



# GOVERNANCE ACTION

on the  
Parliamentary  
Ombudsman's  
Annual Report 2021

Published by the  
Department of Communications - Public Service  
Office of the Principal Permanent Secretary  
Auberge de Castille  
Valletta VLT 1061

Website: <http://www.publicservice.gov.mt>

Cataloguing-in-Publication Data Malta.  
Office of the Principal Permanent Secretary  
Office of the Prime Minister  
Governance Action on the Parliamentary Ombudsman's Annual Report 2021  
Valletta: Office of the Principal Permanent Secretary  
29.7, 21 cm

ISBN: 978-9918-9543-3-9

This publication can be purchased from the  
Department of Information  
3, Castille Place,  
Valletta

Price: €5.00



# GOVERNANCE ACTION

on the  
Parliamentary  
Ombudsman's  
Annual Report 2021

February 2023



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



## CONTENTS

<b>List of abbreviations</b>	4
<b>Foreword</b>	10
<b>Introduction</b>	12
<b>Statistics overview</b>	14
<b>The report in numbers</b>	16
<b>Follow-up action by the Public Administration</b>	
Office of the Prime Minister	26
Ministry for Active Ageing	42
Ministry for the Economy, European Funds and Lands	56
Ministry for Education, Sport, Youth, Research and Innovation	96
Ministry for the Environment, Energy and Enterprise	152
Ministry for Finance and Employment	188
Ministry for Foreign and European Affairs and Trade	210
Ministry for Gozo	216
Ministry for Health	224
Ministry for Home Affairs, Security, Reforms and Equality	352
Ministry for Inclusion, Voluntary Organisations and Consumer Rights	392
Ministry for Justice	404
Ministry for the National Heritage, the Arts and Local Government	412
Ministry for Public Works and Planning	430
Ministry for Social and Affordable Accommodation	454
Ministry for Social Policy and Children's Rights	464
Ministry for Tourism	484
Ministry for Transport, Infrastructure and Capital Projects	494

## LIST OF ABBREVIATIONS

### A

AACC	Active Ageing & Community Care
ACHCB	Action Committee on Health Care Benefits
ACU	Association of Commonwealth Universities
ADHD	Attention Deficit Hyperactivity Disorder
ADR	Adverse Drug Reaction
A&E	Accident and Emergency
AFM	Armed Forces of Malta
AHD	Allied Health Directorate
AHP	Allied Health Professionals
ARMS	Automated Revenue Management Services Limited
ARPA	Agriculture and Rural Payments Agency
ART	Assisted Reproductive Technology
AS	Agenzija Sapport
AWAS	Agency for the Welfare of Asylum Seekers

### B

BA	Bachelor of Arts
BCA	Building and Construction Agency

### C

CCF	Corradino Correctional Facility
CDC	Centres for Disease Control
CEO	Chief Executive Officer
CEP	Commissioner for Environment and Planning
CfE	Commissioner for Education
CfH	Commissioner for Health
CfR	Commissioner for Revenue
CMO	Chief Medical Officer
CoS	Conditions of Service for Officers serving Overseas
COVID 19	Corona Virus Disease 2019
CPCM	Council for Professions Complementary to Medicine
CPR	Cardiopulmonary Resuscitation
CPSU	Central Procurement and Supplies Unit
CRPD	Commission for the Rights of Persons with Disability
CSA	Correctional Services Agency
CSP	Company Service Provider
CV	Curriculum Vitae
CVA	Controlled Vehicular Access

## D

DCC	Digital Covid Certificate
DCS	Director (Corporate Services)
DEH	Department of Environmental Health
DIER	Department of Industrial & Employment Relations
DNO	Development Notification Order
DNR	Do Not Resuscitate
DPA	Directorate for Pharmaceutical Affairs
DSS	Department of Social Security

## E

EAR	Emergency Ambulance Responder
EAS	Estate Agents Section
EC	European Commission
ECG	Electrocardiogram
ECTS	European Credit Transfer System
EHO	Environmental Health Officer
ELC	Environmental Landscapes Consortium
ELT	English Language Teaching
EMA	European Medicines Agency
EMTC	Exceptional Medicinal Treatment Committee
EPA	Embryo Protection Authority
EPC	Energy Performance Certificate
EPRT	Environment and Planning Review Tribunal
EQF	European Qualifications Framework
ERA	Environment and Resources Authority
EU	European Union

## F

FIT	Feed-in Tariff
FKNK	Federazzjoni Kaċċaturi, Nassaba u Konservazzjonisti
FMS	Foundation for Medical Services
FSWS	Foundation for Social Welfare Services
FTS	Foundation for Tomorrow's Schools

## G

GDPR	General Data Protection Regulation
GFL	Government Formulary List
GFLAC	Government Formulary List Advisory Committee
GGH	Gozo General Hospital
GWU	General Workers Union

## H

HA	Housing Authority
HM	Heritage Malta
HR	Human Resources
HTA	Health Technology Assessment

## I

ICL	Independent Community Living Services
ICLM	Independent Community Living Monitoring Services
ID	Identity
IM	Infrastructure Malta
IMA	Identity Malta Agency
IPS	Institute for the Public Services
IRD	Inland Revenue Department
ITA	Income Tax Act
ITS	Institute of Tourism Studies
ITU	Intensive Care Unit
IVF	In Vitro Fertilisation

## J

JO	Joint Office
----	--------------

## K

KGE	Kindergarten Educator
-----	-----------------------

## L

LA	Lands Authority
LC	Local Council
LESA	Law Enforcement System Authority
LN	Legal Notice
LSE	Learning Support Educator

## M

MATSEC	Matriculation and Secondary Education Certificate
MBR	Malta Business Registry
MCAST	Malta College of Arts, Science & Technology
MCCAA	Malta Competition & Consumer Affairs Authority
MCST	Malta Council for Science and Technology
MCM	Medical Council of Malta
MDA	Malta Developers Association
MDH	Mater Dei Hospital
ME	Malta Enterprise
MEEE	Ministry for the Environment, Energy and Enterprise
MECP	Ministry for the Environment, Climate Change and Planning
MEDE	Ministry for Education and Employment
MEDS	Ministry for Education and Sports
MEFL	Ministry for the Economy, European Funds and Lands
MEYR	Ministry for Education, Sports, Youth, Research and Innovation
MFAA	Ministry for Active Ageing
MFC	Malta Film Commission
MFCS	Ministry for the Family, Children's Rights and Social Solidarity
MFE	Ministry for Finance and Employment
MFEA	Ministry for Foreign and European Affairs
MFED	Ministry for Education
MFH	Ministry for Health
MFHEA	Malta Further and Higher Education Authority
MFJ	Ministry for Justice
MFSA	Malta Financial Services Authority
MFSS	Ministry for Family and Social Solidarity
MFT	Ministry for Tourism
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
ML	Malta Libraries
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
MSAA	Ministry for Social and Affordable Accommodation

MSc	Master of Science
MSD	Manufacturing and Service Directorate
MSF	Multi-Skilled Fitter
MSFC	Ministry for Social Justice & Solidarity, the Family and Children's Rights
MSPC	Ministry for Social Policy and Children's Rights
MTA	Malta Tourism Authority
MTCP	Ministry for Tourism and Consumer Protection
MTIP	Ministry for Transport, Infrastructure and Capital Projects
MUMN	Malta Union of Midwives and Nurses

## N

NACE	Nomenclature of Economic Activities
NCFHE	National Commission for Further and Higher Education
NHS	National Health Services
NI	National Insurance
NICE	National Institute for Health and Care Excellence
NGO	Non-Governmental Organisation
NOACS	Novel anticoagulants
NPICU	Neonatal Paediatric Intensive Care Unit
NSO	National Statistics Office

## O

OCD	Obsessive Compulsive Disorder
OPM	Office of the Prime Minister

## P

P&SD	People & Standards Division
PA	Planning Authority
PAF	Personal Assistant Fund
PAYE	Pay As You Earn
PHC	Primary Health Care
PhD	Doctor of Philosophy
PO	Parliamentary Ombudsman
POYC	Pharmacy of Your Choice
PPE	Personal Protective Equipment
PPP	Public-Private Partnership
PSC	Public Service Commission
PSMC	Public Service Management Code
PSU	Player Support Unit

## R

RAT	Rapid Antigen Test
REWS	Regulator for Energy and Water Services
RSSL	Resource Support and Services Limited

## S

SAC	Specialist Accreditation Committee
SAMOC	Sir Anthony Mamo Oncology Centre
SCSA	Social Care Standards Authority
SHC	Steward Health Care
SL	Subsidiary Legislation
SMB	Sanctions Monitoring Board
SMS	Short Message Service
SMT	Senior Management Team
SOP	Standard Operating Procedure
SPH	Superintendence of Public Health
SRA	Specific Residence Authorisation
SVP	St Vincent De Paule

## T

TM	Transport Malta
----	-----------------

## U

UHM	Union Haddiema Magħqudin
UK	United Kingdom
UM	University of Malta
URL	Universal Resource Locator

## V

VAT	Value Added Tax
VET	Vocational Education and Training

## W

WSC	Water Services Corporation
WSM	WasteServ Malta
WHO	World Health Organisation

## FOREWORD

The Public Service is in a constant drive to modernise its structures and its delivery of government services to the public. In this age where clients require and expect immediate solutions and information, it is essential now more than ever, to have a Public Service equipped with the latest digital tools. Through our relentless efforts, Malta cemented its place at the very top in Europe as certified by the e-government benchmark issued by the EU Commission, but our aims are even higher.

This digital drive is aiding our public officers in their everyday duties, including in the aspects of accountability and good governance. The Public Administration has in place permanent structures focused on these areas and are further aided through recommendations made by institutions of oversight. These recommendations are put into practice with regular follow-ups, provided their implementation is possible.

It is with great satisfaction that I note that in 2022, the Public Service obtained the highest ever rate of closed cases from the Ombudsman. While in previous years this statistic was already good and hovered between 65% and 76%, the closed cases as evidenced by this publication now stands at an excellent 85.5%. This figure is to be lauded, before we roll up our sleeves once again for even better results in the upcoming months.

I thank all the Public Officers involved for pulling in the same direction. It is through these efforts that accountability and good governance remain strongly at the forefront. This publication is the outcome of this collaborative approach.

**Tony Sultana**

Principal Permanent Secretary

## INTRODUCTION

The follow-up action taken to address each case referred by the Ombudsman and Commissioners is being presented in this report for the fifth consecutive year. The action reported is correct up to 31 October 2022.

The report is divided in sections, one for each ministry, each section including all cases pertaining to the ministry, including cases referred by the Commissioners and cases pre-dating 2021.

The exercise leading to the publication of this report commenced with a reconciliation between the cases reported by each ministry to the Governance Action Directorate for 2021 and the number of cases reported in the Ombudsman's annual report 2021.

This initial stage was followed with holding status update meetings with each ministry. During these meetings, unclear issues were discussed and clarified, and problems which could be hindering the implementation of actions were resolved, whenever possible.

The final stage was one of accountability, whereby the commitments agreed upon during the status update meetings regarding actions taken, were endorsed by the respective Permanent Secretary, prior to the publication of this report. The cooperation of each Liaison Officer was essential for the facilitation and smooth-running of this complex exercise.

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

- Of the **475** cases (318 cases in 2021 plus 157 cases pre-2021) deemed as meriting further inquiry by the Parliamentary Ombudsman and the Commissioners, a substantial **74.3%** (**352** cases) were closed by the Ombudsman by the end of October 2022.
- From the **318** new cases received in 2021, **271** cases (**85.5%**) were closed by the Office of the Parliamentary Ombudsman and Commissioners by the end of October 2022.
- In **252** cases (that is **93%** of closed cases), the investigation was closed without the presentation of any recommendations for corrective action to be taken by the management of the concerned public entity. Last year, the figure stood at **87.2%** of cases closed.
- **19** other closed cases (**7%** of closed cases) 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 other cases (**10.5%**) were either in the process of being implemented or have been partially implemented.
- This means that **99.4%** of the cases received during 2021, which have been closed by the end of October 2021, have been suitably addressed.
- In **255** cases of the total closed cases (**94.1%**), the information requested by the Ombudsman was given, or the recommendation made was implemented, within 90 days.
- **7** cases (**2.2%**) of the cases received in 2021, have been referred by the Ombudsman to the Prime Minister in terms of article 22(4) of the Ombudsman Act.
- **39** cases received in 2021 (**12.3%**) remain pending. **12** cases are pending at Ministry level while **27** cases are pending at the Ombudsman.

This achievement was only possible through the hard work of public officers, including Permanent Secretaries, heads, liaison officers and focal persons of the ministries and entities involved and the Governance Action team, whose commitment and adaptability produced these commendable results.

## STATISTICS OVERVIEW

NEW CASES  
RECEIVED IN 2021

318

85.5%  
CLOSED\*



3.5%  
PENDING AT MINISTRIES\*



8.8%  
PENDING AT OMBUDSMAN\*



2.2%  
REFERRED TO THE PRIME MINISTER\*



### RATE OF CLOSED CASES PER YEAR

2017	2018	2019	2020
76.6%	65.2%	66.4%	73.6%

CASES CARRIED FORWARD  
FROM PREVIOUS YEARS

157



51.6%  
CLOSED\*



14.7%  
PENDING AT MINISTRIES\*



31.8%  
PENDING AT OMBUDSMAN\*



1.9%  
REFERRED TO THE PRIME MINISTER\*

\*AS AT END OF OCTOBER 2022

## 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, comprising the Parliamentary Ombudsman and the three Commissioners, between January and December 2021.

Ministries and public entities were requested to submit to the Governance Action Directorate a detailed outline of each case identified in the Ombudsman's Annual Report for 2021, including the related status and outcome. Each individual case was reviewed to ensure that details presented for publication respected the complainants' privacy and that each case was suitably managed by the Ministry or entity concerned.

This introductory section presents a consolidated snapshot of this analysis. It provides an overview of the cases handled by the Parliamentary Ombudsman and the Commissioners during 2021 and their status and / or outcomes by the end of October 2022.

## OVERVIEW

### CASES RECEIVED FROM THE OFFICE OF THE PARLIAMENTARY OMBUDSMAN AND COMMISSIONERS IN 2021

During 2021, the Office of the Ombudsman, comprising the Parliamentary Ombudsman and the three Commissioners, investigated a total of 318 new complaints. This amount includes 75 cases, which from information held by the Public Administration, in at least 75 cases (23.6% of the 2021 caseload), the complainant had not sought redress for the public entity concerned prior to resorting to the Ombudsman. 157 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 475 cases. This represents a decrease of 31 cases (or 6.1%) over the total caseload for 2020 which stood at 506 cases.

Diagram 1 depicts the total caseload pertaining to the Office of the Parliamentary Ombudsman and Commissioners in 2021.

**Diagram 1**  
SUMMARY OF TOTAL CASELOAD DEALT WITH IN 2022

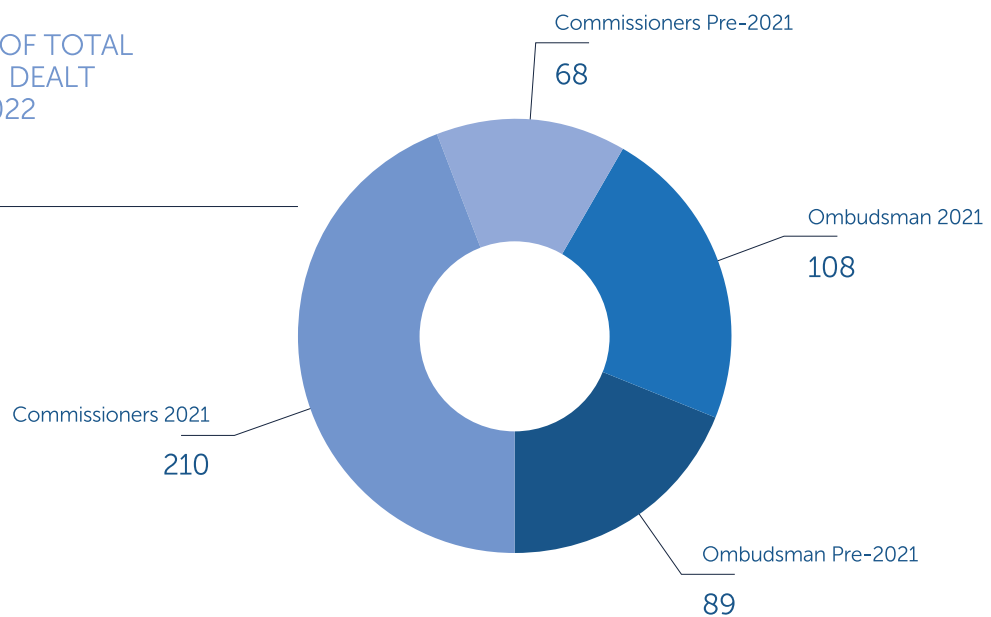


Diagram 2 indicates the status of complaints handled by the Ombudsman and Commissioners in 2021

It must be noted that 270 of the 272 closed 2021 cases (99.3%) were suitably addressed by the public administration..

**Diagram 2**  
STATUS OF CASES REFERRED  
BY PARLIAMENTARY OMBUDSMAN  
AND COMMISSIONERS

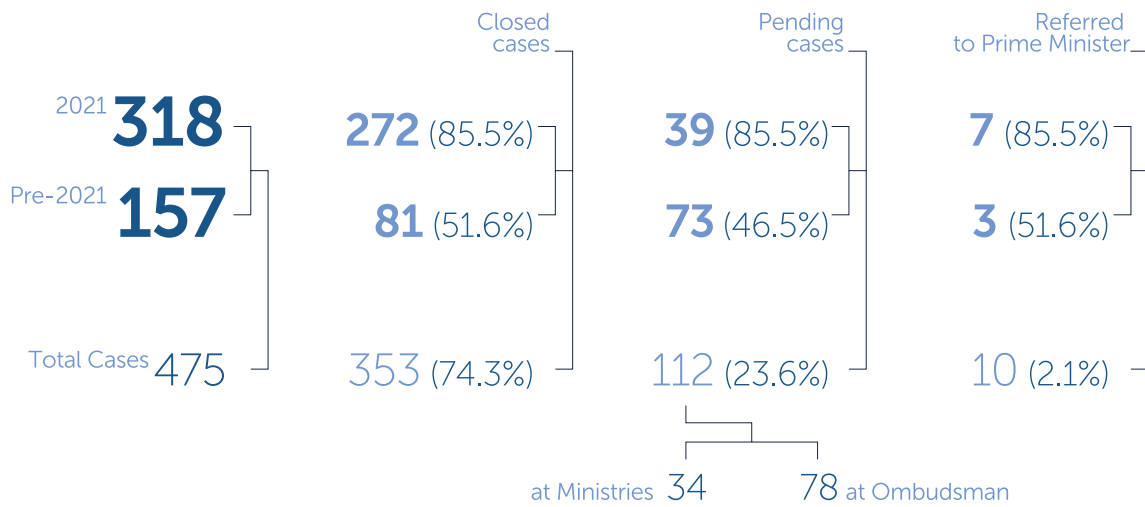
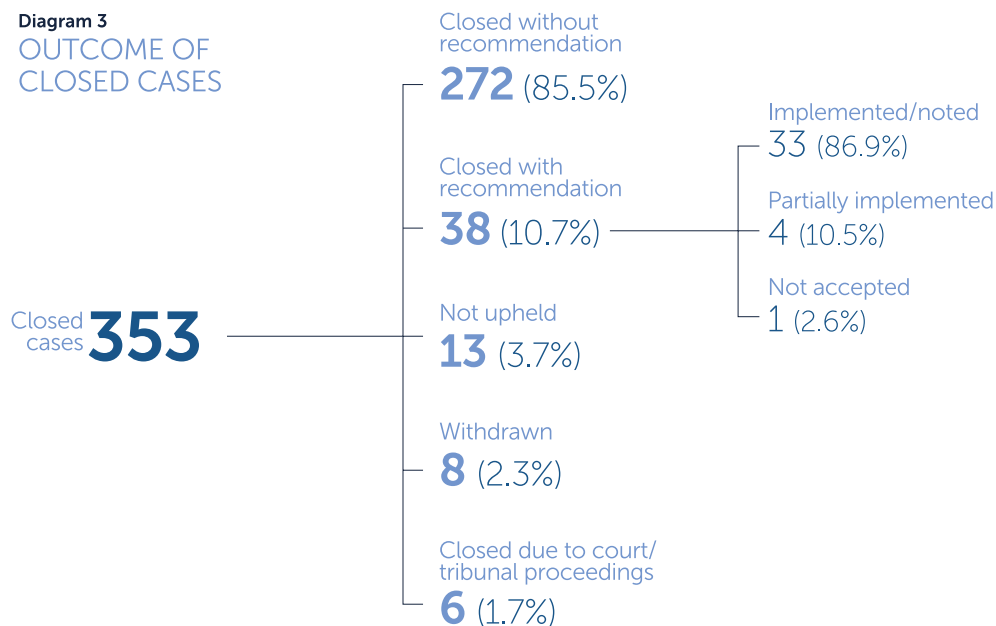


Diagram 3 depicts the outcome of closed cases:

**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 2021 are depicted in diagram 4 below.

**Diagram 4**  
**CASES HANDLED BY THE PARLIAMENTARY OMBUDSMAN DURING 2021**

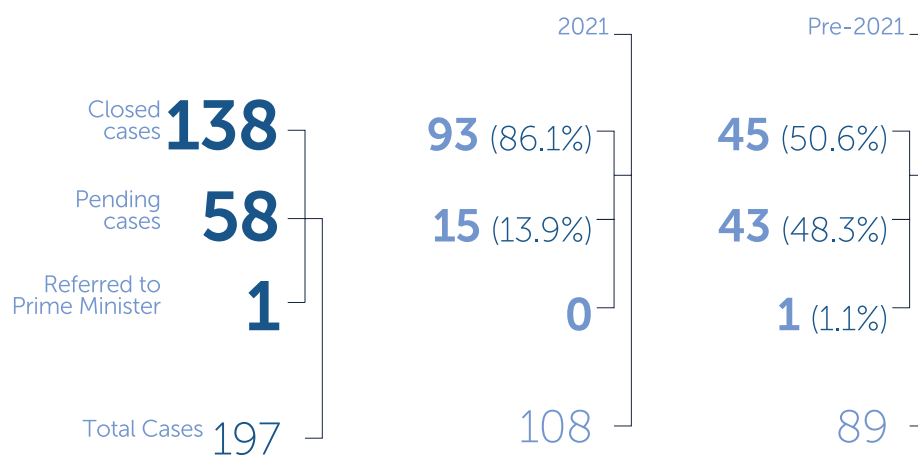
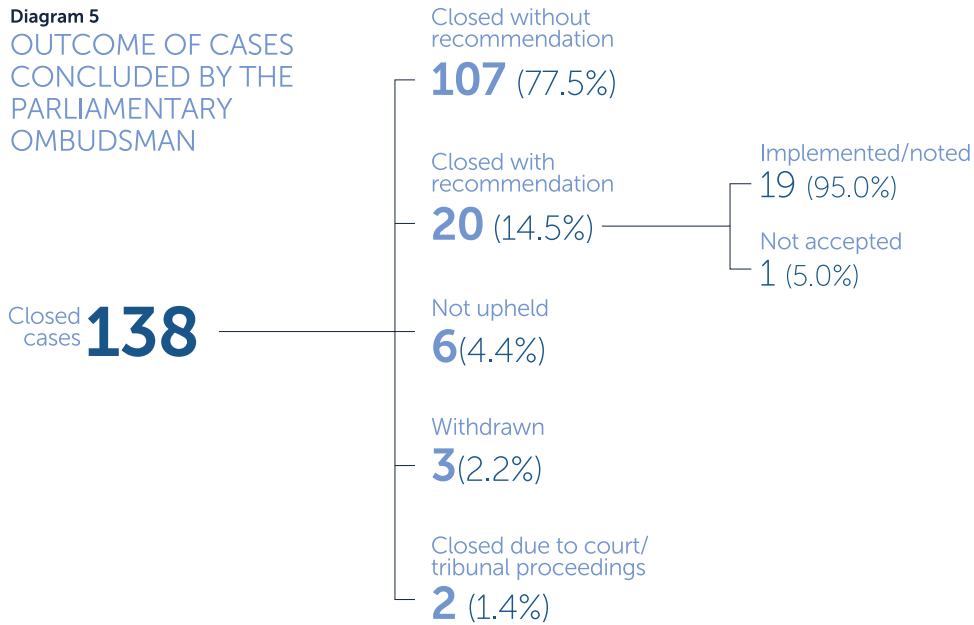


Diagram 5 gives details of the outcome of cases concluded by the Parliamentary Ombudsman.

Our analysis of the 138 cases, closed from the total caseload of the Parliamentary Ombudsman for 2021 and pre-2021, 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 58 pending cases, only 8 cases (13.8%) were still being processed by the Public Administration. The remaining 50 cases (86.2%) are pending action from the Ombudsman.

**Diagram 5**

**OUTCOME OF CASES  
CONCLUDED BY THE  
PARLIAMENTARY  
OMBUDSMAN**



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 2021, the Commissioners jointly handled a total of 278 cases, representing 58.5% 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 diagrams 6 and 7, respectively:

**Diagram 6**  
CASES HANDLED BY COMMISSIONERS



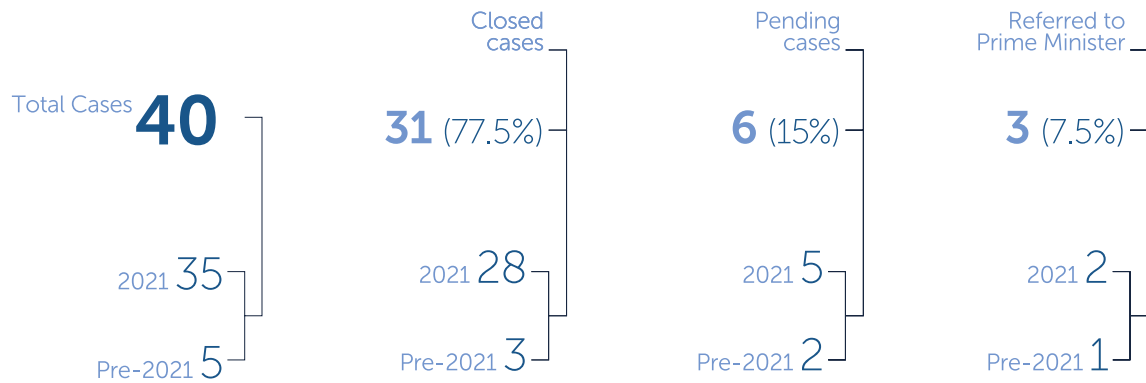
**Diagram 7**  
CASE LOAD BY COMMISSIONERS



## CASES HANDLED BY THE COMMISSIONER FOR EDUCATION

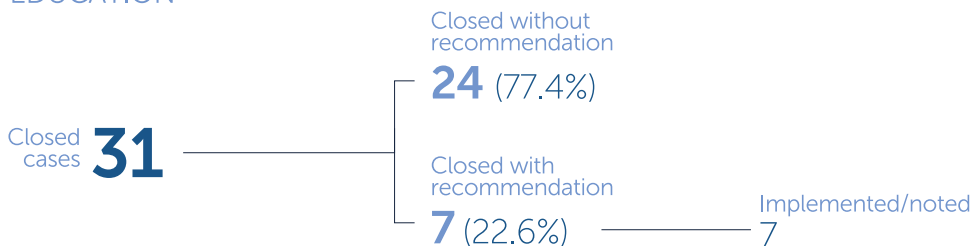
Data compiled by the Public Administration indicates that, during 2021, the Commissioner for Education (CfE) referred 34 new cases to the Ministry for Education, Sport, Youth, Research and Innovation and 1 new case to the Ministry for Tourism. The status of the cases handled by the Commissioner for Education 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:

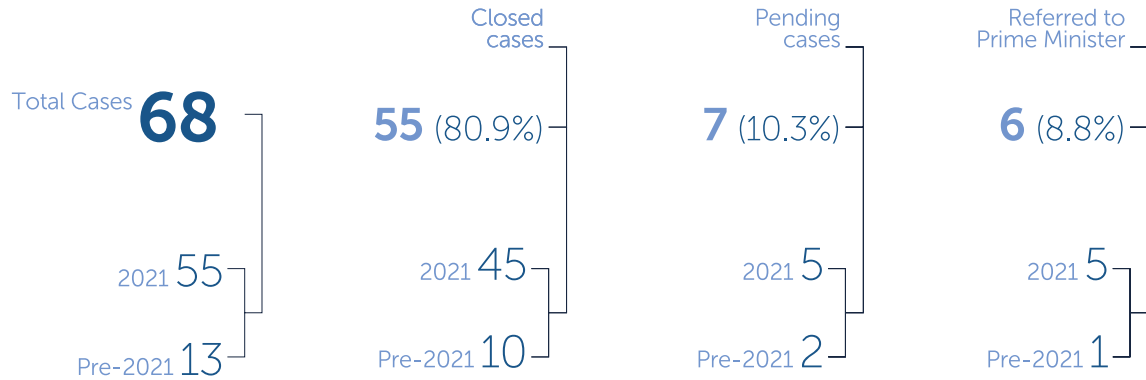
**Diagram 9**  
CASES CLOSED BY THE COMMISSIONER FOR EDUCATION



## CASES HANDLED BY THE COMMISSIONER FOR ENVIRONMENT AND PLANNING

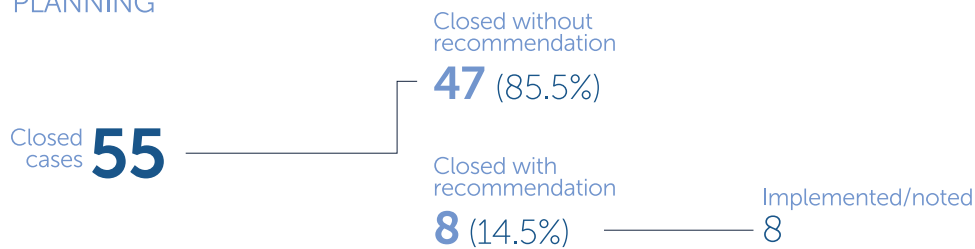
Data compiled by the Public Administration indicates that, during 2021, the Commissioner for Environment and Planning (CEP) referred 55 new cases to ministries/entities. These cases are to be added to the 13 cases the Commissioner had on his caseload prior to 2021, adding up to a total caseload of 68. 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 55 concluded investigations are given in Diagram 11:

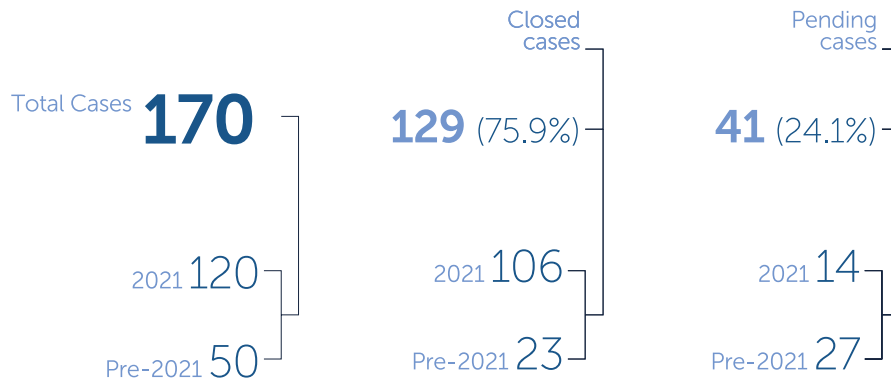
**Diagram 11**  
 CASES CLOSED BY THE  
 COMMISSIONER FOR  
 ENVIRONMENT AND  
 PLANNING



## CASES HANDLED BY THE COMMISSIONER FOR HEALTH

The Public Administration’s findings indicate that during 2021 the Commissioner for Health (CfH) handled a total of 170 cases. Diagram 12 below gives details of the cases handled by the Commissioner for Health:

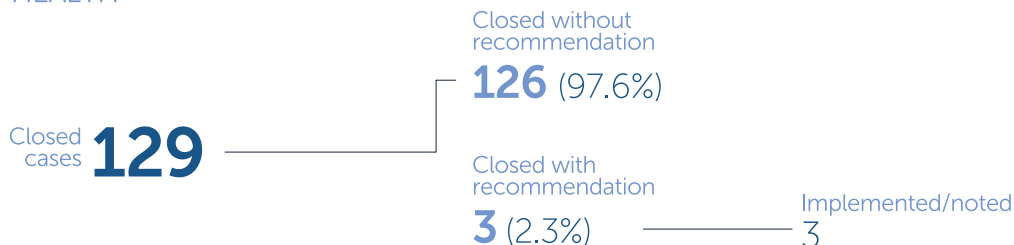
**Diagram 12**  
**CASES HANDLED BY THE COMMISSIONER FOR HEALTH**



At the time of reporting, 22 cases were pending at the pertinent Ministry, while 19 cases were pending at the Commissioner for Health.

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

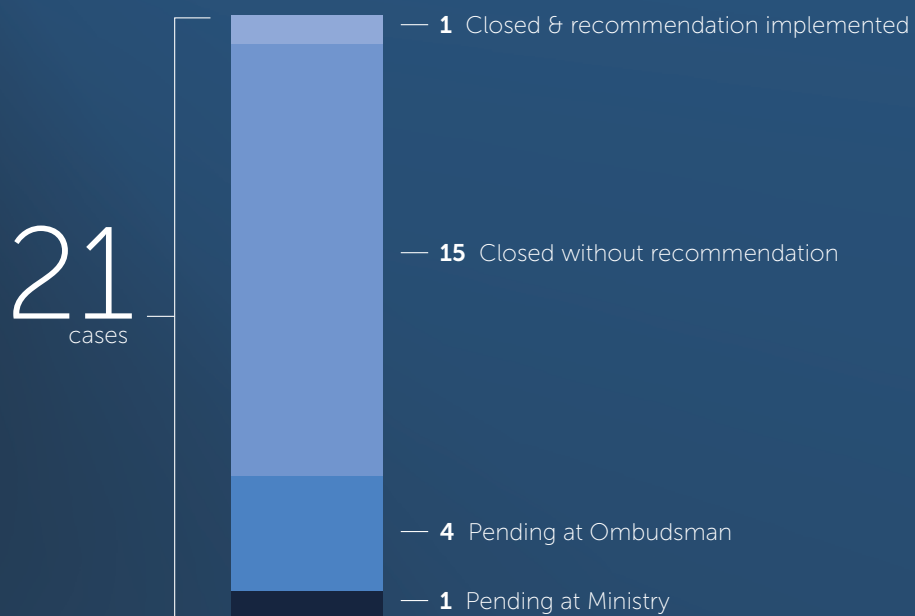
**Diagram 13**  
**CASES CLOSED BY THE COMMISSIONER FOR HEALTH**



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 2021, the Office of the Prime Minister (OPM) dealt with a total of 21 cases. Four of the cases were referred by Parliamentary Ombudsman during the year in question, out of which three cases have been closed without a recommendation being made by the Ombudsman, while one case is pending at the Office of the Ombudsman.

The Commissioner for Health (CfH) also referred one case to OPM which is pending at the Office of the Ombudsman.

Regarding cases lodged prior to 2021, OPM dealt with 16 cases which had been referred by the Parliamentary Ombudsman. 11 cases have been closed without any recommendation being made by the Ombudsman. One case was closed, and the Ombudsman's recommendation has been implemented. One case was closed after the management replied to one request for information. One case is pending at OPM, while two cases are pending at the Office of the Ombudsman.

OPM  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>People &amp; Standard Division (P&amp;SD)</b>
Ombudsman case reference	<b>OMB-21-2391</b>
Brief details of case	<p>A complaint relating to the assimilation exercise in the Managerial Stream. The complainant is claiming that they were subject to less beneficial conditions, owing to assimilation in comparison to the substantive grade previously held.</p>
Action taken and management comments	<p>The case was received on 5 November 2021.</p> <p>A meeting was held between the P&amp;SD and the complainant on 10 January 2022 to understand better the particular elements of the claim.</p> <p>On 16 February 2022, an interim note was sent to the Ombudsman, stating that ongoing internal discussions were taking place.</p> <p>On 18 April 2022, the P&amp;SD explained to the Ombudsman the assimilation exercise within the Managerial Stream, and that officers concerned were given two career stream options. Employees benefitted 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. P&amp;SD also informed the Ombudsman that these options have been amply discussed with the complainant.</p> <p>On 21 June 2022, the Ombudsman requested a comparison between the remuneration packages for both streams. On 1 July 2022, the P&amp;SD provided this information. Furthermore, on 13 July 2022, Ombudsman requested clarification on payment of arrears. On 19 July 2022, the P&amp;SD provided these clarifications.</p> <p>On 27 September 2022, the Ombudsman requested information whether two other individuals were considered for the assimilation process or not, and also requested reasons for the decision made.</p> <p>On 5 October 2022, the P&amp;SD explained that the Managerial Stream was implemented in accordance with certain documents and that the two individuals did not qualify under any identified area of specialisation, while the complainant did.</p>
Status	Pending at Ombudsman

Sector/Department	<b>People &amp; Standards Division (P&amp;SD)</b>
Ombudsman case reference	<b>OMB-21-2244</b>
Brief details of case	A request for information made by the Office of the Ombudsman regarding the assimilation process.
Action taken and management comments	<p>On 27 July 2021, the Ombudsman requested information from the P&amp;SD relating to the assimilation process.</p> <p>On 6 August 2021, the P&amp;SD provided information on instances when officers may refuse the assimilation process. It was pointed out that, upon refusal, officers were absorbed back into their substantive grade.</p> <p>On 9 August 2021, the Ombudsman requested further clarifications regarding the parties involved in cases of refusal or objection to the assimilation process.</p> <p>On 18 August 2021, the P&amp;SD replied stating that the Public Service Commission (PSC) was consulted on assimilations made according to the choices exercised by officers who held a substantive grade.</p> <p>Upon an enquiry by the P&amp;SD dated 4 July 2022, the Office of the Ombudsman confirmed that the case was closed.</p>
Status	Closed without recommendation

Sector/Department	<b>People &amp; Standards Division (P&amp;SD)</b>
Ombudsman case reference	<b>OMB-21-2251</b>
Brief details of case	A request for information referred by the Office of the Ombudsman
Action taken and management comments	<p>On 27 July 2021, the Ombudsman requested information from P&amp;SD relating to the assimilation process.</p> <p>On 6 August 2021, P&amp;SD provided information on instances when officers may refuse the assimilation process. It was pointed out that, upon refusal, officers were absorbed back into their substantive grade.</p> <p>On 9 August 2021, the Ombudsman requested further clarifications regarding the parties involved in cases of refusal or objection to the assimilation process.</p> <p>On 18 August 2021, the P&amp;SD replied stating that the PSC was consulted on assimilations made according to the choices exercised by officers who held a substantive grade.</p> <p>Upon an enquiry by P&amp;SD dated 4 July 2022, the Office of the Ombudsman confirmed that the case was closed.</p>
Status	Closed without recommendation

Sector/Department	<b>People &amp; Standards Division (P&amp;SD)</b>
Ombudsman case reference	<b>V 0009</b>
Brief details of case	A complaint related to compensation awarded by the Grievances Unit in 2016 on the basis that the complainant was carrying out higher duties. The complainant claimed that, notwithstanding compensation had been duly awarded, they continued to carry out the higher duties after the decision by the Grievances Unit.
Action taken and management comments	<p>The complaint was received on 4 February 2021. This case referred to the after-effects of a decision which was taken by the Grievances Unit in 2016. At the time, the Grievances Units fell under the purview of the respective Ministry.</p> <p>On 2 March 2021, upon direction from the Ombudsman, the P&amp;SD informed the complainant directly that the case had been referred to the respective ministry to complainant's duties and claims.</p> <p>The Ombudsman informed the P&amp;SD that the case was closed on 8 April 2021.</p>
Status	Closed without recommendation

OPM  
**Parliamentary Ombudsman Pre 2021**

Sector/Department	<b>Office of the Prime Minister (OPM)</b>
Ombudsman case reference	<b>T 0306</b>
Brief details of case	A complaint regarding an appeal sent to the Management Support Directorate by an applicant who objected to a decision regarding ineligibility for a call for applications. Subsequently, the complainant had appealed to the Public Service Commission. The latter rejected their appeal, confirming the decision initially taken during the vetting of applications.
Action taken and management comments	<p>The case was received on 5 February 2021. The Ombudsman requested the documentation that was uploaded with the application and on the applicant's profile, prior to the expiry of the deadline.</p> <p>The information requested was forwarded to the Ombudsman on 28 April 2021.</p>
Status last year	Case was referred to OPM in 2021
Status	Closed after the management replied to one request for information

Sector/Department	<b>People &amp; Standards Division (P&amp;SD)</b>
Ombudsman case reference	<b>T 0097</b>
Brief details of case	A complaint arising from the choice given to officers in an executive grade within an OPM department to either remain within their grade or be assimilated in the managerial stream. Although both grades were pegged to salary scale 7, they carried different salary packages. The complainants were concerned about the projected conditions of employment.
Action taken and management comments	<p>The case was sent to OPM on 4 October 2019.</p> <p>On 6 November 2019, the P&amp;SD clarified that during the assimilation process constant information was provided to the officers concerned, including the complainants. In accordance with Public Service practice, one cannot concurrently hold two substantive grades, and that the salary was defined by the grade one held.</p> <p>On 15 November 2019 and 18 February 2020, clarifications were sought from the Ombudsman. Clarifications were provided by the P&amp;SD on 6 December 2019 and 27 May 2020, respectively.</p> <p>On 29 November 2021, the P&amp;SD was informed that the case was closed by the Ombudsman.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>People and Standards Division (P&amp;SD)</b>
Ombudsman case reference	<b>T 0131</b>
Brief details of case	A complaint by an officer who had been medically boarded out. The complainant drew comparisons regarding monetary compensation with another officer who was found to have been unjustly discharged.
Action taken and management comments	<p>The case was received by the P&amp;SD on 23 August 2019.</p> <p>After exchange of correspondence, on 29 October 2019, the P&amp;SD explained that, despite the claims of the complainant, the comparisons drawn with the case of the other officer were not relevant, given that the latter officer had been unjustly discharged and compensated as a means of redress, whereas the complainant had been medically boarded out.</p> <p>On 6 December 2019, the Ombudsman claimed that the P&amp;SD should retain documentation relating to the case with which the complainant was drawing comparisons for financial and administrative purposes. The latter also stated that both cases were similar since they hinged on a period outside of the respective service.</p> <p>On 24 January 2020, the P&amp;SD replied re-emphasising that the cases were not similar. The P&amp;SD also explained that in accordance with the GDPR, it would be irresponsible to retain documents related to third parties, detailing sensitive information, once it was not deemed justified.</p> <p>On 15 February 2022, Ombudsman stated case was still being investigated. Subsequently, the Ombudsman took up the case with MHSR.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>People and Standards Division (P&amp;SD)</b>
Ombudsman case reference	<b>T 0198</b>
Brief details of case	A complaint from an officer claiming entitlement to allowances under a sectoral agreement as well as objecting to being deprived of being transferred elsewhere.
Action taken and management comments	<p>The case was sent to OPM on 4 October 2019.</p> <p>On 6 November 2019, the P&amp;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.</p> <p>On 3 June 2020, it was communicated that instructions had been issued with respect to the transfer requested.</p> <p>On 6 July 2022, Ombudsman issued his final opinion.</p> <p>Several exchanges of correspondence ensued. On 12 September 2022, the P&amp;SD stated that should this recommendation be implemented, it would be unjust on other officers working in this class. Nevertheless, the P&amp;SD informed the Ombudsman that further investigations will be carried out.</p> <p>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.</p>
Recommendation by Ombudsman	<p>The Ombudsman recommended that the complainant should be paid allowances, effective from the moment of assimilation until the complainant was transferred.</p> <p>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.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ministry

Sector/Department	<b>People and Standards Division (P&amp;SD)</b>
Ombudsman case reference	<b>T 0269</b>
Brief details of case	A complaint relating to claims for additional remuneration for extra hours worked by employees at the Ministry for Transport, Infrastructure and Capital Projects (MTIP).
Action taken and management comments	<p>On 5 August 2020, the P&amp;SD provided the requested explanations and documentation to the Office of the Ombudsman.</p> <p>On 13 January 2022, the Ombudsman issued his final opinion.</p> <p>The P&amp;SD confirmed with MTIP that the Ombudsman closed the case on 8 February 2022 and that his recommendation was implemented on 21 February 2022.</p>
Recommendation by Ombudsman	The Ombudsman recommended that the complainants should be given the opportunity to make use of lost leave or that monetary compensation is given for lost leave during the period from January 2016 up to March 2018, when the pertinent policy was amended.
Status last year	Pending at Ombudsman
Status	Closed and recommendation implemented

Sector/Department	<b>People and Standards Division (P&amp;SD)</b>
Ombudsman case reference	<b>T 0293</b>
Brief details of case	A complaint concerning claims of difference in salary paid to officers with the same nomenclature in different ministries.
Action taken and management comments	<p>The case was received on 9 December 2019.</p> <p>On 3 January 2020, the P&amp;SD explained that the roles and duties involved were different. The duties associated with those of the higher salary were more onerous.</p> <p>On 1 October 2021, the Office of the Ombudsman sought further clarifications from the P&amp;SD on the reasoning behind the relevant decision of the Grievances Board.</p> <p>On 8 November 2021, the P&amp;SD provided clarifications on how the Grievances Board had reached its conclusions.</p> <p>On 16 February 2022, the Ombudsman informed the P&amp;SD that the investigation was ongoing.</p> <p>During 2021, the Ombudsman had also referred the case to the Ministry for Education, Sport, Youth, Research and Innovation, and discussions are ongoing.</p>
Status last year	Pending at Ministry
Status	Pending at Ombudsman

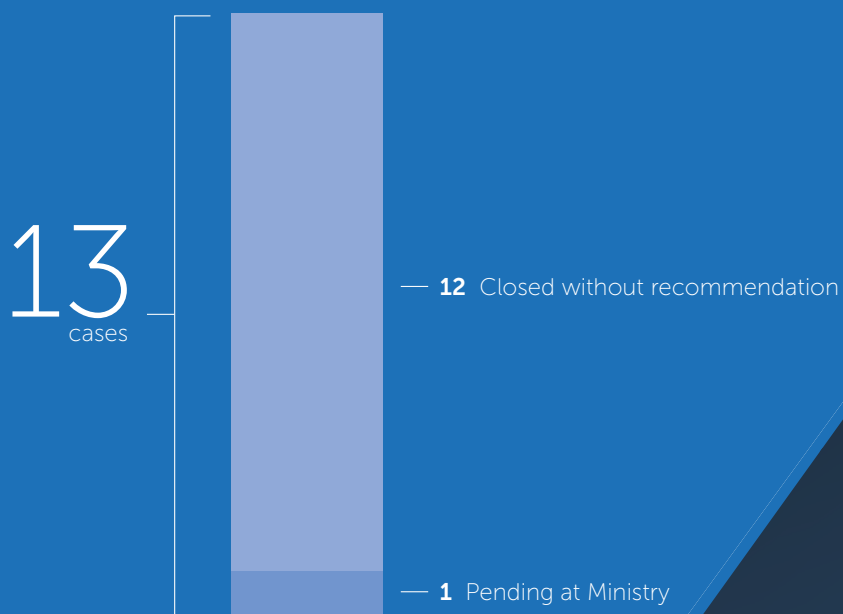
Sector/Department	<b>Resource Support Services Ltd. (RSSL)</b>
Ombudsman case reference	<b>U 0139 – U 0148</b>
Brief details of case	<p>The complaints were put forward by several employees, stating that RSSL did not facilitate their redeployment with entities falling within the Public Sector. There was an agreement with the General Workers Union that such employees would be eligible to apply for a job with certain entities, subject that they retain the same working conditions they currently held. Such an agreement was valid for one year.</p> <p>Complainants argued that RSSL discriminated against them and some of them were not even asked to sit for an interview with the entities in question, whereas their colleagues had immediately been offered jobs. Others complained that they were asked to sit for an interview just once and were not chosen, where the endorsed agreement stated that they have to sit for at least three interviews. Complainants stated that they applied within the stipulated timeframe and should therefore be redeployed.</p>
Action taken and management comments	<p>The case was referred by the Office of the Ombudsman to RSSL on 26 August 2020.</p> <p>A reply was forwarded by RSSL on 16 September 2020, stating that its duty was to facilitate redeployment. It had no say on the number of vacancies the entities had or on the selection process.</p> <p>The complainants in question were not chosen by the entities for various reasons, including lack of skills, which made it hard to match the employee to a particular vacancy. One employee was abroad for a long period of time and could not be reached. Another complainant withdrew their application and then re-applied. One applied after the application was closed. Notwithstanding, RSSL tried to redeploy them without success. One employee wanted to work on a shift basis and no vacancy had such criterion. Another employee had health issues which made it difficult for them to be matched to a particular vacancy, and others were simply not chosen.</p> <p>The case was closed without recommendation on 11 May 2022.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation



OPM  
**Commissioner for Health 2021**

Sector/Department	<b>People and Standards Division (P&amp;SD)</b>
Ombudsman case reference	<b>CH-21-2073</b>
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	<p>The case was received on 28 May 2021. The P&amp;SD discussed the case with Ministry for Health (MFH).</p> <p>On 20 July 2021, the P&amp;SD explained to the 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.</p> <p>On 29 July 2021, the CfH referred the case to MFH.</p> <p>On 23 February 2022, the MFH informed the Commissioner that no changes were envisaged to the MoU.</p> <p>On 27 April 2022, the CfH stated he requested a clarification from the pertinent union regarding an issue relating to an oversight in the agreement between the Government and the Union.</p>
Status	Pending at Ombudsman

## MINISTRY FOR ACTIVE AGEING



During 2021, the Ministry for Active Ageing (MFAA) investigated a total of 13 cases.

