the desired starting date of telework, as indicated on the application form.

On 5 October 2022 the Office of the Ombudsman informed MFHEA that in view of the fact that the process connected to the charge issued on 5 September 2022, was still pending, one cannot fault MFHEA for leaving the application for telework pending.

On 5 October 2022, MFHEA informed the Office of the Ombudsman that the application for telework was not accepted and that the complainant was informed that they may request parental leave.

On 6 October 2022, the Office of the Ombudsman informed MFHEA that the case was considered as closed since they were informed by the complainant that their application for unpaid parental leave had been approved.

Status

Closed without recommendation

Sector/Department

Malta Further and Higher Education Authority (MFHEA)

Ombudsman case reference

OMB-22-3241

Brief details of case

A complaint regarding disciplinary action taken against an employee.

Action taken and management comments

The case was received on 13 October 2022.

The Office of the Ombudsman requested the Malta Further and Higher Education Authority (MFHEA) to submit a clarification with regard to the alleged unjust charge issued against the complainant.

On 28 October 2022, MFHEA replied to the Office of the Ombudsman, stating that the complainant had a history of unauthorised absences from the place of work and their head of section spoke to them about this misconduct on various occasions. These absences had also been verified by security personnel and also from the clock-in data.

On a particular day the complainant did not turn up to work and was marked as absent without authorisation since MFHEA had not been notified about their absence. No disciplinary action was taken in order to give the complainant a chance to improve their behaviour. To the contrary, the complainant constantly failed to clock-up the required working hours. A charge letter was issued against the complainant and they did not contest that there were unauthorised absences from the place of work. Thus, there was no need to set up an investigation board into this matter. All employees at MFHEA could apply for leave online or send an email to their head of section or to the HR. The complainant did none of these and their absence could only be considered as unauthorised absence.

On 8 November 2022, the Office of the Ombudsman informed MFHEA that after reviewing the information provided, the Office cannot uphold the request of the complainant and was closing the case.

Status

Case not upheld

Sector/Department	Ministry for Education, Sport, Youth, Research and Innovation (MEYR)
Ombudsman case reference	OMB-22-3135
Brief details of case	A complaint regarding a declined request from a teacher for a renewal of an extension beyond retirement age.
Action taken and management comments	<p>The case was received on 25 November 2022.</p> <p>This case had been investigated by the Commissioner for Education (CfE) and he delivered a Final Opinion dated 4 August 2022 (case no. CEDUC-22-3057). The complaint was found to be unjustified and could not be sustained. The complainant asked the Ombudsman to review the CfE's decision.</p> <p>The Office of the Ombudsman asked for clarifications on the procedure applicable when the Ministry received a request for extension beyond 65 years of age.</p> <p>On 12 April 2023, MEYR replied to the Office of the Ombudsman, explaining that requests for an extension beyond statutory retirement age up to 65 years were approved by the Permanent Secretary (PS), whilst requests for extension beyond the age of 65, were first approved by the PS and then by the Principal Permanent Secretary (PPS).</p> <p>The request for the renewal of extension made by the complainant was not referred to the PS nor to the PPS, because the complainant's performance had not been satisfactory. The complainant also asked to be assigned a light load and MEYR requested the complainant to produce a medical certificate.</p> <p>On 3 May 2023 the Office of the Ombudsman requested to be furnished with the reports/feedback by the Education Officer with regard to the complainant's behaviour and performance.</p> <p>On 31 May 2023 MEYR informed the Office of the Ombudsman that a meeting was going to be held with the complainant.</p> <p>On 8 June 2023, a meeting was held between the complainant and MEYR. Communication is ongoing.</p>
Status	Pending at Ministry



MEYR

Parliamentary Ombudsman Pre-2022



Sector/Department**Ministry for Education and Employment (MEDE)****Ombudsman case reference****R 0055/R0063****Brief details of case**

Two complaints concerning the appointment of officers in technical grades following a call for applications issued in 2012/13. Several officers who were not appointed lodged a complaint with the Grievances Board, alleging that the whole process was unjust.

Their case was upheld, and it was recommended that those who suffered an injustice were to be appointed as Officers in Scale. This prompted the group who were promoted through the selection process to complain that it was unfair that the former group were being paid the same salary as them while carrying out different responsibilities and that the higher salary was backdated to a period when they were not performing the duties of the higher scale.

Action taken and management comments

The complaints were received on 15 March 2017.

On 19 May 2017 MEDE replied to the Office of the Ombudsman. It was explained that after the decision of the Grievances Board, MEDE resulted with more employees in the technical grades than what was needed as agreed with the Unions in the Collective Agreement.

Their services were still required in the laboratories during the lessons until new Assistant Technical Officers/Senior Technicians/Technicians were engaged. Calls are being prepared for these grades to be employed.

Since the Ministry accepted the recommendation done by the Grievances Board, the payments had to be backdated.

On 19 September 2017 the Office of the Ombudsman informed MEDE that they met with a number of the complainants. The latter feel that they have been discriminated with regard to equal pay for equal work; there is no future for progression; and they have the responsibilities on the place of work that the Officers in Scale do not.

On 26 October 2017 a meeting was held between MEDE and the Office of the Ombudsman. It was discussed what measures could be taken to try to improve the working environment of these employees and recreate some form of structure following the appointment of a number of Officers in Scale.

On 7 and 21 December 2017 MEDE passed files to the Office of the Ombudsman as requested by the latter.

On 25 July 2019, MEDE provided the Office of the Ombudsman with a copy of the job description that was sent to officers in Salary Scales 11 and 12 in mid-September 2019. Neither side accepted that both groups suffered a degree of injustice and therefore deserved a degree of compensation.

Proposals made By MEDE were not accepted by the complainants. In March 2021, the Ombudsman's office requested an update on the steps taken to mitigate the situation created by the 2012 appointments.

MFED replied on 8 November 2021 providing information about the different recruitment processes involved, specifically regarding the grades in question. MFED informed the Ombudsman with its plans for another recruitment process which would help to solve the issue.

On 1 November 2022 the Ombudsman issued the Final Opinion and closed the case. He stated that the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) had recently started to implement an exercise to address the problems that had arisen and to ensure that technical workers can advance in the technical ranks.

The Ombudsman encouraged MEYR to continue with this exercise in order to adjust the anomalies that could have arisen as a consequence of these appointments.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**Ministry for Education and Employment (MEDE)****Ombudsman case reference****T 0239****Brief details of case**

A complaint concerning the selection process for the post of a head of department.

Action taken and management comments

The complaint was received on 26 September 2019. The Ombudsman requested the list of candidates for the post.

On 3 October 2019, MEDE replied to the Office of the Ombudsman, providing the list.

On 20 June 2023, the Office of the Ombudsman informed MEYR that the case was considered as closed as from January 2023.

Status last year

Pending at Ombudsman

Status

Closed without recommendation



MEYR

Commissioner for Education 2022



Sector/Department

Ministry for Education and Sport (MEDS)

Ombudsman case reference

CEDUC-22-2576

Brief details of case

A complaint from a peripatetic teacher in the primary sector regarding their seniority ranking.

Action taken and management comments

The case was received on 14 January 2022.

The complainant informed the Commissioner for Education (CfE) that in September 2020, an exercise had been carried out by the Ministry and all peripatetic teachers were assigned a seniority ranking number to identify the qualified teachers who had to take up a class instead of teaching their specialised subjects due to the pandemic. Following this exercise, the complainant asked for their specific seniority ranking number, but this information was denied to them.

On 25 January 2022 a meeting was held between the Ministry for Education and Sport (MEDS) and the CfE. MEDS explained the process of the exercise done in 2020 and in 2021 with respect to seniority. MEDS supplied the CfE with all the relative information about the complainant's ranking. The complainant never received the ranking for the year 2020 due to a genuine error in the database, which had since been corrected.

On 27 January 2022, MEDS informed the complainant about the criteria followed regarding their seniority ranking.

On 27 January 2022 the CfE sent a letter of closure and informed the complainant that the complaint required no further investigation.

Status

Closed without recommendation

Sector/Department

Ministry for Education and Sport (MEDS)

Ombudsman case reference

CEDUC-22-2585

Brief details of case

A complaint by an employee of the Ministry for Education and Sport (MEDS) who was on precautionary suspension, alleging bullying and harassment by two MEDS senior officers.

Action taken and management comments

The complaint was received on 12 January 2022.

On 26 January 2022 the Commissioner for Education (CfE) informed the MEDS that the complainant provided a copy of the charges brought against them. The CfE requested further documents, and these were forwarded to him on 27 January 2022.

On 2 February 2022, the CfE informed MEDS that he will investigate only the part of the complaint which was not related to the disciplinary charges. The Commissioner asked for the list of schools where the complainant had been employed.

On 15 February 2022 MEDS forwarded the list.

On 18 February 2022, the CfE sent the letter of closure, stating that the complaint was objectively unfounded.

Status

Closed without recommendation

Sector/Department	Ministry for Education and Sport (MEDS)
Ombudsman case reference	CEDUC-22-2645
Brief details of case	A complaint regarding the applicant's eligibility for a stipend in connection with a course abroad.
Action taken and management comments	<p>The complaint was received on 27 January 2022.</p> <p>On 2 February 2022, the Ministry for Education and Sport (MEDS) informed the Commissioner for Education (CfE) that the Students' Maintenance Grants Section was going to reconsider the application to decide on eligibility or otherwise.</p> <p>On 29 March 2022, MEDS informed the CfE that the complaint had been discussed during the Students' Maintenance Grants' Board and that in principle the Board decided in favour of the student.</p> <p>On 22 April 2022, the CfE was informed that the complainant had resubmitted their application on 6 April 2022, and was paid the yearly grants on 14 April 2022 and was paid six backdated stipends on 22 April 2022.</p> <p>On 25 April 2022, the CfE sent a letter of closure.</p>
Status	Closed without recommendation

Sector/Department	Ministry for Education and Sport (MEDS)
Ombudsman case reference	CEDUCOI-22-2785
Brief details of case	The Commissioner for Education (CfE) initiated an investigation on his own initiative regarding the lack of provision of teachers to children in hospital.
Action taken and management comments	<p>The case was received on 21 March 2022. The CfE stated that he was informed that no Teachers or Learning Support Educators (LSEs) were present at a particular unit in the hospital. Before the COVID-19 pandemic, the hospital was supplied with a teacher and two LSEs. During the pandemic schooling was available online, but was ineffectual.</p> <p>On 5 April 2022, the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) replied to the CfE, stating that following a change in the Mental Health Act, children were not staying in hospital for long periods, therefore the service of a teacher was no longer necessary. Online sessions were being offered and the policy covering long absences was being adopted for those children eligible for home tuition and who were to be away from school for more than three weeks.</p> <p>On 21 April 2022, the CfE replied to MEYR. He stated that the patients in this unit had the right to an education tailored to their specific needs. The Commissioner added that physical presence of a professional educator not only directly helped contain education regression, but also helped improve the overall quality of life of the patients.</p> <p>On 11 May 2022, MEYR replied to the CfE and informed him that following internal discussions, MEYR decided to recruit a teacher to provide teaching services at the unit in question. Subsequently, MEYR informed the CfE that the recruitment/deployment process was to be completed in time for the beginning of scholastic year 2022/2023.</p> <p>On 1 June 2022, the CfE informed MEYR that he was formally closing the investigation and classified it as resolved by developments before a final opinion had been formed.</p>
Status	Closed without recommendation

Sector/Department

Ministry for Education and Sport (MEDS)

Ombudsman case reference

CEDUC-22-2792

Brief details of case

A complaint by the parents of a child regarding the right for education to their child. In December 2021, the Migrant Learners' Unit within the Ministry for Education and Sport (MEDS) contacted the family as soon as they noticed that there were missing documents with their application. Follow-up was done in mid-January 2022, but the family refused to send the missing documentation.

Action taken and management comments

The case was received on 22 March 2022.

The complainants had a court case regarding their family's residency card and meanwhile applied with MEDS for their child to be admitted in a government school. The complainant stated that this request was denied even though their child had the right for education.

On 25 March 2022, MEDS informed the Commissioner that the registration will take place once MEDS received evidence of the submission of an application for residency with ID Malta. Furthermore, MEDS informed the CfE that MEDS representatives contacted the parents, but they were very hesitant to speak.

On 29 March 2022, the CfE informed MEDS that the matter was on hold since the child's passport had expired, and without a valid passport number the residency application cannot be filled in online.

On 10 June 2022, the CfE informed MEYR that in view of lack of cooperation by the complainant, it was decided not to investigate the case further.

Status

Case withdrawn by Ombudsman

Sector/Department	Ministry for Education and Sport (MEDS)
Ombudsman case reference	CEDUC-22-2773
Brief details of case	A complaint regarding a deed of hypothecation which the complainant was asked to sign by the Ministry for Education and Sport.
Action taken and management comments	<p>The case was received on 24 March 2022.</p> <p>The complainant was selected for a Master’s Fellowship in Education. The course started in October 2021 and four months later was asked to sign a deed of hypothecation. The complainant was unable to sign it and was subsequently removed from the fellowship.</p> <p>On 30 March 2022 the Commissioner for Education (CfE) issued the Final Opinion. He found that the complaint was well-founded and sustained and held that the decision to prevent the complainant from continuing the course online was unjust, oppressive, contrary to law and wrong in principle.</p> <p>On 5 April 2022 the CfE informed MEYR that, upon instructions issued by MEYR to the course provider, the complainant was acceded to the course.</p> <p>The CfE informed MEYR on 2 May 2023 that the case was closed.</p>
Recommendation by Ombudsman	The CfE recommended that the complainant should immediately be allowed to resume the course and that the Ministry instruct the course provider to provide all the necessary assistance to the complainant to catch up with the modules she was wrongly prevented from following or participating in.
Status	Closed and recommendation implemented

Sector/Department**Malta Further and Higher Education Authority (MFHEA)****Ombudsman case reference****CEDUC-22-2694****Brief details of case**

A complaint regarding delays and wrong information provided by the Malta Further and Higher Education Authority (MFHEA).

Action taken and management comments

The case was received on 14 February 2022.

On 25 February 2022, the MFHEA replied to the Commissioner for Education (CfE), providing a timeline indicating all the correspondence involved during the process of accreditation.

On 15 June 2022, the CfE issued a letter of closure to the complainant.

The MFHEA agreed with the Commissioner's recommendation to apply the tariffs as applicable at the time of application on condition that the complainant withdrew their complaint regarding alleged maladministration.

The CfE notified MFHEA that on 14 June 2022, he had been informed by the complainant that they were withdrawing the complaint. The CfE closed the case and classified it as "resolved by the institution in the course of investigation and before a Final Opinion is formed."

Status

Case withdrawn by complainant

Sector/Department**Ministry for Education, Sport, Youth, Research and Innovation (MEYR)****Ombudsman case reference****CEDUC-22-2970****Brief details of case**

A complaint by a teacher, alleging that they were being denied paid leave entitlement prior to their retirement.

Action taken and management comments

The case was received on 2 June 2022.

On 8 June 2022, after having verified with the Industrial Relations Unit (IRU), the Ministry for Education, Sport, Youth, Research, and Innovation (MEYR) informed the Commissioner for Education (CfE) that if a non-teaching grade stops in the month of April due to retirement, they would be entitled to 64 hours of vacation leave by the end of April. Teachers start school after 6 January and would have benefited from the Easter and Carnival holidays (which sums more than 64 hours). Furthermore, MEYR stated that the administration did not ask for any form of refund for teachers retiring in October, ie. after the summer holidays.

On 24 June 2022, the CfE sent a letter of closure, stating that after having sought and obtained all the necessary information, including expert advice on industrial relations, he concluded that the complaint was unfounded and could not be entertained.

Status

Closed without recommendation

Sector/Department**Ministry for Education, Sport, Youth, Research and Innovation****Ombudsman case reference****CEDUC-22-2982****Brief details of case**

A complaint by two teachers teaching at a non-compulsory schooling level at a Church school. The complainants requested to be paid on the same level as their colleagues who were doing the same work.

Action taken and management comments

The complaint was received on 23 June 2022.

The complainants were in possession of a Bachelor's degree and Master's degree in their respective subjects and did not hold a teaching warrant. They stated that they taught at the non-compulsory schooling level, where teachers were not expected to hold a teaching warrant.

On 18 August 2022, the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) replied to the Commissioner. It was explained that the call for teachers and supply teachers for subjects that are taught in secondary and post-secondary schools denotes that the persons employed may be required to teach in a secondary or a post-secondary school according to the vacancies, thus the eligibility criteria were identical. In line with the Government's Agreement with the Holy See, MEYR allocates salary reimbursement to church schools according to the grades held by the teachers in employment.

On 2 February 2023, the CfE issued the Final Opinion.

MEYR did not accept the Ombudsman's recommendation.

On 28 March 2023, the CfE referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act.

Recommendation by Ombudsman

The CfE recommended that:

- a. calls for applications for the post of teacher in post-secondary Education (ie: post-secondary education stage) should be separate and distinct from calls for the post of teacher in secondary education, and should reflect the current law and therefore not require a permanent teaching warrant; and
- b. with immediate effect the money transferred by the Education Division within the Ministry to the School employing the complainants should be the salary commensurate to that of a regular teacher and not of a supply teacher.

Action following referral of the case in terms of article 22(4) of the Ombudsman Act

On 2 June 2023, the Principal Permanent Secretary (PPS), on behalf of the Prime Minister, replied to the Ombudsman, stating that MEYR had valid reasons for not accepting the recommendations made.

The Ombudsman was informed that nothing hindered the employing school from topping up the complainants' salary by paying the difference between the salary of a graduate supply teacher, which was paid by MEYR in accordance with the pertinent classification agreement, and that of a regular teacher. The complainants also had the option to obtain a qualification in pedagogy, rendering them eligible to a post as regular teacher.

Status

Reply on behalf of the Prime Minister sent to the Ombudsman

Sector/Department

Ministry for Education, Sport, Youth, Research and Innovation (MEYR)

Ombudsman case reference

CEDUC-22-2985

Brief details of case

A complaint by a secondary school teacher teaching Maltese who had been denied a qualification allowance for their Master's and for a proofreading course.

Action taken and management comments

The case was received on 10 June 2022.

The complainant applied for a qualification allowance in respect of a Master's degree and for a proofreading course. They were informed that they were not entitled to such allowances and that they had to obtain an additional Master's degree in order to be eligible. The complainant stated that their colleagues, who did not have a Master's degree, were granted a qualification allowance for the proofreading course.

On 13 June 2022, the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) informed the Commissioner for Education (CfE) that the complainant utilised the Master's degree (MQF Level 7) for their appointment as Teacher and therefore was not eligible for a qualification allowance.

Moreover, as the 'Certificate in Maltese Proofreading' (MQF Level 5), was of a lower MQF level to that utilised for the appointment of Teacher, and in line with the Manual of Allowances, the complainant was not entitled for the qualification allowance.

A meeting was held between the CfE and MEYR on 25 November 2022. MEYR explained that a compliance assessment exercise led to the cessation of the qualification allowance for teachers and higher grades, for MQF Level 5 qualifications, as their appointment required a higher MQF Level qualification.

On 7 December 2022, the CfE sent the Interim Opinion. He recommended that until such time as the relative provision of the Manual of Allowance was clarified, possibly by introducing also a cut-off date for cases analogous to the complainant's, the complainant should be paid a qualification allowance for the MQF Level 5 qualification obtained. The CfE informed MEYR that if the recommendation were not accepted by the end of December 2022, he would proceed to a Final Opinion.

On 23 December 2022, MEYR informed the CfE that internal discussions were being held with the People and Standards Division, OPM. Considering the ramifications of this case on the whole public sector, MEYR had to assess the whole situation and not just the case at hand.

On 24 February 2023, the CfE replied that at no time did he suggest to open up and start paying qualification allowances for such cases. The CfE stated that he recommended that the complainant, who had started the course before the blanket decision was taken, should be paid the allowance and that the matter should be clarified. The CfE asked whether the Ministry had a target date for the conclusion of the assessment.

On 3 April 2023 the CfE issued the Final Opinion, sustaining the complaint and made a recommendation. MEYR did not accept the recommendation.

The case was referred to the Prime Minister on 29 May 2023.

Recommendation by Ombudsman

The CfE recommended that the complainant be paid the MQF Level 5 qualification allowance with effect from the date on which they would have been entitled to it in accordance with the practice followed by the Education Division before 2020.

Status

The case was referred to the Prime Minister in terms of Article 22(4) of the Ombudsman Act

Sector/Department	Ministry for Education, Sport, Youth, Research and Innovation (MEYR)
Ombudsman case reference	CEDUC-22-3035
Brief details of case	<p>A complaint regarding an application for the post of Assistant Head of School.</p> <p>The case was received on 7 July 2022.</p> <p>The complainant applied for the post of Assistant Head and claimed that no marks were awarded for the Master's degree in Applied Language Studies. In the previous year, the complainant claimed that they had applied for the same post through an almost identical call for applications and had been awarded marks for this qualification. The complainant also claimed that they were not given a satisfactory explanation for this apparent anomaly.</p> <p>On 29 July 2022, the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) replied to the Commissioner for Education (CfE), stating that the Public Service Commission (PSC) directed the Selection Board to issue a revised result to ensure that marks were awarded only for Master's degrees in the following areas:</p> <p>Education Leadership; Management; Social, Emotional and Behavioural Difficulties (SEBD); Inclusion; Mentoring; Curriculum and Counselling.</p> <p>The complainant's Master's degree was not in one of the areas indicated by the PSC and thus could not be allocated any marks.</p> <p>On 26 September 2022, the CfE issued the Final Opinion.</p> <p>On 11 October 2022, MEYR informed the CfE that his recommendation was being accepted and will be implemented in future calls.</p>
Action taken and management comments	<p>The CfE recommended that, in future calls for applications involving Clause 29.2 of the Collective Agreement or of any other clause which grants discretionary power to the Management to vary conditions which go towards the assessment criteria, the conditions/assessment criteria should always be clearly spelled out in the same call for applications.</p>
Recommendation by Ombudsman	
Status	Closed and recommendation implemented

Sector/Department

Ministry for Education (MFED)

Ombudsman case reference

CEDUC-22-3036

Brief details of case

A complaint regarding the stipend related to a course given by the University of Malta (UM).

Action taken and management comments

The case was received on 11 March 2022. The parent of a student stated that the students following a particular course were being discriminated against as the course had been changed from a general course to a prescribed course and the students did not receive the difference in stipend granted.

On 14 March 2022, the Stipends Office Team at UM informed MFED that the course being followed by the student had been approved with effect from academic year 2020/21 and no backdated payments were to be issued. Therefore, the amounts received by the students were correct. It was also pointed out that usually, if a course was approved as prescribed for the new academic year, no backdated stipend/grant was issued.

The CfE closed the case on 21 July 2023.

Status

Closed without recommendation

Sector/Department

Ministry for Education, Sport, Youth, Research and Innovation (MEYR)

Ombudsman case reference

CEDUC-22-3046

Brief details of case

A complaint regarding a Learning Support Educator (LSE) assigned to the Nurture Group.

Action taken and management comments

The case was received on 26 July 2022.

The complainant alleged that for unclear reasons, attempts were made to post them elsewhere, including in mainstream teaching. The complainant requested to be reassigned to a functioning Nurture Group or a functioning Learning Support Zone.

On 22 August 2022, the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) informed the complainant that they were going to be re-deployed to another Nurture Class.

On 7 September 2022 the CfE closed the case.

Status

Closed without recommendation

Sector/Department	Ministry for Education, Sport, Youth, Research and Innovation (MEYR)
Ombudsman case reference	CEDUC-22-3053
Brief details of case	A complaint regarding an applicant who had applied for an external post within the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) and was considered to be ineligible.
Action taken and management comments	<p>The case was received on 22 July 2022.</p> <p>On 4 October 2022, MEYR replied to the Commissioner for Education (CfE), stating that the call for applications had been for a specialised area within the spectrum of inclusive education. Thus the candidate was required to not only be knowledgeable, but also specialised in the area. Whilst two modules of the complainant's Master's degree were related to Social, Emotional and Behavioural Difficulties (SEBD), this degree was not in SEBD, as stipulated in the call.</p> <p>On 9 November 2022 the CfE issued the Final Opinion.</p> <p>The CfE found no fault with the decision that the qualification in question could not be regarded as a "recognised appropriate comparable qualification" to an MQF Level 7 degree (with a minimum of 90 ECTS) in SEBD.</p> <p>The CfE dismissed the case.</p>
Status	Case not upheld

Sector/Department	Ministry for Education, Sport, Youth, Research and Innovation (MEYR)
Ombudsman case reference	CEDUC-22-3054 <i>(The case was not formally communicated)</i>
Brief details of case	The complaint concerns a request for detailing with the Malta Further and Higher Education Authority (MFHEA).
Action taken and management comments	<p>On 20 July 2022, the Commissioner for Education (CfE) contacted the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) by phone regarding this complaint.</p> <p>On 22 July 2022, MEYR informed the CfE that as soon as a formal request for detailing was received, the detailing process would start.</p> <p>On 12 September 2022, the CfE was informed by MFHEA that the complainant had been assigned to the Authority.</p> <p>On 14 September 2022, the CfE informed MEYR that the case was being closed and classified as 'Resolved by informal action – formal investigation not undertaken'.</p>
Status	Closed without recommendation

Sector/Department	Ministry for Education, Sport, Youth, Research, and Innovation (MEYR)
Ombudsman case reference	CEDUC-22-3057
Brief details of case	A complaint regarding an extension of employment beyond retirement age which was not being renewed.
Action taken and management comments	<p>The case was received on 20 July 2022. The complainant alleged that they were unfairly treated when their extension was not renewed because of ageism. The Commissioner for Education (CfE) asked for the report issued by the Head of School in connection with the complainant’s previous extension.</p> <p>On 26 July 2022, the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) sent the report to the CfE.</p> <p>On 4 August 2022, the CfE issued the Final Opinion, stating that after having reviewed all the evidence, no conspiracy was detected. The CfE considered that this complaint was unjustified and could not be sustained, as the education authorities had acted correctly and there was no evidence of maladministration.</p>
Status	Case not upheld

Sector/Department	Ministry for Education, Sport, Youth, Research and Innovation (MEYR)
Ombudsman case reference	CEDUC-22-3075
Brief details of case	A complaint arising from the deployment of an Assistant Head of School.
Action taken and management comments	<p>The complaint was received on 4 August 2022. The complainant stated that they had not applied to be deployed. Moreover, had seniority been taken into consideration, this deployment exercise would not have affected them. The Commissioner for Education (CfE) asked to be informed about the procedures of deployment and seniority.</p> <p>On 11 August 2022 MEYR, replied to the CfE, stating that a yearly exercise was carried out whereby all educators were invited to request redeployment according to preference, indicating up to three schools. Following success in the selection process, applicants are deployed according to existing vacancies. Requests for deployment may or may not be accepting depending on circumstances. Deployment by seniority cannot always be applied for management posts and redeployment for such grades is carried out on the basis of the Directorate for Educational Services’ evaluation of the needs of the school.</p> <p>On 31 August 2022, the CfE informed MEYR that the complainant was satisfied that the procedure carried out by MEYR was <i>rite et recte</i> and closed the case.</p>
Status	Closed after the management replied to one request for information

Sector/Department	Ministry for Education, Sport, Youth, Research and Innovation (MEYR)
Ombudsman case reference	CEDUC-22-3086
Brief details of case	A complaint by a parent, requesting the opportunity that their child be seen by the Stateminting Moderating Panel (SMP) before the commencement of scholastic year 2022/23.
Action taken and management comments	<p>The case was received on 8 August 2022.</p> <p>The complainant claimed that the psychological reports concerning their child were not forwarded by the school to the SMP. The complainant requested that their child be evaluated by the SMP so that the child might benefit from the services of a Learning Support Educator (LSE).</p> <p>On 12 August 2022, a meeting was held between the Commissioner for Education (CfE) and the Ministry for Education, Sport, Youth, Research and Innovation (MEYR). On the same day, the CfE informed MEYR that the case was being closed and that the complainant expressed the interest for a one-to-one meeting with the Director, National School Support Services.</p> <p>During the meeting held on 27 August 2022, the procedure for referrals was explained to the complainant and they were assured that the school and the Head of Department were carrying out their duty and the recommendations by the psychologist were being implemented.</p>
Status	Closed without recommendation

Sector/Department	Ministry for Education, Sport, Youth, Research and Innovation (MEYR)
Ombudsman case reference	CEDUC-22-3103
Brief details of case	<p>A complaint regarding the renewal of contract of a Supply Teacher.</p> <p>The complainant claimed that their contract as a Supply Teacher was not renewed pursuant to a negative report by the head of school. They also complained that the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) failed to convert their contract into a definite one.</p>
Action taken and management comments	<p>The case was received on 17 August 2022.</p> <p>On 24 August 2022, the Commissioner for Education (CfE) requested a copy of the complainant's performance reports.</p> <p>On 5 September 2022, MEYR provided the CfE with two reports on the complainant, for scholastic years 2019/2020 and 2020/2021.</p> <p>On 19 September 2022, the CfE informed MEYR that the complaint was dismissed as it was considered to be unfounded.</p>
Status	Case not upheld

Sector/Department	Ministry for Education, Sport, Youth, Research and Innovation (MEYR)
Ombudsman case reference	CEDUC-22-3146
Brief details of case	A complaint regarding certificates issued from the School of Music which no longer indicated the MQF level.
Action taken and management comments	<p>The case was received on 22 August 2022.</p> <p>The complainant, a Bandsman in the Armed Forces of Malta (AFM) stated that the certificates issued by the School of Music used to indicate the MQF level of the course taken. However, the MQF rating was not being provided in recently issued certificates. Consequently, AFM was not accepting these certificates and their promotion possibilities were jeopardised.</p> <p>Several meetings were held between the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) and the Commissioner for Education (CfE) to discuss the way forward.</p> <p>In October 2022, following discussions with the Malta Further and Higher Education Authority (MFHEA) and Mikiel Anton Vassalli College, it was concluded that no partial certification would be issued and that candidates were to be made aware of this practice. Partial certification was to be replaced with an attendance certificate denoting the completion of the programme covering a particular grade which was to be accompanied by a transcript of the module/s carried out and the European Credit Transfer and Accumulation System (ETCS) obtained and that this was part of a programme accredited by the MFHEA. The full formal certification of the award/certificate/diploma would be issued following the completion of the entire programme.</p> <p>On 6 January 2023, a meeting was held between MEYR and the CfE. A way forward was established for the College and the school administration to jointly hold separate information sessions with the students and the staff regarding the new practice adopted.</p> <p>On 1 March 2023, the CfE stated that the matter could be closed if parents and students were properly informed of what had led to the current situation (regarding the certificates) and what was being proposed as a way forward.</p> <p>On 9 August 2023, MEYR confirmed that the students of the School of Music were able to download the yearly report from the online platform.</p> <p>Meetings with the staff and the students and their parents/guardians were held on 28 September and 2 October 2023, respectively.</p> <p>On 19 October 2023, the CfE informed MEYR that he was satisfied with the progress and closed the case.</p>
Status	Closed without recommendation

Sector/Department**Ministry for Education, Sport, Youth, Research and Innovation (MEYR)****Ombudsman case reference****CEDUC-22-3159****Brief details of case**

A complaint regarding a certificate in trumpet studies which was not accepted as an entry requirement by the Junior College.

Action taken and management comments

The case was received on 26 August 2022.

A parent claimed that her child had been attending the Malta School of Music and has reached Grade 7 both in trumpet theory and studies. The certificates were issued until Grade 5 and the Grade 6 and 7 were not showing. Junior College asked for a comparability statement from the National Commission for Further and Higher Education (NCFHE), but no reply was received from the latter.

Several meetings were held between the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) and the Commissioner for Education (CfE) to discuss the way forward.

In October 2022, following discussions with the Malta Further and Higher Education Authority (MFHEA) and Mikiel Anton Vassalli College, it was concluded that no partial certification would be issued and that candidates were to be made aware of this.

On 6 January 2023, a meeting was held between MEYR and the CfE. A way forward was established for the college and the school administration to jointly hold separate information sessions with the students and the staff regarding the new practice adopted.

On 1 March 2023, the CfE stated that the matter could be closed if the parents and students were properly informed of what had led to the current situation (regarding the certificates) and what was being proposed as a way forward.

On 9 August 2023, MEYR confirmed that the students of the School of Music were able to download the yearly report from the online platform.

Meetings with the staff and the students and their parents/guardians were held on 28 September and 2 October 2023, respectively.

On 19 October 2023, the CfE informed MEYR that he was satisfied with the progress and closed the case.

Status

Closed without recommendation

Sector/Department	Ministry for Education, Sport, Youth, Research and Innovation (MEYR)
Ombudsman case reference	CEDUC-22-3185
Brief details of case	A complaint regarding a Kindergarten Educator III (with MQF Level 6 qualification) whose class was to be taken over by a Kindergarten Educator with MQF Level 4 qualification.
Action taken and management comments	<p>The case was received on 16 September 2022.</p> <p>The complainant was claiming that after three years teaching in a primary school, they were informed that their class was to be taken by a less qualified kindergarten teacher and they were to be reassigned as a reliever. The complainant was informed that this decision was taken on the basis of seniority.</p> <p>On 11 October 2022, the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) replied to the Commissioner for Education (CfE), explaining that deployment of educators, including Kindergarten Educators, had always been worked out by seniority in accordance with clause 25.7 of the sectoral agreement between the Government of Malta and the MUT.</p> <p>Several correspondence was exchanged between MEYR and CfE between February and March 2023, with the CfE requesting further details on the case and comparing other circumstances to this case. MEYR replied accordingly.</p> <p>On 15 March 2023, the CfE informed MEYR that the case was closed.</p>
Status	Closed without recommendation

Sector/Department	Ministry for Education, Sport, Youth, Research and Innovation (MEYR)
Ombudsman case reference	CEDUC-22-3186
Brief details of case	A complaint by four persons regarding a call for applications. They were not chosen for the post notwithstanding the fact that they ranked better than the chosen candidate.
Action taken and management comments	<p>The case was received on 15 September 2022.</p> <p>The complainants stated that when they communicated with the Ministry for Education, Sport, Youth, Research and Innovation (MEYR), they were told that the candidates were selected according to seniority and not according to the ranking. In the call for applications there were no criteria that the candidates were to be selected according to seniority. The complainants claimed that this was a specific interview, and they should have been chosen according to the ranking and not according to seniority.</p> <p>On 23 September 2022, MEYR met with the complainants to explain the procedure.</p> <p>On 27 September 2022, the Commissioner for Education (CfE) informed MEYR that after obtaining clarifications from various Education Department officials, the case was closed.</p>
Status	Closed without recommendation

Sector/Department	Ministry for Education, Sport, Youth, Research and Innovation (MEYR)
Ombudsman case reference	CEDUC-22-3235
Brief details of case	A complaint regarding a call for applications to teach dance in Secondary/Post-Secondary Education.
Action taken and management comments	<p>The case was received on 6 October 2022.</p> <p>The complainant ranked second and was informed that they would not be posted to teach dance and that Malta Visual & Performing Arts had signed new contracts with three teachers. The Commissioner for Education (CfE) asked for clarification on the matter.</p> <p>On 13 October 2022, the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) replied to the CfE, stating that there was a real vacancy (when a teacher is on unpaid leave, career break or parental leave) for which MEYR employed a regular teacher. There were also two temporary vacancies, which were filled by engaging two supply teachers, one of whom had ranked first in the interview. In view of the fact that the latter was successful in the result of regular teacher, their appointment was changed from supply to regular after the publication of the result.</p> <p>On 1 November 2022, the CfE informed MEYR that the substance of the complaint has been fully addressed and closed the case.</p>
Status	Closed after the management replied to one request for information
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Sector/Department	Malta College of Arts, Science and Technology (MCAST)
Ombudsman case reference	CEDUC-22-3191
Brief details of case	A complaint regarding a refund of a course application fee through MCAST Gateway to Industry (MG2i).
Action taken and management comments	<p>The case was received on 16 September 2022.</p> <p>A prospective international student had sent the application to register as a full-time student at MCAST through (MG2i). It transpired that MCAST could not offer the course and the applicant was refunded the amount paid. However, it transpired that the complainant had sent (MG2i) the wrong account number to which MCAST had forwarded their refund. Therefore the complainant did not receive the refund.</p> <p>On 27 September 2022, the CfE sent a letter of closure to the complainant. The CfE had examined in detail the documentation provided both by the complainant and MCAST and it resulted that MCAST was in no way to blame for sending the refund to a wrong account and every effort was made by MCAST to trace the beneficiary of the refund.</p> <p>On 11 January 2023 the CfE asked for an update regarding the case.</p> <p>On 27 April 2023, MCAST informed the CfE that on 12 April 2023, the complainant had managed to trace the fees which were eventually refunded by (MG2i).</p> <p>Subsequently, on 29 August 2023, MCAST informed the CfE that on 5 July 2023, the complainant confirmed that they had received the refund.</p>
Status	Closed without recommendation

Sector/Department**Malta College of Arts, Science and Technology (MCAST)****Ombudsman case reference****CEDUC-22-3195****Brief details of case**

A complaint by a student alleging that MCAST was preventing them from completing their Advanced Diploma in Sports – Development, Coaching and Fitness.

Action taken and management comments

The complaint was received on 16 September 2022.

A detailed investigation was carried out by the Director, Institute for Community Services. It transpired that the student had failed in two units at the end of their first two-year course, and despite all the help offered to repeat these failed units, the complainant did not avail themselves of this opportunity.

On 14 October 2022, the Commissioner for Education (CfE), informed MCAST that the complaint was closed.

Status

Case not upheld

Sector/Department**Malta College of Arts, Science and Technology (MCAST)****Ombudsman case reference****CEDUC-22-3238****Brief details of case**

A complaint regarding the English Language Proficiency Test.

Action taken and management comments

The case was received on 4 October 2022.

The complainant stated that after having completed successfully their MQF Level 5 course at the Institute of Community Services at MCAST, they were informed that they were not eligible to join the BA Honours degree in Early Childhood Education and Care at MQF Level 6 since they still had to acquire their English Language Proficiency Test from the University of Malta (UM).

Based on a Memorandum of Understanding (MoU) between UM and Malta College of Arts, Science and Technology (MCAST), this rule was equally applicable to MCAST students who had the option of either completing their MQF Level 6 in this sector at UM or MCAST. The complainant insisted that they were not informed about this requirement, while the Institute confirmed that a meeting had been held on 28 September 2021, with all prospective students to clarify this situation.

On 7 October 2022, MCAST informed the Commissioner for Education (CfE) that to treat all students equally, it offered a repeat of the English and Maltese proficiency test to all students who had failed in the complainant's group, thus providing them with the chance to continue with the MQF Level 6 course in 2022. All the students who took this opportunity, including the complainant, failed their proficiency tests.

On 19 December 2022, the CfE informed MCAST that the complainant withdrew the complaint, so the CfE concluded that the case does not merit further investigation in terms of Article 17(1) of the Ombudsman Act.

Status

Case withdrawn by complainant

Sector/Department**Malta College of Arts, Science and Technology (MCAST)****Ombudsman case reference****CEDUC-22-3312****Brief details of case**

A complaint regarding a request for refund of MG2I course tuition fee.

Action taken and management comments

The case was received on 22 November 2022.

The complainant, an MCAST student, who had paid the course fee on 17 January 2020, applied for the refund in July 2021. On 4 January 2022, they complained with MCAST about the delay in receiving the refund.

On 24 November 2022, MCAST informed the Commissioner for Education (CfE) that four attempts were made to refund the fees, but the transaction bounced back. The student showed up in person at the MG2I Office to claim their refund. Meanwhile, the complainant had initially claimed that they were not coming to Malta due to COVID-19, which meant that they were dropping the course as a result of the COVID-19 threat. MG2I concluded that the complainant was no longer entitled to their refund since the reason for withdrawing from their course no longer existed, as demonstrated by their presence on campus.

MG2I became aware that the complainant was seeking to obtain their visa through two different educational institutions in Malta, so they clearly intended to travel to Malta.

On 25 November 2022, the CfE asked MCAST if they were willing to effect the refund given that the student had returned to Malta. He added that the complainant had paid the fee and received nothing back in return.

On 29 November 2022, MCAST replied to the CfE, stating that when MCAST had received the request for refund in January 2022, they were unaware that the complainant had already been in Malta for several weeks. When the complainant went in person to the MG2I offices, it transpired that the student had been in Malta for months, pursuing education with another institution. Thus, the request for refund was not only unfounded but was also false and MCAST did not believe that such refund should be honoured.

On 16 December 2022, the CfE issued an Interim Opinion. The CfE found that MCAST was not justified in withholding this refund and recommended that MCAST should return the full refund claimed by the complainant without delay. On the same day MCAST informed the CfE that the recommendation was accepted and that the complainant would be refunded the full tuition fee without delay.

On 27 December 2022 the Commissioner declared the case as closed.

Status

Closed without recommendation

Sector/Department

Malta College of Arts, Science and Technology (MCAST)

Ombudsman case reference

CEDUC-22-3318

Brief details of case

A complaint regarding an employee's application to progress in their career.

Action taken and management comments

The case was received on 14 December 2022.

The complainant applied with MCAST to progress to the grade of Senior Lecturer II, but their application was turned down by the MCAST Progression Board. The Board did not agree with the complainant's claim that they possessed 15 years in industry experience as stipulated in the MCAST-MUT Collective Agreement.

On 17 January 2023, the CfE asked MCAST to provide evidence to justify their decision. The CfE asked for the following information:

1. the calculations made with respect to the complainant's years of work experience;
2. the procedure, the composition of and minutes of the Appeals Board.

On 20 January 2023, during the meeting held at the Office of the CfE, MCAST officials provided all the requested information.

On 24 January 2023, the CfE informed MCAST that the case was determined in terms of Article 17(1) of the Ombudsman Act and the reasons why the case was no longer being investigated were given to the complainant.

Status

Closed without recommendation

Sector/Department**University of Malta (UM)****Ombudsman case reference****CEDUC-22-2586****Brief details of case**

A complaint lodged by a student who was pursuing their studies for a Master of Arts degree.

Action taken and management comments

The case was received on 8 January 2022. The student allegedly claimed that they were unfairly treated during the examination and grading of their dissertation.

On 1 February 2022, the University of Malta (UM) provided the Commissioner for Education (CfE) with the requested documentation.

With regard to the student complaining about the lack of communication, UM had informed the complainant that their queries were not answered because the dissertation examination process was still ongoing, so any reply or interpretation from the Director would have been inappropriate. UM also remarked that the student had one week from the publication of the result to apply for a revision of paper and had decided not to opt for this way forward.

On 4 March 2022, after examining all documents submitted by the complainant and UM, the CfE sustained the complaint and recommended that the Board of Examiners be reconstituted with appropriate expertise, to re-evaluate the dissertation in question in its entirety.

On 1 April 2022, UM informed the CfE that the Registrar's office specifically informed the student that, should the Commissioner's recommendations be taken up by the University, they would be unable to graduate with the current cohort of graduates; and moreover, an assessment by a re-constituted Board of Examiners could lead to a grade higher or lower than that previously given.

The complainant chose to graduate on 23 March 2022, and was granted a definite certificate of graduation, confirming the final grade.

On 6 April 2022, in reply to the letter dated 1 April 2022, the Commissioner stated that the graduation could not be considered as a final curtain, allowing no further review of the complainant's results.

On 7 April 2022 CfE referred the case to the PM.

Status

The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act

Sector/Department

University of Malta (UM)

Ombudsman case reference

CEDUC-22-2672

Brief details of case

A complaint regarding absence for medical reasons which the complainant claimed was not granted in accordance with the collective agreement.

Action taken and management comments

The complaint was received on 7 February 2022.

A complaint was lodged by a member of the administrative staff, regarding the denial of their request to return to work, despite producing certification of their ability to resume work. This situation has led to a prolonged period without receiving any salary.

On 23 March 2022, the University of Malta (UM) notified the Commissioner for Education (CfE) that the complainant received beneficial arrangements in terms of flexible work, reduced working hours, and teleworking.

It was additionally communicated that the provision in the Collective Agreement, which aimed to safeguard employees facing severe illness or injury, was not a right. In this particular case, the complainant had failed to substantiate the presence of a serious illness, and the UM Medical Board concluded that no evidence supporting such a claim was found. UM provided the CfE with an email exchange and the pertinent vacation/sick leave reports.

On 11 April 2022 the Commissioner issued an interim report to the University indicating that, based on investigations and relevant medical documentation, it was determined that the complainant experienced a significant depressive disorder in relation to stress arising from their work as defined by clause 48.2 of the pertinent Collective Agreement.

On 22 April 2022, the UM carefully evaluated and accepted the feedback provided by the Commissioner and subsequently verified that clause 48.2 was indeed applicable to this particular case.

On 21 June 2022, the Commissioner issued a letter of closure to both the UM and the complainant.

Status

Closed without recommendation

Sector/Department	University of Malta (UM)
Ombudsman case reference	CEDUC-22-2716
Brief details of case	A complaint lodged by a student regarding the submission of dissertation in partial fulfilment of requirements for a Master's degree.
Action taken and management comments	<p>The case was received on 18 February 2022.</p> <p>The student lamented about the low mark awarded by the Board of Examiners for their dissertation which contrasted sharply with most of the marks obtained in other subjects and modules. The complainant had requested a revision of paper and the examiner was of the view that the mark was justified and should not be changed.</p> <p>On 25 February 2022, the Commissioner for Education (CfE) asked the University of Malta (UM) to provide him with concise replies to the specific questions his Office had demanded before investigating the case. UM complied on 3 March 2022.</p> <p>On 9 March 2022, the Commissioner stated that he was satisfied that every reasonable step was taken to avoid any objective or subjective bias in the setting up the Board. It was also noted that there was no element of maladministration in the process leading up to the grading or marking, and that the finality of the mark or grading must be accepted by the student.</p> <p>The Commissioner closed the case since the complaint could not be entertained.</p>
Status	Case not upheld

Sector/Department	University of Malta (UM)
Ombudsman case reference	CEDUC-22-2763
Brief details of case	A complaint lodged by a member of staff in connection with a negative reply received following their application for promotion.
Action taken and management comments	<p>The case was received on 10 March 2022.</p> <p>The complainant objected to the composition of the interviewing board insofar as it comprised one member with whom they had clashed previously. The complainant maintained that, as a result, they did not have a fair hearing during the selection process.</p> <p>On 23 March 2022, the University of Malta (UM) replied to the Commissioner for Health (CfE), explaining in detail the employee's performance. UM also informed the CfE about the identity of the board member whom the complainant doubted during the interview, and it was established that the interview result had been a unanimous decision from all Board Members.</p> <p>On 7 April 2022, following investigations, the CfE concluded that the promotion was free from maladministration and that the presence of the complainant's former line Manager as a member of the Selection Board was not improper.</p> <p>The Commissioner did not sustain the complaint and considered the case as closed.</p>
Status	Case not upheld

Sector/Department

University of Malta (UM)

Ombudsman case reference

CEDUC-22-2764

Brief details of case

A complaint regarding language barriers at the place of work.

Action taken and management comments

The case was received on 9 March 2022. The complainants stated that they were forced to speak or follow meetings in Maltese, when as foreigners their language of communication was English. As a result, they had to ask their Faculty Manager for a transfer.

On 23 March 2022, the University of Malta (UM) explained that UM did not issue contracts for “English speaking persons” and during the six years working for the University, the complainants had never complained about this issue.

On 30 March 2022, the CfE stated that a member of staff who was English speaking should never and under no circumstances be placed in the awkward position of not knowing what was being said at a staff Faculty Board or other official work meetings.

For this reason, he sustained the case and considered it as closed.

Status

Closed without recommendation

Sector/Department**University of Malta (UM)****Ombudsman case reference****CEDUC-22-2984****Brief details of case**

A complaint regarding the teaching and assessment methodology adopted in a study unit which formed an integral part of a course study leading to a degree.

Action taken and management comments

The complaint was received on 10 June 2022.

The complaint was filed by a student, and concerned the mode of delivery of the study unit, the course content, the format of the exam and the overall assessment criteria, the marking of the unit, and the issue of students being evaluated using unequal assessment criteria.

The complainant claimed that, due to these factors, they obtained 44% of the marks in both first-semester exams. The student felt aggrieved at failing a unit which comprised excessive course content and project requirements, the lecturing method was against all regulations, and the exam format and evaluation criteria were unjust. The complainant believed that the grade was unjust and undeserved.

On 20 June 2022, the UM provided the Commissioner with a statement prepared by the lecturer in charge of the study units in question in response to each concern raised by the student. The CfE was further informed that the complainant had refused all solutions proposed by the Registrar's office.

From July 2022 to June 2023, UM and CfE exchanged correspondence on this case.

On 27 June 2023 the CfE issued the Final Opinion. The Commissioner informed the UM that his Office did not find validity in the complainant's claims regarding the exam format and assessment methodology, the scheduling, the lab report length, and the unequal assessment.

The Commissioner noted that the complainant did not take advantage of the deferment possibility, which would have resulted in taking the exam under first-attempt conditions. Since a solution to the problem was readily available and the complainant chose not to utilise it, the Commissioner was unable to sustain the case.

On 7 July 2023, after reviewing the report and recommendations put forward by the Commissioner, UM responded by providing his office with a comprehensive list of actions that were to be undertaken to effectively implement the proposed recommendations made in the report:

- a. UM has piloted a new scheduling software that will allow logging of all student timetables (contact time), including time dedicated towards lecturing, tutorials and lab work;
- b. As of October 2023, the Faculty was to provide students with an assessment calendar to give them the visibility of the overall workload they have ahead, allowing them for better time management and assisting them in striking a better work/study/life balance;
- c. The Board of Studies was asked to reconsider the method of assessment. It was agreed that as of Academic Year 2023/2024 the assessment of the unit would be modified and the Project would carry 40% of the total mark instead of 30% + Practical 10%.

On 20 July 2023, the CfE replied to UM, commending the first two measures that UM was going to adopt. With regard to the third point, the CfE stated that although this may, on paper, result in a marginal reduction in the workload of students, this would simply result in students shifting the time dedicated to the lab report to the Project component.

The CfE remarked that his recommendation that a full review was to be undertaken, still stood. He added that he did not consider that 'adequate and appropriate action' required by Article 22(4) of the Ombudsman Act, was taken by the UM.

On 16 September 2023, the UM informed the Commissioner that the Board of Studies met on the 7 September 2023, and made recommendations to the Faculty Board. The Faculty Board agreed that the Board of Studies, comprised of five board members, would conduct a blind self-assessment of the number of hours required for students to complete the project work associated with ESE310. This information will be reviewed at the subsequent Board of Studies meeting.

In addition, it was reported that members of the Board of Studies will meet with students who have completed their third year of study and have thus been evaluated via project for the 2022/23 academic year. The purpose of the meeting was to determine the total number of hours/efforts they devoted to ESE3101 and other study units during the same semester in order to assess the overall student workload.

Recommendation by Ombudsman

With regard to the over-assessment of the study unit, the Commissioner verified that there was evidence firmly indicating that this particular study unit was over-assessed. It was therefore recommended that formal records should be kept (ex post) of the total number of contact hours, divided in accordance to different modes of delivery/interaction with students adopted by the unit coordinator; systems should be introduced to objectively quantify the number of hours student dedicate to the project segment of the unit; and once data is in hand, a holistic review of the study unit be carried out to eliminate as far as possible instances of over-assessment.

Status

Closed and recommendation implemented

Sector/Department

University of Malta (UM)

Ombudsman case reference

CEDUC-22-3045

Brief details of case

A complaint lodged by a student in connection with proceedings undertaken against them by the Matriculation and Secondary Education Certificate (MATSEC) Examination Board for allegedly breaching the examinations regulations by keeping notes for some time under the table while the exam was in process.

Action taken and management comments

The case was received on 15 July 2022.

The complainant stated that they were unjustly treated when they were given a warning and had their mark reduced by one grade (pursuant to regulation 11(5) of the Conduct of Matriculation and Secondary Education Certificate Examination Regulations 2013). The Commissioner demanded a copy of the invigilator's report related to the alleged breach, a copy of the Disciplinary's Board report, the minutes of the Board's meeting and other relevant information related to the case.

On 21 July 2022, the University of Malta (UM) provided the Commissioner with the requested documents.

On 2 August 2022, the Commissioner informed UM that from a thorough examination of the facts it resulted that the complainant had relevant notes on the shelf under their desk and, therefore, in a place where they should not have been. They added that it was immaterial that those notes may have originally been placed there inadvertently. For the above reasons, the Commissioner dismissed the complaint as unjustified.

Status

Case not upheld

Sector/Department**University of Malta (UM)****Ombudsman case reference****CEDUC-22-3157****Brief details of case**

A complaint regarding the termination of employment of a staff member.

Action taken and management comments

The case was received on 16 September 2022.

The complaint was lodged by an employee alleging that the Human Resources Department had directed them to sign a document without sufficient time to review its contents. The complainant was subsequently dismissed from their employment. Despite the employee's request for an explanation regarding the grounds for termination of employment and a copy of the signed documents, these requests were not granted.

The Commissioner for Education (CfE) requested the University of Malta (UM) to provide the personal file of the complainant in order to initiate investigations.

On 26 September 2022, the UM notified the CfE that the complainant, previously a member of the administrative staff, was employed by the University from September 2017 to September 2018. UM provided the CfE with a comprehensive report that clarified the timeline of events and included relevant appendices.

On 11 October 2022 the Commissioner notified UM that, following extensive investigations, it was determined that the complaint lacked merit and the complainant was duly informed of this outcome.

Status

Case not upheld

Sector/Department

University of Malta (UM)

Ombudsman case reference

CEDUC-22-3257

Brief details of case

A complaint by a student who had to re-sit for a subject in the September session.

Action taken and management comments

The case was received on 19 October 2022.

The complainant stated that, having failed a unit in the academic year 2020 – 21, they attempted the unit again in the academic year 2021 – 22. They again failed to achieve the required grade. Prior to sitting for the final exam, the complainant had sent two separate emails requesting assistance, but received no response. One email was sent to the department head, while the other was sent to the lecturer who was also the unit coordinator.

The complainant sought assistance to comprehend why they were repeatedly failing in this subject.

The University of Malta (UM) explained on 16 November 2022, that when students needed academic advice, it was standard procedure for them to seek advice from the Students Advisory Services, which offer guidance and support to current and prospective students enrolled in courses at the University. When academic issues arise, students were encouraged to schedule a meeting with a faculty member from the relevant department.

On 23 December 2022, the CfE sent the Final Opinion. He stated that the complaint was justified to the extent that there was no specific procedure in place that guided students how to seek the advice or assistance of the lecturer/s in relation to a June examination paper, and as to the process for the lecturer to respond in such cases.

On 12 June 2023, UM sent an email to the Commissioner's Office informing them that the guidelines were being published on the Faculty's website and have already been implemented for the 2023 exam sessions.

Recommendation by Ombudsman

The Commissioner recommended that the Faculty should draw up clear guidelines for this purpose which should be placed before the forthcoming June 2023 examinations sessions.

Status

Closed and recommendation implemented

Sector/Department**University of Malta (UM)****Ombudsman case reference****CEDUC-22-3261****Brief details of case**

A complaint regarding allegations of plagiarism within a paper that had been published.

Action taken and management comments

The case was received on 2 November 2022.

The complaint was filed by two academic staff members in connection with proceedings before the Committee for Safeguarding the Code of Professional Conduct, concerning an allegation of plagiarism in a paper authored by academic staff members. The complainants alleged maladministration in the Administrative Investigations proceedings.

The Commissioner for Education (CfE) requested the University of Malta (UM) to provide the original record of proceedings of the Committee.

In February 2023, the UM held a meeting with the CfE to discuss further the complaint.

Status

Pending at Ministry





MEYR

Commissioner for Education Pre-2022



Sector/Department

Malta College of Arts, Science and Technology (MCAST)

Ombudsman case reference

UU 0005

Brief details of case

A complaint from a Senior Lecturer, alleging that the Malta College of Arts, Science and Technology (MCAST) were hindering him from developing further their professional work at the institution by failing to put into practice appropriate procedures. Additionally, the complainant alleged malpractice when MCAST had withdrawn two internal calls for applications from the portal.

The case was received on 11 February 2020.

On 25 February 2020, MCAST replied to the Commissioner for Education (CfE), that research was a priority for the College, and that the College constantly invests in human and financial resources required for research purposes. Nonetheless, the College must put into practice several checks and balances and must abide by regulations. As regards the internal calls for application, MCAST stated that the complainant acknowledged that two internal calls were withdrawn and not just the one they were interested in. Moreover, MCAST stated that the reason for withdrawing this call was that the former Director withdrew their resignation letter.

Action taken and management comments

The CfE communicated with MCAST on 25 May 2020, recommending that a meeting should be set up between all parties concerned. The case was then suspended due to disciplinary proceedings in connection with other cases concerning the complainant.

On 15 June 2022, the CfE invited the Principal and Chief Executive Officer (CEO) of MCAST to attend a meeting with the Commissioner and the complainant, with the intention of settling down two grievances related to the same complainant (also CEDUC-21-2047).

The meeting was held on 27 July 2022. During the meeting, MCAST Principal and CEO drew up a Compromise Agreement to be signed by MCAST, the complainant and the CfE (as witness). This agreement included all the issues raised by the complainant.

On 30 August 2022, the draft agreement was referred to the CfE.

Status last year

Pending at Ombudsman

Status

Pending at Ombudsman

Sector/Department	Malta College of Arts, Science and Technology (MCAST)
Ombudsman case reference	CEDUC-21-2047
Brief details of case	A complaint regarding allegations of unjustified hindrance by the Malta College of Arts, Science and Technology's (MCAST) Senior Management Team (SMT) in the performance of an employee's duties.
Action taken and management comments	<p>On 15 June 2022, the Commissioner for Education (CfE) invited the Principal and Chief Executive Officer (CEO) of MCAST to attend a meeting with the complainant. The complainant alleged that MCAST was intentionally withholding support for their EU-funded projects. On the other hand, MCAST had ample evidence about the complainant's lack of compliance with established College policies and procedures in leading EU funded projects.</p> <p>During the meeting, MCAST Principal and CEO drew up a Compromise Agreement to be signed by MCAST, the complainant and the CfE (as witness). This agreement included all the issues raised by the complainant.</p> <p>On 30 August 2022, the draft agreement was referred to the CfE.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	Ministry for Education (MFED)
Ombudsman case reference	CEDUC-21-2179
Brief details of case	A complaint regarding a contract for service.
Action taken and management comments	<p>The case was received on 3 August 2021.</p> <p>The Commissioner for Education (CfE) stated that the complainant was employed on a contract of service (and not on a contract for service). The complainant requested that their employment status be changed to one of an indefinite basis and to be given the same conditions related to the employment as others performing the same duties.</p> <p>This request was refused by the Ministry for Education (MFED).</p> <p>The Commissioner asked for the files related to the employment of the complainant.</p> <p>On 21 February 2022, the relative file was referred to the CfE.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department**University of Malta (UM)****Ombudsman case reference****CEDUC-21-2340****Brief details of case**

A complaint regarding a request for extension of appointment that was not acceded to.

Action taken and management comments

The complaint was received on 3 September 2021.

On 11 October 2021, the University of Malta (UM) informed the Commissioner that the Manual of Conduct and Procedures makes further provision for an extension of appointments beyond the age of 67, for senior academics of outstanding merit in their grade of Professor. In this regard, the Dean and the Head of Department were asked for their opinion and their recommendations were brought up in the meeting of the Committee for extension of appointments on 9 February 2021. In view of the feedback submitted in respect of the complainant, the Committee did not recommend to the Council to accede to the request.

The CfE was also informed that on 6 June 2021, the Committee reviewed the complainant's request to reconsider their extension of appointment. On 15 July 2021, the Council confirmed the recommendation of the Committee that the request could not be acceded to.

On 24 February 2023, the CfE submitted an Interim Opinion proposing that the complainant be placed in the same position as they were immediately prior to the first decision by the Committee dealing with the extension of the appointment for Academic Staff on 9 February 2021, and that they be permitted to rebut the serious allegations made against them. The newly formed committee, consisting of individuals who did not participate in any decision-making processes on 9 February 2021, will subsequently provide a fresh recommendation.

Furthermore, the CfE also suggested that the relevant Manual be revised so that, in the future, the Head of the Department and Dean's report/s will be communicated to the applicant, who will be given a reasonable amount of time to respond before the Committee makes its recommendation. Additionally, the Manual should include more objective criteria for why a person's term should or should not be extended, and these criteria should be objectively scored and supported by evidence.

On 11 July 2023 the Commissioner issued the Final Opinion.

On 12 July 2023, UM informed the Commissioner that the complainant will be provided with the opportunity to have their request reconsidered by a newly established *ad hoc* Committee responsible for addressing the extension of appointment for Academic Staff.

Recommendation by Ombudsman

The CfE fully sustained the complaint and upheld the case. The Commissioner made the same recommendations as in the Interim Opinion issued on 24 February 2023.

Status last year

Pending at Commissioner

Status

Closed and recommendations partially implemented

Sector/Department**University of Malta (UM)****Ombudsman case reference****CEDUC-21-2423****Brief details of case**

A complaint lodged by an academic member of staff in connection with their unsuccessful application for the post of full-time resident academic.

The case was received on 19 October 2021.

On 21 October 2021, the Commissioner for Education (CfE) requested UM to provide documentation regarding the selection process. On 23 November 2021, the Commissioner was provided with the information requested, and informed that following a request by the complainant for a clarification as to why they were unsuccessful, a breakdown in communication unfortunately occurred and the letter prepared by UM as a reply was not dispatched. In relation to the matter, a letter of apology was sent to the complainant.

On 10 December 2021, following further investigation, the CfE confirmed that as far as the selection process was concerned, his office was satisfied that the process had been fair and correct. For this reason, the complaint was dismissed.

The Commissioner suggested that, in the interest of transparency and to avoid unnecessary suspicions, failed candidates should automatically and in every case be briefly and concisely informed of the reason why their application was either not shortlisted or, if shortlisted, why they were not successful.

On 11 January 2022 the Commissioner asked UM to inform his office whether recommendations were accepted and implemented.

On 16 February 2023 UM notified the Commissioner that the Council had agreed with the revised guidelines.

On 1 March 2023 the CfE informed UM that he found the new Recruitment Selection Guidelines to be adequate and appropriate.

On 19 April 2023 CfE informed MEYR that the case was closed.

Status last year

Pending at Ministry

Status

Closed and recommendations implemented

Sector/Department**University of Malta (UM)****Ombudsman case reference****CEDUC-21-2427****Brief details of case**

A complaint regarding a request for extension of appointment that was not acceded to, and an appointment to full Professor which was not backdated to the date of application.

Action taken and management comments

The complaint was received on 27 October 2021. The Commissioner for Education (CfE) requested a reply related to both complaints including reasons why the complainant's engagement was not renewed.

On 29 November 2021, the University of Malta (UM) notified the Commissioner that the Committee for the Extension of Appointments met to consider the request and, based on the reports from the complainant's Head of Department, the colleagues consulted, and the Dean, it was agreed not to recommend the extension for the Council's approval.

In relation to the backdating of the promotion to Professor, UM explained that backdating of an application was not automatic. Reference was made to Article 25.8.1 of the Collective Agreement which stipulates '*Normally, the granting of a promotion will be backdated to the time of application, provided that the Board may recommend the granting of a promotion from a later date in the event that the new provisions or testimonials are submitted subsequent to the date of the application*' and Article 25.8.2 which stipulates '*Should a promotion not be backdated, the applicant can request to be informed of the reasons why such promotion has not been backdated*'.

On 8 December 2020, the complainant did make such a request to the Board where it was pointed out that their application was 20 months old and that his recent activities and accomplishments were obviously not included, so the information should be considered. The aforementioned information was a factor in the Board's decision not to retroactively grant the promotion. Additionally, UM informed that the complainant had sent a legal letter dated 1 November 2021.

On 24 March 2023, the CfE sent the Final Opinion. After examining all the evidence submitted by the parties concerned, the Commissioner determined that the UM had acted correctly when not backdating the promotion to full Professor, and there was no indication of maladministration.

On 19 July 2023, UM informed the CfE that the Manual of Conduct and Procedures was being revised.

On 28 August 2023, the CfE informed the Ministry for Education, Sports, Youth, Research and Innovation (MEYR) that the case was closed.

Recommendation by Ombudsman

The CfE informed UM that following consultations with various stakeholders, it was proposed that the complainant be placed in the same position as they were immediately prior to the first decision by the Committee dealing with the extension of the appointment for Academic Staff on 9 February 2021, and that they be permitted to rebut the serious allegations made against him by an academic staff member in an email sent to the Dean.

Furthermore, it was recommended that the pertinent Manual be revised so that, in the future, the Head of the Department and Dean's report/s will be communicated to the applicant, who will be given a reasonable amount of time to respond before the Committee makes its recommendation. Additionally, the Manual should include more objective criteria for why a person's term should or should not be extended, and these criteria should be objectively scored and supported by evidence.

Status last year

Pending at Ombudsman

Status

Closed and recommendations partially implemented





MEYR
**Commissioner for Environment
and Planning 2022**



Sector/Department

Ministry for Education, Sport, Youth, Research and Innovation (MEYR)

Ombudsman case reference

CEP-22-2635 (*this case is being reported also under the Ministry for Transport, Infrastructure and Capital Projects*)

Brief details of case

A complaint regarding blocked access to garages during school admission/leaving hours.

Action taken and management comments

The case was originally addressed to Transport Malta (TM) on 28 January 2022.

On 25 March 2022, TM replied that they did not issue any road closure approvals regarding the roads in question.

On 4 April 2022, the Commissioner for the Environment and Planning (CEP) wrote to TM, the Local Council and to the Head of School, Imġarr Primary School, and made three recommendations.

On 20 April 2022, the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) replied to the CEP, stating that after careful consideration and thorough discussion with the Local Council and with the Local Enforcement System Agency (LESA) officials, it was deemed necessary to temporarily close the street during the school admission and dismissal times.

On 9 May 2022, the CEP issued the Final Opinion and made four recommendations.

On 15 June 2022, MEYR informed the Commissioner that discussions were being held with TM, LESA and the Malta Police Force to coordinate the implementation of the CEP's recommendation in connection with traffic control and the security of school entrances during entry and dismissal times. Imġarr Primary School notified the Local Council to remove the signs in accordance with the Commissioners' recommendation.

On 29 September 2022, the CEP closed the case.

Recommendation by the Ombudsman

- In the absence on TM's approval, the Local Council was to remove the no entry signs;
- Traffic or local wardens would direct traffic according to exigencies;
- Installation of railings on the pavement by the school's administration;
- Involvement of the residents by the Local Council if approval for road closure was sought from TM.

Status

Closed and recommendation implemented







**MINISTRY FOR THE
ENVIRONMENT, ENERGY
AND ENTERPRISE**

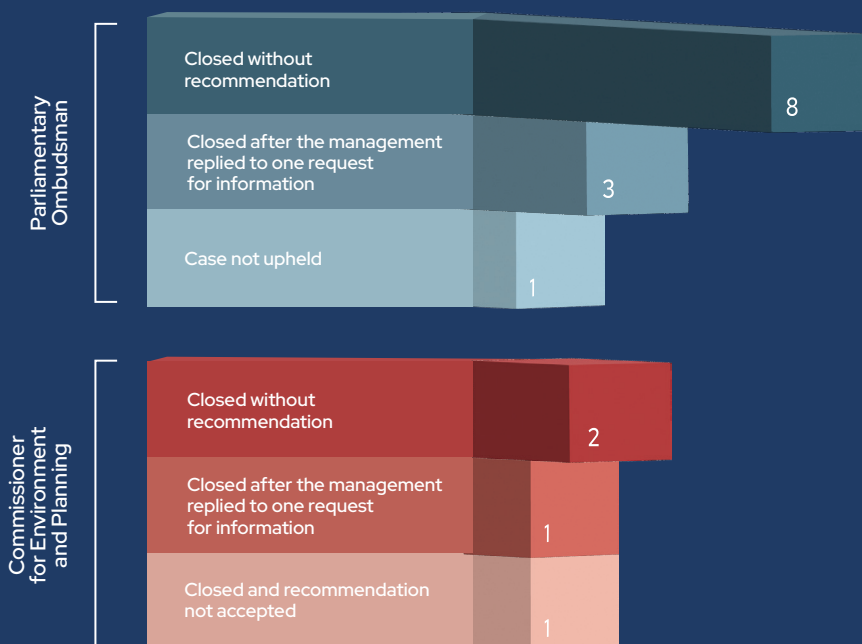
In 2022, 12 cases were referred by the Parliamentary Ombudsman to the Ministry for the Environment, Energy and Enterprise (MEEE). Eight cases were closed without any recommendation being made by the Ombudsman. Three cases were closed after the management replied to one request for information. One case was not upheld by the Ombudsman.

Four cases were referred by the Commissioner for Environment and Planning (CEP) during 2022. Two cases were closed without any recommendation being made by the CEP. One case was closed after the management replied to one request for information. Another case was closed but CEP’s recommendation was not accepted.

There were four cases which had been referred by the Ombudsman in previous years and remained pending. Two of these cases were closed without any recommendation having been made by the Ombudsman and two other cases were pending at the Office of the Ombudsman.

There was also one case which had been referred to MEEE by the CEP and which had been pending from previous years. This case was closed without a recommendation.

MEEE Total Cases 2022 - 16



MEEE

Parliamentary Ombudsman 2022



Sector/Department

Automated Revenue Management Services Limited (ARMS Ltd)

Ombudsman case reference

OMB-22-2660

Brief details of case

A complaint lodged against ARMS Ltd regarding a service suspension notice issued on 18 January 2022 in connection with outstanding dues on account.

Action taken and management comments

The case was received on 22 February 2022.

The complainant stated that over the years billing was inconsistent so much so that ARMS Ltd has had to carry out three revisions covering three separate time windows. Interest was charged on unrevised amounts and the amounts charged were never revisited to reflect the changes.

On 25 February 2022, a reply was issued to the Ombudsman, giving a full explanation.

On 16 March 2022 the Ombudsman closed the case.

Status

Closed after the management replied to one request for information

Sector/Department

Automated Revenue Management Services Limited (ARMS Ltd)

Ombudsman case reference

OMB-22-3011

Brief details of case

A complaint regarding the consumption registered for the period October 2021 to April 2022 which had increased significantly when compared to the invoices for the same period of the previous year.

The complainant sought the opinion of a private electrician who stated that the electrical system was in order and suggested a meter test. The test was carried out in April 2022 and on 3 May 2022, the complainant was informed that the meter had been tested and was found to be working correctly. However, following the installation of the new meter, consumption stabilised to the same levels as the previous years.

The complainant therefore held that despite the test, there must have been some fault with the old meter, resulting in abnormally high consumption which was unjustly billed.

Action taken and management comments

The case was received on 29 July 2022.

On 1 August 2022, a reply was issued explaining that since the meter had been tested and had been found to be working correctly, invoices issued during the contested period were to be considered as correct, thus no revision of invoices could be made. An explanation was given on the procedure used to test a meter.

On 2 August 2022, the Ombudsman declared he found no case of bad administration and closed this case.

Status

Closed after the management replied to one request for information

Sector/Department**Automated Revenue Management Services Limited (ARMS Ltd)****Ombudsman case reference****OMB-22-3145****Brief details of case**

A complaint related to the installation of a water meter. Back in 2001, the complainant had applied for a new service and paid the related fee. The water meter was not installed since the Water Services Corporation (WSC) informed the consumer that there were no mains at that time.

When the mains were installed, the consumer contacted Automated Revenue Management Services Limited (ARMS Ltd) and was informed that one would need to submit a new application and pay the applicable fee.

Action taken and management comments

The case was received on 30 November 2022.

The WSC was contacted by ARMS Ltd to confirm what had been stated by the consumer and to check whether the new service fee had been refunded.

It emerged that the new service fee had never been refunded. On 5 December 2022, ARMS Ltd informed the consumer to fill in another application and the service would be given accordingly.

On 14 December 2022, ARMS Ltd received the application from the consumer and processed it on the same day. Furthermore, on the same day, WSC issued an official reply to the Ombudsman.

The meter was installed on 15 December 2022. On the same day, the Ombudsman informed ARMS Ltd that the case was being closed.

Status

Closed without recommendation

Sector/Department

Automated Revenue Management Services Limited (ARMS Ltd)

Ombudsman case reference

OMB-22-3286

Brief details of case

A complaint regarding the disconnection of the water and electricity service, which were suspended due to unpaid bills.

The complainants had a property which had been leased to a third party, and the water and electricity account had been transferred onto the tenant. The latter failed to pay what was due and both water and electricity services were suspended. The tenant left the premises in 2020 but services remained suspended.

The complainants requested to have the services reconnected. Since the complainants were not willing to settle pending dues on the existing account, they were given two options: either to remove the meters and apply for new ones or else have them transferred on their name but they would need to pay for the meters. Both options involved the payment of new service fees.

The complainants argued that it was unfair to pay new service fees and that they had already been prejudiced as they could not rent the property due to the disconnection of services two years before. According to complainants, the present account holder should be the one to bear these costs.

Action taken and management comments

Case was received on 25 January 2023.

On 14 February 2023, Automated Revenue Management Services Limited (ARMS Ltd) replied to the Ombudsman, stating that while the owners were not being held responsible for the dues left by the tenant, they were to apply for a new meter. This request was treated as a new installation and carried a higher service fee. Any other option would expose ARMS Ltd to the possibility of deceitful malpractices.

On 28 February 2023, the Ombudsman informed ARMS Ltd that the complaint could not be upheld and that the case was being closed.

Status

Case not upheld

Sector/Department	Automated Revenue Management Services Limited (ARMS Ltd)
Ombudsman case reference	OMB-22-3349
Brief details of case	A complaint contesting the registered electricity consumption and consequent charges.
Action taken and management comments	<p>The case was received on 27 February 2023.</p> <p>On the same day, Automated Revenue Management Services Limited (ARMS Ltd.) issued a reply stating that if one considered the same period of the preceding year, the electricity consumption had been, more or less, the same as the year in question.</p> <p>The Ombudsman was also informed that, following a revision to the complainant's bill, which was related to the number of persons registered on account, it was noted that invoices had been issued on one person instead of two. The necessary adjustment was made, and revised invoices were issued accordingly.</p> <p>On 3 March 2023, the Ombudsman informed ARMS Ltd that the case had been closed.</p>
Status	Closed after the management replied to one request for information

Sector/Department	Enemalta Plc
Ombudsman case reference	OMB-22-2897
Brief details of case	A complaint related to damage allegedly caused to a residence by an Enemalta Plc contractor on 28 July 2021.
Action taken and management comments	<p>The case was received on 12 May 2022.</p> <p>On 24 May 2022, Enemalta Plc instructed the contractor to settle expenses with the complainant for the damages incurred.</p> <p>The complainant informed the Ombudsman that the contractor would be repairing the damages, and on 1 June 2022, the Ombudsman informed Enemalta Plc that the case was being closed.</p>
Status	Closed without recommendation

Sector/Department**Energy and Water Agency (EWA)****Ombudsman case reference****OMB-22-3123****Brief details of case**

A complaint regarding the rejection of an application to benefit from the “Water be the Change” Scheme launched by the Energy and Water Agency (EWA).

The complainants explained that they had submitted their application to fix the well in their residence and had been told by officers from the Agency that there was no problem with their application and that they were eligible to benefit from the Scheme. However, even though they provided all the requested information and documents, they were subsequently informed that their application was not eligible as they had not satisfied one of the necessary requirements – namely, two years of utility bills. The complainants stated that they had provided these bills to the Agency.

Action taken and management comments

The complaint was received on 6 September 2022.

On 14 November 2022, EWA sent a reply and supporting documentation to the Ombudsman’s office.

On 29 November 2022, the Ombudsman replied to EWA, and proceeded with the closure of the case.

Status

Closed without recommendation

Sector/Department**Malta Enterprise (ME)****Ombudsman case reference****OMB-22-3193****Brief details of case**

A complainant alleging that Malta Enterprise (ME) had rejected their application for tax credit in relation to the Higher Qualifications scheme. The complainant had applied for assistance for the same qualification under the Get Qualified scheme, for which a tax credit certificate was issued to the complainant on 1 October 2021.

Action taken and management comments

The case was received on 11 October 2022.

Upon receipt of the application for assistance under the Higher Qualifications scheme, ME sought guidance from the Inland Revenue Department (IRD) on whether the tax credit certificate issued under Get Qualified scheme could be revoked and a new certificate issued as assistance under the Higher Qualifications scheme. The IRD did not recommend such an action based on risks related to double funding and ME acted accordingly by refusing assistance under the Higher Qualifications scheme.

On 17 November 2022, the Ombudsman closed the case.

Status

Closed without recommendation

Sector/Department	Ministry for the Environment, Energy and Enterprise (MEEE)
Ombudsman case reference	OMB-22-3133
Brief details of case	The complainant, on behalf of a private company, alleged breach of contractual obligations by MEEE through the claimed unjust withdrawal of the pre-financing guarantee of €468,867, on a contract the company had entered with the Energy and Water Agency (EWA).
Action taken and management comments	<p>The case was received on 28 September 2022.</p> <p>On 8 November 2022, MEEE replied to the Ombudsman that lawyers appointed by EWA had held a meeting with the company's legal representative on 6 October 2022, and that a way forward was deemed plausible, however it was subject to approval by the Department of Contracts (DoC).</p> <p>On 18 November 2022, the Ombudsman requested MEEE to provide a copy of the contract. This was provided on 30 November 2022.</p> <p>On 22 December 2022, the DoC wrote to the Ombudsman, stating that the General and Special Conditions of the contract clearly stipulate clauses relating to circumstances of disagreement between parties on performance issues, including guarantees, and that both parties had at their disposal litigation and arbitration clauses which should be applied through the contract. The terms and conditions in a contract were not negotiable, and the General Contracts Committee (GCC) had guided the Contracting Authority to strictly abide by the applicable conditions of the contract.</p> <p>On 12 January 2023, the Ombudsman informed the Ministry that the case had been closed.</p>
Status	Closed without recommendation

Sector/Department	Regulator for Energy and Water Services (REWS)
Ombudsman case reference	OMB-22-2705
Brief details of case	<p>A complaint regarding a query lodged by an electrician regarding Over Voltage Relays (OVRs), requesting guidance on the way to proceed when they meet installed OVRs which had their limits outside those established by Enemalta Plc.</p> <p>In their complaint to the Ombudsman, the complainant stated that on 11 November 2021, they had sent an email to REWS enquiring about the matter but had not received any response.</p>
Action taken and management comments	<p>The case was received on 10 March 2022.</p> <p>On the 13 April 2022, REWS replied to the complainant and on the following day, to the Ombudsman. However, on 17 April 2022, the complainant wrote back saying that their questions had not been answered.</p> <p>On 20 May 2022, the Ombudsman contacted REWS once again, informing that complainant's questions remained unanswered.</p> <p>On 12 October 2022, REWS replied to the complainant giving an answer to their two questions, and to the Ombudsman with their response to the complainant.</p> <p>On 14 October 2022, the Ombudsman informed REWS that the case had been closed.</p>
Status	Closed without recommendation

Sector/Department**Water Services Corporation (WSC)****Ombudsman case reference****OMB-22-2662****Brief details of case**

Investigation by the office of the Ombudsman about car tyre damages allegedly caused by a pothole. The damages amounted to €299.

The complainant took their case to the Local Council which did not accept the complaint as it maintained that the damages caused were due to a Water Services Corporation (WSC) manhole cover which had sunk below road level.

Action taken and management comments

The case was received on 2 May 2023, wherein the Ombudsman requested comments on the matter from WSC.

On 4 May 2023, WSC replied to the Ombudsman stating that it was aware of the manhole cover which had sunk in and asked for the details of the complainant so that contact would be established with them and action taken to close off the case.

On 10 May 2023, the Ombudsman provided the complainant's contact details.

On 23 May 2023, the claim was accepted and the transfer of payment to the claimant was effected.

Status

Closed without recommendation

Sector/Department**Water Services Corporation (WSC)****Ombudsman case reference****OMB-22-3232****Brief details of case**

A complainant protested against Water Services Corporation's (WSC) imposed fine of €1,500 for a missing water meter. The complainant insisted that the meter had been stolen after it had been installed in their front porch by WSC.

Action taken and management comments

WSC received the case on 19 October 2022.

Besides addressing the complainant's dispute regarding the €1,500 fine, the Ombudsman asked WSC to clarify why water meters were being installed outside, where the risk of such meters being stolen was greater than the alternative.

A reply was sent by WSC on 4 November 2022, providing a timeline of events leading up to the Corporation's decision to impose the fine. WSC also clarified that water meters were installed outside for technical reasons, namely that there would be less reception interference and that it was far easier for meter readers/installers to have access to such meters when required.

On 12 January 2023, the Ombudsman closed the case.

Status

Closed without recommendation





MEEE

Parliamentary Ombudsman Pre-2022



Sector/Department

Automated Revenue Management Services Limited (ARMS Ltd)

Ombudsman case reference

T 0206

Brief details of case

A complaint regarding the direct debit system adopted by ARMS Ltd.

Action taken and management comments

The complaint was received on 30 September 2019. The complainant referred to the 2% discount offered by ARMS Ltd to those clients paying by direct debit. The complainant stated that ARMS Ltd changed the policy related to this discount so that only residential accounts were eligible.

On 3 January 2020, ARMS Ltd replied that non-residential accounts did not benefit, and were not eligible for any discounts when paying through the direct debit facility. Only domestic or residential accounts qualified for such discounts.

On 12 May 2020, ARMS Ltd suggested that the complainant may apply to change the applicable tariff to benefit from discounts by submitting Form R.

On 4 February 2022, ARMS Ltd stated that any discounts given for non-residential accounts had been given erroneously, as these accounts did not qualify for a direct debit discount. To change the billing tariff to Domestic/Residential rate, the consumer must submit a Form R. Such form had never been submitted by the complainant until the date of communication, that is 4 February 2022.

On 3 October 2022, ARMS Ltd received an email from the Office of the Ombudsman, requesting further clarifications. A reply was issued by ARMS Ltd on 6 October 2022.

On 23 November 2022, the Ombudsman informed ARMS Ltd that the case had been closed.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**Environment and Resources Authority (ERA)****Ombudsman case reference****U 0227** *(This case is registered with MEFL (MIMCOL); however ERA was involved in the investigation)***Brief details of case**

The case relates to an investigation in connection with the concession granted to a private shipyard.

Action taken and management comments

The case was received on 22 April 2021. The Environment and Resources Authority (ERA) was requested by the Ombudsman's Office to provide information regarding the 2020 Malta Investment Management Company Limited (MIMCOL) compliance review on the operation of a private shipyard.

On 31 May 2021, ERA provided the requested information and stated that there was a pending appeal filed by the shipyard in question before the Environment and Planning Review Tribunal, against a joint enforcement action by the Planning Authority and ERA regarding grit blasting.

On 6 September 2021, the Ombudsman requested updates on studies carried out on noise pollution and issues relating to the use of grit.

On 28 October 2021, ERA informed the Ombudsman that the noise monitoring report submitted by the operator was being reviewed by ERA, and that the operator could make use of grit blasting and hydro blasting depending on which dock such blasting was to be undertaken, as well as the wind forces on the day.

After assessing the noise monitoring report submitted by the operator, ERA noted deficiencies in establishing the baseline levels, and requested amendments to the monitoring proposal. The study was carried out afresh in line with requirements.

In August 2023, ERA stated that the requested study was concluded, with most of the recommendations of the Authority incorporated accordingly and mostly in line with the established standards.

In September 2023, the Ministry for the Environment, Energy and Enterprise (MEEE) was informed by ERA that whilst noticing an overall decrease in noise levels (when compared to 2021 and 2022), noise levels over the background could still be noted. To this effect, the operator was requested to submit a proposal for an action plan aimed at reducing noise, together with a long-term noise monitoring plan, in line with the Environmental Permit conditions. Bilateral discussions were underway.

Status last year

Pending at Ombudsman

Status

Pending at Ombudsman

Sector/Department

Malta Enterprise (ME)

Ombudsman case reference

U 0055

Brief details of case

A complaint regarding the Nomenclature of Economics Activities (NACE code) not being compliant. The complainant was informed by Malta Enterprise (ME) that since the NACE code for their business was for electrical and not security services, the complainant did not qualify for the COVID-19 wage supplement. The National Statistics Office (NSO) refused to revise the complainant's NACE code.

Action taken and management comments

The case was received on 8 April 2020. The Ombudsman asked whether there was a possibility to adjust the NACE code.

On 27 April 2020, ME replied that NACE codes were established by the NSO, and ME relied on the classification given by NSO. ME stated that when a business operated in a sector which was not included in Annex A or B of the wage supplement scheme, applications for the scheme could still be submitted, but the applicant must provide justification why their business should be considered for the provision of wage supplements.

On 28 July 2022, the Office of the Ombudsman enquired why, in the light of ME's reply, the complainant's request for financial assistance had not been accepted by ME.

On 30 August 2022, ME explained why the complainant had not been eligible.

On 29 September 2022, the Ombudsman replied, stating that another company offering the exact same services as the complainant had qualified for assistance.

On 12 October 2022, ME replied to the Ombudsman that the company in question was not eligible for a wage supplement, and consequently, ME was in the process of recovering all funds disbursed to the company.

On 6 January 2023, MEEE was informed by the Ombudsman that the case had been closed.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**Water Services Corporation (WSC)****Ombudsman case reference****OMB-21-2482****Brief details of case**

A complaint regarding alleged inequality of pay for equal work. The complainant stated that they carry out the same duties as higher scaled employees who benefit from a higher remuneration package.

Action taken and management comments

The case was received on 26 November 2021, wherein the Ombudsman requested job descriptions for the roles the complainant was referring to.

On 3 January 2022, the Water Services Corporation (WSC) clarified that the teams deployed by the WSC to attend to its waste-water operations were composed of a Team Leader, Multi-Skilled Fitter (MSF) in Salary Scale 13, as well as a Fitter in Salary Scale 15. It was clarified that the MSF grade, while incorporating all the duties of Fitter, was also entrusted with basic administrative work (such as the compilation of regular requisition orders for materials), ensuring that documentation was completed correctly, and most notably “descending up to 3m descents in sewers, sumps interceptors to check and clear any stoppages and blockages.”

On 28 October 2022, the Ombudsman requested an interview with the Team Leader responsible for the complainant’s team. The interview was held in December 2022 with the Operations Manager.

On 8 August 2023, the Ombudsman requested a copy of the latest job descriptions as updated. WSC forwarded the required documentation to the Ombudsman on 10 September 2023.

Status last year

Pending at Ombudsman

Status

Pending at Ombudsman



MEEE

**Commissioner for Environment
and Planning 2022**



Sector/Department

Environment and Resources Authority (ERA)

Ombudsman case reference

CEP-22-2959

Brief details of case

A complaint about burning of chemically-induced wood at a bakery.

Action taken and management comments.

On 6 July 2022, the Environment and Resources Authority (ERA) was notified by the Commissioner Environment and Planning (CEP), of the investigation, and was asked whether it had taken any action regarding the matter.

On 13 July 2022, ERA replied to the CEP, stating that on 2 June 2022, it had received the same complaint regarding the use of pallets as oven fuel. The complainant was informed to direct their complaint to the Environmental Health Directorate, in view that such matter was regulated by the Fuel in Bakeries Regulations (SL 449.14) under the Food Safety Act.

On 15 July 2022, the CEP informed ERA that the case was being closed and that it would be followed up with the Environmental Health Directorate.

Status

Closed after the management replied to one request for information



Sector/Department**Malta Enterprise (ME)****Ombudsman case reference**

CEP-22-3291 (*this case was registered with INDIS Malta Ltd within MEFL; however the recommendations were addressed to MEEE*)

Brief details of case

The complainant is alleging mismanagement and unfair treatment by INDIS Malta Ltd in relation to the allocation of land at Ta' Qali Crafts Village, following an official Letter of Intent (LOI) issued by Malta Enterprise (ME) on 15 March 2022, confirming approval for the allocation of industrial space at Ta' Qali Crafts Village.

Action taken and management comments

The case was received on 21 November 2022.

On 11 January 2023 a meeting was held between the Commissioner for Environment and Planning (CEP), ME & INDIS Malta Ltd to clarify the role of both entities.

In view of ME's LOI, informing the applicant that ME had approved the allocation of industrial land, and that the terms and conditions relating to the allocation of such land would be communicated to the applicant by INDIS in due course, it was agreed that INDIS Malta was to meet with the complainant to find a best way forward.

The complainant informed the CEP that the meeting had been held but no solution was found, while also submitting that INDIS' conclusion, that the project did not involve manufacturing of crafts products, showed that INDIS did not understand the actual project submitted.

On 2 February 2023, the CEP issued his Final Opinion.

The CEP requested that actions intended to be taken by ME in line with recommendations were to be communicated to his office by 2 March 2023.

On 16 March 2023, the CEP opened another case with a different reference number to communicate exclusively with ME under reference number CEP-23-3419. He stated that since no official reply to the Final Opinion was received from ME, the case had been closed as "sustained and recommendations not accepted by ME".

On the same day, ME wrote to the CEP. Further action regarding this case will be reported in next year's publication under CEP-23-3419.

Recommendation by Ombudsman

The CEP recommended that ME should ascertain:

1. that similar approvals clearly state what is being approved: whether there will only be support for the implementation of the project or an actual allocation of land;
2. that the approval was in line with the responsibilities that fall under the remit of ME;
3. whether any approval was subject to the further approval of any other entity;
4. more collaboration between the different entities concerned so that the number of approvals for the support on the allocation of land by ME tally with the actual size of the land available at INDIS.

Status

Closed and recommendations not accepted

Sector/Department

Ministry for the Environment, Energy and Enterprise (MEEE)

Ombudsman case reference

CEP-22-2861

Brief details of case

An investigation by the Commissioner for the Environment and Planning (CEP) regarding the state of San Anton Gardens, including the bad state of walls, paving and lack of signs for the public.

Action taken and management comments

The case was received on 6 May 2022.

On 8 May 2022, the Ministry for the Environment, Energy and Enterprise (MEEE) replied to the CEP, stating that a project was underway to restore the hard landscaping elements of the garden. MEEE gave a list of the works/services which had been already carried out (repairs of some walls and damaged timber benches, installations of bins and manholes, repainting of metal fencing, upgrading of Malta Embellishment and Landscaping Project (MELP) offices, contracting of veterinarian services and contracting of rodent control, and a list of works which were in progress (application for permits to restore all walls, photos for mapping purposes, surveying, replacement of animal feeding stations, removal of chickens from the garden, new signage for pond areas, and the installation of a collapsed balcony wall).

On 16 May 2022, the CEP replied that from the information given it was evident that the concerns flagged were being addressed, and closed the case. He urged MEEE to undertake, as soon as possible, the upgrading and restoration works.

Status

Closed without recommendation

Sector/Department

Regulator for Energy and Water Services (REWS)

Ombudsman case reference

CEP-22-2668

Brief details of case

A complaint regarding safety concerns emanating from the use of a fuel station, as permitted by the Planning Authority (PA).

Action taken and management comments

This case was received on 25 February 2022, wherein the Commissioner for the Environment & Planning (CEP) asked the Regulator for Energy and Water Services (REWS) to consider the safety of the neighbours of the kerb-side fuel station. The main concern was that nearby food and drinks establishments were frequented by patrons who smoke in the street where the petrol station was located. Furthermore, there were no signs barring smoking and the use of naked lights around the dispensers.

On 21 April 2022, REWS replied stating that an on-site inspection had been carried out, whereby it resulted that the establishment in question was being refurbished. Thus, it was doubtful that any activity carried out on the forecourt during shop hours was related to the establishment indicated. Furthermore, it resulted that signs barring smoking and the use of naked lights around the dispensers were in place.

On 6 May 2022, the CEP replied that the detailed reply had been noted and closed the case.

Status

Closed without recommendation





MEEE

**Commissioner for Environment
and Planning Pre-2022**



Sector/Department

Water Services Corporation (WSC)

Ombudsman case reference

CEP-21-2388

Brief details of case

A complaint regarding sewage smell in Marsaxlokk which was negatively affecting residents and restaurants in the area.

Action taken and management comments

The case was received on 8 October 2021.

On 3 January 2022, Water Services Corporation (WSC) replied that such issues were reasonably foreseeable whenever works were being carried out. It was clarified that the manhole covers installed by WSC had to be tailor-made given that the openings were larger than standard manholes. To ensure that the odour would not escape from the manhole covers, the latter had been covered with plastic. However, the smell could still be detected. In view of this, Grand Harbour Regeneration Corporation (GHRC) was informed that the area needed to be sealed off with concrete, the old pumping station needed to be decommissioned, emptied, and refilled with rubble up to sea water level.

On 12 July 2022, the Commissioner for Environment and Planning (CEP) wrote to WSC and the Environmental Health Directorate, stating that further complaints regarding drainage smell had been received.

On 25 July 2022, WSC replied that the manholes along the seafront of Marsaxlokk had been sealed in December 2021, and that they would be sealed again every time they were opened. The seal was made from thick rubber which was placed under the manhole cover so that any leakage of odours was reduced as much as possible.

On 20 February 2023, MEEE was informed that the case had been closed by the CEP on 5 August 2022.

Status last year

Pending at Ombudsman

Status

Closed without recommendation





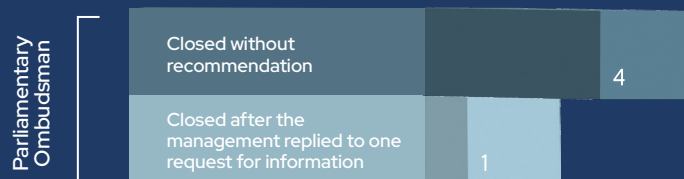


MINISTRY FOR FINANCE AND EMPLOYMENT

In 2022, five cases were referred by the Ombudsman to the Ministry for Finance and Employment, which were all closed either in 2022 or in 2023 without a recommendation being made by the Ombudsman.

Nine cases had been referred to the Ministry for Finance and Employment by the Ombudsman in previous years. Five cases were closed without any recommendation by the Ombudsman, one case was not upheld, one case is pending at Ombudsman's Office, whilst two cases have been referred to the Prime Minister in accordance with Article 22(4) of the Ombudsman Act.

MFE Total Cases 2022 - 5



MFE
Parliamentary Ombudsman 2022



Sector/Department**Air Malta****Ombudsman case reference****OMB-22-3313****Brief details of case**

A complaint regarding unpaid performance bonus allegedly due by Air Malta.

Action taken and management comments

The case was opened at Ombudsman on 22 November 2022, and closed on 22 December 2022. The Ministry for Finance and Employment (MFE) was informed by the Office of the Ombudsman that the complainant sought direct redress from Air Malta and no investigation on part of the Office of the Ombudsman was carried out.

Closed by Ombudsman on 22 December 2022.

Status

Closed without recommendation

Sector/Department**Office of the Arbiter for Financial Services (OAFS)****Ombudsman case reference****OMB-22-2950****Brief details of case**

A complaint by a bank customer to the Office of the Arbiter of Financial Services (OAFS) about charges they were being debited by the bank.

Action taken and management comments

The case was received on 6 May 2022.

After a preliminary inquiry by the OAFS, the customer lodged a formal complaint with the OAFS regarding the bank charges debited to his account by the bank. However, against OAFS' advice and policy at the time, the complaint was submitted in English. OAFS' policy required that complaints were to be lodged in Maltese by native customers. The complainant refused to resubmit the complaint in Maltese, claiming that the English language was also an official language in Malta.

On 20 September 2022, the complainant did submit a complaint in Maltese. However, it contained some offensive language, and OAFS asked the complainant to remove the offensive language and to concentrate on a final submission of his complaint by fine-tuning some aspects to ensure that it meets the minimum requirements of the law. The OAFS sent several reminders, and the complainant promised to do so each time. However, a final revised complaint was never submitted.

On 17 March 2023, the Ombudsman informed OAFS that the case was closed, and no further action would be taken.

In the meantime, as from June 2023, the OAFS changed its policy and is accepting complaints in English from native customers.

Status

Closed without recommendation

Sector/Department	Commissioner for Revenue (Customs)
Ombudsman case reference	OMB-22-2947
Brief details of case	A complaint regarding a Superintendence of Cultural Heritage (SCH) inspection requested by the Customs Department on three bayonets bought by the complainant from outside the European Union.
Action taken and management comments.	<p>The case was received on 27 June 2022. The complainant held that withholding the bayonets by the Customs Department, which were bought by auction on a United States of America (USA) website, until an inspection by the SCH was carried out, was unlawful.</p> <p>Several correspondence was exchanged between the Office of the Ombudsman and the Customs Department. The latter reiterated that the courier, on behalf of the complainant, had declared the bayonets under Combined Nomenclature (CN) Code 9705 'collections and collectors' pieces', thus benefiting from a reduced VAT rate from 18% to 5%, subject to an inspection of the items and clearance of the SCH.</p> <p>On 7 February 2023, the Ombudsman informed the Ministry for Finance and Employment (MFE) that the case was closed.</p>
Status	Closed without recommendation

Sector/Department	Commissioner for Revenue (CfR)
Ombudsman case reference	OMB-22-3176
Brief details of case	A complaint regarding a Wedding Grant refund. The complainant claimed that only half of the Wedding Grant entitlement had been received. Upon enquiring with customer care, the complainant was informed that they were entitled to half of the grant as one of the spouses had been previously married. This was not the case but the matter could not be sorted out.
Action taken and management comments	<p>The case was received on 4 October 2022.</p> <p>The Commissioner for Revenue (CfR) replied to the Ombudsman on 12 October 2022, stating that when the complainant applied for the grant by means of the e-form, they had ticked the box that <i>'either of the spouse is not eligible for the grant because such spouse would have previously benefited from such grant'</i>. In this regard, only half of the refund was granted.</p> <p>The CfR contacted complainant to clarify the matter. A signed declaration by the complainant and the other spouse was requested by CfR which confirmed that both spouses had never been married before and never benefited from the grant before. Upon this declaration dated 5 October 2022, the CfR proceeded with crediting the remaining amount of the grant to the complainant.</p> <p>The Ombudsman closed the case on 17 October 2022.</p>
Status	Closed without recommendation

Sector/Department:

Commissioner for Revenue (CfR)

Ombudsman case reference

OMB-22-3271

Brief details of case

A complaint regarding the rejection of an application for the renewal of unpaid leave.

Action taken and management comments

The case was received on 27 October 2022. The complainant claimed that the rejection of the request to renew the period of unpaid leave to pursue employment with the private sector was against the provisions of the Public Service Management Code (PSMC). The Ombudsman requested views and comments on the complainant's grievance.

The Commissioner for Revenue (CfR) replied to the Ombudsman on 7 November 2022, stating that Article 3.4 of the Manual of Special Leaves stated that such requests fell under the discretion of the respective Permanent Secretary, after due consideration. The CfR explained that the renewal was not automatically and invariably granted, as indicated in the manual. Since the Office lacked human resources, the application was rejected.

The Ombudsman replied on 14 November 2022, informing the CfR that no further investigations were necessary and proceeded to close the case on 14 November 2022.

Status

Closed after the management replied to one request for information





MFE
Parliamentary Ombudsman Pre-2022



Sector/Department	Air Malta
Ombudsman case reference	S 0105
Brief details of case	A complaint regarding the selection process for a post at Air Malta. The complainant raised doubts about the selection process, its fairness, and reliability.
Action taken and management comments	<p>On 23 October 2018, the Office of the Ombudsman requested comments and documentation from Air Malta. The company's lawyer provided a detailed explanation of how the selection process had been carried out and provided all requested documentation.</p> <p>A meeting, upon the request of the Ombudsman, was held on 18 December 2018 between both parties, and the case was discussed in detail.</p> <p>On 20 February 2023, the Ministry was informed by the Ombudsman that the case had been closed on 2 December 2022. The Ombudsman concluded that the allegations made by the complainant were not justified.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation
<hr/>	
Sector/Department	Central Bank
Ombudsman case reference	U 0177
Brief details of case	A confidential case
Action taken and management comments	On 20 February 2023, the Ministry for Finance and Employment (MFE) was informed by the Ombudsman that the case had been closed on 18 November 2022, adding that the complaint was not sustained.
Status last year	Pending at Ombudsman
Status	Case not upheld

Sector/Department**Commissioner for Revenue (Capital Transfer Duty)****Ombudsman case reference****U 0098** (also reported under Ministry for Justice)**Brief details of case**

A complaint regarding an unregistered deed published by the notary. The respective duty was paid by the complainant to the notary as required by law, but the amount was not paid to the Commissioner for Revenue (CfR), with the consequence that the transfer of property could not be registered in the Public Registry unless the stamp duty was paid to the CfR. The complainant insisted that the omission by the notary should not prejudice the rights of the third parties who had acted in line with the law.

Action taken and management comments

The case was received on 21 July 2020.

Through a reply dated 2 September 2020, the CfR informed the Ombudsman that, in such cases, the taxpayer should seek remedy through Court proceedings against the notary. Notice of transfer cannot be registered at CfR without the payment of the pertinent tax and duty. Thus, the CfR should not be held responsible for the notary's failure to give notice of transfer and pay the taxes due.

Upon further queries, the CfR provided the Ombudsman with the requested information on 7 April 2021.

On 25 January 2023, the Ombudsman issued the Final Opinion.

On 24 February 2023, the CfR, the Ministry for Finance and Employment (MFE), the Ministry for Justice (MFJ) and the Ministry for National Security, Home Affairs, Reforms and Equality (MSHR), jointly replied to the Ombudsman stating that his conclusions and recommendations were being addressed through joint consultations between the ministries concerned about the various options that may lead to possible reforms.

These discussions will establish a way forward to address the recommendations made, while at the same time aim to curb abuse, protect service users, and safeguard Government revenue.

On 14 July 2023, the Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act.

Recommendation

In his Final Opinion to the CfR, MFE, MFJ and MSHR, the Ombudsman recommended that the Public Administration:

- i. addresses the situation without further delay by providing adequate and tangible redress to the complainant and others who have found themselves in their predicament, so that contracting parties can register their proprietary rights without being required to pay taxes and/or duties which have already been passed on to the notary as required by law. In this regard the Ministries might consider the proposal of the Notarial Council that the deed is registered through the Office of the Chief Notary to Government without further expense and Government reserves a right of action against the defaulting notary;
- ii. that the Ministries involved, as well as the Office of the State Advocate, hold discussions about these situations with the Notarial Council so as to introduce legal provisions and policies that provide more robust protection for the service user. Online systems whereby tax and duty payments are made directly to the Department on the same day of the publication of the contract, with the consequent registration of the deed should be considered, as this would provide contracting parties with an instant confirmation that the amounts due to the public exchequer have been in fact passed on to the CfR; and
- iii. that the Notarial Council together with MFJ discuss the possibility of the Council being provided with the resources necessary to adequately and effectively carry out its functions stipulated by law, particularly its powers to "... inquire into the professional conduct of any notary which is considered to be repugnant to the decorum of his profession, or into any charge of negligence or abuse made against any notary in the exercise of his profession".

Status last year

Pending at Ombudsman

Status

The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act

Sector/Department:**Commissioner for Revenue (Capital Transfer Duty)****Ombudsman case reference****U 0123** (registered with Ministry for Justice but reporting under two ministries)**Brief details of case**

A complaint was received regarding an objection lodged by a notary on behalf of two companies, relating to unregistered deeds published by another notary on behalf of the afore-mentioned clients. The transfers could not be registered in the Public Registry unless the tax due was paid to the Commissioner for Revenue (CfR).

Action taken and management comments

The case was received on 4 August 2020.

On 24 August 2020, the CfR replied to the Ombudsman, stating that in both cases the complainants acquired property following a deed published by a notary and the vendors and the buyers had paid the respective duty and tax as required by law to the notary on the date of publication of the deed. However, the Notary failed to pass on the payments to the pertinent Authority, with the consequence that the property transfers could not be registered in the Public Registry, unless the tax and duty already paid to the Notary by complainants was paid to the CfR.

Upon further queries, the CfR provided the Ombudsman with the requested information on 7 April 2021.

On 25 January 2023, the Ombudsman issued the Final Opinion.

On 24 February 2023, the CfR, Ministry for Finance and Employment (MFE), Ministry for Justice (MFJ) and Ministry for National Security, Home Affairs, Reforms and Equality (MSHR) jointly replied to the Ombudsman stating that his conclusions and recommendations were being addressed through joint consultations between the ministries concerned about the various options that may lead to possible reforms.

These discussions will establish a way forward to address the recommendations made, while at the same time aim to curb abuse, protect service users, and safeguard Government revenue.

On 14 July 2023, the Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act.

Recommendation

In his Final Opinion to the CfR, MFE, MFJ and MSRR, the Ombudsman recommended that the Public Administration:

- i. addresses the situation without further delay by providing adequate and tangible redress to the complainant and others who have found themselves in their predicament, so that contracting parties can register their proprietary rights without being required to pay taxes and/or duties which have already been passed on to the notary as required by law. In this regard the Ministries might consider the proposal of the Notarial Council that the deed is registered through the Office of the Chief Notary to Government without further expense and Government reserves a right of action against the defaulting notary;
- ii. that the Ministries involved, as well as the Office of the State Advocate, hold discussions about these situations with the Notarial Council so as to introduce legal provisions and policies that provide more robust protection for the service user. Online systems whereby tax and duty payments are made directly to the Department on the same day of the publication of the contract, with the consequent registration of the deed should be considered, as this would provide contracting parties with an instant confirmation that the amounts due to the public exchequer have been in fact passed on to the CfR; and
- iii. that the Notarial Council together with MFJ discuss the possibility of the Council being provided with the resources necessary to adequately and effectively carry out its functions stipulated by law, particularly its powers to "... inquire into the professional conduct of any notary which is considered to be repugnant to the decorum of his profession, or into any charge of negligence or abuse made against any notary in the exercise of his profession".