One case was referred by the Parliamentary Ombudsman in 2021. The case was closed after management replied to a request for information.

During the same year, 10 cases were referred to MFAA by the Commissioner for Health (CfH). All cases were closed by the CfH without a recommendation being given.

The Ministry also dealt with two cases referred by the CfH in previous years. One case was closed without recommendation, whilst the other case is pending at the Ministry.

MFAA  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Social Care Standards Authority (SCSA)</b>
Ombudsman case reference	<b>OMB-21-2052</b>
Brief details of case	A complaint regarding the termination of contract for service. The complainant alleged that the abrupt termination was unjust and discriminatory. The complainant also alleged there were several wrongdoings committed by the SCSA, as cases were not dealt with in a correct and timely manner.
Action taken and management comments	<p>The case was received on 23 July 2021.</p> <p>On 11 August 2021, the Ministry informed the Ombudsman that the Ministry was dealing with this case after receiving a whistle-blower report. The Ministry remarked that the complainant was engaged on a Contract for Service. On this basis, an employee's contract can be terminated by the respective entity when and as it deems necessary. Moreover, the complainant instigated higher management and staff on various occasions (via email) to act if they did not agree with their way of thought related to work.</p> <p>The Ministry also stated that an Investigative Board investigated the alleged wrongdoings by the SCSA thoroughly, and a report with all the findings was referred to the Police Commissioner, as required by the Whistle-blower Act.</p> <p>On 21 December 2021, the Ombudsman informed the Ministry that case was closed.</p>
Status	Closed after the management replied to one request for information.

MFAA  
**Commissioner for Health 2021**

Sector/Department	<b>Active Ageing and Community Care (AACC)</b>
Ombudsman case reference	<b>HV 0002</b>
Brief details of case	A complaint relating to the prohibition of food brought in to an elderly resident by the Management at a home for the elderly.
Action taken and management comments	<p>The case was received on 3 January 2021. On the same day, the AACC contacted the management of the Residence in question and was informed that the measure was being taken to reduce and control food safety hazards. For this reason, no cooked food from relatives was being allowed to be brought in the Residence.</p> <p>On 1 February 2021, the AACC asked for direction from the SCSA as the regulatory authority.</p> <p>On 4 August 2021, the MFAA informed the Commissioner for Health that the decision had been taken in the best interest of the patients in view of the COVID-19 pandemic.</p> <p>Upon enquiring with the Commissioner for Health in August 2022, MFAA was informed that the case had been closed without recommendation.</p>
Status	Closed without recommendation

Sector/Department	<b>Active Ageing and Community Care (AACC)</b>
Ombudsman case reference	<b>HV 0005</b>
Brief details of case	A complaint regarding alleged neglect of a resident at a home for the elderly.
Action taken and management comments	<p>The case was received on 21 January 2021.</p> <p>On 25 February 2021, the AACC forwarded an investigation report to Commissioner for Health (CfH). On 5 March 2021, the CfH informed AACC that the complainants were informed of the report findings. It was established that it was difficult to conclude the exact reason for the medical condition identified in view of other conditions.</p> <p>MFAA contacted the CfH on 4 August 2021 and was informed that the case had been closed without recommendations.</p>
Status	Case closed without recommendation

Sector/Department	<b>Active Ageing and Community Care (AACC)</b>
Ombudsman case reference	<b>HV 0009</b>
Brief details of case	A complaint concerning a public officer who claimed improper guidance from the HR section.
Action taken and management comments	<p>The case was received on 30 January 2021.</p> <p>On 18 March 2021, the Commissioner for Health (CfH) requested the version of events of the officer mentioned in the complainant's letter.</p> <p>On 29 March 2021, MFAA forwarded the required information to the CfH.</p> <p>MFAA contacted the CfH on 4 August 2021 and was informed that the case had been closed without recommendations.</p>
Status	Case closed after management replied to one request for information.

Sector/Department	<b>Malta Medicines Authority (MMA)</b>
Ombudsman case reference	<b>CH-21-1465</b>
Brief details of case	A request for scientific advice regarding the switching between biological disease-modifying antirheumatic drugs, Remicade (infliximab) and Remsima (infliximab).
Action taken and management comments	<p>On 23 April 2021, the MMA received an e-mail from the Commissioner for Health (CfH) requesting scientific advice regarding a comparison between medical treatments. On 29 April 2021, the MMA replied to the Commissioner that no guidance on this matter was issued.</p> <p>On 30 April 2021, the CfH clarified that the information was required to present a case to the Health Department whether to approve or refuse the request of the patient to continue with a specific treatment.</p> <p>On 19 May 2021, the MMA provided a detailed explanation that the role of the Authority was to assess the risk/benefit of medicines for the indication claimed by marketing authorisation holders at population level. Reference was made to national protocols/guidelines which were issued by the Ministry for Health to use as a basis for clinical decisions at individual patient level.</p>
Status	Closed without recommendation.

Sector/Department	<b>St Vincent De Paule (SVP)</b>
Ombudsman case reference	<b>CH-21-2252</b>
Brief details of case	A complaint related to the alleged hindering of career advancement by a Health Care Worker.
Action taken and management comments	The complaint was received on 29 July 2021.  SVP replied to Commissioner for Health on 6 August 2021, providing information related to the sectoral agreement between the Government of Malta, UHM, and GWU, pertaining to the Health Care Class.
Status	Closed after the management replied to one request for information.
Sector/Department	<b>St Vincent De Paule (SVP)</b>
Ombudsman case reference	<b>CH-21-2368</b>
Brief details of case	A complaint regarding the refusal of a request for transfer to the Central Procurement and Supplies Unit (CPSU).
Action taken and management comments	The case was received on 15 September 2021. A reply to the Commissioner for Health (CfH) was sent by SVP on 28 September 2021, stating that requests for transfers within CPSU were handled by the Ministry for Health, since this unit falls under its remit and not that of MFAA.  On 2 February 2022, the CfH was informed by SVP that the complainant was to commence duties at Mater Dei Hospital with effect from 7 February 2022.  On 18 February 2022, the CfH informed SVP that case was closed.
Status	Closed without recommendation

Sector/Department	<b>St Vincent De Paule (SVP)</b>
Ombudsman case reference	<b>CH-21-2437</b>
Brief details of case	A complaint regarding an employee who claimed that their request to renew the teleworking agreement was not approved.
Action taken and management comments	<p>The case was received on 29 October 2021.</p> <p>On 2 November 2021, SVP replied to the Commissioner for Health (CfH), acknowledging that a mistake had been committed by the applicant's superior.</p> <p>On 2 February 2022, the CfH was informed by SVP that the complainant started on remote working on 3 January 2022. On 18 February, the CfH informed SVP that the case was closed.</p>
Status	Closed without recommendation

Sector/Department	<b>St Vincent De Paule (SVP)</b>
Ombudsman case reference	<b>CH-21-2439</b>
Brief details of case	A complaint regarding sports leave which was recorded as vacation leave.
Action taken and management comments	<p>The case was received on 29 October 2021.</p> <p>SVP replied to the Commissioner for Health (CfH) on 2 November 2021, stating that the request by the officer concerned had been inadvertently overlooked. Action was taken to rectify the error.</p> <p>On 2 February 2022, SVP informed the CfH that the issue was settled by granting the employee sports leave in line with the established policy.</p> <p>On 18 February 2022, the CfH informed SVP that case was closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Social Care Standards Authority (SCSA)</b>
Ombudsman case reference	<b>CH-21-2238</b>
Brief details of case	A complaint in connection with construction works carried out in an elderly residence.
Action taken and management comments	<p>The case was forwarded directly to SCSA on 23 July 2021.</p> <p>A reply was provided to the Commissioner for Health (CfH) by SCSA on 15 October 2021, indicating the recommendations issued to the elderly residence following visits and correspondence with the Residence in question. Following further communication between the CfH and SCSA, further inspections were conducted.</p> <p>On 30 December 2021, the SCSA communicated with the CfH and provided an update and a certification by the competent professional that works were being carried out according to the permits issued and were architecturally safe.</p> <p>On 15 February 2022, the CfH informed MFAA that the case was closed after the complainant failed to reply to various reminders sent by the office of the Ombudsman.</p>
Status	Closed without recommendation

Sector/Department	<b>Social Care Standards Authority (SCSA)</b>
Ombudsman case reference	<b>CH-21-2386</b>
Brief details of case	A complaint raised by relatives of an elderly person against the SCSA, alleging that the Authority's report, following an investigation on the service provided to the elderly, was inconclusive and not based on the merits of the case.
Action taken and management comments	<p>The case was received on 27 September 2021.</p> <p>SCSA replied to the Commissioner for Health (CfH) on 7 October 2021, stating that as a regulatory authority, its aims were to improve the quality and standards of the services provided. Following the investigation, the SCSA was convinced that the allegations by the complainant were unfounded since the required care was provided by the competent professionals.</p> <p>The CfH closed the case on 14 February 2022.</p>
Status	Case closed after the management replied to one request for information.

MFAA  
**Commissioner for Health Pre 2021**

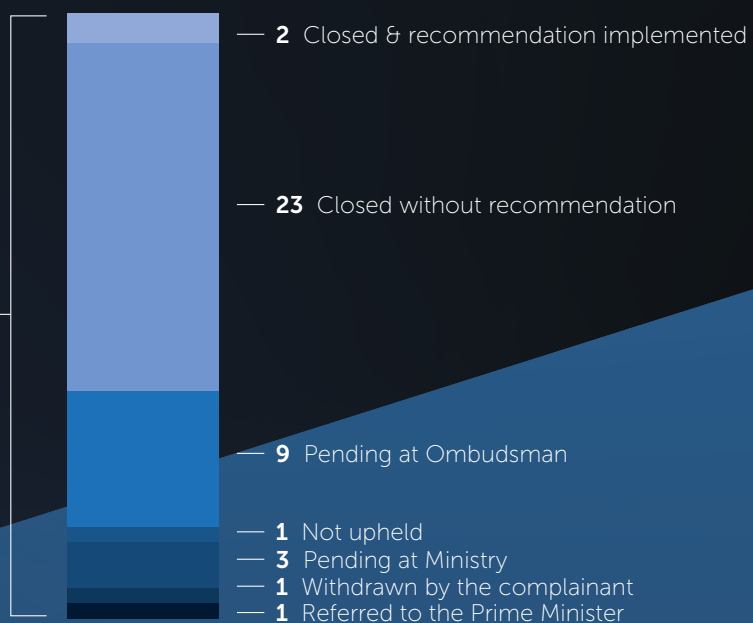
Sector/Department	<b>Malta Medicines Authority (MMA)</b>
Ombudsman case reference	<b>HU0009 &amp; HU0026</b>
Brief details of case	A complaint regarding the Collective Agreement. The complainants are requesting that the revised market corrector allowance should not be restricted to registered Pharmacists only.
Action taken and management comments	<p>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, being that it was on the same basis, was included in the exchange of correspondence.</p> <p>The Commissioner suggested that an allowance should be introduced for Medical Doctors who are carrying out pharmaceutical duties.</p> <p>On 2 October 2020, the MMA informed the Commissioner for Health (CfH) that his recommendations shall be taken into consideration during negotiations on the new Collective Agreement. The negotiations with the Authority started on 25 June 2021.</p> <p>On 28 January 2022, the MMA informed the CfH that negotiations are still ongoing.</p> <p>On 29 August 2022, the MMA informed the CfH that discussions with all stakeholders are being held regularly.</p>
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department	<b>Social Care Standards Authority (SCSA)</b>
Ombudsman case reference	<b>HU 0106</b>
Brief details of case	A complaint regarding alleged lack of care given to a resident at a home for the elderly.
Action taken and management comments	<p>The case was referred directly by CfH to the Social Care Standards Authority (SCSA) on 30 December 2020.</p> <p>On 19 February 2021, the SCSA informed the CfH that an investigation was being carried out.</p> <p>On 28 June 2021, the investigation report was forwarded to the Office of the Ombudsman, followed by an exchange of communication between the latter and SCSA.</p> <p>On 9 September 2021, the SCSA replied to the CfH, stating that, in its opinion, the complaints were unfounded and unsubstantiated. Moreover, the investigation did not reveal any breach in the residence that require recommendations. The CfH followed up on this report in October 2021, by requesting the contact details of the Legal Responsible Person of the residence for the elderly to obtain the personal file of the resident.</p> <p>On 12 April 2022, the MFAA was informed by the Office of the Ombudsman that the case was closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation



# MINISTRY FOR THE ECONOMY, EUROPEAN FUNDS AND LANDS

40  
cases



In 2021, the Ministry for the Economy, European Funds and Lands (MEFL) dealt with a total of 40 cases.

Twenty-one cases were referred to MEFL by the Parliamentary Ombudsman during 2021. One case was closed, and the Ombudsman's recommendation was implemented. Thirteen cases were closed without recommendation, with eight of these cases having been closed after management replied to one request for information. One case was withdrawn by the complainant, while another case was not upheld by the Ombudsman. Two cases are pending at the Ministry, and three cases are pending at the Office of the Ombudsman.

During 2021, four cases were referred by the Commissioner for Environment and Planning (CEP). One case was closed without any recommendation being made by the CEP. One case was closed, and the CEP's recommendation has been implemented. One case was closed after management replied to one request for information. Another case was referred by the CEP to the Prime Minister in terms of the Ombudsman Act.

MEFL dealt with fifteen cases which were lodged prior to 2021. Eleven cases had been referred by the Parliamentary Ombudsman. Four of these cases were closed without any recommendation having been made by the Ombudsman. One case is pending at the Ministry. The remaining six cases are pending at the Office of the Ombudsman, with four of these cases having been pending for over two years.

Prior to 2021, the CEP had referred four cases to MEFL, which have all been closed without a recommendation being made by the CEP.

MEFL  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Funds and Programmes Division</b>
Ombudsman case reference	<b>V 0029</b>
Brief details of case	A complaint regarding an application for the co-financing of two projects (in relation to complainant's work), which was rejected by the Projects Selection Committee.
Action taken and management comments	<p>The complaint was received on 14 May 2021.</p> <p>The complainant stated that their application was not accepted, due to project implementation risks which were identified whilst carrying administrative checks. The complainant also stated that upon asking for further details, none were given. Therefore, they could not file an appeal without the necessary information. An appeals note was submitted delineating the lack of information provided.</p> <p>The Projects Selection Appeals Board heard the appeal, including the testimony of a member of the Managing Authority, stating that the application was rejected since the necessary permits from the Planning Authority were not in hand.</p> <p>On 7 October 2021, the Funds and Programme Division stated that the application for the two projects was rejected and that the applicant was informed accordingly, explaining the reason why. Subsequently, before the expiration of the appeals period, a request for more information was made by the applicant. The answer given was that application was rejected due to risks present to implement the projects. During the Appeals sitting, representatives of the Authority answered all the queries posed by the Project Appeals Board, as well as by the representatives of the applicant.</p> <p>The appeal was rejected, and the decision taken by the Division was confirmed. The latter further stated that the Funds and Programmes Division based its decisions on a number of guidelines, EU (Funds) regulations, and any other relevant information pertinent to the applications. In order to ensure a level playing field and to attract more applicants, the necessary permits are not requested as a priority. However, applicants must carry out the necessary valuations from their end. Moreover, the Authority too carries out necessary checks. Subsequent to checks carried out, it could be denoted that the projects were subject to an enforcement action. In this light, the Authority concluded that due to such risks, the application could not be accepted. It was further reiterated that EU (Funds) were tied with a definite timeframe which must be respected. In this case, it was clear that the proposed projects would not have been completed by the stipulated time, even more so when considering the delay in getting the necessary permits.</p> <p>On 12 April 2022, MEFL was informed that the Ombudsman had closed the case.</p>
Status	Closed without recommendation

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>OMB-21-1997</b>
Brief details of case	A complaint concerning a co-owner of an expropriated property which the complainant had inherited from their father.
Action taken and management comments	<p>The case was received on 11 May 2021. The property was expropriated in 1999 but to date, the complainant was still awaiting compensation. The complainant added that when enquiring with the Lands Authority, they never received any feedback.</p> <p>On 24 May 2021, the Lands Authority explained that properties which were expropriated pre-2003 were still in the course of acquisition by the Government, and as a result, their respective owners, including the complainant and the other co-owners, have not been duly compensated. Cases were being treated by priority, as far as possible, and compensation was being calculated on the basis of article 64 of Chapter 573 of the Laws of Malta.</p> <p>The case was closed by Ombudsman on 7 September 2021.</p>
Status	Closed after management replied to one request for information.
Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>OMB-21-2026</b>
Brief details of case	A complaint referring to an expropriation of land dating back to 2010. Since then, the project did not materialise, and no compensation had been granted. The complainant requested to reclaim the land in question.
Action taken and management comments	<p>The complaint was received on 31 May 2021.</p> <p>On 8 June 2021, the Lands Authority informed the Office of the Ombudsman that in order to release the land in question to the complainant, authorisation from Infrastructure Malta was required which, as at the time of reply, remained pending. Upon receipt of authorisation, the Lands Authority would contact the complainant to proceed with the release of land in question.</p> <p>The case was closed on 31 October 2021.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>OMB-21-2079</b>
Brief details of case	A complaint in connection with an interest lodged by the Lands Authority in an electricity substation situated in the plot, which property had been sold by the complainant in 2019.
Action taken and management comments	<p>The case was received on 11 June 2021.</p> <p>On 15 June 2021, the Lands Authority confirmed that part of the land included in the complainant's application was subject to a lawsuit. In the circumstances, as long as court litigation was ongoing regarding the ownership of the land in question, the Authority could not accede to the request made. The complainant's notary had been informed accordingly on 2 November 2020.</p> <p>On 23 July 2021, the Ombudsman proceeded to close the case.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>OMB-21-2163</b>
Brief details of case	A complaint in connection with the transfer of an agricultural lease.
Action taken and management comments	<p>The case was received on 5 October 2021. The Office of the Ombudsman requested a copy of the agricultural lease of government-owned portion of land, and the file dealing with the transfer of the agricultural lease in question.</p> <p>On the 12 October 2021, the Lands Authority 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 Lands Authority, and with the consent of all other tenants. The requested documentation was also provided to the Ombudsman.</p> <p>Further to queries raised by the Ombudsman on 27 October 2021, on 25 January 2022, the Lands Authority explained that the objectives of AGRI 1 applications were to allow the inclusion of non-recognised tenants to be recognised as in-solidum tenants with the current ones. The case in point related to two recognised tenants requesting to add a third tenant to the agricultural lease. Acceptance of the application consequently meant that all three tenants would be equally responsible for the same tenancy.</p> <p>Moreover, it was explained that the Agriculture and Rural Payments Agency (ARPA) certificate was only required by the Lands Authority to verify that the applicants were actually full- or part-time farmers in terms of Clause 7 of SL 573.06, regulating such transfers. In view of the above, the Lands Authority reiterated the fact 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.</p>
Status	Pending at Ombudsman

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>OMB-21-2197</b>
Brief details of case	A complaint regarding the selection process for a post at an administrative level within the Lands Authority. The complainant considered the Authority's actions to be unfair and prejudicial, especially since they had been carrying out duties above their grade for several months. The Authority did not provide justification for not proceeding with the selection process.
Action taken and management comments	<p>The case was received on 6 August 2021.</p> <p>On 7 September 2021, LA replied that it was aware of this situation, and was willing to proceed with the selection process and conduct the complainant's interview. Subsequently, the complainant was called for an interview by the Selection Board.</p> <p>The Ombudsman informed LA that he was closing the case on 13 September 2021.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>OMB-21-2200</b>
Brief details of case	A complaint regarding an agricultural lease, which the complainant stated that their family had held for twenty years.
Action taken and management comments	<p>The case was received on 22 July 2021. Due to an infrastructural project, this land was due to be reclaimed by government. The complainant claimed that an agreement was reached with the farmers' representatives of the area in question that an alternative piece of land in the vicinity was to be granted to the farmers and that soil was to be transferred from one field to the other. However, the complainant was told that no alternative land was to be assigned due to the large size of the land taken for the project.</p> <p>The complainant requested an alternative site as promised and that the soil from the current piece of land be transferred to the newly assigned site, and that they be compensated for the expenses incurred for the necessary permits and building of the existing rooms.</p> <p>In its reply to the Ombudsman dated 23 July 2021, LA stated that neither the LA nor the Ministry were represented in the agreement being referred to in the complaint. Unless clear proof was provided, the complaint was to be directed towards the parties involved in the agreement.</p> <p>Upon enquiring with the Office of the Ombudsman in June 2022, LA was informed that the case had been closed.</p>
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Lands Authority (LA) / Joint Office (JO)</b>
Ombudsman case reference	<b>OMB-21-2256</b>
Brief details of case	A complaint relating to a portion of land in Xaghra, Gozo. The complainant has 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 pre-notification or justification regarding the exclusion of the remaining four plots and without any reduction in the amount paid. The complainant had made several efforts to get an explanation for this exclusion, including judicial letters and formal requests to the Lands Authority, including a formal meeting with the Authority. However, no further information was given.
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 a reply could not be given immediately as this case required liaison and discussion between the Joint Office and the Lands Authority. The case is being reviewed.
Status	Pending at Ministry
Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>OMB-21-2281</b>
Brief details of case	A complaint against the Lands Authority who allegedly was going to grant, or has granted, exclusive access to a passageway to a developer in Mellieħa.
Action taken and management comments	The case was received on 20 August 2021.  LA replied on 15 September 2021. Upon examining the file provided by LA, the Ombudsman stated that reference was being made to a different portion of land. Following further investigation, LA replied that in November 1991, the claimant had requested the Commissioner of Land to fix a gate to the tunnel and use the tunnel as a passageway. The Commissioner of Land had approved this request in June 1995, and a concession was granted on encroachment terms. The encroachment permit registered in October 1995 was still <i>in-vigore</i> .  The case was closed on 23 December 2021.
Status	Closed without recommendation

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>OMB-21-2329</b>
Brief details of case	A complaint regarding a bill issued by LA in March 2021, in connection with the rent of a property in Attard.
Action taken and management comments	<p>The case was received on 10 September 2021.</p> <p>The complainant argued that they had already informed the Joint Office that they were receiving bills concerning earlier years when complainant had not yet bought the property, and that the main emphyteuter was liable for such dues. In view of prescription, the latter agreed to pay the dues for the last five years. Since this payment was refused, it was deposited at the Law Courts.</p> <p>At the same time, the complainant 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 complainant received bills for already settled payments and for which they were not liable.</p> <p>On 25 October 2021, the LA informed the Ombudsman that Officer in charge was informed of the query and was awaiting updates on the matter.</p> <p>On 30 September 2022, the LA submitted its reply to the Office of the Ombudsman, informing him that the case could be resolved. The claimant would be bound to pay their share as from 2012 onwards.</p>
Status	Pending at Ombudsman

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>OMB-21-2365</b>
Brief details of case	A complaint regarding a request for the redemption of ground rent in Żejtun.
Action taken and management comments	<p>The case was received on 18 October 2021.</p> <p>LA replied on 26 October 2021, stating that the dossier concerning the property in question did not include any documents evidencing the root of title transfers of this property. Therefore, one could not determine if the divided emphyteusis amount totalled to the global amount according to the original concession.</p> <p>In this regard, the complainant was requested to provide details on the apportionment of land. If such information could not be provided, the division of land/emphyteusis must be ascertained by architects or technical officers at LA. Given that the applicant failed to provide the required documentation, the case details were forwarded to an Authority's Architect to continue with the apportionment of land. Once this exercise is completed, the complainant would be informed accordingly, and the redemption process would proceed.</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 requested by the complainant should be found in the same file.</p> <p>On 7 March 2022, the Ombudsman sent LA a copy of the correspondence related to this case, whilst reminding LA to provide any developments on this case at the earliest.</p> <p>The emphyteuses was 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>
Status	Pending at Ombudsman

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>OMB-21-2367</b>
Brief details of case	No information could be traced.
Action taken and management comments	MEFL confirmed with the Office of the Ombudsman that this case had been closed immediately after having been registered with the Ministry given that the complainant had other possible means of redress prior to resorting to its office.
Status	Case not upheld

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>OMB-21-2421</b>
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 to them in this selection process, and also 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 the 25 October 2021.</p> <p>On 25 January 2022, the Ombudsman requested further information regarding the qualifications of the appointee. The Ombudsman requested LA to explain in detail how the appointee had satisfied the experience eligibility criterion.</p> <p>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. The Selection Board deemed the selected candidate as eligible for the post on the basis of their years of experience and the numerous roles they occupied. 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.</p>
Status	Pending at Ministry (LA)
Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>OMB-21-2446</b>
Brief details of case	A complaint regarding a request for cancellation of a hypothec. The complainant claimed to have provided the required documentation to the Lands Authority. However, no further feedback was received up to the date of the complaint.
Action taken and management comments	The case was received on 2 December 2021. On 16 February 2022, the Office of the Ombudsman informed LA that the complainant was withdrawing the claim, and the case was closed by the Ombudsman.
Status	Case withdrawn by complainant

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>V 0045</b>
Brief details of case	<p>A complaint lodged by a Lands Authority employee who was transferred to another section within the Authority. The claimant felt aggrieved mostly because the duties assigned to them fitted the job description of other officers who had been promoted, even though they did not possess the same qualifications and experience as themselves. The complainant alleged that correspondence sent to officers of the Authority requesting a justification for the transfer and other matters remained unanswered.</p>
Action taken and management comments	<p>The case was received on 25 March 2021.</p> <p>In a series of correspondence between the Office of the Ombudsman and the Lands Authority between 12 April 2021 and 19 July 2021, a detailed description of events in relation to the complainant was provided to the Ombudsman. The claimant used to give incorrect information to clients, and that was the main reason they were transferred to another section. Moreover, the complainant used to disregard instructions from superiors and ignore established policies when reporting late for work, thus disrupting office operations by refusing to report for work before 9 am. Above all, the duties performed were not up to standard.</p> <p>The LA confirmed that, at the time, no alternative post could be offered to the complainant. However, should a vacancy arise, the complainant would be contacted accordingly.</p> <p>On 7 December 2021, the Ombudsman issued the Final Opinion, stating that it could not be concluded that transfer was punitive or vindictive. Moreover, the duties assigned were not degrading or incompatible with the complainant's grade.</p> <p>On 7 February 2022, the Office of the Ombudsman requested a meeting to discuss the matter in more detail. In the meantime, the complainant had been posted to another section.</p> <p>On 28 February 2022, the Ombudsman cancelled the meeting as it was no longer required, and declared the case closed.</p>
Recommendation by Ombudsman	<p>The Ombudsman recommended the Lands Authority to find an alternative post for the complainant as soon as possible.</p>
Status	<p>Closed and recommendation implemented</p>

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>V 0056</b>
Brief details of case	A complaint relating to a request for extension beyond retirement age.
Action taken and management comments	<p>The case was received on the 27 April 2021.</p> <p>In its reply dated 29 April 2021, LA clarified that there was no automatic mechanism for extensions beyond retirement age. It was at the discretion and the exigencies of the Authority whether employment contracts were extended beyond retirement age.</p> <p>Regarding compensation, the LA explained that since request for an extension was refused, the claimant was not entitled to retain the financial package post-retirement. The Authority declared that it had processed the request for the revocation of detailing, and for the complainant to return to the Public Service at their own request.</p> <p>The case was closed by the Ombudsman on 25 May 2021.</p>
Status	Closed after the management replied to one request for information.
Sector/Department	<b>Land Registry Agency (LRA)</b>
Ombudsman case reference	<b>OMB-21-2384</b>
Brief details of case	The office of the Ombudsman requested documentation to the selection process for a promotion exercise at the Land Registry.
Action taken and management comments	<p>This case was received on 16 November 2021.</p> <p>The Ministry for Home Affairs, Security, Reforms and Equality (MHSE), which was responsible for LRA at the time the complaint was lodged, replied on the same day, submitting the requested documentation.</p> <p>On 23 November 2021, the Office of the Ombudsman requested further details on the promotion exercise. MHSE submitted the requested information on 2 December 2021.</p> <p>On 31 May 2022, the Ombudsman proceeded to close the case.</p>
Status	Closed without recommendation

Sector/Department	<b>Malta Business Registry (MBR)</b>
Ombudsman case reference	<b>V 0032</b>
Brief details of case	<p>A complaint in connection with a legal letter dated January 2021, sent by complainant's lawyer to the Malta Business Registry (MBR), which had remained unanswered.</p> <p>The letter requested MBR to take note of changes in relation to the owners of a limited liability company, and requested that necessary action be taken for the company to be registered with the actual and correct operational address.</p>
Action taken and management comments	<p>The case was received on the 9 March 2021.</p> <p>In its reply to the Ombudsman dated 10 March 2021, MBR confirmed the claim raised by the complainant's lawyer, relating to the unauthorised use of an address (which was vacant in July 2020) by a Maltese registered company as its registered address. The company in question had no legal standing to such an address to be recorded as the Company's registered office.</p> <p>It was also confirmed that the Registrar acted promptly from the moment he was notified of the complaint, always within the powers granted to him by pertinent legislation.</p> <p>The case was closed on 30 March 2021.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Malta Business Registry (MBR)</b>
Ombudsman case reference	<b>V 0062</b>
Brief details of case	A complaint lodged on behalf of a limited liability company, alleging lack of responsiveness and action by MBR.
Action taken and management comments	<p>The case was received on 22 April 2021.</p> <p>On 25 May 2021 and 31 August 2021, respectively, MBR replied to a series of allegations put forward by the complainant, stating:</p> <ul style="list-style-type: none"> <li>a) MBR had explained that the submission of financial statements should be uploaded in pdf format through the online system, or paper format. Thus, the allegation was unfounded. The relevant documentation was forwarded to the Ombudsman.</li> <li>b) Regarding the penalty for the late notification regarding a change in senior managing officials, MBR confirmed that the amount due was legally and factually correct.</li> <li>c) MBR's responsiveness to the matters indicated was not only sufficient but exceeded what was expected in addressing the same issue more than once over a period of months. Legal basis was also provided.</li> </ul> <p>Based on the above there were no justifiable grounds at law to waive the penalties.</p> <p>On 6 August 2021, the Office of the Ombudsman requested clarification, after the complainant alleged that after the financial statements had been submitted in pdf format, MBR failed to inform the Company that these had not been accepted and had only noted this upon receiving the invoices for the relative penalties.</p> <p>On 1 September 2021, MBR replied to the Ombudsman, reiterating that the complainant had been informed on various occasions that the respective accounts had to be submitted in pdf format or alternatively in paper format. MBR also produced a series of email evidence of the communication as well as the complainant's request to waive the penalties upon submission of the consolidated accounts.</p> <p>The Ombudsman closed the case on 27 September 2021.</p>
Status	Closed without recommendation

Sector/Department	<b>Malta Gaming Authority (MGA)</b>
Ombudsman case reference	<b>V 0006</b>
Brief details of case	A complaint regarding a call for applications for a top managerial position.
Action taken and management comments	<p>The case was received on 14 January 2021. The Office of the Ombudsman requested information about the selection process in question and on what basis the appellant had not been shortlisted.</p> <p>In their reply dated 26 January 2021, MGA referred to the Gaming Act, stating that it was the Board of Governors' prerogative to appoint the officer and the respective process for appointment. The Board of Governors had appointed a Selection Committee responsible for the selection process, and for recommending the selected candidate for appointment. Background information about the Selection Committee was also provided. Moreover, the Committee was concerned when it noted the short-term employment in most of the senior executive positions occupied by the claimant. Moreover, they did not possess sufficient experience in the gaming industry when compared to other applicants.</p> <p>The case was closed by Ombudsman in February 2021.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Malta Gaming Authority (MGA)</b>
Ombudsman case reference	<b>OMB-21-1945</b>
Brief details of case	<p>A complaint concerning an online gaming company which was brought to the attention of MGA. The complainant did not receive any feedback on the matter. The complainant requested that an investigation be carried out by the Authority, and that they would be informed of the outcome.</p>
Action taken and management comments	<p>The case was received on 1 July 2021.</p> <p>On 30 July 2021, MGA provided the Ombudsman with a run-through of events going back to the first complaint lodged with the Player Support Unit (PSU). This complaint referred to a specific game offered by the MGA-licenced operator, and claimed that the game was defective. MGA stated that in November 2018, the complainant had been asked to provide evidence. However, the complainant failed to provide any new information or corroborating evidence to the PSU.</p> <p>The complainant contacted the PSU again in February 2021, regarding the aforementioned game, which was then referred to the operator's designated alternative dispute resolution entity. Once more the appellant did not substantiate their claims with any further information or corroborating evidence. Thus, the Authority could not proceed further with an investigation on the incident.</p> <p>The case was closed by the Ombudsman on 5 July 2022.</p>
Status	Closed without recommendation

MEFL  
**Parliamentary Ombudsman Pre 2021**

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>T 0010</b>
Brief details of case	A complaint relating to a request for redemption of ground rent which was long overdue.
Action taken and management comments	<p>The case was received on 12 February 2019.</p> <p>On 14 February 2019, the LA replied to the Ombudsman stating that, since the property pertaining to the complainant formed part of a larger tenement, the ground rent had to be apportioned. Hence, the process was lengthier, and the complainant was to be contacted once the process reached its final stage. On 15 September 2020, the Office of the Ombudsman was informed that the authority was waiting for the registration of land by the Joint Office.</p> <p>On 26 May 2021, the LA informed the Office of the Ombudsman that plans had been completed by the Joint Office. Subsequently, on 11 June 2021, the LA advised that the registration was expected to be submitted by the end of June. Subsequently, the case was to proceed to the legal section to continue with the redemption process, which was estimated to take about two months. Finally, the approval of the Board of Governors would be required. At that stage, the complainant would be contacted to finalise the process.</p> <p>Further to a request by Ombudsman dated 22 October 2021, on 25 October 2021, the LA informed that the application for property registration was submitted to the Land Registry. At that point, the Joint Office was waiting for feedback from Land Registry to be able to finalise the registration process. Once this process is completed, the relative file will be passed to the legal section to continue with the redemption process.</p>
Status last year	The case was closed on 19 November 2021.
Status	Pending at Ombudsman
	Closed without recommendation

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>T 0247</b>
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 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. The investigating officer requested the file in question and an explanation of the tender procedure. The requested documentation was referred to the investigating officer accordingly. According to latest communication with the Office of the Ombudsman dated 8 August 2022, the case is still open and pending investigation.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>T 0302 (ex-T 0194)</b>
Brief details of case	A complaint relating to another case which was handled by the Office of the Ombudsman earlier the same year and which was closed off but re-opened 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	<p>Case was received on 9 December 2019 (under a different Ministry).</p> <p>On 21 February 2020, the Legal Section within LA communicated with the Office of the Ombudsman 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.</p> <p>On 4 March 2020, the file relating to the case was referred to the Investigating Officer at the Office of the Ombudsman, as requested.</p> <p>On 4 February 2022, the Office of the Ombudsman requested clarifications in connection with a legal letter addressed to LA. On 3 March 2022, LA replied to the Ombudsman, providing the required clarifications.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>U 0170</b>
Brief details of case	<p>A complaint relating to a closed case bearing reference number U 0081. The complainant enquired why the recognition of an agricultural lease has been pending for so long, notwithstanding their right to the title. The complainant also asked LA as to why a call for tenders for agricultural lease was issued for the site in question rather than recognising their title.</p>
Action taken and management comments	<p>As a follow-up to closed case U 0081, on 28 August 2020, the LA informed the Office of the Ombudsman that a call for tenders for agricultural lease in connection with the land in question was being issued.</p> <p>On 18 September 2020, the Office of the Ombudsman informed that the case will be reopened on the request of the complainant, bearing a new reference number.</p> <p>On 30 September 2020, the Office of the Ombudsman requested the LA's physical file related to the case, in line with Article 19 of the Ombudsman Act. Following a review of the file, on 19 November 2020, the Office of the Ombudsman requested several clarifications from the LA regarding the process.</p> <p>The requested clarifications were provided to the Office of the Ombudsman on 3 December 2020.</p> <p>The case was closed on 19 November 2021.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>U 0200</b>
Brief details of case	<p>A complaint concerning a Lands Authority (LA) employee, alleging that they suffered an injustice when they were not chosen for a vacant managerial post on grounds that they did not possess a specific licence, which was one of the requisites in the relative call for applications. They alleged that, notwithstanding their vast experience in the field, their application had been refused.</p>
Action taken and management comments	<p>The case was received on 3 December 2020.</p> <p>On 5 January 2021, the LA informed the Office of the Ombudsman that it was the authority's policy that if an applicant did not possess all the required documentation requested in the call for applications, that applicant would be considered ineligible and would not be invited to attend for an interview. 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.</p> <p>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, LA provided the documentation in relation to the selection process and personal files of the employees involved, as requested by the Office of the Ombudsman according to Article 19 of the Ombudsman Act. 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.</p> <p>On 1 July 2021, LA explained that the signature was an error since the signature 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.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>U 0233</b>
Brief details of case	A complaint in connection with a request submitted to the Lands Authority (LA) for the disposal of Government Property (Form GLA1). The complainant claimed that they did not receive any feedback regarding the status of their application submitted in November 2020.
Action taken and management comments	<p>The case was received on 11 February 2021.</p> <p>On 8 March 2021, the LA provided the Office of the Ombudsman with a timeline of the process, indicating that at that point in time, the application was being handled by the Joint Office, since the property in question was in the process of registration.</p> <p>Subsequently, the Office of the Ombudsman informed the complainant accordingly and proceeded to close the case.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation
Sector/Department	<b>Malta Gaming Authority (MGA)</b>
Ombudsman case reference	<b>S 0110 (N 0211)</b>
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 re-opened 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 re-opened.</p> <p>According to latest communication with the Office of the Ombudsman in August 2022, the Ombudsman informed that the case was still being investigated.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Malta Gaming Authority (MGA)</b>
Ombudsman case reference	<b>S 0111 (ex-N 0281)</b>
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 re-opened 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 his case was re-opened.</p> <p>According to latest communication with the Office of the Ombudsman in August 2022, the case was still being investigated.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Malta Gaming Authority (MGA)</b>
Ombudsman case reference	<b>T 0263</b>
Brief details of case	A complaint regarding unfair treatment and lack of assistance. The complainant alleged that they had to forfeit an amount of money on false accusations by a company, and that the MGA had informed them that the operator had acted correctly.
Action taken and management comments	<p>The case was received on 28 November 2019.</p> <p>The case required a thorough investigation by the MGA. A reply to the Office of the Ombudsman was sent in May 2020 by MGA's legal team. The Authority noted that, after having considered both the complainant's initial complaint and the licensee's documentation, the licensee's decision to close the complainant's account was in line with its applicable terms and conditions.</p> <p>The Ombudsman informed the Ministry that the case was closed on 3 June 2022.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Malta Investment Management Co Ltd (MIMCOL)</b>
Ombudsman case reference	<b>U 0227</b> (this case is currently being investigated by the Environment and Resources Authority)
Brief details of case	<p>A complaint lodged by a group of NGOs in connection with the concession granted to a private shipyard.</p> <p>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.</p>
Action taken and management comments	<p>The case was received on 9 December 2020.</p> <p>A reply was sent to the Ombudsman on 26 January 2021, pointing out that the complainants made erroneous assumptions and statements, both in the claim presented to the Ombudsman and in their communications with MIMCOL.</p> <p>It was explained that the concession agreement governing this arrangement did indeed provide 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.</p> <p>In a subsequent communication dated 29 March 2021, it was also 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.</p> <p>In the meantime, the Ombudsman has taken up the case with the Environment and Resources Authority (ERA).</p>
Status last year	Pending at Ombudsman
Status	Pending at Ministry

Sector/Department	<b>Ministry for the Economy, Investment and Small Businesses</b>
Ombudsman case reference	<b>T 0107</b>
Brief details of case	<p>A complaint regarding an alleged breach of application conditions relating to an annual competition open for local artisans organised by the Commerce Department.</p> <p>This case was in connection with a previous case (T 0004) which had been closed but was then re-opened with a new case reference number.</p>
Action taken and management comments	<p>The case was received on 10 May 2019.</p> <p>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.</p> <p>According to the latest communication with Office of the Ombudsman in August 2022, the case is still open.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

MEFL  
**Commissioner for Environment and  
Planning 2021**

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>CEP-21-2065</b>
Brief details of case	An investigation in relation to sewage damages of a condominium caused by further damages in a government-owned garage hired to third parties.
Action taken and management comments	<p>The case was received on 5 July 2021.</p> <p>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 a number of contractors who were going to carry out maintenance works for all Government-owned properties. Upon conclusion of this agreement, the necessary works could commence.</p> <p>Following reminders sent by the CEP, on 3 March 2022, LA replied that the condominium in question had been transferred to the Housing Authority through a legal notice with effect from 29 May 1992.</p> <p>On 4 March 2022, the CEP, after verifying the site plan and the pertinent Legal Notice, informed LA that three garages were not included in the transfer. This was contrary to what was stated by the Authority. The CEP asked the Authority to verify the contents of their letter.</p> <p>A final opinion was issued by CEP on 8 April 2022.</p> <p>In the meantime, 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 Lands Authority 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.
Status	The Ombudsman stated that the case was referred to the Prime Minister in terms of the Ombudsman Act.

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>CEP-21-2165</b>
Brief details of case	An investigation in connection with the placing of tables and chairs in Paceville.
Action taken and management comments	<p>The case was received on 30 June 2021. The Commissioner for Environment and Planning (CEP) enquired whether the conditions on which the encroachment permit had been issued were being satisfied.</p> <p>In its reply dated 12 July 2021, the LA provided a run-through of events from the submission of application up to the issuing of the encroachment permit which was within the boundaries of what the Authority had primarily granted consent to. However, the updated plans for the permit by the Planning Authority and the encroachment permit did not include the request for tables and chairs near a STOP marking on the road. The design and layout of the development and transport considerations fell within another remit.</p> <p>The CEP requested LA to advise on any actions to regularise matters in connection with the occupation of public land.</p> <p>The case was referred to the Chief Officer Enforcement for necessary action. Following an onsite inspection, it transpired that the only tables and chairs placed were in accordance with the permit granted in 2020 by the LA. This information was communicated to the CEP on 17 September 2021, supported by photographic evidence.</p> <p>The CEP proceeded to close the case on 22 September 2022.</p>
Status	Closed without recommendation

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>CEP-21-2272</b>
Brief details of case	An investigation regarding alleged illegal occupation of public land in Swieqi.
Action taken and management comments	<p>The case was received on 10 September 2021.</p> <p>The Commissioner for Environment and Planning (CEP) requested LA to confirm whether the development earmarked for the site had been and/or was still occupying public land and if in the affirmative, what action was being taken by LA to rectify this matter.</p> <p>LA replied on 30 November 2021 that it was investigating the allegations and that it had commissioned a survey.</p> <p>On 4 February 2022, LA was asked to confirm whether the proposed development was being built according to the approved plans. On 21 February 2022, LA provided a detailed reply to the CEP, confirming that following a thorough examination of facts, it transpired that the current development was going to retain the same footprint of the previous development. LA also stated that further examination yielded no conclusive proof that the development was built on land registered as Government property, and there was no intention of any encroachment beyond the limits previously occupied by the same development.</p> <p>On 11 March 2022, the CEP sent his Final Opinion and proceeded to close the case on 14 March 2022, confirming that the allegations of lack of action by LA on the alleged illegal occupation of public land in Swieqi were unjustified.</p> <p>LA implemented the recommendations made by the CEP. The changes were communicated to the sections concerned.</p>
Recommendation by Ombudsman	<p>The Commissioner recommended changes to the GLA application form procedure:</p> <ul style="list-style-type: none"> <li>• Declarations issued by the LA records department must be based on recent official site plans and/or surveys of the land in question;</li> <li>• Declarations issued by the LA records department were to consider public deeds and address any anomalies that result therefrom before releasing the same declarations.</li> </ul>
Status	Closed and recommendation implemented

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>CEP-21-2358</b>
Brief details of case	An investigation regarding a structure installed in Valletta.
Action taken and management comments	<p>The case was received on 13 September 2021. The Commissioner for Environment and Planning (CEP) requested LA to confirm whether it had issued a concession for public land and, if in the affirmative, to provide a copy of such concession.</p> <p>In its reply dated 17 September 2021, LA explained that it did not issue encroachment permits prior to 30 days from the publication of the permit by the Planning Authority (PA), and subject that no appeals were lodged with the Environmental and Planning Review Tribunal, which would give rise to the suspension of the PA permit. On the lapse of such timeframe, the applicant then submits an application with the LA for an encroachment permit. This was the practice adopted by LA.</p> <p>The permit in question was issued by LA since no appeals were lodged before the Review Tribunal.</p> <p>The CEP proceeded to close the case on 12 January 2022.</p>
Status	Closed after the management replied to one request for information.