Status last year

Pending at Ministry

Status

The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act

Sector/Department:	Commissioner for Revenue (Customs)
Ombudsman case reference	S 0046
Brief details of case	A complaint regarding Customs refusal to release a consignment of items.
Action taken and management comments	<p>The case was received on 26 February 2018.</p> <p>On 16 April 2018 the Ombudsman was informed that, as guided by the Sanctions Monitoring Board (SMB) based on Council Decision 1333/2015 of 31 July 2015, enhanced due diligence was being exercised by Malta Customs. On consignment, direction was sought from the SMB, in view of the restrictive measures. Customs adhered to the advice from SMB.</p> <p>On 25 April 2019, the Ombudsman confirmed that the file was being reviewed to verify whether further information was required.</p> <p>No further progress was reported.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	Commissioner for Revenue (Customs)
Ombudsman case reference	U 0018 (ex-T 0124)
Brief details of case	A complaint regarding a company requesting payment from the Ministry for Finance and Employment (MFE), related to the unloading of goods from a vessel moored at Laboratory Wharf. The company claimed loss of income because the unloading was carried out by third party companies owning the goods instead of port workers.
Action taken and management comments	<p>The case was received on 20 May 2019.</p> <p>After several exchanges of correspondence with the Ombudsman, on 6 December 2019, MFE submitted the required information, explaining the facts and listing those vehicles used for transportation that had a licence to transport goods. It was clarified that the Customs Department had acted according to Maltese Law, and therefore should not be held responsible.</p> <p>This case was closed by the Ombudsman in January 2020 and re-opened under a new case number with reference U 0018.</p> <p>A clarification meeting was held between the Ombudsman and Customs in March 2020.</p> <p>On 8 November 2022, MFE was informed by the Ombudsman that the case was being closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department

Commissioner for Revenue (Inland Revenue)

Ombudsman case reference

U 0055

Brief details of case

A complaint was received regarding the Nomenclature of Economics Activities (NACE code) classification of the complainant's business. Owing to the prevailing circumstances brought about by the COVID-19 virus, the complainant had applied with Malta Enterprise (ME) for financial assistance as his business was forced to close but did not qualify for financial aid due to the NACE classification of the complainant's business.

The complainant was seeking a revision and change to his NACE code.

Action taken and management comments

The case letter was received from the Ombudsman on 13 April 2020 stating that the Ministry for the Economy, Investment and Small Business (MEIB), had informed the complainant that according to their NACE code, they did not qualify for financial aid. The complainant requested the National Statistics Office (NSO) to revise the NACE code. This request was refused.

The Commissioner for Revenue (CfR) replied to the Ombudsman on the same date, stating that financial aid schemes were administered and approved by MEIB not CfR. Nonetheless, CfR could consider changing the NACE code should the applicant prove that his activity corresponded to another NACE code.

As on October 2022, the complainant's registered NACE Code with CfR remained unchanged.

On 6 January 2023, the Ministry for Finance and Employment was informed by the Ombudsman that the case was being closed.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**Commissioner for Revenue (Inland Revenue)****Ombudsman case reference****OMB-21-2245****Brief details of case**

A complaint in connection with taxation of Malta Pension Investment and the related tax refund.

Action taken and management comments

The case was received on 10 August 2021, from the Ombudsman, writing on behalf of a South African individual complaining that they were never employed in Malta, and were neither a citizen nor resident in Malta; therefore, there was no reason for a tax base in Malta. The complainant insisted that Pension Funds invested in Malta were not generated from business activities but accumulated under pay-as-you-earn tax (PAYE) conditions in countries not related to Malta that provided post-retirement benefits. These were transferred to Malta on retirement. The complainant claimed that the Maltese Revenue Authorities implemented an unreasonable and unfair tax regime on pension funds, in 2019, amounting to 42% on all capital, dividends and interest, and this policy was devastating their pension plans.

The Commissioner for Revenue (CfR) replied to the Ombudsman on 25 October 2021, confirming that the complainant was registered for tax in South Africa and in Malta. The CfR claimed that payments made out of a retirement scheme falling within the scope of the Retirement Pensions Act Cap 514 were subject to tax in Malta under Article 4(1) of the Income Tax Act (ITA) as they were arising in Malta. Regarding the complainant's tax position, the relevant double tax treaty between Malta and South Africa was invoked by means of Article 18 – Pension and Annuities – making Malta as the source State, the primary jurisdiction to tax. South Africa had the corresponding obligation to grant relief of the Malta tax suffered.

The complainant filed tax returns for years of assessment 2020 and 2021. They were taxed on income received from their pension scheme and charged tax at non-resident rates under Article 56(1)(c) ITA and any tax deducted under Article 73(1) of the ITA was credited. Any excess tax was refunded accordingly. On this analysis, there was no basis to refund tax to the complainant which was properly charged under Maltese legislation. Guidance Notes on Benefits from Retirement Schemes were provided to substantiate CfR's position.

After several verifications, the CfR replied to the Office of the Ombudsman on 15 February 2022, including a breakdown of income for the respective years and tax charged.

On 20 February 2023, upon enquiry, the Ministry for Finance and Employment (MFE) was informed that the case had been closed since 20 December 2021.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department

Jobsplus

Ombudsman case reference

OMB-21-2215

Brief details of case

A complaint from an individual alleging that he was removed from the Part 1 and placed on Part 2 of the jobseekers register, with the consequence that he was not being credited social security contributions for this period.

Action taken and management comments

The case was received on 10 August 2021.

Jobsplus replied to the Ombudsman on 17 August 2021, stating that they received an engagement form from an employer on 17 March 2000, indicating that the complainant started working on 6 March 2000. This form alerted Jobsplus that the complainant was registering for work while in employment, breaching the conditions for registration which require persons not to be in employment to be placed in Part I of the register. Therefore, the complainant was removed from Part 1 and placed in Part 2 of the register for 6 months as a penalty.

The procedure at that time was that persons removed from Part 1 of the register were given a form by Jobsplus to file an appeal to the National Employment Authority (NEA) should they want to. Jobsplus had no evidence that the complainant had ever lodged an appeal.

On 30 September 2021, the Ombudsman requested to be informed whether the complainant had been informed of their removal from Part 1 and placement under Part 2 of the Register, and whether Jobsplus had any evidence that the complainant had been given an appeal Form to submit an appeal.

On 7 October 2021, Jobsplus informed Ombudsman that it was normal practice that jobseekers are informed of such penalties and provided with the pertinent appeal form.

Upon enquiring, the Ministry for Finance and Employment (MFE) was informed by the Ombudsman that the case was closed on 7 February 2023.

Status last year

Pending at Ombudsman

Status

Closed without recommendation







**MINISTRY FOR FOREIGN
AND EUROPEAN
AFFAIRS AND TRADE**

In 2022, no new cases were referred by the Ombudsman to the Ministry for Foreign and European Affairs and Trade.

Two cases were pending from previous years. One of these cases was closed by the Ombudsman in 2023, without making a recommendation, while the other case has been pending at the Office of the Ombudsman for more than 24 months.

MFET
Parliamentary Ombudsman Pre-2022



Sector/Department

Foreign and European Affairs (MFET)

Ombudsman case reference

R 0130

Brief details of case

A complaint regarding an officer who was appointed to a higher position, complaining that the conditions of service they enjoyed in their previous position had not been extended to their new higher position.

The complainant claimed discriminatory treatment.

Action taken and management comments

The complainant's personal file was forwarded to the Ombudsman in September 2019.

On 13 October 2021, the Ombudsman informed MFEA that the case was still under review and that a final report was to be submitted in the coming months.

On 14 October 2022, the Ombudsman informed MFET that the case will be closed by end of year.

On 24 April 2023, the Ombudsman informed MFET that the case was closed.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**Foreign and European Affairs (MFET)****Ombudsman case reference****U 0218****Brief details of case**

A complaint regarding an officer posted abroad, claiming that as part of their remuneration package they were entitled to allowances, mainly consisting of disbursements incurred for healthcare costs, as well as schooling fees. The allowances had been withheld with effect from August 2019.

The complainant held that no adequate justification had been provided for such action.

Action taken and management comments

The case was received on 24 November 2020.

MFEA had already been addressing the contractual matter, that is, that the employment was not covered with a contract beyond August 2019.

On 1 December 2020, a reply was sent by the Ministry to the Ombudsman, pointing out that allowances are only paid if the officer has a legal contractual employment agreement and a completed MFA Form 1, in accordance with various provisions within the Conditions of Service for Officers serving Overseas (CoS). On the same date, 1 December 2020, a letter was issued to the complainant, requesting the signing of the contract of employment with effect from August 2019, to regulate their position.

Following a meeting held on 10 December 2020, between complainant and Permanent Secretary (MFEA), an agreement was reached, and the complainant signed the employment contract.

On 9 February 2021, a reply was sent to the Ombudsman, informing him of this development and that payment was to be issued.

On 7 October 2021, the Ombudsman requested clarification on a remaining balance the complainant was claiming as being due to them.

On 15 October 2021, MFEA replied, pointing out that the latter claims were raised by the complainant after the complaint originally made with the Ombudsman. Nonetheless, MFEA informed the Ombudsman that the complainant was reimbursed allowances on 8 October 2021, and a small amount remained pending, as required information was still unavailable.

On 6 January 2022, all pending payments were effected to the complainant and on 14 October 2022, the Ombudsman was informed accordingly.

On 21 April 2023, MFET enquired with the Parliamentary Ombudsman whether the case was closed and on 24 April 2023, the Ombudsman replied that the case was still open.

On 25 April 2023, MFET enquired with the Office of the Ombudsman whether there was any pending information or details required from its end.

On 27 April 2023, the Ombudsman informed MFET that at that point no further information or details were required from the Ministry.

Status last year

Pending at Ombudsman

Status

Pending at Ombudsman



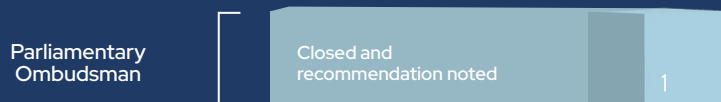


MINISTRY FOR GOZO

In 2022, one case was referred by the Ombudsman to the Ministry for Gozo. This case was closed by Ombudsman, soon after it was submitted, without making a recommendation.

One case which had been referred by the Commissioner for Environment and Planning in 2021 is pending at Ombudsman's Office.

MGOZ Total Cases 2022 - 1



MGOZ
Parliamentary Ombudsman 2022



Sector/Department

Animal Welfare Unit

Ombudsman case reference

OMB-22-3277

Brief details of case

A complaint by a public officer within the Animal Welfare Unit, claiming that an amount of time off in lieu (TOIL) accumulated over nine years due to shortage of staff, was still pending settlement.

Action taken and management comments

This case was received on 4 November 2022.

On 13 November 2022, MGOZ replied to the Ombudsman, stating that the Ministry was aware of the case, and following the necessary verifications and approvals, in line with the standard procedures, payment had been effected.

The Ombudsman closed the case on 14 November 2022.

Status

Closed without recommendation





MGOZ

**Commissioner for Environment
and Planning Pre-2022**



Sector/Department	Wild Birds Regulation Unit
Ombudsman case reference	CEP-21-1932
Brief details of case	A complaint regarding alleged unfair treatment when authorising Birdlife to carry out bird-related research.
Action taken and management comments	<p>The case was received on 2 June 2021.</p> <p>Meetings were held with the Ombudsman on 2 July 2021 and on 27 October 2021, where all parties expressed their opinions. These meetings were attended by the Chairman and Secretary of the ORNIS Committee.</p> <p>The ORNIS Committee submitted its opinion in writing to the Ombudsman on 26 January 2022.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman





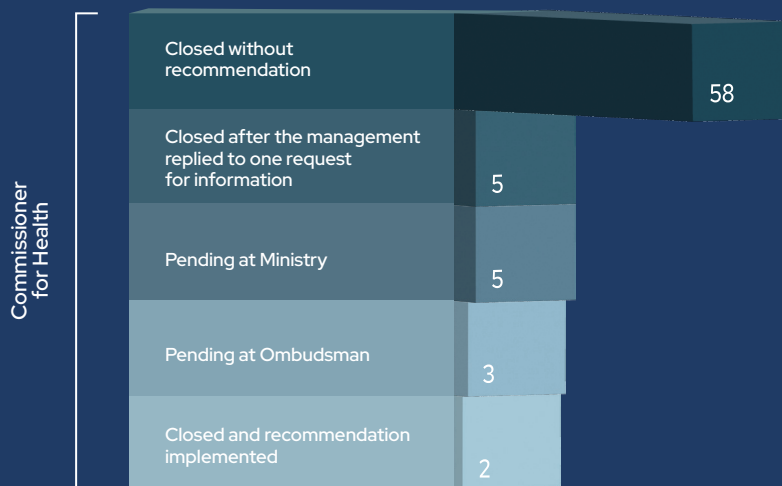


MINISTRY FOR HEALTH

In 2022, 73 cases were referred by the Commissioner for Health to the Ministry for Health (MFH). 58 of these cases were closed without any recommendations being made and two cases were closed, and recommendation implemented. Five cases were closed after the management replied to one request for information. Five cases were pending at the Ministry and three cases were pending at the Office of the Ombudsman.

There were 40 cases which had been referred by the Commissioner for Health and which had been pending from previous years. 16 cases were closed without any recommendations being made and four cases were closed, and recommendation/s implemented. As at 31 October 2023, 12 cases were pending at the Ministry, while eight cases were pending at the Office of the Ombudsman.

MFH Total Cases 2022 - 73



MFH
Commissioner for Health 2022



Sector/Department

Central Procurement and Supplies Unit (CPSU)

Ombudsman case reference

CH/5/P80

Brief details of case

An enquiry by the Commissioner for Health (CfH) about the shortage of the Attention Deficit Hyperactivity Disorder (ADHD) medication.

Action taken and management comments

The case was received on 14 October 2022.

On 14 October 2022, the CfH was informed that there had been an issue of availability on the European market and MFH had to resort back to the UK market. Later, MFH notified the CfH that the 18 mg dose was delivered, and urgent arrangements were being organised for supplies to be available through POYC.

On 28 October 2022, the CfH stated that patients were getting the medications on a monthly supply basis due to the low stock available. He requested confirmation about the replenishment for the medication. CfH was reassured that MFH continuously struggled to manage to restore the stockpile to revert to its normal entitlement protocol.

On 14 December 2022, the CfH was informed that CPSU had managed to procure most of the treatments for ADHD and they were also available for patients. CfH requested a list of the medications that were available, and which were still in the procurement phase.

On 21 December 2022, MFH forwarded the list of medications that were being procured and CfH was also notified that no new related introductions were made on the Government Formulary List (GFL) at the time.

On 28 April 2023, the Commissioner requested an update on the procurement status of the medication.

On 30 May 2023, CfH was informed that supplies were being distributed and there were no issues related to out-of-stock.

On 7 July 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH/5/P73****Brief details of case**

An enquiry by the CfH about orders being made for the tracer used for a machine that helps Clinicians to decide on the treatment to be given to patients.

Action taken and management comments

The case was received on 2 January 2022.

On 8 March 2022, the CfH was informed that the machine in question was not property of MFH. Reference was also made to a Parliamentary Question dated 6 January 2022, whereby the interpellator was advised to question the responsible Minister (Ministry for Energy, Enterprise, and Sustainable Development - Malta Enterprise).

On 11 March 2022, CfH replied, quoting part of another Parliamentary Question which included a statement confirming that this machine could help in the treatment of cancer. He furthered that it produced radioactive isotopes that were used for the PET-CT Scanner and could trace whether the cancer has spread and/or whether there were any other primary cancers in the body. As it seemed to be an instrument used only in hospital, he enquired why MFH did not ask for its transfer from Malta Enterprise (ME) to Mater Dei Hospital (MDH).

On 19 April 2022, CfH was informed that expertise and specialised training of human resources were required to operate the machine in question. The lack of such precluded MFH from requesting its transfer and from assuming the business of operating supply services.

On 20 April 2022, CfH enquired whether it was possible to use the Cyclotron in local hospital and therefore eliminate the need to depend on the service from Rome. Furthermore, he enquired about action taken to ensure that tracer was received and requested to be informed about previous expenses incurred to purchase the imaging isotopes from Rome.

On 17 May 2022, CfH was informed that MFH was neither the owner nor was it ever involved in the procurement of this machine. Had MFH considered it feasible, viable and appropriate to invest in such equipment and thereby venture into the manufacturing business, it would have surely pursued procurement on its own steam and through the normal public procurement channels.

The Commissioner replied with enquiries about the expense incurred to procure "fluorodeoxyglucose" (FDG) including transportation etc. during the years 2019-2021. MFH replied that request for information could not be favourably entertained because it was commercially sensitive data.

On 24 June 2022, the CfH enquired afresh about the cost incurred, including transportation, insisting that this was not sensitive information. CfH was immediately informed that related court proceedings were initiated and therefore, with a view to ensure that such proceedings were not compromised, and in line with the provisions of Article 13 (5) of the Ombudsman Act, MFH would cease to correspond further on the matter until such time when these proceedings were concluded.

On 1 February 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department

Chief Medical Officer (CMO)

Ombudsman case reference

CH/5/P77

Brief details of case

An enquiry by the CfH about the 3 Linear Accelerators at SAMOC that had developed technical faults, requesting a copy of the report of the internal inquiry.

Action taken and management comments

The case was received on 8 August 2022.

On 12 August 2022, MFH informed the CfH that two internal boards of inquiry were appointed on 2 August 2022. The first board was tasked with providing legal advice to the Ministry after establishing the facts, and the other board was tasked to analyse and ascertain the costs incurred by the public health service because of the incident.

On 28 November 2022, CfH enquired about any developments and requested to be forwarded a copy of the two internal boards' reports.

On 21 December 2022, the CfH was informed that the reports in question were commissioned for strict internal and confidential use. They were neither to be divulged to third parties, particularly if somewhat involved in the matter, nor made public - this with a view to ensure that Government's legal position (should legal action be instituted) was not compromised in any way.

However, cognisant of the powers conferred upon the Office of the Ombudsman through the provisions of Article 19 of the Ombudsman Act, the CfH was cordially invited to call at MFH to access, in confidence, the contents of the two original reports.

The CfH accessed the files on 6 March 2023.

On 7 July 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH/5/P79****Brief details of case**

An enquiry by the CfH about the cancellation of cataract surgeries due to lack of surgery tools.

Action taken and management comments

The case was received on 7 September 2022.

On 7 November 2022, the CfH was informed that surgeries were still being performed. However, over a period of 3 months (July to September) surgeries in respect of 125 patients had to be cancelled, because certain Intra Ocular Lens (IOL) powers were not available.

The out-of-stock situation materialised in May, when one of the potential suppliers of IOLs filed a complaint with the Public Contracts Review Board (PCRB). The latter ruled in favour of the re-issuing of the tender in batches. Unfortunately, several procurement processes proved futile.

On 6 December 2022, the Commissioner enquired about developments.

On 16 December 2022, CfH was informed that there were 3 tenders to which objections were filed and CPSU were awaiting PCRB's decisions. However, as an interim remedy, CPSU were purchasing the sizes that were required to maintain the surgeries ongoing.

On 19 January 2023, the CfH was forwarded with an update of the procurement process.

On 20 June 2023, the Commissioner requested an update on the publication of the tenders.

On 7 July 2023, the Commissioner was informed that the related tenders were awarded on 16 June 2023, for a duration of 12 months plus another 6 months possible extension.

On the same day the Commissioner for Health closed the case.

Status

Closed without recommendation

Sector/Department

Chief Medical Officer (CMO)

Ombudsman case reference

CH/5/P81

Brief details of case

An enquiry by the CfH, requesting MFH's comments to an article in a local newspaper referring to performing tests to determine if chemotherapy is needed.

Action taken and management comments

The case was received on 27 October 2022.

CMO investigated the case and in January 2023, the CfH was informed that research was still being carried out and that a business case would be drawn up by the clinicians once research was finalised.

On 17 May 2023, the CfH requested an update on clinical research.

On 24 May 2023, MFH informed CfH that the CMO discussed the prepared business case with the Chair of Pathology. CMO was informed that the test would be available in the coming months via a European company rather than the United States as costs are perceived to be more favourable. CMO was in contact with both Chairs of Oncology and Pathology who were seeking further information from other laboratories already performing such test.

On 21 June 2023, the CfH enquired if there were any updates on the case. MFH replied that discussions on these tests were still ongoing, both internally and externally. Moreover, MFH was awaiting final accreditation of said tests from a laboratory in Europe together with a financial offer.

On 25 September 2023, MFH informed CfH that the Pathology Department had identified a supplier of this test in Malta. A cost-benefit analysis was being raised by the Pathology Department with CPSU to initiate the procurement process.

On 18 October 2023, the Commissioner was informed that the tests were available through national health service.

On 30 October 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-2578****Brief details of case**

A request regarding the reimbursement for medical and auxiliary expenses made by complainant with respect to the treatment received in Germany.

Action taken and management comments

The case was received on 12 January 2022.

On 8 March 2022, the CfH was forwarded a full report by the Cross-Border Healthcare, adding that claimant's request could not be entertained, firstly because the oncological treatment they received abroad was not approved beforehand and, secondly, because MFH could only reimburse treatment which was approved through the available pathway, as provided for in Cross-Border Directive 2011/24/EU.

On 1 September 2022, CfH was informed that claimant had instituted court proceedings against MFH, amongst other bodies and departments; and therefore all pending requests for reimbursements were put on hold.

The CfH replied stating that the court case had not yet been initiated and there were no indications when the first sitting would be held and therefore, he requested the sum to be refunded.

On 7 September 2022, MFH informed CfH that the court case had commenced, and a reply was filed. Therefore, no further exchanges could be undertaken as per applicable provisions in the Ombudsman Act.

On 15 September 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-2582****Brief details of case**

A request by a parent, stating that their child needed to be operated as soon as possible. They were concerned that the child's condition might deteriorate.

Action taken and management comments

The case was received on 5 January 2022.

On 27 January 2022, CfH was informed that negotiations for the medical intervention to be undertaken by a visiting surgeon were underway and that the child had developed another ailment and had to be sent to London.

In March 2022, the CfH notified MFH that patient had returned from London, however another surgery was still needed to be performed by a visiting consultant.

On 14 April 2022, CfH was informed that the case would be discussed with the visiting surgeon in the beginning of May.

On 5 May 2022, the CfH was further informed that plans for his surgery to be performed at Great Ormond Street Hospital (GOSH), around August, were underway.

MFH followed the case during the months of June, July, August and September 2022, and the patient's condition was constantly monitored by consultants.

On 1 March 2023, the CfH was forwarded a communication sent by the Consultant from UK which contained sensitive data on the patient's health conditions and the suggested treatment. MFH requested closure of case since patient was being continuously monitored.

On 13 April 2023, the CfH informed MFH that the case was closed.

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-2663****Brief details of case**

A complaint regarding a submission to the Exceptional Medicinal Treatment Committee (EMTC) which had not been approved. The patient requested that the case be reconsidered.

Action taken and management comments

The case was received on 1 February 2022.

On 7 March 2022, the CfH was informed that as per normal procedure, the request needed to be referred to the EMTC together with an adverse reaction report (ADR). He was also informed that submissions to the EMTC are received via the Director Pharmaceutical Affairs (DPA) and all the relevant documentation was to be attached to the application. Therefore, it was advised that claimant followed the normal procedure for the reconsideration of the case.

No further requests were received on this case.

On 4 July 2022, the Commissioner confirmed case as closed.

Status

Closed after the management replied to one request for information

Sector/Department	Chief Medical Officer (CMO)
Ombudsman case reference	CH-22-2712
Brief details of case	A claim requesting approval for a formulary approved drug that complainant was buying out of their own pocket.
Action taken and management comments	<p>The case was received on 22 February 2022.</p> <p>On 7 March 2022, the CfH was informed that the requested medication is a formulary drug for severe chronic asthma and provided on a named-patient basis. If claimant's request had to be favourably considered, this could possibly result in a shortage of medication for entitled patients with more serious asthma conditions.</p> <p>However, the medicine in question was in the process of being accessible to patients who suffer from severe urticaria.</p> <p>On 5 April 2022, the CfH enquired about the date of delivery of the medication as he had been informed that tender has been awarded.</p> <p>On 19 April 2021, the CfH was informed that stocks would be delivered around mid- June 2022.</p> <p>On 1 June 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department	Chief Medical Officer (CMO)
Ombudsman case reference	CH-22-2718
Brief details of case	A claim by a patient requesting to be given medication to ease side effects of the chemotherapy.
Action taken and management comments	<p>The case was received on 23 February 2022.</p> <p>On 7 March 2022, the CfH was informed that medications in question were not available on the formulary for patients with heart failure and hence not part of the free medication package to which patients are entitled.</p> <p>On 16 August 2022, MFH notified the Commissioner that the three medications being requested by claimant were for consideration to be included on the Government Formulary List (GFL) soon.</p> <p>On 25 October 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department

Chief Medical Officer (CMO)

Ombudsman case reference

CH-22-2723

Brief details of case

A claimant requesting approval for feeds for their child with a particular condition, stating also that these feeds were vital for their child

Action taken and management comments

The case was received on 24 February 2022.

On 9 March 2022, the Commissioner was informed that Central Procurement Supplies Unit (CPSU) had issued another cycle for orders beyond the one month's supply. CPSU stated that due to the sensitivity of the case, direct constant communication was being held with the patient's parent.

On 5 April 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department

Chief Medical Officer (CMO)

Ombudsman case reference

CH-22-2724

Brief details of case

A claimant requesting approval for feeds for their children with a particular condition, stating also that these feeds were vital for their children.

Action taken and management comments

The case was received on 24 February 2022.

On 9 March 2022, the CfH was informed that Central Procurement Supplies Unit (CPSU) had issued another cycle for orders beyond the one month's supply. The Commissioner replied enquiring whether a large supply could be procured and if the supplier or manufacturer could be contacted to ensure adequate stocks, since the children were entirely dependent on these feeds.

CPSU stated that due to the sensitivity of the case, direct constant communication was being held with the patients' parent.

On 5 April 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-2754****Brief details of case**

Claimant requested provision of approved medications for their children with a particular condition.

Action taken and management comments

The case was received on 4 March 2022.

On 5 April 2022, the Commissioner was informed that the first cycle of the treatment had proved futile. The second cycle of the said treatment was successful. Delivery was expected within 20 weeks. CfH requested details of supplier so that he could contact them directly.

On 28 April 2022, CfH was informed that parents had been informed about the duration of the delivery date. With regards to the second medicine, parents were also informed about the availability of stock and that the respective permit would be sent by POYC, following the Department of Pharmaceutical Affairs' (DPA) approval.

On 8 July 2022, the Commissioner was informed that notwithstanding that the expected delivery date was by the end of August 2022, CPSU were trying to hasten delivery.

On 23 September 2022, the Commissioner was informed that supplier had to deliver in August, and as delivery was delayed, CPSU was trying to purchase on account. However, it was resulting being difficult to find source since this was a branded medicine.

On 9 November 2022, the Commissioner was informed that CPSU received stocks of the treatment and was making arrangements for its delivery to the patient, through the respective POYC pharmacy.

On 21 December 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department	Chief Medical Officer (CMO)
Ombudsman case reference	CH-22-2783
Brief details of case	A claim by parents requesting treatment for their child.
Action taken and management comments	<p>The case was received on 18 March 2022.</p> <p>On 21 March 2022, the CfH was informed that on the part of CPSU, no offers for the brand in question were received, despite the publication of multiple cycles and notwithstanding the Policy Department’s revised specifications. Given these circumstances, CPSU was providing the generic alternative to all patients requiring treatment.</p> <p>On 7 April 2022, the CfH informed MFH that a meeting had been held with the relevant stakeholders and it was concluded that matter was to be discussed further after 18 April 2022, which was the closing date of the new call for quotations.</p> <p>On 4 August 2022, the CfH enquired about the medicine’s delivery status. CfH was informed that the company importing this product had been given clearance by the Licencing Authority to import this product. CfH replied requesting assurance that patient would continue to be given the treatment indefinitely and without any hassle.</p> <p>On 12 August 2022, MFH replied stating that pharmacists at the POYC can only provide patients with the medical products as indicated on their permit and that all its officials always endeavoured to the best of their abilities to best serve the users of the public health service and within the parameters of the law its growing body of regulations.</p> <p>On 15 September 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department	Chief Medical Officer (CMO)
Ombudsman case reference	CH-22-2818
Brief details of case	A claim by parents stating that they were buying the medication for their child out of their own pocket from retail pharmacies as the medicine that was being distributed by MFH was blocking the nutrition pipes.
Action taken and management comments	<p>The case was received on 30 March 2022.</p> <p>In beginning of May 2022, MFH communicated directly with the claimants and recommended the dissolution of the product in more water.</p> <p>CfH verbally confirmed that claimant was satisfied with the guidance provided by MFH clinical official and closed the case.</p> <p>On 8 June 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department	Chief Medical Officer (CMO)
Ombudsman case reference	CH-22-2857
Brief details of case	Claimant stated that they were buying the medication from their own pocket and, therefore, were requesting the medicine to be included in the Government Formulary List (GFL).
Action taken and management comments	<p>The case was received on 27 April 2022.</p> <p>On 27 April 2022, the CfH was informed that medicine was soon to be discussed at Advisory Committee on Healthcare Benefits (ACHCB) level and hopefully approved for procurement.</p> <p>On 16 June 2022, the CfH was informed that the class of drugs was approved in the ACHCB meeting which took place on the 30 May 2022 and once meeting minutes were finalised, DPA will refer files to CPSU for procurement.</p> <p>On 4 July 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department	Chief Medical Officer (CMO)
Ombudsman case reference	CH-22-2914
Brief details of case	Claimants stated that new nutrition product that was given to their child was making them feel extremely sick because of the unpleasant smell and taste. They requested that the previous product be re-supplied.
Action taken and management comments	<p>The case was received on 11 May 2022.</p> <p>Internal ongoing discussions took place during the months between June and August 2022.</p> <p>On 1 September 2022, the CfH was informed that the product was being provided in accordance with the specifications set by the Policy Department. Based on complaints raised in earlier communications, the product was tried and tested. It was advised that it needed to be shaken well before consumption.</p> <p>On 15 September 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department

Chief Medical Officer (CMO)

Ombudsman case reference

CH-22-2921

Brief details of case

Claimant requested reimbursement for the expenses of the medicine bought out of their own pocket for the period until government stock was supplied.

Action taken and management comments

The case was received on 19 May 2022.

On 23 May 2022, the CfH was informed that MFH maintained its position that the supply and payment for medicines outside MFH pathways was not permissible. The request could not be acceded to, in view that it had not been referred for prior consideration and authorisation.

CfH replied that the request was being made on account of the fact that it took months until the medicine was available, and patient had to buy the medicine themselves.

On 16 June 2022, the CfH was informed that entitlement cannot be justifiably expected until the item is included in the Government Formulary List (GFL) and was available in Malta.

In this particular case, part of the delay was related to delivery by the company producing the item – something which fell beyond CPSU’s control.

On 4 July 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department

Chief Medical Officer (CMO)

Ombudsman case reference

CH-22-2952

Brief details of case

Claimant, who is married to a Maltese, stated that they were entitled for free hospital treatment as they were employed in Malta before they had to stop working because of their pregnancy.

Action taken and management comments

The case was received on 24 May 2022.

On 30 May 2022, the CfH was informed of claimant’s entitlement, in view that their situation was covered under the General rules of Reg. 883/2004, specifically under Article 11.3(e) of Reg. 883/2004.

On 1 June 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department	Chief Medical Officer (CMO)
Ombudsman case reference	CH-22-2953
Brief details of case	A parent, whose child was injured while practising sport and required an operation, requested that their child be operated at the earliest, since operation would prejudice their studies, amongst other things.
Action taken and management comments	<p>Case was received on 4 May 2022.</p> <p>On 14 June 2022, the CfH was informed about a waiting list for elective surgical interventions. Efforts were constantly being made to maximise theatre time and efficiency, within safety parameters. However, MFH stated that CfH would surely understand that moving one operation forward would mean delaying someone else's operation.</p> <p>On 19 July 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department	Chief Medical Officer (CMO)
Ombudsman case reference	CH-22-2954
Brief details of case	Claimant stated that new nutrition product that had to be given to their child was making them feel very sick because of the bad smell and taste. The claimant requested that previous product be resupplied.
Action taken and management comments	<p>The case was received on 24 May 2022.</p> <p>Internal ongoing discussions took place during the months of June to August.</p> <p>On 1 September 2022, the Commissioner was informed that the product was being provided in accordance with the specifications set by the policy department. Based on the complaints raised in earlier communications, the product was tried and tested. It was advised that it needed to be shaken before consumption. Other than that, it was acceptably drinkable.</p> <p>On 22 September 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-2955****Brief details of case**

Claimant stated that the new nutrition product that had to be given to their child was making them feel very sick because of the bad smell and taste, and thus, they requested that the previous product be re-supplied.

Action taken and management comments

The case was received on 24 May 2022.

On 1 September 2022, the CfH was informed that the product was being provided in accordance with the specifications set by the Policy Department. Based on the complaints raised in earlier communications, the product was tried and tested. It was advised that it needed to be shaken before consumption. Other than that, it was acceptably drinkable.

On 19 October 2022, the CfH was informed that meetings were held with Permanent Secretary (MFH), DPA and CPSU and it was agreed that the procurement of branded items may only be allowed in such conditions as epilepsy. The possibility of permitting the procurement of branded items for patients who would have undergone transplants was also being explored.

On 24 October 2022, the CfH replied confirming that claimant was suffering from epilepsy and requested for the feeds to be approved to claimant.

On 4 January 2022, the Commissioner was informed that epilepsy drugs, with a narrow therapeutic index, were the only drugs considered as branded items. The procurement of feeds, as branded items, was not being considered.

On 1 February 2023, a meeting was held at the Office of the CfH to further discuss the matter and MFH reiterated its position.

On 13 April 2023, an interim report was sent by the Commissioner for Health addressed to the Permanent Secretary (MFH). A meeting was set thereafter between all stakeholders to discuss the report further.

In May 2023 a meeting was held between MFH and the Office of the Commissioner during which possible solutions were discussed. MFH is seeking solutions to address this difficult issue.

Recommendations by Ombudsman

It is highly recommended that such cases not falling within the norm are assessed on a case-by-case basis. This can and should be done by the appropriate regulatory committee, possibly the Exceptional Medicinal Treatment Committee (EMTC), but the criteria governing such a committee have to be adequately specified.

Status

Pending at Ministry

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-2963****Brief details of case**

A claimant who requested prosthesis under the Malta National Health Services, claiming that they were paying National Insurance Contributions in Malta.

Action taken and management comments

The case was received on 31 May 2022.

On 22 June 2022, the CfH was informed that the Medical Centre for Orthotics and Prosthetics International confirmed that claimant was regularly accessing the prosthetic services at St Luke's hospital and was being treated with the same standard of care afforded to any Maltese citizen.

Prior to their relocation to Malta, they were provided with a knee joint from an unknown source in Turkey. This knee joint required annual servicing to maintain its function and this servicing was typically covered by the warranty of the component. However, the warranty on the component expired after claimant had commenced treatment at St Luke's Hospital, and hence, ensuing service requirements had to be undertaken against payment.

The cost of servicing this knee joint, 'out of warranty', was no longer economically feasible. Moreover, the Prosthetic service available to Maltese citizens did not cover the provision, service, or replacement of any microprocessor components. Whilst ten mechanical and hydraulic knee joints were available to choose from and which were the standard components available to all Maltese citizens, when the Orthotics and Prosthetics Unit at St Luke's Hospital attempted to discuss these options with claimant, they refused to entertain the idea of using any other knee joint. The pertinent service agreement stipulated that in instances where patients wish to access higher cost components, these would either need to be self-funded by the patient concerned or funded by other sources.

Therefore, claimant's request for a replacement of their knee joint of the same make could not be entertained.

This procedure is standard, for all Maltese citizens.

On 4 July 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department

Chief Medical Officer (CMO)

Ombudsman case reference

CH-22-2995

Brief details of case

A claimant stating that they have been waiting for the required treatment since March 2022, and requested procurement of such treatment at the earliest.

Action taken and management comments

The case was received on 13 June 2022.

On 14 June 2022, the CfH was informed that the tender was still being evaluated. MFH stated that CfH would be immediately informed as soon as this treatment was available.

On 16 June 2022, the Commissioner replied requesting that this case be given priority given that claimant was regularly in and out of hospital.

On 13 July 2022, MFH notified CfH that the cycles issued, had to be cancelled and another cycle was reissued.

On 21 July 2022, CfH requested an update on the status of the case and MFH replied that delivery of treatment by the supplier was still being awaited.

On 5 October 2022, the CfH was verbally informed that a supplier endorsed a new contract and the delivery date was of 16 weeks. However, CPSU were hastening supplier to deliver the treatment at the earliest.

On 7 November 2022, the Commissioner was informed that treatment arrived in Malta and supply was being retrieved.

On 20 December 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-3171****Brief details of case**

Claimant stated that MFH did not follow its contractual obligations in settling due payments.

Action taken and management comments

The case was received on 2 September 2022.

On 17 October 2022, the CfH was informed that the claim was already being dealt with by MFH directly with the complainant, with lawyers representing both parties. On its part MFH sustained that the Government was honouring the original contract, through the Ministry for the Environment, Energy and Enterprise (MEEE), and that MFH was firm in not entertaining the unfounded pretensions forwarded by claimant.

On 14 November 2022, a meeting was held at the Office of the CfH, during which all stakeholders involved discussed the contents of the contract and trail of events.

CfH requested a copy of the relevant documentation which were produced by MFH on the 2 December 2022, and 5 December 2022, respectively. On 26 January 2023, further documentation was provided to CfH.

On 17 April 2023, MFH enquired whether any further action was needed and enquired about way forward.

On 12 May 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-3200****Brief details of case**

An enquiry by the CfH about the difficulties being encountered to procure a particular medicine.

Action taken and management comments

The case was received on 3 October 2022.

On 6 October 2022, the CfH was informed that the medication in caption was now available to entitled patients, and this would alleviate unnecessary concerns.

On 25 October 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-3224****Brief details of case**

A claimant requesting treatment for their child with a particular condition.

Action taken and management comments

The case was received on 28 September 2022.

On 20 November 2022, the CfH was forwarded a detailed report regarding the transition of ADHD patients from brand name to generic treatment.

On 25 November 2022, CfH requested further clarifications to which MFH forwarded additional reports and documentation to address CfH's queries.

On 15 February 2023, the CfH was informed that the Policy stated that new patients could only avail themselves from the medication that was approved and procured by CPSU and that patients who preferred to have branded items because they had bought them when they were started on the medication by their specialist, could continue procuring them. However, MFH was not obliged to either reimburse the expenses or provide the branded item.

On 16 February 2023, the CfH replied, stating that procurement of small amounts through the normal route would be counterproductive as with the small amounts required their bargaining power is non-existent, access may be problematic, and it still required a lot of man-hours to procure. A simplified option where such products were to be procured from retail pharmacies would probably be more cost-effective. CfH suggested also that a voucher system would be available for such cases.

On 21 February 2023, MFH informed the Commissioner that extending voucher system to a variety of different branded medications would create significant logistical problems.

On 17 March 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-3236****Brief details of case**

A claimant requesting reimbursement for the expenses of IVF treatment that had to be performed abroad.

Action taken and management comments

The case was received on 20 October 2022.

On 4 January 2023, the CfH was informed that the case of the two claimants who underwent IVF treatment in the UK in 2020 was reviewed and it was agreed that reimbursement would cover the equivalent treatment given for free in the Maltese health care service and would exclude only that part of the treatment which was not in line with the Maltese entitlement.

On 3 April 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-3301****Brief details of case**

A claimant stating that their child's dermatologist suggested a medicine that was not supplied through the National Health Service (NHS). They requested that their child be provided the suggested medicine.

Action taken and management comments

The case was received on 17 November 2022.

On 4 January 2023, the CfH was informed that the requested medicine was introduced on the Government Formulary List (GFL) and was part of the procurement priority list.

On 10 January 2023, the CfH enquired about the procedure of the priority list.

On 7 February 2023, MFH reiterated its position and reaffirmed that procurement of new medicines for entitled patients was invariably managed within the provisions of the Fiscal Responsibility Act, which Act prohibits expenditure beyond the allocated budget. Moreover, since the demand for new medicines on the formulary was becoming more and more widespread, the resources available were not enough to deal with such a high demand and an approach had to be taken to identify and prioritise medicines which were meant to be procured by the government and made available via the pharmaceutical service in a sustainable manner. The CfH replied, stating that this medicine was already available but not for the medical condition present in this particular case. He requested that EMTC revises the case.

On 28 March 2023, the CfH enquired about any further developments.

On 17 April 2023, MFH informed CfH that the medicine was to be discussed during an internal meeting and MFH would revert with the decision taken thereafter.

On 5 July 2023, the CfH was informed that new medicines for the same indication that is moderate to severe atopic dermatitis were available and this was being discussed with the dermatologists.

On 1 September 2023, the Commissioner requested further details on this case. MFH replied addressing CFH's request.

On 19 September 2023, the CfH enquired whether the Government Formulary List Advisory Committee (GFLAC) had discussed this issue and if in the affirmative, was CPSU advised on the procurement way forward.

On 27 September 2023, MFH informed the CfH that the next Action Committee on Healthcare Benefits (ACHCB) meeting was to be scheduled in due course, and that as soon as a date is scheduled CfH will be immediately informed.

Status

Pending at Ministry

Sector/Department

Chief Medical Officer (CMO)

Ombudsman case reference

CH-22-3311

Brief details of case

A complaint regarding a submission of an application to the Exceptional Medicinal Treatment Committee (EMTC) which was not approved. Patient requested reconsideration of case as they suffered from a rare condition.

Action taken and management comments

The case was received on 23 November 2022.

On 9 December 2022, the CfH was informed that following internal investigation, it transpired that patient was not referred to treatment abroad committee for transplant consideration.

On 7 February 2023, the CfH was informed that case was discussed with patient's consultant and it was agreed that one of the treatment options for this rare condition was transplantation. It was agreed that the consultant would discuss this option with the patient.

On 22 February 2023, MFH informed CfH that the patient did not seem prepared to go through with the proposed procedure. He was also informed that a consultant from The Royal Marsden Hospital was to visit Malta and a meeting was scheduled with the patient so that further details would be explained.

On 12 June 2023, a reply from the patient's consultant, including a detailed explanation on the patient's medical condition was forwarded to the CfH.

On 27 June 2023, CfH requested a copy of official communication between patient's consultant and a consultant from abroad. The requested documentation was forwarded to the CfH on 7 July 2023.

On 11 July 2023, MFH informed CfH that the main indications for the requested medication were clear active haemolysis or previous thrombotic disease, and the patient did not suffer from either of these conditions.

On 18 July 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-3317****Brief details of case**

A complaint regarding a submission of an application to the Exceptional Medicinal Treatment Committee (EMTC) which was not approved. Patient requested reconsideration of case as they suffered from a rare condition.

Action taken and management comments

The case was received on 20 December 2022.

On 31 January 2023, the CfH was informed that the introduction of medicinal cannabis in epilepsy was on the Ministry's agenda and was going to be explored.

On 7 February 2023, CfH was informed that the matter had already been passed to the Directorate for Pharmaceutical Affairs to carry out a health technology assessment.

On 7 July 2023, the CfH was informed that the review was being finalised and will be forwarded to the Government Formulary List Advisory Committee (GFLAC) for discussion thereafter.

On 25 August 2023, the CfH was further informed that the review was put on the agenda of the next GFLAC meeting which was scheduled for the beginning of October 2023.

On 19 October 2023, the Commissioner requested update on the status of introduction of medical cannabis in epilepsy.

Status

Pending at Ministry

Sector/Department**Human Resources (HR)****Ombudsman case reference****CH-22-2632****Brief details of case**

Claimant stated that 3 employees were performing Allied Assistants' duties at Gozo General Hospital (GGH) without having the necessary qualifications.

Action taken and management comments

The case was received on 25 January 2022.

On 8 February 2022, the CfH, was informed that the employees in question did not perform Allied Assistant duties, but they carry out clerical work and handle potential biohazard samples as they hold no certification as Allied Assistants.

Subsequently, CfH requested a confirmation that contractual clerks were not performing Allied Assistant duties and requested also to be notified about the number of Allied Assistants who have been employed by a third party.

On 14 February 2022, the CfH was informed that in instances where a third party was the employer, MFH could not request information, neither on its behalf nor on others'.

On 22 February 2022, CfH enquired if 4 of the 6 claimants could be sent to Gozo General Hospital (GGH) as he was informed that additional Allied Assistants were requested to be added to the complement. MFH notified CfH that in line with the Labour Supply Agreement, MFH was only obliged to provide GGH with replacements consequence to resignations or retirements.

On 30 April 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department

Human Resources (HR)

Ombudsman case reference

CH-22-2767

Brief details of case

Claimant stated that although they had been recognised in Scale 13 since August 2018, they never received the difference in pay for Sundays, Public Holidays and overtime.

Action taken and management comments

The case was received on 11 March 2022.

On 24 May 2022, the CfH was informed that claimant was receiving the Sunday, Public Holidays, and overtime allowances in full.

On 6 October 2022, the Commissioner requested reconsideration of case.

On 1 February 2023, a meeting was held between MFH representative and CfH, during which this case was discussed. Copy of agreements were requested by the Commissioner, which MFH forwarded on 7 February 2023. The Commissioner requested reconsideration of case and MFH replied, stating that matter was going to be discussed with IRU.

On 20 March 2023, the CfH was informed that MFH administration was checking the type of allowance that claimant had already received during the mentioned period and would revert as soon as data was finalised.

On 25 September 2023, the CfH was informed that his office's clarifications were discussed, and the related justifications were favourably considered.

The CfH informed MFH that the case will be closed once the reimbursement has been effected.

Status

Pending at Ministry

Sector/Department**Human Resources (HR)****Ombudsman case reference****CH-22-3078****Brief details of case**

Claimant stated that they did not receive the circular memo which was disseminated through the government email account and, therefore they missed applying for Special Long Service Leave Scheme (SLSL) 2022.

Action taken and management comments

The case was received on 26 July 2022

On 5 September 2022, the CfH was informed that calls for the SLSL scheme had always been issued through a memo issued by the People Management Department and distributed by the Directorate Nursing Services office to all nurses and midwives through the official MITA mail-shot facility. This setup was agreed with MUMN in the last sectoral agreement in view that this scheme was targeted only to the Nursing and Midwifery professions. All nurses and midwives who use the official MITA signature (as requested) within their email account received such memos through a mailshot. All government employees were directed and reminded from time to time, to use the official MITA job title and email signature to conform to MITA policies. It was evident that claimant did not use the official MITA signature.

On 30 September 2022, CfH was notified that CIO's office requested a soft copy of the SLSL memo communication with the timestamp to be able to carry out further investigations with MITA and to be able to confirm whether communication was sent to claimant in their government email account.

On 7 March 2023, MFH notified the Commissioner that from the investigation carried out with MITA, it has been concluded that the email titled SLSL 2022 dated 3 June 2022 was not received by claimant.

On 24 March 2023, CfH proposed that when the next call for the SLSL Scheme is issued claimant is considered to be as if they had applied the year before, thus enabling them to be included in the capping issues.

On 3 April 2023, the Commissioner was informed that the proposal was being accepted and claimant would be considered when the next call for the SLSL Scheme is issued.

On 13 April 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department

Human Resources (HR)

Ombudsman case reference

CH-22-3132

Brief details of case

Claimant stated that an Expression of Interest for a particular medical position was creating an anomalous situation where the person who was supposed to lead position could be of a much inferior grade than the team members.

Action taken and management comments

The case was received on 18 August 2022

On 4 November 2022, the CfH was informed that the call was fully in line with the Sectoral Agreement for the Medical Class.

On 16 November 2022, the CfH requested a copy of the Sectoral Agreement signed with the Union. The report was immediately forwarded to CfH.

On 25 November 2022, CfH replied that no reference could be found in the Sectoral Agreement which justifies why it was decided to downgrade the importance of the post by issuing the call as Expression of Interest rather than a service-wide call at Salary Scale 4 rather than at Salary Scale 3.

During discussions with the Medical Association of Malta (MAM) it was agreed that certain headship positions were to be excluded from Scale 3 positions.

On 1 February 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Human Resources (HR)****Ombudsman case reference****CH-22-3163****Brief details of case**

Claimant requested that they be given blanket approval for a disturbance allowance.

Action taken and management comments

The case was received on 12 October 2022.

On 31 October 2022, the CfH was forwarded a report in which the disturbance allowance, established through the ICT Class was explained.

On 11 January 2023, MFH clarified that the request was rejected on the grounds that the disturbance allowance was not an ongoing allowance. The expenditure of public funds to perform work classified under the terms of disturbance within the ICT class agreement needed to be approved based on the hours worked and work performed per pay period. The new ICT Class Agreement (July 2022) provided for disturbance allowance starting from 1 July 2022. On 5 August 2022, the Office of the CIO issued a formal communication to all offices within the ICT class at MFH informing them of the new ICT Class Agreement. In parallel, a centralised online form was implemented across MFH to adopt measures of accountability and efficiency in claiming for disturbance allowance.

Claimant opted not to follow HR instructions.

The CfH was also informed that the new ICT Class Agreement stated that the disturbance allowance 'may be authorised by the Chief Information Officer' and it was at the discretion of the CIO to decide whether to authorise such allowance and not the employee.

On 16 January 2023, the Commissioner enquired if claimant could apply for disturbance allowance as from 1 July 2022 until he was approved unpaid leave.

MFH replied stating that retrospective work from 1 July 2022 (to date) would be authorised subject that applicants provided the breakdown of works and hours worked through the online form in line with communication issued by Human Resources dated 21 October 2022.

On 4 April 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Mater Dei Hospital (MDH)****Ombudsman case reference****CH-22-2583****Brief details of case**

Claimant stated that although they were informed by MDH that they were to be granted free parking to participate during a study, they found their car clamped and therefore they claimed a refund.

Action taken and management comments

The case was received on 12 January 2022.

On 25 January 2022, the CfH was informed that MDH confirmed that a misunderstanding had taken place and proceeded to contact claimant on the matter.

Both MDH and the parking service provider agreed to issue a refund and the latter was to contact claimant to that same effect.

On 3 February 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Mater Dei Hospital (MDH)****Ombudsman case reference****CH-22-2638****Brief details of case**

Claimant stated that their spouse got a ticket for parking in an unauthorised spot in MDH. They claimed that they parked for half an hour because of an emergency.

Action taken and management comments

The case was received on 25 January 2022.

On 5 April 2022, the CfH was informed that MDH had looked into the matter, and it transpired that the mentioned vehicle was parked in an unauthorised parking spot reserved for consultants, notwithstanding that all the reserved areas are clearly marked.

MDH had no authority to reimburse fines legitimately imposed for breaches of parking regulations. The ongoing activity in the hospital's parking areas necessitated organised, disciplined and the proper management of incoming and outgoing traffic. This was necessary to ensure the safe availability of parking spaces for both visitors and staff.

On 6 April 2022, the CfH emphasised that claimant's car was clamped after 5.30pm, at a time when consultants were not normally in hospital.

On 19 April 2022, the CfH was informed that MDH has no authority to refund legitimately imposed fines. As regards comment that the parking service provider should be more humane, the CfH was informed that the original contractual clamping fine, which stood at €60, had been reduced, *bona fide*, to €40 as from 2019.

On 3 May 2022, the CfH confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Mater Dei Hospital (MDH)****Ombudsman case reference****CH-22-2715****Brief details of case**

A case regarding two claimants stating that although they had passed an examination and were even promoted to the new post, they were still awaiting to be released from MDH so that they could move to CPSU.

Action taken and management comments

The case was received on 23 February 2022.

On 26 July 2022, the CfH was informed that, due to significant difficulties in recruitment which MFH was facing, the selected officers could not be released without a replacement, as this could have resulted in delays in patient care and the consequent risk of harm to patient which the Ministry is duty bound to avoid.

CfH enquired if claimants could be replaced by sub-contracted employees and whether the claimants could be paid at the Salary Scale commensurate with their promotion, until the problem was solved.

On 17 August 2022, the CfH was notified that MDH was not able to replace the workers with sub-contracted workers as the contract for sub-contracted clerical workers had been exhausted. Moreover, claimants could not remain at their place of work and be paid higher rates than their counterparts doing the same work as this would be a breach of employment rules.

CfH replied stating that although the employees at the section in question were doing the same duties, not all were on the same salary scale. This, besides that the sub-contracted workers were paid less than their government counterparts and therefore, the breach of employment rules already existed.

On 13 September 2022, the CfH was informed that MFH was honouring its related contractual obligations, both in terms of the duties assigned to sub-contracted staff as well as the rate of pay. Furthermore, it was conformant with the benchmarks set by the applicable labour laws and regulations.

During October and November 2022, internal meetings and communications were exchanged in view to find a replacement and transfer of claimants could be effected.