MEFL  
**Commissioner for Environment and  
Planning Pre 2021**

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>ES 0051</b>
Brief details of case	A complaint in connection with alleged occupation of public land in Floriana.
Action taken and management comments	<p>The case was received on 27 July 2018.</p> <p>On 24 October 2018, LA informed the Commissioner for Environment and Planning (CEP) that all actions were on hold pending the decision by the Planning Authority (PA) on an application to sanction irregularities. Various on-site inspections had been carried out by the LA's Inspectorate, Enforcement and Compliance Directorate.</p> <p>During a meeting held on 15 January 2020, the CEP requested to be informed whether the applicant had filed an application with the PA to regularise the development. Clarifications were sought on this matter to inform the CEP.</p> <p>On 9 February 2021, the CEP referred to the LA's suspension on all actions pending the outcome of PA permit. The CEP confirmed that no development application had been filed and an enforcement order was pending for direct action and accruing fines imposed by the PA. The CEP asked LA what action it had taken against the appropriator to reach a closure to this case.</p> <p>On 3 March 2021, LA informed the CEP that it was awaiting the conclusion of discussions regarding the possibility of transferring the property in question to SportMalta in line with the provisions of the Sports Act.</p> <p>On 5 March 2021, the CEP requested LA to keep him informed when the property was eventually transferred so case can be closed accordingly.</p> <p>MEFL was informed by the CEP that the case was closed on 18 March 2022.</p>
Status last year	Pending at Ministry
Status	Closed without recommendation

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>ES 0053</b>
Brief details of case	A complaint relating to a borehole not indicated on a Lands Authority (LA) site plan, which might prejudice the complainant's position with respect to the compensation due to them or in the eventual restitution of the same borehole.
Action taken and management comments	<p>The case was received on 22 August 2018.</p> <p>On 15 March 2019, the Lands Authority informed the Commissioner for Environment and Planning (CEP), that it had been decided that Infrastructure Malta (IM) was going to provide the necessary funds for the expropriation of the borehole, after it was confirmed that there had been a borehole before the expropriation. The CEP was also informed that after the valuation of the borehole, the complainant would be contacted by LA for the signing of the contract.</p> <p>On 25 September 2020, the LA informed the CEP that the necessary correction for the inclusion of the borehole in the site plans had been carried out, and the necessary arrangements were underway with the owners of the borehole for compensation.</p> <p>On 19 August 2021, the Authority informed part of the owners on the value of the water source. However, they were not in agreement and did not sign the contract. The owners were entitled to contest the valuation with the Arbiter's Board.</p> <p>As recommended by the CEP, LA contacted the complainant on the developments of the case. The claimant had to revert to the CEP accordingly to proceed with the closure of the case.</p> <p>On 23 June 2022, the CEP informed LA that the case was being closed following the confirmation from the LA about the existence of the borehole in question.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

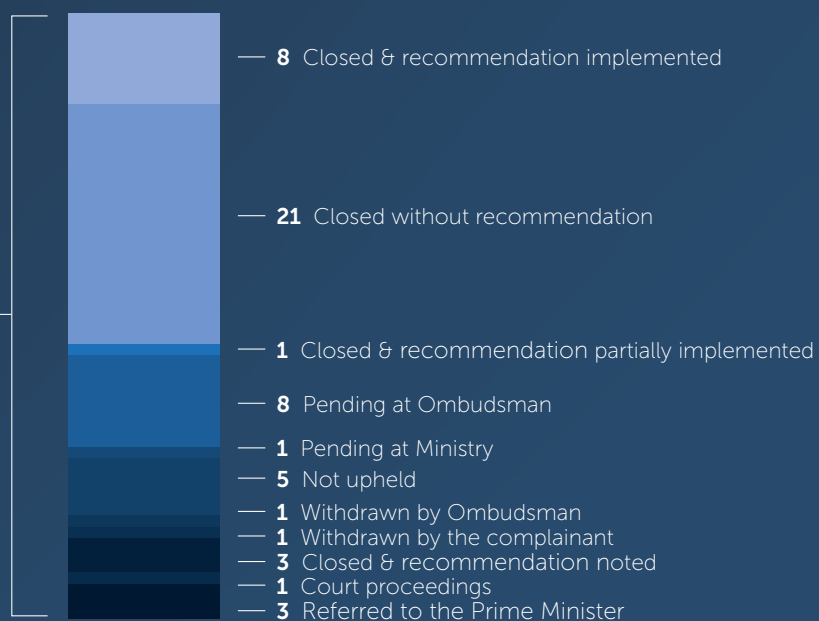
Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>ET 0027</b>
Brief details of case	A complaint relating to alleged unfair treatment in the processing of an application to adjoin an unutilised enclosed space in Valletta.
Action taken and management comments	<p>The case was received on 6 May 2019.</p> <p>The LA informed the Commissioner for Environment and Planning (CEP) that the complainant had been informed by the Board of Governors of the Authority on 11 December 2018 that their request to adjoin an unutilised enclosed space could not be approved, as the property beneath the complainant's was enclosed illegally. The CEP was also informed that the occupier of the property beneath the complainant's had requested to remove all irregularities which were in place, namely reverting the internal yard to its original state.</p> <p>On 4 March 2020, LA informed the CEP that the respective case had been referred to the Chief Officer Enforcement for necessary action.</p> <p>On 2 February 2022, LA confirmed that an Authority's technical officer inspected the property. It was confirmed that the tenants of the ground floor premises had illegally roofed this 'shaft' without the consent of the Lands Department, and the ground floor tenants were sent an official letter requesting them to remove the roof.</p> <p>LA reiterated that whenever an applicant is informed of a decision, they are also informed of the right to contest the decision in front of the Administrative Review Tribunal. The complainant opted to refer case to the Office of the Ombudsman instead of going through the proper channels.</p> <p>On 3 February 2022, the CEP claimed that several spaces within the property had been illegally occupied for years without any action whatsoever.</p> <p>On the same day the Lands Authority restated that the property was still Government-owned, and it was still in time to take action. When LA became aware of the irregular ground floor occupation, action was taken accordingly.</p> <p>The CEP informed LA that the case was closed on 25 March 2022.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Lands Authority (LA)</b>
Ombudsman case reference	<b>EU 0081</b>
Brief details of case	A complaint relating to an approved development in San Pawl il-Baħar. The Commissioner for Environment and Planning (CEP) requested information whether the LA had issued the necessary concessions for the development to take place.
Action taken and management comments	<p>The case was received on 7 October 2020</p> <p>On 30 October 2020, the LA informed the CEP that a super-imposition of the relative plans was carried out to verify whether the developer had a legal title over the land to be able to carry out the development in question. The CEP was further informed that after carrying out the above-mentioned exercise, it resulted that the developer did not possess a legal title on some parts of the development and that this was brought to the attention of the LA administration to take necessary action.</p> <p>On 29 January 2021, the CEP asked LA about the action taken in relation to the matter. On 15 September 2021, LA informed CEP that the case was referred to the Authority’s Legal Section to take necessary action so that matters concerning the developer would be regularised.</p> <p>On 8 November 2021, the CEP requested LA whether a transfer of concession had been effected and what action was taken in view of the application pending at the Planning Authority.</p> <p>On 1 December 2021, the CEP concluded that the information submitted by the complainant’s architect confirmed the title of the applicant regarding the pending application at the Planning Authority. The CEP proceeded to close the case.</p>
Status last year	Pending at Ministry
Status	Closed without recommendation



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

53  
cases



The Ministry for Education, Sport, Youth, Research and Innovation (MEYR) investigated four cases referred by Parliamentary Ombudsman during 2021. One case was closed, and the Ombudsman's recommendations were implemented. Another case was closed after management replied to one request for information, and two cases were closed without a recommendation being made by the Ombudsman.

Regarding cases lodged prior to 2021, MEYR dealt with ten cases which had been referred by the Parliamentary Ombudsman. Two cases were closed during the year in question without any recommendation being made. Four cases were closed with recommendations made by the Ombudsman, of which three were implemented, and the other recommendation was noted for future reference. One case was not upheld by the Ombudsman. Three cases remain pending at Ombudsman – one case has been pending for over two years.

Furthermore, during 2021, 34 cases were referred to MEYR by the Commissioner for Education (CfE). Nine of these cases were closed without any recommendation being made by the Commissioner. Five cases were closed after the management replied to one request for information. One case was closed due to court proceedings. Six cases were closed with recommendations, three of which were implemented, one was partially implemented, and in the other two cases the recommendation made by the CfE was noted. Four cases were not upheld, one case was withdrawn by the complainant and another case was withdrawn by CfE. Two cases were referred to the Prime Minister by the CfE in terms of the Ombudsman Act. One case is pending at the Ministry, while four cases are pending at the CfE.

MEYR also dealt with five cases which had been referred by the CfE prior to 2021. Two of these cases were closed without any recommendation being made by CfE. One case was closed, and the recommendation made was implemented, one case was referred to the Prime Minister, and another case is pending at the CfE.

MEYR  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Foundation for Tomorrow's School (FTS)</b>
Ombudsman case reference	<b>OMB-21-2128</b>
Brief details of case	A complaint regarding an extension of contract beyond retirement age.
Action taken and management comments	<p>The case was received on 12 July 2021.</p> <p>MFED replied on 19 July 2021 that the complainant's employment was extended by four years beyond retirement age. MFED further explained that the complainant was referring to a direct order procedure for supervisory services. FTS had sought for the relative approvals in adherence to the Public Procurement Regulations, but these were not forthcoming.</p> <p>On 29 September 2021, the Office of the Parliamentary Ombudsman requested further information related to the reply of 19 July 2021.</p> <p>On 13 October 2021, FTS replied to the Office of the Parliamentary Ombudsman and provided the necessary documentation regarding the direct order request. FTS explained that the complainant had been engaged on a definite contract of three years and after their extension beyond the age of 65, they had been informed that in accordance with FTS policy, their contract will not be renewed further upon reaching the age of 66.</p> <p>On 2 February 2022, the Ombudsman sent his final opinion and closed the case. The Office of the Ombudsman did not find any act of maladministration by the FTS. The complainant had been formally informed that the contract with FTS was not going to be renewed and thus, the former could have accepted any job offer made by third parties. FTS was not bound to continue to employ the complainant after the expiration of the contract. The Ombudsman proceeded to close the case.</p>
Status	Closed without recommendation

Sector/Department	<b>Malta Further and Higher Education Authority (MFHEA)</b>
Ombudsman case reference	<b>V 0022</b>
Brief details of case	A complaint lodged by an Institute which offers courses in different sectors. The Institute requested an academic programme in nursing to be accredited and recognised.
Action taken and management comments	<p>The case was received on 12 February 2021.</p> <p>MFHEA replied on 15 April 2021 stating that it had accredited the academic programme without undue delay. However, the Nurses' Council was refusing to recognise the programme provided by the Institute. (According to the Professional Qualifications Directive EC 2005/36, accreditation of professional qualifications was a function of the competent Authority of the relevant profession).</p> <p>MFHEA suggested to seek approval from the competent Authority before submitting a programme for accreditation.</p> <p>On 14 February 2022, the Office of the Ombudsman informed MEDS that it was not going to proceed any further with its investigation into the complaint.</p> <p>On 15 February 2022, the Office of the Ombudsman declared the case as closed.</p>
Status	Closed after the management replied to one request for information

Sector/Department	<b>Ministry for Education (MFED)</b>
Ombudsman case reference	<b>V 0036</b>
Brief details of case	<p>A complaint lodged by a football club which had its application for funds under the Football Facilities Fund refused. The club was informed that they were not in line with the procedure after two years after the submission of the application.</p>
Action taken and management comments	<p>The case was received on 27 April 2021.</p> <p>MFED replied on 8 June 2021. MFED stated that the Football Facilities Fund Board communicated with the complainant several times, both verbally and in writing, about the football club's application, but the requested documents were not provided. MFED further stated that the football club was not in conformity with Sport Malta Regulations.</p> <p>On 26 October 2021, the Ombudsman sent his Final Opinion.</p> <p>The Ombudsman could not conclude that the rejection of the complainant's application for funds was directly due to inefficiencies and disorganisation of the Board. The rejection was for the most part the result of acts/omissions by the Club itself.</p> <p>The case was closed on 29 October 2021.</p>
Status	Closed without recommendation

Sector/Department	<b>MFED (Examinations Department)</b>
Ombudsman case reference	<b>OMB-21-1954</b>
Brief details of case	A complaint regarding a person who could not sit for an examination because they were in quarantine due to Covid-19.
Action taken and management comments	<p>The case was received on 27 April 2021. The complainant informed the Examinations department about their situation, and asked what provisions were in place in such circumstances. The Examinations Department advised the complainant to forward their request to the Board of Local Public Examinations. The latter informed the complainant that their request could not be accepted for the following reasons:</p> <ol style="list-style-type: none"> <li>1) the Board followed and adhered to the measures set in the Covid-19 Conditions and Guidelines for Examinations.</li> <li>2) in other instances, the Board received requests from other candidates who were unable to sit for an exam because of Covid-19 to be provided with online supervision or a supervisor at home. For logistic reasons, and health and safety measures, the Board never accepted these requests.</li> </ol> <p>On 3 May 2021 an online meeting was held between the Office of the Ombudsman and the Examinations Department. The latter informed the Office of the Ombudsman that the Board of Local Public Examinations was regulated by specific regulations. On the same date, the Office of the Ombudsman referred the case to the Board of Local Public Examinations.</p> <p>On 5 May 2021, the Board replied to the Office of the Ombudsman that the complainant had been asked to provide an exemption from quarantine from the Health Authorities to be able to sit for the examination. The latter did not issue the exemption, and thus the complainant could not sit for the examination. The Board stated that it abided by the instructions issued by the Health Authorities.</p> <p>On 7 May 2021 the Ombudsman issued his Final Opinion and made three recommendations.</p> <p>On 12 May 2021, the Board informed the Ombudsman that the recommendations were accepted and were to be implemented. The complainant sat for the examination in a special session.</p>

Recommendation  
by Ombudsman

The Ombudsman made three recommendations:

- 1) the Board of Local Public Examinations grants a special session to the complainant and that the result is published together with the result of the other candidates.
- 2) such remedy should be provided to other applicants who are in an identical situation to that of the complainant.
- 3) the Board of Local Examinations, in collaboration with the Director (Examinations), issue guidelines and procedures to address circumstances similar to those of the complainant as a result of the outbreak of the Covid-19 pandemic.

Status

Closed and recommendations implemented

MEYR  
**Parliamentary Ombudsman Pre 2021**

Sector/Department	<b>Foundation for Tomorrow's Schools (FTS)</b>
Ombudsman case reference	<b>T 0070</b>
Brief details of case	<p>A complaint regarding an employee of the Foundation for Tomorrow's Schools (FTS) who requested a pay rise. The complainant stated that their duties were more onerous when compared to the duties of other employees who were in the same grade.</p>
Action taken and management comments	<p>The complaint was received on 26 March 2019.</p> <p>On 23 April 2019, FTS replied to the Office of the Ombudsman, stating that the job descriptions of employees with the same grade as that of the complainant were comparable, and therefore the complainant's arguments were unfounded. Moreover, FTS stated that when Public Sector employees were promoted to a new grade, they were placed in the first step of the salary scale pertaining to that particular grade. It was therefore considered that giving the complainant a pay rise on the basis that they had more work experience within the Foundation than other employees in the same grade was unjustifiable.</p> <p>FTS provided the Ombudsman with further clarifications as requested by the latter.</p> <p>On 24 April 2020, FTS informed the Ombudsman that the complainant communicated with FTS through their lawyer/union requesting FTS to resolve the matter and pay all amounts due to the complainant.</p> <p>On 3 February 2022, FTS and the Ministry were informed by the Office of the Ombudsman that the case was not being investigated further and was considered closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Life-long Learning</b>
Ombudsman case reference	<b>U 0033</b>
Brief details of case	<p>A complaint filed by a part-time adult educator who was on a contract basis. The complainant alleged that they got to know from their students that their two evening lessons were to be delivered by another educator. Lifelong Learning informed the complainant that their two evening lessons had been reduced to one.</p>
Action taken and management comments	<p>The case received on 2 March 2020.</p> <p>MFED replied to the Ombudsman on 21 May 2021. MFED provided details on how employees at Lifelong Learning were engaged.</p> <p>On 21 January 2022, the Office of the Ombudsman requested documentation related to the case. On 3 February 2022, MEDS provided the Ombudsman with the requested information. MEDS explained that cooking and nutrition courses were short courses of 14 weeks, and normally these were held from October to January, and from February to May. The complainant had completed their course from October 2019 to January 2020. During the year of the pandemic all courses of a practical nature were suspended with the schools' closure on 13 March 2020.</p> <p>On 30 June 2022, the Office of the Ombudsman informed MEYR that the Ombudsman had proceeded to close the case. MEYR's actions were found to be justified, and there was no justification for the complainant to be paid for the second semester spanning from February to July 2020 when the complainant did not teach any classes during that period.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Ministry for Education and Employment (MEDE)</b>
Ombudsman case reference	<b>R 0055/R 0063</b>
Brief details of case	<p>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.</p>
Action taken and management comments	<p>On 26 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.</p> <p>In March 2021, the Ombudsman's office requested an update on the steps taken to mitigate the situation created by the 2012 appointments.</p> <p>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.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Ministry for Education and Employment (MEDE)</b>
Ombudsman case reference	<b>T 0053</b>
Brief details of case	<p>A complaint concerning the signing of an attendance sheet as the complainant claimed that they were instructed to sign the attendance sheet even though they were in Salary Scale 5. The complainant added that public officers in the same scale, such as Assistant Directors, were not obliged to do so. Therefore, they considered this practice as discriminatory and contended that officers in the same scale should be treated in the same manner.</p>
Action taken and management comments	<p>The complaint was received on 4 June 2019.</p> <p>MEDE replied to the Office of the Ombudsman on 21 June 2019, stating that the normal procedure was that Assistant Directors (Scale 5), Directors (Scale 4) and Directors General (Scale 3) did not sign the attendance sheet. However, officers who were in Scale 5 or in a higher salary scale but who are not Assistant Directors/Directors/Directors General were still required to sign the attendance sheet. Nonetheless, it was at the discretion of the head of section to decide whether all officers were to sign the attendance sheet. In this case, the head of section decided that all officers should sign the attendance sheet. Therefore, there was no discrimination between the employees working within the section as it was the normal practice. All other officers were adhering to the instructions given by the head of section.</p> <p>After enquiring with the Office of the Ombudsman in October 2022 it was confirmed that the case had been closed since 6 March 2020, and the complaint was not sustained.</p>
Status last year	Pending at Ombudsman
Status	Case not upheld

Sector/Department	<b>Ministry for Education and Employment (MEDE)</b>
Ombudsman case reference	<b>T 0228</b>
Brief details of case	<p>A complaint concerning the post of a Learning Support Educator (LSE) III. The complainant was found ineligible for this post due to not being in possession of a recognised MQF Level 6 (or higher) qualification with 180 ECTS/ECVET credits in Inclusive Education or a comparable professional qualification. The complainant is claiming that this decision was unjust because 60% of the ECTS covered by one of the MQF Level 7 qualifications were related to inclusive education</p>
Action taken and management comments	<p>The complaint was received on 25 September 2019. MEDE replied to the Office of the Ombudsman on 7 October 2019, stating that the complainant's MQF Level 7 qualification was in psychology and not in inclusive education, and thus it was not comparable to a degree in Inclusive Education (Level 6).</p> <p>Furthermore, the Ministry was not in agreement with the complainant that 60 ECTS credits covered by one of their qualifications dealt with Inclusive Education. MEDE stated that although the complainant was also in possession of a Master's degree in Inclusive Education, this could not be taken into consideration since they had not presented its recognition statement issued by the NCFHE. Nevertheless, this degree will be considered once the complainant presented this document.</p> <p>MEDE reassured the complainant, who was not Maltese, that it would not have acted differently if a Maltese applicant who was in possession of a PhD in Psychology had applied for the same post.</p> <p>On 16 February 2021, the Ombudsman issued the Final Opinion with certain recommendations, explaining that there was no evidence to suggest that the complainant was discriminated against by the Ministry for Education based on their nationality. Thus, the complainant's claim in this regard was not sustained. On 7 May 2021, MFED replied to Ombudsman that the application was re-evaluated, but the qualifications were not equivalent to those requested in the call.</p> <p>Upon enquiring, on 16 September 2022, MEYR was informed by the Office of the Ombudsman that the case was closed on 16 February 2021.</p>
Recommendation by Ombudsman	In the final opinion the Ombudsman recommended that the complainant's application be re-evaluated.
Status last year	Pending at Ministry
Status	Closed and recommendation implemented

Sector/Department	<b>Ministry for Education and Employment (MEDE)</b>
Ombudsman case reference	<b>T 0239</b>
Brief details of case	A complaint concerning the selection process for the post of a head of department.
Action taken and management comments	<p>The complaint was received on 26 September 2019. The Ombudsman requested the list of candidates for the post.</p> <p>On 3 October 2019, MEDE replied to the Office of the Ombudsman, providing the list.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Ministry for Education and Employment (MEDE)</b>
Ombudsman case reference	<b>T 0255</b>
Brief details of case	A complaint concerning pension rights. The complaint was addressed to the Ministry for the Family, Children's Rights and Social Solidarity.
Action taken and management comments	<p>The case was received on 29 November 2019, and this was addressed to the Ministry for the Family, Children's Rights and Social Solidarity.</p> <p>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 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 Worker Student Scheme covered both groups.</p> <p>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.</p> <p>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.</p> <p>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 complainants.</p> <p>On 19 February 2020, MEDE furnished the Office of the Ombudsman with the requested information.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>National Commission for Further &amp; Higher Education (NCFHE)</b>
Ombudsman case reference	<b>T 0169</b>
Brief details of case	A complaint filed by a former employee of the NCFHE claiming that when they started working at the NCFHE, they were told that they were entitled to a qualification allowance, but were never informed that they had to submit a request in writing.
Action taken and management comments	<p>On 19 September 2019, NCFHE received the case.</p> <p>On 10 October 2019, the NCFHE replied to the Office of the Ombudsman stating that during the interview, the complainant was informed that if they were to be selected for the post, they would be entitled to receive a qualification allowance. Moreover, the NCFHE stated that the complainant had been verbally informed that they must put forward a request in writing to the CEO, who may either approve or refuse the request.</p> <p>The complainant failed to submit a request to the CEO. On 29 April 2020, the Office of the Ombudsman requested documents related to the qualification allowance, the complainant's personal file, and any other files and documents related to the complainant. On 7 May 2020, the requested documents were duly forwarded by the NCFHE.</p> <p>On 13 January 2022, NCFHE received the final opinion from the Ombudsman and made two recommendations.</p> <p>On 31 January 2022, the Malta Further &amp; Higher Education Authority (MFHEA), informed the Ombudsman that the recommendations were accepted and were to be implemented. MFHEA was committed to ensure that all new employees were notified about the procedure to apply for a Qualification Allowance, whilst the complainant was paid the applicable allowance on 14 February 2022. The Ombudsman proceeded to close the case.</p>
Recommendation by Ombudsman	<p>The Ombudsman made the following recommendations:</p> <ol style="list-style-type: none"> <li>1) the complainant should be paid the applicable allowance from the day of engagement up to the date of termination;</li> <li>2) MFHEA should adopt a system whereby its employees, upon becoming eligible for qualification allowance, are formally informed of the applicable procedure.</li> </ol>
Status last year	Pending at Ombudsman
Status	Closed and recommendations implemented

Sector/Department	<b>National Commission for Further &amp; Higher Education (NCFHE)</b>
Ombudsman case reference	<b>T 0250</b>
Brief details of case	A complaint concerning the sudden termination of employment which, according to the complainant, was unfair and without any grounds. Moreover, the complainant claimed that they did not receive their performance bonus.
Action taken and management comments	<p>The case was received on 18 February 2020.</p> <p>NCFHE replied to the Office of the Ombudsman, stating that the complainant's contract was terminated while they were on probation. Moreover, the Commission stated that even though there were valid reasons for terminating their contract, these reasons were not discussed with the employee because according to the Employment and Industrial Relations Act (Chapter 452, Section 41) they were not obliged to provide the complainant with any justifications.</p> <p>Furthermore, the Commission argued that the complainant was not given a performance bonus because their employment was terminated. The Commission declared that their performance appraisal was submitted and assessed, but no marks were awarded to them.</p> <p>On 30 April 2020, the Office of the Ombudsman requested the personal file of the complainant, and any other files/documents related to the complainant. These documents were forwarded to the Ombudsman on 7 May 2020.</p> <p>On 24 January 2022, the Malta Further and Higher Education Authority (MFHEA) received the final opinion from the Ombudsman.</p> <p>The Ombudsman proceeded to close the case.</p>
Recommendation by Ombudsman	The Ombudsman recommended that MFHEA should make a review of and assess the work that had been done by the complainant.
Status last year	Pending at Ombudsman
Status	Closed and recommendations implemented

Sector/Department	<b>National Commission for Further &amp; Higher Education (NCFHE)</b>
Ombudsman case reference	<b>U 0082</b>
Brief details of case	A complaint regarding the selection process for a headship position. Complainant argued that they were not given the marks due, despite their experience.
Action taken and management comments	<p>The case was received on the 12 June 2020.</p> <p>On 22 June 2020, NCFHE replied to the Ombudsman, explaining how the criteria marks were allocated and awarded.</p> <p>After several correspondence exchanged between NCFHE and the Office of the Ombudsman, on 17 August 2022, the Office of the Ombudsman issued the final opinion. From its investigation the Office of the Ombudsman found no conclusive and clear evidence that the marking method used in the process had been illegitimate, discriminatory or prejudicial to the complainant, or that that it had infringed their rights. No evidence was found in support of the complainant's allegations that the selection process was subjective and unfair.</p> <p>On 3 October 2022, the MFHEA sent their feedback to the Ombudsman with regard to the Final Opinion issued on 17 August 2022. MFHEA confirmed that they accept the recommendation and shall be communicating in all its future calls for application, the right to prospective candidates to seek redress in case of disagreement on the marking and ranking obtained in the selection process.</p>
Recommendation by Ombudsman	The Ombudsman recommended that in future selection processes, MFHEA should ensure that clear information is included in the call for applications about the right of the applicants to seek redress if they so wish.
Status last year	Pending at Ombudsman
Status	Closed and recommendation noted



MEYR  
**Commissioner for Education 2021**

Sector/Department	<b>Foundation for Tomorrow's Schools (FTS)</b>
Ombudsman case reference	<b>CEDUC-21-2554</b>
Brief details of case	A complaint regarding disturbance allowance not being paid.
Action taken and management comments	<p>The case was received on 28 December 2021.</p> <p>On 6 February 2022, FTS replied to the Commissioner for Education (CfE), stating that the complainant could not make comparisons with those with the same nomenclature since allowances were assigned in accordance with the operational exigencies. When the claimant was requested to be available after office hours, payment at overtime rates was made. FTS refuted claims of discrimination.</p> <p>On 4 March 2022, a meeting was held between the CfE and FTS to clarify the matter. On 29 April 2022, the CfE issued a letter of closure to the complainant after having been informed by FTS stating that the complainant was assigned new duties which incorporated a disturbance allowance and, therefore, the disturbance allowance was to be paid in accordance with the Collective Agreement.</p>
Status	Closed without recommendation
Sector/Department	<b>Malta College of Arts, Science and Technology (MCAST)</b>
Ombudsman case reference	<b>CEDUC-21-2047</b>
Brief details of case	A complaint regarding allegations of unjustified hindrance by the MCAST's 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 between the Commissioner, the Principal, and the complainant. The complainant alleged that MCAST was intentionally withholding support for their EU-funded projects.</p> <p>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	Pending at Ombudsman

Sector/Department	<b>Malta College of Arts, Science and Technology (MCAST)</b>
Ombudsman case reference	<b>CEDUC-21-2298</b>
Brief details of case	A complaint regarding accusations of improper behaviour at the place of work.
Action taken and management comments	<p>The case was received on 19 August 2021.</p> <p>On 22 October 2021, the Commissioner for Education (CfE) requested a copy of the report of the Ministerial Inquiry.</p> <p>On 23 October 2021, the Ministry informed the Commissioner that the report was sent to the Police.</p> <p>On 28 January 2022, the Commissioner asked for a meeting with the Principal of MCAST so that the former would be updated with the developments of the case since August 2021. The CfE also requested a copy of the decision or resolution of the Board of Governors and the minutes of that Board, related to the case. The meeting was held on 2 February 2022 and the information requested was provided to the CfE on 4 February 2022.</p> <p>On 16 February 2022, the Commissioner sent the final opinion and recommendations.</p> <p>On 6 April 2022, MCAST informed the Commissioner that due to the pandemic and the general elections, the Board of Governors did not manage to meet and discuss the Commissioner's final opinion.</p> <p>On 2 May 2022, MCAST informed the CfE that the issue with the complainant had been resolved.</p> <p>On 2 May 2022 the CfE informed MCAST that the case was closed since the recommendation had been taken on board.</p>
Recommendation by Ombudsman	The Commissioner recommended that if there are any disciplinary proceedings pending, they should be proceeded with immediately, without prejudice to any investigations.
Status	Closed and recommendation noted

Sector/Department	<b>Malta College of Arts, Science and Technology (MCAST)</b>
Ombudsman case reference	<b>CEDUC-21-2465</b>
Brief details of case	A complaint regarding a student who alleged lack of support by his dissertation tutor. The complainant also objected to the fact that they failed by two marks.
Action taken and management comments	<p>The case was received on 9 November 2021.</p> <p>On 20 November 2021, MCAST replied to the Commissioner for Education (CfE), stating that the complainant was requested to repeat the dissertation submission. The complainant had the option of a short or long cycle, although the Degree Ratification Board indicated that the student should preferably submit after the long cycle (in June of the following year).</p> <p>The Commissioner did not uphold this complaint and supported the Ratification Degree Board's conclusions and recommendations.</p> <p>On 6 January 2022, the CfE sent a letter of closure to the complainant. The Commissioner agreed with the recommendations made by MCAST and advised the complainant to proceed as therein.</p>
Status	Case not upheld
Sector/Department	<b>Malta College of Arts, Science and Technology (MCAST)</b>
Ombudsman case reference	<b>UV 0001</b>
Brief details of case	Case was closed immediately as the Malta Council for Science and Technology (MCST) was responsible for this case, not MCAST. The CfE did not register a case with MCST.
Status	Case withdrawn by Ombudsman

Sector/Department	<b>Malta College of Arts, Science and Technology (MCAST)</b>
Ombudsman case reference	<b>UV 0002</b>
Brief details of case	A complaint regarding disciplinary proceedings at MCAST, and allegations of intrusion by the Management in the complainant's life and suppression of their freedom of expression.
Action taken and management comments	<p>The case was received on 24 May 2021.</p> <p>On 11 June 2021, MCAST replied to the Commissioner for Education (CfE), stating that the complainant posted on a private group on social media and MCAST Management deemed the post to be offensive. MCAST declared that they never intimidated or tried to deprive the complainant of their freedom of expression. After disciplinary proceedings were instituted against the complainant, the Disciplinary Board decided in favour of MCAST Management. However, when the complainant appealed, this decision was overturned by the Disciplinary Appeals Board.</p> <p>The CfE requested MCAST to withdraw the charge in its entirety. On 4 August 2021, MCAST replied that the documents in relation to the charge issued against the complainant had been removed from their personal file, and that the complainant was informed accordingly.</p> <p>On 5 August 2021, the CfE made an interim recommendation that the Principal meet with the complainant and re-establish their relationship.</p> <p>On 19 August 2021, the CfE made a further interim recommendation to MCAST to refund the complainant the expenses incurred for legal services during disciplinary proceedings.</p>
Status	Both interim recommendations were accepted by MCAST. Closed and recommendations implemented

Sector/Department	<b>Malta College of Arts, Science and Technology (MCAST)</b>
Ombudsman case reference	<b>UV 0004</b>
Brief details of case	A complaint regarding alleged unfair and discriminatory behaviour by MCAST when it did not recognise an EQF level 6 degree to be equal to MQF level 6.
Action taken and management comments	<p>The case was received on 19 February 2021.</p> <p>On 10 March 2021, the Ministry for Education (MFED) replied to the Commissioner for Education (CfE), stating that the complainant requested the recognition of the units they had completed from a university abroad. Since the degree followed abroad did not match in scope and learning outcomes the one applied for with MCAST, the latter offered a customised timetable to follow units considered essential for the final certification.</p> <p>The CfE was informed that the complainant had been asked to produce a detailed transcript indicating ECTS credits of the qualification, but only produced an accreditation certificate issued by NCFHE, without the transcript.</p> <p>The MCAST Admission Board provided the complainant with the option to carry out a three-hour assessment to verify the level of competence in the field. The complainant insisted that the documentation provided proved their competence in the area and asked the Admissions Board to reconsider its position. The matter was forwarded to the Council of the Institutes which concluded that no further exemptions could be granted in the absence of the requested transcript or the suggested three-hour assessment.</p> <p>On 29 July 2021, the CfE sent his Final Opinion. Regarding ECTS exemptions, the CfE deemed that MCAST's practice was not discriminatory or unjust. On the same day, MCAST informed the CfE that the forthcoming prospectus for 2021-2022 would be revisited and edited.</p>
Recommendation by Ombudsman	The Commissioner recommended that the text in the prospectus dealing with the possibility of an exemption should be revisited and amended.
Status	Closed and recommendation implemented

Sector/Department	<b>Malta College of Arts, Science and Technology (MCAST)</b>
Ombudsman case reference	<b>UV 0005</b>
Brief details of case	A complaint regarding an alleged error in the degree certificate. The complainant alleged that the transcript read Second Class Upper but the degree certificate read Second Class Lower.
Action taken and management comments	<p>The complaint was received on 2 February 2021. MCAST replied on 16 March 2021, claiming that, due to an oversight, the complainant's global marks had been included in the classification. However, the degree certificate was correct and should read Second Class (Lower Division).</p> <p>On 26 March 2021, the Commissioner for Education sent the closure letter. No further investigation was necessary as MCAST had not acted with unfairness or injustice.</p>
Status	Closed without recommendation

Sector/Department	<b>Malta College of Arts, Science and Technology (MCAST)</b>
Ombudsman case reference	<b>UV 0006</b>
Brief details of case	A complaint regarding alleged misleading information in the MCAST prospectus. After conducting a course of studies, the complainant encountered problems to find a job in hospitals.
Action taken and management comments	<p>The complaint was received on 2 February 2021.</p> <p>MCAST replied on 10 March 2021, stating that the phrase 'clinical setting', as used in the prospectus, had a much broader sense and was not referring only to hospitals. Moreover, MCAST could not impose an obligation on local hospitals, or on any employment sector, to issue a particular vacancy.</p> <p>On 29 July 2021, the Commissioner sent his Final Opinion.</p> <p>On 30 August 2021, MCAST informed the Commissioner that the recommendation was accepted and was to be implemented. The institute made an attempt to discuss the matter with the Council for Professions Complementary to Medicine; and discussions resulted in no further changes.</p> <p>Furthermore, MCAST personnel were to contact Public Health Authorities and the Physiotherapy Association to explore further opportunities in clinical settings.</p> <p>MCAST, in its professional opinion, was convinced that the degree course in question was sufficiently complete.</p>
Recommendation by Ombudsman	The CfE recommended that MCAST should offer, free of charge, an additional top-up course to the complainant and their cohort (and possibly to those who undertook the same course after 2017). The College was to actively engage with and consult the relative authorities to ensure that the additional units were adequate and sufficient to ensure registration in the targeted profession.
Status	Closed and recommendation noted

Sector/Department	<b>Ministry for Education (MFED)</b>
Ombudsman case reference	<b>CEDUC-21-1462</b>
Brief details of case	A complaint regarding the curriculum of a school comprising subjects which were not being accredited.
Action taken and management comments	<p>The case was received on 19 April 2021.</p> <p>On 13 July 2021, MFED replied to the Commissioner for Education (CfE), stating that the accreditation process was finalised, and parents were notified. On 2 August 2021, the Commissioner stated that since the qualification obtained cannot exceed MQF Level 3, students were not being given due recognition.</p> <p>The CfE made an interim recommendation, highlighting the importance that students and parents were assured that all post-secondary education institutions recognise the certificate which was being awarded by the school in question, on the same level as certificates awarded by MATSEC.</p> <p>On 23 August 2021, MFED replied to the Commissioner that all compulsory education in Malta led to MQF Level 3, and that it could not impose on non-state post-secondary institutions to accept such award as an entry requirement.</p> <p>On 16 November 2021, the Commissioner sent a letter of closure, stating that it was not necessary to investigate further.</p> <p>On 21 January 2022, the CfE reopened the case.</p> <p>On 1 February 2022, the Ministry reiterated its former reply.</p> <p>On 1 March 2022, the CfE informed the Ministry that the case was being closed once again since no issues of maladministration had been found.</p>
Status	Closed without recommendation

Sector/Department	<b>Ministry for Education (MFED)</b>
Ombudsman case reference	<b>CEDUC-21-2179</b>
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. 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. This request was refused by MFED. 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	Pending at Ombudsman
Sector/Department	<b>Ministry for Education (MFED)</b>
Ombudsman case reference	<b>CEDUC-21-2181</b>
Brief details of case	A complaint regarding a contract for service.
Action taken and management comments	<p>The complaint was received on 3 August 2021. Commissioner for Education (CfE) stated that 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. This request was refused by the MFED.</p> <p>On 15 October 2021, MFED informed the CfE that the complainant had initiated Court proceedings.</p>
Status	Closed due to court proceedings

Sector/Department	<b>Ministry for Education (MFED)</b>
Ombudsman case reference	<b>CEDUC-21-2286</b>
Brief details of case	A complaint regarding the seniority of newly-qualified Teachers who had years of teaching experience as Supply Teachers with a full load.
Action taken and management comments	<p>The case was received on 13 September 2021.</p> <p>MFED replied on 5 October 2021, stating that seniority was determined in accordance with the Manual on Resourcing Policies and Procedures.</p> <p>On 27 October 2021, the Commissioner for Education sent a letter of closure.</p>
Status	Closed after the management replied to one request for information
Sector/Department	<b>Ministry for Education (MFED)</b>
Ombudsman case reference	<b>CEDUC-21-2390</b>
Brief details of case	A complaint from students studying for a degree in Inclusive Education regarding their seniority upon completing the course of study.
Action taken and management comments	<p>The case was received on 27 September 2021. The Commissioner for Education (CfE) stated that the complainants were following a BA in inclusive education which would lead them to the grade of Learning Support Educator (LSE) III. They claimed that as other courses leading to LSE III were covered over a shorter period, they would rank lower in the seniority. The complainants requested that MFED amend the seniority list.</p> <p>On 28 September 2021, MFED informed the Office of the Ombudsman that in 2020, a circular was issued to those who would be following a course leading to LSE III between January 2021 and July 2021, indicating 31 July 2021 as the date to be used for seniority purposes. The complainants were to finish the course in April/May 2022 and requested that the circular be re-issued.</p> <p>On 4 October 2021, MFED received a letter of closure from the CfE, confirming that complaints were ill-founded, and that the Commissioner found no unfairness or discrimination.</p>
Status	Case not upheld

Sector/Department	<b>Ministry for Education (MFED)</b>
Ombudsman case reference	<b>CEDUC-21-2400</b>
Brief details of case	A complaint relating to the recognition of a Proficiency Level Certificate for the engagement of a Learning Support Educator (LSE).
Action taken and management comments	<p>The case was received on 5 October 2021.</p> <p>On 29 October 2021, MFED replied to the Commissioner for Education (CfE), stating that the complainant presented two proficiency awards at level 4 whilst the call for applications requested a level 3 qualification or comparable (not an award). The Selection Board deemed that the awards presented by the complainant were not comparable. The Public Service Commission (PSC) confirmed this decision.</p> <p>On 5 November 2021, the Commissioner asked for a copy the PSCs decision. This document was forwarded to the CfE on the same date.</p> <p>On 8 June 2022, MEYR informed the CfE that after internal discussions it was agreed that proficiency awards issued by three educational institutions were being accepted for the call for applications closing on 30 June 2022.</p> <p>On 9 June 2022, the CfE informed MEYR that the investigation was being closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Ministry for Education (MFED)</b>
Ombudsman case reference	<b>CEDUCOI-21-2428</b>
Brief details of case	<p>The Commissioner for Education (CfE) initiated an investigation on his own initiative after reading an article in a local newspaper regarding teaching to child cancer patients.</p>
Action taken and management comments	<p>The case was received on 22 October 2021.</p> <p>On 3 November 2021, the Commissioner proposed that a retired qualified Teacher, capable of handling both primary and secondary school children, be assigned to teach at SAMOC.</p> <p>On 4 November 2021, MFED informed the Commissioner that a teacher, providing virtual lessons, and a Learning Support Educator (LSE) in the ward, were assigned to teach child patients.</p> <p>On 11 November 2021, MFED informed the Commissioner that his proposal had been implemented by assigning a teacher and an LSE for duties in the ward.</p> <p>On 15 November 2021, the Commissioner closed the case.</p>
Status	Closed without recommendation

Sector/Department	<b>Ministry for Education and Sports (MEDS)</b>
Ombudsman case reference	<b>CEDUC-21-2542</b>
Brief details of case	A complaint filed by a primary school teacher, currently on a career break, who lives 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.
Action taken and management comments	<p>The case was received on 12 January 2022.</p> <p>On 1 February 2022, MEDS replied to the Commissioner for Education (CfE) that in accordance with the Public Service Management Code (PSMC), persons on a career break cannot engage in any form of private work. Regarding the application for leave to try alternative employment, MEDS could not afford to give this concession since the Ministry needed Primary Teachers.</p> <p>On 23 February 2022, the Commissioner sent his Final Opinion and made two recommendations.</p> <p>On 16 March 2022, MEDS replied to the Commissioner that MEDS adhered to the PSMC, which aimed to strike a balance between the employee's wellbeing and the interest of the Service. Allowing an employee on 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.</p> <p>On 17 March 2022, the CfH referred the case to the Prime Minister and to Parliament on 21 April 2022.</p>
Recommendation by Ombudsman	<p>The Commissioner stated that the optimal solution would be for the complainant to be deployed to teach in a government primary school in Gozo. He also recommended that:</p> <ol style="list-style-type: none"> <li>a) the complainant be allowed to work at least part-time, on a definite contract in the private sector;</li> <li>b) the last two paragraphs of item 6.2.3.1 of the PSMC be revisited.</li> </ol>
Status	Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act.

Sector/Department	<b>Ministry for Education and Sports (MEDS)</b>
Ombudsman case reference	<b>CEDUC-21-2556</b>
Brief details of case	A complaint by a student undertaking a nursing course at the University of Malta, whose application for a stipend was rejected by the Students' Maintenance Grants Unit.
Action taken and management comments	<p>The complaint was received on 28 December 2021.</p> <p>On 3 January 2022, the Students' Maintenance Grants Unit stated that in September 2021 the Student's Maintenance Board had upheld the complainant's case and the latter was informed by a formal letter that the Board had decided in their favour. On 2 December 2021, the complainant received the grant and on 30 December 2021 received the amount of 10 stipends.</p> <p>On 4 January 2022, the Commissioner notified MEDS that the complainant had informed his Office that they were receiving the stipend, and thus the case was considered as closed.</p>
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Ministry for Education (MFED)</b>
Ombudsman case reference	<b>CEDUC-21-2574</b>
Brief details of case	A request for information by Commissioner for Education (CfE).
Action taken and management comments	MFED replied to a query which was communicated by means of a telephone call by the CfE. The case was not investigated and was considered as closed.
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Ministry for Education (MFED)</b>
Ombudsman case reference	<b>UV 0003</b>
Brief details of case	A complaint regarding a Kindergarten Educator (KGE) I who felt discriminated as, even though in possession of the necessary qualifications to be promoted to KGE II, they still received the salary pegged to KGE I.
Action taken and management comments	<p>The complaint was received on 2 February 2021. MFED replied on 3 March 2021, stating that in accordance with the Sectoral Agreement, the complainant was not in possession of the qualification required for KGE II.</p> <p>On 7 May 2021, the Commissioner for Education sent his final opinion, stating that the case could not be entertained.</p>
Status	Case not upheld

Sector/Department	<b>Ministry for Education (MFED)</b>
Ombudsman case reference	<b>UV 0008</b>
Brief details of case	A complaint regarding alleged discriminatory treatment by the members of the Selection Board assessing applicants for a scholarship.
Action taken and management comments	<p>The case was received on 12 April 2021.</p> <p>A meeting was held between MFED and the Commissioner for Education (CFE). The management confirmed that all protocols had been followed.</p> <p>On 3 November 2021, the Commissioner sent his final opinion and proceeded to close the case.</p> <p>On 10 December 2021, MFED replied that it was working on the code of ethics which was planned for the first quarter of the year 2022. Regarding the recording of interviews, MFED stated that this recommendation was not accepted. MFED developed a document of ethics and conduct to be followed by Selection Boards. This document formed part of the information passed on to the Boards before the launching of schemes.</p>
Recommendation by Ombudsman	The Commissioner recommended that MFED should devise a short Code of Conduct or a set of Guidelines for members of interviewing boards and that each interview, whether online or in person, should with the consent of the person interviewed, be recorded, and kept for a pre-determined time sufficient for the filing of internal review or administrative proceedings, after which the recording will be permanently erased.
Status	Closed and recommendation partially implemented

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>CEDUC-21-2071</b>
Brief details of case	A complaint lodged by a Resident Academic claiming that UM was not assisting them in obtaining the job/residence permit from Identity Malta and then resume with the payment of their salary.
Action taken and management comments	<p>The case was received on 25 May 2021.</p> <p>In 2019, the complainant took a leave of absence to return to their country due to health reasons. In the meantime, their job/residence permit expired. UM refused to issue the letter which was required to regularise their position with Identity Malta on the grounds that a new posting within the Faculty of Law had not yet been identified.</p> <p>On 23 July 2021, UM informed the Commissioner for Education (CfE) that the complainant had been contacted regarding the process to regularise their status to enable them to live and work in Malta. UM also informed the CfE that the complainant had been assigned to the Faculty of Laws and was to commence duties on 4 October 2021.</p> <p>On 6 October 2021, the Commissioner questioned the reason why it took UM so long to regularise the complainant's position. He enquired about the complainant's full salary covering the period August 2019 to February 2020, for which payment had not been effected.</p> <p>On 25 January 2022, the CfE issued his final opinion, sustaining the case and proposed the University to pay the complainant the basic salary and pension contributions due for the period from September 2019 up to 28 September 2021, without prejudice to any other damages which may be due to them according to law.</p> <p>On 16 March 2022, the CfE demanded feedback from UM regarding his recommendation.</p>
Status	Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act.

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>CEDUC-21-2101</b>
Brief details of case	<p>A complaint lodged by a parent on behalf of their son who wished to attend the University of Malta, Junior College. The student was born in the UK and had been residing in Malta for four years. However, they were unable to pursue their education further due to linguistic constraints.</p>
Action taken and management comments	<p>The complaint was received on 3 June 2021.</p> <p>The complainant was questioning the fact how state educational institutions require the Maltese language as a mandatory post-Secondary requirement for further education. On 11 June 2021, the Commissioner requested University to guide him further regarding the regulations and policies currently in force.</p> <p>On 17 June 2021, UM provided the Commissioner with a link related to the Admissions Regulations 12(5)(a) published in 2016 which were still in force regarding the Maltese language as a requirement. Given that the student was a Maltese national and had been residing in Malta for a considerable number of years, they needed to present a pass in Maltese at Grade 5 or higher as part of the entry requirements for both the Junior College and the University of Malta.</p> <p>On 22 June 2021, following the information received from University, the Commissioner provided the complainant with details related to the Admissions Regulations. It was then also notified that, at that stage, the CFE found no reason to investigate further the complaint and considered the case as closed.</p>
Status	Closed after the management replied to one request for information.