On 10 January 2023, the Commissioner was informed that the transfer was to take place on 30 January 2023, to coincide with the start of the pay period as per applicable process.

On 20 March 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department

Mater Dei Hospital (MDH)

Ombudsman case reference

CH-22-2766

Brief details of case

Claimant stated that although they had been recognised in Salary Scale 12 since August 2018, they never received the difference in pay for Sundays, Public Holidays, and overtime.

Action taken and management comments

The case was received on 11 March 2022

On 10 May 2022, the CfH was informed that as from 3 March 2021, claimant was deployed from St Luke's Hospital (SLH) to MDH. MDH confirmed that they had been receiving the Sunday, Public Holidays, and overtime allowances in full since their deployment at MDH. Further random payroll checks revealed that before March 2021, claimant had also been receiving the allowances in full.

On 1 June 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department

Mater Dei Hospital (MDH)

Ombudsman case reference

CH-22-2776

Brief details of case

Claimant requested a report about what happened during or after their spouse's operation that led to their passing away.

Action taken and management comments

The case was received on 16 March 2022


On 19 April 2022, the CfH was informed that a related meeting had been scheduled between MDH, complainant and CfH to address the situation.

On 3 May 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department	Mater Dei Hospital (MDH)
Ombudsman case reference	CH-22-3064
Brief details of case	<p>Claimant stated that their operation was suddenly postponed with no apparent reason for such postponement.</p>
Action taken and management comments	<p>The case was received on 21 July 2022.</p> <p>On 9 August 2022, the CfH was informed that MDH sincerely regretted the distress caused to the patient due to the miscommunication that occurred. MDH also clarified that this was not a case of lack of funds, but a situation brought by the fact that the tender through which implants and consumables for this particular procedure are procured, was exhausted. This was due to a backlog of cases that accumulated over the pandemic period. While arrangements were being made to secure an extension of contract for these items, treatment had to be curtailed to the most urgent cases. He was also informed that a contract extension had been secured to cover the period until the new tender was finalised and hence claimant's procedure was to be performed shortly.</p> <p>On 10 August 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation



Sector/Department**Mater Dei Hospital (MDH)****Ombudsman case reference****CH-22-3168****Brief details of case**

Claimant stated that their family was not given permission to visit their parent because of election visiting hour's restrictions.

Action taken and management comments

The case was received on 1 September 2022.

On 24 October 2022, the CfH was informed that MDH/SAMOC management notified that no restrictions on visiting hours were in force at MDH or SAMOC, during election day. This information was corroborated by the Electoral Commission.

Moreover, Customer Care and Ward staff were not instructed to inform visitors/callers that other arrangements were in place on the day. MDH confirmed that no similar complaints were received from other visitors/callers, on the day or thereafter. It was emphasised that, in such difficult circumstances, the standard hospital procedure was to allow relatives the necessary time to visit their loved ones. Furthermore, hospital records showed that on the day in question, the hospital had to contact the patient's relatives to inform them that the patient was unwell and they were invited to visit at the earliest. Notwithstanding the above, the hospital expressed its deepest regrets, for any misunderstanding or miscommunication that may have taken place.

On 10 November 2022, the CfH forwarded a reply in which sensitive statements and issues were raised and requested MFH's comments.

On 10 January 2023, the CfH was forwarded the requested sensitive documentation and a meeting with MDH management representatives was scheduled for 1 March 2023.

On 24 May 2023, an interim report was sent by the Commissioner for Health in which two recommendations were forwarded.

On 20 June 2023, MFH informed the Commissioner that both recommendations were accepted and would be implemented by MDH. Therefore, Customer Care Unit would be provided with further training on how to communicate with patients and their relatives. Moreover, Management was to make sure that different rules and regulations be explained and communicated to all staff at MDH.

On 28 June 2023, the CfH forwarded his Final Opinion report including the same recommendations that were submitted in the interim report and closed the case.

Recommendation by Ombudsman

1. The Customer Care Unit should be provided with further training on how best to handle such delicate issues and be able to communicate in a more empathic way with patients and their relatives.
2. When special circumstances are operating within the hospital environment, such as General Elections, the rules and regulations pertaining to such events are carefully communicated with all the staff in a timely and effective manner so that no such unfortunate circumstances arise in the future.

Status

Closed and recommendations implemented

Sector/Department**Mater Dei Hospital (MDH)****Ombudsman case reference****CH-22-3169****Brief details of case**

Claimant stated that they were suspended from work because they were diagnosed that they needed help from the Employment Support (ESP). They also added that their Performance Appraisal Report had been pending for 2 years.

Action taken and management comments

The case was received on 1 September 2022.

On 23 September 2022, the CfH requested claimant's personal file, which was forwarded to him on 28 September 2022, and subsequently, on 30 September 2022, he requested further documentation and clarifications.

On 6 October 2022, MFH furnished the CfH with the required information and clarifications.

On 22 November 2022, the CfH requested comments on the refund for the vacation leave that was not availed of and about the pending reviews for the claimant's performance (PMP).

On 6 February 2023, the CfH was informed that in line with the PSMC, any unutilised vacation leave was not refundable. A copy of claimant's PMPs were also forwarded.

On 7 March 2023, the CfH was informed that serious allegations made by claimant, were referred for legal advice and at that juncture, there was nothing further to add to this case.

On 29 August 2023, the People and Standards Division submitted a reply to the CfH's clarification request from their office. Moreover, they were informed that due reference was to be made to the PSC Disciplinary Regulations (SL Const. 03), Regulation 12(7) stating that *"Where an officer against whom disciplinary or criminal action has been taken and is pending, ceases to be a public officer before the conclusion of such action, any salary withheld as a result of his precautionary suspension shall not be refunded unless he is acquitted of all the charges brought against him. [...]"*.

On 7 September 2023, the CfH was informed that a meeting was held between MDH, salaries representative and claimant. During this meeting both parties discussed the matter and the refund owed by claimant was calculated and the whole payment process was explained to the claimant.

On 26 September 2023, OPM furthered that given that the complainant had been on precautionary suspension and was, therefore, already not reporting at their place of work, they could not avail of vacation leave as part of the notice period. The significance of the procedure for the approval for precautionary suspension (in terms of the PSC Disciplinary Regulations), was given precedence.

Status

Pending at Ombudsman

Sector/Department

Mater Dei Hospital (MDH)

Ombudsman case reference

CH-22-3295

Brief details of case

Claimant stated that they had problems with the doctors at MDH and requested that their child be sent abroad to be seen by a foreign cardiac consultant.

Action taken and management comments

The case was received on 18 November 2022.

On 4 January 2023, the CfH was informed that a meeting was held between MDH management and the patient's parents. The parties agreed that patient would start to be seen and thereby transferred under the care of another consultant and, if needed, any referrals abroad would be done through the same consultant.

On 17 April 2023, MFH requested an update on the case as no further correspondence was received from the Office of the Ombudsman. Commissioner for Health replied, stating that he was in contact with patient's consultant and was following the case.

On 7 September 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation



Sector/Department**Mater Dei Hospital (MDH)****Ombudsman case reference****CH-22-3302****Brief details of case**

A claimant stated that they were given an urgent transfer to another Ministry.

Action taken and management comments

The case was received on 17 November 2022.

On 18 November 2022, the CfH was informed that claimant had been reviewed by a Medical Board and was deemed unfit to work in a clinical setting. Both MDH and UHM agreed with transferring claimant to another Ministry, on account of the Medical Board decision.

The CfH replied that he was informed that there were two medical reports and the last one which was a follow up of the first one did not find the claimant unfit. He enquired why transfer had been executed prematurely.

On 22 February 2023, the CfH was informed that upon having been deemed unfit to work in a clinical setting, claimant was immediately transferred from MFH. Any allegations of unfair treatment were unjustified because according to the information received claimant was given the reason for their transfer, prior to publication, and in the presence of MDH management and UHM representatives, who all agreed.

As regards the second medical report, there was no indication that claimant's fitness for work was in a clinical setting. The report stated that the board evaluated the case and based on that evaluation date, it believed claimant was in a good position to continue with their job. Therefore, since, at the time of evaluation, claimant's job was at the Ministry for Agriculture, one cannot assume that the Board was referring otherwise.

On 17 April 2023, the Office of the Commissioner for Health informed MFH that relevant documentation on the case was being sought from the Ministry for Agriculture where claimant is currently employed.

On 19 June 2023, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department

Mater Dei Hospital (MDH)

Ombudsman case reference

CHOI-22-3316

Brief details of case

An own initiative investigation by the CfH, regarding the Non-Invasive Ventilation Policy.

Action taken and management comments

The case was received on 24 November 2022.

On 1 December 2022, all contact details requested by the Commissioner for Health were forwarded. A meeting was to be called by CfH.

On 7 March 2023, the CfH forwarded his final report including three main recommendations.

On 5 April 2023, the Commissioner was informed that MDH Management reviewed the report and submitted the following comments in reply to his recommendations.

1. Mater Dei was working on identifying an open area that will facilitate access and care of these patients that has a footprint that is larger than the present area. This facility will be established in combination with the development of a medical High Dependency Unit.
2. Training of nursing staff to expand the pool capable of dealing with the seasonal surge of patients was ongoing through the practice nurse and the respiratory physicians.
3. MDH agrees that it is the severity of the disease which determines the level of risk and whether intensive care is warranted or otherwise.

On 6 April 2023, the Commissioner confirmed case as closed.

Recommendations by Ombudsman

1. The present area dedicated to Non-Invasive Ventilation be expanded as number of beds available could not be enough.
2. The training of staff being carried out was to be ongoing and the training facilities, faculty, and logistics, be amplified and reinforced.
3. Since not all beds on a Non-Invasive Ventilation ward could be offering intensive care, the staffing level should not be considered as being all high risk.

Status

Closed and recommendations implemented

Sector/Department**Mater Dei Hospital (MDH) and Chief Medical Officer (CMO)****Ombudsman case reference****CH-22-2634****Brief details of case**

Claimant's legal representatives stated that their client was suspended from MDH and had been waiting for months for a hearing and investigation in relation to the allegations made against them.

Action taken and management comments

The case was received on 14 February 2022.

On 26 March 2022, the CfH was informed that in light that litigation proceedings were initiated before a court of law, MFH would refrain from further related correspondence, with a view to ensure that the matter was not prejudiced in any way.

On 21 April 2022, the CfH enquired about the Internal Disciplinary action taken against claimant and requested a copy of the Disciplinary Board's report. CfH was informed that sessions were still being held and that the Disciplinary Board had not concluded its workings.

On 27 June 2022, the CfH requested that disciplinary action against claimant be halted as court judgement in the latter's favour was published. MDH immediately notified that it intended to appeal this judgement and hence, it did not confer any effect until the Court of Appeal delivered a definitive judgement.

On 18 August 2022, CfH informed MFH that Ombudsman lawyers had vetted the appeal application filed by MFH and the reply filed in court by claimant. Ombudsman lawyers concluded that the case before the Court of Appeal had nothing to do with the claimant's registered case with the CfH and, therefore, the latter requested MFH to submit a reply to his letter dated 14 February 2022. MFH reiterated its position.

On 30 October 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Mental Health Services (MHS)****Ombudsman case reference****CH-22-3188****Brief details of case**

Claimant stated that the identified office space given to them on their return to work was lacking basic requirements for a healthy work environment.

Action taken and management comments

The case was received on 15 September 2022.

On 29 October 2022, the CfH was informed that no definite office space was initially provided to claimant when they returned to work, as the other staff felt extremely apprehensive in their presence.

Given that claimant had indicated that they wished to be transferred, a temporary store was identified as their office.

Since the complaint was lodged, the store in question was tidied up, office equipment provided, and nearby sanitary facilities were identified for their use.

On 25 October 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department	Mental Health Services (MHS)
Ombudsman case reference	CH-22-3197
Brief details of case	Claimant enquiring about the death of a patient at MHS in 2020.
Action taken and management comments	<p>The case was received 23 September 2022.</p> <p>On 17 October 2022, the CfH was forwarded a copy of the incident report and death certificate indicating the cause of death. All sensitive information was attached.</p> <p>During the months of December 2022 and January 2023, meetings were held at management level and with the CfH, during which sensitive issues were discussed.</p> <p>On 27 February 2023, the CfH requested comments about allegations made by claimant regarding the use of mobile phones at MHS.</p> <p>On 1 March 2023, MHS informed CfH that in line with General Data Protection Regulation and to always safeguard patient confidentiality, patients and ward visitors were not allowed to use mobile phones with recording abilities. Only use of a simple mobile phone for communication purposes was allowed in the ward, with the more complex phones being kept in a safe place in the ward and given to the patient when going out of the ward, with the mobile being returned to staff on entering the ward.</p> <p>Furthermore, CfH was notified that the use of mobile phones, including facility to record, take photos and access the internet had been the subject of considerable debate at Mount Carmel Hospital (MCH). Whilst MHS did not wish to isolate patients from the outside world, management had to address several incidents where patients recorded or posted photos / videos which were not appropriate and could have resulted in GDPR issues.</p> <p>On 30 September 2023, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department	Primary Health Care (PHC)
Ombudsman case reference	CH-22-2749
Brief details of case	Claimant stated that they were being bullied by their superior.
Action taken and management comments	<p>The case was received on 3 March 2022.</p> <p>On 16 March 2022, the CfH was informed that PHC spared no effort in striking a delicate balance between aligning claimant with their professional obligations, recognising their efforts as conveyed by particular patients, addressing patients' concerns when the service was ill-affected as a consequence of their alleged attitude, referring them to the Employee Support Programme (ESP) for assistance, as well as instituting disciplinary action, whenever necessary, and albeit in a manner which was considered sensible.</p> <p>On 4 April 2022, the Commissioner confirmed case as closed.</p>
Status	Closed after the management replied to one request for information

Sector/Department	Primary Health Care (PHC)
Ombudsman case reference	CH-22-3189
Brief details of case	Claimants stated that although they had been engaged as postgraduate Tutors in Family Practice at the beginning of 2022, no payment was yet forthcoming.
Action taken and management comments	<p>The case was received on 20 September 2022.</p> <p>On 4 November 2022, the CfH was informed that all invoices pending at PHC have been processed and paid.</p> <p>On 22 December 2022, the Commissioner confirmed case as closed.</p>
Status	Closed after the management replied to one request for information

Sector/Department	Superintendent of Public Health (SPH)
Ombudsman case reference	CH/5/P74
Brief details of case	A case referred to the CfH by the CEP, regarding activities going on near a fuel station, and the role of the Fuel Station Operator who is to monitor these activities to reassure neighbours.
Action taken and management comments	<p>The case was received on 28 February 2022.</p> <p>On 14 June 2022, the CfH was informed that public safety is not the responsibility of the Environmental Health Directorate (EHD). Nonetheless, during an on-site inspection that had been carried out by the EHD officials, on 20 April 2022, it resulted that the food premises were not in operation. Photos were attached for CfH's perusal.</p> <p>On 4 July 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department	Superintendent of Public Health (SPH)
Ombudsman case reference	CH-22-2596
Brief details of case	Claimant stated that as they tested positive, they could not be administered the 3 rd dose of vaccine for the Covid-19. They were concerned as the certificate with the 2 doses of vaccination had expired.
Action taken and management comments	<p>The case was received on 12 January 2022.</p> <p>On 17 January 2022, the CfH was informed that as from 17 January 2022, the vaccine certificate of a complete dose vaccination was valid for three months from the date of administration of the last dose of vaccination. However, in the instance experienced by the claimant, they should be allowed access to local establishments upon presentation of the second dose vaccine certificate and a copy of the positive Covid-19 result, up to six weeks from the issue of the result.</p> <p>On 3 February 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department	Superintendent of Public Health (SPH)
Ombudsman case reference	CH-22-2599
Brief details of case	Claimant stated that in Malta, Health Authorities were breaching articles under EU Council Resolution 2361. Citizens were forced to take Covid-19 experimental vaccines, and there was a discrimination between those who took vaccine and those who did not.
Action taken and management comments	<p>The case was received on 14 January 2022.</p> <p>On 8 February 2022, the Commissioner was informed that in Malta, Covid-19 vaccination was not mandatory and therefore one could freely decide on whether to get vaccinated or otherwise.</p> <p>On 28 February 2022, the Commissioner confirmed case as closed.</p>
Status	Closed after the management replied to one request for information

Sector/Department**Superintendent of Public Health (SPH)****Ombudsman case reference****CH-22-2607****Brief details of case**

Claimant stated that as they were from Spain and their vaccination certificate was valid for 6 months, they would have to quarantine each time they visited Malta, according to the new regulations issued on 17 January 2022.

Action taken and management comments

The case was received on 21 January 2022.

On 21 January 2022, the CfH was informed that if claimant had a Spanish EU DCC vaccine certificate, then the validity requirements for foreign vaccine certificates were regulated by the requirements of the same country issuing the certificate, provided that the last dose was administered at least 14 days prior.

On 25 January, the CfH enquired if claimant would be required to quarantine when they returned from Spain as their dose was due in April 2022.

On 26 January, the CfH was informed that claimant was not required to quarantine since Malta recognises the validity of their certificate issued from Spain.

On 3 February 2022, the CfH confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Superintendent of Public Health (SPH)****Ombudsman case reference****CH-22-2611****Brief details of case**

Claimant stated that they were concerned about the risks related to the Covid-19 vaccination due to their health condition and hypersensitivity to certain medicinals.

Therefore, they requested to be exempted from taking the vaccination.

Action taken and management comments

The case was received on 21 January 2022.

On 21 January 2022, the CfH was informed that claimant was to be notified to submit their request, including certificate, to covid19.health@gov.mt. Their request would then be assessed accordingly.

On 25 January 2022, the CfH replied that claimant had sent the request to the Covid-19 helpline but received a reply on the 18 January 2022, stating that all the conditions described in the medical certification are not contraindications to vaccination against Covid-19 and that they could safely take any of the authorised vaccinations. They were appealing this decision and CfH enquired if case could be reviewed by a senior official.

On 26 January 2022, MFH replied that the medical panel which assessed such requests was, composed of medical consultants, who were senior officials.

On 28 February 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department	Superintendent of Public Health (SPH)
Ombudsman case reference	CH-22-2647
Brief details of case	Claimant stated that they had been waiting for an appointment from the Council of the Professions Complementary to Medicine (CPCM) for their final assessment for a long time. This was blocking all the possibilities to work as an Optometrist.
Action taken and management comments	<p>The case was received on 14 February 2022.</p> <p>On 18 March 2022, the Commissioner was informed that during the CPCM's council meeting, which was held on 16 March 2022, it was decided that the Council would be communicating with the claimant directly.</p> <p>In May 2022, the Commissioner informed MFH that it was agreed that claimant was to attend a refreshers' course. MFH would be informed when claimant had successfully completed the course.</p> <p>On 11 August 2022, CfH informed MFH that claimant completed the refreshers' course and was to be assessed on 26 August 2022.</p> <p>On 7 October 2022, the CfH was informed that another call was to be issued for claimant to be able to apply as they were registered with CPCM.</p> <p>On 25 October 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department	Superintendent of Public Health (SPH)
Ombudsman case reference	CH-22-2695
Brief details of case	A claim by a Hungarian national who took both vaccine doses of a particular make and also the booster (3 rd dose), requesting to be allowed to visit their child in Malta.
Action taken and management comments	<p>The case was received on 14 February 2022.</p> <p>On 16 February 2022, the CfH was informed that since the vaccine in question was not European Medicines Agency (EMA) approved, the respective vaccine certificates were not recognised as valid. Moreover, this particular vaccine was not even approved by the World Health Organisation (WHO). Therefore, on arrival in Malta, claimant would need to quarantine for 14 days, in a quarantine hotel.</p> <p>On 28 February 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department**Superintendent of Public Health (SPH)****Ombudsman case reference****CH-22-2696****Brief details of case**

Claimant stated that although the Medical Council gave them the Warrant to practice their profession, they were still waiting to be employed even though they had a Maltese Citizenship.

Action taken and management comments

The case was received on 16 February 2022.

On 13 April 2022, the CfH was informed that the Medical Council Malta (MCM) stated that Temporary Registration was granted in compliance with the sentence of the Health Care Professions Appeals Committee (HCPAC) and that compensation measures were drawn up in order that claimant could start the adaptation period again, as per respective judgement. MCM furthered that it had addressed all pending matters and that the provision of training or involvement in employment matters did not fall within its regulatory remit. CfH enquired about the fact that although claimant was licensed, they were still waiting to be employed.

On 13 July 2022, the CfH was informed that the commencement of an adaptation period depended on the place of work assigned by the respective employer and not on the Medical Council. This was standard practice across European States and reference could be made to the adaptation period approach adopted by the Danish Patient Safety Authority (DPSA).

On 30 September 2022, the CfH requested MFH to indicate a possible way to solve the issue. He explained that claimant was granted temporary licence to practice their dental profession in Malta by the Malta Medical Council for a period of 2 years up to 28 February 2023. This was granted *"on the condition that such practice be carried out only in a Government Hospital/Clinics or any other branch of the Health Services provided by the Government, under supervision"*. Yet, they did not manage to attain this as the Dentistry Department was not in a capacity to provide all the dental skills required and effective supervision.

On 2 October 2022, MFH replied that the Council reiterated its position and had carried out all actions that were ordered in the sentence of the Appeals Committee. Claimant's Temporary Licence was issued and the compensation measures to be undertaken by claimant were duly sent to the Dental Department at MDH.

On 27 February 2023, the Commissioner was informed that progress had been made with regards to the pathway for medical doctors and once concluded, MFH would try to address the pending issues for the dentistry.

On 16 June 2023, the Medical Council forwarded a detailed reply including its final decision directly to the CfH. The Medical Council strongly advised that in the interest of patients' safety, claimant's adaptation period had to be carried out in full as prescribed.

Status

Pending at Ombudsman

Sector/Department

Superintendent of Public Health (SPH)

Ombudsman case reference

CH-22-2704

Brief details of case

Claimant stated that they were treated unfairly and discriminated against by the Health Authority upon returning from Brussels as they were forced to 14 days quarantine.

Action taken and management comments

The case was received on 21 February 2022.

On 9 March 2022, the CfH was informed that Delegated Regulation (EU) 2021/22884, which amended the annex to Regulation (EU) 2021/953, introduced a technical validity period of 270 days. The 270 days referred to the technical validity of the vaccination certificate, with which certificates issued by Malta comply. The Maltese vaccination certificate for primary doses could be used in other EU Member States for up to 270 days, where the legislation of such Member State allowed. The European Centre for Disease Prevention and Control has revised its guidance on the administration of the booster dose after three months from primary vaccination. In Malta, the individual was at liberty to decide whether to receive the booster dose or otherwise. In the affirmative, the booster dose was readily available at walk-in vaccination centres, soon after the expiry of the three-month period from primary vaccination.

This was not the case with all Member States, where the booster dose was not always readily available following the three-month period from primary vaccination. A differentiated approach was considered for Maltese residents and non-Maltese residents, to ensure that all EU citizens had the opportunity to travel to Malta unhindered. Maltese policies ensured that quarantine was limited to those individuals who choose not to receive the booster dose, when and where it was available.

On 21 March 2021, the Commissioner forwarded further questions raised by claimant.

On 23 March 2021, the Commissioner was informed that all the questions raised by claimant were already addressed via reply dated 9 March 2022. He was also informed that vaccines being administered in Malta were from the joint purchase agreement of the EU and authorised by the European Medicines Authority.

On 5 April 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department	Superintendent of Public Health
Ombudsman case reference	CH-22-2745
Brief details of case	A Maltese citizen living in Sweden claimed that they were sent in quarantine as they did not have the Covid-19 booster certificate. They stated that could not take the vaccine as they were not in Malta.
Action taken and management comments	<p>The case was received on 21 February 2022.</p> <p>On 3 May 2022, the CfH informed MFH that no further investigation was required as case was superseded by events.</p> <p>On 3 May 2022, the CfH confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department	Superintendent of Public Health (SPH)
Ombudsman case reference	CH-22-2761
Brief details of case	Claimant requested to be granted permission to start a standing wedding reception at 7:30pm on 31 March 2022.
Action taken and management comments	<p>The case was received on 8 March 2022.</p> <p>On 8 March 2022, the CfH was informed that the change in measures to allow 300 standing wedding guests was effective from 1 April 2022. CfH replied, stating that decision was unreasonable, unjust, and oppressive and enquired if moving forward by five hours the change in measures would constitute a health hazard.</p> <p>On 9 March 2022, the CfH was informed that it was not a question of SPH sticking to her position arbitrarily. Her position could not but be aligned with the regulations and standards which in themselves enjoy legal status under the provisions of the Public Health Act. Therefore, whilst respecting the Ombudsman's authority under the provisions of Article 22(b) of the Ombudsman Act, SPH's direction could not breach the provisions of the very same Act which regulates her area of responsibility.</p> <p>On 14 March 2022, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department

Superintendent of Public Health (SPH)

Ombudsman case reference

CH-22-2786

Brief details of case

Claimant stated that they had written to the Healthcare Professions Appeals Committee, appealing a decision taken by the Specialists Accreditation Committee, but had not received any communication about when their case was to be heard.

Action taken and management comments

The case was received on 24 June 2022.

On 28 June 2022, the CfH was informed that on 31 May 2022, claimant was notified that the first sitting of the Appeals Committee would be held on 7 July 2022.

On 1 September 2022, the Commissioner confirmed case as closed.

Status

Closed after the management replied to one request for information

Sector/Department

Superintendent of Public Health (SPH)

Ombudsman case reference

CH-22-2795

Brief details of case

Claimant requested that family members be given permission to travel from Serbia.

Action taken and management comments

The case was received on 25 March 2022.

On 4 April 2022, the CfH was informed that travel from dark red zones under which Serbia was classified was not allowed.

On 5 April 2022, the CfH enquired whether the new regulations published on 4 April 2022, affected the decision previously given. MFH replied that the conditions announced on 4 April 2022, would affect documents required to travel from red zones and not from dark red zones, as in the case of Serbia.

On 18 April 2022, the Commissioner was further informed that claimants would be allowed to visit Malta without needing to quarantine on arrival. The vaccine certificate would need to be presented on a recognised format.

On 3 May 2022, the CfH confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Superintendent of Public Health (SPH)****Ombudsman case reference****CH-22-2801****Brief details of case**

Claimant insisted that their doctor advised them not to take the vaccine. They had been positive for Covid-19 and, therefore, they stated that they were immune and did not need to stay in quarantine and referred to the new regulations published on 4 April 2022.

Action taken and management comments

The case was received on 5 April 2022.

On 5 April 2022, the Commissioner was informed that details on travel, including the use of recovery certificates, were to be published later that week after which client could access website and obtain all the relevant information.

On 18 April 2022, the Commissioner was further informed that claimants would be allowed to come to Malta without needing to quarantine, on arrival. The vaccine certificate would need to be presented on a recognised format.

On 3 May 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Superintendent of Public Health (SPH)****Ombudsman case reference****CH-22-2806****Brief details of case**

Claimant requested refund for an extra night their dependent had to stay in quarantine in a hotel as they were not given the swab test result on time.

Action taken and management comments

The case was received on 30 March 2022.

On 14 June 2022, the CfH was informed that according to the Standards for Quarantine of Travellers entering the Maltese Islands (effective as of 17 September 2021), non-residents of all ages who required to be quarantined, unvaccinated residents aged 12 years and over travelling from dark red countries, and those not approved to quarantine at an alternative quarantine address, needed to follow quarantine in the quarantine hotel.

Persons arriving from Dark Red Zone countries were required to be subjected to a Polymerase Chain Reaction (PCR) COVID-19 test in Malta, pursuant to entry, and a nasopharyngeal PCR COVID-19 test on Day 10 and Day 11 of quarantine period, for the release from quarantine on Day 14, if test was negative. They were further informed that when the community swabbing team knocked multiple times on the claimant's hotel room door, no one answered.

Therefore, another appointment was scheduled, and transport was provided for the claimant to be taken to the swabbing centre. They were given the release from quarantine as soon as the test result was issued, and it was confirmed that Covid-19 virus was not detected.

On 4 July 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Superintendent of Public Health (SPH)****Ombudsman case reference****CH-22-2822****Brief details of case**

Claimant stated that Medical Council did not recognise their degree because the European Credit Transfer System (ECTS) level modules needed for a Post Graduate Diploma were not reached. However, the National Commission for Further and Higher Education (NCFHE) awarded them an MQF Level 7, which is equivalent to a master's degree.

Action taken and management comments

The case was received on 14 April 2022.

On 26 April 2022, the Commissioner was forwarded a full detailed report covering all the different enquiries raised by claimant.

On 4 May 2022, the CfH enquired about memberships of particular bodies that were considered as additional qualifications.

On 5 July 2022, the Commissioner was informed that the Medical Council confirmed the inclusion of memberships and fellowships in the principal lists of both dentists and doctors. It also recognised the importance of postgraduate qualifications, be they certificates, diplomas or entire degrees and, as explained in previous correspondence, a framework via which certain qualifications could be compared was established.

Such memberships/fellowships attest to one's credentials and standing in the professional field and were a result of one's continued professional development via the attainment of clinical degrees/qualifications. The difference between traditionally accepted memberships/fellowships (in both professions) and other qualifications is that, while the former has been an accepted measure of professional experience for decades, a standard framework through which newer qualifications could be assessed had to be implemented by the Council.

On 1 August 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Superintendent of Public Health (SPH)****Ombudsman case reference****CH-22-2829****Brief details of case**

A complaint regarding foul smell coming out of a cesspit lid.

Action taken and management comments

The case was received on 13 April 2022.

On 26 July 2022, the CfH was informed that various inspections were held between March and June 2022, by the Environmental Health Officers in the area and no foul sewage smell was ever noted.

On 1 August 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Superintendent of Public Health (SPH)****Ombudsman case reference****CH-22-2859****Brief details of case**

Claimant stated that the Council for the Professions Complementary to Medicine (CPCM) neglected to take their application for registration with the consequence that they could not practise their profession in Malta.

Action taken and management comments

The case was received on 28 April 2022.

On 17 June 2022, the CfH was informed that the CPCM had a new president and a meeting had been scheduled for the end of the month, during which pending applications would be investigated.

On 14 July 2022, the CfH was further informed that claimant's application had been processed and they were notified to forward the missing documentation.

On 15 September 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department**Superintendent of Public Health (SPH)****Ombudsman case reference****CH-22-3076****Brief details of case**

Claimant stated that they did not receive payment regarding the Merit Award Scheme even though it had been approved in 2020.

Action taken and management comments

The case was received on 26 July 2022.

On 30 September 2022, the CfH was informed that claimant's bank details were incorrect, and that the payment would be affected once the correct bank account details were received.

On 20 October 2022, the CfH was informed that claimant had received payment.

On 25 October 2022, the Commissioner confirmed case as closed.

Status

Closed without recommendation

Sector/Department

Superintendent of Public Health (SPH)

Ombudsman case reference

CH-22-3184

Brief details of case

Claimants stating that although they were ECG Technicians, they were performing duties pertaining to the Physiological Measures class.

Action taken and management comments

The case was received on 13 September 2022.

Internal meetings and meetings with the CfH were held to discuss the way forward. Pending issues were related to industrial relations matters and the drafting of the new collective agreement.

On 17 April 2023, the CfH was informed that a reply would be forwarded once clarifications on the issues raised were addressed and agreed upon with the Union representing the classes. Negotiations on the respective collective agreement was ongoing.

On 3 July 2023, an interim report was sent by the CfH in which two recommendations were forwarded.

On 3 August 2023, the CfH forwarded his Final Opinion report on the case including recommendations.

Recommendations by Ombudsman

1. A register held by the Council for the Professions Complimentary to Medicine for Clinical Physiologists should be created.
2. Call for applications for the different posts should be very specific and should reflect what was needed. This had to be implemented by making sure that the issues were discussed in the sectoral agreements when still in the discussion phase.

Status

Pending at Ministry

Sector/Department**Superintendent of Public Health (SPH)****Ombudsman case reference****CH-22-3283****Brief details of case**

Claimant stated that they had been waiting for quite some time to receive a communication from the Malta Medical Council in respect of their application to be registered as a doctor in Malta.

Action taken and management comments

The case was received on 3 November 2022.

On 7 November 2022, the CfH was informed that claimant's registration was on the Medical Council's Agenda.

On 14 December 2022, CfH was notified that the Medical Council discussed the application presented by claimant and, owing to matters related to patient health and safety, relevant checks were being made with competent authorities in Italy where claimant held their registration. A final decision would be taken after the Italian competent authority replied. The Commissioner was further notified that the Medical Council had been informed that claimant was practising as a doctor without being registered as such and therefore the Council had to report the case to the police as required by Maltese Laws.

On 7 March 2023, the CfH was further informed that claimant appealed the Medical Council's decision, and the case has now been referred to the Healthcare Professions Appeals Committee as per Article 49 of Chapter 464.

As the case was being reviewed by this Committee, and the Medical Council was one of the parties involved, the latter would not comment further on the matter until the case in front of the Appeals Committee was concluded.

Status

Pending at Ombudsman



MFH

Commissioner for Health Pre-2022



Sector/Department

Chief Medical Officer (CMO)

Ombudsman case reference

CH/5/P10

Brief details of case

The Commissioner for Health (CfH) requested a copy of the regulations concerning insured persons under Chapter 528 of the Laws of Malta (Act XI of 2013) and submitted related queries.

Action taken and management comments

The case was received on 10 September 2019.

MFH sought legal advice regarding the terms of reply, which was sent on 4 October 2021.

On 5 October 2021, the CfH replied, stating that regulation 2(1)(a) of SL 35.28 – Health Care (Fees) Regulations – provided that Maltese citizen be exempt from the provisions of Article 24 (1) of the Health Act and requested a reply. Legal advice was once again sought by MFH.

On 23 March 2022, the CfH was informed that Regulation 2(1)(a) of SL 35.28, which provides that Maltese citizen be exempt from the provisions of Article 24(1) of the Health Act, may bear a slightly different interpretation. Article 24(1) of the Health Act speaks about entitlement to free healthcare benefits and furthers that, without prejudice to any other provision of any other law, only an insured person may qualify for free healthcare benefits provided by, or on behalf of, the public healthcare system. On the other hand, Regulation 2(1)(a) of SL 35.28, states that the regulations (specifically referring to the payment of fees) shall not apply in respect of a person who was or who had been a citizen of Malta. Likewise, MFH was obliged to ensure that regulations concerning entitlement and the provision of quality healthcare in Malta were generating value for the taxpayers' money, as allocated to the Ministry via the annual budgetary allocation and as regulated through the Fiscal Responsibility Act.

On 7 July 2023, the CfH confirmed case as closed.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH/5/P31****Brief details of case**

A case concerning the treatment for Macular Degeneration.

Action taken and management comments

On 8 June 2021, the Commissioner forwarded a copy of an article published in one of the local newspapers and enquired about the fact that all different types of anti-vascular endothelial growth factor (VEGF) medications were available in Malta but only the oldest form was free.

On 26 August 2021, the Commissioner was informed that the Government Formulary List (GFL) included a medicine that catered for most cases. However, there were several complicated cases where the formulary drug was contraindicated. Requests for the introduction of an alternative product were received from ophthalmologists. The inclusion of the alternative product was approved for entry into the Government Formulary List.

On 24 June 2022, the Commissioner was informed that the introduction of treatment for Macular Degeneration and Visual Impairments was being addressed via Budget Measure 18 (2022). The treatment was recently approved by the Government Formulary List Advisory Appeals Committee (GFLAC).

On 7 August 2023, the Commissioner was informed that the tender was published, awarded and the estimated delivery date was around end of October or beginning of November 2023.

Status last year

Pending at Ombudsman

Status

Pending at Ministry

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH/5/P51****Brief details of case**

A complaint concerning decisions taken by the Exceptional Medical Treatment Committee (EMTC).

Action taken and management comments

The Commissioner requested the terms of reference of the EMTC which were duly provided.

On 12 August 2021, the CfH wrote regarding one of its cases (HR 0007) and concerning requests for medicines which had been refused based on the applicable protocol and the related EMTC decision.

In June 2022, the CfH officially requested a meeting with the Chairperson of the EMTC and the CMO to address pending issues.

During the meeting concern was directed to decisions of non-approval and two main instances were identified:

1. When requests related to a medicine which should form part of an ICP (Integrated pathway) for a specific indication. This medicine should be assessed through the normal formulary process, including the GFLAC and ACHCB, for introduction on the GFL (government formulary list).
2. When cases reflected a change of a formulary medicine following an Adverse Drug Reaction (ADR) report which may be deemed as serious but were not unique to one or few patients. These circumstances may lead to an envisaged high demand, resulting in a need to change government policies and related financial implications.

It was concluded that when the Ombudsman's Office required replies regarding a rejection of a submission, full information was to be provided, including any recommendations made by the EMTC.

On 7 July 2023, the Commissioner confirmed case as closed.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department	Chief Medical Officer (CMO)
Ombudsman case reference	CH/5/P68
Brief details of case	An enquiry by the Commissioner for Health (CfH) about new high efficacy medicines that were not on the Government Formulary List (GFL).
Action taken and management comments	<p>The case was received on 6 May 2021.</p> <p>On 15 June 2021, the CfH was informed that Government was committed towards sustaining its regimen of free medicines through the inclusion of new medicines in the GFL. The drugs mentioned were to be favourably considered once funds for the purpose were available. Expenditure beyond approved budgetary allocations would be in breach of the Fiscal Responsibility Act.</p> <p>On 1 March 2023, the CfH was informed that the treatment of Multiple Sclerosis is being implemented through the Budget Measure (BM122-2023) stating <i>"Is-sena d-dieħla, ser inkomplu nintrođu medičini bla ħlas fil-Formolarju tal-Gvern: Medičini għal dawk li jbatu mill-iskleroži multipla."</i> An action plan for the implementation of this measure was submitted and approved by OPM as per budget measures implementation procedures. All the relevant processes will be addressed in line with the monthly milestones submitted in the action plan.</p> <p>On 28 April 2023, the Commissioner requested an update on the status of the Budget Measure.</p> <p>On 24 May 2023, MFH forwarded latest updates as per Budgetary Measure plans.</p> <p>On 11 July, 16 August and 18 September 2023, the Commissioner was presented with the status update as per Budget Measure monthly reporting.</p>
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****HP 0014****Brief details of case**

A complaint arising from a request for a branded drug which was approved by the Directorate for Pharmaceutical Affairs (DPA) in 2015 but was never procured for the patient.

Action taken and management comments

In February 2019, the Commissioner was informed that the issue concerning branded products was being discussed internally within MFH. Subsequently, the Commissioner was informed that the case was going to be reconsidered by the Exceptional Medical Treatment Committee (EMTC) within the parameters of the new policy, as well as the Branded Medicines policy.

In November 2019, the Commissioner was informed that the psychiatric drugs on the Government Formulary List (GFL) was to be updated. This would address not only the case of the claimant but of all psychiatric patients in general.

In April 2021, the Commissioner was informed that the branded drug was approved, and funds have been requested.

On 17 September 2021, the CfH enquired about the possibility of providing generic drugs produced by specific companies.

On 29 September 2021, the Commissioner was informed with details of the currently procured drug. Moreover, the claimant was to liaise with their caring consultant to determine the response to the drug on the formulary. If there were clinical issues to the contrary, these would need to be reported to the EMTC via the DPA for further investigation and followed up and through the presentation of an Adverse Drug Reaction Report.

In June 2022, the CfH was informed about the allocation of funds to procure the requested drugs.

Between February and June 2023, the CfH was periodically being informed about the procurement statuses and the reasons for all the delays.

On 24 August 2023, the CfH was informed about the procurement status of the medicine in question. One tender was at evaluation stage and the other tender was awarded and purchase order was placed with a delivery date due for December 2023.

Status last year

Pending at Ministry

Status

Pending at Ministry

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****HS 0071****Brief details of case**

A complaint concerning a submission to the Exceptional Medicinal Treatment Committee (EMTC) which was not approved. The patient was requested reconsideration of the case.

Action taken and management comments

On 28 February 2019, the Commissioner was informed that the EMTC stood by its original decision.

On 17 June 2019, the Commissioner was informed that submissions would only be reassessed if the procedure established in Section 4.5 of the EMTC policy and DH circular 22/2019 was followed. Decisions taken by the EMTC were final unless new evidence was submitted that was not previously available or considered. The Commissioner replied, contesting the decision.

On 12 August 2021, the CfH provided a list of claims which had either been refused on account of protocol regulations or based on EMTC refusal.

On 29 September 2021, the CfH was informed that a budgetary request for 2022 had been made and was agreed to in principle. The respective procurement process was to be initiated in 2022, once funds were allocated.

On 24 June 2022, the CfH was informed that the requested drug was included on the agenda of the Advisory Committee on Healthcare Benefits (ACHCB) and its introduction on the formulary was to be discussed.

On 31 October 2022, the CfH was further informed that, following the review of specifications, the tender has been forwarded for publication.

On 30 November 2022, the CfH enquired about the tendering stage of the medicine in question.

On 9 January 2023, CfH was informed that the approach towards the procurement of this medicine had changed. Procurement was going to be effected with regard to a handful of patients, as approved via the exceptional route. However, a decision to supply all those patients who required this medicine was subsequently taken, thereby necessitating a revision of the original tender.

In January 2023, the CfH informed MFH that case was to be considered as closed.

Status last year

Pending at Ministry

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****HS 0084****Brief details of case**

A complaint regarding a submission to the Exceptional Medicinal Treatment Committee (EMTC) which was not approved. The patient requested reconsideration of the case.

Action taken and management comments

The case was received on 15 February 2019.

On 17 June 2019, the CfH was informed that submissions would only be reassessed if the procedure established in Section 4.5 of the EMTC policy and DH Circular 22/2019 was followed. Decisions taken by the EMTC were final unless new evidence was submitted that was not previously available or considered.

The Commissioner replied, contesting the decision. On 12 August 2021, the CfH provided a list of claims which had either been refused on account of protocol regulations or based on EMTC refusal.

On 20 June 2022, it was agreed that a meeting was to be held with EMTC with a view to conclude the case.

During the meeting, concern was directed to decisions of non-approval. It was concluded that when the Ombudsman's Office required replies regarding a rejection of a submission, full information was to be provided, including any recommendations made by the EMTC.

On 1 February 2023, MFH reiterated its position during a meeting held at the CfH's office.

On 1 March 2023, MFH furthered that the policy concerning the provision of free medication had to be aligned with the applicable pathway. The policy on the provision of branded items stated that medication which fell within policy parameters would be supplied, free of charge, whilst other medication not covered by such would need to be financed by the patient.

On 30 March 2023, the CfH forwarded an Interim Report following further investigation by his Office and requested MFH's comments prior to Ombudsman's final decision.

On 12 April 2023, the CfH was informed that the requested medication was one of the branded items which was not included in the branded item policy. Moreover, MFH reiterated that the Ministry was not able to procure branded items beyond those listed in the policy. It was pointed out that, attempting to procure further branded items than those listed in the policy, would affect the procurement of funded non-branded items in much larger quantities, to the detriment of many patients.

On 20 April 2023, the CfH forwarded his Final Opinion Report including a recommendation.

On 6 June 2023, the CfH was informed that patient was contacted by MFH, and a proposed agreement was presented in view to close the case. Patient asked to be given some time to consider the proposal and was to revert with the final decision.

On 13 June 2023, the Commissioner was informed that claimant had accepted a one-time payment in full and final settlement of claims for medication.

On 6 July 2023, the Commissioner confirmed case as closed.

Recommendations by Ombudsman

The CfH recommended that claimant should be provided with the required medication since this occurred as an adverse event following an ear operation performed in Mater Dei Hospital.

Status last year

Pending at Ombudsman

Status

Closed and recommendation implemented

Sector/Department	Chief Medical Officer (CMO)
Ombudsman case reference	HS 0102
Brief details of case	<p>A complaint regarding a submission to the Exceptional Medicinal Treatment Committee (EMTC) which was not approved.</p> <p>The Commissioner requested that the case be reviewed and queried the process by which drugs were introduced on the Government Formulary List (GFL).</p> <p>In January 2019, the Commissioner was informed that the EMTC had reviewed the case and confirmed its original decision. The Commissioner contested this decision. After contacting the claimant, the Commissioner informed MFH that the patient had been provided with another medicine, but that this medicine was out of stock. The Commissioner was informed verbally that the patient was entitled to the original medicine which was available.</p> <p>On 30 September 2021, the Commissioner requested that a direct order be issued to provide medication.</p> <p>On 5 October 2021, the Commissioner was informed that the request for procurement through a direct order could not be favourably considered. If the patient were to react adversely to a form of medicine in stock, the caring consultant should submit an Adverse Drug Reaction Report to the EMTC, through the Directorate for Pharmaceutical Affairs (DPA), for further investigation and follow up.</p> <p>On 11 October 2021, the Commissioner wrote back, insisting that the required medication should be bought through a direct order until the tender procedures that were currently in process were finalised.</p> <p>In June 2022, the Commissioner was verbally informed that a similar case was resolved after the claimant had been advised to dissolve the medication by increasing the volume of water. The Commissioner agreed to inform the claimant accordingly.</p> <p>In January 2023, the Commissioner notified MFH that the case was closed.</p>
Action taken and management comments	
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****HT 0010****Brief details of case**

An Own Initiative Investigation by the CfH about patient safety at the Neonatal Paediatric Intensive Care Unit (NPICU).

Action taken and management comments

On 24 May 2019, MFH notified Mater Dei Hospital (MDH) administration about the Ombudsman's report, with findings of the investigation conducted and recommendations.

In December 2019, a reply with all the related information was sent to CfH, following which the latter requested further clarification.

On 26 August 2021, the CfH informed MFH that this sensitive matter was still pending. He requested that a meeting be held between CMO, CPSU and MDH Pharmacy to conclude the matter. Developments on the matter were to be communicated to the CfH.

As on 31 October 2022, internal consultations were in process and meetings were still being scheduled to address the queries raised by the CfH.

On 1 February 2023, during a meeting held at the Office of the CfH, it was agreed that a three-month period was granted to give time for the implementation of decisions taken on this sensitive issue.

On 31 May 2023, the CfH was informed that the drafting of the call for the Posts of Scientific Officers at NPICU was initiated. As soon as it is finalised, it is sent for approval and once approved it would be submitted for publication to OPM. Estimate time of publication is 9 June 2023.

On 6 July 2023, MFH informed the CfH that a total of 9 candidates applied through the call and selection board was soon to be appointed.

On 16 August 2023, the Commissioner was further informed that the board's proceedings were to be finalised by the end of August 2023.

On 15 September 2023, MFH informed CfH that unfortunately, there were no successful candidates as out of the 9 applicants, 3 withdrew their application, 5 were found ineligible and one candidate did not attend for the interview. After the Permanent Secretary's endorsement to the board's report, the call would be re-published.

On 16 September 2023, the Commissioner enquired if MFH would consider revision the necessary eligibility criteria.

On 18 October 2023, the CfH was informed that revising the necessary eligibility criteria was not possible as MFH had to stick to the eligibility criteria outlined in the sectoral agreement. He was also informed that another call was scheduled to be published imminently.

Status last year

Pending at Ministry

Status

Pending at Ministry

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****HT 0014****Brief details of case**

A complaint concerning a request for a branded product approved through the exceptional route in April 2017. The drug had not been procured until the date of the complaint and the claimant was requesting that the drug be procured and that expenses of the treatment bought out of pocket be refunded.

Action taken and management comments

The issue related to the procurement of branded products was being discussed internally within MFH.

In February 2019, the CfH was verbally notified accordingly.

On 5 November 2019, the CfH was informed that following EMTC's reassessment, the request had not been approved. The Commissioner, however, insisted that the request be approved, and further exchanges of communication took place between MFH and the Commissioner regarding missing documentation to enable a proper case review.

On 12 August 2021, the CfH provided a list of claims which were either refused on account of protocol regulations or based on EMTC refusal.

In October 2022, during a meeting with CfH, it was explained that since requested drug fell within a specific category, it implied that the potential for clinically relevant differences to exist between different manufacturers' products was low. However, MFH procured crushable tablets and a nutritional product on a named-patient-basis, as an alternative for this patient.

On 14 December 2022, the Commissioner enquired if claimant has been dispensed with the requested medication.

On 15 February 2023, the Commissioner was informed that the policy concerning the provision of free medication had to be aligned with the applicable pathway. The policy on the provision of branded items stated that medication which fell within policy parameters would be supplied, free of charge, whilst other medication not covered by such would need to be financed by the patient.

On 1 March 2023, the CfH requested recent clinical neurological documentation, which documentation was forwarded to his office. At the end of March, he also requested to see the patient's medical file.

On 3 May 2023, MFH enquired if there were any further requests for this case.

On 6 July 2023, the CfH informed MFH confirmed that after recent developments case was to be considered as closed.

Status last year

Pending at Ministry

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****HT 0022****Brief details of case**

A complaint concerning a submission to the Exceptional Medicinal Treatment Committee (EMTC) which was not approved. The complainant requested a reconsideration of the case.

Action taken and management comments

The case was received on 7 March 2019.

In April 2019, this request was discussed with the Chairperson of the EMTC, following which the Commissioner was informed about the appropriate procedure for reassessment of cases by the EMTC and was thus referred to the pertinent policy for guidance.

On 12 August 2021, the CfH provided a list of claims which were either refused on account of protocol regulations or based on EMTC refusal.

On 20 June 2022, it was reconfirmed that the case was not approved by EMTC. It was also agreed that a meeting be held with the Committee with a view to concluding the case. During the meeting, concern was directed to decisions of non-approval. It was concluded that when the Ombudsman's Office required replies regarding a rejection of a submission, full information was to be provided, including any recommendations made by the EMTC.

On 1 February 2023, MFH reiterated its position during a meeting held at the Commissioner for Health's office.

On 1 March 2023, MFH furthered that the policy concerning the provision of free medication had to be aligned with the applicable pathway. The policy on the provision of branded items stated that medication which fell within policy parameters would be supplied, free of charge, whilst other medication not covered by such would need to be financed by the patient.

On 6 April 2023, the CfH requested to see the patient's medical file.

On 17 May 2023, the CfH requested a professional opinion from the patient's caring dermatologist consultant together with further comments from the practice nurse (Tissue Viability Clinic).

On 24 May 2023, all the requested information about the patient's condition and treatment was forwarded to the CfH.

During the months of June and July there were various exchanges of communication between the CfH, the patient's caring dermatologist consultant and the practice nurse (Tissue Viability Clinic) in view to find a solution to resolve the case.

On 18 September 2023, the Commissioner informed MFH that claimant was being provided with some of the medications that were clinically indicated. The remaining issues concerned the last medical item which according to the patient was not effective. Claimant was asked to provide a sample to her caring consultant so that an expert opinion could be obtained further.

The Commissioner informed MFH that he would revert with the outcome.

Status last year

Pending at Ministry

Status

Pending at Ombudsman

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****HT 0026****Brief details of case**

A complaint that since changing from a branded to a generic anti-epileptic drug, epilepsy control deteriorated.

Action taken and management comments

The case was received on 18 March 2019.

On 23 January 2020, the Commissioner was informed that the patient was receiving the required medicine.

In September 2020, the Commissioner was further notified of all actions taken to assist the claimant and that the patient had managed to secure the required medicine. MFH thus requested the closure of the case.

On 25 August 2021, after a meeting held at the Office of the Commissioner during which this case was discussed, an internal query was raised as to why the clinician concerned had been unable to switch medication to the branded product.

On 19 October 2022, the case was discussed again during a meeting held with the Commissioner for Health. MFH was to reassess the case and forward the latest status to CfH.

On 15 November 2022, CfH enquired if claimant could be reimbursed for expenses incurred for acquiring drugs for the patient and enquired also if it was still resulting problematic for MFH to get this medicine even though the patient in their personal capacity was managing to procure it.

On 1 February 2023, during a meeting held at the CfH's office this case was discussed and CfH was informed that there were no plans to open any routes for reimbursement of medicines. Expenditure beyond approved budgetary allocations would be in breach of the Fiscal Responsibility Act. The Commissioner insisted that a solution was to be found from MFH's part.

On 17 February 2023, MFH reiterated that drugs procured on patients' own volition were not reimbursable. MFH also reassured CfH that it spared no efforts in trying to source this drug, but regretfully, all attempts proved unsuccessful. Furthermore, it was also unfortunate that the alternative product supplied by CPSU was deemed ineffective by the patient's caring clinician.

On 22 February 2023, the Commissioner requested MFH to reconsider refund for the medication expenses being incurred by the patient's parent.

On 1 March 2023, MFH reiterated its position that there is no plan to open a system for refund of medications.

On 7 March 2023, the Commissioner enquired about the different categories of medicines. MFH replied that according to the policy, Anti-Epileptic Categories 1 and 2 are to be given the branded medication and as Category 3 is excluded, they are to be given the generic medication.

On 13 March 2023, the Commissioner forwarded an interim report and requested MFH's comments prior to finalisation.

On 24 May 2023, MFH replied stating that as per MFH Policy decision, the medication in question was procured by CPSU in branded form. It was an epilepsy medication and the decision to procure these in branded form was taken especially for cases where control of fits had been lost. MFH reiterated its position that as per policy, when attempted procurement by CPSU was unsuccessful, the out-of-stock items procured by patients were not refundable.

On 27 May 2023, the Commissioner forwarded his Final Opinion on the case and included his recommendation. An internal meeting was scheduled to discuss the report.

On 18 July 2023, MFH reiterated that it did not have a system for refunds of medications bought by patients. However, in an effort to address exceptional situations, MFH is seeking solutions to address this difficult issue.

Recommendation by Ombudsman

1. Claimant be refunded the expenses against proof of payment for specific branded products.
2. CPSU is officially tasked to procure the medicines immediately and if this proves to be impossible for CPSU then the parents are fully refunded the expenses incurred in buying the medication themselves.
3. A cost benefit analysis of what it costs for CPSU to procure such one-off items as opposed to the patients being reimbursed should be undertaken as these one-off items are very taxing on the CPSU infrastructure which is already under a lot of pressure.

Status last year

Pending at Ministry

Status

Pending at Ministry

Sector/Department

Chief Medical Officer (CMO)

Ombudsman case reference

HT 0038

Brief details of case

A complaint concerning a submission to the Exceptional Medicinal Treatment Committee (EMTC) which was not approved. The patient requested a reconsideration of the case.

Action taken and management comments

On 17 June 2019, the Commissioner was informed that submissions would only be reassessed if the established procedure were followed. Decisions taken by the EMTC were final unless new evidence was submitted that was not previously available or considered.

The Commissioner contested the decision. On 12 August 2021, the CfH provided a list of claims which were either refused on account of protocol regulations or based on EMTC refusal.

On 16 March 2022, the Commissioner was informed that the CPSU was expecting to receive the medicine in question. Once received and released for use, a protocol and an explanatory circular will be issued by the Office of the CMO.

On 12 July 2022, the Commissioner forwarded further queries.

On 26 October 2022, the Commissioner was informed that the Office of the CMO reiterates its position regarding entitlement to free medicines depending on the medical conditions presented. The Commissioner was also informed that in the next few months, when a degree of stability insofar as requests for this drug is attained, it was planned to review the indications to which free entitlement to the medicine in question will be applicable. The extension of any protocol was highly dependent on the allocation of dedicated funds.

On 1 February 2023, CfH was informed that indications for this case were to be approved for free entitlement to the requested medicine in the subsequent weeks.

On 6 March 2023, the CfH was informed that stock of medication in question was still not at a steady level to be able to extend protocol.

On 18 August 2023, MFH informed the CfH that CPSU had received the requirements and was liaising with the manufacturer to determine if they accepted to include the entitlement within their production cycle.

On 14 September 2023, the CfH was further informed that that the delivery of additional stock of the required medication was due in November 2023.

In the meantime, MFH is working on amending Schedule V, so that entitlement will be in place once stock is available.

Status last year

Pending at Ombudsman

Status

Pending at Ministry

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****HT 0042****Brief details of case**

A complaint concerning a submission to the Exceptional Medicinal Treatment Committee (EMTC) which was not approved. The patient requested a reconsideration of the case.

Action taken and management comments

On 17 June 2019, the Commissioner was informed that submissions would only be reassessed by the EMTC if the established procedures were followed. Decisions taken by the EMTC were final unless new evidence was submitted that was not previously available or considered.

The Commissioner contested the decision. On 12 August 2021, the CfH provided a list of claims which had either been refused on account of protocol regulations or based on EMTC refusal.

On 29 September 2021, the Commissioner was informed that budgetary request for 2022 had been made. On 24 June 2022, the Commissioner was informed that the requested drug was included on the agenda of the ACHCB and was to be discussed for the introduction on the formulary.

On 24 June 2022, the CfH was informed that the requested drug was on the ACHCB agenda for the consideration of its introduction on the GFL.

On 25 April 2023, the Commissioner was informed that ACHCB members recommended that the medicine in question was to be introduced on the GFL for four new conditions and claimant's condition was included in the list.

On 6 June 2023, the Commissioner requested an update on the procurement process.

On 22 June 2023, the Commissioner was informed that tender of medicine was soon to be sent for publication.

On 7 September 2023, CfH was further informed that the Department of Contracts uploaded the contract on their system and order had been placed with an approximate delivery date of mid-December.

Status last year

Pending at Ministry

Status

Pending at Ministry

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****HT 0043****Brief details of case**

A complaint concerning reimbursement for a test taken overseas since it was not available in Malta. The test had been taken at the claimant's own expense.

Action taken and management comments

On 22 August 2019, a reply was sent to the Commissioner, informing him that the Ministry did not refund tests carried out on one's own initiative overseas.

On 22 January 2020, the Commissioner was further informed that the claimant had agreed to self-fund the tests as these were not available on the Maltese NHS. The Commissioner, however, contended that it was not the claimant who had decided on such tests but the caring consultants. The Commissioner thus requested that the case be reconsidered.

On 30 January 2020, the Commissioner was informed that the claimant had been notified by the caring consultants that the test was not provided through the NHS in Malta and that it would have to be privately funded. The claimant had agreed to this.

In January 2021, the case was discussed during a meeting with the CfH.

On 24 September 2021, the Commissioner was informed that the Pathology Department at MDH had never received a request from the claimant's caring clinician to refer the test to the laboratory overseas. Since the matter had been pursued on the patient's own volition, not through the proper MFH channels and without the health authorities' formal consent, reimbursement could not be affected.

In October 2022, during a meeting with the CfH, MFH forwarded documented proof that the patient had been informed that the cost of test was not refundable, and they had agreed to undertake test on their own volition.

In January 2023, the Commissioner informed MFH that case was to be considered as closed.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department	Chief Medical Officer (CMO)
Ombudsman case reference	HT 0087
Brief details of case	A complaint concerning medicines which were not approved by the Exceptional Medical Treatment Committee (EMTC).
Action taken and management comments	<p>The case was received on 12 November 2019.</p> <p>On 15 November 2019, the CfH was informed about the EMTC protocol for reconsideration of decisions. The Commissioner, however, insisted that EMTC should reconsider the case based on his request.</p> <p>On 12 August 2021, the CfH provided a list of claims which were either refused on account of protocol regulations or based on EMTC refusal.</p> <p>On 29 September 2021, the CfH was informed that budgetary request for 2022 had been made and was agreed to in principle. The respective procurement process was to be initiated in 2022, once funds were allocated.</p> <p>On 24 June 2022, the CfH was informed that the requested drug was on the ACHCB agenda for the consideration of its introduction on the GFL.</p> <p>On 25 April 2023, the CfH was informed that ACHCB members recommended that the medicine in question was to be introduced on the GFL for four new conditions. Claimant's condition was included in the list.</p> <p>On 6 June 2023, the CfH requested an update on the procurement process.</p> <p>On 23 June CfH was informed that an appeal was filed and MFH had to wait for the outcome before proceeding further.</p> <p>On 7 September 2023, CfH was further informed that the Department of Contracts uploaded the contract on their system and order had been placed with an approximate delivery date of mid-December 2023.</p>
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****HT 0093****Brief details of case**

A case concerning a request for the approval of a medicine which was refused by the Exceptional Medical Treatment Committee (EMTC).

Action taken and management comments

The case was received on 2 December 2019.

The EMTC did not approve the requested medicine and the Commissioner was informed accordingly.

On 12 August 2021, the CfH provided a list of claims which had either been refused on account of protocol regulations or based on EMTC refusal.

On 20 June 2022, it was reconfirmed that the case was not approved by EMTC. It was also agreed that a meeting be held with the Committee with a view to concluding the case. During the meeting, concern was directed to decisions of non-approval. It was concluded that when the Ombudsman's office required replies regarding a rejection of a submission, full information was to be provided, including any recommendations made by the EMTC.

On 21 February 2023, the CfH was informed that there was not enough evidence with respect to the medicine's better efficacy in comparison to the other individual brands available on the formulary. Moreover, there was no proof showing that branded combination was better than the single generic products together and therefore the medicine could not be identified as exceptional. The Commissioner replied with a request for EMTC to reconsider this case.

On 7 March 2023, MFH replied stating that during a meeting held with EMTC, it was clarified what "exceptional medicine" means. It was explained that a medicine was not classified as exceptional if it could form part of an identified integrated treatment pathway for the whole population needing it. Moreover, it was not deemed exceptional, if approving it for a particular patient would likely cause a precedent for other patients needing the same medicine based on the requested and approved submission.

On 5 May 2023, the CfH forwarded an interim report and requested MFH's comments prior to finalisation.

On 12 June 2023, the CfH was informed that EMTC reassessed the submission of the requested medication during its last meeting and the committee decided to approve the generic combination preservative free product for this child's exceptionally rare condition.

On 18 July 2023, the Commissioner forwarded a Final Opinion report in which he confirmed the case as closed.

Recommendation by Ombudsman

Case to be reviewed once again by the EMTC with a view of approving this medicinal, in this exceptional case, as patient suffers from a rare disease.

Status last year

Pending at Ministry

Status

Closed and recommendation implemented

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****HU 0083****Brief details of case**

A complaint relating to the conduct and treatment received, action and/or inaction from the Assisted Reproductive Technology (ART) Clinic at Mater Dei Hospital and the Embryo Protection Authority (EPA).

Action taken and management comments

The case was received on 14 October 2020.

On 27 September 2021, the Commissioner was informed that female patients over 40 up to 43 years of age, were entitled to benefit from two IVF cycles. From the timeline of the events presented, it emerged that on 18 March 2020, the claimant notified the ART Clinic of the complainant's first day of her menstrual cycle. Unfortunately, the March 2020 cycle was the claimant's last entitlement before attaining the age of 43, so the ART Clinic had no other option but to initiate treatment immediately, as the EPA's decision to award a six-month extension had been on 22 March 2020. On 14 April 2020, EPA had notified the claimant of the possibility of performing another IVF cycle up to 23 October 2020.

On 4 October 2021, the CfH replied, requesting comments from ART Clinic and/or from the Chairperson of the EPA.

On 6 October 2022, the CfH was reassured that the problems that claimant encountered at the ART Clinic, were brought to the attention of the management, to reduce the chances of similar issues happening to other patients. Unfortunately, there was no option for further IVF cycles in this case since the claimant was two years over the maximum permissible age.

On 1 February 2023, CfH informed MFH that he had personally visited the ART Clinic and discussed sensitive issues with both the Embryo Protection Authority personnel and claimant and that a final decision was to be communicated to MFH once all discussions with all stakeholders are concluded.

On 3 April 2023, the Commissioner confirmed case as closed.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****CH-21-2552****Brief details of case**

A complaint regarding a submission to the Exceptional Medicinal Treatment Committee (EMTC), which was not approved. The complainant requested a reconsideration of the case.

Action taken and management comments

The case was received on 17 December 2021.

On 14 June 2022, the Commissioner for Health (CfH) was informed that:

- a. the policy drafted by the expert assigned for the purpose states that new patients were not entitled to be started on the medication requested;
- b. Consultant Psychiatrists knew the dose and frequency of administration of the medication in use needed to be adjusted until the ideal medium was found; and
- c. the current policy stands and no departures from it were envisaged.

On 16 June 2022, the CfH replied that it was unreasonable, unjust, discriminatory and unlawful that the policy excluded new patients even though there was sufficient evidence why the patient required the medication in question. The CfH requested reconsideration of the case, in accordance with Article 23 of the Social Security Act.

On 16 August 2022, the CfH was informed that the Chief Medical Officer did not have the expertise or knowledge to overturn the advice of the expert who wrote the policy. Moreover, many NHS trusts in the UK were switching patients from the requested medication to other alternatives.

On 18 August 2022, the CfH replied insisting on the approval of the requested medicine. MFH replied that the medicine in question was being replaced by other generic bio equivalent products across the UK. Unfortunately, if MFH were to allow one exception for the use of non-branded items for new patients with this diagnosis, it would be used as a precedent. This was the reason why a protocol was drawn up and agreed upon between foreign and local experts.

On 19 October 2022, a meeting was held between the CfH and MFH officials to further discuss the case. A reply was to be forwarded to the CfH after all the requested information is collated.

On 15 February 2023, the CfH was informed that the Policy decision taken was that new patients can only avail themselves from the medication that was approved and procured by CPSU. Patients who preferred to have branded items because they had bought them when they were started on the medication by their specialist, could continue procuring them. However, MFH was not obliged to either reimburse the expenses or provide the branded item.

On 16 February 2023, the CfH replied stating that procurement of small amounts through the normal route would be counterproductive as with the small amounts required their bargaining power is non-existent, access may be problematic, and it still required a lot of man-hours to procure. A simplified option where such products were to be procured from retail pharmacies would probably be more cost-effective. CfH suggested also that a voucher system would be available for such cases.

On 21 February 2023, MFH informed the CfH that extending voucher system to a variety of different branded medications would create significant logistical problems, therefore, there was no intention to extend voucher system.

On 23 March 2023, the CfH forwarded an interim report and requested MFH's comments prior to finalisation.

On 27 April 2023, MFH replied stating that EMTC was there to provide pathway for items that were not in formulary. MFH reiterated that branded items were only supplied where allowed by policy.

On 3 May 2023, the CfH forwarded his Final Opinion including recommendations to close the case.

**Recommendations
by Ombudsman**

On 14 June 2023, MFH replied stating that it was not in a position to offer financial refunds for medicines which are not available through established procurement channels.

On 18 July 2023, MFH reiterated that it did not have a system for refund of medications bought by patients. MFH is seeking solutions to address this difficult issue.

1. An adequate structure must be created or identified that deals with the individual cases that suffer adverse events when on any treatment, in this case methylphenidate. This structure should be composed of multiple stakeholders who are well versed in the matter. Simply ignoring the situation and stating that the current policy stands and no departures from it are envisaged is not acceptable.
2. MFH must consider the situation that may arise in the future once the tender for this medicine finishes and another generic is procured. Changing from a branded to a generic may already pose problems but changing from generic to generic will be a minefield as pointed out by the Ministry's expert in his report.
3. In this case, patient should be given the requested medication since:
 - a. their consultant started them on the generic medicine.
 - b. their consultant filled in the Adverse Drug Reaction form.
 - c. their consultant tried changing the dosage in order to achieve the required effects.
 - d. clinically the patient did well on mentioned medicine.

Status last year

Pending at Ministry

Status

Pending at Ministry



Sector/Department**Chief Medical Officer (CMO)****Ombudsman case reference****HV 0040****Brief details of case**

A query regarding the performance of CPR.

Action taken and management comments

The case was received on 6 April 2021. A relative of an elderly patient, who had been asked by a hospital doctor if they would want their parent to be given CPR if required, enquired:

- i. if there were any guidelines issued by the Medical Council on CPR;
- ii. what were the criteria whether a patient should or not be given CPR;
- iii. if person was lucid, did the doctors ask the patient or their relatives for consent;
- iv. if the patient was mentally disturbed, was consent required by all of their children.

On 28 April 2021, the Commissioner for Health (CfH) was informed that the Medical Council of Malta had never issued guidelines about CPR. Moreover, the decision to not perform CPR (DNR - Do Not Resuscitate) was usually made by a senior doctor, based on the clinical condition of the patient and one's quality of life. The MDH Resuscitation Committee had actively pursued the formalisation of related local guidelines, albeit with limited success. Consensus on such a delicate and controversial subject was highly problematic to reach with all the stakeholders involved, owing to different cultural, religious, and social determinants challenging the universal applicability of CPR across countries.

While no local guidelines exist and the decision to administer CPR, or otherwise, was invariably discussed with the patient (if they were lucid), the patient's relatives were often involved and informed. In instances where the patient was mentally disturbed, the next of kin was informed of the clinician's decision.

On 8 July 2021, MFH replied to the CfH's further enquiries sent on the 3 June 2021. The CfH was informed that relatives might not always be available or interested and there was usually only one legal next of kin. It was not the responsibility of the doctor to inform all relatives of any decision. The doctor only had a responsibility to deal with the patient. Protocols did not remove ethical dilemmas. Protocols allowed legal experts to question decisions made by doctors. The MDH resuscitation committee had been discussing this issue but no agreement with all stakeholders was in place. The involvement of external stakeholders was on the agenda.

On 6 August 2021, the Commissioner requested confirmation of an agreement to set up a dedicated committee regarding this issue. MFH informed the CfH that matter was to be discussed further and a Ministerial direction was awaited.

On 18 May 2022, the CfH was informed that the Committee for Do Not Attempt (DNA) CPR/ DNR had been established at MDH and was composed of several senior staff members. Despite the work done and the holding of several meetings, regretfully complete consensus on the way forward had not been achieved, so far.

On 6 October 2022, MFH informed the CfH that, despite several discussions and arduous work, no compromise agreement could be reached, particularly regarding parts of the protocol that were deemed controversial, namely the format and signatory. Nonetheless, any reported developments were to be communicated to the CfH.

On 1 February 2023, the CfH confirmed case as closed.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**Human Resources (HR)****Ombudsman case reference****HU 0057****Brief details of case**

The claimant stated that there was an ambiguous working environment resulting from unclarified definitions of roles and responsibilities about physiological measurements.

Action taken and management comments

On 5 January 2021, the Commissioner for Health (CfH) was informed that the setting up of a new register for Physiological Measurements was in process.

Several officers, including the claimant, requested the Council for Professions Complimentary to Medicine (CPCM) to consider their inclusion in the pertinent register. It was proposed that the claimant's request be kept in abeyance until the necessary legislation was approved. Upon conclusion of this process and subsequent approval of claimant's request, they will then be considered as forming part of the Allied Health stream.

On 23 July 2021, the CfH enquired about the fact that whilst the call for Electrocardiography Technicians had been issued, that for Scientific Officers (Physiological Measures) was still pending.

On 5 October 2021, the CfH was informed that CPCM approved the request for the setting up of a List for Physiological Measurements, within CPCM. The CPCM's recommendation was referred to the Superintendence of Public Health. The CfH was to be kept informed of further developments.

On 24 November 2021, the Commissioner enquired about the issuing of a call for the post of Scientific Officer in Physiological Measures.

On 8 March 2022, the CfH requested an update regarding the issuing of the call. The CfH was instantly informed that MFH had every intention to implement the sectoral agreement, as discussed and agreed with the respective union and higher authorities.

He was also informed that MFH could not implement any recommendation that was not in line with the agreed sectoral agreement provisions.

On 11 March 2022, the Commissioner stated that claimants all have the required qualifications but were still awaiting registration with the Council for Professions Complimentary to Medicines (CPCM). Therefore, as soon as Council registers the claimants, the call for applications could be issued as recommended.

On 20 May 2022, the Commissioner was informed that, the CPCM was not yet functional as the appointment of President and the selection of Registrar were still pending.

On 13 July 2022, the Commissioner was informed that the President and the Registrar commenced employment on 11 July 2022.

On 20 October 2022, the Commissioner requested a meeting to further discuss pending issues and with a view to finding a solution to the case. A meeting was scheduled for the 31 October 2022.

On 17 April 2023, the Commissioner was once again informed that a reply would be forwarded once clarifications on the issues raised were addressed and agreed upon with the union representing the classes. Negotiations of the respective collective agreement were ongoing.

On 7 September 2023, the Commissioner forwarded his Final Opinion report on the case including a recommendation.

Recommendations by Ombudsman

Separate and distinct calls should be issued for the Post of Scientific Officer – Physiological Measurements (or Clinical Physiologists) as the Chief Scientific Officer on the one hand and for ECG Technicians on the other hand. The eligibility criteria should obviously be different for the two posts so as to reflect the role that are to play in patient care.

Status last year

Pending at Ministry

Status

Pending at Ministry

Sector/Department

Human Resources (HR)

Ombudsman case reference

HU 0093

Brief details of case

The claimant complained that although requested to be on call, the related allowance was not being paid. The claimant also stated that the contact with patient allowance was not being paid and was requesting compensation backdated from 27 May 2015, when they started duties as porter.

Action taken and management comments

The case was received on 27 November 2020.

In November 2020, the complaint was referred to the People Management Division for draft terms of reply. Internal communication between People Management Division and MDH was still ongoing regarding the entitlement due to the claimant, if any.

On 26 January 2023, the CfH requested an update on the matter. It was agreed that a meeting be scheduled for the 20 February 2023 with the presence of the relevant stakeholders.

On 20 February 2023, the CfH was informed that an agreement about reimbursement has been reached with the claimant during an internal meeting between the relevant stakeholders.

On 27 March 2023, MFH informed the CfH that pending payments relating to standby allowances would be settled in next pay as confirmed by MDH salaries department.

On 8 May 2023, the Commissioner confirmed case as closed.

Status last year

Pending at Ministry

Status

Closed without recommendation

Sector/Department**Human Resources (HR)****Ombudsman case reference****CH-21-1989****Brief details of case**

A complaint by a group of employees at MDH, enquiring why they had been sent by the Department to follow a course in the UK, only to be informed that the certificates awarded were not recognised within the UK/European Qualification Network.

Action taken and management comments

The case was received on 6 May 2021.

On 10 June 2021, the Commissioner for Health (CfH) was informed that the Allied Health Directorate (AHD) offered specific training, on a regular basis, to employees working in different specialised areas. This training, which was sponsored by the Ministry, was intended to develop employees' knowledge, skills, and competencies. The claimants were not in possession of the required MQF Level 5 qualification and, therefore, were not eligible to apply for a specific post.

Meanwhile, MCAST (Malta) delivered a course of studies at MQF Level 6 and claimants could have applied for this course.

On 17 November 2021, the CfH sent another report with further enquiries and the following proposals:

1. Allied Assistants who were doing ECG studies should be promoted to ECG Technicians on a personal basis as they were in possession of qualifications, identical to the qualifications held by ECG Technicians already in employment (with PSC approval).
2. If this was not possible, a call for applications should be issued, including a clause to render these Allied Assistants eligible to apply and the reference to Physiological Measures should be deleted.

On 5 January 2022, the CfH was forwarded a detailed explanation regarding the queries raised in his report.

On 18 April 2022, the Ministry contacted the CfH to follow up on the case and the latter insisted that his proposals be addressed.

On 19 April 2022, the Commissioner was informed that regarding the first recommendation, the seven Allied Assistants concerned could not be promoted as they only possessed an award and not a qualification. The ECG Technicians referred to by CfH had been assimilated by virtue of an MoU, agreed on a one-time and personal basis. Regarding the second recommendation, a call for application for ECG Technicians, with eligibility requirements specifically aimed at addressing the 7 claimants' circumstance could not be issued, since the call for applications needed to reflect the provisions of the Sectoral Agreement, including required qualifications.

On 22 April 2022, the Commissioner forwarded further queries which were passed on the Ministry's Legal Office for advice.

On 20 October 2022, the Commissioner requested a meeting to further discuss pending issues and with a view to find a solution to the case. The meeting was scheduled for the 31 October 2022.

On 15 November 2022, MFH confirmed that the latter could not assimilate or accept claimants as eligible for the call for ECG Technicians, since they did not satisfy the eligibility criteria requested in the said call for applications. He was also informed that discussions were held with the Union concerned, during which MFH offered claimants a top-up qualification, with a current education provider (MCAST), to enable them to apply for the call for applications for ECG Technicians, after successful completion of the course. Regrettably, claimants refused this offer.

In December 2022, the Commissioner requested clarifications from OPM.

On 3 February 2023, OPM replied to the Commissioner that since MFH was the more informed and versed party on the specifics of the matter (such as related sectoral agreement provisions, contents of calls for applications, eligibility requirements, duties, etc.), clarifications were best sought from MFH. On IRU's part, it was confirmed that no effort was or would be spared to reach a fair and equitable resolution for all, not only in this case but in all other matters that were raised during the negotiation period.

**Recommendations
by Ombudsman**

On 17 April 2023, the CfH was once again informed that a reply would be forwarded once clarifications on the issues raised are addressed and agreed upon with the Union representing the classes. Negotiations of the respective collective agreement was ongoing.

On 3 July 2023, the Commissioner forwarded an interim report and requested MFH's comments prior to finalisation.

On 3 August 2023, the Commissioner forwarded his Final Opinion report on the case including recommendations.

1. Allied Assistants who were doing the ECG studies be promoted to ECG Technicians on a personal basis as they had the qualifications needed, identical to the qualifications to those ECG Technicians who were already in employment.
2. If for some specific reason this was not possible, a Call for Applications should have been issued, and a clause which made them eligible to apply should have been included. No reference to Physiological Measurements was to be included in the call for ECG Technicians.
3. Matter should have been taken up in the next Sectoral Agreement so as proper nomenclature was used to avoid similar problems in future.
4. MFH should have explored the possibility to create a course for ECG Technicians, possibly with MCAST for the prospective candidates to be able to obtain a diploma or degree as required by the Sectoral Agreement.

Status last year

Pending at Ombudsman

Status

Pending at Ministry

Sector/Department**Human Resources (HR)****Ombudsman case reference****CH-21-2477****Brief details of case**

A complaint about the delay to receive an appointment for eye examination at health centres.

Action taken and management comments

The case was received on 17 November 2021.

On 5 January 2021, the CfH was informed that the Department of Primary Health Care's resourcing situation was very grave and this despite the PHC's active pursuit to engage additional optometrists which had unfortunately proved unsuccessful. Mater Dei Hospital (MDH) had its own resourcing deficiencies and was unable to support without generating a backlash on its own related services.

On 4 February 2022, the Commissioner suggested that the registered Optometrists be contacted and asked if they were willing to give part-time services.

On 25 February 2022, the Commissioner was informed that the conjoined exercise undertaken by the People Management Division and the Allied Health Services Directorate proved unsuccessful as the Optometrists in Public Service employment was not able to work extra hours at PHC. Nevertheless, the PHC was exploring the possibility of procuring external optometry services.

After a series of correspondence, on 15 July 2022, the Commissioner was informed that following internal discussions between the office of the CMO and that of Ophthalmology, it was agreed that two Consultant Ophthalmologists be appointed - with part of their job plan covering outpatient sessions at health centres. Additionally, a foreign ophthalmologist, expressed interest in working with MFH and if found eligible, he would be engaged, thus aiming at minimising the backlog at health centres. In the meantime, and until all the above initiatives came into effect, an extension of employment for current available optometrist was issued.

On 31 August 2022, the Commissioner stated that situation was still the same as in November 2021 and the lists of people requesting the service was getting longer.

On 26 October 2022, the Commissioner was informed that two calls for applications for Ophthalmologist were issued - one was generic and the other with a special interest in Vitreo-Retinal. A successful applicant had already been appointed in the Vitreo-Retinal post. However, the call for applications for Consultant Ophthalmic Surgeon was on hold, owing to the filing of a petition as well as a Prohibitor Injunction before a court of law. Furthermore, a call for applications for the post of Allied Health Professional (Optometry) was published on Friday, 21 October 2022.

On 30 November 2022, CfH requested an update on the case.

On 11 January 2023, the CfH was informed that the post of Optometrist had been vacant for several months. The PHC Ophthalmologist was also providing an Optometry service, on a part-time basis. This service had been suspended temporarily, since the PHC Ophthalmologist had reached retirement age. An Optometrist Trainee was appointed on 13 September 2019, and was performing pre-registration training. It was envisaged that this training would be concluded on 3 October 2024.

Moreover, as from January 2023, 2 PHC GPs started the Special Interest Training in Ophthalmology in collaboration with MDH and it is envisaged that this training be completed in the first quarter of 2024. In the meantime, a call for the Post of Allied Health Professional (Optometry), on a full-time/part-time basis, was issued.

MFH was informed that on 7 February 2023, the CfH had closed the case.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**Human Resources (HR)****Ombudsman case reference****CH-21-2509****Brief details of case**

A complaint by a group of Environmental Health Practitioners, alleging that they were affected negatively by the sectoral agreement for Environmental Health Officers signed in October 2021.

Action taken and management comments

The case was received on 24 November 2021.

On 21 December 2021, the CfH was informed that during negotiations between MFH and UHM on a new agreement for Environmental Health Officers (EHOs), UHM had, as was the case over the years, requested that the agreement reflect the Allied Health Professionals' agreement. The agreement was being implemented correctly and as was mutually agreed and signed by both parties.

On 31 January 2022, the Commissioner replied enquiring about the alleged discrimination between officers in a specific grade, together with an explanation for the rejection of the Union's request.

On 12 April 2022, MFH replied to CfH, informing him that 12 EHOs, who previously held the grade of Assistant Principal, were not assimilated into the grade of Higher Environmental Health Practitioners. On the other hand, 13 EHOs, who previously held the grade of Principal, were assimilated as Higher Environmental Health Practitioners. This practice reflected the AHP sectoral agreement.

In July 2022, a meeting was held between MFH officials and CfH to discuss pending clarifications.

On 10 August 2022, the CfH was informed that MFH received a judicial protest from this group of employees. MFH did not file a reply. This was decided following legal consultation. Nevertheless, MFH informed the Union that the requests made by the Union on behalf of this group of employees and which was reflected in the judicial protest, was not acceded to. The Union acknowledged this decision.

On 20 October 2022, the Commissioner requested a meeting to further discuss pending issues and with a view to find a solution to the case. A meeting was scheduled for the 31 October 2022.

In January 2023, meetings between MFH and OPM were held to discuss the issue further.

On 15 February 2023, OPM forwarded a detailed reply to the CfH.

On 2 June 2023, the Commissioner forwarded an interim report and requested MFH's comments prior to finalisation.

On 10 August 2023, the CfH forwarded his Final Opinion report which included his final recommendations.

On 25 August 2023, MFH replied addressing the Commissioner's recommendations.

Recommendation 1 - This recommendation cannot be upheld. This office was informed that the then Assistant Principals and Principals performed different duties, according to their respective grade. Upon assimilation to Environmental Health Practitioners, this distinction in duties was nevertheless maintained.

Recommendation 2 - Note has been taken of this recommendation and will be submitted for discussion during the forthcoming Sectoral Agreement negotiations.

Recommendations by Ombudsman

1. The complainants should be reinstated at par with their colleagues, that is at the same salary scale with the same allowances since they should never have been treated differently from them, based solely on an obsolete nomenclature.
2. This should definitely be kept in mind as a priority in the coming sectoral agreement negotiations. If it is thought that a distinction in between any two groups is justified the two counterparts involved in the negotiations should base this distinction on objective criteria that are currently valid and not refer to nomenclature which was superseded.

Status last year

Pending at Ombudsman

Status

Pending at Ombudsman

Sector/Department**Human Resources****Ombudsman case reference****CH-21-2530****Brief details of case**

An allegation that despite the rules of the Malta Psychology Profession Board (MPPB), a colleague of the complainant had been appointed as Psychology Practitioner notwithstanding, they were not qualified.

Action taken and management comments

The case was received on 9 December 2021.

On 8 February 2022, the Commissioner was forwarded a report with a trail of events and all the related documentation justifying the decisions taken by the Board.

On 14 February 2022, the Commissioner forwarded a communication from the claimant, insisting that the person who was chosen for the post of Practitioner did not fulfil the eligibility criteria of the post. The claimant also alleged unfair treatment by the MPPB.

On 16 February 2022, the CfH was informed that the Chairperson of the Selection Board confirmed that the person identified by the claimant had applied for the call for applications for Psychology Practitioner and had satisfied the eligibility criteria of the call for applications. The qualification of the appointee was suitable for warranting, on account of the advice given by the MPPB. Moreover, the selected candidate had produced an evaluation of their qualification from the National Commission for Further and Higher Education, and they were found eligible through the selection exercise during their interview.

The Chairperson, Selection Board also stated that the claimant had withdrawn their application for the post. Regarding the alleged unfair treatment on the part of the MPPB, the matter needed to be pursued directly with the same board which fell under another Ministry.

On 2 January 2023, the Commissioner confirmed case as closed.

Status last year

Pending at Ombudsman

Status

Closed without recommendation



Sector/Department**Mater Dei hospital (MDH)****Ombudsman case reference****HS 0075****Brief details of case**

An issue concerning MCAST certification at MQF Level 3, which was not deemed as sufficient when candidates applied for a particular technical post.

Action taken and management comments

The case was received on 14 October 2019.

On 12 December 2019, a reply was sent to the Commissioner together with the two requested files.

In July 2020, the Commissioner was informed that internal discussions with MDH management were ongoing concerning working conditions, including MCAST certifications of staff in this technical post.

On 23 March 2021, the Commissioner was informed that the process of establishing a shift pattern was awaiting finalisation but until this was agreed upon by all stakeholders, no calls for applications for vacancies in the post were to be issued.

On 16 September 2021, the Commissioner queried whether the group of technicians making the claim could be taken into consideration and a pertinent clause be included in the agreement.

On 27 September 2021, the Commissioner was informed that to progress in the stream, public officers were to be granted every opportunity to follow recognised top-up courses that would take cognisance of prior learning and experience.

On 4 October 2021, the Commissioner requested further clarification regarding the call for applications.

On 7 January 2022, the Commissioner was informed that calls for Decontamination and Sterilisation Technicians were always issued externally, in accordance with the provisions of the pertinent sectoral agreement. Eligibility requirements were tied to qualifications at MQF Level 3, 4 or 5, but surely not In July 2020, the Commissioner was informed that internal discussions with MDH management were ongoing concerning working conditions, including MCAST certifications of staff in this technical post.

On 12 January 2022, the Commissioner forwarded his proposal, stating that a one-time only clause was to be inserted in the agreement so that claimants would not be penalised and would be given the opportunity to apply when a future call for applications would be issued.

On 21 July 2022, the Commissioner was informed that calls for applications were issued in line with the respective sectoral agreement. CfH's proposals were not reflected in the respective sectoral agreement provisions and hence could not be included in the call for applications, as it would place the Ministry in breach.

On 27 July 2022, CfH enquired once again if his request was taken into consideration.

On 16 August 2022, the Commissioner was informed that although the request was for a one-time agreement, MFH could not accede to this suggestion. When a call was published as "external", benchmarks were to be maintained as directed centrally and by benchmarking requirements, the new recruits were to be in possession of a qualification and not an award. Moreover, they could not be considered as Serving Officers, as they were contractual workers.

On 31 October 2022, a meeting was held between MFH and CfH to discuss the matter further.

On 15 November 2022, MFH confirmed that as explained during the meeting held between MFH and CfH, the contractual employees concerned would need to read for a MQF Level 3 Qualification at MCAST. This would enable them to obtain a Diploma in Applied Science at MQF Level 3, and subsequently apply for the Public Call for Applications for Decontamination & Sterilisation Technicians, when this was published. He was also informed that an agreement had been reached with MCAST, for the creation of a top-up qualification course, at MQF Level 4, for Public Officers who were already in the said class. CfH replied that a meeting was to be held by his Office with claimants to enquire whether they were interested in following a top-up course, and his Office would approach MCAST with a view to create such a course.

In January 2023, the Commissioner notified MFH that claimants were not interested in following a top-up course and confirmed case as closed.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**Mater Dei Hospital (MDH)****Ombudsman case reference****HT 0044****Brief details of case**

A complaint concerning certain protocols within MDH which, it was claimed, required review.

Action taken and management comments

The case was received on 25 June 2019.

The Commissioner sent several queries related to this case. These queries were referred to CEO (MDH) who replied, copying in legal counsel, that since the case was under a magisterial inquiry, MDH will refrain from making any comments for the time being. The Commissioner replied that his query did not impact the magisterial inquiry. A reply was sent by MFH on 9 August 2019, after consulting with legal counsel that no comments will be made at that stage.

On 3 August 2021, the Commissioner informed MFH that the magisterial enquiry had been concluded and requested a reply to his first communication dated 25 June 2019. The Legal Officer at MFH filed an application to be given the relative results and the outcome of the magisterial enquiry was awaited.

On 19 July 2022, the CfH was informed that MDH was not aware of any developments on the police investigation, despite efforts to that same effect.

On 15 February 2023, the CfH informed MFH that the Assistant Police Commissioner confirmed that the case was closed. MFH's comments were requested afresh.

On 13 March 2023, the CfH was informed that the patient did not follow the timings of the standard procedures which were clearly communicated to them. The CfH required further clarifications and also requested the patient's file with a view to finalise the case.

On 6 June 2023, the CfH was informed that the European Health Insurance Card's intended use was only for tourists visiting Malta on a short-term stay. Claimant was told that no charges were to be paid after it was proven that National Insurance was, in fact, being paid.

On 29 August 2023, the Commissioner forwarded his Final Opinion report which included his final recommendations.

On 20 September 2023, MFH replied addressing the Commissioner's recommendations: -

Recommendation 1 – a clear interpretation was forwarded with regards to the use of the European Health Insurance Card (EHIC) in general and use of EHIC in pregnancy and childbirth cases.

Recommendation 2 – MFH agreed that original medical files are to be invariably retained by hospitals, even in the case of Magisterial Inquiries. A certified true copy of the requested file is to be forwarded, after the authorization from the head of department or a designated authority would have been obtained. Policies or SOPs will be revised to be in line with this recommendation.

On 22 September 2023, the Office of the Commissioner for Health informed MFH that case was being considered as closed.

Recommendations by Ombudsman

1. The Entitlement Unit has a clear interpretation of what is actually covered through the European Health Insurance especially in the field of Obstetrics which is subject to special considerations.
2. The medical file or a copy of it should always be retained by Mater Dei Hospital even when Magisterial Inquiries occur. It is inconceivable that no medical file is kept at MDH as the original is taken by the court-appointed experts, and the only copy having to be obtained from the archives of the Attorney General's Office. The original medical file or at least a copy should be retained in hospital for and if the patient is readmitted for other medical reasons.

Status last year

Pending at Ombudsman

Status

Closed and recommendations implemented

Sector/Department

Mater Dei hospital (MDH)

Ombudsman case reference

CH-21-2540

Brief details of case

A complaint regarding Health Authorities in Malta. The claimant alleged that Health Authorities were ignoring human rights, with conduct unfit of their titles.

Action taken and management comments

The case was received on 9 December 2021.

On 10 January 2022, the CfH was informed that his recommendation for the MDH Medical Director and the MDH Clinical Risk Manager to meet the claimant and offer guidance on the complaint had been noted. He was further informed that from a review of the medical notes it transpired that the claimant attended several MDH outpatient clinics, across various specialties. In November 2021, the claimant had failed to turn up for one of their outpatient appointments and was given a new follow-up appointment with the respective consultant.

The complaint made no specific reference to any episode of care given at MDH. However, the complainant mentioned that the grievances had been referred to the Medical Council. It was, therefore, deemed appropriate to allow the Medical Council to carry out its own assessment of the claimant's grievances.

On 14 January 2022, the CfH suggested once again that MDH management meets the claimant.

Following a meeting held on 8 February 2022, between claimant, MDH Management and CfH, it was reaffirmed that the issues raised did not pertain to MDH but to the Medical Council. This notwithstanding, MDH management offered the claimant the possibility of substituting the consultant originally assigned, as well as the opportunity to attend further outpatient's follow-up appointments.

On 25 April 2023, MFH informed CfH that the Medical Council had communicated its decision directly to claimant where it was explained that there are instances where particular conditions cannot be fully treated. However, the claimant was assured that the hospital's healthcare professionals will continue to assist them with the most effective treatment available.

On 6 July 2023, the Commissioner confirmed case as closed.

Status last year

Pending at Ministry

Status

Closed without recommendation

Sector/Department**Superintendence of Public Health (SPH)****Ombudsman case reference****HR 0017****Brief details of case**

A claim by three individuals who stated that their pay was pegged below their role and responsibility.

Action taken and management comments

The case was received on 3 March 2017.

MFH communicated repeatedly with the CfH informing him that the outcome of this claim was dependent on ongoing negotiations with the pertinent union. The case was delayed for this reason.

On 19 January 2021, the Commissioner insisted that the claimants' request to be paid the difference in pay for the stated period should have been favourably considered. The CfH was informed that the claim could not be acceded to.

On 31 May 2021, the Commissioner once again enquired why this claim could not be favourably considered.

On 22 February 2022, the Commissioner was informed that the favourable consideration of this case would have created a precedent. The CfH replied asking for clarifications.

On 27 July 2022, the Commissioner was presented with a detailed reply. The Commissioner replied insisting that his suggestion was to be implemented.

On 12 October 2022, during a meeting held at the Office of the Ombudsman between MFH officials and the CfH, it was explained why the claimants' concern could not be acceded to. A written statement from MFH followed on 17 October 2022, to which the CfH forwarded the claimants' feedback and requested further explanation.

On 5 January 2023, MFH forwarded a detailed reply to the Commissioner.

On 30 May 2023, the Commissioner scheduled a meeting with all the stakeholders with a view to finalise the case.

On 22 June 2023, during the meeting with all stakeholders it was decided that the Industrial Relations Unit reassesses the case and reverts with a final decision.

On 14 August 2023, the Commissioner was informed that request for payments had been accepted and claimants were to receive the respective amounts in full and final settlement to the case.

On 22 August 2023, the Commissioner was further informed that the Office of the Superintendence of Public Health prepared the necessary documentation and claimants had already signed the declaration. Declarations were being processed and claimants were to receive the respective reimbursements.

On 13 September 2023, the Commissioner confirmed case as closed.

Status last year

Pending at Ministry

Status

Closed without recommendation

Sector/Department**Superintendence of Public Health (SPH)****Ombudsman case reference****HR 0054, 55, 56, 57, 58****Brief details of case**

Cases raised by two complainants concerning a management issue at the place of work.

Action taken and management comments

The case was received on 29 August 2017.

MFH stated that the outcome of the case was dependent on negotiations with the pertinent union, which were ongoing. Various meetings have been held with the officers and union representing them to find a solution. The delay resulted from a complicated case which required the involvement of meetings with the OPM Industrial Relations Unit to address the issues raised. Restructuring initiatives have been taken to ensure that the place of work was accredited, and for all staff to work coherently.

On 8 May 2020, the Commissioner's Final Opinion was referred to MFH. The Commissioner requested feedback on the action which MFH intended to take in line with his recommendations

In June 2020, a Board of Inquiry was set up to review the case and it reached its conclusions.

On 28 September 2021, the Commissioner enquired about the status of the case.

On 12 October 2022, during a meeting held at the Office of the Ombudsman between MFH officials and CfH, the case was re-discussed, and the following were agreed to:

1. A new post of Director of Public Health Laboratory be created.
2. A call for applications be issued at the earliest and
3. The Public Health Laboratory be under the responsibility of the Superintendent of Public Health.

On 10 July 2023, a meeting was held at the Office of the Commissioner for Health with different stakeholders with a view to conclude the case.

On 27 July 2023, the Commissioner was presented with a detailed report of the situation at the Public Health Laboratory and a proposed way forward.

In October 2023, the Commissioner verbally informed MFH that meetings are being held with claimants in view to solve the pending issues. A final meeting is to be scheduled by the Commissioner's office with all the stakeholders involved.

Recommendation by Ombudsman

1. A new post of Director of Public Health Laboratory be created.
2. A call for applications be issued as soon as possible.
3. The Public Health Laboratory be under the responsibility the Superintendent of Public Health

Status last year

Pending at Ministry

Status

Pending at Ombudsman

Sector/Department	Superintendence of Public Health (SPH)
Ombudsman case reference	HS 0031
Brief details of case	<p>A case relating to a query on whether the frozen breast milk that the complainant attempted to import to Malta was to be deemed as food in accordance with the Food Safety Act of 2002.</p>
Action taken and management comments	<p>The case was received on 30 May 2018.</p> <p>The Ministry referred the case to the SPH and informed the Commissioner that discussions were being held regarding the possibility of issuing a Legal Notice. In July 2020, the Commissioner suggested that SPH confirm their position that a Legal Notice was not to be issued.</p> <p>In September 2021, the case was discussed again with the CfH and it was agreed that the Commissioner communicates with the claimant's lawyer to clarify whether the case was still being pursued by the claimant. On 4 October 2021, the CfH notified MFH that the claimant's lawyer was still insisting on a reply.</p> <p>On 25 October 2022, the CfH was informed that the consignment containing human breast milk could not be released in view of the public health risk posed by the product. This was in terms of the provisions of the precautionary principle laid out by the Food and Safety Act.</p> <p>On 2 January 2023, the Commissioner confirmed case as closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department**Superintendence of Public Health****Ombudsman case reference**

HU 0102

Brief details of case

A claim stating that their child's swab test was lost, and they had to postpone travel and do the test privately. The claimant requested reimbursement of the expenses as the services promised had not been provided.

Action taken and management comments

The case was received on 18 December 2020.

In December 2020, the complaint was referred to SPH for draft terms of reply. Subsequently, SPH sought legal advice.

On 23 August 2021, the CfH was informed that the Government of Malta and its authorities could not be held responsible for personal travel arrangements and any consequential losses or inconvenience caused by the timing of test results. The government was neither legally bound to provide such tests free-of-charge nor within a stipulated period mandated by law. The timing attached to the issue of test results was variable on account of several factors which extended beyond the control of the health authorities.

On 25 October 2021, the CfH replied that the claimant was insisting that the issue was not about a delay, but about a result which was never issued at all and to date no result was ever forwarded. MFH forwarded the case for legal advice.

On 17 January 2023, the CfH requested an update on the case.

On 20 January 2023, MFH forwarded a reply together with a report submitted by the Legal Office.

On 2 February 2023, CfH was further informed that there never was a timeline for the delivery of rapid test results within 24 hours, considering the fact that travel conditions stipulated a timeline of 48 hours for a rapid test and 72 hours for a PCR test. It was also clarified that the request, referred to in this case, was for a PCR test and not a rapid test.

CfH replied insisting that if the department accepted the test, then it was the department's responsibility to issue a result in a timely manner.

On 6 April 2023, the CfH forwarded an interim report and requested MFH's comments prior to finalisation.

On 17 April 2023, MFH forwarded a detailed legal reply to the CfH.

On 12 July 2023, the CfH forwarded his Final Opinion report which included his recommendations.

On 28 August 2023, the CfH was informed that MFH would accept to reimburse the cost of the Covid-19 test carried out in the private sector subject to the prior presentation of the invoice. Payment would be made in full and final settlement of all claims and that no further claims would be lodged by claimant against the Superintendent of Public Health.

On 30 September 2023, the claimant signed the declaration and accepted the reimbursement in full and final settlement.

On 13 October 2023, the Commissioner confirmed case as closed.

Recommendation by Ombudsman

The costs borne by the claimant that were incurred due to the lost sample, should be reimbursed against proof of payment.

Status last year

Pending at Ministry

Status

Closed and recommendation implemented

Sector/Department**Superintendence of Public Health (SPH)****Ombudsman case reference****CH-21-2239****Brief details of case**

A query on a report submitted by the Council for the Professions Complementary to Medicine regarding the registration of Clinical Physiologists.

Action taken and management comments

The case was received 22 July 2021.

On 25 February 2022, the CfH was informed that discussions on the recommended inclusion of clinical physiologists as a registrable profession were ongoing and that stakeholder meetings were to be held to this effect.

On 13 May 2022, the CfH was informed that a call for applications was re-issued on 8 April 2022. The selection board's report was expected by the second week of June 2022.

On 2 June 2022, the Commissioner requested further clarifications.

On 14 June 2022, the Commissioner was informed that the People Management Division at MFH was obliged to issue calls for applications in line with the applicable sectoral agreement. Departures were not allowed.

On 16 June 2022, the Commissioner replied that the call for applications for ECG Technicians should not include any reference to Physiological Measurements and that a separate call for applications should be issued for Scientific Officers (Physiological Measurements).

On 13 July 2022, the CfH was informed that MQF Level 6 in Physiological Measurements was the only pathway for eligibility into the ECG Class. This replaced the previous MQF Level 5. Calls for applications must reflect the provisions of the applicable sectoral agreement.

On 21 July 2022, the Commissioner forwarded a report including further enquiries.

On 19 October 2022, a meeting was held between the CfH and MFH officials to discuss the case further.

On 31 October 2022, MFH was awaiting feedback from CfH.

Both internal meetings and meetings with the CfH were held to discuss the way forward. Pending issues were related to industrial relations matters and the drafting of the new collective agreement.

On 17 April 2023, the Commissioner was once again informed that a reply would be forwarded once clarifications on the issues raised are addressed and agreed upon with the union representing the classes. Negotiations of the respective collective agreement were ongoing.

On 3 July 2023, an interim report was sent by the Commissioner for Health in which two recommendations were forwarded.

On 3 August 2023, the Commissioner forwarded his Final Opinion report on the case including recommendations.

Recommendations by Ombudsman

1. A register held by the Council for the Professions Complimentary to Medicine for Clinical Physiologists should be created.
2. All the necessary steps for this registration to materialise should be implemented without further delay by the responsible authorities.

Status last year

Pending at Ombudsman

Status

Pending at Ministry

Sector/Department**Superintendence of Public Health****Ombudsman case reference****CH-21-2395****Brief details of case**

A complaint by an Association, contesting the qualifications required for registration as Medical Physicist in view of the established recommendations by the EU and the International Atomic Energy Agency.

Action taken and management comments

The case was received on 1 October 2021.

On 25 February 2022, the Commissioner was informed that discussions were ongoing and that stakeholder meetings were to be held to this effect.

On 20 May 2022, the CfH was informed that, the Council for the Professions Complementary to Medicine (CPCM) was not yet functional as the appointment of President and the selection of a Registrar were still pending. Nonetheless, once functional, the CPCM would need to:

- a. liaise with the respective registered association/s responsible for different areas indicated, with a view to draw up the criteria for registration of such health professionals; and
- b. present the criteria for specialisation and outline the regulatory structure of the respective profession and amend the law as necessary, following which interested persons could then apply and proceed for evaluation.

Once applicants meet the established criteria, they were to be registered in their respective field. This was quite a lengthy process. Therefore, until the official changes enter effect, calls for application would continue to be published in line with applicable sectoral agreement and the approved structure, as agreed with the representative union.

On 3 August 2022, the CfH replied requesting clarifications regarding the calls for applications.

On 23 August 2022, the CfH was informed that the People Management had no objection to attend a meeting with the Association in the presence of the Director responsible for Allied Health Services. Moreover, he was informed that calls for applications were published in line with the respective sectoral agreement and a Master's degree in Medical Physics was an eligibility requirement for the post.

Several meetings were held with CfH and CPCM, with a view to agree on pending queries and conclude the matter.

On 28 August 2023, the Commissioner forwarded his Final Opinion on the case and included his recommendation.

On 19 September 2023, MFH forwarded a report by CPCM to the CfH in which a detailed explanation was given in view of the CfH's recommendations.

On 22 September 2023, MFH received a letter from the legal advisor of the Association. MFH informed the CfH that in the light that the matter was raised before the Office of the Ombudsman and a Case was instituted, to which communications were still being exchanged between both offices, the documentation received diverged from normal procedural requirements.

MFH requested CfH to notify his clients accordingly.

Recommendations by Ombudsman

1. The regulation of any health care profession should be as exact and precise as possible to avoid ambiguity. It should not be subject to interpretation as it may otherwise be abused of. Avoiding all possible ambiguities is mainly the responsibility of the regulator who should safeguard the health and wellbeing of our public.
2. CPCM should not abrogate its responsibility of making sure that the regulated professions of which it is responsible are of the highest calibre possible and regulating this responsibility to an educational entity over which they have no jurisdiction, and no control is simply best avoided.

Status last year

Pending at Ombudsman

Status

Pending at Ombudsman

Sector/Department**Superintendence of Public Health (SPH)****Ombudsman case reference****CH-21-2558****Brief details of case**

A complaint concerning a missed flight by a couple as they had a double result for a Rapid Antigen Test, one result indicated Reactive (Positive) and the other was Not Reactive.

Action taken and management comments

The case was received on 27 December 2021.

On 11 August 2022, the CfH was forwarded with a detailed reply for the Director (Legal Services) at MFH.

On 12 August 2022, the CfH forwarded further queries which were passed on to the Legal Office for further guidance.

In November 2022, during a meeting held at the office of the Commissioner, it was explained that when MFH was re-assessing the case, it transpired that claimant did not use all the available routes for redress, prior to forwarding their complaint. A detailed trail of events was explained verbally to the Commissioner during the said meeting.

On 24 March 2023, the CfH confirmed case as closed.