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>CEDUC-21-2233</b>
Brief details of case	<p>A complaint lodged by an academic member of staff concerning the University's refusal to grant them the status of full Professor.</p> <p>Following the Council's decision refusing this request, the complainant asked for a revision of the Promotion Board's decision. The review was carried out by the same Promotions Board composed of the same members. The complainant stated that according to the Collective Agreement 2019-2023, applicants should be given the opportunity to respond to the assessors' reports before a decision was taken and be provided with advice on areas of improvement.</p>
Action taken and management comments	<p>The case was received 16 July 2021. The complainant claimed that the University delayed the outcome of their career decision beyond a reasonable period.</p> <p>On 29 July 2021, the Commissioner for Education (CfE) requested a detailed description of the various stages of the process of the submission of an application for promotion. Other details related to the Council's refusal to reconsider its decision were also required.</p> <p>On 14 August 2021, UM sent a letter to the Commissioner explaining the process of the complainant's application for promotion. The Commissioner was also notified about the exchange of correspondence which clearly indicated that the complainant was kept informed of the progress of their application. UM pointed out that applicants applying prior to March 2021 had their application handled under the Collective Agreement 2014-18, and not under the agreement covering the period 2019-23.</p> <p>After several exchanges of correspondence between UM and the CfE, on 6 December 2021, the Commissioner sent a letter of closure to the complainant (University in copy), informing him that his office had made an interim recommendation to the UM to reopen the examination of their application for promotion to full Professor and place them in the same position immediately prior to the receipt of the second independent peer review sent by the Association of Commonwealth Universities (ACU).</p> <p>On 7 December 2021, the Commissioner was informed that UM had accepted the interim recommendation and asked for a further peer assessment on the complainant.</p> <p>On 4 July 2022, the application was reconsidered by the Promotions Board and the Council, and ratified that the complainant be promoted to Professor with effect from the 26 March 2018.</p>
Status	Case closed and recommendation implemented

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>CEDUC-21-2234</b>
Brief details of case	A complaint concerning a call for applications issued by UM on 3 May 2021 for a full-time academic post in Maltese.
Action taken and management comments	<p>The case was received on 3 August 2021. The complainant applied for the post on 10 May 2021, but for almost two months they did not receive any reply from the University. It was only after they called the University's Human Resources Department on 9 July 2021 that they were informed that their application had not been shortlisted for the interview. Subsequently, on 30 July 2021, the complainant was informed that their application did not meet all the criteria specified in the call for applications.</p> <p>On 6 September 2021, UM provided the Commissioner for Education (CfE) with the reasons why the complainant was not shortlisted. UM stated that Human Resources cannot inform applicants that they were not shortlisted prior to the confirmation by Council of the recommendations of the Selection Board.</p> <p>On 21 January 2022, the Commissioner expressed his opinion that unless the selection procedure has been confirmed by the University Council, a candidate should not be given the reason why their application has not been shortlisted or why they have not been selected. However, the CfE maintained that a candidate ought to be informed immediately that their application has not been scheduled for the interview.</p> <p>In order to avoid further misunderstandings that could mislead candidates answering a call for applications, the Commissioner suggested to UM to change the name of the Institute in question.</p> <p>Upon enquiring with the Office of the Ombudsman, it was confirmed that the case was closed on 21 January 2022.</p>
Status	Closed without recommendation

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>CEDUC-21-2257</b>
Brief details of case	A complaint regarding alleged unfair treatment during a selection process for a full-time academic post in Maltese at the Junior College, after the complainant was unsuccessful.
Action taken and management comments	<p>The case was received on 3 August 2021.</p> <p>On 6 September 2021, UM notified the Commissioner that all candidates were treated equally during the interview and were allocated the same amount of time and asked the same set of questions which were carefully selected to focus on the Maltese syllabus.</p> <p>On 21 January 2022, the Commissioner examined the documentation received from UM and listened to the complainant's point of view as well as that of the University officials. It was then concluded that the main reason why the candidate was not selected for the post was the lack of teaching experience. In this regard, the Commissioner rejected the complaint and considered the case as closed.</p>
Status	Closed without recommendation
Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>CEDUC-21-2340</b>
Brief details of case	A complaint lodged by an academic member of staff claiming that their request for an extension of appointment beyond retirement age of 67 was refused without just cause or objective reason.
Action taken and management comments	<p>The case was received on 3 September 2021.</p> <p>On 11 October 2021, UM informed the Commissioner for Education (CfE) that the Manual of Conduct and Procedures provides 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 to 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 Council to accede to the request.</p> <p>The CfE was also informed that on 6 June 2021, the Committee reviewed the complainant's request to reconsider their extension of appointment. The Council at its meeting of 15 July 2021, confirmed the recommendation of the Committee, that the request could not be acceded to.</p>
Status	Pending at Ombudsman

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>CEDUC-21-2423</b>
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 in Mechanical Engineering.
Action taken and management comments	<p>The case was received on 19 October 2021.</p> <p>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 despatched. In relation to the matter, a letter of apology was sent to the complainant.</p> <p>The CfE was also informed that on 22 November 2021, the Selection Board was reconvened to address the complaint and it re-confirmed that notwithstanding the complainant's significant industrial experience, they lacked recent academic teaching experience, and their undergraduate degree in Mechanical Engineering was achieved with a low overall classification, with particularly low marks in thermofields which was the area to be taught by the successful applicant.</p> <p>On 10 December 2021, following further investigations, the Commissioner confirmed that as far as the selection process was concerned, his office was satisfied that process had been fair and correct. For this reason, the complaint was dismissed.</p> <p>The Commissioner suggested that, in the interest of transparency and to avoid unnecessary suspicions, failed candidates should automatically and in every case be informed briefly and concisely of the reason why their application was either not shortlisted or, if shortlisted, why they were not successful.</p> <p>On 11 January 2022, the Commissioner asked UM to inform his office whether his recommendations were accepted and implemented.</p>
Status	Pending at Ministry

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>CEDUC-21-2427</b>
Brief details of case	<p>A complaint lodged by an academic staff member in connection with their application for renewal of appointment beyond the statutory age of 67. A second complaint concerned their promotion to full Professor which was not backdated to the date of submission of their application for promotion in 2019.</p>
Action taken and management comments	<p>The case 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.</p> <p>On 29 November 2021, 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 Council approval.</p> <p>In relation to the backdating of the promotion to Professor, UM explained that backdating to the date of submission of an application was not automatic. Reference was made to article 25.8.1 of the Collective Agreement which stipulates <i>'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'</i> and article 25.8.2 which stipulates <i>'Should a promotion not be backdated, the applicant can request to be informed of the reasons why such promotion has not been backdated'</i>.</p> <p>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 their further undertakings and achievements in the last two years had obviously not been included. These further achievements were nonetheless taken into consideration and formed part of the Board's consideration when deciding not to backdate the promotion. UM also informed that the complainant had subsequently sent a legal letter dated 1 November 2021.</p> <p>On 22 March 2022, the Commissioner requested further information and UM complied on 3 May 2022.</p>
Status	Pending at Ombudsman

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>CEDUC-21-2433</b>
Brief details of case	<p>A complaint lodged by an academic staff member in connection with his application for a Resident Academic post in Journalism. The complainant remarked that UM failed to give any reasons why their first interview was unsuccessful and questioned why they were excluded from another interview when the call for applications was identical to a previous call for which they had been shortlisted.</p>
Action taken and management comments	<p>The case was received 26 October 2021.</p> <p>On 24 November 2021, UM informed the Commissioner that following the interview held on the 12 May 2021 and the interview held on the 17 September 2021 after the same call for applications had been re-issued, no candidate was considered as suitable for the post of Resident Academic in Journalism. UM explained that both calls clearly stated that <i>'Due importance will be given to the candidate's lecturing experience at University level, research agenda and publications, together with work experience in well-established and professional journalism contexts'</i>. The complainant did have the required professional experience but did not meet the academic requirements. All members of the Selection Board for the second set of interviews agreed with the action.</p> <p>On 10 December 2021, the Commissioner thanked UM for the information provided and proceeded to close the case, as throughout the investigation, no evidence of maladministration was encountered, in any forms envisaged in article 22 of the Ombudsman Act.</p>
Status	Case not upheld

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>CEDUC-21-2496</b>
Brief details of case	A complaint regarding a group of students studying for a Master's degree in Science who were requested to pay an additional fee as the course had to be extended by three months due to Covid-19.
Action taken and management comments	<p>The complaint was received on 16 November 2021. Following their application and payment for the one-year Master's degree, the students were informed that the University had decided to extend the course due to the COVID-19 pandemic and were required to pay an additional fee. The complainants believed that the University had no right to this payment.</p> <p>On 18 November 2021, UM informed the Commissioner for Education (CfE) that the Master of Science course was always offered as a one-year consecutive course comprising both the taught and research components. Due to several difficulties encountered by students to continue working on the research component during the Summer period, it was therefore decided to base the structure of the course on other similar Master's models that fit the taught component and the research part over two academic years. The students had been so informed in advance, before October 2020, about the amended bye-laws published on 16 July 2020, stating that an annual enrolment fee of €400 was payable.</p> <p>Nevertheless, the University considered this cohort of students as a transitional group, and it was decided to waive the second enrolment fee.</p> <p>The Commissioner suggested UM to inform directly all those students who fall within the "transitional group" that the second annual enrolment fee was being waved.</p> <p>On 22 November 2021, the Registrar's office sent an email to all who were affected by this change explaining the decision to waive the enrolment fee for this transitional group.</p> <p>The Commissioner proceeded to close the case on 19 November 2021.</p>
Status	Closed without recommendation

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>CEDUC-21-2504</b>
Brief details of case	<p>A complaint lodged by a UM member of staff who was found ineligible for the post of Resident Academic in Computer Vision. The complainant was not shortlisted for the interview and believed that they satisfied all the criteria outlined in the call for applications. They also remarked that the reasons given for their application not being shortlisted were unfounded and that the chosen candidate was less qualified with less experience than themselves.</p>
Action taken and management comments	<p>The complaint was received on 24 November 2021, wherein the Commissioner demanded documentation related to the call for applications in question.</p> <p>On 21 January 2022, UM provided the Commissioner with the requested documentation. UM stated that, in accordance with the University's procedures, when a complaint was made, the University reconvenes the Selection Board as soon as possible to address the queries and complaints. UM stated that the Chairperson of the Selection Board prepared a report containing feedback from the Board in response to the complaint with the intention of meeting the complainant.</p> <p>On 14 February 2022, the Commissioner informed UM that the complainant had withdrawn the complaint following several meetings with the persons involved. For this reason, the Commissioner closed the case.</p>
Status	Closed, case withdrawn by complainant

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>CEDUC-21-2522</b>
Brief details of case	<p>A complaint lodged by a fourth-year law student who claimed to have found themselves at a disadvantage because they were allegedly left with no option but to undertake a repeat year as otherwise, had they opted for an extension year, their final degree classification would have been reduced by one class. They also claimed that the faculty offered them this possibility without informing them of the consequences.</p>
Action taken and management comments	<p>The case was received on 29 November 2021.</p> <p>On 9 December 2021, the Commissioner demanded the University's comments with reference to regulations and other relevant details.</p> <p>On 10 December 2021, UM advised the Commissioner about the misunderstanding from the student's perspective since the Faculty's advice to follow a repeat year during 2021/2022 was to improve their year average and final classification.</p> <p>On 15 December 2021, the Commissioner sent a letter of closure to the complainant, briefing them about regulation 84(5) of the Undergraduate General Regulations 2019. It was also brought to the complainant's attention that once they had opted to repeat the year and since they had not used more than one extension year, there was no question of their final degree being reduced by one class.</p> <p>The Commissioner dismissed the case.</p>
Status	Closed after the management replied to one request for information

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>UV 0007</b>
Brief details of case	<p>A complaint lodged by a university staff member who applied for alternative work arrangements due to anxiety attacks since the start of the pandemic. The work arrangements were granted but cancelled a few months later after reports from the Faculty.</p>
Action taken and management comments	<p>The case was received on 9 February 2021.</p> <p>During a meeting held with HR, the complainant was informed that the faculty reported them for clocking-in without being at the office and was informed that the arrangement to work from home had been cancelled. The complainant's request to HR to reconsider their arrangement was ignored and their request to be transferred from the Faculty was put on hold.</p> <p>The CfE was informed that the complainant had been assigned duties with a different faculty in February 2021.</p> <p>On 5 March 2021, the Commissioner proposed that, should the complainant request again teleworking facilities, the request should be favourably considered.</p> <p>The Commissioner dismissed the complaint and considered the case as closed.</p>
Status	Closed without recommendation

MEYR  
**Commissioner for Education Pre 2021**

Sector/Department	<b>Malta College of Arts, Science and Technology (MCAST)</b>
Ombudsman case reference	<b>UU 0005</b>
Brief details of case	<p>A complaint from a Senior Lecturer, alleging that MCAST were hindering him from developing further his 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.</p>
Action taken and management comments	<p>The case was received on 11 February 2020.</p> <p>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.</p> <p>The CfE communicated with MCAST on 25 May 2020, recommending that a meeting should be set up between all concerned parties. On 15 June 2020, the CfE requested further information about this meeting and MCAST informed the Commissioner that the meeting did not yield any results.</p> <p>The case was then suspended due to disciplinary proceedings in connection with other cases concerning the complainant.</p> <p>On 15 June 2022, the CfE invited the Principal and CEO of MCAST to attend a meeting between the Commissioner, MCAST Principal &amp; CEO, and the complainant, with the intention of settling down two grievances related to the same complainant (also CEDUC-21-2047).</p> <p>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.</p> <p>On 30 August 2022, the draft agreement was referred to the CfE.</p>
Status last year	Suspended due to disciplinary proceedings
Status	Pending at Ombudsman

Sector/Department	<b>Malta College of Arts, Science and Technology (MCAST)</b>
Ombudsman case reference	<b>UU 0021</b>
Brief details of case	A complaint by students against a lecturer over unsatisfactory performance.
Action taken and management comments	<p>The case was received on 19 June 2020.</p> <p>On 21 July 2020, MCAST replied that in view of the conflicting versions offered by the complainants and the lecturer, MCAST had set up a Board of Inquiry to investigate these allegations. MCAST informed the Commissioner that internal disciplinary proceedings were underway against the lecturer concerned. The Commissioner informed MCAST that they will await the outcome of disciplinary proceedings.</p> <p>On 5 April 2022, the CfE informed the complainants that in light of the findings on the inquiry, the complaint was not to be investigated any further.</p>
Status last year	Suspended due to disciplinary proceedings
Status	Closed without recommendation

Sector/Department	<b>Malta College of Arts, Science and Technology (MCAST)</b>
Ombudsman case reference	<b>UU 0025</b>
Brief details of case	Complaint concerning the composition of an Institute Board of Studies.
Action taken and management comments	<p>On 28 July 2020 MCAST and MEDE received the complaint from the Commissioner for Education (CfE).</p> <p>On 31 August 2020 the CfE requested MCAST to explain missing posts in the Board of Studies and the absence of Heads of Department.</p> <p>On 24 November 2021, the CfE issued their final opinion with recommendations and dismissing the complaint.</p> <p>On 26 November 2021, MCAST replied to the CfE notifying him that MCAST informed MFED about the Commissioners' final report so that the Minister appoint two members to the Board without further delay. On 29 November 2021, the members were in place.</p> <p>On 25 January 2022, MEDS was informed by the CfE that the case has been closed.</p>
Recommendation by Ombudsman	The CfE strongly recommended that the two representatives be appointed by the Minister without further delay, according to law.
Status last year	Case suspended due to inquiry proceedings
Status	Closed and recommendation implemented

Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>UU 0042</b>
Brief details of case	<p>A complaint from a student who felt aggrieved by the University's decision to decline their application to follow a Master's degree in Family Therapy and Systemic Practice because their undergraduate degree was classified as third class. The complainant claimed that the University failed to acknowledge the higher level of education held in the same subject. The student also claimed that when they obtained their Bachelor's degree in Youth and Community Studies, the option for an Honours degree in the subject area was unavailable and thus they furthered their expertise in the subject by graduating with a Master's degree in the same field.</p>
Action taken and management comments	<p>The case was received on 11 December 2020.</p> <p>On 7 January 2021, UM replied and provided the Commissioner for Education (CfE) with a link related to the byelaws for the course leading to the Master in Family Therapy and Systemic Practice. It was explained that given that the complainant's first cycle degree was obtained with Category III, the qualification cannot be considered comparable to the entry requirements specified in the byelaws. The Faculty would have considered applicants like the complainant only if the number of qualified applicants was not reached. However, the number of qualified applicants was greater than the <i>numerus clausus</i>.</p> <p>On 27 January 2021 the CfE upheld the complaint and remarked that the UM should reconsider the complainant's application since they had satisfied the entry (eligibility) criteria.</p> <p>On 6 April 2021, the UM proposed an amendment to the University's Postgraduate General Regulations. Thus, with the new amendments the complainant would be able to benefit from the amended regulation.</p> <p>UM accepted CfE's proposal after the Regulations were amended accordingly.</p>
Status last year	Pending at Ministry – University of Malta
Status	Closed without recommendation

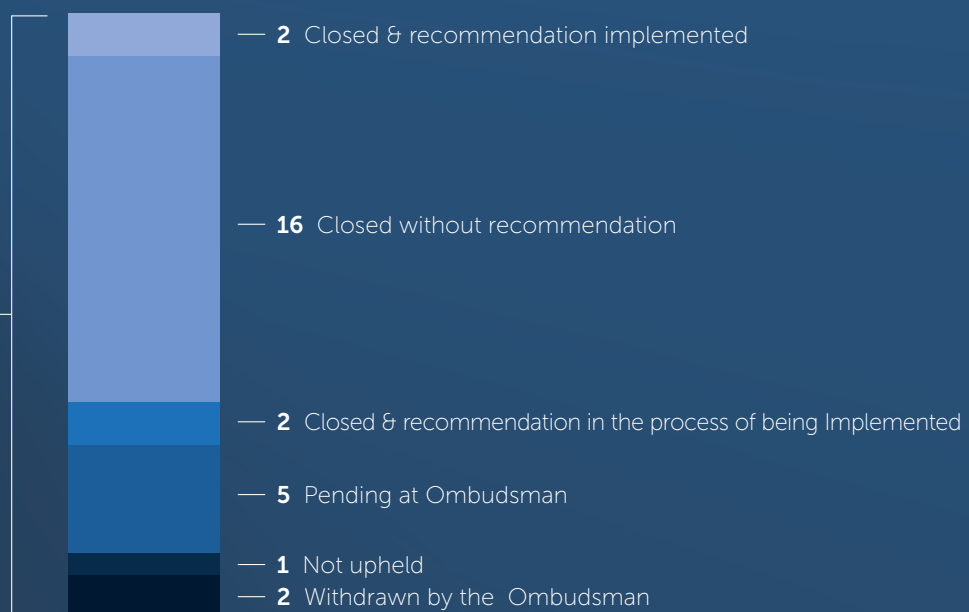
Sector/Department	<b>University of Malta (UM)</b>
Ombudsman case reference	<b>UU 0045</b>
Brief details of case	<p>A complaint regarding an academic member of staff stating that the University had cancelled the initially approved six-month sabbatical to run between 1 August 2020 and 31 January 2021, following the refusal of their application for extension of employment dated 20 December 2019, beyond the age of sixty-five. The complainant insisted that they had earned their sabbatical leave with three years of service and that it should not have been withdrawn on the eve of its commencement. The complainant also felt aggrieved by UM's decision to cancel their application for promotion from Associate Professor to Full Professor.</p>
Action taken and management comments	<p>The case was received on 18 December 2020.</p> <p>On 21 January 2021, the UM replied to the Commissioner for Education (CfE) stating that the complainant's request for six months' sabbatical leave was confirmed by the Council on 8 November 2019. Meanwhile, during a meeting of the Committee to consider extension of appointments of Academic Staff, both the Head of Department and the Dean of the Faculty did not recommend that the complainant's services be retained beyond the age of 65. In view of this decision, the complainant was informed that the previously approved sabbatical leave could not be utilised. This recommendation was later confirmed by the Council on 18 June 2020.</p> <p>The CfE was also notified that the pending application for Full Professor was no longer in process once the applicant had retired from the University. The complainant was past their statutory retirement age and sabbatical leave and extensions of appointment were not a right, but concessions by the University subject to the recommendation and approval by the Council.</p> <p>On 27 January 2021, the CfE requested further clarifications. On 4 February 2021, the UM provided the Commissioner with copies of letters and emails which were sent to the complainant, as well as the minutes of the Committee meeting and the confirmation by the Council. A copy of the Manual of Conduct and Procedures, which was part of the Collective Agreement for Academic Staff of the University of Malta, was also enclosed with the documentation provided.</p> <p>On 3 May 2021, the Commissioner upheld the complaint in relation to the application of the post of Full Professor and issued a recommendation. The Commissioner however dismissed the complaint made in relation to the appointment beyond retirement age and the cancellation of the sabbatical leave. On 31 May 2021, UM replied to the CfE that it would not be opportune to take up the recommendation to pay the complainant the difference in salary between Associate Professor and Full-time Professor.</p> <p>On 10 August 2021, the CfE referred the case to the Prime Minister.</p>

Recommendation by Ombudsman	The Commissioner recommended that the University pay to the complainant on an equitable basis the difference in salary between associate professor and full-time professor. The Commissioner recommended also that the University and MFED, through appropriate legislation, should ensure that similar applications are always decided not later than 18 months from the date of submission.
Status last year	Pending at Ministry – University of Malta
Status	Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act.



# MINISTRY FOR THE ENVIRONMENT, ENERGY AND ENTERPRISE

28  
cases



In 2021, the Ministry for the Environment, Energy and Enterprise (MEEE) dealt with a total of 28 cases.

Eleven cases were referred to MEEE by the Parliamentary Ombudsman during 2021. One case was closed, and the Ombudsman's recommendation was implemented. Eight cases were closed without any recommendation being made by the Ombudsman; six of these were closed after management replied to one request for information. One case was withdrawn by the Ombudsman, while another case is pending at the Office of the Ombudsman.

Seven cases were referred by the Commissioner for Environment and Planning (CEP) in 2021. Four cases were closed without any recommendation being made by the CEP. One of these cases was closed after management replied to one request for information. One case was closed, and the recommendation is in the process of being implemented. One case was withdrawn by the CEP, while another case is pending at the Office of the Ombudsman.

During 2021, two cases were also referred to MEEE by the Commissioner for Health (CfH). One case was not upheld by the CfH, while the other case was closed without any recommendation being made by the CfH.

Regarding cases lodged prior to 2021, the MEEE dealt with eight such cases. 6 cases had been referred by the Parliamentary Ombudsman. One case was closed, and the recommendation has been implemented. Two other cases were closed without any recommendation being made by the Ombudsman, while three cases are pending at the Office of the Ombudsman. Two cases had been referred to MEEE by the CEP prior to 2021. One case was closed without any recommendation being made by the CEP. The other case was closed with a recommendation made by the CEP, which is in the process of being implemented.

MEEE  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>ARMS</b>
Ombudsman case reference	<b>OMB-21-2445</b>
Brief details of case	A complaint regarding alleged incorrect electricity tariffs.
Action taken and management comments	<p>The case was received on 15 November 2021.</p> <p>On 3 February 2022, ARMS replied to the Ombudsman that, in terms of the Electricity Supply Regulations 36(10), any garage with an area larger than 30sqm was considered non-residential. ARMS also stated that this regulation was amended in 2015. The amendment stated that garages with an area of 50sqm can be considered as domestic accounts. In the opinion of ARMS, there were no grounds for any adjustments to be made to the account.</p> <p>On 19 September 2022, the Office of the Ombudsman informed MEEE that the case had been closed on 25 May 2022.</p>
Status	Closed without recommendation
Sector/Department	<b>ARMS</b>
Ombudsman case reference	<b>V 0001</b>
Brief details of case	A complaint regarding bills which were allegedly incorrect because of a service charge issued by ARMS.
Action taken and management comments	<p>The case was received on 1 February 2021.</p> <p>On 11 May 2021, ARMS replied to the Ombudsman, confirming that a service charge was being issued; however, readings remained the same. The module was changed, as it was not transmitting registered consumption correctly, and the actual consumption of the meter was referred to the Water Services Corporation (WSC), while ARMS spread out the actual registered consumption accordingly. ARMS and the complainant agreed on a repayment programme wherein complainant would pay €100 monthly to clear the balance payable, while not being charged any interest until the settlement of the balance.</p> <p>In view of the above, the Ombudsman proceeded to close the case on 10 June 2021.</p>
Status	Closed after the management replied to one request for information.

Sector/Department	<b>ARMS</b>
Ombudsman case reference	<b>V 0052</b>
Brief details of case	<p>A claim by a consumer that ARMS had sent him a refund by cheque which allegedly could not be deposited, as the first name was incorrect. Subsequently, ARMS had agreed to pay the amount directly to his bank account and that notwithstanding that they had provided bank details, the refund has not been effected.</p>
Action taken and management comments	<p>The case was received on the 20 July 2021.</p> <p>ARMS issued a reply to the Ombudsman on the same day, stating that after the refund cheque had not been cashed, the complainant provided an IBAN number to have the credit refunded to another bank account. However, the IBAN number provided was incorrect, and the transfer could not be effected. Finally, the complainant provided a correct IBAN number, and the amount due was transferred accordingly.</p> <p>The case was closed on 27 August 2021.</p>
Status	<p>Closed after the management replied to one request for information.</p>

Sector/Department	<b>ARMS</b>
Ombudsman case reference	<b>V 0060</b>
Brief details of case	A complaint regarding late issuing of bills, leading to late payments by the complainant and, consequently, leading to the complainant having to pay interest charges.
Action taken and management comments	<p>The case was received on 3 June 2021. The Ombudsman enquired whether there was a standard period adopted by ARMS within which consumers must settle invoices. He also enquired about the interest rate being charged for late payments.</p> <p>On 22 June 2021, ARMS replied to the Ombudsman, stating that the bill in question was issued according to the normal cycle – on 28 January 2021 – and sent by post on the same day. Customers must settle their bills within 45 days from date of the invoice and interest was charged at 6% per annum thereafter. Interest on late payments was calculated as from 15 days after the date of invoice. Interest was charged for outstanding balances either:</p> <ul style="list-style-type: none"> <li>• if the bill was issued on actual readings, or</li> <li>• if the bill was issued on readings provided by the consumer.</li> </ul> <p>Regarding the Feed-in Tariff (FiT) issue, ARMS stated that on 8 of February 2021, the consumer had been informed that FiT was on full FiT and to change it to Partial FiT, a Form R had to be submitted. The application was never submitted by the consumer.</p> <p>Moreover, regarding the invoice received for the period between 17 September 2019 and 26 March 2020 (192 days), showing abnormally high consumption, ARMS stated that both readings were actual and had been taken by the meter reader. The invoice issued by ARMS was thus based on actual registered consumption.</p> <p>Following the above feedback, the, Ombudsman stated that he would not proceed any further with the investigation and closed the case on 4 October 2021.</p>
Status	Closed by the Ombudsman after management replied to one request for information.

Sector/Department	<b>Enemalta</b>
Ombudsman case reference	<b>OMB-21-2185</b>
Brief details of case	A complaint regarding alleged damages caused due to an unstable, poor quality power supply by Enemalta.
Action taken and management comments	<p>The case was received on 6 July 2021.</p> <p>In a letter dated 10 August 2021, Enemalta replied that the necessary testing, both remotely and on site, were carried out. Voltage values were confirmed as within the stipulated limits. Enemalta advised that the complainant should appoint an independent engineer or electrician to analyse internal installation, including Over Voltage Protection Relay (OVR), to compile the necessary data and records.</p> <p>On 19 August 2021, the Ombudsman closed the case.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>ARMS</b>
Ombudsman case reference	<b>OMB-21-2535 (continuation of case 21-2185)</b>
Brief details of case	A complaint regarding alleged damages caused due to an unstable, poor quality power supply by Enemalta.
Action taken and management comments	<p>The case was received on 30 September 2021. The Ombudsman informed Enemalta that, following checks made by an independent engineer, it transpired that the issue was a consequence of unstable voltage supply by Enemalta. The Ombudsman requested:</p> <ul style="list-style-type: none"> <li>(i) data of Enemalta's voltage recordings and findings of the voltage testing that were carried out at the complainant's premises by Enemalta both remotely and on site, and</li> <li>(ii) action taken by Enemalta, if any, to stabilise the situation. The documentation provided was to include the report drawn up by Enemalta's engineer, if any.</li> </ul> <p>The documentation requested was provided by Enemalta on 3 November 2021.</p> <p>On 23 November 2021, the Ombudsman requested clarifications on the date of the reports provided, copies of the reports Enemalta sent to the Regulator for Energy and Water Services (REWS), and the voltage level report referred to by the complainant.</p> <p>On 26 November 2021, Enemalta clarified that the reports requested had already been sent to the Ombudsman, and there were no new reports.</p> <p>Following a three-way a meeting held at the Ombudsman's office on 3 December 2021, between the Ombudsman, Enemalta, and the complainant, the Ombudsman sent an email dated 7 December 2021, submitting his recommendation.</p> <p>Subsequently, the complainant's request for payment of damages was processed, and a letter dated 8 February 2022 was sent by Enemalta, informing the complainant that an ex-gratia payment related to damages sustained pre-July 2021 would be sent accordingly. The complainant signed the related declaration and a payment of €2,000 was effected in favour of the complainant.</p> <p>On 7 July 2022, the Ombudsman wrote to Enemalta whereby he noted that the issue relating to the payment of damages had been resolved. The Ombudsman proceeded to close the case.</p>
Recommendation by Ombudsman	The Ombudsman recommended that the complainant present to Enemalta documentation relating to the items claimed to have been damaged, and that Enemalta considers reimbursement.
Status	Closed and recommendation implemented

Sector/Department	<b>Enemalta</b>
Ombudsman case reference	<b>OMB-21-2555</b>
Brief details of case	A complaint regarding alleged frequent power outage at the complainant's residence.
Action taken and management comments	<p>The case was received on 19 January 2022.</p> <p>However, in an email dated 26 January 2022, the Ombudsman stated that the complainant confirmed that the issue has been solved. The Ombudsman proceeded to close the case.</p>
Status	Case withdrawn by Ombudsman
Sector/Department	<b>Water Services Corporation (WSC)</b>
Ombudsman case reference	<b>OMB-21-2095</b>
Brief details of case	A complaint regarding a promotion, allegedly withheld unfairly from the complainant, who claimed unfair treatment.
Action taken and management comments	<p>The case was received on 21 June 2021. The Ombudsman requested an indication of how promotions to the professional class were made and whether promotions were governed by a specific internal policy. The Ombudsman also requested a copy of the policy document.</p> <p>On 23 August 2021, the WSC stated that any upward progression was only effected based upon work exigencies and in line with yearly approved HR plans. Standard eligibility requirements for all professional posts included applicants needing to be in possession of a recognised first degree at MQF level 6 at the time of application.</p> <p>Moreover, internal calls for applications required employees to be in senior executive grades (scale 7 or 6). This requirement did not imply that any employee in scale 7 and over and having an MQF level 6 degree, can progress automatically to professional grades.</p> <p>WSC confirmed that the four employees mentioned by complainant had fulfilled all the eligibility requirements set out in the respective calls for applications.</p> <p>The Ombudsman decided that no further investigation was required and closed the case on 24 November 2021.</p>
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Water Services Corporation (WSC)</b>
Ombudsman case reference	<b>OMB-21-2119</b>
Brief details of case	A complaint regarding computation of allowances under the terms of the new collective agreement. The complainant alleged that the computation was unfair.
Action taken and management comments	<p>The case was received by WSC on 16 June 2021. The Ombudsman requested details and clarifications on the computation of allowances, including the disturbance allowance.</p> <p>In an email dated 25 June 2021, WSC presented a detailed report, explaining how allowances were disbursed, and stating that the collective agreement had been negotiated with the pertinent Union.</p> <p>On 16 August 2021, the Ombudsman informed WSC that he would not be pursuing the investigation further and closed the case.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Water Services Corporation (WSC)</b>
Ombudsman case reference	<b>OMB-21-2482</b>
Brief details of case	A complaint regarding alleged unequal pay for equal work. The complainant stated that they carried out the same duties as employees who benefit from a higher remuneration package.
Action taken and management comments	<p>The case was received on 26 November 2021. The Ombudsman requested job descriptions for the roles referred to by the complainant.</p> <p>On 3 January 2022, WSC stated that it had clarified with the complainant's lawyers, that the teams deployed by the WSC to attend to its waste-water operations were composed of a Team Leader, a Multi-Skilled Fitter (MSF) at Scale 13, and a Fitter at Scale 15. A copy of the job descriptions, clearly indicating the differences in the roles of fitters and MSFs, was sent to the Ombudsman. WSC pointed out that while the Fitter's role was focused mainly on trenching and other key factors in operations, the MSF role included several additional duties, including basic administrative work (such as the compilation of regular requisition orders for materials), ensuring that documentation is completed correctly, and going down to three metres in sewers and sumps interceptors to check and clear any stoppages and blockages.</p> <p>On 31 January 2022, the Ombudsman requested a clarification on the additional duties carried out by MSFs.</p> <p>On 2 February 2022, WSC stated that the roles of MSFs and Fitters, as pegged to salary scales 13 and 15 of the Collective Agreement respectively, were based on the same principles and geared towards achieving the same goals. Whilst clarifying that the role of MSF encompassed all the duties a Fitter, a list of MSF duties which are distinct from Fitter duties, was also sent by WSC.</p> <p>On 19 September 2022, the office of the Ombudsman informed MEEE Liaison Officer that the case was still under investigation.</p>
Status	Pending at Ombudsman

Sector/Department	<b>Water Services Corporation (WSC)</b>
Ombudsman case reference	<b>OMB-21-2489</b>
Brief details of case	A complaint regarding a request to obtain further information from WSC, after the complainant had received a warning of a leak by SMS from WSC.
Action taken and management comments	<p>The case was received on 28 January 2022. The complainant stated that a letter sent to WSC had remained unanswered. The letter had referred to a possible leakage at the complainant's residence after having received an SMS to that effect from WSC. Since WSC had no record of such correspondence, a copy of the letter was provided to WSC by the Ombudsman's Office. Subsequently, contact was immediately made with the complainant, who advised WSC that the issue had been resolved, as the leak had been fixed between the 10 and 12 January 2022.</p> <p>On 15 February 2022, WSC informed the Ombudsman that although the complainant's letter could not be traced, a formal reply had been sent to the complainant, explaining the reason why they had been informed of a leak, and that the leak related to consumption from within the residence and not from WSC mains.</p> <p>WSC also stated that according to the readings for the month of January 2022, it appeared that issue had been resolved.</p> <p>The Ombudsman proceeded to close the case on 16 February 2022.</p>
Status	Closed without recommendation

MEEE  
**Parliamentary Ombudsman Pre 2021**

Sector/Department	<b>Automated Revenue Management Services (ARMS)</b>
Ombudsman case reference	<b>T 0206</b>
Brief details of case	A complaint regarding the direct debit system adopted by ARMS Ltd.
Action taken and management comments	<p>The complaint was received on 30 September 2019. The complainant referred to the 2% discount offered by ARMS to those clients paying by direct debit. The complainant stated that ARMS changed the policy related to this discount so that only residential accounts were eligible.</p> <p>On 3 January 2020, ARMS 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.</p> <p>On 7 January 2020, the Ombudsman requested further clarifications on whether non-residential accounts/bills had previously qualified for a discount prior to the change in policy.</p> <p>On the 12 May 2020, ARMS specified that their internal policy stated that non-residential accounts did not qualify for any discounts. However, internal discussions were ongoing to assess whether the policy should be amended. ARMS suggested that the complainant may apply to change the applicable tariff to benefit from discounts by submitting Form R.</p> <p>On 2 June 2021, as requested by the Ombudsman, ARMS provided the direct debit mandate applications submitted by the complainant in 2016.</p> <p>On 31 January 2022, the Ombudsman requested a copy of the bills, indicating that the complainant had received discounts on two non-residential accounts. Moreover, reference was made to an email dated 12 May 2020 sent by ARMS regarding discounts on non-residential accounts.</p> <p>On 4 February 2022, ARMS sent the requested bills to the Ombudsman. Moreover, ARMS stated that any discounts given for such bills had been given erroneously, since non-residential accounts did not qualify for a direct debit discount. In addition, ARMS pointed out that the billing tariff for both accounts had always been Non-Residential. 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.</p> <p>On 19 September 2022, the Office of the Ombudsman Office informed MEEE Liaison Officer that case is still under investigation.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Environment and Resources Authority (ERA)</b>
Ombudsman case reference	<b>U 0227</b>
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	<p>The case was received on 22 April 2021. ERA was requested by the Ombudsman's Office to provide information with respect to the 2020 MIMCOL compliance review regarding the operation of a private shipyard.</p> <p>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.</p> <p>On 6 September 2021, the Ombudsman requested updates on studies carried out on noise pollution and issues relating to the use of grit.</p> <p>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.</p> <p>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 to be carried out afresh in line with requirements.</p> <p>On 24 June 2022, MEEE confirmed with the Office of the Ombudsman that there were no pending investigations with respect to ERA, and that the case was still being investigated at their end.</p>
Status last year	Pending at Ombudsman (reported under MIMCOL)
Status	Pending at Ombudsman

Sector/Department	<b>Malta Enterprise (ME)</b>
Ombudsman case reference	<b>U 0055</b>
Brief details of case	<p>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.</p>
Action taken and management comments	<p>The complaint was received on 8 April 2020. The Ombudsman asked whether there was a possibility to adjust the NACE code.</p> <p>On 27 April 2020, Malta Enterprise (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.</p> <p>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.</p> <p>On 30 August 2022, ME explained why the complainant had not been eligible. In their application, the complainant had decided to override the NACE code of their activity, and instead entered another NACE code. However, based on the activity given by the complainant, the correct NACE code did not qualify for the wage supplement.</p> <p>On 29 September 2022, the Ombudsman replied, saying that another company offering the exact same services as the complainant had qualified for assistance.</p> <p>On 12 October 2022, ME replied to the Ombudsman the company in question had never been eligible for a wage supplement, and as a consequence, ME was in the process of recovering all funds disbursed to the company.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Malta Enterprise (ME)</b>
Ombudsman case reference	<b>U 0159</b>
Brief details of case	<p>A complaint regarding the COVID-19 wage supplement grants. The complainant stated that ME had not replied to their letter of July 2020 regarding a request for financial remuneration that they had made for the period covering March to June 2020.</p>
Action taken and management comments	<p>The complaint was received on 10 September 2020.</p> <p>On 16 October 2020, ME replied that no applications requesting a grant under the COVID-19 Wage Supplement Scheme or any other correspondence had been received from the complainant.</p> <p>After a request for further clarifications from the Ombudsman, on 8 April 2021, ME stated that auditing activities were not eligible for support under the COVID-19 Wage Supplement Scheme. However, this fact did not preclude the complainant from applying for support under the scheme. In such cases, the application would have been evaluated on its own merits. However, as the complainant had never applied for assistance by the deadline of 26 June 2020, any support falling under the Scheme would constitute illegal aid, which would be in breach of the notification made to the European Commission in relation to the Scheme.</p> <p>On 14 July 2022, after enquiring with the Office of the Ombudsman, MEEE was informed that the Ombudsman had closed the case.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Regulator for Energy and Water Services (REWS)</b>
Ombudsman case reference	<b>U 0025</b>
Brief details of case	A complaint regarding the scheme for double glazing of apertures.
Action taken and management comments	<p>The complaint was received on 4 February 2020.</p> <p>On 28 February 2020, REWS informed the Ombudsman that section 2 of the Government notice regarding this scheme stated <i>"Funds for the scheme are limited and therefore applications are processed on a first-come first-served basis. There is no guarantee that all applications will be successful, even if all eligibility criteria are met"</i>. In November 2019, the complainant had been erroneously informed that funds were still available. However, in December 2019 the complainant was informed of the error and that they were going to be put on the waiting list for the next intake of the scheme when funds would be available.</p> <p>The complainant had re-applied under a subsequent scheme, and on 24 September 2020, a rebate of €2000 had been granted. The Ombudsman was informed accordingly.</p> <p>Upon enquiring, on 23 June 2022, MEEE was informed by the Office of the Ombudsman that the case had been closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Water Services Corporation (WSC)</b>
Ombudsman case reference	<b>U 0195</b>
Brief details of case	A complaint regarding an alleged injustice related to a job interview.
Action taken and management comments	<p>The complaint was received on 21 October 2020.</p> <p>On 11 November 2020, the WSC provided the documentation requested and stated that changes to the eligibility criteria had been made, as the position did not require a degree at MQF level 6, so a VET higher Diploma or equivalent in years of experience were considered more appropriate requisites for the position. These eligibility requirements were applied for all positions in the same salary scale.</p> <p>Following another exchange of correspondence, on 30 September 2021, the Ombudsman requested additional information on the specific roles held by the selection board members. This information was sent by WSC on 5 October 2021. On 7 January 2022, the Ombudsman enquired why the requirement for a Licence B was removed when the call for applications had been amended.</p> <p>On 8 February 2022, WSC provided a table indicating that the licence required was the minimum Enemalta electrical Licence A.</p> <p>On 3 March 2022, the Ombudsman sent his Final Opinion with his recommendations both to WSC and the complainant.</p> <p>On 25 March 2022, WSC replied to the recommendations made by the Ombudsman and stated that:</p> <ul style="list-style-type: none"> <li>• calls for applications and job descriptions were being standardised to eliminate inconsistencies;</li> <li>• the eligibility criterion satisfied by each candidate were to be recorded in the selection process file, and marks awarded were to be indicated under each sub-criterion in the marking sheet;</li> <li>• qualifications were to be assessed objectively according to the grading and relevance to the job description.</li> </ul> <p>Moreover, WSC stated that Selection Board members were being instructed to keep individual notes of interview proceedings, which would allow them to better justify the marks awarded to each candidate.</p> <p>On 24 May 2022, the Office of the Ombudsman closed the case.</p>

Recommendation  
by Ombudsman

- Appropriate care should be taken to ensure that all documents dealing with the same call for applications are homogenous and in line with each other before issuing the call.
- A clear written policy should be in place to determine which documents take precedence in case of conflicts and discrepancies.
- Where calls are issued with multiple eligibility criteria, information detailing the specific criterion each candidate is found to be eligible under should be included in the selection process file. This information should also be taken into consideration when awarding marks with respect to the assessment criteria.
- Qualifications should be assessed on their own merits using objective and quantifiable parameters.

Status last year

Pending at Ombudsman

Status

Closed and recommendations implemented

MEEE  
**Commissioner for Health 2021**

Sector/Department	<b>WasteServ Malta (WSM)</b>
Ombudsman case reference	<b>CH-21-2431</b>
Brief details of case	A complaint regarding an employee who resisted reporting to work at the ECOHIVE Complex in Naxxar instead of at the Thermal Treatment Facility in Marsa, due to health reasons.
Action taken and management comments	<p>The case was received on the 28 October 2021.</p> <p>On same day, the Commissioner for Health sent an email to MECP, stating the case was being closed as the complainant was to report for work at Magħtab with effect from November 2021.</p>
Status	Case not upheld
Sector/Department	<b>WasteServ Malta (WSM)</b>
Ombudsman case reference	<b>CH-21-2543</b>
Brief details of case	Reopening of case CH-21-2431 under a new reference number. The complainant sent another letter of complaint to the Commissioner for Health (CfH) after case number CH-21-2431 had been closed.
Action taken and management comments	<p>On 16 December 2021, WSM received a copy of the letter from the complainant addressed to the CfH. The letter alleged that the measures which WSM had pledged to implement to ensure that dust and exhaust emissions parameters would not be exceeded were not being honoured, and that the complainant was not receiving the sample test results.</p> <p>On 28 December 2021, a second complaint was received by WSM from the CfH. The complainant alleged that they were being denied overtime.</p> <p>On 7 January 2022, a third complaint was received from the CfH. The complainant again alleged discrimination against them regarding overtime.</p> <p>On 20 January 2022, WSM replied to the CfH addressing all complaints.</p> <p>On 24 February 2022, the CfH alerted WSM that the complainant had lodged the fourth and fifth complaints, claiming that no dust/fumes samples were taken on the landfill, and that the onsite office on the landfill should have an earth connection for safety.</p>

On 22 April 2022, feedback was sent to the Commissioner, stating that samples were collected, and that the results were within limits. Furthermore, landfills could not be grounded and, as a result, these were closed off during thunderstorms to safeguard workers' safety.

On 3 May 2022, the CfH drew the attention of WSM that there should not be any discrimination against the complainant in the performance of overtime. WSM replied on the same day, refuting these allegations, stating that overtime was managed according to the needs of the company and at the management's discretion.

On 4 May 2022, the Commissioner replied, asking for a confirmation that the complainant would be asked to work overtime when the need arose, and WSM gave this confirmation on 5 May 2022.

On 19 May 2022, the CfH proposed that WSM meet with the complainant about the onsite office and overtime issue. A positive meeting between WasteServ and the complainant was held on 17 June 2022.

On 21 June 2022, WasteServ reported back to the CfH on the positive outcome of the meeting. Subsequently, the CfH closed the case.

Status

Closed without recommendation



MEEE  
**Commissioner for Environment and  
Planning 2021**

Sector/Department	<b>ARMS</b>
Ombudsman case reference	<b>EV 0010</b>
Brief details of case	A complaint regarding an application submitted to ARMS for a new water service.
Action taken and management comments	<p>The case was received on 2 February 2021. The Commissioner for Environment and Planning (CEP) wrote to the Regulator for Energy and Water Services (REWS), copying ARMS. The CEP quoted Chapter 81 of Maltese Law and requested REWS to indicate how this service could be provided. Moreover, the CEP suggested that ARMS should keep the application active, pending the outcome for a practical solution to be found.</p> <p>On 20 April 2021, REWS replied to the CEP, stating that Chapter 81 did not apply to this case as it referred to works on public water and electricity networks, whilst the case concerned a request for a service on private property.</p> <p>On 9 August 2021, REWS informed the CEP that discussions had been held with the authorities concerned and solutions had been found. However, due to a pending appeal at the Planning Authority on the permit regarding the works involved, both the works and complainant's application were currently on hold.</p> <p>On 8 July 2022, MEEE was informed by CEP, the case had been closed in October 2021.</p>
Status	Closed without recommendation

Sector/Department	<b>Enemalta</b>
Ombudsman case reference	<b>EV 0011</b>
Brief details of case	A complaint regarding resurfacing works allegedly done in relation to works carried out by Enemalta.
Action taken and management comments	<p>The case was received on 8 February 2021. The Commissioner for Environment and Planning (CEP) requested Enemalta to reinstate the original asphalt street levels, as when drivers were attempting to access their garages, cars were hitting the pavement, allegedly due to the lower level of the asphalt.</p> <p>In an email dated 22 March 2021, Enemalta informed the CEP that the works in question had been carried out by Infrastructure Malta.</p> <p>The case was closed by Commissioner in May 2021.</p>
Status	Closed after management replied to one request for information

Sector/Department	<b>Environment and Resources Authority (ERA)</b>
Ombudsman case reference	<b>EV 0027</b>
Brief details of case	A complaint relating to infrastructural works in Comino.
Action taken and management comments	<p>ERA was notified of the opening of the investigation on 5 April 2021.</p> <p>On 9 April 2021, ERA replied to Commissioner for Environment and Planning (CEP), stating that ERA had already taken action and issued a Stop and Compliance Order on 13 March 2021, before the investigation by the CEP had started.</p> <p>On 13 April 2021, CEP proceeded to close the case.</p>
Status	Complaint withdrawn by the Ombudsman

Sector/Department	<b>Environment and Resources Authority (ERA)</b>
Ombudsman case reference	<b>CEP 21-2269</b>
Brief details of case	A complaint relating to ERA permits issued with immediate applicability, without a suspension period.
Action taken and management comments	<p>The case was received on 30 June 2021. The Commissioner for Environment and Planning (CEP) requested ERA to consider started issuing environmental permits with a non-executability clause of 30 days.</p> <p>On 1 July 2021, ERA replied stating that the Environment Protection Act (Cap 549 of the Laws of Malta) did not provide for suspension of permits. ERA informed the CEP that note had been taken of the suggestion made, and that legal amendments will be proposed to this effect to cater for public participation.</p> <p>On 2 July 2021, the CEP replied, referring to article 47(3) of Cap 551 of the Laws of Malta, and asking ERA to confirm whether decisions which were of significant implication or irreversible, such as uprooting of trees, may be issued as non-executable for a period of 30 days.</p> <p>On 10 August 2021, ERA replied that the Authority did not have legal basis to implement CEP's suggestion.</p> <p>On 13 August 2021, CEP replied to ERA stating that a legal amendment based on article 73(2) of Cap 552 should be introduced.</p> <p>On 24 September 2021, the CEP closed the case and issued his Final Opinion, stating that ERA was acting in terms of the law, and that ERA was proposing amendments to such law.</p>
Status	Closed and recommendation in the process of being implemented.