Status last year

Pending at Ministry

Status

Closed without recommendation



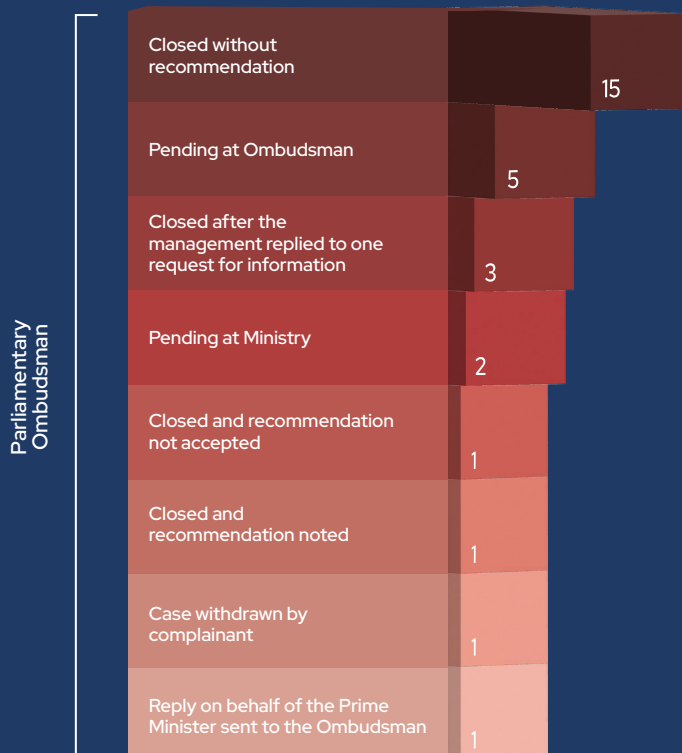


**MINISTRY FOR
HOME AFFAIRS,
SECURITY, REFORMS
AND EQUALITY**

In 2022, 29 cases were referred by the Ombudsman to the Ministry for Home Affairs, Security, Reforms and Equality (MHSR). 15 cases were closed without recommendation, whilst three cases were closed after the management replied to one request for information. One case was closed and the recommendation noted, and one case was closed and the recommendation made was not accepted. One case was withdrawn by the complainant. Another case was referred to the Prime Minister in terms of Article 22(4) of the Ombudsman Act. A reply regarding this case was sent to the Ombudsman. On 31 October 2023, two cases were pending at the Ministry and five cases were pending at the Office of the Ombudsman.

There were 11 cases which had been pending from previous years. Five cases were closed and the recommendation/s made have been implemented. Two cases were closed without recommendation. One case was pending at the Ministry, while three cases were pending at the Office of the Ombudsman.

MHSR Total Cases 2022 - 29



MHSR
Parliamentary Ombudsman 2022



Sector/Department	Armed Forces of Malta (AFM)
Ombudsman case reference	OMB-22-2824
Brief details of case	A complainant, through their lawyer, argued that two warrant officers were given backdated promotions to Lieutenant even though they did not attend the Late Entry Officer Course (LEOC).
Action taken and management comments	<p>The case was received on 17 October 2022.</p> <p>On 31 January 2023, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied to the Office of the Ombudsman, stating that the complainant had to attend the LEOC to be eligible for a commission to the rank of Lieutenant.</p> <p>The two warrant officers referred to by the complainant had been due for their commission before the LEOC requirement was introduced (pre-2011).</p>
Status	Pending at Ombudsman

Sector/Department	Armed Forces of Malta (AFM)
Ombudsman case reference	OMB-22-2902
Brief details of case	A complaint by an Armed Forces of Malta (AFM) official, alleging that they were prevented from sitting for the promotion exercise notwithstanding having lodged an interest for the promotion.
Action taken and management comments	<p>The case was received on 11 July 2022.</p> <p>On 4 August 2022, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied to the Ombudsman, stating the established criteria and procedure for the vacancies in question.</p> <p>MHSR received further correspondence on 14 November 2022, querying why the complainant had not been informed that no vacancy existed at the time they presented their application.</p> <p>MHSR replied on 26 December 2022, stating that it was the complainant's responsibility to read through the order which was published on 25 February 2022.</p> <p>A meeting was held on 11 January 2023 at the Ombudsman's office where AFM officials explained the whole process to the Ombudsman.</p> <p>On 31 October 2023, MHSR was informed that the Ombudsman had closed the case.</p>
Status	Closed without recommendation

Sector/Department	Civil Protection Department (CPD)
Ombudsman case reference	OMB-22-3038
Brief details of case	The complainant requested backdated salary increases as well as the grant of a service pension even though they have not been in Civil Protection Department (CPD) employment for over 10 years.
Action taken and management comments	<p>The case was received on 3 August 2022.</p> <p>On 5 September 2022, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied that the complainant's current role was not related to the responsibilities of the respective nomenclature since they were not performing their duties as an Assistance and Rescue Officer (ARO).</p> <p>On 17 November 2022, the Office of the Ombudsman requested further information on the ARO job description and whether the sectoral agreement contemplated the possibility of CPD employees being transferred to other departments within the public service or public entities to carry out their duties.</p> <p>Several correspondence was exchanged between MHSR and the Office of the Ombudsman, regarding the sectoral agreement and the CPD Pensions Regulations.</p> <p>On 23 October 2023, the Ombudsman closed the case.</p>
Status	Closed without recommendation
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Sector/Department	Correctional Services Agency (CSA)
Ombudsman case reference	OMB-22-2797
Brief details of case	The complainant alleged that they were detained illegally for 28 days.
Action taken and management comments	<p>The case was received on 12 July 2022.</p> <p>On 28 September 2022, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied to the Office of the Ombudsman explaining the procedure regarding the loss of remission.</p> <p>On 28 December 2022, the Ombudsman wrote to MHSR, stating that there had been no administrative and procedural shortcomings in the case, and proceeded to close the case, after finding that the complaint was not justified.</p>
Status	Closed without recommendation

Sector/Department	Correctional Services Agency (CSA)
Ombudsman case reference	OMB-22-3173
Brief details of case	A complaint regarding an inmate at Corradino Correctional Facility (CCF), alleging theft of personal belongings from the facility.
Action taken and management comments	<p>The case was received on 5 May 2023. The Office of the Ombudsman queried whether an investigation was being carried out on this report and what progress has been made.</p> <p>The Ministry for Home Affairs, Security, Reforms and Equality (MHSR) informed that a police investigation on this case was in process.</p>
Status	Pending at Ministry

Sector/Department	Correctional Services Agency (CSA)
Ombudsman case reference	OMB-22-3294
Brief details of case	<p>A complaint regarding an inmate at the Corradino Correctional Facility (CCF) who alleged that they had been subjected to:</p> <ul style="list-style-type: none"> • racist comments, rudeness and disrespect towards them by the “new officers”. • solitary confinement for ten days without explanation. • spraying pepper spray directly in their eyes. • having been locked up in their cell for three days. • vaccination without their consent.
Action taken and management comments	<p>The case was received on 9 November 2022.</p> <p>On 29 March 2023, the Correctional Services Agency (CSA) replied that the complainant had various reports of aggressive behaviour towards other inmates and consequently, pepper spray had been used on one occasion to stop a physical altercation with another inmate. After this incident, the complainant was examined by a doctor.</p> <p>CSA stated also that the complainant had been given the COVID-19 vaccine. At no point did the complainant refuse, although they claimed fear of needles.</p>
Status	Pending at Ombudsman

Sector/Department**Identity Malta Agency (IMA)****Ombudsman case reference****OMB-22-2593****Brief details of case**

A complaint regarding an expired identity card which was not renewed by the Non-EU section of Identity Malta Agency (IMA), notwithstanding that all the documents requested by the Agency had been provided and the Court judgement, convicting the complainant had been *res judicata* for two years.

Action taken and management comments

The case was received on 7 February 2022.

The Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied on 4 March 2022, explaining that IMA was in receipt of a non-recommendation for approval on the grounds of public security and public policy.

Further internal discussions on this case were being held.

Status

Pending at Ministry

Sector/Department**Identity Malta Agency (IMA)****Ombudsman case reference****OMB-22-2650****Brief details of case**

A complaint regarding a pending application for single permit.

Action taken and management comments

This case was not referred by the Ombudsman through the usual channels but had been referred and addressed by the customer care section.

On 7 March 2022, the complainant had sent an email to the Single Permit Section, enquiring about the collection of their residence card.

The Single Permit Section confirmed the residential address of the complainant, and the residence card was collected on 15 March 2022.

Status

Closed without recommendation

Sector/Department**Identity Malta Agency (IMA)****Ombudsman case reference****OMB-22-2760****Brief details of case**

A complaint regarding D-Visa applications as well as residence permit applications. The complainant argued that they were being discriminated against due to their nationality and considered the delays in processing their D-Visa applications as unfair and unjust.

Action taken and management comments

The case was received on 12 April 2022.

MHSR replied on 27 April 2022, stating that the complainant had been informed that no further processing of the visa application was possible within a short and reasonable time, and that they were to be fully refunded the fees paid. The full refund was made on 16 March 2022.

Between June and November 2022, several correspondence was exchanged between the Office of the Ombudsman and Identity Malta Agency (IMA), discussing and explaining the Schengen and the D-Visa procedure.

On 20 December 2022, the Ombudsman closed the case.

Status

Closed without recommendation

Sector/Department**Identity Malta Agency (IMA)****Ombudsman case reference****OMB-22-2772****Brief details of case**

The complainant requested a refund for research that they did not order.

Action taken and management comments

The case was received on 13 April 2022.

The Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied on 18 April 2022, stating that the complainant had been given a comprehensive explanation by Identity Malta Agency (IMA) regarding the research.

The complainant was asked repeatedly to confirm that they wished the search to include Fidi notes. Their reply was always in the affirmative. After inputting the search parameters on the complainant's behalf, IMA handed the complainant copies of the disclaimer that was provided to every client, and then proceeded to sign the necessary documents, thus acknowledging, and confirming that the submission was according to their wishes.

During a one-to-one meeting, the complainant later claimed that the results of the searches processed by IMA did not reflect what they had in mind.

On 7 March 2023, MHSR were informed by IMA that the Office of the Ombudsman had sent a letter to an IMA employee to attend a meeting regarding this case but this employee had since left IMA. The Ombudsman was informed accordingly on 8 March 2023.

Status

Pending at Ombudsman

Sector/Department**Identity Malta Agency (IMA)****Ombudsman case reference****OMB-22-3227****Brief details of case**

The complainant, who had been residing in Malta for over 16 years, was seeking to obtain a regular status in the country.

Action taken and management comments

The case was received on 14 October 2022.

MHSR replied on 21 October 2022, explaining that the complainant was a failed asylum seeker, and this was the reason why the application had not been accepted. However, the complainant was given a Temporary Humanitarian Protection New (THPN) for 2017 and 2018. This status expired on 22 October 2018.

Several correspondence was exchanged on the case between the Office of the Ombudsman and Identity Malta Agency (IMA). As at 31 October 2023, the case was pending at the Office of the Ombudsman.

Status

Pending at Ombudsman

Sector/Department**Identity Malta Agency - Central Visa Unit (CVU)****Ombudsman case reference****OMB-22-2916****Brief details of case**

A query by the Office of the Ombudsman regarding the procedure applicable in the processing of D-Visa applications and whether it was possible for the Central Visa Unit (CVU) to issue authorisation for a Pakistani complainant to apply either at a closer Embassy or at the Embassy in the United Arab Emirates (UAE).

Action taken and management comments

The case was received on 3 June 2022.

The Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied on 8 July 2022, stating that as Malta had no Diplomatic Mission in Pakistan, the complainant would need to submit a Visa application through a Malta Mission located in another jurisdiction.

As it appeared that the complainant was in contact with the Malta Mission in Abu Dhabi, an appointment for them to submit a visa application had to be established with the Mission itself.

On 3 February 2023, the Office of the Ombudsman informed MHSR that the case had been closed.

Status

Closed without recommendation

Sector/Department

Independent Police Complaints Board (IPCB)

Ombudsman case reference

OMB-22-3166

Brief details of case

The case was dealt directly with the Independent Police Complaints Board (IPCB).

Action taken and management comments

No further action was taken by the Office of the Ombudsman and the case was closed in 2022.

Status

Closed without recommendation

Sector/Department

International Protection Agency (IPA)

Ombudsman case reference

OMB-22-2681

Brief details of case

A complaint regarding an application for international protection.

Action taken and management comments

The case was received on 16 February 2022, and on the same day the International Protection Agency (IPA) replied that the complainant had been notified of the decision on 29 April 2021.

On 16 March 2022, the Ombudsman closed the case.

Status

Closed after the management replied to one request for information

Sector/Department**International Protection Agency (IPA)****Ombudsman case reference****OMB-22-2923****Brief details of case**

The complainant stated that they had been waiting for a decision from the International Protection Agency (IPA) on their application for international protection for almost four years.

Action taken and management comments

The case was received on 23 May 2022 and a reply was forwarded by the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) on 30 May 2022, stating why the complainant's application was not processed, and that a decision regarding the complainant's application was to be taken in due course.

On 2 June 2022, the Office of the Ombudsman replied that this grievance was not to be investigated further. The complainant was informed that they could revert to the Office of the Ombudsman if a decision was not received within a reasonable timeframe.

Status

Closed after the management replied to one request for information

Sector/Department**Local Enforcement Systems Agency (LESA)****Ombudsman case reference****OMB-22-3095****Brief details of case**

A request by the Ombudsman, writing on behalf of the complainant, soliciting an explanation about the procedure applicable for notification of contraventions and requests for payment of contraventions following a decision of the Commissioner for Justice.

Action taken and management comments

The case was received on 28 September 2022.

On 28 October, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied that delivery of summons is regulated by SL 291.01, which gives a detailed explanation of all the processes involved. In the case in question, Local Enforcement Systems Agency (LESA) had followed the delivery of summons as stipulated by the pertinent legislation. Attempts at delivery were done on two dates, but delivery was unsuccessful, and thus the affixed procedure was used. Such delivery was carried out by authorised persons acting on behalf of the Agency.

On 6 June 2023, the Office of the Ombudsman informed MHSR that, after having reviewed the information and documentation presented, the complainant had been informed that it could not proceed with further investigation, as the procedure adopted by LESA was in order.

Status

Closed without recommendation

Sector/Department

Malta Police Force (MPF)

Ombudsman case reference

OMB-22-2592

Brief details of case

The complainant alleged that their dismissal was unfair and prejudicial to their rights, particularly since the decision affected their Police pension which they were not receiving.

Action taken and management comments

The case was received on 7 March 2022.

On 18 April 2022, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied to the Office of the Ombudsman, stating that the request for retirement by the complainant had been submitted on 2 November 2020, after they had been convicted by the Court. Therefore, the request for retirement was refused in terms of Article 15(2) of the Police Act.

Upon conclusion of disciplinary proceedings, the Public Service Commission recommended that the complainant should be dismissed. Consequently, their pension rights were forfeited.

On 25 November 2022, Office of the Ombudsman informed MHSR that it will be closing the case.

Status

Closed without recommendation

Sector/Department

Malta Police Force (MPF)

Ombudsman case reference

OMB-22-2608

Brief details of case

Allegations by a member of the Malta Police Force (MPF) against their superiors.

Action taken and management comments

The case was received on 7 March 2022.

On 15 March 2022, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied to the Ombudsman, stating that the case was being investigated by the Independent Police Complaints Board (IPCB).

On 5 July 2022, the Office of the Ombudsman informed MHSR that it closed the case, as the IPCB was investigating the complaint.

Status

Closed without recommendation

Sector/Department**Malta Police Force (MPF)****Ombudsman case reference****OMB-22-2750****Brief details of case**

A complaint by an officer who felt that Malta Police Force (MPF) was preventing them from benefiting from time-off-in-lieu (TOIL) before retiring from the Force.

Action taken and management comments

The case was received on 9 May 2022.

The Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied on 6 June 2022, stating that MPF never deprived the complainant from benefiting from the remaining TOIL before retiring from the Force. In fact, as soon as the complainant made the official request to retire, they were never called back to work. However, the complainant chose to retire within a short period, making it impossible for them to exhaust all TOIL.

Several correspondence was exchanged between the Office of the Ombudsman and MHSR, explaining the procedure in terms of the Public Service Management Code (PSMC).

Status

Pending at Ombudsman

Sector/Department**Malta Police Force (MPF)****Ombudsman case reference****OMB-22-2791****Brief details of case**

A complaint regarding an anomaly between charges issued by the Malta Police Force (MPF) and the charges cited by the Public Service Commission (PSC).

Action taken and management comments

The case was received on 10 May 2022.

The Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied on 27 May 2022, stating that there were differences between the charges issued by the MPF and the conclusions of the PSC.

These differences were the result of a mistake in the drafting of the MPF charge letter.

MHSR was informed on 13 October 2022 that the Ombudsman had closed the case.

Status

Closed without recommendation

Sector/Department**Malta Police Force (MPF)****Ombudsman case reference****OMB-22-2833****Brief details of case**

The complainant alleged that they suffered an injustice when they were refused the award of their Long Service and Efficient Medal.

Action taken and management comments

The case was received on 17 May 2022.

On 28 June 2022, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied and explained in detail the reasons for refusing the award of the Long Service and Efficient Medal to the complainant.

On 11 July 2023, the Ombudsman informed MHSR that the case was closed.

Status

Closed after the management replied to one request for information

Sector/Department**Malta Police Force (MPF)****Ombudsman case reference****OMB-22-2834****Brief details of case**

The complainant alleged that they were unjustly denied the appointment of Reserve Police Constable even though they had passed the necessary examinations for this post.

Action taken and management comments

The complaint was received on 9 May 2022.

The Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied on 23 May 2022, stating that the complainant was to attend the course at the Academy for Disciplined Forces (ADF) which was spread over two weeks. One of the subjects on the curriculum was Safe Weapon Handling. The complainant claimed that they had a medical condition which impeded them from carrying out such training, and did not sit for such examination.

As a result, the complainant failed to successfully pass all examinations and, therefore, rendered themselves unqualified for the post.

On 27 February 2023, the Ombudsman issued the final opinion related to this case, stating that he could not support the complaint based on the facts presented and he was satisfied that there had been no administrative or procedural errors in this case.

On 18 April 2023, the Permanent Secretary (MHSR) replied to the Final Opinion.

Recommendation by Ombudsman

Nevertheless, the Ombudsman recommended that, in future and if possible given operational demands, the Commissioner of Police should take cognisance of the service record of applicants who were former Police Officers despite any objective justifiable reason which may have excluded them from carrying out certain duties which were not indispensable to service in the Police.

Status

Closed and recommendation noted

Sector/Department**Malta Police Force (MPF)****Ombudsman case reference****OMB-22-2901****Brief details of case**

The complainant is alleging that their car was towed away illegally and abusively by the police.

Action taken and management comments

The complaint was received on 17 May 2022.

MHSR replied on 6 June 2022 that MPF reiterates that the removal of the vehicle was carried out in line with the law. Therefore, the request by the complainant to be reimbursed could not be upheld.

On 8 August 2022, the Office of the Ombudsman requested that the file regarding the petition made by the complainant to the Malta Police Force (MPF), including the original petition and all evidence submitted, be forwarded for perusal. The Ministry for Home Affairs, Security, Reforms and Equality (MHSR) forwarded the file on 22 August 2022.

The Ombudsman issued a Final Opinion dated 28 November 2022.

On 11 September 2023, the Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of Ombudsman Act.

Recommendation by Ombudsman

The Ombudsman recommended that the complainant be reimbursed the towing penalty, the relevant subsidiary legislation be reviewed and possibly amended, changes to the signs affixed to garage entrances be considered to cater for instances when long vehicles are kept inside garages.

Furthermore, the Ombudsman recommended that amendments to the law be considered to provide an effective and fair remedy to motorists who wish to challenge a towing action.

Action following referral of the case in terms of article 22(4) of the Ombudsman Act

Several meetings were held to discuss the case with a view to implement any improvements to the procedure.

On 18 September 2023, the Principal Permanent Secretary, on behalf of the Prime Minister, replied to the Ombudsman, stating that the decision taken by the Police to tow the vehicle had been legitimate. Furthermore, no amendment to Regulation 3 of the Clamping and Removal of Motor Vehicles and Encumbering Objects (SL 65.13) was considered necessary. Notwithstanding that a remedy existed for motorists to challenge a towing action, it was considered necessary to include a new regulation to clarify that remedy may be sought with the Tribunal (Administrative Review). Furthermore, to ensure that vehicle owners were aware of the possibility to seek redress, information regarding the submission of an appeal was to be included on the receipt given upon payment of the towing fee.

MHSR, in conjunction with Transport Malta, is following up on the action to be taken.

Status

Reply on behalf of the Prime Minister sent to the Ombudsman

Sector/Department	Malta Police Force (MPF)
Ombudsman case reference	OMB-22-2951
Brief details of case	A complaint by a relative of a missing person requesting details on the Police Investigation report.
Action taken and management comments	<p>The complaint was received on 16 June 2022.</p> <p>MPF replied directly to the Ombudsman, detailing events on this case.</p> <p>No more details can be given on this case since the investigations are ongoing and the case is highly sensitive.</p> <p>On 26 July 2022, the Ombudsman closed the case.</p>
Status	Closed without recommendation

Sector/Department	Malta Police Force (MPF)
Ombudsman case reference	OMB-22-3226
Brief details of case	A complaint regarding a towed vehicle while the owner was quarantined due to COVID-19 pandemic. Due to these exceptional circumstances, the complainant petitioned the Commissioner of Police for reimbursement of the €200 fee. The request had not been accepted.
Action taken and management comments	<p>The case was received on 10 October 2022.</p> <p>The Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied to the Ombudsman on 22 November 2022, reiterating that the removal of the vehicle was carried out in line with the law.</p> <p>On 6 December 2022, MHSR was informed by the Office of the Ombudsman that the case was closed.</p>
Status	Closed without recommendation

Sector/Department	Malta Police Force (MPF)
Ombudsman case reference	OMB-22-3327
Brief details of case	The complainant alleged that they were beaten up by police officers in Paceville. It was also alleged that the St Julians and Police HQ in Floriana refused to register the complainant's report.
Action taken and management comments	<p>The case was received on 9 December 2022.</p> <p>The Office of the Ombudsman was handed a copy of a medical certificate issued by the Floriana Primary Health Care Centre, where the doctor certified that the complainant had suffered slight injuries.</p> <p>On 15 December 2022, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) received an email from the Office of the Ombudsman, stating that the case had been closed, after the complainant filed a complaint with the Independent Police Complaints Board (IPCB) and thus the Office of the Ombudsman could not investigate the allegations until the Board concluded case.</p>
Status	Case withdrawn by complainant

Sector/Department	Ministry for Home Affairs, Security, Reforms and Equality (MHSR)
Ombudsman case reference	OMB-22-2725
Brief details of case	A complaint by an officer who alleged that their appointment as Chairperson of a Disciplinary Board, despite their declining the appointment, given their inexperience in matters of human resources management, was unfair.
Action taken and management comments	<p>The case was received by the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) on 30 March 2022.</p> <p>MHSR replied on 1 June 2022, confirming that it had acted correctly and that the complainant was eligible to act as Chairperson of a Disciplinary Board.</p> <p>On 25 July 2022, the Office of the Ombudsman informed MHSR that the case was closed.</p>
Status	Closed without recommendation

Sector/Department	Ministry for Home Affairs, Security, Reforms and Equality (MHSR)
Ombudsman case reference	OMB-22-3307
Brief details of case	A complaint by an officer who alleged that they suffered an injustice following the refusal by the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) to reimburse the money that was withheld when they were suspended from work due to court proceedings.
Action taken and management comments	<p>The case was received on 23 November 2022.</p> <p>On 5 January 2023, MHSR replied by giving details of the complainant’s criminal case and the related precautionary suspension, and concluded that no pay was due to them.</p> <p>On 24 January 2023, the Office of the Ombudsman closed the case.</p>
Status	Closed without recommendation

Sector/Department	Ministry for Home Affairs, Security, Equality and Reforms (MHSR)
Ombudsman case reference	OMB-22-3337
Brief details of case	A complaint by an employee, maintaining that they were entitled to backdated salary between 15 May 2016 and 21 February 2017, and the salary for the three months’ pre-retirement leave.
Action taken and management comments	<p>The case was received on 15 February 2023.</p> <p>On 14 March 2023, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) informed the Ombudsman that the complainant was not entitled to backdated salary and the salary for the three months’ pre-retirement leave.</p> <p>On 5 September 2023, the Ombudsman issued the Final Opinion whereby he found that he was unable to sustain the case made by the complainant. The Ombudsman was satisfied that there were no administrative or procedural errors in the case.</p> <p>It is to be noted that pre-retirement leave is not an automatic entitlement, and one must apply for it. Similar to all other leave entitlements, pre-retirement leave is subject to approval. Furthermore, the policy stipulates that in order to be eligible for this type of leave, public officers need to accumulate an average 50% of unutilised sick leave on full pay per year throughout their career in the public service.</p> <p>MHSR did not accept the recommendation.</p>
Recommendations by Ombudsman	However, the Ombudsman stated that given the circumstances of this case, he recommended that the complainant be compensated for the three-month pre-retirement leave which the complainant was entitled to but could not take.
Status	Closed and recommendation not accepted



MHSR
Parliamentary Ombudsman Pre-2022



Sector/Department

Armed Forces of Malta (AFM)

Ombudsman case reference

R 0052

Brief details of case

A complaint regarding alleged injustice following a promotion process to a higher rank.

Action taken and management comments

The case was received on 29 March 2017.

On 18 April 2017, the file relating to the selection process, CVs of all applicants, points, notes, and evaluation marks pertaining to the complainant, applicants' personal files, and marks awarded by each board member, were sent to the Ombudsman.

On 15 July 2019, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) forwarded to the Ombudsman the Commander's detailed reports for the promotion exercises as requested by the Ombudsman. Promotions were carried out in accordance with the Malta Armed Forces Act, as well as the related policy on the promotion process to a higher rank.

On 3 March 2023, the Ombudsman sent the Final Opinion and closed the case.

The Armed Forces of Malta (AFM) confirmed that changes have been made in the promotion process of officers from the rank of Major to that of Lieutenant Colonel, by increasing objective criteria in evaluation.

Recommendations by Ombudsman

The Ombudsman recommended that the AFM revise its selection process and endeavour to use the policy which had been used in 2011. Whilst recognising that the complainant had suffered an injustice, the Ombudsman could not recommend any rectification because the complainant was not assured of a promotion, even if the selection process was beyond reproach.

Status last year

Pending at Ombudsman

Status

Closed and recommendation implemented

Sector/Department	Armed Forces of Malta (AFM)
Ombudsman case reference	R 0318
Brief details of case	A complaint concerning promotions in the Armed Forces of Malta (AFM). It was alleged that promotions were given to junior officers following the recommendations of the AFM Complaints Board.
Action taken and management comments	<p>The case was received on 25 March 2019.</p> <p>Ministry for Home Affairs and National Security (MHAS) replied to the Ombudsman on 2 August 2019, addressing the points raised in the complaint and submitted the requested documentation.</p> <p>The Ombudsman issued the Final Opinion on this case on 23 February 2023 and closed the case. However, the case continued to be followed up by the Ombudsman's office.</p> <p>On 26 June 2023, Permanent Secretary (Ministry for Home Affairs, National Security and Law Enforcement) replied to the Ombudsman's Final Opinion, addressing all the points raised by the Ombudsman, and stating that AFM was following the proper procedures as recommended by the Ombudsman.</p>
Recommendation by Ombudsman	The Ombudsman found that the complaint was justified but cannot recommend a remedy to the complainant. The Ombudsman recommended that MHSR and Commander (AFM) should respect and follow the proper procedures entitled <i>Nomini u Kundizzjonijiet tas-Servizz tal-Forza Regolari tal-Forzi Armati ta' Malta</i> .
Status last year	Pending at Ombudsman
Status	Closed and recommendation implemented

Sector/Department**Identity Malta Agency (IMA)****Ombudsman case reference****S 0119****Brief details of case**

A complaint lodged by a private company contracted by IMA to provide employees for Identity Malta Agency (IMA), claiming that for the months of May, June, and July 2018 payments were made directly to the employees instead of the service provider, in breach of the contract.

Action taken and management comments

The case was received on 22 November 2018.

IMA replied that the contract signed with the private company stipulated the payment at a certain rate per hour for each worker. For the months of June and July 2017, the private company failed to pay the respective salary to the employees concerned. Criminal proceedings instituted by the Department for Industrial and Employment Relations (DIER) found the private company guilty of the charges brought against it and the court judgement stated that it had to pay all outstanding salaries to the employees concerned.

Despite this court judgement, the cheques issued to the employees concerned could not be cashed due to lack of funds. Since the private company was failing to pay these employees, IMA decided to issue direct salary payments to the latter. No remaining amounts were due to the private company.

Status last year

Pending at Ombudsman

Status

Pending at Ombudsman

Sector/Department**Identity Malta Agency (IMA)****Ombudsman case reference****OMB-21-2376****Brief details of case**

An allegation that Identity Malta Agency (IMA) had first accepted payment and processed and approved applications in terms of the pertinent subsidiary legislation and then refused and prevented the workers concerned from coming to work in Malta. Furthermore, despite IMA having repeatedly been requested to reimburse the money paid in fees, IMA did not take the necessary action.

Action taken and management comments

The case was received on 19 October 2021, and the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied on 3 November 2021, addressing and clarifying the Ombudsman's queries. MHSR informed the Ombudsman that since the application had been finalised, fees paid could not be refunded.

On 21 January 2022, the Ombudsman's office requested further information regarding the fees paid by the applicants in question. The requested information was forwarded by MHSR on 1 February 2022.

On 26 October 2022, the Office of the Ombudsman requested clarifications on processes relating to the application procedures. On 28 October 2022, MHSR replied by addressing all issues raised by the Office of the Ombudsman.

On 10 January 2023, the Office of the Ombudsman requested further information on the *Single Permits Frequently Asked Questions (FAQs)*. Clarifications were sent on 21 March 2023.

On 14 April 2023, the Office of the Ombudsman closed the case.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department	Malta Police Force (MPF)
Ombudsman case reference	O 0237
Brief details of case	A complaint filed by a foreign couple, alleging abuse of power by the Divisional Police following a wrongful arrest.
Action taken and management comments	<p>On 10 September 2014, the investigator assigned to the case in question presented the Ombudsman with all the information requested. Last correspondence dated back to 2016.</p> <p>On 16 December 2021, the Ombudsman sent his Final Opinion with recommendations.</p> <p>The Malta Police Force (MPF) agreed with the Ombudsman's recommendation and on 2 March 2022, MPF issued the reimbursement to the complainants. On 24 March 2022, the Office of the Ombudsman was informed accordingly.</p> <p>In 2023, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) was informed by the Office of the Ombudsman that the case was closed upon the issue of the Final Opinion.</p>
Recommendation by Ombudsman	The Ombudsman recommended that the foreign couple be reimbursed the €500 they paid to the Police. The Office of the Ombudsman could not determine the wrongfulness or otherwise of the arrest.
Status last year	Pending at Ombudsman
Status	Closed and recommendation implemented

Sector/Department	Malta Police Force (MPF)
Ombudsman case reference	U 0178
Brief details of case	A complaint regarding tests which were carried out in connection with vacancies to the post of Third-Class Police Sergeant.
Action taken and management comments	<p>The case was received on 1 February 2021, requesting a detailed explanation of the regulations used by the Academy for the course syllabus, regulations, and the procedure in place for the revision of examination's results. Ministry for Home Affairs, National Security and Law Enforcement (MHSE) replied on 24 February 2021, submitting all the requested information and documentation.</p> <p>On 17 March 2021, the Office of the Ombudsman requested further details on the revision and re-sit procedures. MHSE replied on 13 April 2021, submitting the required clarifications.</p> <p>On 15 March 2023, the Office of the Ombudsman closed the case.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	Malta Police Force (MPF)
Ombudsman case reference	OMB-21-2539
Brief details of case	A complaint from a Police Sergeant who alleged that they had been subjected to discriminatory treatment in the selection process for the post of Detail Officer. They complained that they were not selected to fill this post when the police officers who preceded them in the order or merit did not remain in the post.
Action taken and management comments	<p>The case was received on 17 December 2021.</p> <p>On 25 January 2022, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied to the Office of the Ombudsman, stating that at the end of July 2020, the Malta Police Force (MPF) embarked on a centralisation process as recommended by the National Audit Office (NAO). To this effect, the Staffing and Major Events Unit was created. As a result of this reorganisation, the post of Detail Officer in Gozo was abolished as all detail duties for Gozo were being compiled and issued from the MPF headquarters.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	Ministry for Home Affairs, Security, Reforms and Equality (MHSR)
Ombudsman case reference	T 0131
Brief details of case	The complainant claimed that their grievance with the Grievances Board had been only partially upheld.
Action taken and management comments	<p>The case was received by Ministry for Home Affairs, National Security and Law Enforcement (MHSE) on 24 June 2020.</p> <p>The Permanent Secretary replied to the Office of the Ombudsman on 10 July 2020 by providing the documents requested.</p> <p>On 11 August 2020, the Office of the Ombudsman requested further clarifications on the complainant's case and another case filed before the Grievance Board. MHSE replied to the Office of the Ombudsman about the complainant's case on 21 October 2020. The file related to another Grievances case was sent to the Office of the Ombudsman on 24 February 2022.</p> <p>On 25 October 2022, the Ombudsman issued the Final Opinion stating that he found that the complainant had suffered an act of injustice consisting of discriminatory treatment.</p> <p>On 2 February 2023, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) replied to the Ombudsman, accepting his recommendation.</p>
Recommendations by Ombudsman	The Ombudsman recommended that the complainant's service be augmented to qualify for the service pension.
Status last year	Pending at Ombudsman
Status	Closed and recommendation implemented

Sector/Department	Ministry for Home Affairs, Security, Reform and Equality (MHSR)
Ombudsman case reference	T 0182
Brief details of case	A complaint regarding a claim for the backdating of pension. The complainant requested that they receive 15 months backdated pension while waiting for the Injury Board's decision.
Action taken and management comments	<p>The case was received on 20 September 2019.</p> <p>The Ministry for Home Affairs, National Security and Law Enforcement (MHSE) replied on 12 October 2020, stating that the pension could not be backdated since the complainant had to undergo a Medical Board exam and appear before the Injuries Board to be medically boarded out.</p> <p>On 4 November 2020, the Office of the Ombudsman requested the complainant's medical report, together with their personal file. The documents were forwarded by MHSE on 13 August 2021.</p> <p>On 21 March 2022, the Office of the Ombudsman requested the sequential events from the complainant's application for pension to their eventual resignation from the department. The reply to the Ombudsman's queries was sent on 18 August 2022.</p> <p>On 28 October 2022, the Office of the Ombudsman requested all payments received by the complainant from August 2017 to November 2018. The Ministry for Home Affairs, Security, Reforms and Equality (MHSR) provided the requested information on 7 November 2022.</p> <p>On 20 April 2023, the Ombudsman issued a Final Opinion with recommendations.</p> <p>On 9 May 2023, the Permanent Secretary (MHSR) informed the Ombudsman that all recommendations made were being accepted.</p>
Recommendation by Ombudsman	<ol style="list-style-type: none"> 1. The complainant be given an equivalent of the salary amount between the last day he reported to work up to the effective pension date (amounts to be deducted were sickness benefit and statutory bonuses paid during the same period). 2. The complainant be paid an equivalent amount of the invalidity pension from the last day he reported to work up to the last day of effective employment with the Civil Protection Department (CPD).
Status last year	Pending at Ombudsman
Status	Closed and recommendation implemented

Sector/Department **Ministry for Home Affairs, Security, Reform and Equality (MHSR)**

Ombudsman case reference **OMB-21-2072**

Brief details of case A complaint from an officer, alleging that their assignment to the Academy for Disciplined Forces from the Correctional Services Agency (CSA), following the conclusion of disciplinary proceedings, was irregular and contrary to the provisions regulating the Prison Service.

Action taken and management comments

The case was received on 10 June 2021. The Office of the Ombudsman requested the personal file of the complainant and related documentation on the disciplinary process. The Ministry for Home Affairs, Security, Reforms and Equality (MHSR) forwarded the requested documentation to the Office of the Ombudsman on 18 June 2021.

On 26 August 2022, the Office of the Ombudsman suggested that the complainant should be allowed to serve in their rank and capacity with all the benefits and allowances paid up from the date they have been transferred to the Academy for Disciplined Forces.

On 29 August 2022, MHSR replied to the Ombudsman, addressing all the points raised by the latter.

On 17 March 2023, the Office of the Ombudsman requested a meeting with MHSR for a possible agreement on this case.

MHSR confirmed that the complainant has been granted all benefits and pension rights related to their previous position with CSA and is serving within the disciplined forces. The Ombudsman is being informed accordingly.

Status last year Pending at Ombudsman

Status Pending at Ministry

Sector/Department **Ministry for Home Affairs, Security, Reform and Equality (MHSR)**

Ombudsman case reference **OMB-21-2461**

Brief details of case The Office of the Ombudsman requested the list of prisoners and staff who worked at the Correctional Services Agency (CSA) in the last five years, together with their contact details.

Action taken and management comments

The case was received on 17 November 2021, from the Commissioner for Administrative Investigations, Office of the Ombudsman. On 11 January 2022, the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) forwarded the documentation requested.

On 4 March 2022, the Office of the Ombudsman requested a list of all uniformed staff who served at the CSA between January 2019 and March 2022, with their contact details. On 8 March 2022, MHSR submitted the requested information.

Status last year Pending at Ombudsman

Status Pending at Ombudsman



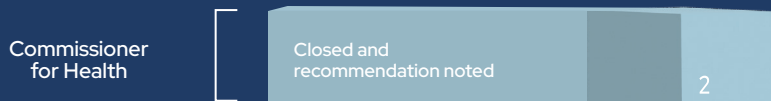


**MINISTRY FOR
INCLUSION, VOLUNTARY
ORGANISATIONS AND
CONSUMER RIGHTS**

In 2022, the Ministry for Inclusion, Voluntary Organisations and Consumer Rights (MIVC) received two cases from the Commissioner for Health. Both cases were closed by the Commissioner for Health in 2023.

Two pending cases from previous years were also closed in 2023; one case pertaining to the Parliamentary Ombudsman and the other to the Commissioner for Health.

MIVC Total Cases 2022 - 2



MIVC
Parliamentary Ombudsman Pre-2022



Sector/Department**Malta Competition and Consumer Affairs Authority (MCCAA)****Ombudsman case reference****S 0213****Brief details of case**

A complaint by a candidate claiming that the recruitment process relating to a post they applied for had been irregular.

Action taken and management comments

The case was received on 21 August 2018.

The Office of the Ombudsman requested the file containing all the documentation related to this selection process. The Authority provided all the required documentation and replied to the questions posed by the Office of the Ombudsman.

The Ministry requested a status update from the Office of the Ombudsman in June 2022, and it was confirmed that the case was still under investigation.

The Parliamentary Ombudsman issued the Final Opinion on the case on 11 June 2023.

In its reply to the Ombudsman's Final Opinion, MCCAA commented that:

- It commits to take greater care when drafting such documents (call for applications and related documents) to ensure that adequate information is provided to candidates at application stage.
- The Recruitment Policy was amended in 2020 and now caters for two standard assessment criteria, one for management/professional grades and one for technical/administrative grades.

The Ombudsman closed the case on the 18 July 2023.

Recommendation

In his Final Opinion, the Ombudsman recommended that:

- Greater care should be taken when drafting all documents, not only as regards 'typos' but also as regards the actual content. Adequate Information should be provided to candidates so that any requirements at application stage may be abided by without, as far as possible, external intervention by HR team of Selection Board;
- MCCAA should consider adopting another set of standard assessment criteria to cater for the posts other than the highly technical/senior management which are very degree focused.

Status last year

Pending at Ombudsman

Status

Closed and recommendation noted



MIVC
Commissioner for Health 2022



Sector/Department

Commission for the Rights of Persons with Disability (CRPD)

Ombudsman case reference

CH-22-3017

Brief details of case

A complaint relating to a case of alleged discrimination towards a young person on the autism spectrum and alleged perpetration by a therapist working at the Malta Autism Centre (MAC).

Action taken and management comments

The case was received on 11 July 2022.

The complainant stated that they had reported the matter to the CRPD in December 2021. The complainant alleged that their son was being excluded from group sessions, no one-to-one sessions were being held, he was being blocked from social media, was being ignored and unassisted, and referred to a hostile accident amongst others.

After the investigation conducted by CRPD, the complainant stated that there were several inaccuracies in CRPD's official investigation report.

On 2 September 2022, CRPD replied to the Commissioner for Health (CfH), explaining in detail each point of the report, enclosing the investigation report and the letter sent to the complainant dated 8 December 2021.

On 28 February 2023, CRPD informed MIVC that a meeting had been held with the CfH, the complainant, the Malta Federation of Organisations Persons with Disability (MFOPD) and the Directorate for Disability Issues/Autism Advisory Council in December 2022. During this meeting the complainant obtained a better understanding of CRPD's scope of work and outcome of the report. Additionally, suggestions were also made with regard to services that could be beneficial to the complainant's son. CRPD informed MIVC that the Commissioner would be issuing a report from their end.

Upon a request by MIVC to the Office of the Ombudsman for a status update, it was confirmed that the case was closed on 16 January 2023.

No formal recommendations were made and the CfH commented that the entity had been very proactive and offered support to the complainant.

Status

Closed without recommendation

Sector/Department**Aġenzija Sapport****Ombudsman case reference****CH-22-2853****Brief details of case**

A joint complaint relating to a case of three professionals, detailed with Aġenzija Sapport, who alleged discriminatory treatment with regard to their employment terms and conditions.

Action taken and management comments

The complaint was received on 22 April 2022, in which the three complainants expressed their concern on the terms and conditions of the employment and lack of career pathways, following their detailing to Aġenzija Sapport.

The complainants stated that in November 2019 they were detailed to Aġenzija Sapport on grounds of public policy. They had been informed that after the move they would fall under Aġenzija Sapport's Collective Agreement, but they would still retain their status as public officers.

Since their move to Aġenzija Sapport, a new collective agreement had been negotiated for such professionals working in other government sectors and agencies.

The complainants felt discriminated against as, notwithstanding they were public officers, but were not benefitting from the same terms and salaries as similar professionals working within the public sector.

In view of these circumstances, the claimants requested an investigation.

On 22 June 2022, Aġenzija Sapport informed the CfH that discussions had commenced with IRU to discuss a fair solution for these professionals so that they are placed on the same platform as other practitioners.

Further to an enquiry by CH dated 18 July 2022, Aġenzija Sapport confirmed that discussions with P&SD were still ongoing.

On 6 January 2023, MIVC informed the CfH that during the meeting held with PS P&SD (OPM) it was agreed that the public officers pertaining to the Allied Health Stream, were to benefit from the new sectoral agreement to which they belonged.

On 26 June 2023, MIVC informed CfH that the amount of arrears due to the complainants had been worked out and the employees concerned were to receive the amounts due. On 17 August 2023, MIVC informed CfH that arrears due had been paid.

On 25 September 2023, the CfH informed MIVC that the case can be considered as closed satisfactorily thanks to MIVC's assistance.

Status

Closed without recommendation



MIVC
Commissioner for Health Pre-2022



Sector/Department

Malta Competition and Consumer Affairs Authority (MCCAA)

Ombudsman case reference

HU 0077

Brief details of case

A complaint regarding the supply of personal protective equipment (PPE) which was deemed non-compliant, and, on the feedback provided by the Authority, the Central Procurement and Supplies Unit (CPSU) cancelled the order.

Action taken and management comments

The case was received at MCCAA on 1 October 2021. However, it is connected to a case which was reported upon in the Governance Action publication 2021 under MFH (CPSU) with case number HU 0076.

On 18 November 2021, the Authority provided the Commissioner for Health (CfH) with copies of exchange of emails with the supplier, together with other information and legislative extracts.

On 16 January 2023, MIVC was informed that case had been closed on 12 September 2022, since the matter was taken to court.

Status last year

Pending at Ombudsman

Status

Closed due to court proceedings



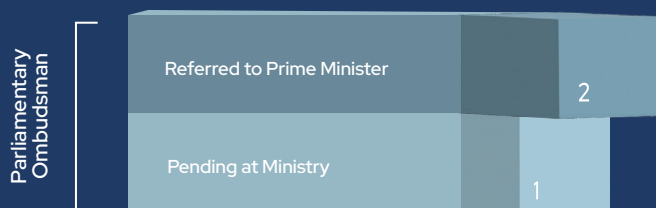


MINISTRY FOR JUSTICE

In 2022, the Ministry for Justice (MFJ) investigated one case which was referred by the Ombudsman. The case is pending at MFJ.

Two cases, which had been referred to MFJ by the Ombudsman in 2020, were referred to the Prime Minister in terms of article 22(4) of the Ombudsman Act.

MFJ Total Cases 2022 - 3



MFJ
Parliamentary Ombudsman 2022



Sector/Department

Court Services Agency (CSA)

Ombudsman case reference

OMB-22-2780

Brief details of case

A complaint by a retired ex-Court Services Agency (CSA)(Gozo) officer who had executed a warrant evicting a private company from the premises they had been occupying, following a court order.

Subsequently, the company director initiated legal proceedings against the court officer.

The complainant maintained that the legal proceedings against them were not through their fault since they were executing official duties.

In January 2022, the officer had approached CSA (Gozo) to assist so as not to suffer the burden of court expenses as the proceedings were connected to their official duties.

In February 2022, the Office of the State Advocate had replied to the complainant's legal representative that the CSA will not act as a guarantee to settle their dues. The complainant should have utilised legal assistance available to all citizens.

Action taken and management comments

The case was received on 19 April 2022.

MFJ replied to the Ombudsman in September 2022, by forwarding a letter from CSA, explaining the situation. In view that the complainant had dealt with the issue personally and had never involved the Agency or Legal Aid Agency lawyers, the CSA was not in position to assist.

On 4 November 2022, the Office of the Ombudsman requested a meeting with the Director General, CSA (Gozo).

The meeting was held on 15 December 2022, wherein the Ombudsman requested Director General CSA (Gozo) to give evidence under oath on the case in question.

Upon enquiring, on 8 May 2023, the Ministry for Justice (MFJ) was informed by the Ombudsman that the case was still being investigated.

Another meeting was subsequently held with the Ombudsman in July 2023, where details were given by the Ombudsman on new information that came to light during the investigations carried out by his office.

On 7 October 2023, MFJ made an offer to settle only the amount of expenses incurred following the issue of the garnishee order, and this without prejudice and in full and final settlement of the complainant's grievance.

On 10 October 2023, the Ombudsman informed MFJ that the complainant accepted the offer made. MFJ is in the process of settling the payment.

Status

Pending at Ministry





MFJ

Parliamentary Ombudsman Pre-2022



Sector/Department

Ministry for Justice (MFJ)

Ombudsman case reference

U 0098 (also reported under the Ministry for Finance and Employment)

Brief details of case

A complaint relating to a failure by a Notary Public to register and settle duty and taxes, following the signing of the deed to a property.

Action taken and management comments

The case was received on 21 July 2020.

This case is amalgamated with U 0123 (below) and involves other ministries and departments, including the Ministry for Finance and Employment, the Ministry for Home Affairs, National Security and Law Enforcement, the State Advocate, and the Commissioner for Revenue (CfR). Every office submitted feedback accordingly. A reply was sent to the Ombudsman on 25 September 2020.

The office of the State Advocate conducted several meetings internally and discussed this matter with the Notary to Government, the President of the Notarial Council, and with other respective stakeholders to devise a possible solution. Technical and high-level discussions are ongoing.

On 25 January 2023, the Ombudsman issued a Final Opinion for both cases.

On 24 February 2023, the Ombudsman was informed that consultations were being carried out with key official stakeholders including the Office of the Notary to Government and the Office of the State Advocate with a view to find possible viable options to address as much as possible the recommendations common in both cases.

The process would require also further consultations with external stakeholders, including the Notarial Council and the commercial banks, given the impact that any changes to the current practice and tax payment system would leave, since a high percentage of property transfers are funded through bank loans. This task may also have to involve legislative amendments.

These options were being explored with a view to establish a viable way forward to address the recommendations, while at the same time ensuring continuity to curb abuse, protect service users and safeguard Government revenue.

A meeting was subsequently held between MFJ and the Ombudsman in April 2023, wherein the complexity of the two cases were explained and also the repercussions that may arise if the Ombudsman's recommendation were to be taken on board.

On 14 July 2023, the Ombudsman referred both cases to the Prime Minister in terms of Article 22(4) of the Ombudsman Act.

In the meantime, a report was drawn up by the Chief Notary to Government with a possible way forward. The report was referred to the MFE for further discussions.

Recommendation by Ombudsman

In his Final Opinion the Ombudsman recommended to all Ministries involved and the Commissioner for Revenue:

To address the situation without further delay by providing adequate and tangible redress to complainants, who have had to effect payment of the amounts owed by way of duty and taxes while this investigation was still ongoing, and others who have found themselves in this predicament, so that contracting parties can register their proprietary rights without being required to pay taxes and/or duties which have already been passed on to the notary as required by law. In this regard the Ministries might consider the proposal of the Notarial Council that the deed is registered through the Office of the Chief Notary to Government without further expense and Government reserves a right of action against the defaulting notary;

that the Ministries involved, as well as the Office of the State Advocate, hold discussions about these situations with the Notarial Council so as to introduce legal provisions and policies that provide more robust protection for the service user. Online systems whereby tax and duty payments are made directly to the Department on the same day of the publication of the contract, with the consequent registration of the deed should be considered, as this would provide contracting parties with an instant confirmation that the amounts due to the public exchequer have been in fact passed on to the CfR; and that the Notarial Council together with the Ministry of Justice discuss the possibility of the Council being provided with the resources necessary to adequately and effectively carry out its functions stipulated by law, particularly its powers to "*... inquire into the professional conduct of any notary which is considered to be repugnant to the decorum of his profession, or into any charge of negligence or abuse made against any notary in the exercise of his profession*".

Status last year

Pending at Ministry

Status

The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act

Sector/Department

Ministry for Justice (MFJ)

Ombudsman case reference

U 0123 *(also reported under the Ministry for Finance and Employment)*

Brief details of case

A complaint relating to a failure by a Notary Public to register and settle duty and taxes following the signing of the deed to a property.

Action taken and management comments

The case was received from the Ombudsman on 4 August 2020.

This case is amalgamated with U 0098 (above) and involves other ministries and departments, including the Ministry for Finance and Employment, the Ministry for Home Affairs, National Security and Law Enforcement, the State Advocate, and the Commissioner for Revenue (CfR). Every office submitted feedback accordingly. A reply was sent to the Ombudsman on 25 September 2020, addressing this case and case U 0098.

On 7 January 2021, the Ombudsman suggested that the Ministries concerned, and the State Advocate meet and discuss what can be done to implement procedures to protect and limit the prejudice suffered by contracting parties.

Following Ombudsman's suggestions, discussions continued between the Ministries concerned throughout 2022. However, in view of the complexity of the case several options were being explored.

On 25 January 2023, the Ombudsman issued a Final Opinion for both cases.

On 24 February 2023, the Ombudsman was informed that consultations were being carried out with key official stakeholders including the Office of the Notary to Government and the Office of the State Advocate with a view to find possible viable options to address as much as possible the recommendations common in both cases.

The process would require also further consultations with external stakeholders, including the Notarial Council and the commercial banks, given the impact that any changes to the current practice and tax payment system would leave since a high percentage of property transfers are funded through bank loans. This task may also have to involve legislative amendments.

These options were being explored with a view to establish a viable way forward to address the recommendations, while at the same time ensuring continuity to curb abuse, protect service users and safeguard Government revenue.

On 14 July 2023, the Ombudsman referred both cases to the Prime Minister in terms of Article 22(4) of the Ombudsman Act.

In the meantime, a report was drawn up by the Chief Notary to Government with possible way forward. The report was referred to the MFE for further discussions.

**Recommendations
by Ombudsman**

In his Final Opinion the Ombudsman recommended to all Ministries involved and the Commissioner for Revenue:

To address the situation without further delay by providing adequate and tangible redress to complainants, who have had to effect payment of the amounts owed by way of duty and taxes while this investigation was still ongoing, and others who have found themselves in this predicament, so that contracting parties can register their proprietary rights without being required to pay taxes and/or duties which have already been passed on to the notary as required by law. In this regard the Ministries might consider the proposal of the Notarial Council that the deed is registered through the Office of the Chief Notary to Government without further expense and Government reserves a right of action against the defaulting notary;

that the Ministries involved, as well as the Office of the State Advocate, hold discussions about these situations with the Notarial Council so as to introduce legal provisions and policies that provide more robust protection for the service user. Online systems whereby tax and duty payments are made directly to the Department on the same day of the publication of the contract, with the consequent registration of the deed should be considered, as this would provide contracting parties with an instant confirmation that the amounts due to the public exchequer have been in fact passed on to the CfR; and

that the Notarial Council together with the Ministry of Justice discuss the possibility of the Council being provided with the resources necessary to adequately and effectively carry out its functions stipulated by law, particularly its powers to “inquire into the professional conduct of any notary which is considered to be repugnant to the decorum of his profession, or into any charge of negligence or abuse made against any notary in the exercise of his profession”.