Sector/Department	<b>Environment and Resources Authority (ERA)</b>
Ombudsman case reference	<b>CEP 21-2273</b>
Brief details of case	A complaint relating to the uprooting of a tree near the Lija cemetery.
Action taken and management comments	<p>The case was received on 13 August 2021. ERA was requested to confirm whether the works carried out were with the Authority’s knowledge and approval.</p> <p>On 31 August 2021, ERA replied that the interventions carried out were without its knowledge or approval. Investigations had revealed that a large branch from an English Oak tree had collapsed on 26 June 2021 and was removed on same day by the Police in conjunction with the Civil Protection Department. ERA stated that it was investigating the case.</p> <p>On 03 December 2021, the Commissioner requested ERA to confirm whether the investigations were concluded.</p> <p>On 22 December 2021, ERA submitted to the CEP the conclusions of investigations and the position taken.</p> <p>On 19 January 2022, the CEP closed the case.</p>
Status	Closed without recommendation

Sector/Department	<b>Environment and Resources Authority (ERA)</b>
Ombudsman case reference	<b>CEP-21-2517</b>
Brief details of case	A complaint by farmers relating to lack of access to fields in Burmarrad.
Action taken and management comments	<p>The case was received on 15 December 2021. The case related to lack of access to the fields in Triq Wied Qannotta, Burmarrad. ERA was requested to provide feedback as to whether the access in question could be resurfaced with concrete or any other material.</p> <p>ERA replied on 21 December 2021, stating that, from an environmental perspective, paving of the valley would impact negatively.</p> <p>On 7 January 2022, the Commissioner for Environment and Planning (CEP) requested Infrastructure Malta (IM) to try to reach a solution together with ERA. Following discussions between ERA and IM, a method statement to improve access in the site in question was approved. A compromise solution was reached, providing access whilst limiting works to minimalistic intervention. The works were carried out by Infrastructure Malta.</p> <p>The case was closed by the CEP on 30 March 2022.</p>
Status	Closed without recommendation

Sector/Department	<b>Water Services Corporation (WSC)</b>
Ombudsman case reference	<b>CEP-21-2388</b>
Brief details of case	A complaint regarding sewage smell in Marsaxlokk which was negatively affecting residents and restaurants in the area in question.
Action taken and management comments	<p>The case was received on the 8 October 2021.</p> <p>On 3 January 2022, 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 and emptied, and that same must be refilled with rubble up to sea water level.</p> <p>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 have been received.</p> <p>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 is reduced as much as possible.</p>
Status	Pending at Ombudsman



MEEE  
**Commissioner for Environment and  
Planning Pre 2021**

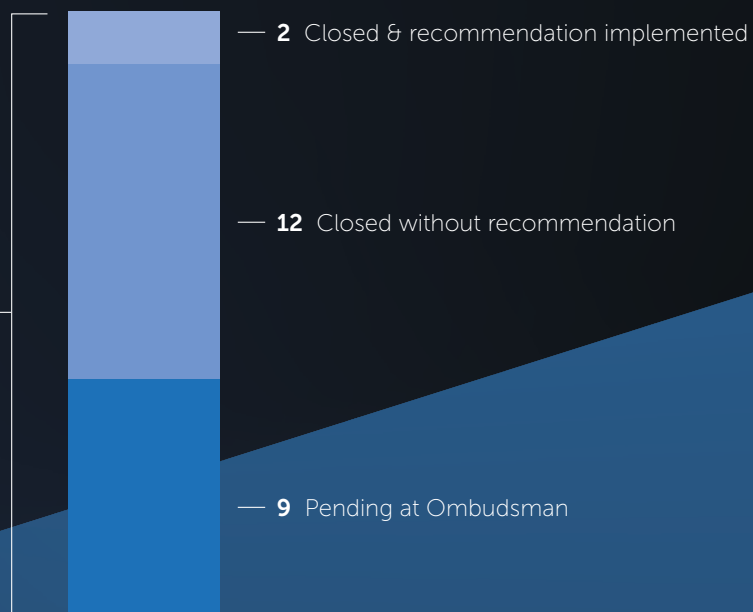
Sector/Department	<b>Enemalta</b>
Ombudsman case reference	<b>EU 0030</b>
Brief details of case	<p>The complainant applied for a new supply of electricity. However, there was a problem regarding access to the complainant's residential road.</p> <p>The issue concerned two neighbours, both claiming ownership of the private alley situated in-between their properties.</p>
Action taken and management comments	<p>The case was received on 23 April 2020. Enemalta replied that a third party disagreed that the meter should be installed near the main switch. Moreover, the third party claimed that if any services were to be routed through the alley, the latter should be involved and consulted in all decisions.</p> <p>The Commissioner for Environment and Planning (CEP) noted that installation of the meter on the road was contrary to article 51 of SL 423.01, which stated that the meter must be installed at home or premises of the applicant.</p> <p>On 17 June 2020, the CEP issued his Final Opinion</p> <p>In October 2020, Enemalta sought the assistance of the Regulator for Energy and Water Services (REWS). On 30 June 2021, REWS stated that they had no objection for an electricity service to be provided in accordance with the permit. The CEP was informed accordingly.</p> <p>The case was closed by the CEP in October 2021.</p> <p>In October 2022, Enemalta reactivated the application, as had been recommended by the CEP. Enemalta technicians went on site, but there was a locked gate prohibiting access to the premises. Enemalta will be contacting the applicant to provide access so that the meter would be installed, subject that all other requirements were in order.</p>
Recommendation by Ombudsman	<p>The CEP recommended that Enemalta reactivate the electricity application, deliver the service through an overhead cable from a pole in the street, and install the electricity meter at the complainant's premises. If Enemalta were hampered to provide the service, it must take all the necessary remedies provided by law.</p>
Status last year	Pending at Ombudsman
Status	Closed and recommendation in the process of being implemented.

Sector/Department	<b>Water Services Corporation (WSC)</b>
Ombudsman case reference	<b>EU 0034</b>
Brief details of case	A complaint regarding drainage seepage into a warehouse at basement level.
Action taken and management comments	<p>The complaint was received on 26 May 2020. The Commissioner for Environment and Planning (CEP) enquired on the possibility of changing the drain which the complainant reported as overloaded with rainwater, resulting in seepage into the complainant’s warehouse.</p> <p>On 20 June 2020, WSC reported that, with the cooperation of Infrastructure Malta, a stretch of 13 metres of the sewer network in front of the property in question had been replaced. WSC stated that this should alleviate the complaints raised.</p> <p>Upon enquiring, MEEE were informed that the CEP had closed the case in November 2020, since a solution had been found.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation



# MINISTRY FOR FINANCE AND EMPLOYMENT

23  
cases



In 2021, the Ministry for Finance and Employment (MFE) dealt with a total of twenty-three cases.

Fifteen cases were referred to MFE by the Parliamentary Ombudsman during 2021. One case was closed, and the Ombudsman's recommendation has been implemented. Four cases were closed without any recommendation being made by the Ombudsman. Eight cases were closed after the management replied to one request for information. Two cases are pending at the Office of the Ombudsman.

The MFE also dealt with eight cases which had been referred by the Parliamentary Ombudsman prior to 2021. One case was closed, and the recommendation made by the Ombudsman has been implemented. The other seven cases are pending at the Office of the Ombudsman, of which five cases have been pending at the Office of the Ombudsman for more than two years.

MFE  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Accountancy Board</b>
Ombudsman case reference	<b>V 0043</b>
Brief details of case	A complaint from an accountant requesting replacement of a lost warrant certificate.
Action taken and management comments	<p>The case letter was received on 29 March 2021.</p> <p>A reply was sent on 14 April 2021, stating that the Accountancy Board stands by its position that the law does not authorise it to issue a new and fresh warrant certificate to an Accountant once the original one has been issued in terms of Article 4 of the Accountancy Profession Act Cap 281 of the Laws of Malta. The Board proposed the issuing of a certified true copy of the original warrant certificate, together with an accompanying letter indicating the change of surname.</p> <p>After an exchange of correspondence, on 14 September 2021, the Ombudsman issued his final opinion with recommendations.</p> <p>On 13 October 2021 the Accountancy Board informed the Ombudsman that the Accountancy Board will be developing a new procedure to re-issue warrant certificates with the necessary safeguards to curtail any possibility of having two warrant certificates pertaining to the same warrant holder in circulation at the same time. Safeguards included: whenever a change in a certificate is required, the original certificate must be returned in exchange of the new one, and whenever a certificate is lost, an affidavit must be submitted. In both cases, the new certificate bears the date of issue and the date of first registration whereas the originally issued certificate only bears the date of issue thus denoting that a new certificate was re-issued.</p>
Recommendation by the Ombudsman	<p>The case was closed by the Ombudsman on 26 October 2021.</p> <p>The Ombudsman recommended that the Board must re-issue the document to the complainant in their legally correct name. The Board should ensure that warrant holders' documents should be legally correct and up to date, further recommending that measures (legal or otherwise) be put in place to deal with eventualities such as loss or destruction of attestations or the need to update attestations that are no longer correct.</p>
Status	Closed and recommendation implemented

Sector/Department	<b>Air Malta</b>
Ombudsman case reference	<b>V 0004</b>
Brief details of case	A complaint from two employees in connection with non-payment of salary.
Action taken and management comments	<p>The case letter was received on 20 January 2021, stating that two employees were not paid €3,000 each in their salary (indicated as take-home pay). It was explained that the employees were transferred from cabin crew to office duties whilst pregnant and should have included this take-home pay as indicated in an agreement with the Cabin Crew Union.</p> <p>A reply was sent to the Ombudsman by the Company lawyer on 8 April 2021, stating that the complainants' claim relates to 'Take Home Pay' for 2019. It was indicated that due to the pandemic situation 'Take Home Pays' of all cabin crew employees had been halted and salaries were capped to €1200 per month, unless any such additional duties assigned passed that threshold.</p> <p>Discussions remained ongoing, and the Company had evaluated further arguments by the complainants and subsequently an amicable solution was agreed upon in June 2021.</p> <p>On 17 August 2021, Ombudsman informed Air Malta that the complainants declared that they did not intend to pursue their complaint further. Subsequently the case was declared closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Commissioner for Revenue (Capital Transfer Duty)</b>
Ombudsman case reference	<b>OMB-21-2166</b>
Brief details of case	A complaint in connection with the payment of tax following a declaration causa mortis.
Action taken and management comments	<p>The case letter was received on 8 July 2021.</p> <p>The complainants proceeded to make a declaration causa mortis. It later transpired that the document had included erroneous statements. To remedy the situation, an additional declaration had to be filed, but the complainants were subject to tax on the previously undeclared property. The complainants requested an exemption under Article 23 of the Duty on Documents and Transfers Act. Their request was refused. The complainants held that the decision was unfair and unjust given the circumstances of this case.</p> <p>On 17 August 2021, the CfR replied to the Ombudsman, stating that the refusal for a request for exemption in terms of Article 23 of Cap 364 was in line with the policy adopted where the omission was not on government's part.</p> <p>After several exchanges of correspondence, the Office of the Ombudsman replied on 6 September 2021, indicating that there was no act of bad administration from the CfR and closed the case.</p>
Status	Closed without recommendation
Sector/Department	<b>Commissioner for Revenue (Customs)</b>
Ombudsman case reference	<b>OMB-21-2231</b>
Brief details of case	A complaint regarding double charging in Malta for items bought from the UK through one single order, but items were delivered to Malta in two separate packages.
Action taken and management comments	<p>The case letter was received on 18 August 2021.</p> <p>The Customs Department replied on 2 September 2021, explaining that it resulted that Malta Post, as the Customs' representative, had billed the complainant for the wrong amount. However, the packages were never declared or presented to Customs, and the amount paid was not remitted to the Department.</p> <p>Meanwhile, MaltaPost Ltd had to reimburse the complainant, and the latter was informed accordingly.</p>
Status	The Ombudsman closed the case on 3 September 2021.
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Commissioner for Revenue (Customs)</b>
Ombudsman case reference	<b>V 0042</b>
Brief details of case	A complaint regarding allegedly unfair customs duty
Action taken and management comments	<p>The case letter was received on 22 April 2021.</p> <p>The Customs Department replied on 6 May 2021, stating that following the necessary investigations, it resulted that the complainant had failed to provide evidence that the items received were sent for repair.</p> <p>On 12 May 2021, the Ombudsman asked whether the items in question were being released from Customs. On the same day, the Customs Department replied that given that the importer was refusing to pay the taxes due, the courier did not submit the import declaration and was still waiting for the importer's acceptance. The items were subsequently released.</p> <p>The Ombudsman replied on 18 May 2021, stating that case was being closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Commissioner for Revenue (Inland Revenue)</b>
Ombudsman case reference	<b>OMB-21-2096</b>
Brief details of case	A request for the refund of final withholding tax after opting to submit separate tax returns by spouses.
Action taken and management comments	<p>The case letter was received on 11 June 2021.</p> <p>CfR replied to the Ombudsman on 16 June 2021, referring to Article 49A(5)(a)(ii) of the Income Tax Act Cap 123, which clearly states that when a married couple opts for separate tax returns, any investment income earned by either spouse will be liable to 15% final withholding tax.</p> <p>The Ombudsman closed the case on 22 June 2021.</p>
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Commissioner for Revenue (Inland Revenue)</b>
Ombudsman case reference	<b>OMB-21-2102</b>
Brief details of case	A complaint in connection with tax rebate relating to rented property.
Action taken and management comments	<p>The complaint letter was received on 2 July 2021.</p> <p>CfR replied to the Ombudsman on 8 July 2021, stating that the complainants had been assisted with their tax rebate claim and the rebate due was granted accordingly.</p> <p>The Ombudsman closed the case on 9 July 2021.</p>
Status	Closed after the management replied to one request for information.
Sector/Department	<b>Commissioner for Revenue (Inland Revenue)</b>
Ombudsman case reference	<b>OMB-21-2105</b>
Brief details of case	A complaint in relation to a refund due after a taxpayer qualified in terms of the Micro-Invest Tax Credit.
Action taken and management comments	<p>The case letter was received on 2 July 2021.</p> <p>The CfR replied to the Ombudsman on 8 July 2021, stating that the refund was adjusted accordingly with interest due, and was to be issued to the complainant.</p> <p>The complainant had filled in the application incorrectly. A new practice has been adopted to assist taxpayers with the filling of applications.</p> <p>The Ombudsman closed the case on 9 July 2021.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Commissioner for Revenue (Inland Revenue)</b>
Ombudsman case reference	<b>OMB-21-2245</b>
Brief details of case	A complaint in connection with taxation of Malta Pension Investment and the related tax refund.
Action taken and management comments	<p>The case letter 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 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 PAYE conditions in countries not related to Malta to provide post-retirement benefits. These were transferred to Malta on retirement. The complainant claimed that 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 that this policy was devastating their pension plans.</p> <p>The 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 as they are considered to be arising in Malta. Regarding the complainant's tax position, the relevant double tax treaty between Malta and South Africa was invoked, wherein Article 18 – Pension and Annuities – gives 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.</p> <p>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.</p>
Status	Pending at Ombudsman

Sector/Department	<b>Commissioner for Revenue (Inland Revenue)</b>
Ombudsman case reference	<b>OMB-21-2478</b>
Brief details of case	A complaint regarding an application for tax credit and a request for remission of additional tax.
Action taken and management comments	<p>The complaint letter was received on 15 December 2021.</p> <p>The CfR replied to the Ombudsman on 22 December 2021, stating there was an overlap of requests filed by the taxpayer, namely an application for a tax credit and a request for remission of additional tax. The taxpayer never addressed the issue with the CfR holistically. However, the issues were sorted out. In fact, the complainant had contacted the Ombudsman to withdraw the case.</p> <p>The Ombudsman replied to the CfR on 22 December 2021, stating that it was informed that the Remissions Board had informed the complainant that the amount deducted was being waived and refunds were to be issued. Since the issue had been resolved, the Ombudsman proceeded to close the case.</p>
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Commissioner for Revenue (Inland Revenue)</b>
Ombudsman case reference	<b>V 0064</b>
Brief details of case	A complaint regarding a decrease in pension because of missing contribution records at the Social Security Department.
Action taken and management comments	<p>The case letter was received on 29 April 2021.</p> <p>On 31 May 2021, the CfR replied to the Ombudsman, stating that the information requested (the missing contributions' record) was forwarded to the complainant.</p> <p>The case was closed by the Ombudsman on 1 June 2021.</p>
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Commissioner for Revenue (VAT)</b>
Ombudsman case reference	<b>OMB-21-2544</b>
Brief details of case	A complaint in connection with the wedding grant.
Action taken and management comments	<p>The complaint letter was received on 7 January 2022.</p> <p>The CfR replied to the Ombudsman on 26 January 2022, clarifying that on 29 December 2021 an official from the CfR had requested the complainant to provide further details to settle the issue.</p> <p>On 26 January 2022, the Ombudsman clarified that he was not aware of the correspondence between complainant and the CfR dated 29 December 2021, which took place after the submission of the complaint to the Ombudsman.</p> <p>The Ombudsman closed the case on 26 January 2022.</p>
Status	Closed after management replied to one request for information.
Sector/Department	<b>Jobsplus</b>
Ombudsman case reference	<b>OMB-21-2215</b>
Brief details of case	A complaint from an individual alleging that they were removed from the Part 1 and placed on Part 2 of the jobseekers register, with the consequence that they were not being credited the social security contributions for this period.
Action taken and management comments	<p>The case letter was received on 10 August 2021.</p> <p>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 for them 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 in order 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 if they wished. Jobsplus had no evidence that the complainant had ever lodged an appeal.</p> <p>On 30 September 2021, the Ombudsman requested further clarifications which were provided by Jobsplus on 7 October 2021.</p>
Status	Pending at Ombudsman

Sector/Department	<b>Jobsplus</b>
Ombudsman case reference	<b>OMB-21-2336</b>
Brief details of case	A complaint from an asylum seeker who was previously granted an employment licence, however, was subsequently refused a renewal.
Action taken and management comments	<p>The case letter was received on 13 September 2021.</p> <p>On 25 October 2021, Jobsplus sent a reply, maintaining that it could not reconsider its decision since it had been based on feedback from the Immigration Police.</p> <p>However, the complainant could have appealed against the decision of Jobsplus or the Principal Immigration Officer with the National Employment Authority in terms of the Employment and Training Services Act 2018, or the Immigration Appeals Board, before resorting to the Ombudsman.</p> <p>Furthermore, Jobsplus explained that it was the Minister (who delegated the authority to Jobsplus) who issues the employment licence. Article 3 states that "The Minister may grant a licence for any of the purposes mentioned in sub-article (1) or (2) for such period and under such conditions as he shall think fit and may at any time cancel or vary the conditions of any such licence." Thus, Jobsplus had a right to review and change policies to fit the national circumstances.</p> <p>Jobsplus had acted in line with Government policy in issuing employment licences to asylum seekers and failed asylum seekers. The policy states that asylum seekers and failed asylum seekers are to be subjected to security clearance by the Police before an employment licence is issued.</p> <p>Security clearance by the Police Department was not granted; therefore, Jobsplus had to reject the application for the issue of an employment licence.</p> <p>The Ombudsman did not report any irregular or unjust practices on behalf of Jobsplus. The Ombudsman took note of the clarifications provided and decided that the complainant ought to seek redress through the avenues provided by law. The Ombudsman closed the case on 1 November 2021.</p>
Status	Closed without recommendation

Sector/Department	<b>Malta Financial Services Authority (MFSA)</b>
Ombudsman case reference	<b>OMB-21-2413</b>
Brief details of case	A complaint regarding the change of classification of a Company Service Provider (CSP) from Class C Licence to Under Threshold Class A Licence.
Action taken and management comments	<p>The complaint was received on 17 November 2021.</p> <p>MFSA replied to the Ombudsman on 17 December 2021, reiterating that the complainant can re-apply for a CSP Class A Licence once they regularise their position, by fully ending her active engagements falling under Licence Class C and by disclosing the necessary Forms of a Registered Office disassociation with the Malta Business Registry.</p> <p>In a letter received from the Ombudsman Office dated 9 February 2022, the MFSA was notified that the case was closed.</p>
Status	Closed after the management replied to one request for information.



MFE  
**Parliamentary Ombudsman Pre 2021**

Sector/Department	<b>Air Malta</b>
Ombudsman case reference	<b>S 0105</b>
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 was carried out.</p> <p>All the requested documentation was provided to the Ombudsman to prove that the company followed a clean and fair process. A meeting, upon the request of the Ombudsman, was held on 18 December 2018 between both parties, and the case was discussed in detail. Awaiting the evaluation and final recommendation from the Ombudsman.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman
Sector/Department	<b>Central Bank</b>
Ombudsman case reference	<b>U 0177</b>
Brief details of case	A confidential case
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Commissioner for Revenue (Capital Transfer Duty)</b>
Ombudsman case reference	<b>U 0098</b>
Brief details of case	A complaint raised by an individual regarding an unregistered deed published by the notary. The respective duty was paid to the notary, but the amount was not paid to CfR.
Action taken and management comments	<p>The case was received on 21 July 2020. The complainant acquired a property following a deed with the notary and the vendors. On the same day of the deed, the complainant paid the respective duty and tax as required by law to the notary. However, the latter failed to pass on the tax and duty payments to the pertinent authority, with the consequence that the transfer of property could not be registered in the Public Registry unless the stamp duty is paid again to the Commissioner for Revenue (CfR). The complainant insisted that the failure by the notary should not prejudice the rights of the third parties who acted in line with the law.</p> <p>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 relative payment of 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.</p> <p>Upon further queries, the CfR provided the Ombudsman with the requested information on 7 April 2021.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Commissioner for Revenue (Capital Transfer Duty)</b>
Ombudsman case reference	<b>U 0123</b>
Brief details of case	<p>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).</p>
Action taken and management comments	<p>The case letter was received on 4 August 2020.</p> <p>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 as the CfR refused to pre-stamp the note of enrolment earmarked for registration, unless the tax and duty already paid to the notary by complainants was paid to the CfR. The CfR sent the reply to the Ombudsman on 24 August 2020.</p> <p>Upon further queries, the CfR provided the Ombudsman with the requested information on 7 April 2021.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

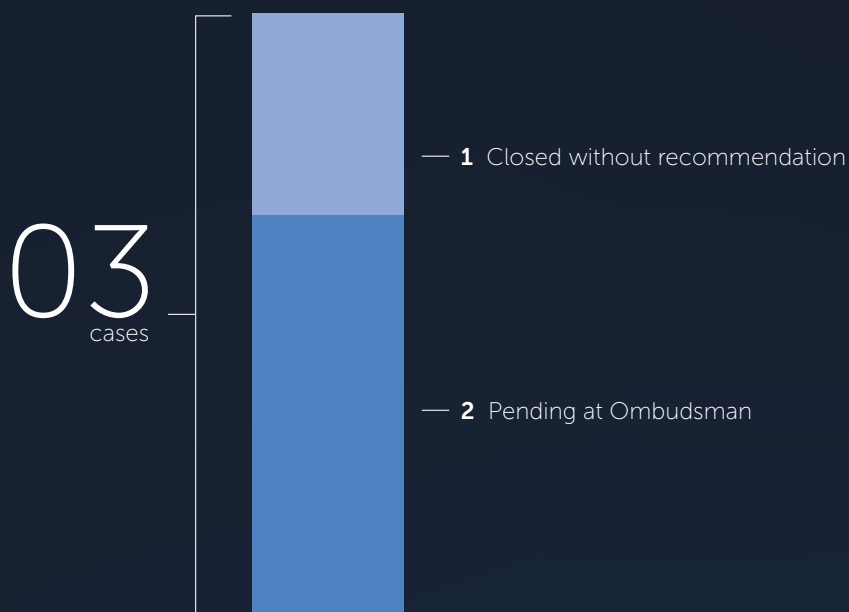
Sector/Department	<b>Commissioner for Revenue (Customs)</b>
Ombudsman case reference	<b>S 0046</b>
Brief details of case	A complaint was received in connection with the refusal by Customs Department to release a consignment of items.
Action taken and management comments	<p>The case letter was received on 26th 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 of the SMB.</p> <p>On 25 April 2019, the Ombudsman confirmed that the file was being reviewed to verify whether further information was required. No further progress was reported.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman
Sector/Department	<b>Commissioner for Revenue (Customs)</b>
Ombudsman case reference	<b>U 0018 (ex T 0124)</b>
Brief details of case	A complaint regarding a company requesting payment from 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 the port workers.
Action taken and management comments	<p>The case letter was received on 20 May 2019.</p> <p>After several exchanges of correspondence with the Ombudsman, on 6 December 2019, MFIN submitted the required information, explaining the facts and listing those vehicles used for transportation that had a licence to transport goods, those that did not exist, and those that were not authorised to transport the goods and did not belong to the importers in this case. 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. A clarification meeting was carried out with the Ombudsman in March 2020.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Commissioner for Revenue (Inland Revenue)</b>
Ombudsman case reference	<b>U 0055</b>
Brief details of case	<p>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 their business was forced to close, but they 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 their NACE Code.</p>
Action taken and management comments	<p>The case letter was received from the Ombudsman on 13 April 2020 stating that the Ministry for the Economy, Investment and Small Business, had informed the complainant that according to their NACE code, they did not qualify for financial aid. The complainant requested NSO to revise his NACE Code however this request was refused.</p> <p>CfR replied on the same date stating that financial aid schemes were administered and approved by ME not CfR. Nonetheless, CfR could consider changing the NACE Code should the applicant prove that his activity corresponded to another NACE code.</p> <p>As on October 2022, the complainant's registered NACE Code with CfR remained unchanged.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Commissioner for Revenue (VAT)</b>
Ombudsman case reference	<b>R 0229</b>
Brief details of case	<p>A complaint regarding an alleged wrong procedure carried out by the VAT Department in treating an undertaking. The VAT Department insisted that the directors of a foreign company who applied for registration had to be physically present. It was claimed that the VAT Department did not require the directors of another company to be physically present in Malta when the latter had applied for VAT registration under the same criteria.</p>
Action taken and management comments	<p>The complainant wished to obtain a VAT registration number on behalf of their client, in terms of Articles 10 to 17 of the VAT Act. The complainant referred to a case of another undertaking known to have obtained the same registration without its foreign clients having been physically present in Malta. This was possible as the latter company had presented all documentation, including the power of attorney, required for registration, whilst the complainant had failed to provide all the necessary documentation.</p> <p>After several exchanges of correspondence, on 20 January 2022, the Ombudsman closed the investigation and issued a Final Opinion with recommendations for the attention of the CfR.</p> <p>On 16 February 2022, the CfR sent a final reply to the Ombudsman, indicating that remedial action was taken in connection with the recommendations. It was explained that the registration system had been overhauled and applications are being submitted online.</p> <p>Updated operating procedures were drawn up in 2020. Furthermore, record-keeping is kept updated through the system.</p>
Recommendation by Ombudsman	<p>The Ombudsman recommended:</p> <ul style="list-style-type: none"> <li>(a) A review of record-keeping processes to identify failures and introducing new measures to rectify the said failures.</li> <li>(b) The putting-in-place of manuals of procedures and policies to ensure procedures and policies are consistently and homogenously applied across the board.</li> </ul>
Status last year	Pending at Ombudsman
Status	Closed and recommendation implemented



## MINISTRY FOR FOREIGN AND EUROPEAN AFFAIRS AND TRADE



In 2021, no new cases were referred by the Ombudsman to the Ministry for Foreign and European Affairs and Trade. Three cases were pending from previous years. One of these cases was closed by the Ombudsman without making a recommendation, while the other two cases are pending at the Office of the Ombudsman. One of the cases has been pending at the Office of the Ombudsman for more than 24 months.

MFET  
**Parliamentary Ombudsman Pre 2021**

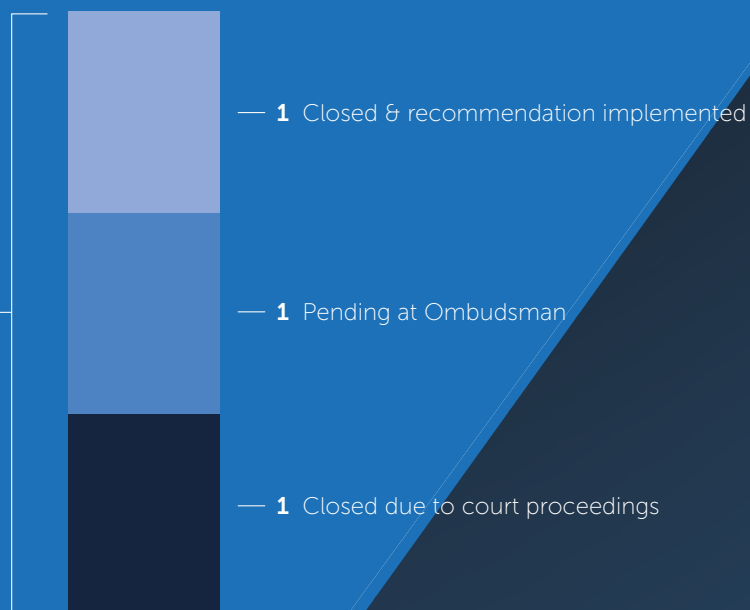
Sector/Department	<b>Foreign and European Affairs (MFEA)</b>
Ombudsman case reference	<b>R 0130</b>
Brief details of case	A complaint regarding conditions of service. An officer who was appointed to a higher position was complaining that the conditions of service they enjoyed in their previous position had not been extended to their new higher position. The complainant is claiming discriminatory treatment.
Action taken and management comments	<p>The complainant's personal file was forwarded to the Ombudsman in September 2019.</p> <p>As no communication was received from the Office of Ombudsman, on 6 October 2021, the Ombudsman was informed by MFEA that the case was considered as closed on the part of MFEA.</p> <p>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.</p> <p>On 14 October 2022, the Ombudsman informed MFET that the case will be closed by end of year.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Foreign and European Affairs (MFEA)</b>
Ombudsman case reference	<b>R 0211</b>
Brief details of case	<p>A complaint concerning an officer who was not appointed to a higher position when taking over the duties of the officer selected for the position who took up duties elsewhere.</p> <p>Furthermore, the complainant claimed that despite continuing to carry out the duties of this higher position, no deputising allowance was granted.</p>
Action taken and management comments	<p>On 22 January 2018, the Ministry informed the Office of the Ombudsman that it had made a request to P&amp;SD for the complainant to be appointed to the higher position on a back-to-back basis. This request was not approved as it did not conform with the applicable Manual and with P&amp;SD Circular No 05/2017 dated 8 February 2017.</p> <p>On 4 January 2021, the Ombudsman requested further clarifications. After verifying information with the P&amp;SD, the Ministry informed the Ombudsman on 24 March 2021, regarding the applicability of back-to-back appointments, a policy which had been discontinued in early 2017.</p> <p>Moreover, MFEA had submitted a request to P&amp;SD for a deputising allowance in November 2018, which was approved with effect from 18 December 2018, for a period of 6 months or until the position was filled.</p> <p>A subsequent request to P&amp;SD to consider granting the deputising allowance with effect from 11 April 2017, had not been approved, as the officer had not made a formal request and P&amp;SD did not agree to the retroactive payment of the allowance.</p> <p>On 11 October 2022, the Ombudsman informed MFET that the case had been closed on 28 December 2021, and that the Ministry’s arguments were upheld.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Foreign and European Affairs (MFEA)</b>
Ombudsman case reference	<b>U 0218</b>
Brief details of case	<p>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.</p>
Action taken and management comments	<p>The case was received on 24 November 2020.</p> <p>MFEA had already been addressing the contractual matter, that is, that the employment was not covered with a contract beyond August 2019.</p> <p>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).</p> <p>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.</p> <p>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.</p> <p>Nonetheless, the Ombudsman insisted to be provided with the legal basis for withholding allowances. On 26 February 2021, the Ministry replied that basis for withholding payment of allowances was the CoS. MFEA explained that allowances were withheld in view of the complainant's failure to comply with procedures. Following the signing of the pertinent contract, MFEA approved the payment of the allowances.</p> <p>All allowances were paid to the officer concerned between 16 March 2021 and 9 April 2021.</p> <p>On 7 October 2021, the Ombudsman requested clarification on a remaining balance the complainant was claiming as being due to them.</p> <p>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 certain information was still unavailable.</p> <p>As on 6 January 2022, all pending payments were effected to the complainant and on 14 October 2022, the Ombudsman was informed accordingly.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

## MINISTRY FOR GOZO

03  
cases



In 2021, the Ministry for Gozo (MGOZ) dealt with two cases referred to it by the Parliamentary Ombudsman. One case was opened in 2021 and closed during the same year with the recommendations being implemented. The other case was carried forward from previous years, and during 2021 it was declared closed by the Office of the Ombudsman due to Court proceedings.

MGOZ also dealt with one case received from the Commissioner for the Environment and Planning. This case is pending at the Office of the Ombudsman.

MGOZ  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Gozo Channel (Operations) Ltd</b>
Ombudsman case reference	<b>V 0028</b>
Brief details of case	A complaint lodged by an unsuccessful candidate raising matters on the selection process for a post with Gozo Channel Ltd.
Action taken and management comments	<p>The case was received on 15 March 2021. Documents related to the selection process were sent by the Ministry for Gozo (MGOZ) to the Office of the Ombudsman on 22 March 2021. Several issues that were raised by the Ombudsman were replied to by MGOZ on 1 April 2021.</p> <p>On 19 August 2021, the Ombudsman sent his Final Opinion.</p> <p>On 28 August 2021, Gozo Channel Ltd confirmed that the Ombudsman's recommendations have been noted and will be implemented.</p> <p>The case was closed on 19 August 2021.</p>
Recommendation by Ombudsman	<p>The Final Opinion included four recommendations:</p> <ul style="list-style-type: none"> <li>• measures to be put in place for proper retention of records to ensure eligibility criteria are adhered to.</li> <li>• proper record keeping of how the candidate satisfies, or otherwise, the eligibility criteria.</li> <li>• minutes of each candidate's performance during the interview must form part of Selection Board's reports.</li> <li>• ascertaining that the appointee satisfies the eligibility criteria.</li> </ul>
Status	Case closed and recommendations implemented

MGOZ  
**Parliamentary Ombudsman Pre 2021**

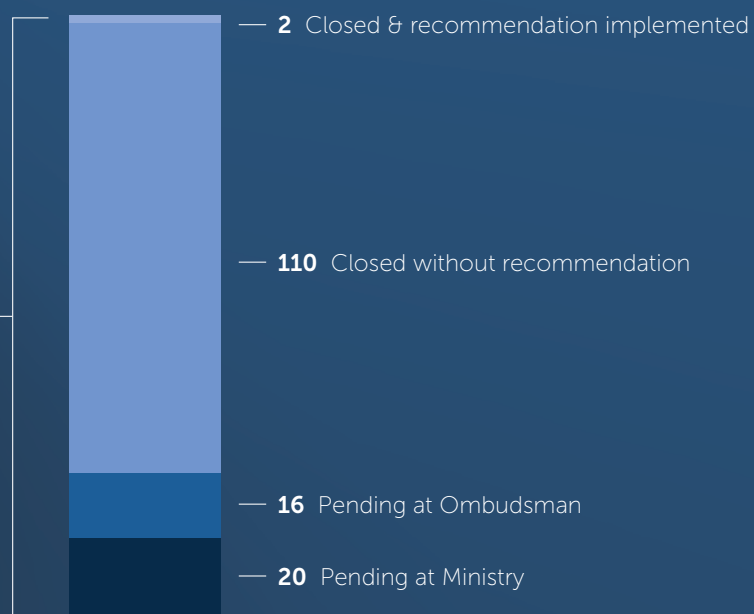
Sector/Department	<b>Strategy &amp; Support Division</b>
Ombudsman case reference	<b>R 0099</b>
Brief details of case	A complainant who felt aggrieved after missing out on a promotion. Two officers were transferred on a temporary basis to fill in vacancies in the grade for which the complainant had applied. The complainant claimed that they should have been promoted to fill the vacancy instead of resorting to temporary redeployments.
Action taken and management comments	<p>MGOZ could not implement the Ombudsman's recommendation dated 1 December 2017, since there were no vacancies for the position in question. Two other officers in this grade were moved temporarily to the site where the complainant had applied due to the seasonality of their work and in accordance with the principle of flexibility of employees and exigencies of the service.</p> <p>The complainant filed a judicial protest, and the matter is pending at the law courts.</p>
Recommendation by Ombudsman	The Ombudsman recommended that the case be reviewed with the aim of providing redress.
Status last year	Suspended due to Court proceedings
Status	Closed due to Court proceedings

MGOZ  
**Commissioner for Environment  
& Planning 2021**

Sector/Department	<b>Wild Birds Regulation Unit</b>
Ombudsman case reference	<b>CEP-21-1932</b>
Brief details of case	A complaint regarding alleged unfair treatment in authorising bird-related research by Birdlife.
Action taken and management comments	<p>The case was received on 2 June 2021.</p> <p>Meetings were scheduled by the Office of the Ombudsman to further discuss issues raised for a better understanding of the matters involved. 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 Secretary and Chairman of the ORNIS Committee. The ORNIS Committee submitted its opinion to the Ombudsman on 26 January 2022.</p> <p>MGOZ is awaiting a response from the Ombudsman following the reports submitted and the meetings held between the ORNIS Committee and his Office.</p>
Status	Pending at Ombudsman

## MINISTRY FOR HEALTH

148  
cases



In 2021, the Ministry for Health (MFH) dealt with a total of 148 cases received from the Commissioner for Health (CfH).

103 cases were received in 2021, out of which 92 cases were closed without a recommendation by the CfH. Six cases are pending at the Ministry and five cases are pending at the Office of the Ombudsman.

MFH dealt with 45 complaints which had been lodged prior to 2021. Two cases were closed and CfH's recommendations have been implemented. 18 cases were closed without any recommendation being made by the CfH. 14 cases are pending at the Ministry and 11 cases are pending at the Office of the Ombudsman.

MFH  
**Commissioner for Health 2021**

Sector/Department	<b>Central Procurement Services Unit (CPSU)</b>
Ombudsman case reference	<b>CH/5/P65</b>
Brief details of case	A query by the Commissioner for Health (CfH) regarding out-of-stock uncemented hip implants
Action taken and management comments	<p>The case was received on 8 January 2021.</p> <p>On 2 February 2021, the CfH was informed that, contrary to clinical experts' forecast, the supply under the previous agreement did not last until the end of 2020. Moreover, the award of the new contract was delayed by four months from the beginning of September 2020, owing to a lack of appropriate certification by the contractors. The CfH was also informed that Ministry for Health (MFH) was awaiting the endorsement of a new contract by the new supplier.</p> <p>On 1 March 2021, the Commissioner was further informed that all hip replacements implants (both cemented and un-cemented) were in stock.</p> <p>On 3 March 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH/5/P61</b>
Brief details of case	An enquiry by the Commissioner for Health (CfH) about novel anticoagulants (NOACS).
Action taken and management comments	<p>The case was received on 12 May 2021. The CfH stated that the NOACS were not meant to be used vice warfarin but as prophylaxis following joint replacement surgery. He enquired whether the change from warfarin to the NOACS was in the pipeline.</p> <p>On 2 June 2021, the CfH was informed that NOACS were included on the government formulary as prophylaxis of thromboembolism following elective knee and hip surgery. This pharmaceutical service was expected to be extended for the treatment of other conditions. It was not envisaged that NOACS would replace warfarin completely and warfarin would always be required for those patients who were allergic to NOACS, or where NOACS are contraindicated.</p> <p>On 8 July 2022, the CfH forwarded a copy of newspaper article confirming the inclusion of the medication in the Government Formulary List and noted also that medication was made available through POYC. He also enquired whether the medication was available to all patients as indicated by their consultant or whether it was limited to certain conditions for which a Protocol will be issued. The Commissioner was immediately informed that Rivaroxaban had been approved and made available for patients in line with the agreed protocol.</p> <p>On 19 October 2022, the CfH confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH/5/P68</b>
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>
Status	Pending at Ministry
Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH-21-1465</b>
Brief details of case	A complaint concerning a submission to the Exceptional Medicinal Treatment Committee (EMTC), which was not approved. The patient was requesting re-consideration of the case.
Action taken and management comments	<p>The case was received on 20 May 2021.</p> <p>On 15 June 2021, the Commissioner for Health (CfH) was informed that the EMTC could not approve the request in question, as its request for further information and adverse drug reaction reports had been left unanswered.</p> <p>On 29 December 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH-21-1984</b>
Brief details of case	A complaint regarding a UK/Maltese citizen who was sent to Milan for treatment. His wife requested that her husband be sent to the UK where the radiotherapy needed was provided, thus avoiding surgery and stay with family in the UK.
Action taken and management comments	<p>The case was received on 30 April 2021.</p> <p>On 15 June 2021, the Commissioner for Health (CfH) was informed that after consultation with the Consultant Clinical Oncologist, it was decided to treat the patient in the UK, as requested.</p> <p>On 24 June 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH-21-2069</b>
Brief details of case	A complaint regarding a patient diagnosed with a very serious rare disease. The complainant requested that a particular drug be made available for the patient to prevent further deterioration.
Action taken and management comments	<p>The case was received on 25 May 2021.</p> <p>On 8 July 2021, the Commissioner for Health (CfH) was informed that the Directorate for Pharmaceutical Affairs (DPA) had not yet received a related request from the patient's caring consultant. Once the request was received, the matter would be referred for the consideration of the Exceptional Medicinal Treatment Committee (EMTC), whose conclusions would be acted upon by the DPA.</p> <p>On 23 August 2021, the CfH informed MFH that the related request from the patient's caring consultant was sent directly to DPA's Office and was to be discussed during the following EMTC meeting.</p> <p>On 9 December 2021, the CfH was informed that in October 2021, the patient's caring consultant was notified and given the reasons why the request for the requested drug could not be favourably considered by the EMTC. He was also notified that if a review was desired, it was recommended that the patient consults with his consultant in six months' time, and the latter submits another application, if deemed necessary. The application should include any new developments. The application would then be reviewed by the DPA and referred for the EMTC's reconsideration.</p> <p>On 11 April 2022, MFH was informed by the CfH that a reply from claimant's consultant was still awaited.</p> <p>On 16 May 2022, the CfH forwarded scientific evidence from consultant about the requested drug.</p> <p>On 14 June 2022, the Commissioner was forwarded a full detailed report about the unsustainability of the cost of the mentioned medicines.</p> <p>On 20 June 2022, the Commissioner replied, enquiring why treatment would not be given to the patient even though the patient was reported to be responding well to the treatment.</p> <p>On 13 July 2022, the Commissioner was informed that this was a very high-cost medication, with a high degree of uncertainty of effectiveness. These were also arguments made by the experts at the National Institute for Health and Care Excellence (NICE), as to why this drug should not be made available on the NHS.</p> <p>On 1 August 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH-21-2149</b>
Brief details of case	A complaint regarding a request for refund of medical expenses incurred abroad.
Action taken and management comments	<p>The case was received on 17 June 2021.</p> <p>On 14 July 2021, the Commissioner for Health (CfH) was informed that the case was being processed by the Cross Border Unit. Since the claimant had failed to submit all the requested information, the Unit established and maintained regular contact with a relative of the complainant, who was acting as an intermediary and facilitating the provision of the missing documentation. Once the full documentation was received, the medical expenses incurred abroad would be effected, if these qualified for a refund.</p> <p>On 12 August 2021, the CfH communicated that the requested documents had been handed in personally at the Ministry.</p> <p>On 24 August 2021, the Commissioner was informed that the documents provided needed to be translated. On 18 April 2022, the CfH enquired about the documents and receipts submitted.</p> <p>On 26 April 2022, the Commissioner was informed that documents including medical reports, invoices and evidence of payments were missing and the claim could not be processed before all the required documentation was submitted.</p> <p>On 31 August 2022, the Commissioner was informed that the claimant would be reimbursed for all the expenses incurred for treatment in Germany in 2014. However, as other documentation was not produced, reimbursement for other treatment could not be effected.</p> <p>On 19 October 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH-21-2186</b>
Brief details of case	A complaint concerning a submission to the Exceptional Medicinal Treatment Committee (EMTC), which was not approved.
Action taken and management comments	<p>The case was received on 7 July 2021. The patient was requesting reconsideration of the case.</p> <p>In October 2021, following further development on the case, the patient was directly informed that the medicine had been approved and later it was confirmed that medicine had been provided to the patient.</p> <p>On 3 February 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH-21-2213</b>
Brief details of case	An enquiry by the Commissioner for Health (CfH) whether it was possible to procure a medication as liquid instead of in tablet form.
Action taken and management comments	<p>The case was received on 15 July 2021.</p> <p>On 12 October 2021, the CfH was informed that several issues had to be resolved with the supplier due to safety concerns. Nonetheless, the required medicine in liquid form was in stock.</p> <p>On 29 October 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH-21-2354</b>
Brief details of case	A complaint regarding refund for expenses incurred for treatment abroad.
Action taken and management comments	<p>The case was received on 16 September 2021. The complainant maintained that they were entitled to be sent abroad for treatment. Moreover, the complainant requested that treatment expenses be partially paid by MFH.</p> <p>On 4 October 2021, the Commissioner for Health (CfH) was informed that documentation provided proved that the claimant could benefit under the Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare article 7(b). This entitled the claimant to be reimbursed for the treatment provided abroad.</p> <p>However, on 8 February 2022, the CfH was informed that, further investigations carried out confirmed that the claims made were negated by the cardiologist concerned.</p> <p>On 26 August 2022, the consultant informed the complainant that they were not entitled to treatment abroad. It was explained that reimbursement could only be done within the parameters of the law. Certain post-consultation procedures, as listed in the Cross Border Directive, were not refundable, unless prior MFH approval was granted through the appropriate channels.</p> <p>On 19 October 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH-21-2356</b>
Brief details of case	A complaint regarding a refusal by Exceptional Medicinal Treatment Committee (EMTC) to grant treatment to a person who was diagnosed with cancer.
Action taken and management comments	<p>The case was received on 19 September 2021.</p> <p>On 23 November 2021, the Commissioner for Health (CfH) was informed that further to the decision to place this drug on the formulary, the matter was at the Health Technology Assessment (HTA) stage.</p> <p>Caring consultants had also been requested to communicate the number of beneficiaries, on which basis the necessary estimations could be carried out.</p> <p>On 9 December 2021, the Commissioner was further informed that the necessary procedures were being pursued so that the drug for the approved indications would be included on the Government Formulary List (GFL).</p> <p>On 29 December 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation
Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH-21-2408</b>
Brief details of case	A claim regarding treatment in the form of a self-administered pen instead of a syringe.
Action taken and management comments	<p>The case was received on 11 October 2021.</p> <p>On 9 March 2022, the Commissioner was informed that that a new tender for self-administered prefilled stocks was awarded. There was some stock, procured under the previous tender, which still needed to be utilised prior to the supply from new stocks. This was necessary to avoid waste, ensure the responsible disbursement of public funds, as well as operate reliably and responsibly. The claimant's and other similar requests would be addressed accordingly.</p> <p>On 13 July 2022, the Commissioner was informed that stocks of treatment pens were expected to be dispensed in September 2022.</p> <p>On 16 August 2022, the Commissioner was informed that POYC were supplying the treatment in question in self-administered pens. On 24 October 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH-21-2411</b>
Brief details of case	A complaint regarding a refusal by the Exceptional Medicinal Treatment Committee (EMTC) to grant treatment to a person who was diagnosed with cancer.
Action taken and management comments	<p>The case was received on 11 October 2021.</p> <p>On 23 November 2021, the Commissioner for Health (CfH) was informed that further to the decision to place this drug on the formulary, the matter was at the Health Technology Assessment (HTA) stage. Caring consultants had been requested to communicate the number of beneficiaries, on which basis estimations could be carried out.</p> <p>On 9 December 2021, the Commissioner was further informed that the necessary procedures were being pursued so that the drug for the approved indications would be included on the Government Formulary List (GFL).</p> <p>On 29 December 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH-21-2552</b>
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	<p>The case was received on 17 December 2021.</p> <p>On 14 June 2022, the Commissioner for Health (CfH) was informed that:</p> <ol style="list-style-type: none"> <li>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;</li> <li>b) Consultant Psychiatrists were aware of the fact that the dose and frequency of administration of the medication in use needed to be adjusted until the ideal medium was found; and</li> <li>c) the current policy stands and no departures from it were envisaged.</li> </ol> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
Status	Pending at Ministry

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HV 0001</b>
Brief details of case	A complaint regarding a patient who was misdiagnosed and has been waiting for an appointment to be operated upon since June 2020.
Action taken and management comments	<p>The case was received on 5 January 2021.</p> <p>On 9 March 2021, the Commissioner for Health (CfH) was informed that the claimant had failed to attend the Fresh Trauma Clinic on 13 April 2020. Subsequently, they were urgently seen by the Orthopaedic Outpatients Department on 13 July 2020, after they presented persistent pain in the wrist. Due to the COVID-19 pandemic that precipitated the re-deployment of anaesthetic staff and theatre nurse, elective interventions had been put on hold. Following the stabilisation of the situation, the claimant had their pre-op completed, and surgery was scheduled within weeks.</p> <p>On 3 May 2021, the Commissioner was informed that the claimant had been operated on in April 2021, and the case was confirmed as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HV 0008</b>
Brief details of case	A complaint from a patient who needed a formulation that could not be imported any more as it was being used for COVID-19 treatment.
Action taken and management comments	<p>The case was received on 27 January 2021.</p> <p>On 1 February 2021, the CfH was informed that following the onset of COVID-19, the Central Procurement Supplies Unit (CPSU), was alerted that the item would no longer be exported, owing to COVID-19 usage and hence, supplies from the UK supplier were stopped abruptly.</p> <p>CPSU initiated a new procurement cycle, which yielded no results and proceeded to issue the procurement cycle for another three consecutive times, all proving unsuccessful. CPSU also asked the Department of Pharmaceutical Affairs to possibly identify a suitable substitute, for which the market would be tested for its availability. The medicine identified was in use in Italy.</p> <p>The claimant was advised to consider the possibility of switching onto the alternative medicine, since it seemed to be the only available option. MFH was also informed that the patient's clinician was not averse to the new formulation.</p> <p>On 13 April 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HV 0011</b>
Brief details of case	A complaint from a patient's spouse, stating that no proper treatment was given by Maltese professionals and the patient had to go abroad to get different cancer treatments. The claimant requested reimbursement for treatment abroad.
Action taken and management comments	<p>The case was received on 5 March 2021.</p> <p>On 3 May 2021, the Commissioner for Health (CfH) was informed that the office of the CMO was going through the multitude of documents supplied by the claimant, to determine which treatment abroad qualified for reimbursement. Once this procedure was complete, an estimate of the reimbursement value would be made.</p> <p>On 25 January 2022, the CfH requested an update on the developments of the case.</p> <p>On 8 March 2022, the Commissioner was informed that COVID-19 has been the prime priority since March 2020. This necessitated the active engagement of CMO officers in support of the COVID-19 National response, resulting in inevitable delays in other aspects of work.</p> <p>On 12 July 2022, the Commissioner was informed that costs for treatments undertaken had been computed and reimbursement was approved. Approval was referred to the Finance Department and the claimant was to receive payment shortly.</p> <p>On 28 July 2022, the CfH was informed that claimant had received payment.</p> <p>On 31 August 2022, the CfH confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HV 0022</b>
Brief details of case	<p>A complaint regarding a patient who was being treated as an out-patient even though their consultant physician at Mater Dei Hospital (MDH) requested the Exceptional Medicinal Treatment Committee (EMTC) to give treatment to the patient at the hospital.</p>
Action taken and management comments	<p>The case was received on 2 March 2021.</p> <p>Following an EMTC meeting, in May 2021, MFH was informed that according to the EMTC database, the claimant's application had not yet reached the Committee. The Commissioner for Health (CfH) was verbally notified that the claimant was to be advised to check with his consultant about his application.</p> <p>On 15 June 2021, the Directorate for Pharmaceutical Affairs requested the caring consultant to provide a Schedule V condition that led to the claimant's condition so that the requested treatment could be approved.</p> <p>On 17 June 2021, MFH was informed that the claimant had passed away.</p> <p>On 21 July 2021, the Commissioner requested that the family be refunded the expenses of the medicine they had bought.</p> <p>On 5 August 2021, the Commissioner was informed that the claimant had not been entitled to the requested free medicine since the condition from which they suffered was not listed under Schedule V – List of Chronic Diseases of the Social Security Act. With regard to the request for refund to the claimant's family, the CfH was informed that, as stated in various occasions, refunds were not permissible.</p> <p>On 10 August 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HV 0025</b>
Brief details of case	A request for a particular treatment that had been bought with the help of the Community Chest Fund. The treatment being offered by the local hospital was causing patient pain for days after the administration of the injection.
Action taken and management comments	<p>The case was received on 5 March 2021.</p> <p>On 14 June 2021, the Commissioner for Health (CfH) was informed that the patient's consultant referred the request for either of two medicines for the consideration of the Exceptional Medicinal Treatment Committee (EMTC) in October 2019. The request was approved by the EMTC.</p> <p>On 16 June 2021, the CfH requested that the patient be given one specific medicine as the patient was having problems with the other option. MFH replied that the request by his caring consultant was for either/or both medicines and there was no pursuant clinical documentation attesting to the claimant's request.</p> <p>On 23 November 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HV 0028</b>
Brief details of case	A claim from a patient who needed treatment that cost around €200,000 per patient per year.
Action taken and management comments	<p>The case was received on 16 March 2021. The Commissioner for Health (CfH) stated that the number of patients who would be eligible for the treatment was very small because the patient must have a particular genetic mutation for the treatment to be effective.</p> <p>On 6 April 2021, the CfH was informed that the respective tender had been issued on 30 March 2021.</p> <p>On 8 July 2021, the Commissioner was informed that the Government had procured the treatment which was also available on the government formulary. The treatment was to be dispensed to the entitled patients via the POYC scheme.</p> <p>On 15 July 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HV 0030</b>
Brief details of case	A request from an Association for the grant of monitors to all Type 1 diabetics, not only those diabetics up to the age of 16.
Action taken and management comments	<p>The case was received on 12 March 2021.</p> <p>On 28 March 2021, the Commissioner for Health (CfH) was informed that the allocation of monitors to Type 1 diabetics up to age 16 was a pilot initiative with a definite period. It was confirmed that this initiative was expected to continue after the termination of the pilot period.</p> <p>On 30 April 2021, the CfH requested confirmation about the extension of the initiative to all Type 1 diabetics, including persons over the age of 16. He also requested if individual patients could be considered if there were strong medical reasons.</p> <p>On 6 May 2021, MFH replied stated that the Government was committed to continue to sustain the initiative for Type 1 diabetics up to the age 16 beyond the pilot period; and that the extension to persons over 16 would be favourably considered for implementation once funds for the purpose were available, as required by the Fiscal Responsibility Act. As regards consideration on an individual basis, the CfH was informed that all requests were considered within the set parameters in force.</p> <p>On 12 May 2021, the Commissioner reiterated his query about the grant of monitors to all Type 1 diabetics.</p> <p>On 14 June 2021, the Commissioner was informed that eligibility for Continuous Glucose Monitors did not cease upon reaching the age of 16.</p> <p>On 25 August 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HV 0039</b>
Brief details of case	A complaint regarding new catheters which were causing infections. The claimant requested to be given the originally prescribed catheters.
Action taken and management comments	<p>The case was received on 6 April 2021.</p> <p>On 9 July 2021, the Commissioner for Health (CfH) was informed that CPSU stocked an alternative product which was equivalent to the brand requested by the claimant. On having been contacted by CPSU, the claimant agreed to make use of this alternative, which was supplied through the POYC.</p> <p>On 22 July 2021, the CfH informed MFH that although the catheters had been provided and there was an improvement when compared to the ones supplied before, the claimant was still having other medical problems caused by these catheters. Therefore, the claimant was still requesting to be given the originally prescribed catheters.</p> <p>On 26 July 2021, the CfH was informed that in such circumstances, the patient needed to consult with the urology outreach team to assess the medical conditions claimed and determine specific requirements. The outreach team would then refer an official report to the CPSU, in line with established policy. The CPSU would then investigate and consult the competent authorities and the manufacturer accordingly.</p> <p>On 23 September 2021, the CfH was informed that the Government of Malta purchases supplies through generic specifications, in accordance with European standards.</p> <p>On 24 November 2021, the CfH was informed that the latest catheters, which claimant found acceptable, were procured through the emergency route and on account of default on the part of the current supplier.</p> <p>On 30 December 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

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 daughter 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; and
- (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, regrettably complete consensus on the way forward had not been achieved, so far.

On 3 October 2022, the Commissioner enquired about any developments on the setting up of the protocol for CPR/DNR.

Status	<p>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.</p> <p>Pending at Ministry</p>
Sector/Department	<p><b>Human Resources</b></p>
Ombudsman case reference	<p><b>HV 0010</b></p>
Brief details of case	<p>A complaint by four employees, alleging that they were the only ones who did not benefit from the sectoral agreement signed between MFH and the respective Union.</p>
Action taken and management comments	<p>The case was received on 9 February 2021.</p> <p>On 12 March 2021, the Commissioner for Health (CfH) was informed that MFH correctly implemented the agreement as signed between MFH and UHM on 15 October 2020. He was also informed that, as stipulated in clause 8.2 of the Collective Agreement for Public Officers (01/01/2017 - 31/12/2024), sectoral agreements were valid for five years from the date of signing and revisions before the lapse of five years could not be entertained.</p> <p>On 16 March 2021, the CfH replied that, due to an oversight, only the four claimants were discriminated against in the Sectoral Agreement and suggested that this agreement be corrected so that there will be no discrimination between the same class of employees.</p> <p>On 12 October 2021, the CfH was informed that claimants had been assimilated in line with the MoU signed on 15 October 2020. Since claimants were already receiving the maximum of salary scale 7 no substantial changes were made. However, the years of service in scale 7 would be given due consideration when calls for applications for scale 6 posts were issued in line with the provisions of the agreement.</p> <p>On 29 October 2021, the CfH enquired whether a side letter could be agreed upon with the respective union.</p> <p>On 9 December 2021, the CfH was informed that during a meeting held with the four claimants, it was explained that the Agreement was being implemented according to its clauses. No changes to the Agreement could be effected until the lapse of five years from the date of its signing. The claimants understood the situation, and MFH was not envisaging any further claims.</p> <p>On 29 December 2021, the Commissioner confirmed the case as closed.</p> <p>Closed without recommendation</p>
Status	<p>Closed without recommendation</p>

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>CH-21-1467</b>
Brief details of case	A complaint by an employee, stating that they were not given the letter of appointment because of missing documentation. The claimant held that they had informed HR MFH by phone that they were accepting the appointment.
Action taken and management comments	<p>The case was received on 20 April 2021.</p> <p>On 24 May 2021, the Commissioner for Health (CfH) was informed that the claimant did not inform MFH about their registration with the Medical Council, following which a recommendation for appointment would have been made.</p> <p>On 15 July 2021, the Commissioner forwarded a copy of a report together with various queries sent to the Public Service Commission (PSC).</p> <p>On 15 November 2021, the CfH was informed that following the PSC's direction, the claimant had been appointed with effect from December 2020.</p> <p>On 23 November 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation
Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>CH-21-1468</b>
Brief details of case	A complaint from an employee stating that their assimilation letter indicated the date of appointment as from November 2020 and not January 2019, as stated in the respective MoU.
Action taken and management comments	<p>The case was received on 26 April 2021.</p> <p>On 24 May 2021, the Commissioner for Health (CfH) was informed that MFH has presented the claimant with an amended assimilation letter effective from 1 January 2019. A copy of this communication and assimilation letter were forwarded to the Commissioner.</p> <p>On 24 May 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>CH-21-1989</b>
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	<p>The case was received on 6 May 2021.</p> <p>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.</p> <p>Meanwhile, MCAST (Malta) delivered a course of studies at MQF Level 6 and claimants could have applied for this course.</p> <p>On 17 November 2021, the CfH sent another report with further enquiries and the following proposals:</p> <ol style="list-style-type: none"> <li>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).</li> <li>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.</li> </ol> <p>On 5 January 2022, the CfH was forwarded a detailed explanation with regard to the queries raised in his report.</p> <p>On 18 April 2022, the Ministry contacted the CfH to follow up on the case and the latter insisted that his proposals be addressed.</p> <p>On 19 April 2022, the Commissioner was informed that with regard to 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. With regard to 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.</p> <p>On 22 April 2022, the Commissioner forwarded further queries which were passed on the Ministry's legal office for advice.</p> <p>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.</p>
Status	Pending at Ministry

Sector/Department

## Human Resources

Ombudsman case reference

**CH-21-2050**

Brief details of case

A complaint regarding work which was being performed by contracted workers instead of by Government employees. Moreover, contracted workers were being paid much less than Government employees meaning, precarious work in Government institutions.

Action taken and management comments

The case was received on 18 May 2021.

On 23 July 2021, the Commissioner for Health (CfH) was informed that, following several discussions with all pertinent stakeholders, an agreement was reached with the respective union and industrial actions were withdrawn. In the meantime, service provision never ceased in view that contractual workers were engaged to replace health care workers who were following industrial actions.

On 29 July 2021, the CfH requested further clarifications.

On 9 September 2021, the CfH was informed that complaints raised by the claimant were not specific to any particular department/entity within MFH.

On 13 September 2021, the CfH replied, stating that contract workers were paid less than Government workers even though it was publicly announced that there would be "equal pay for equal work".

On 23 November 2021, the CfH was informed that when issuing tenders for service provision, the rate payable to the employees by the contractor (their employer) was invariably included in the tender document. The rate depended on the nature of the service being procured and was in line with the applicable CT circular 20/2020. Furthermore, the acceptable minimum rate payable to the successful bidder by the Contracting Authority, also in accordance with the CT circular, was indicated in the Financial Bid Form. This practice served the purpose to raise the successful bidder's attention on the need to pay one's employees in line with the basic rate quoted in the CT circular.

On 29 December 2021, the Commissioner confirmed the case as closed.

Status

Closed without recommendation

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>CH-21-2225</b>
Brief details of case	A complaint regarding an alleged injustice against an employee when they were not given the opportunity to apply for an internal call for applications, following a reform that was carried out by an MoJ between UHM and CPSU.
Action taken and management comments	<p>The case was received on 4 August 2021.</p> <p>In October 2021, an Inquiry Board was set up by CPSU to investigate the case further.</p> <p>On 24 May 2022, the CfH was forwarded a full detailed report together with other relevant documentation on the case that confirmed that no discriminatory action had taken place.</p> <p>On 1 August 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department

**Human Resources**

Ombudsman case reference

**CH-21-2265**

Brief details of case

A complaint by an Emergency Ambulance Responder who was refused a transfer to another section in order to benefit from an extension of two years after their retirement. They claimed that similar transfers had been approved by HR only a few months before his own application.

Action taken and management comments

The case was received on 9 August 2021.

On 12 October 2021, the Commissioner was informed that whenever a top-up between the statutory retirement age and the age of 65 was approved, this was done on the same terms and conditions of the post held upon the attainment of statutory retirement age, thereby meaning that the employee concerned was expected to continue performing the duties of the job description attached to one's official designation. In the case of Emergency Ambulance Responders, it was the management's policy not to extend such employment, both in the interest of patient safety and owing to the nature of the work performed.

On 22 November 2021, the Commissioner replied that the claimant had made a request for transfer from Emergency Ambulance Responder to Porter. They were contending that had the request for transfer been approved, they would have been eligible for an extension beyond the age of 63.

On 14 December 2021, the Commissioner was informed that it was confirmed that claimant had made a request for transfer to the grade of Porter in January 2021. His request could not be acceded to because as an EAR, his job description was very specific to the performance of duties as an Emergency Ambulance Responder and, therefore, no transfers to other grades could be allowed.

On 29 December 2021, the Commissioner confirmed the case as closed.

Status

Closed without recommendation

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>CH-21-2351</b>
Brief details of case	<p>A complaint from a group of employees, stating that following the in-house training for the Caring Stream: Health Carer, over 1000 employees were promoted from Salary Scale 14/13 to 12/11, but they were not included in this exercise.</p>
Action taken and management comments	<p>The case was received on 7 September 2021.</p> <p>On 15 September 2021, the CfH was informed that Clause 4.1 of the agreement pertaining to the Health Care Class was applicable, in its entirety, to all employees as detailed in the agreement and who were performing patient-contact duties. Clause 2 of the MoU pertaining to the same class stipulated that prior to confirmation of appointment in the Health Care Class, serving officers should be subject to a competency and skills assessment, as determined by management, and must also confirm in writing their commitment to perform patient caring duties within the clinical areas.</p> <p>For the purpose of fulfilling the requirements outlined in these clauses, the People Management Division (MFH) undertook a Ministry-wide exercise for the assimilation, into the new Health Carer stream, of officers holding grades in the previous nomenclatures of Nursing Aides, Health Assistants and Care Workers. In view that the claimants refused to perform caring duties within clinical areas, their assimilation could not be sanctioned.</p> <p>On 16 September 2021, the CfH enquired if the claimants' request would be sanctioned if they were to agree to perform caring duties within clinical areas.</p> <p>On 20 September 2021, the CfH was informed that those employees who undertook the necessary training and immediately accepted to perform the requested caring duties benefitted from assimilation backdated to the date of the signing of the agreement. Regarding the claimants, subject to a declaration of undertaking to perform caring duties on their part, assimilation would be effected upon the commencement of the performance of such caring duties.</p> <p>On 29 October 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>CH-21-2362</b>
Brief details of case	The claimant requested to be granted the qualification allowance for a Doctorate degree.
Action taken and management comments	<p>The case was received on 15 September 2021.</p> <p>On 12 October 2021, the CfH was informed that as outlined in paragraph 3.3.1(d) of the PSMC, the claimant’s promotions could not be considered as accelerated promotion. Furthermore, whilst other classes of employees, such as the Nursing and Allied Health classes may progress up to management positions, albeit at a slower pace and despite not being in possession of a Master’s degree, the Agreement pertaining to the Psychology Class offered no opportunity to Psychology Assistants to progress in the class unless in possession of a Master’s degree. Regarding the entitlement to a qualification allowance on account of a PhD, this was also not merited since this qualification was a prerequisite for the appointment of the complainant in the post held.</p> <p>On 13 October 2021, the CfH requested a copy of the Psychologists’ Collective Agreement together with a copy of the claimant’s GP47.</p> <p>On 19 November 2021, a copy of the requested documentation was forwarded to CfH. Moreover, CfH was informed that the case was also being handled by the P&amp;SD. The competent authority responsible for the award of warrants for Psychologists confirmed that the claimant would not have been eligible for a warrant had they opted to stop their studies at a master’s Level, instead of a PhD. This statement confirmed that the PhD was a pre-requisite to the appointment held and could not be utilised for the award of a qualification allowance.</p> <p>On 9 February 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>CH-21-2383</b>
Brief details of case	An allegation, stating that claimant was not being offered a job as a Physiotherapist with MFH because of their resident permit.
Action taken and management comments	<p>The case was received on 29 September 2021.</p> <p>On 1 November 2021, the CfH informed MFH that the claimant had been referred to Identity Malta to obtain a residential permit so that their application could be reconsidered. The CfH requested MFH to adopt the procedure used to obtain a work permit for the employment of third country nurses.</p> <p>On 23 November 2021, the CfH was informed that MFH did not obtain a work permit to employ third country nurses with the relative ease suggested and temporary engagements were no longer being undertaken. However, the CfH enquired if this case could be reconsidered.</p> <p>On 27 January 2022, the CfH was informed that the claimant applied for and was successful in the call for applications. However, at declaration stage it resulted that their residence status required further checking and was asked to produce a copy of their residence permit. Their permit was temporary and required renewal every year. Consequently, the claimant was disqualified from the result, on account of being a third country national who was not in possession of a permanent residence permit and therefore was ineligible for the call for applications. The disqualification process was pursued in terms of the Public Service Commission's regulations.</p> <p>The claimant was notified of their disqualification and given the opportunity to make representations before the PSC. The latter confirmed the claimant's ineligibility and sanctioned their disqualification.</p> <p>A revised result, excluding the claimant was issued to that effect.</p> <p>On 4 February 2022, the Commissioner enquired about vacancies for Physiotherapists and Commissioner was informed that People Management Division regularly publishes calls for Allied Health Professionals (Physiotherapy) on an annual and, at times, on a bi-annual basis.</p> <p>On 21 March 2022, the Commissioner was informed that MFH enquired with Identity Malta afresh, with a view to ascertain whether alternative options existed. Once again, the reply was in the negative. Therefore, it was reiterated that once claimant obtained a long-term residence permit, they could apply for the post.</p> <p>On 4 July 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>CH-21-2396</b>
Brief details of case	<p>A complaint by a group of contractual clerks, stating that they were left on the waiting list to be transferred to Gozo while new staff was recruited instead and took the vacant posts of Allied Assistants in Gozo.</p>
Action taken and management comments	<p>The case was received on 1 October 2021.</p> <p>On 8 February 2022, the CfH was informed that in line with the respective provisions of the Labour Supply Agreement, MFH was bound to provide Steward Health Care (SHC) with replacements for retired and resigned Allied Assistants only, and following related requests submitted by SHC. Any engagement beyond the filling of vacancies resulting because of retirement or resignation would need to be funded by SHC.</p> <p>Furthermore, the complainants did not perform Allied Assistant duties but carried out clerical work, handled potential biohazard samples and, moreover, they held no certification as Allied Assistants.</p> <p>On 22 February 2022, the Commissioner enquired if four of the six claimants could be sent to Gozo General Hospital (GGH) as they had been informed that a Manager at GGH requested additional Allied Assistants to their complement. The Commissioner was informed that, as already reported, in line with the Labour Supply Agreement, MFH was only obliged to provide GGH with replacements consequence by resignation or retirements.</p> <p>On 15 March 2022, the Commissioner was informed that SHC notified that no Allied Assistants were recruited by GGH. The services of the clerks concerned were originally procured through the contractor, followed by their direct recruitment by SHC as clerks.</p> <p>In May 2022, the CfH confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>CH-21-2477</b>
Brief details of case	A complaint about the delay to receive an appointment for eye examination at health centres.
Action taken and management comments	<p>The case was received on 17 November 2021.</p> <p>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.</p> <p>On 4 February 2022, the Commissioner suggested that the registered Optometrists be contacted and asked if they were willing to give part-time services.</p> <p>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 were not in a position to work extra hours at PHC. Nevertheless, the PHC was exploring the possibility of procuring external optometry services.</p> <p>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, they 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.</p> <p>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.</p> <p>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 Vitro-Retinal. A successful applicant has already been appointed in the Vitro-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 Prohibitory 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.</p>
Status	Pending at Ombudsman

Sector/Department

## Human Resources

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 these 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 these 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.

Status

Pending at Ombudsman

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>CH-21-2514</b>
Brief details of case	A claim by a group of Allied Assistants (ECG Technicians), requesting to be assimilated in the ECG class.
Action taken and management comments	<p>The case was received on 21 November 2021.</p> <p>On 5 January 2021, the CfH was informed that the complainants read for a qualification which led to their employment as Allied Assistants. These employees were then tasked to carry out duties in the ECG Department and were given training in the field which led to the acquisition of an award.</p> <p>The claimants were claiming a right of assimilation into the ECG Class, similar to other employees who were employed and given training in ECG many years back. The counterparts referred to had been assimilated into the ECG Class by virtue of a 'grandfather' clause emanating from the provisions of previous MoUs. Furthermore, a substantial number of these employees had also carried out a top-up course, organised by the management through MCAST, and on account of which these ECG Technicians were enabled to fully carry out the duties defined in the job description of the respective post. MFH and MCAST were also discussing the possibility of offering these Allied Assistant the opportunity to pursue a top-up course which will render them eligible for entry into the ECG Class. These discussions concerned course content as well as methods for the recognition of prior learning.</p> <p>On 28 January 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>CH-21-2530</b>
Brief details of case	<p>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.</p>
Action taken and management comments	<p>The case was received on 9 December 2021.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>The Chairperson, Selection Board also stated that the claimant had withdrawn her 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.</p>
Status	Pending at Ombudsman

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>HV 0007</b>
Brief details of case	A complaint regarding a pressure sore suffered by a patient after having been treated at MDH.
Action taken and management comments	<p>The case was received on 29 January 2021.</p> <p>On 13 April 2021, the CfH was presented with a detailed report of all the treatments given by MDH staff each time the patient in question was admitted. It was confirmed that the sacral pressure sore was treated every time the patient was admitted to MDH, that is between 14 January 2019 (the day they were admitted) up to 30 January 2021.</p> <p>On 20 April 2021, the CfH requested further clarifications.</p> <p>On 10 November 2021, the CfH was forwarded the requested information and full documentation.</p> <p>On 23 November 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>HV 0015</b>
Brief details of case	A complaint by a former patient alleging that they were left without medication for a whole month, also expressing disappointment with the way they were treated while staying at MDH.
Action taken and management comments	<p>The case was received on 11 February 2021.</p> <p>On 8 July 2021, the CfH was forwarded the timeline of events between March 2020 and January 2021. They were also informed that, despite a shortage of supply, dispensing of medicinals was organised to secure fair and continuous distribution amongst all entitled patients. Moreover, after 12 December 2020, the balance of the claimant's supply was even sent to them to Finland via courier. Moreover, in line with pharmacy practice, medicines which were not collected on their due date remained under the ownership of the respective pharmaceutical entity and were not dispensed in retrospect.</p> <p>On 13 July 2021, the CfH forwarded a reply from the claimant, reiterating their claim and requesting a written apology together with financial compensation.</p> <p>On 27 July 2021, the Commissioner was informed that on the dates when a limited supply was dispensed, there were no other patients, on the same drugs, who received full quantities. All patients had been treated equally, irrespective of nationality or otherwise.</p> <p>On 29 October 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>HV 0023</b>
Brief details of case	A complaint by a Teacher who stated that in February 2019, after having been examined at the Dentistry Department at MDH, they were told that they had been placed on the waiting list to have stitches performed on their tongue. The complainant claimed difficulty communicating with their students.
Action taken and management comments	<p>The case was received on 5 March 2021.</p> <p>On 29 March 2021, the CfH was informed that the patient had been advised that they had to wait for approximately 18 months. As a result of the COVID-19 pandemic, the number of theatre sessions had been drastically reduced and, consequently the waiting time was further delayed.</p> <p>On 29 September 2021, the CfH was informed that claimant's surgical intervention had been scheduled 15 November 2021.</p> <p>On 29 October 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>HV 0024</b>
Brief details of case	A complaint by the spouse of a patient who had been totally paralyzed after falling from bed during an operation.
Action taken and management comments	<p>The case was received on 26 February 2021.</p> <p>On 30 March 2021, the CfH was informed that the hospital had accepted all responsibility for this incident and promised that all the necessary support will be provided. The patient’s husband requested that his wife be transferred to a private hospital to receive the required intensive therapy, that she was to be provided with a professional wheelchair and that infrastructural works be carried out at their home so that she could go back to a more adequate environment.</p> <p>MDH was actively discussing the matter with claimant’s immediate family and meetings were ongoing. It was agreed to maintain a single communication process that of a direct discussion between MDH and the claimant’s family so as not to potentially complicate, compromise or prejudice the matter. Commissioner’s office was to be kept updated with related developments once discussions were concluded.</p> <p>On 24 May 2021, the Commissioner informed MFH that since case was being dealt with directly between MDH and the patient’s family, the case was being closed with MFH, but the Commissioner will continue to monitor until all the family’s requests were agreed to.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>HV 0029</b>
Brief details of case	A complaint, alleging discrimination with regard to overtime at the Phlebotomy Section (SAMOC).
Action taken and management comments	<p>The case was received on 12 March 2021.</p> <p>An internal review regarding the case was carried out.</p> <p>On 11 May 2021, the CfH forwarded copy of a MUMN Directive in SAMOC Phlebotomy Clinic issued on 3 May 2021. MDH management informed that the matter was being addressed with the unions concerned.</p> <p>On 8 February 2022, the CfH was informed that during a meeting held on 31 January 2022 at his office, MDH management gave a detailed explanation of the case. Following the meeting, it was agreed that CfH would speak directly with the unions involved, with the aim of finding a workable solution that would address this impasse.</p> <p>On 29 March 2022, the Commissioner stated that claimant's discrimination issue could be solved if they were given overtime approval. MFH notified the CfH that this option had been explored by MDH but was regrettably counteracted with harsh union opposition.</p> <p>On 5 April 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>HV 0036</b>
Brief details of case	A complaint by an employee, alleging that although they had been found not guilty during a Board of Inquiry, they were still being treated unfairly by their superiors.
Action taken and management comments	<p>The case was received on 23 March 2021.</p> <p>An internal review regarding the case was carried out. Between March and August 2021 various exchanges of communication took place between MFH and CfH, including legal communication.</p> <p>On 8 February 2022, the CfH was informed that, following claims of unfair distribution of overtime, a Board of Inquiry was appointed by MDH Management. In its report the Board concluded the following: <i>“When going through the distribution of overtime between all staff, it transpired that there were minimal discrepancies”</i>.</p> <p>Notwithstanding threatened union action, MDH management refrained from transferring the claimant. However, on their own initiative, the claimant placed fellow employees in a situation of intimidation when they were asked to sign a petition in the claimant’s favour and against the direction of their representing Union. At that point, MDH management considered that the Department would cease to function unless urgent and decisive action were taken. Moreover, the exigencies of the service demanded that the on-going conflict between the claimant and other employees be resolved with immediate effect.</p> <p>Taking into account the difficult situation persisting in the department, MDH management held back from taking disciplinary action against the claimant, but directed the claimant to take up a post in line with their job description within another Department. This direction was refused by the claimant. However, after some time MDH management received confirmation from the claimant’s direct supervisor that there had been a marked improvement in the claimant’s efforts and performance.</p> <p>On 3 March 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>HV 0041</b>
Brief details of case	A claim to be vaccinated with Pfizer vaccine instead of Astra Zeneca, following advice from the claimant's doctor.
Action taken and management comments	<p>The case was received on 7 April 2021.</p> <p>On 7 April 2021, the CfH was informed that MFH's policies follow medical advice from the European Medicines Agency (EMA). Moreover, both the EMA and World Health Organisation (WHO) recommended the continued use of Astra Zeneca vaccines. Furthermore, there were no contra-indications to this vaccine. The Commissioner was informed that the allocation of vaccines was a planned process that took into account, availability, location and the age of patients, among others. The claimant was offered a vaccine of proven efficacy and safety.</p> <p>On 9 April 2021, the Commissioner queried about the known fact that a number of patients died in the UK and elsewhere after having been given the Astra Zeneca vaccine and requested that the claimant be given Pfizer or Moderna vaccine.</p> <p>On 12 April 2021, a list of articles and newspaper reports, proving the safety of the Astra Zeneca vaccine, were forwarded to the Commissioner.</p> <p>On 5 May 2021, the Commissioner confirmed the case as closed, after the claimant had decided not to be vaccinated at all.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>CH-21-1953</b>
Brief details of case	A complaint regarding reimbursement for the sum paid at a local private hospital after having been misdiagnosed at MDH.
Action taken and management comments	<p>The case was received on 27 April 2021.</p> <p>On 24 May 2021, the CfH was informed that during the first visit, the claimant had no physical or laboratory indicators that they were suffering from any serious intra-abdominal pathology. Thus, there had been no mismanagement from a medical point of view. Nevertheless, the patient had all the opportunity to go back to the Emergency Department when the symptoms worsened and benefit from free acute care services to which they were entitled.</p> <p>MDH had no authority to refund any costs related to private care services which patients opt to procure.</p> <p>On 1 June 2021, the Commissioner informed MFH that the case was closed.</p>
Status	Closed without recommendation
Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>CH-21-1983</b>
Brief details of case	A claim requesting an alternative appointment to take the COVID-19 vaccine, as the claimant had missed the first appointment on account of receiving other medical treatment at the time.
Action taken and management comments	<p>The case was received on 30 April 2021.</p> <p>On 3 May 2021, the CfH was informed that an appointment had been issued to the claimant on the same day.</p> <p>On 4 May 2021, the Commissioner confirmed that claimant had been vaccinated and closed the case.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>CH-21-2010</b>
Brief details of case	A claim requesting reimbursement for a clamping fee. The complainant stated that their motorcycle had been parked properly.
Action taken and management comments	<p>The case was received on 7 May 2021.</p> <p>On 8 July 2021, the Commissioner was informed that MDH encouraged the use of motorcycles and other transportation and was continuously increasing spaces for these types of vehicles, free of charge. However, the parking of these vehicles had to be within designated areas, for the sake of proper management and control of the areas.</p> <p>On 14 July 2021, the CfH forwarded a communication from the claimant, stating that they parked the motorcycle in an area reserved for oncology outpatients as indicated by the signage. The claimant remarked that only cars could park in this area and that signage was to include motorcycles as this was very disrespectful to patients using motorcycles.</p> <p>On 19 July 2021, the CfH was informed that MDH grounds had space allocations for motorcycle parking. These were clearly visible, marked with signage on notices, and road markings indicating where motorcycles could be parked. Parking in such spaces was free of charge. One such main spot was situated around 50 meters away from where claimant parked their motorcycle.</p> <p>On 22 July 2021, the Commissioner insisted that claimant's parked motorcycle did not create any obstruction. MFH replied that the motorcycle was partly parked in a vacant area specifically designed to allow vehicles to make a safe turn.</p> <p>On 25 August 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>CH-21-2212</b>
Brief details of case	A complaint regarding alleged discrimination against the complainant who was refused the refund for hospital staff permit.
Action taken and management comments	<p>The case was received on 15 July 2021.</p> <p>On 2 August 2021, the CfH was informed that had the constraints mentioned by the claimant been articulated, restricting the free use of parking spots reserved for disabled persons would still have constituted an unjustifiable act which placed the claimant in clear breach of parking regulations, ethical and professional behaviour as well as the rights of persons with disability.</p> <p>On 6 August 2021, the CfH requested further clarifications on the case and on 23 August 2021, MFH submitted a report with all the clarifications requested.</p> <p>On 31 August 2021, the CfH informed MFH that case was closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>CH-21-2337</b>
Brief details of case	A claim for a refund of a parking fine the claimant received while at MDH. The claimant insisted that they had been parked properly. The claimant submitted the ticket bought from the parking company.
Action taken and management comments	<p>The case was received on 3 September 2021.</p> <p>On 22 September 2021, the CfH was informed that the claimant had already lodged a complaint with Customer Care (MDH) on 24 August 2021, which was immediately acted upon. MDH had proceeded by writing to the parking company and recommended a refund. On 13 September 2021, the claimant had been notified to collect the refund from the company's pay station.</p> <p>On 4 October 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>CH-21-2339</b>
Brief details of case	A complaint from an employee stating that there had been a change in attitude towards them by MDH Management. They had subsequently been transferred to another entity where they were demoralised, overqualified and under-utilised. The complainant requested to be transferred back to MDH.
Action taken and management comments	<p>The case was received on 6 September 2021.</p> <p>On 12 October 2021, the CfH was informed that the alleged perpetrator had filed a formal complaint with the Police and charges were expected to be pressed against the complainant. In view of this development, communications on this matter would only be pursued with the Police.</p> <p>On 20 October 2021, the Commissioner requested a meeting between the claimant and the alleged perpetrator with a possibility of out-of-court settlement.</p> <p>On 28 October 2021, the Commissioner was informed that as the matter was under police investigation, this request could not be entertained.</p> <p>On 31 August 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation
Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>CH-21-2392</b>
Brief details of case	An allegation that the complainant's sister had died because of negligence from MDH staff. An investigation was being solicited.
Action taken and management comments	<p>The case was received on 6 October 2021.</p> <p>On 2 November 2021, the CfH was forwarded a report which included detailed action and treatment that had been administered to the late patient between 1 June and 9 September 2021.</p> <p>On 3 February 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>CH-21-2419</b>
Brief details of case	A request for a copy of the report, following an investigation carried out at MDH on the claimant's insistence.
Action taken and management comments	<p>The case was received on 21 October 2021.</p> <p>On 7 January 2022, MFH forwarded a copy of the observations and recommendations of the Board of Investigation.</p> <p>On 12 January 2022, the CfH replied that the documentation sent did not pertain to the investigation concerned.</p> <p>On 17 February 2022, the CfH was informed that MFH had sought legal advice on the matter and on this basis, MFH held that the type of internal investigation rested with MFH. Furthermore, MFH was not obliged to provide the full report of an internal investigation.</p> <p>On 21 February 2022, the CfH replied that in terms of article 19(2)(3) of the Ombudsman Act, his Office could request "any document" required for its investigation. He explained that the claimant was after the outcome of the investigation that concerned her complaint.</p> <p>On 24 March 2022, the Commissioner was referred to article 13(5) of the Ombudsman Act which states <i>'The Ombudsman shall not proceed to investigate any complaint on the subject matter of which proceedings are pending in a court or other tribunal .....'</i> He was also informed that MFH was advised that as a criminal investigation had been carried out and that criminal proceedings may have commenced, MFH was compelled to refrain from further related exchanges to ensure that the matter was not, in any way, prejudiced.</p> <p>On 5 April 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>CH-21-2468</b>
Brief details of case	A complaint by an EU Citizen stating that they were still waiting to be refunded the sum of money paid at the Billing Section, MDH.
Action taken and management comments	<p>The case was received on 8 November 2021.</p> <p>On 21 December 2021, the Commissioner was informed that the case had been investigated in detail and the accounts department processed the refund on 4 November 2021.</p> <p>On 29 December 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>CH-21-2540</b>
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	<p>The case was received on 9 December 2021.</p> <p>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.</p> <p>The complaint made no specific reference to any particular 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.</p> <p>On 14 January 2022, the CfH suggested once again that MDH management meet the claimant.</p> <p>On 8 February 2022, the Commissioner was referred to outcome of meeting held between claimant, MDH Management and CfH. Following this meeting, 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.</p> <p>The Commissioner replied that he will await the Medical Council's decision.</p>
Status	Pending at Ministry