Status last year

Pending at Ministry

Status

The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act







**MINISTRY FOR THE
NATIONAL HERITAGE,
THE ARTS AND LOCAL
GOVERNMENT**

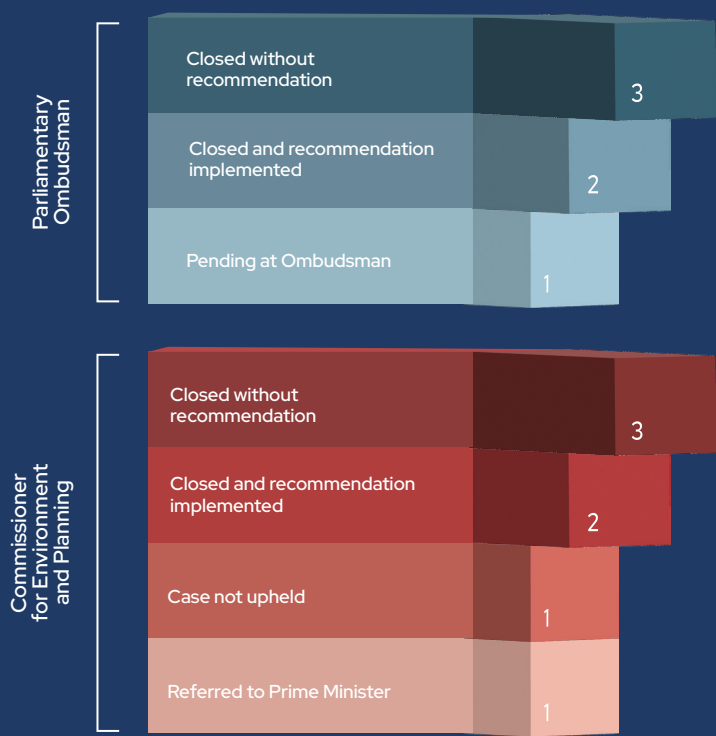
In 2022, the Parliamentary Ombudsman referred six cases to the Ministry for the National Heritage, the Arts and Local Government (MHAL). Three cases were closed without the Ombudsman making a recommendation. Two cases were closed and the recommendations made were implemented. One case was pending at the Office of the Ombudsman.

There were two Ombudsman cases which had remained pending from previous years. One case was not upheld, whilst the other case had been withdrawn by the Ombudsman.

During the year under review, the Commissioner for Environment and Planning (CEP) referred eight cases to MHAL. Three cases were closed and the recommendations made were implemented, three cases were closed without a recommendation being made, one case was not upheld and one case was referred to the Prime Minister in terms of article 22(4) of the Ombudsman Act.

There was one case which had been referred to MHAL by the CEP and which was pending from previous years. This case has been closed but the recommendation made was not accepted.

MHAL Total Cases 2022 - 13



MHAL
Parliamentary Ombudsman 2022



Sector/Department

Local Councils (LC)

Ombudsman case reference

OMB-22-2662

Brief details of case

A complaint concerning a claim for compensation for damages, allegedly caused to a tyre of the complainant's vehicle whilst driving in Siġġiewi.

Action taken and management comments

The case was received on 30 March 2022. The Siġġiewi Local Council (LC) was asked to provide comments on the case.

On 7 November 2022, the LC informed the Local Government Division (LGD) the Ministry for the National Heritage, the Arts and Local Government (MHAL) that they were investigating the case.

On 29 November 2022, the LC informed the LGD, stating that a drainage outlet was the cause of the damages to the tyre, and this did not fall within LC's remit. Nonetheless, they alerted the Water Services Corporation (WSC) about the issue and the Office of the Ombudsman had been informed accordingly.

The Office of the Ombudsman replied to the LC on 26 January 2023, requesting the original file including the correspondence between the LC and WSC relating to the damages caused by the shattered manhole.

On 21 February 2023, the LC forwarded the requested reports to the Office of the Ombudsman.

On 23 May 2023, the Office of the Ombudsman informed the LC that the WSC had admitted responsibility for the complaint and would be sending the complainant the relative payment. In this regard, since the case had been resolved, the Office of the Ombudsman informed the LC that the case was considered closed.

Status

Closed without recommendation

Sector/Department**Local Councils (LC)****Ombudsman case reference****OMB-22-2664****Brief details of case**

A complaint concerning a claim for compensation for damages allegedly caused to two tyres of the complainant's vehicle whilst driving in Siġġiewi.

Action taken and management comments

The case was received on 4 April 2022. The Siġġiewi Local Council (LC) was asked to provide comments on the case.

On 29 November 2022, the LC informed the Local Government Division (LGD) that a drainage outlet was the cause of the damages to the tyre and this did not fall within LC's remit. Nonetheless, they alerted the Water Services Corporation (WSC) about the issue and the Office of the Ombudsman had been informed accordingly.

On 19 June 2023, the Office of the Ombudsman informed MHAL that the WSC, after analysing the case, had advised that the manhole in question was not WSC property.

On 5 July 2023, the LC informed the Office of the Ombudsman that the Council had agreed to reimburse the complainant for costs they incurred.

On 18 July 2023, the Office of the Ombudsman closed the case.

Recommendation by Ombudsman

The Office of the Ombudsman recommended that the LC refunds the complainant the sum of €179.35 for the costs incurred by the LC due to the incident in question.

Status

Closed and recommendation implemented

Sector/Department

Local Councils (LC)

Ombudsman case reference

OMB-22-2774

Brief details of case

A complaint concerning a claim for compensation in connection with damages to the complainant's motor vehicle tyre whilst driving in Pembroke.

Action taken and management comments

On 20 January 2022, the complainant had contacted Pembroke Local Council (LC) and requested a reimbursement of €366.30, following a motor vehicle accident due to a deep pothole.

On 1 February 2022, the LC replied to the complainant that this matter had been discussed during the last Council meeting, and decided to pay back not more than 75% of the cost of the car tyre.

On 2 February 2022, the complainant replied to the LC, arguing that the total cost of the accident amounted to €366.30, apart from the countless hours lost as a result of the poorly maintained road.

On 11 March 2022, the LC replied to the complainant that the subject had been rediscussed during the latest council meeting, and it was unanimously agreed that the compensation should not exceed 75% of the total cost of the car tyre.

On 13 April 2022, the complainant replied to the LC that they were not completely satisfied with only a 75% refund of the new tyre (only 41% of all the fees paid). The complainant stated that they presented the complaint to the Office of the Ombudsman and that they will allow the decision to be taken from the Ombudsman's end.

On 5 May 2022, the complainant advised the LC that the Ombudsman investigation had been concluded and the decision for a refund of 75% of the new tyre was reasonable.

On 30 May 2022, the LC asked the complainant for a copy of the Ombudsman report since the LC had never been consulted.

On 1 June 2022, the Office of the Ombudsman explained that no report had been generated, and that the Office was of the opinion that the reimbursement of €150 proposed by the LC, equivalent to 75% of the amount spent on the new tyre, was reasonable.

On 1 June 2022, the LC forwarded proof of payment to the complainant for the Ombudsman's perusal.

Status

Closed without recommendation

Sector/Department**Local Councils (LC)****Ombudsman case reference****OMB-22-2779****Brief details of case**

A complaint concerning a claim for compensation in connection with damages suffered to the complainant's vehicle whilst driving in San Gwann. The complainant hit a protruding Water Services Corporation (WSC) water valve cover with the vehicle and consequently damaged two tyres and a rim.

Action taken and management comments

The case was received on 24 March 2022. The Office of the Ombudsman requested the Local Council's (LC) views and comments on the complainant's grievance.

The LC replied to the Ombudsman's letter on 25 March 2022, stating that the road was maintained in a diligent manner and thus rebutted the allegations. Moreover, the LC argued that due to heavy rainfall which caused damage to roads, being an act of God, this accident was not within their control.

In September 2022, the Office of the Ombudsman informed the Ministry that a Final Opinion was issued with recommendations. On 17 October 2022, the LC replied directly to the Office of the Ombudsman stating that the LC was already implementing such recommendations.

Recommendation by Ombudsman

1. That each claim of this nature be examined on its own merits and not dismissed *a priori*.
2. That, as far as the resources allow, a more pro-active approach be adopted to road maintenance including active monitoring of the roads.

Status

Closed and recommendation implemented

Sector/Department**Local Councils (LC)****Ombudsman case reference****OMB-22-3346****Brief details of case**

A complaint in connection with the installation of bollards at Ghaxaq.

Action taken and management comments

On 6 February 2023, the Office of the Ombudsman forwarded a letter to MHAL and Ghaxaq Local Council (LC), requesting their views and comments on the complaint. The Ombudsman also queried why no reply was provided to the complainant's email of 2 December 2022.

The LC replied to the Office of the Ombudsman on 9 February 2023, stating that the complainant had been informed that the bollard in question had not been installed by the LC. An email was forwarded to Transport Malta (TM) for their assistance in determining whether this bollard should be removed or not since the LC did not have any related information.

On 14 March 2023, the Office of the Ombudsman forwarded an email to the LC stating that the complainant had yet to receive a communication from their end as regards their request for the reimbursement of damages and requested the LC to inform the complainant at the earliest possible.

The LC replied to the Office of the Ombudsman on 15 March 2023, informing him that the matter had been discussed during the council's meeting held in February 2023, and it was agreed that they could not reimburse the damage incurred to the complainant's vehicle since the bollard was not installed by the LC. However, was taken by the LC to remove the bollards as they had been illegally installed by an unknown third party.

On 11 April 2023, the Office of the Ombudsman informed MHAL that the case was closed.

Status

Closed without recommendation

Sector/Department

Manoel Theatre

Ombudsman case reference

OMB-21-2385

Brief details of case

A complaint concerning an alleged injustice, referring to Manoel Theatre's management and MHAL. The complainant alleged that:

- a number of hours of time off in lieu in 2019 and 2020 was cancelled;
- they were compelled to take the annual and 'emergency' leave for 2020;
- in May 2020, a deduction in salary was made, even though the complainant had correctly registered teleworking hours;
- the belated appointment resulted in loss of income and reduction of pension rights.

Action taken and management comments

The case was received on 27 October 2022.

On 16 December 2022, a meeting was held between MHAL, Manoel Theatre and the Ombudsman. Manoel Theatre management informed the Ombudsman that they were to carry out a due diligence check on the complainant's allegations and would also provide the Ombudsman with any documentation required from his end.

On 6 April 2023, another meeting was held between the Office of the Ombudsman and the management of Manoel Theatre. During this meeting the officer from Manoel Theatre was requested to provide all the information in hand about the complainant's employment history with Manoel Theatre, including but not limited to any grievances put forward by the complainant and correspondence with previous management.

On 12 September 2023, the Office of the Ombudsman requested Manoel Theatre to submit the contact details of four employees of the Manoel Theatre.

On 18 September 2023, Manoel Theatre submitted the required information and informed the Ombudsman that two of the persons whose contact details had been requested were no longer employed with or contracted by Manoel Theatre. Therefore, the information submitted might not be up to date.

Status

Pending at Ombudsman



MHAL
Parliamentary Ombudsman Pre-2022



Sector/Department**Local Councils (LC)****Ombudsman case reference****U 0192****Brief details of case**

A complaint lodged against the Birkirkara Local Council (LC) in relation to damages allegedly caused to the complainant's vehicle due to a pothole in Birkirkara.

Action taken and management comments

The case was received on 4 November 2020. The Birkirkara LC replied on 24 March 2021, confirming that the claimant's request for payment for a new tyre was rejected since the claimant was not taking into consideration the wear and tear of the tyre. Moreover, proof should have been provided about the state of the tyre claimed.

On 20 April 2023, the Office of the Ombudsman informed MHAL that the complaint was not upheld.

On 25 April 2023, the Office of the Ombudsman closed the case.

Status last year

Pending at Ombudsman

Status

Case not upheld

Sector/Department**Local Councils (LC)****Ombudsman case reference****U 0219****Brief details of case**

The complainant alleged that while driving through Gżira, a tyre of his vehicle burst due to a deep pothole. The tyre had to be replaced, costing the complainant €85.

Action taken and management comments

On 15 September 2021, after investigating the case, the Local Council (LC) replied to the Ombudsman that the hole had been caused by heavy rain and the incident occurred during or right after it had rained. Furthermore, the hole did not seem deep enough to slash a tyre. The hole had been repaired immediately.

On 20 April 2023, the Office of the Ombudsman informed MHAL that the case had been closed in February 2023. The case could not be processed any further as the complainant had not reported the incident to the police as was required.

Status last year

Pending at Ombudsman

Status

Case withdrawn by Ombudsman





MHAL
**Commissioner for Environment
and Planning 2022**



Sector/Department**Local Councils (LC)****Ombudsman case reference****CEP-22-3000****Brief details of case**

Investigation following a complaint alleging irregular construction of a pavement extension carried out by Infrastructure Malta (IM).

Action taken and management comments

The case was received at the Siggiewi Local Council (SLC) on 20 June 2022. The Commissioner for Environment and Planning (CEP) questioned the Executive Secretary (SLC), how, whilst on 6 October 2017 the SLC had objected with the Planning Authority (PA) to the development of a timber demountable pavement extension on the same site for reasons related to the loss of parking spaces, aesthetic reasons and setting a precedent, on 19 February 2022, the SLC found no objection to a request by Infrastructure Malta (IM) to the same pavement extension in question.

On 26 July 2022, the Executive Secretary (SLC) replied to the CEP, stating that they could not ignore the proposal for the extension of a pavement, which Development was similar to those in other establishments in the area.

On 22 August 2022, the CEP sent a letter to the applicant of the development and their architect, to the Siggiewi Football Club, to the Executive Secretary (SLC) and to the complainant, stating that the allegations against IM, that it failed to consult and communicate properly with the relevant authorities before it executed the pavement extension in question, was unfounded. The CEP stated that the SLC was responsible to make the necessary communications before issuing a no-objection.

Moreover, the CEP stated that its office will be opening a new case against the SLC to address these findings whilst keeping complainants and the applicant of the PA application in copy.

The CEP issued a Final Opinion on 26 October 2022, requesting a reply on the actions the LC intended to take regarding his recommendations.

On 14 December 2022, the CEP referred the case to the Prime Minister, requesting that his recommendations be implemented, if not by the LC, by any other government agency.

Recommendation

The CEP recommended that:

1. Any similar proposals, affecting the residents should be discussed by the LC with all interested parties, including the residents, before a decision is taken, according to Article 33 of the Local Government Act.
2. The SLC should remove the extension of the pavement and return it to its original state.
3. Expenses incurred are to be borne by the Mayor and the Executive Secretary (SLC).

Status

The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of Ombudsman Act

Sector/Department**Local Councils (LC)****Ombudsman case reference****CEP-22-3121/3122****Brief details of case**

An investigation initiated by the Commissioner for Environment and Planning (CEP), regarding various complaints about noise from percussions installed in a public garden.

Action taken and management comments

The Office of the Ombudsman sent a letter to the St Paul's Bay Local Council (LC) on 18 August 2022, requesting the LC to confirm if they were considering some type of solution to these complaints for the benefit of nearby residents. Moreover, the Office of the Ombudsman informed the LC that investigations were to be carried out with the Planning Authority (PA) about similar Development Notification Order (DNO) approvals.

The LC replied to the CEP's letter on 6 September 2022, stating that the percussions in question were covered by two PA permits. Moreover, a unanimous agreement was reached with residents regarding the location of the percussions. It was also agreed that a sign will be affixed on the spot, indicating the time until such apparatus can be used.

During the Council's meeting it had also been agreed that police attention should be sought for more surveillance and to install a CCTV camera in the vicinities.

On 18 January 2023, the Office of the Ombudsman wrote to the LC stating that, following the Final Opinion issued by the Office of the Ombudsman to the PA on 14 December 2022, and the PA's agreement with the first recommendation to invoke Article 80 to revoke the DNO, and in line with the fourth recommendation, it was recommended that the LC consults with the residents and persons who submitted a related complaint, before submitting similar new applications with the PA.

On 27 April 2023, the LC forwarded the correspondence with the PA to the Office of the Ombudsman together with a copy of the motion which was approved during the Local Council meeting held on 13 April 2023 which stated that the percussion exhibits installed in the public garden were to be removed.

On 8 May 2023, the CEP informed the LC that the case was being closed after these percussion exhibits had been removed and the Planning Board revoked the related permit.

Recommendation

Recommendations to PA:

1. The PA shall invoke Article 80 of the Development Planning Act and revoke the permit in question due to errors on the face of the record and due to the submission of information that does not reflect the situation on site.
2. Any lack of action by the PA in line with the previous recommendation should clearly lead the same PA to take enforcement action against any unpermitted uses of playing of the percussion exhibits in question by enforcing the removal of all percussion hammers attached to the same instruments on site.
3. This Final Opinion should be uploaded in the relative file DN/00648/22 and be made available for view by the public.
4. Any new applications involving similar playable percussion instruments, other than a noise report, shall also involve the notification of the persons that submitted a related complaint with the PA so that they will also be heard during the processing of the relative application.

Status

Closed and recommendation implemented

Sector/Department

Local Councils (LC)

Ombudsman case reference

CEP-22-3297

Brief details of case

A complaint regarding lack of response by the Local Council (LC) to a request for traffic calming measures in Mellieħa.

Action taken and management comments

On 15 December 2022, the Commissioner for Environment & Planning (CEP) asked the Mellieħa Local Council (LC) to submit its views on the complaint.

On 12 January 2023, the LC replied to the CEP that after going through the incoming mail database, the LC only found one recorded correspondence from the complainant dated 25 June 2009, concerning a different matter altogether.

The LC informed the CEP that the only instance where speed humps had been discussed had been way back in June 2012. The issue of overspeeding had been discussed several times during Council meetings, however, it was decided that such an abuse should be controlled by four 30km/h roundels painted in each lane taking traffic in opposite directions. Speed humps were not recommended due to noise nuisance.

On 18 January 2023, the CEP informed the complainant that the LC had considered proposals for the installation of speed humps. However, it decided against them due to the noise they generate. The CEP suggested that any abuse of over speeding should be reported so that any additional enforcement action may be taken. Furthermore, the CEP advised that any similar complaints should be directed to the Executive Secretary of the LC rather than the Mayor or Councillors for proper registration and processing by the Council. To this effect, no further investigation was required, and the case was considered closed.

Status

Closed without recommendation

Sector/Department**Local Councils (LC)****Ombudsman case reference****CEP-22-3298****Brief details of case**

A complaint regarding lack of response by the Local Council (LC) to a query regarding the public convenience opening hours and other signage at the Mellieħa Family Park.

Action taken and management comments

On 16 December 2022, the Commissioner for Environment & Planning (CEP) asked the Mellieħa Local Council to submit its views and comments on the case.

On 28 January 2023, the LC replied to the CEP that the Council went through the points raised by the complainant and submitted the following comments:

- a. The information signs were numbered on the aerial photo, showing the location of the various amenities found at the Mellieħa Family Park. It transpired that these were removed by unauthorised persons and action was to be taken to fix the signage.
- b. The Council was financing the service of a custodian, who oversaw that the amenities at the park were not misused, and controlled access to the multi-purpose court, and underlying facilities which were used by approved sports associations and individuals. The Custodian also attended to the public convenience underlying the multi-purpose court.

On 2 February 2023, the CEP informed the complainant of the details submitted by the LC regarding the public convenience opening hours. The CEP urged the complainant to address complaints to the Council's Executive Secretary and send them preferably by registered mail or by electronic mail so that a receipt is received.

Status

Closed without recommendation

Sector/Department

Local Councils (LC)

Ombudsman case reference

CEP-22-3315

Brief details of case

An investigation initiated by the Commissioner for Environment and Planning (CEP), following a complaint regarding road markings adjacent to a garage.

Action taken and management comments

On 5 December 2022, the CEP wrote to the Local Council (LC) and requested its comments regarding a one-metre double-yellow line which was painted in terms of SL 65.11.

On 9 January 2023, the CEP asked the LC to indicate what action was taken in this regard and to submit any relevant comments by 31 January 2023.

On 12 January 2023, the CEP suggested to the LC that the two parking bays were to be replaced with one parking bay, with a one-metre double yellow line from garages in question, on either side.

On 16 January 2023, the Office of the Ombudsman issued their Final Opinion with a set of recommendations to be implemented by the LC.

On 22 February 2023, the Office of the Ombudsman enquired whether the third recommendation was going to be implemented, particularly in the light of the fact that this bay was not according to Transport Malta standards.

On 22 February 2023, the LC informed the Ombudsman that CEP's proposal had been implemented.

On 17 April 2023, MHAL confirmed with the Office of the Ombudsman that the case was closed.

The CEP recommended that:

1. One-metre double yellow lines on each side of garage door in question.
2. Replace the shorter bay with a two-metre motorcycle bay.
3. Mark an adjacent car parking bay that was longer than 4.8 metres and one metre away from the garage question.

Recommendation

Status

Closed and recommendation implemented

Sector/Department**Local Councils (LC)****Ombudsman case reference****CEP-22-3341****Brief details of case**

A complaint regarding damages to a private balcony in Sliema, caused by heavy vehicles driving onto the pedestrian pavement.

On 9 January 2023, the CEP asked the Local Council (LC) to confirm its position with regard to:

1. The installation of a bollard or other means of deterrent outside the skewed part of the pavement to deter vehicles from driving onto the pavement whilst not affecting the entrance to the adjacent garages.
2. Permanent signs and markings prohibiting parking on the other side of the road if the width of the remaining carriageway was not wide enough for the passage of heavy vehicles.

On the same date, the LC forwarded to the CEP the following comments:

1. The installation of bollards required approval from Transport Malta (TM). Furthermore, the LC was informed that permanent structures, including iron bollards, were not to be placed in any place which would limit access to a road or pavement.
2. Regarding limiting access to large vehicles, the LC commented that it was obliged to provide a service for the collection of household waste. Furthermore, a number of construction sites in this area depended on the works being done, requiring a larger than normal vehicle.

On 12 January 2023, the CEP informed the LC that he will hold a site inspection with the complainant and revert.

On 1 February 2023, the CEP suggested to the LC to install a bollard on the pavement, in the part where the pavement was 1.1 metres wide so that the pedestrian passage was not compromised. The CEP also suggested that signs were to be placed at the entrance of the street in question to show that the street narrows to 2.6 metres so that vehicles, especially large vehicles, would know before entering the street about this limit in the road width.

The CEP kept TM in copy with these suggestions.

On 16 March 2023, the CEP asked the LC to provide information on whether the issue was solved.

On 28 March 2023, the LC replied to the CEP that they were informed by TM that the bollards were not approved and that an official response will soon be sent.

On 21 April 2023, the CEP informed the complainant that following TM's refusal for the installation of the bollard there was nothing the LC could do. In this regard, the case against the LC will be closed and the matter will be taken up with TM.

On 21 April 2023, the LC replied to the CEP that a sign will be placed stating that only vehicles under a certain height may enter the street.

Action taken and management comments**Status**

Closed without recommendation

Sector/Department

Warrant Board Committee of Guarantee

Ombudsman case reference

CEP-22-3264

Brief details of case

A complaint regarding the rejection of an application for the warrant to practise as a restorer by the *Bord tal-Warrant tar-Restawraturi* (BWR).

Action taken and management comments

On 12 January 2023, the Commissioner for Environment and Planning (CEP) forwarded the Final Opinion to the complainant. The CEP decided that following an investigation on the case and the interview report, it transpired that the complainant did not answer satisfactorily to objective questions asked by the BWR and that there were no justified reasons to doubt the conclusions of the BWR.

As regards the complaint that they were denied to be aided by a translator, there was nothing wrong with the BWR not accepting the presence of third-parties during the interview, whilst on the other hand the BWR should not be expected to provide a translator as much as every warrant holder to practise locally cannot expect to be provided with a translator when discussing, reporting and executing restoration projects.

To this effect, CEP stated that this complaint was not found to be sustained and, therefore, the case was closed.

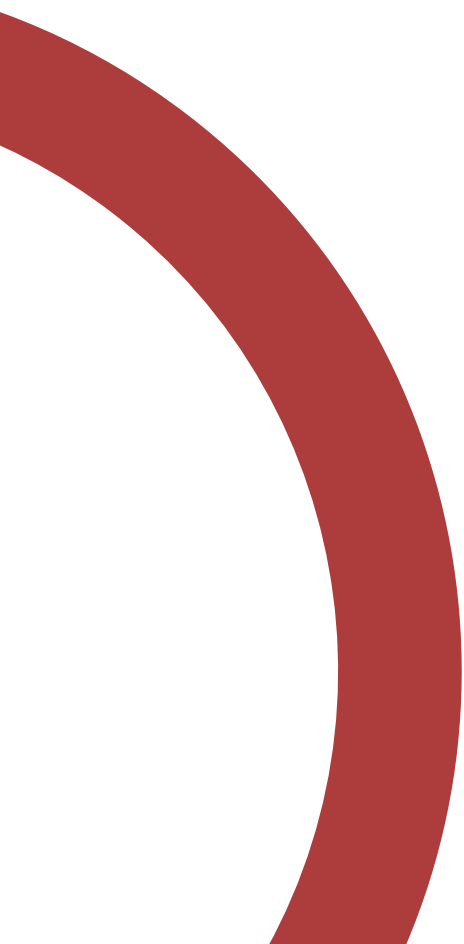
Status

Case not upheld





MHAL
**Commissioner for Environment
and Planning Pre-2022**



Sector/Department**Local Councils (LC)****Ombudsman case reference****CEP-21-2525****Brief details of case**

A complaint regarding blocked access to a garage in a street which had become one way. The complainant argued that this practice was not in line with established standards.

Action taken and management comments

On 6 December 2021 the Commissioner for Environment and Planning (CEP) requested the Local Council (LC) to provide a justification on this case and indicate why this case has not been solved.

The LC replied on 9 December 2021, informing the CEP that traffic flow in some roads had changed. The LC informed the CEP that the complaint will be forwarded to the Traffic Management Committee (TMC) for their review and feedback.

On 18 December 2021, the LC informed the CEP that the case was discussed with the TMC. The LC advised that these traffic directions were temporary during works carried out by Infrastructure Malta (IM). The complainant was to be kept informed of developments.

On 30 November 2022, the CEP wrote to the LC, stating that he was informed that the work in the respective street had been completed, but nothing was done to solve the problem. The CEP asked for the LC's comments about the matter, whilst Transport Malta (TM) were copied for further assistance on the case.

On 1 February 2023, the CEP forwarded the Final Opinion to the LC and requested to be informed by 1 March 2023 of the actions the LC intended to take in line with the recommendations made.

On 16 March 2023, the CEP informed the LC that this case would have to be closed as sustained and the recommendations not accepted by LC, since he had received no feedback to the Final Opinion.

Recommendation

The LC restores the traffic direction at this part of the street to a two-way system whilst implementing additional safety measures. TM was also copied with the Final Opinion as the authority responsible for the required approvals.

Status last year

Pending at Ministry

Status

Closed and recommendation not accepted







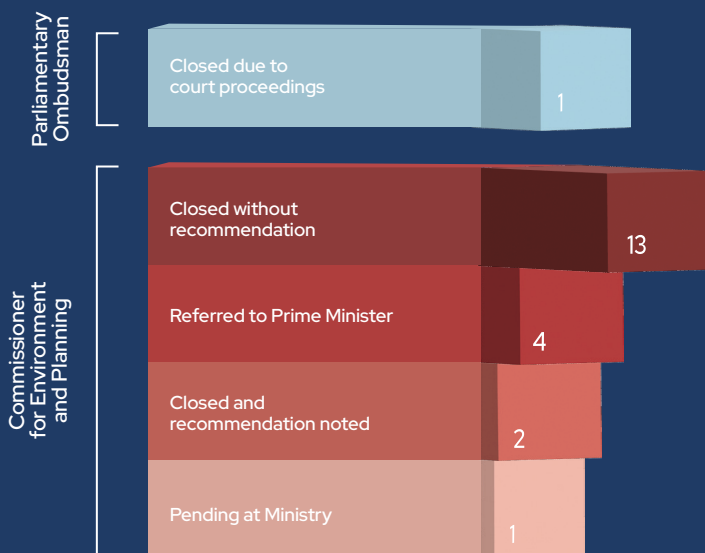
MINISTRY FOR PUBLIC WORKS AND PLANNING

In 2022, the Ombudsman referred one case to the Ministry for Public Works and Planning (MPWP), which was closed by the Ombudsman due to pending court proceedings.

The Commissioner for Environment and Planning (CEP) referred 20 cases to MPWP. 13 cases were closed without any recommendations being made. Two cases were closed with the CEP’s recommendations being noted. One case was pending at the Ministry, whilst four cases were referred to the Prime Minister in terms of Article 22(4) of the Ombudsman Act.

There were three cases which had been referred to MPWP by the CEP and which were pending from previous years. One case was closed without a recommendation being made and two cases were pending at the Ministry.

MPWP Total Cases 2022 - 21



MPWP
Parliamentary Ombudsman 2022



Sector/Department

Ministry for Public Works and Planning

Ombudsman case reference

OMB-22-3335

Brief details of case

An investigation on the Ombudsman's initiative following a complaint by an elected member of the *Bord tal-Inġiniera* regarding a vote of confidence in the Chairperson of the Board and the legality of actions and decisions carried out by the latter.

Action taken and management comments

The case was received on 30 December 2022.

The Ombudsman requested Ministry for Public Works and Planning (MPWP) views and comments on the complaint and why no reasoned reply was provided to the request made by the elected member.

On 31 January 2023, MPWP replied to the Ombudsman, detailing the issues within the Board.

On 27 February 2023 the Ombudsman informed MPWP that in view of pending court proceedings, it will not proceed any further in its investigations regarding the complainant's grievances and thus closed the case.

Status

Closed due to court proceedings





MPWP

**Commissioner for Environment
and Planning 2022**



Sector/Department

Ministry for Public Works and Planning (MPWP)

Ombudsman case reference

CEPOI-22-2958

Brief details of case

The Commissioner for Environment and Planning (CEP) opened an investigation regarding the absence of the possibility for third parties to appeal from decisions regarding the regularisation of a development. The CEP requested the Ministry's comments as to whether there was the intention to amend SL 552.26 so as to allow third parties to appeal from such decisions.

Action taken and management comments

The case was received on 26 May 2022. On 12 July 2022, MPWP replied to the CEP that it was evaluating his recommendation.

The CEP issued his Final Opinion on 19 October 2022.

On 21 November 2022, Ministry for Public Works and Planning (MPWP) wrote to the CEP that it was in the last phase of discussions regarding his recommendation and thus requested an extension within which to reply.

The CEP wrote to MPWP on 24 May 2023, and referred to his previous Final Opinion of 19 October 2022 and the recommendation therein. The CEP stated that since then many permits of this type were issued and in a considerable number of them there was an objection. However, there was no right to an appeal as in the case of other development permits issued by the Planning Authority (PA).

The CEP requested MPWP to indicate if there was an intention to accept the recommendation.

MPWP replied on 23 June 2023 and informed CEP that discussions were still underway regarding the necessary legal amendments.

Recommendation by Ombudsman

In his Final Opinion the CEP recommended that CAP 551 of the Laws of Malta be amended to include the right to submit an appeal regarding permits under a process of regularisation and that this right is also reflected in the Regularisation of Existing Development Regulations.

Status

Pending at Ministry

Sector/Department**Planning Authority (PA)****Ombudsman case reference****CEP-22-2581****Brief details of case**

A complaint concerning the rejection of representations by the Planning Authority (PA), following fresh plans submitted at the request of the Planning Board.

Action taken and management comments

The case was received on 12 January 2022.

In the absence of a reply from the PA, on 4 March 2022, the Commissioner for Environment and Planning (CEP) issued his Final Opinion, requesting the PA to inform of what action it intended to take in line with his recommendations.

The PA did not accept the recommendation made by the CEP. He was informed accordingly on 30 August 2022, stating that third parties had the opportunity to make verbal submissions during the pertinent hearing.

On 15 September 2022, the CEP referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act.

Recommendation by Ombudsman

The CEP recommended to the PA that third parties will be given the right to submit in writing any representations to the Planning Board or the Planning Commission, when a case is deferred for the submission of fresh plans.

Status

The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of Ombudsman Act

Sector/Department**Planning Authority (PA)****Ombudsman case reference****CEP-22-2597****Brief details of case**

Several complaints regarding alleged illegalities which had been investigated by the Enforcement Directorate.

From a series of inspections carried out at the property in question, it emerged that the allegations made were unfounded. However, the complainant was not satisfied by the findings of the Planning Authority (PA) and sought the intervention of the Commissioner for Environment and Planning (CEP).

Action taken and management comments

The case was received on 24 January 2022.

The Authority investigated again the complaint and the same results were obtained. The findings were communicated to the CEP on 22 February 2022.

The CEP closed the case on 6 May 2022.

Status

Closed without recommendation

Sector/Department

Planning Authority (PA)

Ombudsman case reference

CEP-22-2654

Brief details of case

A complaint arising from alleged misreporting by the case officer on an application for a development.

Action taken and management comments

The case was received on 15 February 2022.

On 1 March 2022, the Planning Authority (PA) replied to the Commissioner for Environment and Planning (CEP), stating that the planning process was investigated by the PA's internal auditor, and none of the claims presented by the complainant were detected during this investigation.

On 30 March 2022, the CEP issued a Preliminary Opinion, with a request for comments by the PA by 29 April 2022, following which the Final Opinion would be issued.

A report was sent to CEP on 26 April 2022.

The CEP sent his Final Opinion on 2 June 2022.

On 27 June 2022, the PA replied to the CEP with reference to his recommendation in the Final Opinion, reiterating its position that the CEP's recommendations could not be adopted due to the lack of provision in the Development Planning Act (DPA). Therefore, the CEP's recommendation was not accepted.

The PA explained that the originally approved plans are superseded with the ones approved following an application for Minor Amendment, and the originally approved plans are stamped as superseded.

On 16 September 2022, the CEP referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act.

Recommendation by Ombudsman

The CEP recommended that Article 80 of the DPA be invoked to set the originally approved plans with the ones approved with the Minor Amendment application.

Status

The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of Ombudsman Act

Sector/Department**Planning Authority (PA)****Ombudsman case reference****CEP-22-2697****Brief details of case**

A complaint regarding lack of action by the Planning Authority (PA) against excessive noise from a gymnasium.

Action taken and management comments

The case was received on 21 February 2022.

On 1 March 2022, the PA replied that an inspection had been conducted on site and the premises were certified by the responsible Engineer, declaring that all the requirements stated in the conditions of the permit have been implemented.

The case was closed by the Commissioner for Environment and Planning on 18 March 2022.

Status

Closed without recommendation

Sector/Department**Planning Authority (PA)****Ombudsman case reference****CEP-22-2714****Brief details of case**

A complaint concerning a small fee for the use of a public open space in Birżebbuġa.

Action taken and management comments

The case was received on 11 May 2022. The development was subject to a development brief published in 2011, which established a fee for the use of the public open spaces.

The Commissioner for Environment and Planning (CEP) remarked that the established fee did not reflect today's market value and suggested a mechanism to revise future fees, reflecting the price of land when similar permits are issued.

Since the development brief under consideration could not be amended, the Planning Authority (PA) agreed with the CEP's suggestion that future development briefs were to incorporate the proposed provision.

The CEP closed the case on 26 May 2022.

Status

Closed and recommendation noted

Sector/Department

Planning Authority (PA)

Ombudsman case reference

CEP-22-2860

Brief details of case

A complaint arising from an unfair selection process for a post at the Planning Authority (PA).

Action taken and management comments

The case was received on 9 May 2022.

The case was investigated by the PA and found no irregularities in the selection process for the filling of the post in question.

The call for applications requested specifically a first degree. The applicant did not satisfy this requirement. Even though the complainant was in possession of a master's degree, the area of study was not related with the areas of study required for the post.

The PA informed the Commissioner for Environment and Planning (CEP) accordingly on 19 May 2022.

The CEP closed the case on 20 June 2022.

Status

Closed without recommendation

Sector/Department

Planning Authority (PA)

Ombudsman case reference

CEP-22-2884

Brief details of case

A complaint regarding a site notice which allegedly was not visible on site at all times.

Action taken and management comments

The case was received on 4 May 2022.

The Planning Authority (PA) re-affixed the site notice in question. Moreover, more than one site notice was fixed on site to make sure that the site notices remain on site until required and visible for any person to see with a view to make formal representations if required.

The Commissioner for Environment and Planning (CEP) closed the case on 23 May 2022.

Status

Closed without recommendation

Sector/Department	Planning Authority (PA)
Ombudsman case reference	CEP-22-2956
Brief details of case	A complaint concerning a permit that included the installation of a retractable canopy.
Action taken and management comments	<p>The case was received on 26 May 2022. The Planning Authority (PA) investigated the case and replied to the Commissioner for Environment and Planning (CEP) that the permit was issued according to policy.</p> <p>The CEP issued his Final Opinion on 30 June 2022.</p> <p>The PA replied to CEP on 29 August 2022, stating that PA did not agree with the recommendations made.</p> <p>On 19 September 2022, the CEP referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act.</p>
Recommendation by Ombudsman	The CEP recommended that the PA should invoke Article 80 of the Development Planning Act to revoke the permit, since in his opinion, the approved permit was issued not for a retractable canopy.
Status	The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of Ombudsman Act
<hr/>	
Sector/Department	Planning Authority (PA)
Ombudsman case reference	CEP-22-2997/8
Brief details of case	The complainant enquired whether any enforcement action was taken on a case to sanction development, since the application had been withdrawn.
Action taken and management comments	<p>The case was received on 23 June 2022.</p> <p>After reviewing and investigating the case by the Enforcement Directorate, enforcement action was taken on 28 October 2022.</p> <p>The CEP closed the case on 21 November 2022.</p>
Status	Closed without recommendation

Sector/Department

Planning Authority (PA)

Ombudsman case reference

CEP-22-3009

Brief details of case

A complaint concerning an approved development application in Xagħra, Gozo.

Action taken and management comments

The case was received on 23 June 2022.

The Commissioner for Environment and Planning (CEP) enquired about a permit regarding an approved development application which had yet to be issued.

The Planning Authority (PA) informed the CEP that it will not comment on the matter since the planning process was yet to be determined. Eventually, a non-executable permit was issued on 1 August 2022, and an appeal was submitted by third parties on 1 September 2022.

The CEP closed the case on 13 September 2022.

Status

Closed without recommendation

Sector/Department

Planning Authority (PA)

Ombudsman case reference

CEP-22-3014

Brief details of case

A complaint arising from alleged lack of action against the placing of unauthorised tables and chairs on the pavement.

Action taken and management comments

The case was received on 24 June 2022. An application for an extension to an existing pavement and the placing of tables and chairs had been submitted to the Planning Authority (PA) a few years before and had been refused. Eventually, Infrastructure Malta (IM) constructed the pavement, following clearance by the Local Council.

The Commissioner for Environment and Planning (CEP) asked the PA to take immediate action against the placing of tables and chairs by, first issuing a warning, and then confiscating the furniture.

During a meeting with the CEP on 8 July 2022, the PA informed the CEP that it cannot accede to his proposal since the Development Planning Act did not provide for such action.

The CEP referred the case to the respective Local Council, and closed the case with the PA on 23 January 2023.

Status

Closed without recommendation

Sector/Department	Planning Authority (PA)
Ombudsman case reference	CEP-22-3137
Brief details of case	A complaint concerning the approval of an Automated Teller Machine (ATM) and booth.
Action taken and management comments	<p>The case was received on 26 August 2022. The Commissioner for Environment and Planning (CEP) enquired about a Development Notification Order (DNO) that was issued regarding the construction of an ATM and ticket booth, stating that such development should have not been granted through a DNO since it did not cater for such development.</p> <p>The Planning Authority (PA) insisted that the DNO was legitimate.</p> <p>On 3 October 2022, the CEP issued his Final Opinion.</p> <p>The PA did not accept the recommendation made.</p>
Recommendation by Ombudsman	The CEP recommended that Article 80 of the Development Planning Act (revocation of permit) should be invoked.
Status	The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of Ombudsman Act

Sector/Department	Planning Authority (PA)
Ombudsman case reference	CEP-22-3139
Brief details of case	A complaint arising from the placing of musical instruments in an open public space at St Paul's Bay.
Action taken and management comments	<p>The case was received on 20 September 2022.</p> <p>The Commissioner for Environment and Planning (CEP) sent his Final Opinion on 14 December 2022.</p> <p>On 16 January 2023, the Planning Authority (PA) agreed with the recommendation of the CEP.</p> <p>The CEP closed the case on 18 January 2023.</p> <p>On 8 May 2023, the CEP confirmed that the percussion exhibits had been removed. The Planning Board revoked the permit in question on 27 April 2023.</p>
Recommendation	The CEP recommended that the PA to invoke Article 80 of the Development Planning Act CAP 552 (revocation of permit).
Status	Closed and recommendation noted

Sector/Department

Planning Authority (PA)

Ombudsman case reference

CEP-22-3141

Brief details of case

A complaint arising from lack of action on an illegal development in Sliema.

Action taken and management comments

The case was received on 13 September 2022. During a meeting between the Planning Authority (PA) and the Commissioner for Environment and Planning (CEP), it was agreed that since the development was on a public road, it was the Land's Authority responsibility to address this query.

The CEP closed the case on 20 October 2022.

Status

Closed without recommendation

Sector/Department

Planning Authority (PA)

Ombudsman case reference

CEP-22-3243

Brief details of case

A complaint arising from a delay in processing the invocation of Article 80 of the Development Planning Act, relating to a permit in Sliema.

Action taken and management comments

The case was received on 17 October 2022.

The Commissioner for Environment and Planning (CEP) requested the revocation of the permit in question. The Planning Authority (PA) accepted this request.

The CEP closed the case on 15 February 2023.

On 2 March 2023, the PA published the Revocation Assessment Report and held the related board meeting.

Status

Closed without recommendation

Sector/Department**Planning Authority (PA)****Ombudsman case reference****CEP-22-3287****Brief details of case**

A complaint arising from a site notice, which was not adequately accessible for third parties to note and possibly make representations on the proposed development.

Action taken and management comments

The case was received on 7 November 2022. The Planning Authority noted that the complaint referred by the Commissioner for Environment and Planning (CEP) was justified and rectified the situation.

A new site notice was fixed in a more prominent area for the general public to note.

The CEP closed the case on 24 November 2022.

Status

Closed without recommendation

Sector/Department**Planning Authority (PA)****Ombudsman case reference****CEP-22-3292****Brief details of case**

A complaint relating to a wall extension.

Action taken and management comments

The case was received on 30 November 2022.

Investigations by the Planning Authority (PA) revealed that the wall to be raised to second floor level had been approved by the PA.

The Commissioner for Environment and Planning (CEP) closed the case on 30 November 2022.

Status

Closed without recommendation

Sector/Department

Planning Authority (PA)

Ombudsman case reference

CEP-22-3305

Brief details of case

A complaint requesting the repositioning of a vending machine.

Action taken and management comments

The case was received on 30 November 2022.

The Planning Authority (PA) investigated the case and it transpired that the vending machine should be moved to facilitate water catchment for the neighbouring fields.

On 6 February 2023, the Commissioner for Environment and Planning (CEP) informed the PA that he received confirmation that the vending machine had been repositioned at a distance from the water-collection trap in question, and was no longer causing an obstruction.

The CEP closed the case on 6 February 2023.

Status

Closed without recommendation

Sector/Department

Planning Authority (PA)

Ombudsman case reference

CEP-22-3309

Brief details of case

A complaint relating to the fixing of a site notice for a development in Marsalforn.

Action taken and management comments

The case was received on 24 November 2022.

The Planning Authority (PA) investigated the case and it transpired that no breach of the Planning Act was detected.

The CEP closed the case on 14 December 2022.

Status

Closed without recommendation





MPWP

**Commissioner for Environment
and Planning Pre-2022**



Sector/Department

Building and Construction Authority (BCA)

Ombudsman case reference

CEP-21-2333

Brief details of case

An investigation regarding the publication of advertisements for the sale of property without the indication of the energy performance of the building.

Action taken and management comments

The case was received on 14 September 2021.

The Commissioner for Environment and Planning (CEP) requested the Building and Construction Authority (BCA) to send their remarks regarding EU directive 2010/13 Article 12/4, stating: *“Member states shall require that when buildings are offered for sale or for rent, the energy performance indicator of the Energy Performance Certificate (EPC) of the building is stated in the advertisement in commercial media.”*

On 15 September 2021, the BCA wrote to the CEP that real estate agents were aware of the obligations to indicate Energy Performance Certificate (EPC) ratings when advertising property for sale or rent.

On 19 February 2022, the BCA reported that it was working towards aligning its overall plan to ensure adherence to prevalent regulations in terms of the commissioning of EPCs and on the required exposure, so that parties requiring lease or purchase of property would be provided with information on the energy performance of that property. The Authority reported that a group of professionals started to review all estate agent websites and samples of each agent’s advertisements published online. Advertisements with missing EPC information were being visually recorded.

Following the conclusion of this exercise, the BCA informed the Ombudsman that several meetings were held with the Estate Agents Section (EAS) within the Malta Developers Association (MDA). The EAS requested a transitional period to get all the currently advertised property in line with legal requirements. The BCA informed EAS that a project plan with clear deliverables for the rollout of EPC information in advertisements was expected.

Discussions on the matter are ongoing.

Status last year

Pending at Ombudsman

Status

Pending at Ministry

Sector/Department**Planning Authority (PA)****Ombudsman case reference****EU 0035****Brief details of case**

A complaint relating to a five-year delay in the scheduling of Tigné Barracks Officers' Mess by the Executive Council of the Planning Authority (PA).

Action taken and management comments

The case was received on 11 May 2020.

The Superintendence for Cultural Heritage submitted the application for the scheduling of the site. During a meeting held on 29 May 2020 between the PA and the Commissioner for Environment and Planning (CEP), the latter was informed, that discussions between all parties involved were ongoing.

Following the conclusion of discussions, a full development application was submitted to the PA to be decided upon.

The full development application was discussed on 13 July 2023. A decision was taken by the Planning Board in favour of the applicant. In view of the outcome CEP closed the case.

The CEP closed the case on 26 July 2023.

Status last year

Pending at Ministry

Status

Closed without recommendation

Sector/Department**Planning Authority (PA)****Ombudsman case reference****EU 0046****Brief details of case**

A complaint regarding no direct action on a structure in an internal yard in Sliema.

Action taken and management comments

The case was received on 11 August 2020.

The Commissioner for Environment and Planning (CEP) was informed that the Planning Authority (PA) had contacted the owner of the property in question. On 5 January 2021, the Enforcement Directorate carried out an inspection and reported that the adjacent site had finished excavation. On 19 August 2021, the Directorate reported that direct action was still not feasible since the property in question was not accessible. To avoid unnecessary and unjustified expenses, the PA was awaiting the erection of a tower crane on the adjoining property, for the removal of the illegality.

On 22 February 2022, a meeting was held between the Direct Action Team on behalf of the PA and the contravener to seek a way forward for the removal of the illegality.

On 7 February 2023, the contravener started to comply with the Enforcement Notice by removing the floor of the walkway, but some steel beams were still in place. Due to logistics of direct action, the PA was awaiting the adjacent site to finish the level at which the infringement could access the site in question for the removal of the illegalities.

On 19 September 2023, the Ministry for Public Works and Planning (MPWP) and the CEP were informed by PA that, for safety reasons, it was agreed that once the adjacent development reached the remaining frame structure level, this will be removed. The CEP was to be informed upon the removal of the remaining structure.

Status last year

Pending at Ministry

Status

Pending at Ministry



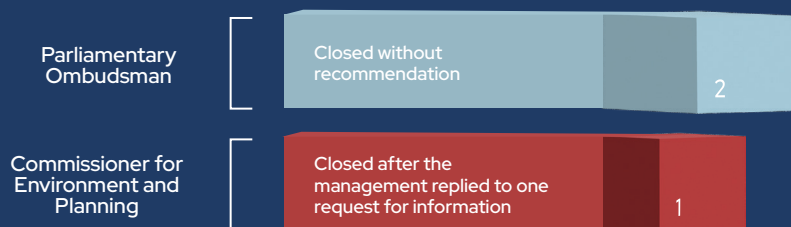


**MINISTRY FOR SOCIAL
AND AFFORDABLE
ACCOMMODATION**

In 2022, two cases were referred by the Ombudsman to the Ministry for Social and Affordable Accommodation, which were closed in 2023. Another case was referred by the Commissioner for Environment and Planning which was closed after Management replied to one request for information.

One case which had been referred by the Ombudsman in 2021, is pending at the office of the Ombudsman.

MSAA Total Cases 2022 - 3



MSAA
Parliamentary Ombudsman 2022



Sector/Department

Housing Authority (HA)

Ombudsman case reference

OMB-22-2765

Brief details of case

A complaint relating to a garage purchased from the Housing Authority (HA). The complainant claimed that this garage was currently out of use due to a downward gap created between the garage and the street level with the rebuilding and laying of the street by Infrastructure Malta (IM). The complainant stated that IM declared that this gap would have not occurred if HA had respected the official street levels during construction, thus HA should provide redress and fix this problem.

Action taken and management comments

This case was received on 19 August 2022.

On 18 October 2022, HA replied to the Ombudsman reiterating that construction works were conducted by IM and that HA was not responsible for any developments that occurred after the date of purchase. This explanation had been given to the complainant in 2002 and consequently an agreement with the Local Council was reached to fix the gap. While the HA was not responsible for this damage, it voluntarily engaged a Perit to investigate and report on the situation. Following an evaluation of the report, the HA was to decide whether it would cover the expenses or otherwise.

On 3 March 2023, HA provided the Ombudsman with the name of the Perit investigating this case.

On 22 May 2023, HA informed the Ombudsman that from the inspection carried out by the Perit in the presence of the complainant, it transpired that the garage was in use without any obstacles. HA remarked that the condition stipulated on the purchase of sale which stated that garage is being purchased tale quale was still in vigore. Thus, the HA was not responsible for any construction works related to the garage thereafter.

On 11 July 2023, the Office of the Ombudsman stated that the case has been closed and no further action was taken.

Status

Closed without recommendation

Sector/Department**Housing Authority (HA)****Ombudsman case reference****OMB-22-3274****Brief details of case**

A complaint regarding the construction of a flat sold by the Housing Authority (HA), which was not built according to the Building Regulations Standards with the consequence of severe damages suffered by the complainant.

Action taken and management comments

This case was received on 2 November 2022.

The Office of the Ombudsman remarked that this case was linked to the previous case with reference number OMB-22-2600 (sector not involved) which had been closed after the issue seemed to have been addressed and resolved. The Ombudsman requested a copy of the technical report drawn by the Architect appointed by HA to inspect the respective flat.

On 28 November 2022, the HA sent a copy of the Architect's technical report incorporating technical recommendations.

Further to this reply, on 2 December 2022, the Ombudsman asked whether HA will be repairing the damages reported by the Architect. Moreover, the Ombudsman pointed out that the complainant was selling this property. On the same day, the HA replied that it was not responsible for the reported damages. Moreover, the HA emphasised that the complainant was obliged to adhere with the purchase contract, which stated that if such property was sold or transferred to third parties, the owner was to pay the HA the amount of money stated in the contract.

HA provided a copy of the letter sent to the complainant as a reminder on the payment due. Furthermore, the complainant was to pay another sum dictated by a court sentence for hindering HA from conducting works. However, HA was giving the complainant a chance to settle their payment upon the signing of contract for the sale of the property.

On 2 March 2023, HA invited the Ombudsman for a meeting to explain the situation. During this meeting, HA reiterated how the complainant did not comply with the contract and refused to pay the amount due to HA for years. Moreover, HA confirmed that it was allowing the complainant to pay the amounts due to HA when the contract of sale for the property would be finalised.

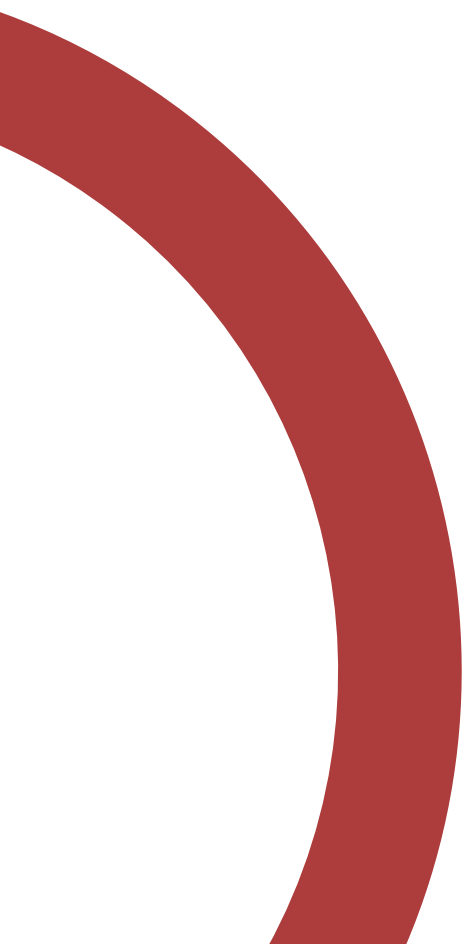
On 7 March 2023, the Ombudsman confirmed that the case was closed after the complainant agreed with the proposed action.

Status

Closed without recommendation



MSAA
Parliamentary Ombudsman Pre-2022



Sector/Department**Housing Authority (HA)****Ombudsman case reference****OMB-21-2364****Brief details of case**

A case related to the engagement of a Senior Officer at the HA without a call for applications. The complainant claimed that this was unfair treatment towards him and other employees who were not given the opportunity to apply for the post.

Action taken and management comments

The case was referred to the HA on 17 November 2021.

On 1 December 2021, the HA informed the Ombudsman that the complainant had already raised this grievance with the Authority and it had replied to the complainant that the necessary approvals for re-deployment had been obtained from the People & Standards Division, OPM. A copy of these approvals was enclosed with the reply to the Ombudsman.

On 14 December 2021, the Ombudsman stated that the grievance did not concern re-deployment, but it was about the forbidden possibility for HA employees to apply for the respective post. The Ombudsman requested HA to reply on this matter.

On 25 January 2022, HA clarified that the post in question was not a new vacancy. The matter concerned the re-deployment of an employee who, after having been deployed with another entity, was resuming duties with the HA. The HA had compiled the appropriate form for this person to return with HA. Upon request, on 7 March 2022, HA provided all related documentation to the Ombudsman explaining that the Public Administration has a structure for moving officers from the Public Service to the Public Sector and vice versa. Thus, there was no need to issue a call for applications for this post. Moreover, similar calls for applications had been issued for which the complainant never applied.

On 15 November 2022, the Ombudsman requested further clarification from HA on the information submitted through related documents. On 2 January 2023, HA reiterated the respective post was filled through redeployment procedures.

Status last year

Pending at Ombudsman

Status

Pending at Ombudsman





MSAA

**Commissioner for the Environment
and Planning 2022**



Sector/Department

Housing Authority (HA)

Ombudsman case reference

CEP-22-2871

Brief details of case

The Commissioner for the Environment and Planning (CEP) enquired with the Housing Authority (HA) whether the residents of a particular locality had been consulted prior to the implementation of a landscaping project.

Action taken and management comments

This case was received on 30 March 2022.

On 7 April 2022, the HA informed the Commissioner that in terms of CAP 261 articles 4(1) and 4(2)(f) and (g), whilst the Authority was responsible to develop and maintain landscaping areas surrounding properties owned by the same Authority, it was not obliged to carry out public consultations on landscaping projects. Nonetheless, HA had held a meeting with the Mayor on 16 September 2019, to give information on the project.

On 6 May 2022, the Commissioner informed HA that the aforementioned information was given to the complainant and the case was subsequently closed.

Status

Closed after the management replied to one request for information







MINISTRY FOR SOCIAL POLICY AND CHILDREN'S RIGHTS

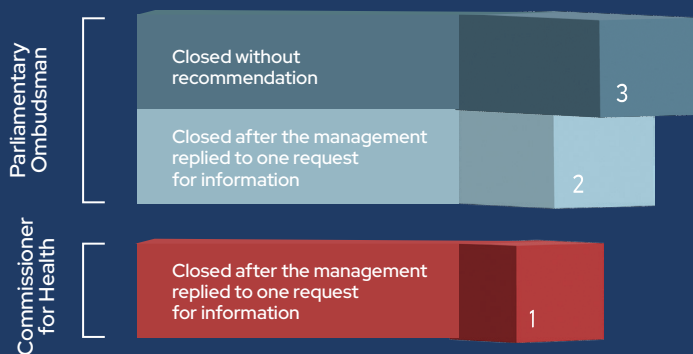
In 2022, five cases were referred to the Ministry for Social Policy and Children’s Rights (MSPC) by the Ombudsman. All cases were closed in 2022 without any recommendation being made by the Ombudsman.

Another case was referred in 2022 by the Commissioner for Health, which was closed after management replied to one request for information.

There were five cases referred by the Ombudsman which were pending from previous years. Three cases were closed. Another case is pending at the Office of the Ombudsman, whilst another case, which had been initially registered with the Ministry for Education, Sport, Youth, Research and Innovation, but Ombudsman’s Final Opinion was addressed to MSPC has been referred to the Prime Minister in terms of article 22(4) of the Ombudsman Act.

Two cases which had been referred by the Commissioner for Health and which were pending from previous years, were closed by the Commissioner in 2023.

MSPC Total Cases 2022 - 6



MSPC
Parliamentary Ombudsman 2022



Sector/Department

Department of Social Security (DSS)

Ombudsman case reference

OMB-22-2643

Brief details of case

A complaint regarding unemployment assistance not received by claimant.

Action taken and management comments

The case was received on 1 February 2022.

On 28 February 2022, the DSS informed the Ombudsman that payment for unemployment benefits was effected in arrears on 19 February 2022.

Subsequently, the Ombudsman closed the case on 9 March 2022.

Status

Closed after the management replied to one request for information

Sector/Department

Department of Social Security (DSS)

Ombudsman case reference

OMB-22-2820

Brief details of case

A complaint concerning the refusal of an application for the grant of a Severe Disability Pension.

Action taken and management comments

The case was received on 13 April 2022.

On 19 April 2022, MSPC informed the Ombudsman that this complaint was being referred for re-assessment by a different medical panel. In addition, MSPC outlined the eligibility criteria for the entitlement of a Severe Disability Pension.

On 25 April 2022, the Office of the Ombudsman informed MSPC that case was being closed since the complainant was satisfied with the information provided.

Status

Closed after the management replied to one request for information

Sector/Department	Department of Social Security (DSS)
Ombudsman case reference	OMB-22-2948
Brief details of case	A complaint regarding settlement of overpayments due to DSS. The complainant requested an extension to settle the payments due.
Action taken and management comments	<p>This case was received on 16 June 2022.</p> <p>On 16 June 2022, the DSS informed the Ombudsman that on the previous day, the complainant had been granted an extension of a further year to settle the overpayment by June 2023.</p> <p>On 4 July 2022, the Ombudsman confirmed that complainant was satisfied with the new agreement, thus the case was being closed.</p>
Status	Closed after the management replied to one request for information

Sector/Department	Department of Social Security (DSS)
Ombudsman case reference	OMB-22-3020
Brief details of case	A complaint relating to the treasury pension. The complainant claimed that they were entitled to the treasury pension since the date of the letter of appointment was 1977.
Action taken and management comments	<p>The case was received on 20 July 2022.</p> <p>On 31 August 2022, the DSS replied to the Ombudsman stating that as stipulated in Article 7 of the Pensions Ordinance Act (Cap 93), the complainant was not entitled to a treasury pension since they resigned from AFM prior to reaching retirement age or 25 years of service.</p> <p>On 22 September 2022, the Ombudsman informed DSS that the complainant argued that the Pension Ordinance Act was being interpreted incorrectly, and that AFM employees were entitled to a Service Pension. The complainant provided names of ex-colleagues who were receiving a service pension.</p> <p>On the same day, DSS reiterated that complainant was not entitled to a service pension since they resigned from AFM after ten years' service. A copy of the resignation letter was provided with this reply. DSS stated that this explanation had been given to the complainant over the phone and had specified why their situation was different from that of the ex-colleagues mentioned, as they had completed 25 years of service. The complainant understood the situation and stated that they will not continue with the case.</p> <p>On 17 October 2022, a meeting was held between Director DSS and the Ombudsman to give a detailed explanation why the complainant was not entitled for a treasury pension.</p> <p>Satisfied with this information, the Ombudsman closed the case on 16 December 2022.</p>
Status	Closed without recommendation

Sector/Department

Foundation for Social Welfare Service (FSWS)

Ombudsman case reference

OMB-22-3008

Brief details of case

A complaint regarding alleged lack of action by FSWS on concerns for a minor's wellbeing.

Action taken and management comments

The case was received on 30 June 2022.

On 10 August 2022, FSWS informed the Ombudsman that a meeting with the complainant was held on 2 July 2022.

The complainant had expressed their disappointment on the lack of action from FSWS, and the Foundation explained the two procedures in place to address such cases. In most cases, an application is filed with the Courts of Malta, who will then summon the Child Protection Services (CPS) to investigate and report. Otherwise, the CPS investigates prior to Courts requests. However, in such instances the investigation results are only taken as a note to the Courts and no further action can be taken.

The complainant considered both scenarios and requested the CPS to investigate. In fact, CPS initiated an investigation immediately.

On 12 August 2022, the Ombudsman confirmed with MSPC that a social worker had been assigned to the case and that the complainant was satisfied. The case was to be considered closed.

Status

Closed without recommendation





MSPC
Parliamentary Ombudsman Pre-2022



Sector/Department

Department of Social Security (DSS)

Ombudsman case reference

R 0225

Brief details of case

A complaint from a person who was undergoing a rehabilitation programme for a dependency, claiming discrimination upon having been discharged from the programme as a disciplinary measure.

Action taken and management comments

On 27 June 2018, the Ombudsman requested contact details of individuals who were undergoing the rehabilitation programme in question. The information requested was given in emails dated 3 and 9 July 2018. Following further investigation, the Ministry forwarded feedback to Office of the Ombudsman in April 2019. No further feedback was received from the Ombudsman.

Upon enquiring with the Office of the Ombudsman in August 2022, MSPC was informed that the case was being evaluated.

On 30 March 2023, the Office of the Ombudsman informed MSPC that on 11 November 2022 the case was closed since it was considered to be unjustified.

Status last year

Pending at Ombudsman

Status

Case not upheld

Sector/Department**Department of Social Security (DSS)****Ombudsman case reference****T 0086****Brief details of case**

A complaint regarding an incorrect pension rate. The complainant alleged that their pension had been reduced because they continued to work after they had been discharged in 2003.

Action taken and management comments

The case was received on 27 May 2019.

On 28 May 2019, the DSS informed the Investigating Officer that the pension rate received by the complainant was correct. The complainant's pension rate was adjusted in January 2019 to reflect the pertinent budget measure for 2019, and not because there had been an error in the computation of their pension.

On 20 January 2021, the Ombudsman argued that Act VII of 2019 sustained the claim made by the complainant. Furthermore, the complainant and his union representative believed that the same benefits should be awarded to those who retired in 2003 as the Act referred to those who retired in 2008. Thus, the Ombudsman asked for further clarification.

On the same day, the Permanent Secretary clarified immediately that no arrears were due for the period preceding the amendments made to the pertinent Act as the Act did not provide for retroactivity. The amendments made to the law provide that, employees who opted for an early retirement scheme in 2008 or later could be awarded the more favourable pension. The complainant could not benefit from this amendment as they retired in 2003. These circumstances had been explained to the complainant and their union representatives many times.

Upon enquiring with the Office of the Ombudsman in September 2022, MSPC was informed that the case was being evaluated.

On 30 March 2023, the Office of the Ombudsman informed MSPC that on 11 November 2022 it had closed the case since it was considered unjustified.

Status last year

Pending at Ombudsman

Status

Case not upheld

Sector/Department

Department of Social Services (DSS)

Ombudsman case reference

U 0214

Brief details of case

A complaint related to a refund for overpayments to be paid by the heirs of an elderly who had been a resident in a home for the elderly under the Government Public-Private Partnership (PPP) Scheme.

Action taken and management comments

The case was received on 17 November 2020.

On 15 January 2021, the DSS sent a reply to the Ombudsman including a detailed report, confirming that workings for contributions were correct.

On 5 March 2021, the Ombudsman requested further information on why claims for overpayments went back to 2010, and why such amounts were due since the elderly person was admitted to a residence under the Government PPP Scheme.

On 8 March 2021, MSFC explained that deductions by the DSS were made according to Legal Notice No 259 of 2004. Furthermore, MSFC stated that the overpayment dates back to 2010 as contributions started when the elderly person had been admitted to Karen Grech Rehabilitation Hospital.

Upon enquiring with the Office of the Ombudsman in August 2022, MSFC was informed that the case was being evaluated.

On 17 March 2023, the Office of the Ombudsman requested MSPC the amounts due to the Government and for what reason such overpayment had been incurred. Moreover, the Office of the Ombudsman asked MSPC if in 2019 the Active Ageing and Community Care (AACC) fell under its responsibility.

Between March and September 2023, several exchanges of correspondence took place between the Office of the Ombudsman, MSPC and MFAA, whereby both ministries concerned supplied the Ombudsman with the clarifications and explanations requested.

Status last year

Pending at Ombudsman

Status

Pending at Ombudsman

Sector/Department**Foundation for Social Welfare Services (FSWS)****Ombudsman case reference****OMB-21-2258****Brief details of case**

A complaint relating to the selection process for the appointment of a Chairperson of a Board within FSWS. The complainant alleged that the process had been biased and unfair and that the decision was not taken on the order of merit. Furthermore, the complainant remarked that the composition of the selection board had been changed on the day of the interview. The complainant also referred to several meetings held with FSWS and MSFC in an attempt to redress the situation.

Action taken and management comments

The case was received on 26 August 2021.

On 3 September 2021, FSWS sent a detailed report to the Ombudsman, reiterating that all applicants had been treated equally throughout the selection process. The same questions had been asked by the interviewing board and the position was awarded according to the order of merit. In addition, FSWS confirmed that there had been a change in the composition of the selection board on the same day of the interviews, as one of the members had resulted positive to COVID-19. However, all interviews were held on the same day. Therefore, all applicants were assessed by the same selection board members.

On 10 September 2021, MSFC submitted to the Ombudsman a copy of the correspondence exchanged between MSFC and the complainant, including notes taken during the meeting held between the complainant and Director Corporate Services, MSFC.

The Office of the Ombudsman closed the case in October 2022.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department

Ministry for Social Policy and Children’s Rights (MSPC)

Ombudsman case reference

T 0255 (last year this case was reported under Ministry for Education, Sport, Youth, Research and Innovation)

Brief details of case

A complaint concerning pension rights. The complaint was addressed by the Ministry for the Family, Children’s Rights and Social Solidarity.

Action taken and management comments

The case was received on 29 November 2019.

On 9 December 2019, the Office of the Ombudsman requested MEDE to provide information regarding the commencement and termination date of the complainants’ studies at the University of Malta (UM) and a copy of the complainants’ letter of appointment. Furthermore, the Office of the Ombudsman asked MEDE to confirm or otherwise whether the complainants were in the same course as that undertaken by 31 retired teachers shown in a list submitted by the Office of the Ombudsman, and to indicate which phase of Student-Worker Scheme covered both groups.

On 23 December 2019, the MFCS had informed the Ombudsman that the effective date of employment with the Public Service was regulated by the date on the appointment letter issued by the PSC.

On 16 January 2020, MEDE replied to the Office of the Ombudsman and provided further data regarding public officers who used to work at MEDE and who were in the same course undertaken by the complainants.

On 7 February 2020, the Office of the Ombudsman provided a list of public officers who were part of the Ministry for Education and who allegedly were in the same course as the complainants.

On 19 February 2020, MEDE provided the requested information to the Office of the Ombudsman.

On 31 October 2022 the Ombudsman issued the Final Opinion to the Ministry for Social Policy and Children’s Rights and MEYR. The Ombudsman sustained the complaint and stated that the complainants suffered discriminatory treatment when they were not given the same right as other students who had been granted the Treasury Pension.

On 8 November 2022, MEYR informed the Ombudsman that pensions did not fall within its remit and therefore no action could be taken from their end.

On 25 November 2022, the Office of the Ombudsman informed MEYR that he was closing the case with MEYR.

On 28 July 2023, the Ombudsman referred the case to the Prime Minister as provided for in Article 22(4) of the Ombudsman Act.

Status last year

Pending at Ombudsman

Status

The Ombudsman referred the case to the Prime Minister in terms of Article 22(4) of the Ombudsman Act





MSPC
Commissioner for Health 2022



Sector/Department

Department of Social Security (DSS)

Ombudsman case reference

CH-22-3170

Brief details of case

A complaint related to the Corps Scheme. The complainant argued that they were granted an incorrect sum of money according to their years of service.

Action taken and management comments

The case was received on 2 September 2022.

On 26 September 2022, the DSS informed the Commissioner for Health (CfH) that from a thorough investigation it transpired that the complainant had never resigned from the Public Service, but they had availed themselves of a one-year unpaid leave to try alternative employment. In fact, the complainant resumed duties with the Public Service and retired in 2019. In the light of these circumstances, a reassessment of the grant was carried out, and the complainant was to be given the correct amount.

On 6 December 2022, the CfH confirmed that payment had been effected and subsequently closed the case.

Status

Closed after the management replied to one request for information



MSPC
Commissioner for Health Pre-2022



Sector/Department

Malta Psychology Profession Board (MPPB)

Ombudsman case reference

CH-21-2531

Brief details of case

A complaint alleging that, although the Board allowed candidates holding a Master's degree consisting of 90 ECTS credits to apply for a three-year supervision, the complainant's application was refused by the MPPB since their Master's degree was not accredited by the British Psychological Society.

Action taken and management comments

The case was received on 9 December 2021.

On 13 January 2022, the MPPB sent an interim reply, stating that an internal investigation was in process.

Subsequently, the MPPB was temporarily without a Chairperson.

On 28 March 2023, the MPPB informed the Commissioner for Health that a counter protest had been filed in the Registry of the Courts of Malta as a reply to the judicial protest filed by the complainant on 15 November 2021. The MPPB stated that there were no further actions to be taken until other acts are received.

Status last year

Pending at Ministry

Status

Closed due to court proceedings

Sector/Department**Malta Psychology Profession Board (MPPB)****Ombudsman case reference****CH-21-2436****Brief details of case**

A complaint regarding a letter sent to the Board by the complainant's lawyer.

Action taken and management comments

On 12 November 2021, the Commissioner for Health (CfH) sent a complaint to MPPB.

On 1 December 2021, the MPPB forwarded to the CfH a copy of the legal reply, which the Board had sent to the complainant's lawyer. The letter stated that the complainant was not eligible for the warrant to practise as a Practical Clinical Psychologist because they only read for a foundation course.

Moreover, it was highlighted that the course description clearly indicated that *'the course does not constitute a professional training in clinical psychology'*.

On 28 March 2023, the MPPB informed the CfH that the Board met with the complainant and their lawyer. During this meeting, the MPPB explained that in terms of Article 3(3) of Cap 471 of the Laws of Malta, the academic qualifications possessed by the complainant did not meet the required qualifications for the attainment of a warrant. The lawyer informed the Board that they understood the situation.

On 3 April 2023, the CfH informed MPPB that case was closed.

Status last year

Pending at Ombudsman

Status

Closed without recommendation



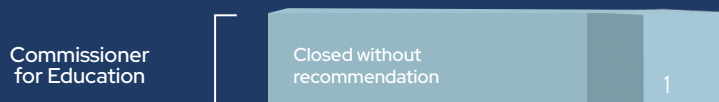


MINISTRY FOR TOURISM

In 2022, the Ministry for Tourism (MFT) received one case from the Commissioner for Education (CfE). The case was closed by CfE without making a recommendation.

A pending case from previous years which had been referred by the Parliamentary Ombudsman in 2020 was closed with recommendations partially implemented by MFT.

MFT Total Cases 2022 - 1



MFT

Parliamentary Ombudsman Pre-2022



Sector/Department**Malta Film Commission (MFC)****Ombudsman case reference****U 0049****Brief details of case**

A complaint regarding alleged discrimination on the part of the MFC.

Action taken and management comments

The case was received on 24 April 2020.

On 9 December 2020, MTCP replied to the queries of the Ombudsman, including the submission of supporting documentation.

On 20 April 2022, the Ombudsman sent his Final Opinion and requested to be informed on what actions were intended to be taken by MFT.

On 12 July 2022, the Ministry replied by providing MFC's feedback, and asked the Ombudsman to provide more time to the Permanent Secretary to examine this report and to be well-informed about this case.

On 29 July 2022, the Ombudsman requested MFT to provide the required information by 20 August 2022.

On 19 August 2022, MFT replied to the queries raised by the Ombudsman, explaining that the introduction of the *Opportunity for All Directory* was intended to regulate and open opportunities in the film industry in an equitable manner.

Following correspondence dated 10 October 2022, from the Office of the Ombudsman, the MFT requested a meeting with MFC to reply to the queries made.

The meeting was held on 14 February 2023, and a way forward was agreed upon and referred to the Ombudsman on 27 February 2023.

On 17 February 2023, the Office of the Ombudsman referred the case to the Prime Minister in terms of article 22(4) of the Ombudsman Act.

On 2 June 2023, the Principal Permanent Secretary (PPS), on behalf of the Prime Minister, replied to the Ombudsman's Final Opinion. The Ombudsman was informed that an internal meeting was held on 25 May 2023 to discuss the case.

The reply detailed seven actions taken by the Ministry for Tourism to address the four recommendations presented by the Ombudsman.

On 29 August 2023, the Ombudsman informed the PPS that after considering the feedback submitted, resulting in the partial implementation of the recommendations made, it was decided that the Office of the Ombudsman will not proceed with further action.

Recommendation

In his Final Opinion, the Ombudsman made the following recommendations:

- To review current legislation to ensure an adequate balance between the role of the Commissioner as promoter and that of the Malta Film Commission (MFC).
- The Act should provide details of the knowledge that a Film Commissioner should possess.
- The Online Directory should be freely accessible, and it should include a proper search engine to facilitate use.
- Regular meetings are held between the Commission, Commissioner, and stakeholders in the industry.

Status last year

Pending at Ombudsman

Status

Closed and recommendations partially implemented



464 MFT



MFT
Commissioner for Education 2022



Sector/Department

Institute for Tourism Studies (ITS)

Ombudsman case reference

CEDUC-22-2594

Brief details of case

A complaint regarding the accreditation and rating of a completed Hotel Operations Course at the ITS.

Action taken and management comments

The case was received on 8 January 2022. The complainant requested clarification regarding the MQF Level 4 classification attributed to the course and queried whether it should be pegged to MQF Level 5. The complainant was also concerned about missing documentation regarding a course completed in 2003.

On 2 February 2022, ITS informed the Commissioner for Education that following an internal verification, it emerged that there had been an error in the date, which was rectified. It was also confirmed that the course in question was pegged at MQF Level 4.

On 25 February 2022, the investigation concluded and affirmed that the complainant's Diploma was correctly pegged at MQF Level 4, based on her successful completion in 2003.

Status

Closed without recommendation







**MINISTRY FOR
TRANSPORT,
INFRASTRUCTURE AND
CAPITAL PROJECTS**

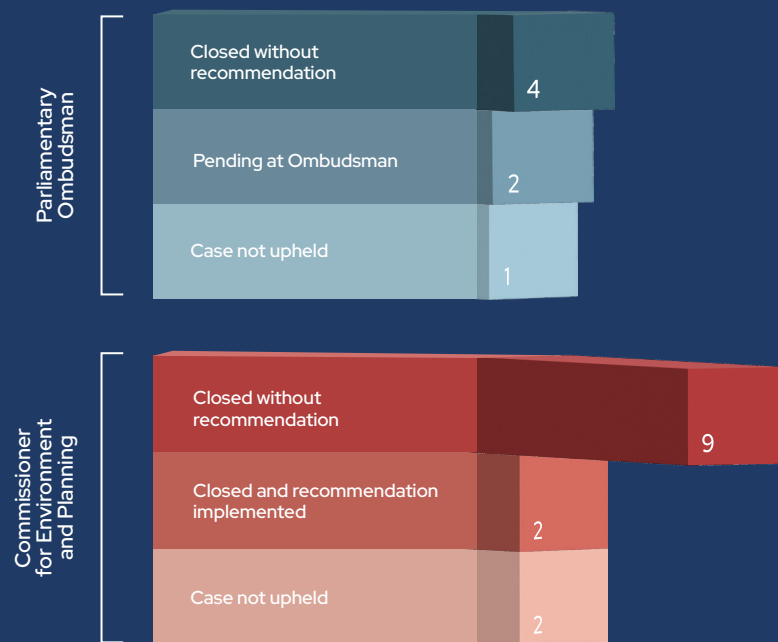
In 2022, the Parliamentary Ombudsman referred seven cases to the Ministry for Transport, Infrastructure and Capital Projects (MTIP). Four cases were closed by the Ombudsman without making a recommendation. One case was not upheld. Two cases were pending at the Office of the Ombudsman.

There were two Ombudsman cases which had remained pending from previous years. One case was closed without a recommendation, whilst the other case was closed and the Ombudsman’s recommendation was implemented.

During the year under review, the Commissioner for Environment and Planning (CEP) referred 13 cases to MTIP. Two cases were closed and the recommendations made were implemented, nine cases were closed without a recommendation being made and two cases were not upheld.

There was one case which had been referred to MTIP by the CEP and which was pending from previous years. This case has been closed by the CEP without presenting a recommendation.

MTIP Total Cases 2022 - 20



MTIP
Parliamentary Ombudsman 2022



Sector/Department

Infrastructure Malta (IM)

Ombudsman case reference

OMB-22-3332 (*The case was previously investigated by the Office of the Ombudsman under CEP-22-3084*)

Brief details of case

A review conducted by the Office of the Ombudsman, regarding damages to a property during a storm following the eruption of a stormwater culvert situated beneath the complainants' residence.

Action taken and management comment

The case was received on 1 February 2023.

The Office of the Ombudsman queried as to why Infrastructure Malta (IM) refused to carry out the works which could have alleviated the problem and safeguarded the complainants' security and property.

On 13 February 2023, the Office of the Ombudsman was informed that IM rejected the allegations as:

- The road in question did not fall within IM's remit;
- The culvert was constructed by the private developers of buildings in the area.

Notwithstanding the above, IM was ready to carry out the remedial works to remove the problem, on a without prejudice basis. However, the claimants rejected IM's assistance.

On 14 March 2023, the Office of the Ombudsman informed IM that their Office was not investigating the liability, or the damages incurred. The scope of the investigation was to ascertain whether the Agency acted correctly towards the complainants.

On 11 April 2023, the Office of the Ombudsman was informed that IM rejected and repudiated the allegations contained in the correspondence of 14 March 2023. IM reiterated that it was always made clear that it would be willing to investigate the matter on a without prejudice basis, in view that it was not the entity responsible for the situation and ensuing damages. IM reiterated that there was no bad administration or injustice from its end and that the complaint was wholly unfounded.

Status

Pending at Ombudsman

Sector/Department

Transport Malta (TM)

Ombudsman case reference

OMB-22-2855

Brief details of case

A complaint regarding Transport Malta's (TM) refusal to exchange a foreign driving licence with a local one.

Action taken and management comments

The case was received on 2 June 2022. The Office of the Ombudsman requested clarifications why the complainant's driving licence was not recognised locally.

TM responded on 3 November 2022, that the licence in question originated in a third, non-EU compliant country and could not be recognised locally.

The case was closed by the Ombudsman on 30 November 2022.

Status

Closed without recommendation

Sector/Department	Transport Malta (TM)
Ombudsman case reference	OMB-22-3027
Brief details of case	A complaint regarding entitlement to the grant for the purchase of pedelecs and Category L vehicles.
Action taken and management comments	<p>The case was received on 20 July 2022. The Ombudsman requested the comments of Transport Malta (TM) on the computation of the pertinent benefits.</p> <p>On 14 September 2022, TM replied with a full computation of the entitlement based on the complainant's application form.</p> <p>Subsequently, on 19 September 2022, the Office of the Ombudsman requested further clarifications in view of a disparity between the terms as published in the Malta Government Gazette and the form downloaded by the complainant from TM's website.</p> <p>TM responded on 18 January 2023, acknowledging that for a brief period in 2021, a wrong form had been available for public download on TM's website. TM also reverted with a reviewed computation of the complainant's benefits from the scheme.</p> <p>On the same day, the Office of the Ombudsman responded that complainant would be informed accordingly.</p> <p>On 3 March 2023, TM informed the Ombudsman that payment of the outstanding amount had been disbursed to the complainant.</p> <p>The Ombudsman closed the case on 7 March 2023.</p>
Status	Closed without recommendation

Sector/Department	Transport Malta (TM)
Ombudsman case reference	OMB-22-3048
Brief details of case	A complaint regarding benefits for the scrappage of a motorcycle.
Action taken and management comments	<p>The case was received on 22 July 2022. The complainant maintained that he had not received the entitlement in line with the scheme's terms.</p> <p>On 26 July 2022, Transport Malta (TM) informed the Office of the Ombudsman that the payment had been raised and the complainant was informed accordingly.</p> <p>The Ombudsman closed the case on 1 August 2022.</p>
Status	Closed without recommendation

Sector/Department

Transport Malta (TM)

Ombudsman case reference

OMB-22-3174

Brief details of case

A complaint regarding medical limitation on the validity of the driving licence.

Action taken and management comments

On 5 October 2022, the Office of the Ombudsman communicated that a complaint had been lodged after a doctor restricted the validity of their patient's driving licence to a period of two years rather than the standard five-year term. The Ombudsman's Office sought Transport Malta's (TM) views and comments in this regard.

On 23 October 2022, TM informed the Ombudsman that it was the medical practitioner's prerogative and TM was bound to uphold that decision. The complainant could seek further consultation with TM's medical consultant through their medical practitioner.

On 24 October 2022, the Ombudsman's Office sought further clarifications regarding the medical practitioner's range of discretion.

TM responded on 17 November 2022, outlining the EU's harmonised guidelines as applicable to the pertinent case.

On 18 November 2022, the Ombudsman's Office requested copies of the quoted guidelines, which were submitted by TM on 22 November 2022.

On 8 March 2023, the Ombudsman communicated that he did not find that TM had acted unjustly or unreasonably, and the complainant was informed accordingly.

The Ombudsman closed the case on 9 March 2023.

Status

Case not upheld

Sector/Department	Transport Malta (TM)
Ombudsman case reference	OMB-22-3208
Brief details of case	A complaint regarding the transfer of a temporary mooring permit upon transfer of boat ownership.
Action taken and management comments	<p>The case was received on 5 October 2022.</p> <p>The complainant maintained that they had been previously advised that upon transfer of ownership of the boat, Transport Malta (TM) would transfer the boat's mooring permit onto the new owner. However, this transfer was subsequently declined. The Office of the Ombudsman sought TM's comments regarding this case.</p> <p>On 10 November 2022, TM informed the Ombudsman that as the owner and administrator of the pertinent berthing and moorings, it was merely following policies on the transfer of moorings. The regulations stipulated that only MFA (full-time fishermen category) and MFB (part-time fishermen category) registrations were entitled to transfer the boat's mooring permits to new owners within the same category. With regard to MFC registration types, moorings were subject to waiting lists and could not be transferred with the boat upon change in ownership of the boat. TM had also published notices with clarifications to this effect on its social media in September 2022.</p> <p>Several correspondence was exchanged between the Office of the Ombudsman and TM between January and October 2023.</p>
Status	Pending at Ombudsman

Sector/Department	Transport Malta (TM)
Ombudsman case reference	OMB-22-3329
Brief details of case	A complaint regarding the registration for driving tuition.
Action taken and management comments	<p>The case was received on 6 January 2023.</p> <p>The complaint regarded the by-pass of regulations mandating the registration with Transport Malta (TM) for driving tuition (at a cost) by several identified transport operators with regard to specific licence categories. The Ombudsman sought TM's comments regarding this case.</p> <p>On 3 March 2023, TM replied that it had become aware of the ongoing practice by several transport operators. However, it was noted that the practice was perceivably on-the-job training for already experienced drivers. Furthermore, TM was not aware that this tuition was being conducted at a cost to the trainee. Nonetheless, TM stated that it was going to carry out surprise inspections to ascertain whether any irregularities exist.</p> <p>The Ombudsman's Office sought further clarifications with regard to the validity of non-EU driving licences on 7 March 2023. On 5 April 2023, TM confirmed the period of validity for non-EU driving licences.</p> <p>TM was informed that the Ombudsman closed the case on 17 April 2023.</p>
Status	Closed without recommendation



MTIP
Parliamentary Ombudsman Pre-2022



Sector/Department

Infrastructure Malta (IM)

Ombudsman case reference

T 0021

Brief details of case

A case regarding the formation of a private road and the consequent adjustment made to the main road.

Action taken and management comments

The case was received on 8 April 2019.

The Ombudsman requested a meeting with officials from Transport Malta (TM), Infrastructure Malta (IM), the Planning Authority (PA), and the Lands Authority (LA). Information and documentation requested were forwarded on 13 May 2019. Additional questions were submitted by the Office of the Ombudsman on 12 November 2019. A reply was sent on 30 December 2019.

On 21 January 2022, the Office of the Ombudsman requested further information about the planning gain.

On 3 February 2022, IM replied that information regarding the planning gain was not available at its end, and that it was being collected by the PA.

In his Final Opinion dated 20 February 2023, the Ombudsman stated that there were no administrative shortcomings by the entities involved and that they had acted correctly.

The Ombudsman emphasised that all entities involved in the planning of infrastructural development should safeguard the environment and should make every effort to minimise any negative impact on it.

The Ombudsman closed the case on 21 February 2023.

Status last year

Pending at Ombudsman

Status

Closed without recommendation

Sector/Department**Transport Malta (TM)****Ombudsman case reference****U 0072****Brief details of case**

A complaint concerning an allegation of discrimination after the complainant was not selected for the post of Assistant Manager, and a breach of the Collective Agreement.

Action taken and management comments

In his initial email dated 7 July 2020, the Ombudsman requested TM to forward the relevant documentation.

On 3 September 2020, the requested documentation was forwarded to the Office of the Ombudsman.

On three separate occasions, the Ombudsman presented further questions to TM, to which the Authority replied.

On 10 June 2021, the Ombudsman requested the complainant's personal file and the qualifications presented by all candidates during the interview to evaluate the marks awarded according to the set selection criteria. This information was forwarded by TM on 28 June 2021.

On 29 December 2021, the Ombudsman issued his Final Opinion. The Ombudsman concluded that the selection process was not flawed, and the Selection Board had not been unreasonable, unjust or improperly discriminatory. He also remarked that the assessment criteria were applied uniformly and fairly. Nonetheless, recommendations were presented.

On 1 February 2022, TM informed the Ombudsman that the first recommendation was being discussed internally, whilst the other recommendations were to be implemented.

On 7 February 2022, the Ombudsman requested TM to provide further information as to how such recommendations were going to be implemented by the Authority.

TM replied that the recommendations proposed by the Ombudsman would be implemented and, in this regard, it was working on a revamped HR plan. The Ombudsman replied whether Standard Operating Procedures (SOP) or guidelines have been drafted in relation to the selection process.

MTIP was informed that the case had been closed by the Office of the Ombudsman on 30 December 2021.

Recommendation by Ombudsman

The Ombudsman recommended that:

- a. Qualifications are included as a criterion in the Authority's selection process and are assessed using objective parameters.
- b. A balance is ensured between objective and subjective criteria in the selection of applicants.
- c. Selection boards formulate pre-set questions and interview notes, or minutes are retained.
- d. Selection boards prepare a selection board report in respect of every selection process and retain interview notes or minutes on the candidate's individual performance for a reasonable period after the conclusion of the selection process.

Status last year

Pending at Ministry

Status

Closed and recommendation implemented



MTIP

**Commissioner for Environment
and Planning 2022**



Sector/Department

Infrastructure Malta (IM)

Ombudsman case reference

CEP-21-2577 (*This case was received in January 2022*)

Brief details of case

A complaint regarding lack of access to a garage following works by Infrastructure Malta (IM).

Action taken and management comments

The case was received on 7 January 2022. The complainant claimed that street levels were changed so much so that they could not access their garage.

On 27 January 2022, a meeting was held between IM officials and the complainant.

On 31 January 2022, the Commissioner for Environment and Planning (CEP) was informed that various possibilities were discussed with the complainant. Some of these were the use of temporary ramps and modification to part of the garage floor so that it could be accessed more comfortably. The complainant objected to these solutions and proposed that a fixed ramp is constructed from the kerb's edge up to his garage floor. This proposal was unacceptable for IM as it would have been dangerous for pedestrians. IM confirmed that no changes to the street levels were made. The garage floor seemed to be higher from that of the garages adjacent to it.

In the Final Opinion dated 4 March 2022, the CEP found no shortcomings on IM's side and confirmed that the complaint was not justified and proceeded to close the case.

Status

Case not upheld

Sector/Department

Infrastructure Malta (IM)

Ombudsman case reference

CEP-22-2844

Brief details of case

A complaint regarding *Wied is-Sewda*. The office of the Commissioner for Environment and Planning (CEP) opened an investigation with Infrastructure Malta (IM) regarding a kerb along a rubble wall following an article published on a local news portal.

Action taken and management comments

The case was received on 25 April 2022.

On 18 May 2022, the CEP was informed that works mentioned in the article had been carried out by IM, following a request by agricultural landowners who had just erected the rubble walls. These farmers asked IM to find a solution as rainwater was constantly damaging the rubble walls and, consequently, their fields. The kerb was the only solution which could protect the rubble walls from rainwater as these were subject to a large amount of water due to the topography of the area. IM rarely adopts this practice, and only when no technical and factual alternatives exist.

On 2 August 2022, the CEP issued the Final Opinion stating that although technically the solution used by the Agency made sense, it was the cheapest and the most damaging option for the environment. In his Final Opinion, the CEP copied the Environment Resources Agency and the Planning Authority for better guidance in future cases. The CEP proceeded to close the case.

Status

Closed without recommendation

Sector/Department**Infrastructure Malta (IM)****Ombudsman case reference****CEP-22-2898****Brief details of case**

A complaint relating to the extension of a pavement in front of the Siġġiewi Football Club.

Action taken and management comments

The case was received on 11 May 2022.

On 23 May 2022, the Commissioner for Environment and Planning (CEP) was informed that during the execution of works along the road in question, Infrastructure Malta (IM) received a request through the Siġġiewi Local Council regarding the pavement extension, to which the Local Council gave no objection. IM sought clearance from Transport Malta and it was granted. No further permits were required in view that these works were being carried out within the extents of the road.

On 13 June 2022, the CEP issued his Final Opinion remarking that the allegations submitted against IM that it had failed to consult and communicate properly did not hold. IM was absolved from maladministration issues and the CEP stated that he will be opening this case against the respective Local Council.

The case was closed on 13 June 2022.

Status

Closed without recommendation

Sector/Department**Infrastructure Malta (IM)****Ombudsman case reference****CEP-22-3081****Brief details of case**

A complaint relating to alleged damages following flooding during roadworks in a road in Mosta.

Action taken and management comments

The case was received on 2 August 2022.

The Commissioner for Environment and Planning (CEP) requested a confirmation from Infrastructure Malta (IM) whether the responsibilities of the contractor were enshrined in the contract between the Agency and the contractor.

On 10 August 2022, the CEP was informed that the General Conditions and as amplified in the Special Conditions of the tender and contract for works related to the roadworks in question, stipulate under Article 14.7 that “...the contractor shall bear sole liability for, and indemnify the Central Government Authority, the Contracting Authority and the Supervisor, against any claims by third parties for damages to property, or personal injuries arising from the execution of the works by the Contractor, his subcontractors and employees.” This was further amplified in Article 58 concerning maintenance obligations. In line with Article 992(1) of the Civil Code “contracts legally entered into shall have the force of law between the parties.” Thus, the general principle was that it had the effect of law between the parties and did not bind third parties. Furthermore, in accordance with Article 36 of SL 499.57 New Roads and Road Works Regulations provides for a contractor’s obligation vis-a-vis third parties though the legal obligation imposed.

Widespread flooding was reported on 25 November 2021, as a severe thunderstorm hit the island, which the Civil Protection Department described as one of the worst storms in a very long time. Clearly, such statements were testimony that this was a case of *force majeure*.

On 19 August 2022, the CEP suggested that the Agency, together with the involvement of the contractor in question, approach the complainant to try and find an amicable solution and avoid lengthy and costly Court procedures.

On 15 September 2022, the CEP was informed that the Agency’s position as stated in the email dated 10 August 2022, remained firm.

Furthermore, as to the investigation into whether the Agency had treated this complaint assiduously, the complainant’s claim had been dealt with according to the Agency’s claims policy. In both the original decision and the reconsideration, the contractor was copied in the correspondence and the Agency actively brought it to the contractor’s attention. The contractor was not accepting responsibility for the incident due to the extraordinary rainfall. The Agency stated that it could not accept any form of liability for the claim.

The CEP issued his Final Opinion on 13 October 2022, where he stated that IM was not found to have acted improperly when considering a request for damages allegedly caused following roadworks.

The case was closed on 13 October 2022.

Status

Case not upheld

Sector/Department**Infrastructure Malta (IM)****Ombudsman case reference****CEP-22-3084****Brief details of case**

A complaint regarding alleged damages to a property situated in Baħar iċ-Ċagħaq.

The case was received on 29 August 2022.

In his email, the Commissioner for Environment and Planning (CEP) stated that the previous CEO, Infrastructure Malta (IM) had a proposal for a new culvert on the other side of the road in question. However, a few owners did not agree with the conditions. The CEP proposed to the newly-appointed CEO to discuss the case during a meeting. A meeting was held to discuss the matter.

Subsequently, on 6 October 2022, the CEP referred the case to the Director General (Public Works), who replied that the Public Works Department did not intend to carry out works in the area.

The CEP closed the case on 20 October 2022.

Action taken and management comments**Status**

Closed without recommendation

Sector/Department**Infrastructure Malta (IM)****Ombudsman case reference****CEP-22-3093** *(The complaint is related to a closed case - CEP-21-2011 - which was received on 2 August 2022 and closed on 24 August 2022)***Brief details of case**

A complaint regarding a pending invoice in connection with works carried out in Żabbar.

The case was received on 9 January 2023.

The Commissioner for Environment and Planning (CEP) queried as to why the relative invoice was not settled.

On 12 January 2023, the CEP was informed that a correction to the submitted Bills of Quantities (BOQ) was required before the invoice could be settled.

The contractor corrected the BOQ. On 25 January 2023 the CEP was informed that invoice had been settled.

On 5 September 2023, the CEP informed IM that the case was considered as closed.

Action taken and management comments**Status**

Closed without recommendation

Sector/Department

Infrastructure Malta (IM)

Ombudsman case reference

CEP-22-3183

Brief details of case

A complaint relating to an issue with the drainage system following works by Infrastructure Malta (IM) in Tarxien.

Action taken and management comments

The case was received on 12 October 2022.

The Commissioner for Environment and Planning (CEP) queried about the certification of the drainage pipes following the CCTV inspection which had to be carried out.

On 12 October 2022, the CEP was informed that IM did not carry out works in the site indicated. Consequently, the Water Services Corporation (WSC) were asked to carry out an inspection. This was held and a few recommendations, such as clearing of construction material, were put forward. On 19 October 2022, the CEP was notified that the clearing of construction material was carried out.

On 20 October 2022, the CEP queried whether the complainant was contacted or otherwise. On the same day, the CEP was informed that the complainant had been contacted. However, the complainant requested a report on the WSC infrastructure. This request could not be acceded to as it was related to WSC infrastructure.

On 24 October 2022 and 3 November 2022, the CEP corresponded with the complainant informing them that following an inspection by WSC, IM implemented WSC's recommendations and asked them to contact WSC directly if similar issues were to arise in future.

The case was closed on 3 November 2022.

Status

Closed without recommendation

Sector/Department**Infrastructure Malta (IM)****Ombudsman case reference****CEP-22-3237****Brief details of case**

A complaint regarding the delay in constructing a wall along part of a road in Mellieħa.

Action taken and management comments

The case was received on 19 October 2022.

The Commissioner for Environment and Planning (CEP) put forward several questions with regard to the delay in completing works, time frames and requested further information.

On 27 October 2022, the CEP was informed that: -

- Works were being carried out on part of the retaining wall which had collapsed during 2022.
- With regard to the delay, the CEP was provided with a detailed account of events which took place along the execution of these works.
- Works were completed on 21 October 2022.
- Proof that signage and plastic and concrete barriers were in place was provided.
- Proof that Transport Malta officials were assigned on site was provided.

On 3 November 2022, the CEP requested Infrastructure Malta's (IM) comments on the following observations:-

- Environment and Resources Authority (ERA) must be contacted prior to the commencement of works, even if these were of an urgent nature.
- In view that due to the works, a two-lane main road was turned into a one lane road, better road markings should have been in place.
- Barriers should have been continuous.
- Wardens should have been present all the time.

On 17 November 2022, the CEP was informed that his comment with regard to ERA was being noted and that the Authority would be involved from the early stages in similar future projects. With regard to the northbound carriageway, the CEP was informed that only part of it was closed, in fact there was enough space for two cars to pass at the same time. The road markings could have been made better to indicate this. IM took note of CEP's point in connection with the barriers. Regarding the wardens, since two cars could pass, there was no need for these to be present round the clock.

On 11 January 2023, the CEP informed the complainant, copying IM, that no administrative shortcomings were found in this case and that it was being closed.

Status

Closed without recommendation

Sector/Department

Transport Malta (TM)

Ombudsman case reference

CEP-22-2635 (*this case is being reported also under the Ministry for Education, Sport, Youth, Research and Innovation (MEYR)*)

Brief details of case

A complaint regarding street signs limiting accessibility to privately owned garages during specific hours on school days.

Action taken and management comments

The case was received on 28 January 2022. The CEP requested Transport Malta's (TM) comments as well as those of the pertinent Local Council (LC) and the school concerned.

On 25 March 2022, TM submitted that it had not issued any approvals for road closure for the roads in question.

On 4 April 2022, the CEP communicated with TM as well as with the pertinent LC and the school concerned that, since no approval for road closure had been issued by TM, any related enforcement action was irregular.

The Ministry for Education, Sport, Youth, Research and Innovation (MEYR) responded on 19 April 2022, clarifying the underlying reasons. This was followed by further clarifications by the LC.

In the Final Opinion dated 9 May 2022, the CEP concluded that TM (as the official regulator for transport) had not consented to these road closures. The CEP also requested to be informed by 9 June 2022 of the actions which would ensue in line with the recommendations made.

The case was followed up by MEYR.

The case was closed by the CEP on 29 September 2022.

Recommendations by Ombudsman

The CEP recommended that:

- In the absence of TM's formal approval, the LC was to remove no entry signs.
- Traffic or local wardens would direct traffic according to exigencies.
- Installation of railings on the pavement by the school's administration.
- The involvement of the residents by the LC if approval for road closure was sought from TM.

Status

Closed and recommendation implemented

Sector/Department**Transport Malta (TM)****Ombudsman case reference****CEP-22-2743****Brief details of case**

A complaint regarding Transport Malta's (TM) objection to an Outside Catering Area (OCA).

Action taken and management comments

The case was received on 4 March 2022. The Commissioner for Environment and Planning (CEP) requested TM's comments on their objection to an OCA, on the basis of which, the Planning Authority had refused a development application.

On 7 May 2022, TM submitted the reasons why it had objected to this development.

In the Final Opinion, dated 30 May 2022, the CEP ruled that TM had not discriminated against the complainant when it objected to the proposal for an OCA. The CEP proceeded to close the case.

Status

Closed without recommendation

Sector/Department**Transport Malta (TM)****Ombudsman case reference****CEP-22-2858****Brief details of case**

A complaint regarding blocked access to a street.

Action taken and management comments

The case was received on 16 May 2022. The Commissioner for Environment and Planning (CEP) stated that this restriction was resulting in an undue long detour and increased traffic congestion for the complainant.

Transport Malta responded that the restriction was conducted by Infrastructure Malta (IM) as a safety measure and to counter traffic jams. Furthermore, infrastructural works had ensued which enhanced pedestrian safety in the area. An alternative, much shorter detour was also highlighted in the response.

On 29 July 2022, the CEP informed the complainant that the restriction was justifiable for safety reasons and better traffic management. The complainant was also informed that the case was being closed.

The CEP closed the case on 5 August 2022.

Status

Closed without recommendation

Sector/Department

Transport Malta (TM)

Ombudsman case reference

CEP-22-3299

Brief details of case

A complaint regarding a declined request for double yellow lines opposite a garage in a narrow street.

Action taken and management comments

The case was received on 14 November 2022. The Commissioner for Environment and Planning (CEP) asked whether this request could be re-considered. The complainant had requested, through the pertinent Local Council, for a change from a single yellow line to a double yellow line opposite their garage situated in a narrow street. This request had been refused by Transport Malta (TM).

On 1 February 2023, the CEP issued a Final Opinion maintaining that TM had decided wrongly on the request for double yellow lines opposite this garage.

After investigating the case, TM noted that the Local Council had submitted the request for the wrong address. This error explained why the application had been initially refused by TM. Subsequently, this error was rectified by the Local Council, by extending the double yellow lines where they had originally been intended.

On 27 March 2023, the CEP closed the case.

Recommendation by Ombudsman

The CEP recommended:

- the approval of the request to substitute the single yellow line with a double yellow line;
- if the approval was declined, TM was to communicate to the complainant the “correct reason” for refusal, coupled with the available means to appeal such decision.

Status

Closed and recommendation implemented





MTIP

**Commissioner for Environment
and Planning Pre-2022**



Sector/Department**Infrastructure Malta (IM)****Ombudsman case reference****CEP-21-1461****Brief details of case**

A complaint regarding a field that was allegedly damaged by the contractor engaged by Infrastructure Malta (IM) when works were carried out at *l-Aħrax tal-Mellieħa*.

Action taken and management comments

The case was received on 30 April 2021. IM informed the Commissioner for Environment and Planning (CEP) on 3 May 2021, that the Agency had been in communication with the complainant, and engaged a contractor to rebuild the rubble walls which may have fallen during the execution of the works. Photos indicated that the rubble walls had been partly demolished prior to the commencement of works. Furthermore, the Agency engaged a contractor to clear any stones from the complainant's fields with a stone picking machine.

On 18 February 2022, the CEP asked IM to intervene once again in view that the complainant was insisting that the fields could not be ploughed due to large stones.

On 21 March 2022, IM informed the CEP that a contractor had been detailed to meet the complainant on site and clear the field from the remaining stones. However, the contractor reported that it was not possible to carry out this task in view that the field was covered with vegetation.

The complainant disagreed and reiterated that their field should be cleared with a stone-picking machine. IM considered this request to be unacceptable in view that this exercise had already been carried out before, and other nearby fields had been ploughed without any issues.

On 6 July 2022, the CEP asked IM whether it intended to clear the fields from stones or otherwise. On 4 August 2022, IM replied to the CEP, stating that in addition to its reply dated 21 March 2022, the works carried out surely did not affect the whole fields. IM proposed that the complainant submit a quotation for the ploughing of fields for IM's approval and the expenses incurred would be borne by IM so that the case is closed. The quotation received was deemed to be relatively high. For this reason, on 13 October 2022, the complainant was asked to submit a revised quote.

On 5 November 2022, IM received the revised quote. On 6 November 2022, IM informed the complainant that the quote was approved.

The CEP closed the case on 7 November 2022.

Status last year

Pending at Ombudsman

Status

Closed without recommendation





**CASES REPORTED AS
REFERRED TO PRIME MINISTER
IN LAST YEAR'S PUBLICATION**

Ministry for the Economy, European Funds and Lands – Lands Authority

CEP-21-2065

This case, which was received by the Lands Authority (LA) on 5 July 2021, concerned an investigation related to sewage damages to a condominium caused by damages in a government-owned garage hired to third parties.

On 24 September 2021, LA informed the Commissioner for Environment and Planning (CEP) that following an onsite inspection, it transpired that works needed to be carried out in the shaft. The Authority was in the process of finalising a Framework Agreement with several contractors who were going to carry out maintenance works in all Government-owned properties. Upon conclusion of this agreement, the necessary works could commence.

Subsequently, however, LA informed the CEP that the condominium in question had been transferred to the Housing Authority through a legal notice with effect from 29 May 1992.

The CEP submitted the Final Opinion on the case on 8 April 2022, submitting recommendations to be acted upon by the LA as the garage had remained under the remit of the Authority.

The CEP recommended that the LA should carry out the necessary works as soon as possible and, should it transpire that additional damages were incurred, the Authority should take the necessary actions to remedy the situation at the earliest to avoid further expenses.

On 30 May 2022, the CEP referred the case to the Prime Minister in terms of article 22(4) of the Ombudsman Act.

In March 2023, the LA informed that following an on-site inspection of the garage in question, it was decided to carry out the necessary works. A contractor was to be appointed for this purpose.

On 17 May 2023, the CEP was informed that the necessary works had been carried out as requested and to the satisfaction of the complainant.

Ministry for Education, Sports, Youth, Research and Innovation

CEDEC-21-2542

A complaint filed by a primary school teacher, on a career break, who lived in Gozo and used to teach in a state school in Malta. The complainant applied for permission to work on a part-time basis on a definite contract in a Church school in Gozo, but the request was refused.

The complaint was referred by the Ombudsman to the Ministry for Education and Sports (MEDS) on 12 January 2022. On 1 February 2022, MEDS replied to the Commissioner for Education (CfE), stating that in accordance with the Public Service Management Code (PSMC), persons on a career break were prohibited from engaging in any form of private work. Regarding the application made by the complainant for leave to try alternative employment, MEDS could not afford to give this concession since the Ministry needed Primary Teachers.

On 23 February 2022, the Commissioner sent his Final Opinion, submitting recommendations. The CfE stated that the optimal solution would be for the complainant to be deployed to teach in a government primary school in Gozo.

The CfE also recommended that:

- a. the complainant be allowed to work at least part-time, on a definite contract in the private sector;
- b. the last two paragraphs of item 6.2.3.1 of the PSMC be revisited.

On 16 March 2022, MEDS replied to the Commissioner that the Ministry had adhered to the PSMC, which aimed to strike a balance between the employee's wellbeing and the interest of the Service. Allowing an employee benefitting from Career Break to work for other employers would highly prejudice the service offered by the State and would create a drain of resources, thus creating instances where state schools are left without a teacher to offer the service.

On 17 March 2022, the CfE referred the case to the Prime Minister and to Parliament on 21 April 2022

Subsequently, at the start of the following scholastic year, the complainant was deployed in Gozo.