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>CH/5/P70</b>
Brief details of case	An enquiry by the CfH, requesting information on the admission of cancer patients.
Action taken and management comments	<p>The case was received on 6 August 2021. The CfH commented about the fact that a cancer patient had to undergo the usual routine investigation at the Accident and Emergency (A&amp;E) Department when it was clear that the patient had gone to hospital because of problems related to their medical condition.</p> <p>On 12 October 2021, the CfH was informed that there were a number of clinical guidelines that dealt with key emergencies, as well as a trainee/specialist 'on call' to advise casualty as necessary. Moreover, with the exception of planned admissions, all admissions occur through the A&amp;E Department, in line with hospital policy.</p> <p>The introduction of an acute oncology service was an objective which the Health Authorities intend to explore further.</p> <p>On 13 October 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>CH/5/P71</b>
Brief details of case	An enquiry by the CfH, requesting a copy of the Investigation Board’s report on the allegations mentioned in a newspaper article regarding care to an elderly patient at MDH.
Action taken and management comments	<p>The case was received on 27 October 2021.</p> <p>On 9 November 2021, the CfH was forwarded a report about the findings following an internal review by MDH. Although findings confirmed that the care given to the patient was appropriate, MDH staff could have communicated better with the patient’s relative regarding the initial stages of the sores. MDH had also offered the support of a Tissue Viability Nurse to the patient. This offer could not be taken up as the patient resided in a private home where such services were not accepted. MDH had agreed to continue supplying the necessary salves and dressings when necessary and the patient’s relatives showed appreciation for the support offered.</p> <p>On 16 November 2021, the CfH suggested that the Nursing Directorate ought to issue instructions to all wards on the manner elderly patients should be treated.</p> <p>On 23 November 2021, the Commissioner was informed that his suggestions were brought to the attention of the Director (Nursing) at MDH.</p> <p>On 18 February 2022, the Commissioner requested an update of the action taken by MDH management.</p> <p>On 7 March 2022, the CfH was informed that MDH had addressed the matter by speaking to claimant’s daughter and providing the necessary medication to speed up healing. As for proper communication, employees were regularly reminded to ensure that patients and their relatives are given the necessary information and assistance. He was also assured that MDH will continue to monitor and take preventive measures to ensure that patients and their relatives are well assisted and informed.</p> <p>On 29 March 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mental Health Services (MHS)</b>
Ombudsman case reference	<b>CH-21-2164</b>
Brief details of case	A complaint alleging that the claimant's consultant was not giving him permission to exercise their rights.
Action taken and management comments	<p>The case was received on 25 June 2021.</p> <p>On 13 September 2021, the CfH was informed that the claimant did not have permission to go out of the ward or hospital since, for a number of weeks, they refused the daily medication and therefore their mental state deteriorated. Regarding the restriction of freedom of communication, this was applied in accordance with the Mental Health Act. Unrestricted communication when in an increasingly psychotic state in the past led the patient to harm themselves in public view. Regarding the confiscation of the laptop, MHS was not in a position to comment in the absence of tangible proof which the management could investigate.</p> <p>On 22 June 2022, the Commissioner was informed that regarding the confiscation of the patient's laptop, further investigation revealed that proper checks on the condition of the device prior to confiscation were not carried out. Hence, the MHS management covered the cost of the repair. MFH also informed CfH that the amount due had been transferred to the Almoner's office and the patient was withdrawing the money according to their needs.</p> <p>On 14 July 2022, the case was declared closed.</p>
Status	Closed without recommendation
Sector/Department	<b>Mental Health Services (MHS)</b>
Ombudsman case reference	<b>CH-21-2237</b>
Brief details of case	A complaint by a patient's relative, stating that their sister was kept at Mount Carmel Hospital for three years and the relative could not visit her.
Action taken and management comments	<p>The case was received on 26 July 2021.</p> <p>On 2 November 2021, MFH replied to Commissioner attaching a detailed and sensitive report about the trail of events between 2017 and 2021.</p> <p>On 23 November 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Mental Health Services (MHS)</b>
Ombudsman case reference	<b>HV 0019</b>
Brief details of case	A complaint by a patient, stating that they were being deprived of the right to change the Psychiatric Consultant.
Action taken and management comments	<p>The case was received on 22 February 2021.</p> <p>On 22 March 2021, MFH replied to CfH, suggesting that the claimant be informed of the present Consultant's imminent retirement and whether they wished to identify another caring professional. Should the claimant need assistance with the latter, the Clinical Chairman or CEO would gladly oblige.</p> <p>On 25 March 2021, the CfH requested MHS management to speak directly with the patient.</p> <p>On 8 April 2021, the Commissioner was informed that the case had been clinically assessed by various Psychiatrists. Given the patient's mental state, MHS had no reservation to transfer the claimant under the care of the chosen Consultant.</p> <p>On 20 April 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Primary Health Care (PHC)</b>
Ombudsman case reference	<b>HV 0013</b>
Brief details of case	A claim by an employee working at a health centre, requesting to change his duty roster due to family reasons.
Action taken and management comments	<p>The case was received on 9 February 2021.</p> <p>On 3 March 2021, the CfH was informed that the request could not be favourably considered since such a concession would disrupt the standard roster which was applicable to all receptionists working at the 10 health centres across Malta and Gozo. He was also informed that the claimant had been offered the possibility of utilising vacation leave by the hour or time off in lieu whenever urgent family demands arose.</p> <p>On 5 March 2021, the CfH requested temporary approval until COVID-19 restrictions and measures were in place.</p> <p>On 24 March 2021, the Commissioner was informed that any proposed actions, permanent or temporary could not be considered as these clearly risked disrupting the operability of the system of service provision in health centres, leading to inefficiency to the detriment of beneficiaries.</p> <p>On 26 March 2021, the CfH informed MFH that there was already another employee who worked on similar shift hours as those requested by the claimant.</p> <p>On 30 March 2021, the CfH was informed that no approval was granted in respect of an employee working at another Health Centre. The arrangement that existed was that during a night shift where 3 nurses happened to be on duty, one of the nurses could avail themselves of up to a maximum of two hours vacation leave or time off in lieu.</p> <p>On 20 April 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Primary Health Care (PHC)</b>
Ombudsman case reference	<b>CH-21-2255</b>
Brief details of case	A complaint lodged by a father of twin babies, alleging unjust treatment when his children were not administered vaccination due to Union directives. The complainant later found out that vaccination was excluded from strike directives.
Action taken and management comments	<p>The case was received on 30 July 2021.</p> <p>On 3 August 2021, the CfH was informed that on the same day that claimant lodged his claim with the Ombudsman Office, PHC had informed him that the immunisation in question fell within the Union directives. He was also informed that the immunization exercise would resume once the impasse was settled and that another appointment for the immunisation of his children would be communicated accordingly. In fact, the claimant's children were immunised at a later date.</p> <p>On 29 September 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation
Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH/5/P66</b>
Brief details of case	An enquiry by the CfH, asking why the Specialist Accreditation Committee (SAC) for Dentistry has not met for at least three years and also why its members were not appointed.
Action taken and management comments	<p>The case was received on 6 April 2021.</p> <p>On 8 July 2021, the CfH was informed that SPH had, for the past four years, been trying to engage a Registrar for the Non-Medical SAC. The Registrar was appointed on 12 February 2021. Work related to the composition of the Dental SAC started thereafter.</p> <p>On 12 July 2021, the Commissioner informed MFH that the case was closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH/5/P72</b>
Brief details of case	An enquiry by the CfH, requesting comments about an article published in a local newspaper about the pandemic being used as an excuse to control religious activities.
Action taken and management comments	<p>The case was received on 24 November 2021.</p> <p>On 25 November 2021, the CfH was informed that the applicable standards for organised events were being followed and could be accessed via the dedicated URL.</p> <p>On 26 November 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HV 0003</b>
Brief details of case	A complaint regarding persons aged 65 to 69 who were not being considered as vulnerable in terms of the COVID-19 vaccine timetable, when previously this age group had been forced to stay indoors for 10 weeks, at a time when they were considered vulnerable.
Action taken and management comments	<p>The case was received on 14 January 2021.</p> <p>On 26 January 2021, the CfH was informed that regarding the cohort below 70 years of age, the vaccination programme continued to operate in terms of the prioritisation by age model. In reply, the Commissioner requested clarification about the differences in the consideration of vulnerable people.</p> <p>On 23 February 2021, the CfH was informed that people who were aged 16 years and over, and who suffered from indicated medical conditions (a list was attached to the communication) were considered vulnerable and thereby eligible for priority vaccination. Vaccination in respect of the rest was by age group.</p> <p>On 8 March 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HV 0004</b>
Brief details of case	A request by a patient, asking to be vaccinated against COVID-19 in advance of his appointment to go for treatment abroad.
Action taken and management comments	<p>The case was received on 20 January 2021.</p> <p>On 16 February 2021, the CfH was informed that the claimant had been vaccinated in line with Public Health’s pronouncement regarding patients due to travel abroad for medical treatment.</p> <p>The Commissioner enquired if the patient’s wife, who was to accompany him abroad, could also be vaccinated. He also enquired for the reconsideration and change in policy regarding other similar situations.</p> <p>On 17 February 2021, the Commissioner was informed that the claimant’s wife had been booked for vaccination on 22 February 2021 and that she was notified accordingly. Furthermore, the policy had been updated and the public had been informed accordingly.</p> <p>On 17 February 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence for Public Health (SPH)</b>
Ombudsman case reference	<b>HV 0006</b>
Brief details of case	A complaint, alleging discrimination against university lecturers as they were being excluded from the priority educator’s list for COVID-19 vaccination.
Action taken and management comments	<p>The case was received on 22 January 2021.</p> <p>On 17 February 2021, the CfH was informed that University lecturers were included in the third cohort which was planned to take place in April 2021.</p> <p>On 8 March 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HV 0017</b>
Brief details of case	A claim by a vulnerable person who was requesting to be vaccinated against COVID-19 as soon as possible.
Action taken and management comments	<p>The case was received on 17 February 2021.</p> <p>On 9 March 2021, the CfH was informed that notifications for the vaccination of vulnerable people were being issued according to the priority list which also took into account the order of COVID risk, as established by Centres for Disease Control (CDC). The claimant was advised to await their appointment for vaccination accordingly.</p> <p>On 30 March 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HV 0018</b>
Brief details of case	A complaint regarding a person who was over 80 years of age but had not been included in the list for vaccination.
Action taken and management comments	<p>The case was received on 16 February 2021.</p> <p>On 17 February 2021, the CfH was informed that further to an assessment of the case, in consultation with a respiratory physician, the claimant's father was included in the list of vulnerable persons and an appointment was scheduled for 22 February 2021.</p> <p>On 23 February 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HV 0020</b>
Brief details of case	A complaint by a person, stating that they were forced to get a service from an unlicensed orthodontist and that they had clinical consequences.
Action taken and management comments	<p>The case was received on 26 February 2021.</p> <p>On 18 March 2021, the CfH was informed that the Medical Council of Malta (MCM) carried out its investigations and deemed the case closed. It was also confirmed that the dentist in question had been registered since November 1987 and had been in good standing ever since. It was further stated that, since one did not need to be on the Specialist List of Orthodontics to carry out orthodontic treatment in Malta, the dentist was not in breach when performing the treatment.</p> <p>On 26 March 2021, the CfH was forwarded a scanned copy of the requested Medical Council file.</p> <p>On 16 April 2021, the CfH forwarded the claimant's reply, contesting the case in terms of clauses 29 (1) and (2) of the Health Care Professions Act.</p> <p>On 8 July 2021, the Commissioner was informed that the Medical Council raised the attention to the difference between the Specialist training in Orthodontics and the subject of Orthodontics as taught in Dental degrees recognised by this Council. Reference was also made to Part V.3 Dental Practitioner, specifically 5.3.1 'Study programme for dental practitioners' found in Directive 2005/36/EC (as amended by 2013/55/EU on the Recognition of Professional Qualifications). The study of Orthodontics, as a part of Basic Dental Training leading to a licence to practise included the fixing of braces. A clear distinction needed to be made with regard to Specialist Training leading to one's inclusion in the Orthodontics Register kept by this Council, as one would expect, more in-depth training to deal with complex situations.</p> <p>On 25 August 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HV 0021</b>
Brief details of case	A request by a mother, stating that her son was to be given the COVID-19 vaccine as soon as possible due to his vulnerability.
Action taken and management comments	<p>The case was received on 26 February 2021.</p> <p>On 12 March 2021, the CfH was informed that notifications for the vaccination of vulnerable people were being issued according to the priority list which also took into account the order of COVID risk, as established by the Centre for Disease Control (CDC). The claimant was to await her son's appointment for vaccination accordingly.</p> <p>On 30 March 2021, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation
Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HV 0032</b>
Brief details of case	A complaint regarding Legal Notice 78/2020, which states that there should be direct contact with a positive patient to stay in quarantine. The complainant insisted that, since they were not in direct contact with the infected person, the legal notice did not apply to them and therefore they should not be forced to remain in quarantine.
Action taken and management comments	<p>The case was received on 12 March 2021.</p> <p>On 17 March 2021, the CfH requested a list of reference numbers of the Legal Notices issued relating to the new measures concerning COVID-19. MFH forwarded the requested list on 22 March 2021.</p> <p>On 22 May 2021, the CfH was informed that the SPH derived the authority from the Public Health Act. SPH did not need to publish a legal notice to issue any directives. He was also notified that Section 15 stated that "after declaring a public health emergency the Superintendent may: (a) Segregate or isolate any person in any area; (c) Prevent access to any area; and (g) Order such other action be taken as she may consider appropriate."</p> <p>Moreover, Section 34 also stated "(1) The Superintendent by public notice, may declare that there is an outbreak of a notifiable disease and (2) The Superintendent may give any directions she considers necessary or appropriate for the control of an outbreak and any person who does not comply with the directions given shall be guilty of an offence under this article."</p> <p>On 24 May 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HV 0033</b>
Brief details of case	A complaint regarding the criteria adopted for priority vaccination.
Action taken and management comments	<p>The case was received on 23 March 2021.</p> <p>On 8 July 2021, MFH requested the CfH to close the case in light that herd immunity had been attained and the vaccination programme was open for all the population over the age of 12 years.</p> <p>On 15 July 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation
Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HV 0037</b>
Brief details of case	A complaint regarding the criteria adopted for priority vaccination.
Action taken and management comments	<p>The case was received on 23 March 2021.</p> <p>On 8 July 2021, MFH requested the CfH to close case in light that herd immunity had been attained and the vaccination programme was open for all the population over the age of 12 years.</p> <p>On 15 July 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-1466</b>
Brief details of case	A complaint regarding the COVID-19 vaccine.
Action taken and management comments	<p>The case was received on 16 April 2021. The claimant stated that after having been administered the first dose of the Pfizer vaccine, they resulted positive and had to skip the second dose. The complainant was later given another appointment but was informed that vaccine was Astra Zeneca. The claimant requested to be administered the Pfizer vaccine due to vulnerability.</p> <p>On 9 June 2021, the Commissioner informed MFH that the claimant had been administered the requested jab and therefore, the case was to be considered closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2053</b>
Brief details of case	<p>A request for the reimbursement of an extra flight that the claimant had to pay for as they were not provided with an email indicating a negative swab test result. They had only received an SMS which was not accepted at the airport.</p>
Action taken and management comments	<p>The case was received on 17 June 2021.</p> <p>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 the issuance 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 issuing of test results was variable, on account of various factors which extended beyond the control of the health authorities.</p> <p>On 24 August 2021, the CfH replied that although the result was issued on time and conveyed to the claimant by SMS, airport officials did not accept it and insisted that the result had to be provided in an email format. The claimant tried in vain to contact public health authorities with the result that they missed the flight and incurred additional expenses.</p> <p>On 26 August 2021, the CfH was informed that there were no legal obligations that bound the public health authorities to communicate test results via email. The individual concerned was responsible to be informed beforehand of the requirements of the destination country and the applicable airport/airline requirements. Airport/airline requirements did not fall within the remit of public health authorities and hence the latter could not be held responsible for the exercise of their requirements and any consequences resulting therefrom.</p> <p>On 29 September 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2131</b>
Brief details of case	A complaint regarding the COVID-19 Public Health measures, alleging that they were discriminatory against those who for some reason were not vaccinated. The complainant also stated that new regulations were against paragraph 7.3.2 of the Resolution issued by the Parliamentary Assembly of the Council of Europe on 27 January 2021.
Action taken and management comments	<p>The case was received on 17 June 2021.</p> <p>On 12 August 2021, the CfH was informed that instances of perceived health issues which potentially preclude a person from being vaccinated were to be supported by a health certificate which was evaluated by the public health authorities upon presentation.</p> <p>On 29 September 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2142</b>
Brief details of case	A complaint by a person, stating that they were denied registration as a Nurse by the Council of Nurses and Midwives.
Action taken and management comments	<p>The case was received on 17 June 2021.</p> <p>On 8 July 2021, the CfH was informed that the Council for Nurses and Midwives assessed the claimant's application and concluded that:</p> <ol style="list-style-type: none"> <li>a) the MQF level obtained by the claimant was lower than that required for registration, thus rendering them ineligible for registration and short of satisfying the requirement of EU Directive 2005/36;</li> <li>b) the additional BSc degree in Psychiatric nursing submitted could not be considered for registration purposes as the transcript of studies did not include the required modules of study in general nursing; and</li> <li>c) the applicant stated that they were following an MSc in Healthcare, however, since this qualification was not in nursing, they would still be ineligible to be registered as a general nurse.</li> </ol> <p>On 28 July 2021, the Commissioner confirmed case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2167</b>
Brief details of case	An allegation of discrimination through the usage of the COVID-19 vaccine certificate.
Action taken and management comments	<p>The case was received on 25 June 2021.</p> <p>On 8 July 2021, the CfH was informed that while Malta accepted the vaccine certificate and the test certificate for entry into Malta from other EU member states, the recovery certificate was not accepted. Evidence published suggested that reinfection was still possible after initial infection, especially with newer variants. This was quantified to be around 20% for all infected individuals and as high as 53% in those aged over 65 years. On account of the state of the epidemic such a risk was unacceptable for the Maltese Public Health Authorities and, therefore, the recovery certificate was not accepted for entry into Malta or for any other purpose necessitating the use of vaccine certificates in Malta.</p> <p>On 29 October 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2230</b>
Brief details of case	A complaint by a couple who had a Maltese residence, stating that although they were given permission to return to Malta, they were forced to stay in quarantine in a hotel at €100 per person per day. The claimants requested to quarantine in their residence in Malta.
Action taken and management comments	<p>The case was received on 22 July 2021.</p> <p>On 26 July 2021, the CfH was informed that a valid vaccination certificate to travel to Malta was required from travellers, aged 12 years and over, hailing from countries listed in LN 301 of 2021. Those who were not in possession of a recognised vaccine certificate would need to present a negative nasopharyngeal PCR test, not taken earlier than 72 hours from the time of arrival in Malta and would need to undergo a mandatory quarantine period of 14 days in accordance with the Standards for Quarantine. On arrival, quarantine at a designated quarantine hotel applied to all persons except those to whom the exemptions in article 2 of LN 301 of 2021 applied (medical conditions with approval of public health authorities and children aged 11 or less).</p> <p>On 26 July 2021, the Commissioner replied that the claimants had a residence in Malta.</p> <p>On 30 July 2021, the Commissioner was informed that the applicable standards required that quarantine takes place in a designated location with a purpose to limit the spread of COVID-19 within the community, until further notice.</p> <p>The Commissioner was informed that the latest regulations could be accessed from the DPM's website, and the respective URL was forwarded for ease of reference.</p> <p>On 16 December 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2232</b>
Brief details of case	A complaint regarding the COVID-19 vaccines, stating that they were experimental and therefore should not be compulsory as this also breached the Human Rights Regulations.
Action taken and management comments	<p>The case was received on 22 July 2021.</p> <p>On 2 August 2021, the CfH was forwarded a detailed explanation regarding vaccination programmes. It was emphasised that despite the solid medical evidence that vaccines were safe and effective and that they were the most effective tool to stop the pandemic, Malta did not impose the legal obligation for a person to get vaccinated and therefore the COVID-19 vaccine was not compulsory. MFH concluded that every EU country could set up its own laws to regulate entry into the country for public health reasons.</p> <p>On 25 August 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2235</b>
Brief details of case	A complaint by the Spanish Ombudsman, stating that its office had received various complaints about accommodation and about the Maltese authorities from Spanish students quarantined in Malta.
Action taken and management comments	<p>The case was received on 22 July 2021.</p> <p>On 2 August 2021, the Commissioner was informed that Foreign Language Teaching Schools were responsible for visiting students and their living conditions. Any complaints were to be referred to the CEO of the ELT Council at the Ministry for Education for investigation. This notwithstanding, any reports on sanitary concerns reported at the time of stay were investigated by the Health Authorities.</p> <p>Regarding positive cases, the Department of Public Health investigated all reported cases and issued quarantine letters accordingly. A Primary Health Care team followed up the positive cases via telemedicine and assisted the patients as much as possible. The Malta Tourism Authority, supported by the Infection and Disease Control Unit, organised a number of repatriation flights, both for quarantined negative-tested students (in contact with a positive case) as well as positive-tested cases. The Spanish Ambassador was in contact with SPH throughout the related process.</p> <p>On 17 August 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2236</b>
Brief details of case	<p>A complaint from a person, claiming that they had booked a flight before the new regulations came into force. They stated also that as they could not be vaccinated due to medical conditions, they would not be allowed to board the aircraft.</p>
Action taken and management comments	<p>The case was received on 22 July 2021.</p> <p>On 26 July 2021, the CfH was informed that as regards the temporary exemption from quarantine, this applied to residents who left Malta before 14 July 2021 and who had booked their departure from and return to Malta concurrently. These residents needed not quarantine on their return to Malta, so long as they would have undertaken a PCR test not earlier than 72 hours from the time of arrival in Malta, with a negative result. The relevant Legal Notice was attached for ease of reference.</p> <p>Regarding the points raised by claimant as to why they could not be administered the COVID-19 vaccine, these were not supported by medical knowledge and evidence. ADHD, OCD and Autism Spectrum disorder should not have precluded the claimant from being vaccinated against COVID-19. From the information provided, there appeared to be no contraindications preventing the claimant from safely taking one of the vaccines currently available and therefore the claimant's request to avoid quarantine on his arrival in Malta could not be favourably considered.</p> <p>On 29 October 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2239</b>
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	<p>The case was received 22 July 2021.</p> <p>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.</p> <p>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.</p> <p>On 2 June 2022, the Commissioner requested further clarifications.</p> <p>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.</p> <p>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).</p> <p>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.</p> <p>On 21 July 2022, the Commissioner forwarded a report including further enquiries.</p> <p>On 19 October 2022, a meeting was held between the CfH and MFH officials to discuss the case further.</p> <p>On 31 October 2022, MFH was awaiting feedback from CfH.</p>
Status	Pending at Ombudsman

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2240</b>
Brief details of case	A request from a person, asking to quarantine in their residence in Malta instead of staying in a hotel.
Action taken and management comments	<p>The case was received on 23 July 2021.</p> <p>On 24 July 2021, the CfH was informed that approval to this request had been granted.</p> <p>On 31 July 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2241</b>
Brief details of case	A complaint from a person who claimed that their downloaded vaccine certificate was failing to be validated and they urgently needed it to go abroad.
Action taken and management comments	<p>The case was received on 23 July 2021.</p> <p>On 26 July 2021, the Commissioner was informed that the claimant could reprint the certificate as the matter was reported as resolved.</p> <p>On 27 July 2021, the CfH informed MFH that the claimant was still having problems and asked if an MFH representative could contact them directly. The claimant was contacted, and they were given the technical assistance needed.</p> <p>On 28 July 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2253</b>
Brief details of case	A request by claimants asking for an exemption from staying in quarantine.
Action taken and management comments	<p>The case was received on 30 July 2021.</p> <p>On 30 July 2021, the approval to the request was granted.</p> <p>On 31 July 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation
Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2260</b>
Brief details of case	A complaint, stating that Malta was not issuing the Digital COVID certificate to recovered individuals in line with EU regulation 2021/953.
Action taken and management comments	<p>The case was received on 4 August 2021.</p> <p>On 12 August 2021, the CfH was informed that Malta had been issuing recovery certificates since 15 July 2021.</p> <p>In this case, a COVID-19 detected NAAT (PCR) test was not recorded in any of the systems and, hence, an EU Recovery DCC certificate could not be issued. A RAT test was reported instead, but this test did not satisfy the EU regulation to issue such a certificate.</p> <p>On 16 August 2021, the Commissioner forwarded further documentation from the claimant as proof that they were entitled to be issued with a Recovery Certificate.</p> <p>On 10 November 2021, the CfH was informed that the email which the claimant received from the COVID-19 Helpline was inadvertently inaccurate. Since the claimant did not perform a PCR but a RAT test, the requested recovery certificate could not be generated.</p> <p>On 29 December 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2264</b>
Brief details of case	An allegation by a person, claiming that they were being discriminated against as they were vaccinated but had been placed in mandatory quarantine in a hotel, having to pay €1400.
Action taken and management comments	<p>The case was received on 4 August 2021.</p> <p>On 12 August 2021, the CfH was informed that a valid vaccination certificate to travel to Malta was required from travellers, aged 12 years and over, hailing from countries listed in LN 301 of 2021. Those who were not in possession of a recognised vaccine certificate would need to present a negative nasopharyngeal PCR test, not taken earlier than 72 hours from the time of arrival in Malta and would need to undergo a mandatory quarantine period of 14 days in accordance with the Standards for Quarantine. On arrival, quarantine at a designated quarantine hotel applied to all persons except those to whom the exemptions in article 2 of LN 301 of 2021 applied (medical conditions with approval of public health authorities and children aged 11 or less).</p> <p>On 4 October 2021, the CfH confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2282</b>
Brief details of case	<p>A claim that after spending months of adaptation at MDH, a reference letter stating that the complainant showed both knowledge and experience in the medical field was issued by the Medical Department. However, the Medical Council (MCM) failed to inform them whether they could start practising as a Doctor or otherwise.</p>
Action taken and management comments	<p>The case was received on 18 August 2021.</p> <p>On 10 September 2021, the CfH was informed that the Adaptation period was planned and assessed, supervised work experience under a clinical supervisor. Moreover, the claimant had been informed that the employment for adaption and training purposes was an employment of minimum period of six months with the purpose of assessing clinical and communication skills. Subsequently, they had to apply for any vacant posts and that employment had to be on a full-time basis. A licence to practise as a doctor could only be granted once the MCM had sufficient proof that the applicant had satisfied all criteria laid down in the guidance document, and that they were considered by the MCM to be a minimally competent trained doctor. The training undertaken by the claimant fell short of the conditions laid down to ascertain this competence.</p> <p>On 15 February 2022, the Commissioner verbally informed MFH that Medical Council met the claimant and matter was being discussed with the CMO.</p> <p>On 28 September 2022, the CfH requested an update regarding the status of the claimant's application as they were insisting that they had carried out the adaptation period required.</p> <p>MFH replied that MCM confirmed that the claimant had not carried out an Adaptation period yet. The training they had carried out was in an observer's role which, for the reasons outlined before, could not be considered as a formal adaptation period.</p> <p>On 25 October 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2296</b>
Brief details of case	A claim by a person, requesting to be exempted from quarantine as they were vaccinated. They had to accompany a relative from treatment abroad. The spouse could not be vaccinated due to a medical condition.
Action taken and management comments	<p>The case was received on 22 September 2021.</p> <p>On 24 September 2021, the Commissioner was informed that a month before, the patient's wife had been contacted and offered to be vaccinated. However, the family kept insisting it was unsafe and that they wanted to liaise with their consultant in Germany, prior to proceeding to be vaccinated. MFH insisted that unless vaccinated, exemption from quarantine could not be permitted. However, quarantine could be undertaken at home.</p> <p>The CfH replied stated that the claimant was vaccinated and had to accompany a relative abroad every month. Therefore, they were requesting an exemption from quarantine.</p> <p>On 4 October 2021, the CfH was informed that the patient's spouse did not need to quarantine so long as, on their return to Malta, they did not stay in the same household, since the other spouse was not vaccinated. If they stayed in the same household, they were both required to quarantine.</p> <p>On 29 October 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2326</b>
Brief details of case	A claim by a Spanish citizen residing in Malta, who had left Malta in April 2021 for a business trip, and wanted to return but they were not vaccinated. They maintained that they had the right to return unvaccinated.
Action taken and management comments	<p>The case was received on 25 August 2021.</p> <p>On 26 August 2021, the applicable requirements issued by the COVID-19 Vetting Team were forwarded to the CfH.</p> <p>Moreover, the CfH was informed that if the claimant were able to provide documented evidence that air tickets to return to Malta had been purchased prior to 14 July 2021, they could then refer such evidence to the COVID-19 team at the designated email address.</p> <p>Once the necessary verifications were made by the health authorities, an email would then be issued to authorise their return, subject to the presentation of a negative PCR, and exempt them from quarantine.</p> <p>On 4 October 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation
Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2369</b>
Brief details of case	A complaint regarding a Marble Factory that had permission from the Planning Authority (PA) to operate in the middle of a town in a residential area, causing air pollution with silica dust.
Action taken and management comments	<p>The case was received on 15 September 2021.</p> <p>On 12 October 2021, the CfH was informed that two inspections had been carried out at the factory and no dust was noted in the air. The Environmental Health Inspector spoke to the claimant on 23 September 2021 and informed them that the Environmental and Resources Authority (ERA) would be investigating their complaint. The Inspector also informed the complainant that action could only be taken against the factory owner if the former produced a medical certificate certifying them as suffering from an illness/medical condition specifically caused by the alleged emission of dust from the factory. The complainant was also informed that both the caring consultant issuing the respective medical certificate and the complainant would be required to testify in court.</p> <p>On 29 December 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2373</b>
Brief details of case	A claim that MFH was issuing measures that were forcing people to get vaccinated against their human rights.
Action taken and management comments	<p>The case was received on 23 September 2021.</p> <p>On 29 October 2021, the CfH confirmed that he had replied to the claimant regarding queries about quarantine procedures.</p> <p>He also confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2382</b>
Brief details of case	A request to continue the remaining quarantine period at claimant's own residence and not in a hotel.
Action taken and management comments	<p>The case was received on 23 September 2021.</p> <p>On 12 October 2021, the CfH was informed that standards of quarantine were always followed at the time they were in force. Moreover, it was in the traveller's best interest to keep abreast of the standards of quarantine in force, and as applicable from time to time. This was necessary to enable an informed decision on the feasibility, financial or otherwise, of travelling to red and dark red zones.</p> <p>On 31 October 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2395</b>
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	<p>The case was received on 1 October 2021.</p> <p>On 25 February 2022, the Commissioner was informed that discussions were ongoing and that stakeholder meetings were to be held to this effect.</p> <p>On 20 May 2022, the CfH was formed 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:</p> <ul style="list-style-type: none"> <li>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</li> <li>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.</li> </ul> <p>Once applicants meet the established criteria, they would be registered in their respective field. This was quite a lengthy process. Therefore, until the official changes enter into 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.</p> <p>On 3 August 2022, the CfH replied requesting clarifications regarding the calls for applications.</p> <p>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.</p> <p>On 29 September 2022, the Commissioner requested a meeting with CPCM, with a view to agree on pending queries and conclude the matter. It was agreed that the meeting be held after the Council's election which was scheduled for 27 October 2022.</p>
Status	Pending at Ombudsman

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2443</b>
Brief details of case	A claim by a Maltese citizen, requesting that their Portuguese spouse be granted an exemption from quarantining in a hotel. They stated that they needed their spouse to look after them as they suffered from a medical condition.
Action taken and management comments	<p>The case was received on 2 November 2021.</p> <p>On 5 November 2021, the CfH was informed that, following the consideration of all the medical certificates provided, a decision to allow the claimant and their spouse to quarantine at a private residence was taken by SPH. This decision was sent to the claimant directly, in response to their application.</p> <p>On 24 November 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2444</b>
Brief details of case	A request from an oil rig worker who came to Malta every three weeks for 17 days. As they were not vaccinated, they requested an exemption from quarantine. They stated that they were willing to present a PCR test upon arrival and to repeat the test after a number of days.
Action taken and management comments	<p>The case was received on 2 November 2021.</p> <p>On 3 November 2021, the CfH was forwarded the reply that SPH had already sent to the claimant through MFH's legal advisors.</p> <p>On 4 November 2021, the CfH replied, stating that the communication did not address the points raised by the claimant's legal advisor.</p> <p>On 5 January 2021, the Commissioner was forwarded a copy of the reply sent by SPH's legal representatives to the claimant's legal representative.</p> <p>On 3 February 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2464</b>
Brief details of case	A request from a pilot, asking to be issued with a vaccination certificate on the basis of their COVID-19 recovery, as well as a permanent exemption from mandatory quarantine due to the nature of their work.
Action taken and management comments	<p>The case was received on 5 November 2021.</p> <p>On 8 November 2021, the CfH was forwarded with a copy of the reply that SPH had already sent to claimant through MFH's legal advisors. Moreover, SPH had also notified that any alleged assertions concerning the issue of a vaccination certificate on the basis of recovery from COVID-19 were incorrect.</p> <p>On 3 February 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2479</b>
Brief details of case	A complaint by a company, stating that its employees were having difficulties in obtaining the EU digital certificate in Malta, as the first dose of the vaccination was taken in Croatia and second dose was taken in Malta.
Action taken and management comments	<p>The case was received on 12 November 2021.</p> <p>On 25 November 2021, the CfH was informed that the decision on how and when to issue an EU DCC Vaccine certificate rested with each EU Member State. Malta issued vaccination certificates in respect of persons who were fully vaccinated in Malta. Additionally, the Public Health Authorities had accepted to issue vaccine certificates in respect of persons who presented tangible proof of having taken a European Medicines Agency (EMA)-approved first dose vaccine in another country and a second dose in Malta.</p> <p>On 1 December 2021, the Commissioner enquired if he could be updated about the policy regarding Digital Certificates.</p> <p>On 9 December 2021, the CfH was informed that the decision taken by the Health Authorities was that persons with an EU DCC certificate or a recognised vaccine certificate from the UK with one dose, could, subject to being eligible, be given the second dose in Malta and thereby issued with the vaccine certificate.</p> <p>On 21 December 2021, the Commissioner once again enquired if the claimant could be issued with a certificate from Malta. MFH replied that a verification certificate of the first dose taken in Croatia was to be presented to enable the necessary processing.</p> <p>On 22 December 2021, the CfH forwarded the requested documentation.</p> <p>On 3 January 2022, the CfH was informed that the necessary verifications were updated on the COVID-19 Certificate System and the claimant could generate their certificate.</p> <p>On 3 February 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2523</b>
Brief details of case	A complaint by a company, stating that one of its employees was having difficulties in obtaining the EU digital certificate in Malta.
Action taken and management comments	<p>The case was received on 16 November 2021.</p> <p>On 16 December 2021, the Commissioner was informed that that since Abu Dhabi (United Arab Emirates) was neither in the EU nor in the UK, the issuing of a vaccine certificate was not permissible.</p> <p>On 27 December 2021, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2541</b>
Brief details of case	A complaint, stating that the Council of Professions Complementary to Medicine (CPCM) was not functioning as there was no Registrar.
Action taken and management comments	<p>The case was received on 17 December 2021.</p> <p>On 6 January 2022, the CfH was informed that a public call for applications was issued on 10 October 2021. The only eligible and successful applicant refused to take up the position. Another public call was issued on 10 December and closed on 27 December 2021. As an interim measure, an Acting Registrar was appointed. Furthermore, the temporary registration of the claimant as Physiotherapist was extended till 30 June 2022.</p> <p>On 9 February 2022, the Commissioner confirmed the case as closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>CH-21-2558</b>
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	<p>The case was received on 27 December 2021.</p> <p>On 11 August 2022, the CfH was forwarded with a detailed reply for the Director (Legal Services) at MFH.</p> <p>On 12 August 2022, the CfH forwarded further queries which were passed on to the Legal Office for further guidance.</p>
Status	Pending at Ministry



MFH  
**Commissioner for Health Pre 2021**

Sector/Department	<b>Central Procurement Supplies Unit (CPSU)</b>
Ombudsman case reference	<b>HU 0076</b>
Brief details of case	A complaint by a private company, stating that after an order confirmation, the order was cancelled by CPSU.
Action taken and management comments	<p>The case was received on 9 October 2020.</p> <p>On 22 January 2021, an endorsed report was forwarded to the CfH.</p> <p>On 26 March 2021, the CfH informed MFH that claimant had referred the case to the Commissioner of Police. On 7 April 2021, the CfH was informed that CPSU had sought legal advice on the matter, and it was decided that, since the pursuit of multiple lines of communication could potentially prejudice MFH's position, only requests for information from the police would be entertained. MFH's position was to be revised once it was formally notified that the police would not be investigating the case and that the matter was closed from their end.</p> <p>The CfH was informed from time to time that the case was still being investigated by the Commissioner of Police and had not been referred to the Court yet.</p> <p>On 15 September 2022, the CfH confirmed the case as closed.</p>
Status last year	Under police investigation
Status	Closed without recommendation

Sector/Department	<b>Mater Dei Hospital and Superintendence of Public Health (MDH &amp; SPH)</b>
Ombudsman case reference	<b>HU 0092</b>
Brief details of case	A complaint from a vending machine company regarding the specifications of the new tender issued.
Action taken and management comments	<p>The case was received on 13 November 2020.</p> <p>On 16 December 2020, the CfH was informed that in view of research-based evidence of possible contamination of fresh orange juice when squeezed by machines, such a risk could not be taken, particularly in view that this machine was for the only acute hospital in Malta.</p> <p>On 5 January 2021, the Commissioner requested a copy of the documentation regarding the research-based evidence of possible contamination of orange juice when squeezed by machines. This documentation was forwarded to CfH on 12 January 2021.</p> <p>On 25 October 2022, the Commissioner confirmed case as closed.</p>
Status last year	Pending at Ministry
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH/5/P10</b>
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	<p>The case was received on 10 September 2019.</p> <p>MFH sought legal advice regarding the terms of reply, which was sent on 4 October 2021.</p> <p>On 5 October 2021, the CfH replied, stating that regulation 2(1)(a) of SL 35.28 – Health Care (Fees) Regulations – provided that Maltese citizens 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.</p> <p>On 23 March 2022, the CfH was informed that regulation 2(1)(a) of SL 35.28, which provides that Maltese citizens 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.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH/5/P31</b>
Brief details of case	A case concerning the treatment for macular degeneration.
Action taken and management comments	<p>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.</p> <p>On 26 August 2021, the Commissioner was informed that the government formulary list included a medicine that catered for most cases. However, there were a number of 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 (GFL).</p> <p>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).</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>CH/5/P51</b>
Brief details of case	A complaint concerning decisions taken by the Exceptional Medical Treatment Committee (EMTC).
Action taken and management comments	<p>The Commissioner requested the terms of reference of the EMTC which were duly provided.</p> <p>On 12 August 2021, the CfH wrote regarding one of its cases (HR 0007) and concerning requests for medicines which had been refused on the basis of the applicable protocol and the related EMTC decision.</p> <p>In June 2022, the CfH officially requested a meeting with the Chairperson of the EMTC and the CMO to address pending issues.</p> <p>During the meeting concern was directed to decisions of non-approval and two main instances were identified:</p> <ol style="list-style-type: none"> <li>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).</li> <li>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.</li> </ol> <p>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.</p>
Status last year	Pending at Ministry
Status	Pending at Ombudsman

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HN 0004</b>
Brief details of case	A complaint regarding the setting up of a screening programme of infant hearing.
Action taken and management comments	<p>On 24 September 2019, the Commissioner was informed that the procurement of screening equipment and the drawing up of the programme was being finalised.</p> <p>On 17 March 2021, the Commissioner was informed that the equipment had been installed and commissioned. A pilot project was being implemented prior to the official launch of the screening programme.</p> <p>On 29 September 2021, the Commissioner was informed that the neonatal hearing screening programme was up and running, with services being provided at NPICU and Gozo General Hospital (GGH).</p> <p>On 13 October 2021, the Commissioner replied that although service was running smoothly at GGH, the staff at MDH was not adequate to cater for about 10 births every day.</p> <p>On 18 March 2022, the CfH was informed that the recruitment of Allied Assistants at MDH was proving exceedingly difficult. To address the matter, diversification of work was being explored with a view to make the employees' role more interesting and possibly prevent the turnover that had been experienced so far.</p> <p>In May 2022, the CfH was verbally notified that the service was still running smoothly, and continuity of service was ensured.</p> <p>On 15 June 2022, the Commissioner confirmed the case as closed.</p>
Status last year	Pending at Ministry
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HP 0014</b>
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	<p>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.</p> <p>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.</p> <p>In April 2021, the Commissioner was informed that the branded drug was approved, and funds have been requested.</p> <p>On 17 September 2021, the CfH enquired about the possibility of providing generic drugs produced by specific companies.</p> <p>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.</p> <p>In June 2022, the CfH was informed about the allocation of funds to procure the requested drugs.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ministry

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HQ 0061</b>
Brief details of case	Confidential case
Action taken and management comments	<p>In September 2021, the Commissioner was informed that this sensitive case had been resolved internally and requested closure of the case.</p> <p>On 5 October 2021, the Commissioner forwarded comments received from the claimants, following which discussions and meetings between all stakeholders were held.</p> <p>On 21 March 2022, the CfH was informed that the Neonatal Paediatric Intensive Care Unit (NPICU) was being managed by two consultant paediatricians, supported by several resident specialists in paediatrics. The current structure was considered to be sufficient to ensure the proper, smooth, and safe management of the NPICU.</p> <p>On 23 March 2022, the Commissioner confirmed the case as closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation
Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HS 0061</b>
Brief details of case	A complaint regarding a submission to the Exceptional Medicinal Treatment Committee (EMTC) which was not approved. The patient was requesting reconsideration of the case.
Action taken and management comments	<p>In April 2021, the Commissioner was informed that the branded drug had been approved and funds were requested.</p> <p>In June 2022, the CfH was informed about the allocation of funds to procure the requested drugs.</p> <p>On 25 October 2022, the Commissioner confirmed the case as closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HS 0071</b>
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	<p>On 28 February 2019, the Commissioner was informed that the EMTC stood by its original decision.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>On 24 June 2022, the Commissioner 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.</p> <p>On 31 October 2022, the Commissioner was further informed that, following the review of specifications, the tender has been forwarded for publication.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ministry

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HS 0080</b>
Brief details of case	A complaint by an officer in the healthcare profession claiming that, due to an ongoing court case, the health authorities had failed to appoint him to a higher grade despite having placed first in a particular selection process.
Action taken and management comments	<p>In February 2019, the CfH was informed that subject to satisfactory performance, the Public Service Commission would be requested to extend the validity period/s of the results in question. The appointment was subject to the court decision, exculpating the complainant concerned.</p> <p>On 31 August 2022, the Commissioner confirmed the case as closed as it was still being debated at Court.</p>
Status last year	Suspended due to court proceedings
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HS 0084</b>
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	<p>The case was received on 15 February 2019.</p> <p>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.</p> <p>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.</p> <p>On 20 June 2022, it was agreed that a meeting was to be held with EMTC with a view to concluding the case.</p> <p>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.</p>
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HS 0102</b>
Brief details of case	A complaint regarding a submission to the Exceptional Medicinal Treatment Committee (EMTC) which was not approved.
Action taken and management comments	<p>The Commissioner requested that the case be reviewed and also 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 favorably 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>
Status last year	Pending at Ministry
Status	Pending at Ombudsman

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0010</b>
Brief details of case	An Own Initiative Investigation by the CfH about patient safety at the Neonatal Pediatric Intensive Care Unit (NPICU).
Action taken and management comments	<p>On 24 May 2019, MFH notified Mather Dei Hospital (MDH) administration about the Ombudsman's report, with findings of the investigation carried out and recommendations.</p> <p>In December 2019, a reply with all the related information was sent to CfH, following which the latter requested further clarification.</p> <p>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 in an attempt to conclude the matter. Developments on the matter were to be communicated to the CfH.</p> <p>As on 31 October 2022, internal consultations were in process and meetings were still being held to address the queries raised by the CfH.</p>
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0011</b>
Brief details of case	<p>The complaint concerns a submission to the Exceptional Medicinal Treatment Committee (EMTC) which was not approved. The patient requested a reconsideration of the case.</p>
Action taken and management comments	<p>On 17 June 2019, the CfH was informed that submissions would only be reassessed by the EMTC 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.</p> <p>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.</p> <p>On 8 October 2021, the Commissioner was informed that another application to the EMTC was to be submitted. The Commissioner forwarded the requested application form on 16 December 2021.</p> <p>On 20 December 2021, the Commissioner was informed that the request for a formulary drug outside its protocol had been approved and the patient was to receive all necessary permits to be able to collect the treatment as directed.</p> <p>On 29 December 2021, the Commissioner confirmed the case as closed.</p>
Status last year	Pending at Ministry
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0014</b>
Brief details of case	<p>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.</p>
Action taken and management comments	<p>The issue related to the procurement of branded products was being discussed internally within MFH.</p> <p>In February 2019, the Commissioner was verbally notified accordingly.</p> <p>On 5 November 2019, the Commissioner 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.</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>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.</p>
Status last year	Pending at Ministry
Status	Pending at Ombudsman

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0022</b>
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	<p>The case was received on 7 March 2019.</p> <p>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.</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 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.</p>
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0026</b>
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	<p>The case was received on 18 March 2019.</p> <p>On 23 January 2020, the Commissioner was informed that the patient was receiving the required medicine.</p> <p>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.</p> <p>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.</p> <p>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.</p>
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0038</b>
Brief details of case	<p>A complaint concerning a submission to the Exceptional Medicinal Treatment Committee (EMTC) which was not approved. The patient requested a reconsideration of the case.</p>
Action taken and management comments	<p>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.</p> <p>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 on the basis of EMTC refusal.</p> <p>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.</p> <p>On 12 July 2022, the Commissioner forwarded further queries.</p> <p>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.</p>
Status last year	Pending at Ministry
Status	Pending at Ombudsman

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0042</b>
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	<p>On 17 June 2019, the Commissioner was informed that submissions would only be reassessed by the EMTC 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.</p> <p>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.</p> <p>On 29 September 2021, the Commissioner was informed that a 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.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ministry

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0043</b>
Brief details of case	<p>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.</p>
Action taken and management comments	<p>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.</p> <p>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.</p> <p>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.</p> <p>In January 2021, the case was discussed during a meeting with the CfH.</p> <p>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 effected.</p> <p>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.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0045</b>
Brief details of case	A complaint concerning a patient who required the use of both pink and yellow cards but was told to choose which one to keep, thus forfeiting benefits provided by the other one.
Action taken and management comments	<p>The case was received on 25 June 2019.</p> <p>On 7 August 2019, the Pharmacy of Your Choice (POYC) informed CMO that it would be consulting legal counsel for guidance.</p> <p>On 12 September 2019, following discussions with legal counsel and clarifications with MFSS, a reply was sent to the Commissioner, informing him that the claimant was to apply to DSS to determine whether they were eligible for free medical aid as laid down in Part II of the Social Security Act.</p> <p>On 28 September 2021, MFH was informed that CfH was again discussing the case with the claimant.</p> <p>On 16 November 2021, the Commissioner was informed that for claimant to be given the required treatment, they must renounce their Schedule II entitlement and apply for a Schedule V entitlement, in accordance with the guidelines of Circular DH 8/2017.</p> <p>On 29 December 2021, the Commissioner confirmed the case as closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0050</b>
Brief details of case	CfH requested details regarding a tender for the supply of a specific medicine.
Action taken and management comments	<p>On 26 August 2021, the CfH was informed that the Central Procurement and Supplies Unit (CPSU) had already notified his office that procurement under the respective tender was to be made according to medical indications covered by the current protocol. Procurement to cover new indications was not permissible unless otherwise approved.</p> <p>On 8 July 2022, the CfH was informed that medicine had been approved and made available to patients in line with the agreed protocol.</p> <p>On 1 August 2022, the Commissioner confirmed the case as closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0087</b>
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 Commissioner 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 Commissioner 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.</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>
Status last year	Pending at Ombudsman
Status	Pending at Ministry

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0093</b>
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	<p>The case was received on 2 December 2019.</p> <p>The EMTC did not approve the requested medicine and the Commissioner was informed accordingly.</p> <p>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.</p> <p>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.</p>
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HT 0102</b>
Brief details of case	A complaint arising from a decision by the Exceptional Medical Treatment Committee (EMTC) not to approve a particular medicine.
Action taken and management comments	<p>The case was received on 9 January 2020.</p> <p>On 28 January 2020, the Commissioner was informed about the EMTC's decision not to approve the request. In terms of the protocol, the pharmacists at the Pharmaceutical Affairs Directorate were informed of this decision and the patient's consultant should have been notified.</p> <p>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.</p> <p>On 20 June 2022, it was reconfirmed that the case was not approved by the EMTC. It was also agreed that a meeting be held with the Committee with a view to concluding the case. During the meeting, the main discussion was about EMTC policies and 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.</p> <p>On 25 October 2022, the CfH confirmed the case as closed.</p>
Status last year	Pending at Ministry
Status	Closed without recommendation

Sector/Department	<b>Chief Medical Officer (CMO)</b>
Ombudsman case reference	<b>HU 0083</b>
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	<p>The case was received on 14 October 2020.</p> <p>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.</p> <p>On 4 October 2021, the CfH replied, requesting comments from ART Clinic and /or from the Chairperson of the EPA.</p> <p>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, in an effort 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.</p>
Status last year	Pending at Ministry
Status	Pending at Ombudsman

Sector/Department	<b>Foundation for Medical Services (FMS)</b>
Ombudsman case reference	<b>HU 0011</b>
Brief details of case	A complaint regarding a request for the review of a selection process and result.
Action taken and management comments	<p>On 25 June 2020, the CEO Foundation for Medical Services (FMS) explained the selection procedure.</p> <p>On 24 August 2021, following a meeting with the CfH, the latter was notified that FMS had nothing further to add to its original communication and that the selected candidate had resigned from the position in question. In the circumstances, a fresh call for applications had been issued.</p> <p>On 27 September 2021, the Commissioner was informed that the external call for application had been published on 26 September 2021.</p> <p>On 16 December 2021, the Commissioner confirmed the case as closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Gozo General Hospital (GGH)</b>
Ombudsman case reference	<b>HU 0029</b>
Brief details of case	A complaint regarding an officer requesting entitlement for a special duty allowance for covering ITU duties while on-call duty.
Action taken and management comments	<p>In October 2020, the CfH was informed that all dues owed to the claimant had been fully settled.</p> <p>Following further queries on 28 April 2021, the Commissioner was informed that revised job plans were concluded and approved in January 2020. In the claimant's case, confirmation of the number of hours to be worked was sufficient to design the job plan.</p> <p>On 24 September 2021, the Commissioner was informed that only claims for payment related to duties carried out on or after 16 October 2019 could be considered.</p> <p>On 29 September 2021, the Commissioner forwarded correspondence from the claimant, stating that duties had started in February 2017.</p> <p>On 5 October 2021, a reply was sent to the Commissioner, reiterating that arrangements concerning remuneration for these duties had been formalised and finalised through an agreement reached between the government and MAM on 16 October 2019. Entitlement to payment became effective on that date.</p> <p>On 29 December 2021, the Commissioner confirmed the case as closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>HU 0057</b>
Brief details of case	<p>The claimant stated that there was an ambiguous working environment resulting from unclarified definitions of roles and responsibilities about physiological measurements.</p>
Action taken and management comments	<p>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.</p> <p>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.</p> <p>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.</p> <p>On 24 November 2021, the Commissioner enquired about the issuing of a call for the post of Scientific Officer in Physiological Measures.</p> <p>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.</p> <p>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 can be issued as recommended.</p> <p>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.</p> <p>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.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ministry

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>HU 0093</b>
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 is still ongoing regarding the entitlement due to the claimant, if any.
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department	<b>Human Resources</b>
Ombudsman case reference	<b>HU 0101</b>
Brief details of case	The officers of a specific category complained that their specialties were omitted from the agreement between the government and union.
Action taken and management comments	The case was received on 15 December 2020.  On 13 January 2021, the Commissioner for Health (CfH) was informed that the Scientific Officer category was covered by the agreement pertaining to the Scientific class not by the agreement pertaining to the Allied Health class.  On 19 January 2021, the CfH forwarded a communication received from the claimants, requesting further investigation as they had been left out from the assimilation exercise. On 10 June 2021, the CfH was informed that the Union was against any amendments to the sectoral agreement.  On 16 July 2021, the Commissioner was informed that the Ministry was implementing a sectoral agreement and that no departure from its provisions could be made, unless agreement regarding the claims raised by the officers concerned was reached with the respective Union. As already stated in previous communications, the union disagreed with any related amendments to the sectoral agreement.  On 9 February 2022, the CfH informed MFH that the case had been closed.
Status last year	Pending at Ministry
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 will be granted every opportunity to follow recognised top-up courses that will 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 an award. Respective calls had not been issued in view that negotiations for a new sectoral agreement were still underway. It was therefore essential for the claimants to obtain a qualification (not an award) at MQF Levels 3, 4 or 5 to secure their eligibility to apply for the respective external call, once this was issued.

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 will not be penalised and will 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.

<p>Status last year</p> <p>Status</p>	<p>On 27 July 2022, CfH enquired once again if his request was taken into consideration.</p> <p>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.</p> <p>Pending at Ministry</p> <p>Pending at Ombudsman</p>
<p>Sector/Department</p>	<p><b>Mater Dei Hospital (MDH)</b></p>
<p>Ombudsman case reference</p>	<p><b>HT 0044</b></p>
<p>Brief details of case</p>	<p>A complaint concerning certain protocols within MDH which, it was claimed, required review.</p>
<p>Action taken and management comments</p>	<p>The case was received on 25 June 2019.</p> <p>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.</p>
<p>Status last year</p> <p>Status</p>	<p>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.</p> <p>On 19 July 2022, the Commissioner was informed that MDH was not aware of any developments on the police investigation, despite efforts to that same effect.</p> <p>Pending at Ministry</p> <p>Pending at Ombudsman</p>

Sector/Department	<b>Mater Dei Hospital (MDH)</b>
Ombudsman case reference	<b>HU 0064</b>
Brief details of case	A claimant stated that, upon retirement, they were not paid the NI pension to reflect the years of service during a specific period.
Action taken and management comments	<p>The case was received by MDH in March 2021. The CfH forwarded the final report to both MFH and MSFC and asked them to coordinate the matter. On 6 April 2021, DG (Finance), MFH, requested MDH to investigate the matter and report on the NI contributions paid to make up for arrear NI payments.</p> <p>On 31 May 2021, a copy of the reply submitted by the Department of Social Security was forwarded to MFH. On 28 July 2021, another report, together with further documentation, was submitted by CfH to MFH. The report was forwarded to MDH for terms of reply. Legal advice was sought on the matter.</p> <p>On 29 September 2021, the CfH was informed that MFH had requested a meeting with MSFC with a view to discuss and determine a streamlined way forward to resolve the matter.</p> <p>On 2 November 2021, the Commissioner was informed that during a meeting held between MFH and MSFC it was agreed that the claimant was to receive reimbursement.</p> <p>On 23 November 2021, the Commissioner confirmed the case as closed.</p>
Recommendation by Ombudsman	Arrears were to be paid to the claimant.
Status last year	Pending at Ministry
Status	Closed and recommendation implemented

Sector/Department	<b>Mental Health Services (MHS)</b>
Ombudsman case reference	<b>HU 0075</b>
Brief details of case	A claim alleging various abuses that the claimant had been exposed to years ago when they had been admitted to the Mental Health Services (MHS).
Action taken and management comments	<p>The case was received on 22 January 2021. The case was referred to MHS for investigation and draft terms of reply.</p> <p>On 7 April 2021, a report with replies regarding the alleged abuse, was forwarded to the Commissioner.</p> <p>On 13 April 2021, the Commissioner requested further clarifications regarding certain procedures. On 23 August 2021, the Commissioner was presented with a detailed reply addressing all the queries raised on the matter.</p> <p>On 31 August 2022, the Commissioner confirmed the case as closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Mental Health Services (MHS)</b>
Ombudsman case reference	<b>HU 0100</b>
Brief details of case	A complaint concerning a patient who was given the wrong treatment twice by mistake, leading to the patient's demise.
Action taken and management comments	<p>The case was received on 27 November 2020.</p> <p>On 30 March 2021, a confidential report drawn up by the consultant psychiatrist responsible for the late patient was forwarded to the CfH. He was also informed that from the investigation carried out by the Incident Review Board, it resulted that the incident had not been an act of negligence and no disciplinary action was deemed necessary.</p> <p>As a way forward, all staff were notified about the introduction of methods for systems improvement. An SOP for the Auditing of Storage and Administration of Medicinal Products had been introduced in March 2020 and the SOP for patient imaging, aimed at reducing treatment errors, was subsequently revised and re-circulated. Officers responsible for wards/units were also informed that any areas requiring attention, and recommendations related thereto, were to be raised for discussion and for the necessary follow-up to be undertaken by the nursing management.</p> <p>On 28 February 2022, the Commissioner confirmed the case as closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Sir Paul Boffa Hospital</b>
Ombudsman case reference	<b>HU 0078</b>
Brief details of case	The claimant stated that after having been transferred, the on-call allowance had been stopped despite being called and disturbed at all hours during off-duty.
Action taken and management comments	<p>The case was received on 1 October 2020.</p> <p>On 3 November 2020, the Commissioner for Health (CfH) was informed that the hospital management had requested the claimant to submit proof of having been called after normal working hours. The claimant never submitted tangible proof and instead opted to lodge a claim with the Commissioner. Requests to close the case were frequently sent to CfH but these were always refused. No further requests were made for a period, however CfH insisted that the case was not to be closed.</p> <p>In October 2021, the CfH informed MFH that documentation requested as tangible proof was forwarded to the hospital management concerned.</p> <p>On 9 November 2021, the Commissioner was informed that from the conversations elevated from the documentation provided by claimant, it transpires that the exchanges that took place concerned non-urgent, inter-departmental matters which could have been addressed the day after. It was therefore being reconfirmed that claimant was never approved nor needed to be "on call".</p> <p>On 16 December 2021, the Commissioner confirmed the case as closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HR 0017</b>
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	<p>The case was received on 3 March 2017.</p> <p>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.</p> <p>On 19 January 2021, the Commissioner insisted that the claimants' request to be paid the difference in pay for the stated period should be favourably considered. The CfH was informed that the claim could not be acceded to.</p> <p>On 31 May 2021, the Commissioner once again enquired why this claim could not be favourably considered.</p> <p>On 22 February 2022, the Commissioner was informed that the favorable consideration of this case would create a precedent. The CfH replied asking for clarifications.</p> <p>On 27 July 2022, the Commissioner was presented with a detailed reply. The Commissioner replied insisting that his suggestion was to be implemented.</p> <p>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 claimant's feedback and requested further explanation.</p>
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HR 0054, 55, 56, 57, 58</b>
Brief details of case	Cases raised by two complainants concerning a management issue at the place of work.
Action taken and management comments	<p>The case was received on 29 August 2017.</p> <p>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.</p> <p>On 8 May 2020, the Commissioner's final opinion was referred to MFH. The Commissioner requested feedback on the action which MFH intends to take in line with his recommendations.</p> <p>In June 2020, a Board of Inquiry was set up to review the case and it reached its conclusions.</p> <p>On 28 September 2021, the Commissioner enquired about the status of the case.</p> <p>On 12 October 2022, during a meeting held at the Office of the Ombudsman between MFH officials and CFH, the case was re-discussed.</p>
Recommendation by Ombudsman	<ol style="list-style-type: none"> <li>1. A new post of Director of Public Health Laboratory be created.</li> <li>2. A call for applications be issued as soon as possible.</li> <li>3. The Public Health Laboratory be under the responsibility of the Superintendent of Public Health.</li> </ol>
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HS 0031</b>
Brief details of case	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.
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.</p> <p>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 communicate with the claimant's lawyer to clarify whether the case was still being pursued by the claimant.</p> <p>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>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HT 0036</b>
Brief details of case	A complaint relating to an overflow of sewage/dirty water onto the claimant's property and causing damage.
Action taken and management comments	<p>The case was received on 15 May 2019.</p> <p>Following the receipt of this complaint, the Environmental Health Directorate forwarded a report to the CfH. The latter wrote to the claimant stating that health inspectors had called to inspect the property 48 times. The claimant referred the case to a lawyer and on 28 November 2019, SPH confirmed that the claimant had carried out the work themselves and for the same reason asked the Commissioner to close the case.</p> <p>On 2 December 2019, the Commissioner forwarded a copy of a letter dated 27 August 2019 from the claimant's lawyer, stating that the complainant had to carry out work themselves to avoid further damage to their property. The claimant was thus claiming a refund for the works carried out as well as enquiring why the Environmental Health inspector concerned had failed to proceed legally against the occupier of the premises from where the overflow had originated.</p> <p>By September 2020, an internal investigation was in process but in view of COVID-19 exigencies, action had to be suspended. On 10 September 2021, MFH forwarded a reply to the Commissioner that was drawn up by the MFH's lawyers, including a detailed report explaining the trail of events.</p> <p>On 3 February 2022, the Commissioner confirmed the case as closed.</p>
Recommendation by Ombudsman	The Commissioner requested reimbursement of expenses incurred for carrying out the work concerned.
Status last year	Pending at Ombudsman
Status	Closed and recommendation implemented

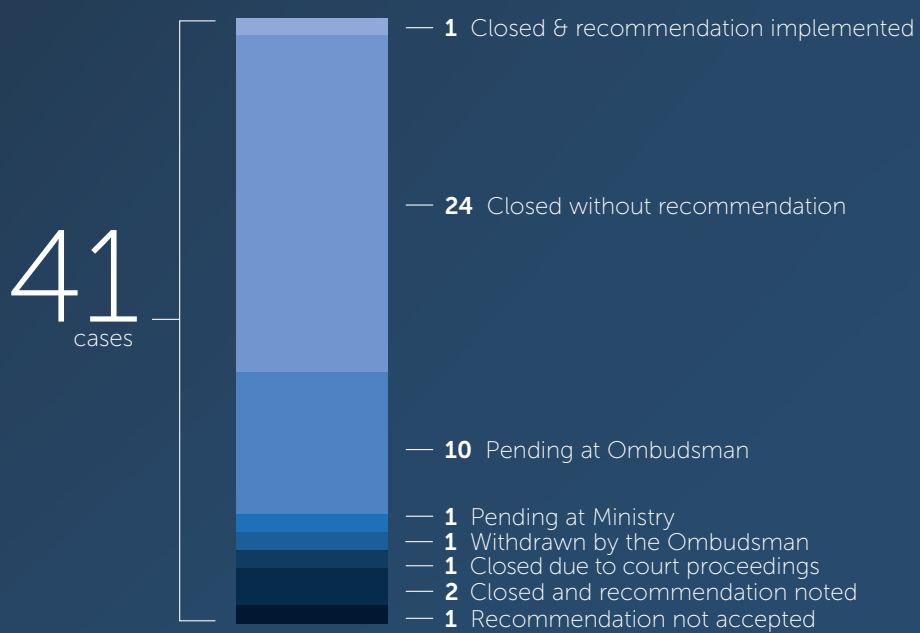
Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HT 0058</b>
Brief details of case	A case concerning a letter from a lawyer of a private company sent to the Food Safety Commission and the Director Environmental Health, in relation to Regulation EC1935 of 2004.
Action taken and management comments	<p>The case was received on 9 August 2019.</p> <p>On 5 November 2019, the Commissioner was informed about the Environmental Health Directorate's (DEH) obligations regarding the level of food safety in the manufacture of paper napkins as well as the raw materials used.</p> <p>On 7 December 2019, the Commissioner requested further clarifications but in view of COVID-19 exigencies, action had to be suspended.</p> <p>On 13 July 2021, the Commissioner was informed that during inspections carried out by the DEH at food premises, Environmental Health Officers ensure that any material intended to come in contact with food complied with Regulation EC1935/ 2004. The regulation did not require the labelling of each individual item since package labelling was considered sufficient.</p> <p>On 27 September 2021, the CfH forwarded to MFH further clarifications which were being sought by the advocates of the claiming company.</p> <p>On 9 February 2022, MFH was informed by DEH that several inspections had been carried out regarding this case and no irregularities were noted.</p> <p>On 2 March 2022, the Commissioner requested that the Food Safety Commission was to be informed about the clarification needed on the interpretation of regulation EC 1935 of 2004 as there were different views regarding napkins used in restaurants. Such clarification was also to be obtained from the pertinent authority within the European Union.</p> <p>On 18 May 2022, the Commissioner was informed that the Food Safety Committee (FSC) was transferred from MFH to the remit of the Ministry for Agriculture, Fisheries, Food and Animal Rights (MAFA).</p> <p>On 20 July 2022, the Commissioner confirmed the case as closed.</p>
Status last year	Pending at Ministry
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HT 0063</b>
Brief details of case	A complaint concerning leakage from a sewer which was contaminating private property.
Action taken and management comments	<p>The case was received on 9 August 2019. The CfH requested MFH to investigate the matter, following which, in October 2019, health inspectors inspected the place, noting that works were to be completed by the neighbour of the complainant. However, in view of Covid-19 exigencies, action concerning this case had to be suspended.</p> <p>On 18 June 2021, the Commissioner was informed that following investigations by the Environmental Health Officer, legal action had been initiated against the owners of the flats on 6 November 2019, as the common drains were defective. The case was appointed for the first Court Sitting on 6 December 2019 but had to be deferred several times in view that the works had not been carried out.</p> <p>On 9 November 2021, the Commissioner was informed that during the Court Sitting held on 29 October 2021, the Magistrate ordered the Environmental Health Practitioner to set an appointment with the contractor with a view to have works initiated immediately.</p> <p>On 14 December 2021, the CfH was informed that after a series of attempts, the environmental health practitioner managed to meet the contractor concerned. The contractor proposed possible solutions which would be undertaken on his part. Between March and June 2022 works were ongoing and supervised by the court architect and CfH was being continuously informed about developments.</p> <p>On 26 July 2022, the Commissioner was informed that the contractor removed the stoppage from the lower house drains and the inspection chamber. Hence the problem had been solved. The respective EHO notified the court accordingly, during the sitting held in September.</p> <p>On 4 October 2022, the Commissioner confirmed the case as closed.</p>
Status last year	Suspended due to court proceedings
Status	Closed without recommendation

Sector/Department	<b>Superintendence of Public Health (SPH)</b>
Ombudsman case reference	<b>HU 0102</b>
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	<p>The case was received on 18 December 2020.</p> <p>In December 2020, the complaint was referred to SPH for draft terms of reply. Subsequently, SPH sought legal advice.</p> <p>On 23 August 2021, the Commissioner 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.</p> <p>On 25 October 2021, the Commissioner 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.</p>
Status last year	Pending at Ministry
Status	Pending at Ministry



# MINISTRY FOR HOME AFFAIRS, SECURITY, REFORMS AND EQUALITY



The Ministry for Home Affairs, Security, Reforms and Equality (MHSR) investigated 22 cases referred by the Parliamentary Ombudsman during 2021. Thirteen cases have been closed without a recommendation being made by the Ombudsman, while three cases were closed after management replied to one request for information. One case was withdrawn by the Office of the Ombudsman. Another case was closed, and the Ombudsman's recommendation was noted by the Ministry. Four cases are pending at the Office of the Ombudsman.

Regarding cases lodged prior to 2021, the MHSR dealt with 15 cases which had been referred by the Parliamentary Ombudsman. Four cases were closed during the year in question without a recommendation being made by the Ombudsman, and one case was closed after management replied to one request for information. Two cases were closed, and recommendations made were implemented and noted, respectively. Another case was closed but the recommendation made was not accepted. One case is pending at the Ministry, while six cases are pending at the Office of the Ombudsman, three of which have been pending for over two years.

During 2021, one case was referred to MHSR by the Commissioner for Health (CfH) and was closed after management replied to a request for information. Another case, referred by the Commissioner for Environment and Planning (CEP), was also closed after the management replied to a request for information.

One case which had been referred by the CfH prior to 2021 has since been closed after the management replied to one request for information. Another case, referred by the CEP prior to 2021, was closed due to court proceedings.

MHSR  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Armed Forces of Malta (AFM)</b>
Ombudsman case reference	<b>OMB-21-2120</b>
Brief details of case	A complaint regarding a former AFM soldier who was allegedly treated in a discriminatory manner when they tried to re-enlist in the AFM.
Action taken and management comments	<p>The case was received on 28 July 2021.</p> <p>MHSR replied to the Ombudsman on 13 September 2021, stating that since the complainant was not a person of the Force and schedule B, the Ombudsman Act was not applicable in his case.</p> <p>The Final Opinion was sent by Ombudsman on 1 December 2021.</p> <p>On 28 December 2021, MHSR replied that note had been taken so that any future revision of the present policy would take into consideration the remarks made by the Ombudsman in his final opinion.</p> <p>On 16 September 2022, MHSR was informed by the Office of the Ombudsman that the case had been closed on 1 December 2021.</p>
Recommendation by Ombudsman	Ombudsman suggested that re-enlistment is formalised by the inclusion of the procedure in a statutory instrument, that each application for re-enlistment be examined on its own merits, and that the decision be set out in a well-reasoned and documented manner.
Status	Closed and recommendation noted

Sector/Department	<b>Correctional Services Agency (CSA)</b>
Ombudsman case reference	<b>OMB-21-2497</b>
Brief details of case	Complaint regarding the loss of prison remission to a CSA inmate.
Action taken and management comments	<p>This case was communicated to MHSR on 22 November 2021.</p> <p>MHSR replied to the Office of the Ombudsman on 23 November 2021, explaining that the loss of remission was due to the inmate concerned having been found guilty by a disciplinary board.</p> <p>Upon enquiring, on 23 March 2022, MHSR was informed by the Office of the Ombudsman that case was closed.</p>
Status	Closed after the management replied to one request for information

Sector/Department	<b>Detention Services</b>
Ombudsman case reference	<b>OMB-21-2243</b>
Brief details of case	Representations from Detention Service Officers regarding the selection process following the issue of a circular dated 8 May 2020.
Action taken and management comments	<p>The case was received on 5 November 2021.</p> <p>The Ombudsman stated that he was informed that efforts were ongoing with the Ministry and the Union's representatives to resolve the issues which had arisen. The Ombudsman queried, by way of verification of this information and, additionally, whether there was a prospect of settlement.</p> <p>MHSR replied on 17 November 2021, that it was the intention of the Detention Services to recruit further successful candidates from the valid order of merit. Subsequently, all successful candidates were recruited.</p> <p>On 24 June 2022, MHSR was informed by the Office of the Ombudsman that case was closed without recommendation.</p>
Status	Closed without recommendation

Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>V 0041</b>
Brief details of case	A complaint regarding an alleged error in ranking in an internal selection process, leading to the complainant not having been appointed, as appointments were made in respect of the first five successful candidates.
Action taken and management comments	<p>The case was received on 23 March 2021. The Ombudsman requested all the files related to the selection process. The relevant files were sent on 30 March 2021.</p> <p>Following several exchanges of correspondence, and in view of having been informed that another vacancy needed to be filled, on 20 May 2021, the Ombudsman proposed that the complainant's date of appointment should be the same date of appointment as that of the other appointees.</p> <p>MHSR replied on 21 May 2021, agreeing with the proposal made by the Ombudsman.</p> <p>MHSR forwarded the letter of appointment to the Office of the Ombudsman on 25 May 2021.</p>
Status	Closed without recommendation

Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>V 0049</b>
Brief details of case	A complaint regarding an application for a Specific Residence Authorisation (SRA) and a residence permit which were not granted.
Action taken and management comments	<p>The case was received on 9 April 2021.</p> <p>Office of the Ombudsman requested:</p> <ul style="list-style-type: none"> <li>• IMA to give its objective reasons for not acceding to complainant's request;</li> <li>• details of the SRA together with a copy of the policy;</li> <li>• details of the disqualification criteria.</li> </ul> <p>MHSR replied to Office of the Ombudsman on 15 April 2021, providing the SRA policy, together with personal information on the complainant which had rendered them ineligible to qualify for an SRA and a residence permit.</p> <p>On 16 April 2021, Office of the Ombudsman requested files relating to the complainant's case.</p> <p>MHSR forwarded the requested documentation to the Ombudsman on 19 April 2021.</p> <p>Upon enquiring, on 24 March 2022, MHSR was informed that this case was closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>OMB-21-2002</b>
Brief details of case	A complaint regarding a residence permit which was not approved and issued by IMA.
Action taken and management comments	<p>IMA received the case on 10 May 2021. A British national was alleging discrimination in the processing an application for a residence permit.</p> <p>MHSR replied on 1 June 2021, stating that the complainant's application was processed in line with the provisions of the EU/UK Withdrawal Agreement, insofar as the issue of residence documents and related residence rights were concerned.</p> <p>The case was closed by the Office of the Ombudsman on 9 June 2021, when the complainant had informed the Office of the Ombudsman that in the interim they had collected their residence card.</p>
Status	Closed without recommendation

Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>OMB-21-2480</b>
Brief details of case	<p>A complaint requesting:</p> <ol style="list-style-type: none"> <li>i. a refund for the 10 notes which were inserted in the final booklet but had nothing to do with the criteria searched for;</li> <li>ii. that administrative processes are in place which ensure that only notes which are ordered are charged for; and</li> <li>iii. the Public Registry database be made accessible online with only the contents of protected documents being withheld from the public.</li> </ol>
Action taken and management comments	<p>The case was received on 16 December 2021, requesting feedback on online searches and suggestions for a possible solution to the anomalies mentioned by the complainant.</p> <p>MHSR replied to the Ombudsman on 3 January 2022, stating that if it resulted that out of the 17 notes provided, it could be identified that some notes did not pertain to the individual in respect of whom the search was requested, the Department would invariably refund the charges for the notes provided in error.</p> <p>The Office of the Ombudsman enquired, on 1 March 2022, about alleged administrative deficiencies highlighted by the complainant.</p> <p>MHSR replied on 16 March 2022, addressing all the points raised by the Office of the Ombudsman.</p> <p>The Office of the Ombudsman informed MHSR on 24 May 2022, that it was closing the case without recommendation.</p>
Status	Closed without recommendation

Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>OMB-21-2278</b>
Brief details of case	A complaint regarding a delay in issuing a residence permit to a British citizen.
Action taken and management comments	<p>This case was communicated to MHSR on 27 August 2021.</p> <p>MHSR replied on 3 September 2021 replying to all the grievances raised by complainant.</p> <p>On 13 September 2021, the Ombudsman's office queried why the complainant had been requested to submit two payslips with their application. MHSR replied on 14 September that two payslips were required because the complainant had switched jobs during the application process.</p> <p>On 17 September 2021, the Office of the Ombudsman informed MHSR that the complainant had collected the residence permit and proceeded to close the case.</p>
Status	Closed without recommendation

Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>OMB-21-2376</b>
Brief details of case	An allegation that 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 had repeatedly been requested to reimburse the money paid in fees, IMA did not take the necessary action.
Action taken and management comments	<p>The case was received on 19 October 2021, and 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.</p> <p>On 21 January 2022, the Ombudsman's office requested further information as regards the fees paid by the applicants in question.</p> <p>The requested information was forwarded by MHSR on 1 February 2022.</p> <p>On 26 October 2022, the Office of the Ombudsman requested clarifications on certain processes relating to the application procedures. On 28 October 2022, MHSR replied by addressing all issues raised by the Office of the Ombudsman.</p>
Status	Pending at Ombudsman

Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>OMB-21-2284</b>
Brief details of case	A complaint regarding a pending request for an appointment with IMA.
Action taken and management comments	<p>The complaint was received by IMA by telephone from the Office of the Ombudsman on 19 August 2021.</p> <p>On the same day, IMA replied to the Office of the Ombudsman that the complainant was given the requested appointment.</p> <p>The Office of the Ombudsman declared the case closed on the same day.</p>
Status	Closed after the management replied to one request for Information.
Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>OMB-21-2083</b>
Brief details of case	A complaint relating to a renewal of an ID card.
Action taken and management comments	<p>The case was received at IMA on 19 July 2021, and the Ombudsman's office was copied in correspondence between IMA and the complainant, who enquired regarding the postal address where the collection notice for the ID card had been posted.</p> <p>On 3 August 2021, the complainant informed IMA that the ID card was going to be collected the following day.</p> <p>Upon enquiring, on 24 June 2022, MHSR was informed by the Office of the Ombudsman that case was closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>V 0019</b>
Brief details of case	A complaint regarding a foreign national who had requested the return of their original birth certificate from the Public Registry (Marriage Section). This certificate was not returned, notwithstanding that they had been informed by an IMA official that it would be returned upon request.
Action taken and management comments	<p>The case was received on 4 February 2021.</p> <p>On 5 February 2021, the Office of the Ombudsman informed IMA that it will proceed with closing the case.</p>
Status	Case withdrawn by Ombudsman
Sector/Department	<b>LESA</b>
Ombudsman case reference	<b>V 0014</b>
Brief details of case	A complaint regarding an individual who was not given any feedback after requesting a review of a case involving the towing of a car.
Action taken and management comments	<p>The case was received on 26 January 2021.</p> <p>On 9 February 2021, MHSR replied that a client can submit a request for review to the attention of the CEO (LESA), and such claims were accepted if submitted within a timeframe of 30 days.</p> <p>On the same day, the Office of the Ombudsman suggested that this information should be uploaded onto the LESA website so that the public is aware of this internal appeal process.</p> <p>The Ombudsman's proposal was implemented on 17 March 2021.</p> <p>Upon enquiring, on 24 June 2022, MHSR was informed that the Ombudsman had closed the case.</p>
Status	Closed without recommendation

Sector/Department	<b>Malta Police Force</b>
Ombudsman case reference	<b>OMB-21-2539</b>
Brief details of case	<p>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.</p>
Action taken and management comments	<p>The case was received on 17 December 2021.</p> <p>On 25 January 2022, 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. To this effect, the Staffing and Major Events Unit was created. As a result of this re-organisation, 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	Pending at Ombudsman

Sector/Department	<b>Malta Police Force</b>
Ombudsman case reference	<b>V 0027</b>
Brief details of case	A complaint regarding a bar licensed to remain open until 04.00 am.
Action taken and management comments	<p>The case was received on 14 July 2021. The Office of the Ombudsman requested feedback whether the license for the bar conformed to usual practice.</p> <p>MHSR replied to the Office of the Ombudsman on 24 August 2021, that the responsible Authority was the Trade Licensing Unit and that the extension process was regulated by the provisions of the Business Hours Regulations (SL 441.08). Regulation 6(2) thereof stipulates that following an application by the owner, or manager of the establishment, among others, the approval (or objection) of the Commissioner of the Police is to be sought before granting the extension. However, no approval from the Commissioner of Police had been sought in this particular case.</p> <p>On 15 September 2021, MHSR clarified that the views of the Police were not sought in the extension process since the licence was issued back in 2004. The Police were involved in this whole process in 2006. In fact, the present procedure had been introduced by Legal Notice 1 of 2006.</p> <p>MHSR stated also that although leaving a restaurant and bar open in a residential area till the early hours may be considered inappropriate, once a licence was issued, the respective law enforcement authorities, including the Malta Tourism Authority and the Police, can only act when the conditions of the licence are breached. Any irregularities may be then dealt with in accordance with the provisions of Regulation 6 of SL 441.08.</p> <p>Upon enquiring, on 24 March 2022, MSHR was informed by the Office of the Ombudsman that this case was closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Malta Police Force</b>
Ombudsman case reference	<b>V 0039</b>
Brief details of case	A complaint regarding a mobile phone which was not returned to its owner following its seizure as part of a police investigation.
Action taken and management comments	<p>The case was received on 12 March 2021.</p> <p>MHSR replied to the Ombudsman on 23 March 2021, through the Malta Police Force (MPF), addressing the points raised by the complainant. MPF replied under confidential cover as the police investigation was still open.</p> <p>On 24 March 2022, MHSR was informed by the Office of the Ombudsman that this case was closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Malta Police Force</b>
Ombudsman case reference	<b>V 0066</b>
Brief details of case	A complaint regarding alleged victimisation and harassment.
Action taken and management comments	<p>The case was received on 28 April 2021. The Office of the Ombudsman requested details and comments from the Malta Police Force (MPF) on complainant's case.</p> <p>MHSR replied on 12 May 2021, detailing the complainant's disciplinary and court cases.</p> <p>On 20 May 2021, the Office of the Ombudsman requested further documentation related to the case and the complainant.</p> <p>On 30 May 2021, MHSR forwarded the requested information to the Office of the Ombudsman.</p> <p>The Office of the Ombudsman closed the case on 14 June 2021.</p>
Status	Closed without recommendation

Sector/Department	<b>MHSR</b>
Ombudsman case reference	<b>OMB-21-2046</b>
Brief details of case	<p>A complaint regarding an AFM official who alleged that they never received a reply from the AFM Complaints Board on a petition they had filed on 18 August 2017.</p>
Action taken and management comments	<p>The case was received on 27 May 2021.</p> <p>MHSR replied to the Office of the Ombudsman on 10 June 2021, stating that the cases submitted to the AFM Complaints Board, including that made by the complainant, were still being evaluated and once the whole exercise was completed, all complainants were to be notified of the final decision.</p> <p>On 28 April 2022, Ombudsman wrote to MHSR, stating that the decisions of the board should be transmitted to the complainants as soon as possible.</p> <p>On 28 July 2022, MHSR wrote to the Ombudsman, informing him that the evaluation process was in the concluding phase.</p> <p>On 20 October 2022, the Office of the Ombudsman informed MHSR that the case was closed.</p>
Status	Closed without recommendation

Sector/Department	<b>MHSR</b>
Ombudsman case reference	<b>OMB-21-2072</b>
Brief details of case	<p>A complaint from an officer who alleged that their assignment to the Academy for Disciplined Forces from the Correctional Services Agency, following the conclusion of disciplinary proceedings, was irregular and contrary to the provisions regulating the Prison Service.</p>
Action taken and management comments	<p>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.</p> <p>MHSR forwarded the requested documentation to the Office of the Ombudsman on 18 June 2021.</p> <p>On 2 December 2021, the Office of the Ombudsman requested further details on the case following a parliamentary question regarding the complainant.</p> <p>MHSR replied on 6 December 2021, addressing all the queries brought up by the Office of the Ombudsman.</p> <p>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.</p> <p>On 29 August 2022, MHSR replied to the Ombudsman and addressed all the points raised by the latter in his correspondence of 26 August 2022.</p>
Status	Pending at Ombudsman

Sector/Department	<b>MHSR</b>
Ombudsman case reference	<b>OMB-21-2211</b>
Brief details of case	A request by the Office of the Ombudsman urging for prior checking of <i>Fedina Penali</i> of Detention Services Officials.
Action taken and management comments	<p>The case was received on 10 August 2021.</p> <p>On 10 September 2021, MHSR replied to the Ombudsman with supporting documents (<i>Fedina Penali</i>).</p> <p>On 14 December 2021 and 13 January 2022, respectively, the Office of the Ombudsman further requested the <i>fedina penali</i> of various Detention Services Officers. These documents were forwarded to the Office of the Ombudsman on 14 January 2022.</p> <p>On 20 October 2022, the Office of the Ombudsman informed MHSR that it was proceeding to close the case.</p>
Status	Closed without recommendation
Sector/Department	<b>MHSR</b>
Ombudsman case reference	<b>OMB-21-2406</b>
Brief details of case	A complaint regarding an AFM official who alleged that they never received a reply from the AFM Complaints Board on a petition they had filed on 18 August 2017.
Action taken and management comments	<p>The case was received on 22 October 2021, where the Office of the Ombudsman requested an update on this matter.</p> <p>MHSR replied on 27 October 2021, stating that the Board's recommendations were recently presented to the Minister.</p> <p>On 12 November 2021, the Office of the Ombudsman informed MHSR that the case was closed without recommendation.</p>
Status	Closed after the management replied to one request for information

Sector/Department	<b>MHSR</b>
Ombudsman case reference	<b>OMB-21-2461</b>
Brief details of case	The Office of the Ombudsman requested the whole list of prisoners and staff with contact details who have worked at the Correctional Services Agency (CSA) in the last five years.
Action taken and management comments	<p>The case was received on 17 November 2021, from the Commissioner for Administrative Investigations, Office of the Ombudsman.</p> <p>On 11 January 2022, MHSR forwarded the documentation requested.</p> <p>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, including email addresses.</p> <p>On 8 March 2022, MHSR submitted the requested information to the Office of the Ombudsman.</p>
Status	Pending at Ombudsman

MHSR  
**Parliamentary Ombudsman Pre 2021**

Sector/Department	<b>Agency for the Welfare of Asylum Seekers (AWAS)</b>
Ombudsman case reference	<b>R 0249</b>
Brief details of case	A confidential complaint concerning professional services to AWAS.
Action taken and management comments	<p>The case was received on the 1 February 2018.</p> <p>MHSE held meetings with AWAS and the complainant to determine whether payments were actually due to the complainant.</p> <p>No agreement could be reached, and legal proceedings have been initiated. The complainant filed a judicial protest on 9 July 2021.</p> <p>MHSE replied by a counter protest on 12 July 2021.</p> <p>On 22 July 2022, the Office of the Ombudsman informed MHSR that Office will not proceed any further with its investigation into this matter and proceeded to close the case.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation
Sector/Department	<b>Armed Forces of Malta (AFM)</b>
Ombudsman case reference	<b>P 0022</b>
Brief details of case	A complaint regarding an alleged injustice after the complainant's appointment was relinquished by AFM.
Action taken and management comments	<p>This case was communicated to MHAS on 15 July 2015.</p> <p>On 8 March 2017, the Office of the Ombudsman requested information pertinent to the grievance raised by the complainant.</p> <p>MHAS replied on 28 March 2017, addressing the right of redress of commissioned officers, and stating that the complainant had been transferred in view of the exigencies of the service.</p> <p>On 21 December 2021, the Ombudsman sent his Final Opinion.</p>
Recommendation by the Ombudsman	The Ombudsman recommended that MHSE and AFM should stay within the strict confines of the law when officers are deployed or are ordered to assume any responsibility in their service.
Status last year	Pending at Ombudsman
Status	Closed and recommendation noted

Sector/Department	<b>Armed Forces of Malta (AFM)</b>
Ombudsman case reference	<b>R 0052</b>
Brief details of case	A complaint regarding alleged injustice following a promotion process to a higher rank.
Action taken and management comments	<p>The case was received on 29 March 2017.</p> <p>On 18 April 2017 the file relating to selection process, CVs of all applicants, points, notes, and evaluation marks pertaining to the complainant, applicants' personal files, and marks awarded separately by each board member, were sent to the Ombudsman</p> <p>On 15 July 2019, MHSR forwarded to the Ombudsman the Commander's detailed reports for the promotion exercises as requested by 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.</p> <p>On 25 October 2022, MHSR enquired regarding status and the Office of the Ombudsman confirmed that the case was still pending.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Armed Forces of Malta (AFM)</b>
Ombudsman case reference	<b>R 0318</b>
Brief details of case	A complaint concerning promotions in the 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>MHAS replied to the Ombudsman on 2 August 2019, addressing the points raised in this case, and submitted the requested documentation.</p> <p>On 25 October 2022, MHSR enquired regarding status and the Office of the Ombudsman confirmed that the case was still pending.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Correctional Services Agency</b>
Ombudsman case reference	<b>S 0075</b>
Brief details of case	A complaint regarding an inmate who alleged that they were not receiving prompt medical treatment.
Action taken and management comments	<p>The case was received on 31 January 2019.</p> <p>The Corradino Correctional Facility (CCF) provided the requested details on the medical treatment provided.</p> <p>Upon enquiring, on 22 March 2022, MHSR was informed by the Office of the Ombudsman that this case was closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Detention Services</b>
Ombudsman case reference	<b>U 0235</b>
Brief details of case	A complaint regarding special quarantine leave. The complainant argued that, unlike other public officers, their leave of absence was deducted from their sick leave entitlement.
Action taken and management comments	<p>This case was referred by the Ombudsman on 4 January 2021.</p> <p>MHSE replied to the Ombudsman on 29 January 2021, clarifying that the complainant was suffering from Covid-19, and therefore they were on sick leave. P&amp;SD confirmed that Covid-19 patients were to avail themselves of sick leave.</p> <p>On 12 October 2021, the Ombudsman sent his Final Opinion. MHSR did not concur with the recommendation submitted.</p> <p>Upon enquiring, in March 2022, MHSR was informed by the Office of the Ombudsman that this case was closed.</p>
Recommendation by Ombudsman	The Ombudsman recommended that a person with Covid-19 should be on quarantine leave not on sick leave.
Status last year	Pending at Ombudsman
Status	Closed and recommendation not accepted.

Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>S 0119</b>
Brief details of case	<p>A complaint lodged by a private company contracted by IMA to provide employees for 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.</p>
Action taken and management comments	<p>The case was received on 22 November 2018.</p> <p>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.</p> <p>Criminal proceedings instituted by the Department of Industrial and Employment Relations (DIER) found the private company guilty of the charges brought against it and the court judgment stated that it had to pay all outstanding salaries to the employees concerned. Despite this court judgment, the cheques issued to the employees concerned could not be cashed due to lack of funds, and it was only recently that one of the employees was paid the amount due. The other employee however was not paid. Since the private company was failing to pay these employees, IMA decided to start issuing direct salary payments to them. No remaining amounts were due to the private company.</p> <p>On 20 October 2022, MHSR was informed by the Office of the Ombudsman that the case was still pending.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>S 0205</b>
Brief details of case	<p>A complaint by an EU citizen in connection with an application for EU Permanent Residence. The complainant claimed considerable delays and contended that the application process was badly administered. The residence document which was eventually issued was valid for five years. They claimed that this was in breach of regulation 7 of SL 460.17, which stated that the EU Permanent Residence Card should have a validity of 10 years. They requested that the EU Permanent Card be issued with the correct validity period as indicated by law without having to re-apply.</p>
Action taken and management comments	<p>The case was received by email on 30 October 2018.</p> <p>IMA replied on 27 February 2019, stating that following the submission of further documents, the complainant's right to permanent residence was confirmed. The document issued in this case was a permanent residence certificate in terms of SL 460.17 sub-article 7(8), which did not indicate a specific validity or specific format. The card issued also served as an identification document that enables access to online government services with embedded electronic features. In view of such technical features, the card, not the status, must be renewed every five years. With reference to the delay claimed while processing complainant's application, IMA clarified that it acted in accordance with the provisions of the EU directive and the document in caption was, as stipulated in the said Directive, issued as soon as possible.</p> <p>On 5 March 2019, the Office of the Ombudsman requested a copy of the correspondence sent by IMA to the complainant. IMA provided requested correspondence on 22 April 2019.</p> <p>The Office of the Ombudsman informed MHSR on 31 May 2022, that the case was being closed.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>T 0049</b>
Brief details of case	<p>A complaint regarding an EU citizen who applied for a Residence Card. The complainant contended that Identity Malta Agency (IMA) imposed burdensome documentary requirements for the processing of the application that were not required by law. Furthermore, the complainant contended that the considerable delays experienced in issuing the card have resulted in a breach of the complainant's rights of free movement within the European Union.</p>
Action taken and management comments	<p>The case was received on 26 February 2019.</p> <p>On 7 March 2019, the IMA informed the Office of the Ombudsman that the complainant was entitled to be issued with the residence documentation in question. The process was finalised, and a notification was sent to the complainant to collect the document.</p> <p>The Office of the Ombudsman informed IMA on 15 March 2019, that the complainant collected the residence document. Moreover, the Ombudsman enquired why the issue of the residence document was delayed to such an extent and why the complainant had been asked to open a bank account and deposit an established minimum amount of funds, and to provide proof of local bank transfers and transactions, before receiving residence document.</p> <p>IMA replied on 3 April 2019, that additional documentation requested from the complainant was not required, although it had been demanded in good faith. IMA, acknowledged that there was undue delay for the issue of the document in question, and was to ensure that similar delays would not be repeated.</p> <p>On 10 June 2022, MHSR was informed that the Office of the Ombudsman had closed the case.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Malta Police Force</b>
Ombudsman case reference	<b>O 0237</b>
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 Ombudsman's recommendation and on 2 March 2022, MPF issued the reimbursement to the complainants.</p> <p>On 24 March 2022, the Office of the Ombudsman was informed accordingly.</p>
Recommendation by the 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	Pending at Ombudsman

Sector/Department	<b>Malta Police Force</b>
Ombudsman case reference	<b>R 0186</b>
Brief details of case	A complaint regarding an on-call allowance.
Action taken and management comments	<p>The office of the Ombudsman sent an email to Police Commissioner on 17 February 2017. All the information requested was forwarded to the Office of the Ombudsman.</p> <p>On 22 December 2021, the Office of the Ombudsman requested the Police Sectoral Agreement which was duly forwarded by MHSE on the same date.</p> <p>The Ombudsman issued his Final Opinion on 13 January 2022. The recommendation made by the Ombudsman was accepted and implemented by MHSR.</p>
Recommendation by the Ombudsman	The Ombudsman recommended that complainant be paid retrospectively the standby allowance.
Status last year	Pending at Ombudsman
Status	Closed and recommendation implemented

Sector/Department	<b>Malta Police Force</b>
Ombudsman case reference	<b>U 0178</b>
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 from the Office of the Ombudsman 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.</p> <p>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>Upon enquiring, on 31 August 2022, MHSR was informed by the Office of the Ombudsman that the case was still pending.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>MHSR</b>
Ombudsman case reference	<b>T 0182</b>
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 from the Injury Board's decision.
Action taken and management comments	<p>The case was received on 20 September 2019.</p> <p>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 complainant's application for pension to their eventual resignation from the department.</p> <p>MHSR replied to the Ombudsman's queries 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. MHSR provided the requested information on 7 November 2022.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>MHSR</b>
Ombudsman case reference	<b>T 0131</b>
Brief details of case	The complainant claimed that their grievance with the Grievances Board was only partially upheld.
Action taken and management comments	<p>The case was received by MHSE on 24 June 2020.</p> <p>The Permanent Secretary replied to the Office of the Ombudsman on 10 July 2020 by providing:</p> <ol style="list-style-type: none"> <li>1. a report drawn up by the AFM injustices board in respect of another complainant</li> <li>2. a copy of the Injustices Board report on the grievance submitted by the complainant</li> <li>3. An email from the Deputy Commander (AFM).</li> </ol> <p>On 11 August 2020, the Office of the Ombudsman requested clarifications on the complainant's case and another case filed before the Grievance Board.</p> <p>MHSE replied to Office of the Ombudsman about complainant's case on 21 October 2020.</p> <p>The Office of the Ombudsman wrote on 22 February 2022, requesting personal file of another Grievance case.</p> <p>The requested file was forwarded to the Office of the Ombudsman on 24 February 2022.</p> <p>On 25 October 2022 the Ombudsman sent his Final Opinion stating that he found that the complainant had suffered an act of injustice consisting in discriminatory treatment.</p>
Recommendation	The Ombudsman recommended that the complainant's service be augmented to qualify for the service pension.
Status last year	Pending at Ombudsman
Status	Pending at Ministry

Sector/Department	<b>Parole Board</b>
Ombudsman case reference	<b>U 0115</b>
Brief details of case	A complaint regarding a Correctional Services Agency (CSA) former inmate, claiming that they had been discriminated against when they applied for parole.
Action taken and management comments	<p>This case was referred by the Ombudsman to MHSE on 3 February 2021.</p> <p>MHSE replied to the Ombudsman on 9 July 2021, that all relevant stakeholders were consulted, and prepared their reports concerning the inmate. The Parole Board met to examine the results and comments contained in these documents and, following a discussion, reached a decision on the application.</p> <p>Upon enquiring, in September 2022, MHSR was informed by the Office of the Ombudsman that this case had been closed.</p>
Status last year	Pending at Ombudsman
Status	Closed after the management replied to one request for information.



MHSR  
**Commissioner for Health 2021**

Sector/Department	<b>Identity Malta Agency (IMA)</b>
Ombudsman case reference	<b>CH-21-2383</b>
Brief details of case	A complaint regarding an applicant who required a Family Reunification Permit to be eligible to apply for a public post.
Action taken and management comments	<p>On 10 November 2021, IMA received an email from the Commissioner for Health (CfH).</p> <p>On 19 November 2021, MHSE replied to CfH, stating that the complainant had to meet all the criteria set out in Subsidiary Legislation (SL) 217.05 - Status of Long-Term Residents. Subsequently, they would be able to apply for such status. Once the complainant was a holder of such status, they would then qualify under article 3 of SL 595.03 to be considered eligible to be appointed to a public office.</p> <p>On 31 August 2021, MHSR was informed by the Office of the Ombudsman that the case was closed without recommendation.</p>
Status	Case closed after management replied to one request for information.

MHSR  
**Commissioner for Health Pre 2021**

Sector/Department	<b>MHSR</b>
Ombudsman case reference	<b>HU 0047</b>
Brief details of case	A complaint regarding an officer who allegedly received threats from the Correctional Services Agency (CSA).
Action taken and management comments	<p>The complaint was received on 21 July 2020.</p> <p>The Office of the Permanent Secretary replied on 7 October 2020, with comments on the points raised by complainant and on the report by CEO (CSA) on the work carried out at the CSA Forensic Unit to improve the situation therein.</p> <p>Upon enquiring, on 6 September 2022, MHSR was informed by the Office of the Ombudsman that case had been closed in 2020.</p>
Status last year	Pending at Ombudsman
Status	Closed after management had replied to one request for information.

MHSR  
**Commissioner for Environment  
and Planning 2021**

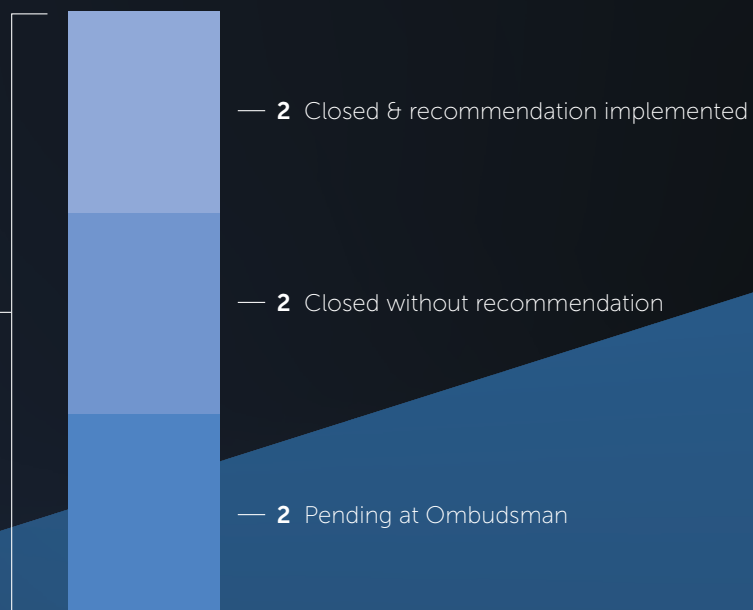
Sector/Department	<b>Local Enforcement Systems Agency (LESA)</b>
Ombudsman case reference	<b>CEP-21-2155</b>
Brief details of case	A complaint regarding lack of action taken against irregular disposal of garbage bags on the pavement outside the allowable schedule in Swieqi.
Action taken and management comments	<p>The case was received on 5 July 2021.</p> <p>On 9 July 2021, MHSE replied that inspections were carried out regularly in the locality, including the road/area in question. During these inspections, two persons were caught disposing of waste in an irregular manner and the appropriate citations were issued. Inspections in the road/area in question are held on a regular basis.</p> <p>The Commissioner for Environment and Planning informed LESA on 7 September 2021, that it had closed the case.</p>
Status	Closed after the management replied to one request for information.

MHSR  
**Commissioner for Environment  
and Planning Pre 2021**

Sector/Department	<b>Police</b>
Ombudsman case reference	<b>EU 0069</b>
Brief details of case	A complaint regarding the siting of various caravans at Mistra Bay, Mellieha.
Action taken and management comments	<p>The Office of the Ombudsman had sent a letter to 8 different departments/entities on 23 October 2020. The case was received by the Police Department on 18 February 2021, requesting their comments on the issue raised by complainant.</p> <p>Internal discussions were ongoing but, in the meantime, MHSR was informed that the case had been closed on 16 April 2021, because a case on the matter had been filed in court.</p>
Status last year	N/A
Status	Case closed due to court proceedings

# MINISTRY FOR INCLUSION, VOLUNTARY ORGANISATIONS AND CONSUMER RIGHTS

06  
cases



During 2021, the Ministry for Inclusion, Voluntary Organisations and Consumer Rights (MIVC) received two cases from the Parliamentary Ombudsman. Both cases were closed in 2021 without a recommendation being given by the Ombudsman.

The Ministry also dealt with four cases which have been pending from previous years. Two of these cases were closed in 2022, and the recommendations made by the Ombudsman have been implemented. Two other cases, one pertaining to the Parliamentary Ombudsman, and one to the Commissioner for Health, are pending at the Office of the Ombudsman. One of these cases has been pending at the Office of the Ombudsman for over two years.

MIVC  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Commission for the Rights of Persons with Disability (CRPD)</b>
Ombudsman case reference	<b>OMB-21-1941</b>
Brief details of case	A complaint from a Blue Badge holder who had their badge confiscated upon the instructions of the Commission.
Action taken and management comments	<p>The case was received on 18 May 2021. On 8 June 2021, a reply was provided by CRPD, including full details of the case and a timeline of events in connection with an alleged abuse of a blue badge.</p> <p>On 15 November 2021, the CRPD informed the Ombudsman that the complainant had since been examined by a medical doctor who established that the complainant was not entitled to hold a blue badge.</p> <p>On 18 November 2021, the Ombudsman informed CRPD that since its Office cannot question medical advice, it will not proceed with further investigation of this complaint and proceeded to close the case.</p>
Status	Closed without recommendation

Sector/Department	<b>Commission for the Rights of Persons with Disability (CRPD)</b>
Ombudsman case reference	<b>V 0010</b>
Brief details of case	A complaint from a Blue Badge applicant whose request was not acceded to.
Action taken and management comments	<p>The case was received on 1 February 2021. The Commission was requested to provide comments on the reasons that led to the refusal of the complainant's application both at first instance, and at the Appeals Board.</p> <p>On 15 February 2021, the CRPD replied to the Ombudsman, claiming that originally the complainant had been given the blue badge on a temporary basis subject to be reviewed after five years. In February 2020, a temporary blue badge was re-issued, as doctors' assessments were not being carried out due to the pandemic. Temporary blue badges were given for one year to ensure that blue badge holders would be not inconvenienced during this period. The accompanying letter made it very clear that this was a temporary procedure, and that confirmation of eligibility would be required after assessment appointments were resumed in line with Cap 560.</p> <p>After failing the doctor's assessment, the complainant went through the appeals process. Following assessment, the appeals board considered that the complainant's mobility was of a standard that did not require a blue badge, and the refusal decision was upheld. The complainant was informed that they may apply again for a blue badge after the lapse of one year.</p> <p>On 16 February 2021, the Ombudsman informed the Commission that the case was closed.</p>
Status	Closed by the Ombudsman after management replied to one request for information



MIVC  
**Parliamentary Ombudsman Pre 2021**

Sector/Department	<b>Aġenzija Sapport (AS)</b>
Ombudsman case reference	<b>U 0095</b>
Brief details of case	A complaint relating to refunds not given by Aġenzija Sapport to cover expenses for the replacement of a carer assigned to a person with disability, whilst the carer assigned was abroad.
Action taken and management comments	<p>On 9 September 2020, the Ombudsman referred the complaint to AS. The Agency replied on 19 October 2020, stating that AS had fully honoured its commitments in accordance with established rules. On 11 November, Personal Assistant Fund (PAF) documentation requested was provided to the Ombudsman.</p> <p>Subsequently, on 18 February 2021, AS submitted an explanation to the Ombudsman on the concept of the Roving Fund and on 1 March 2021, CRPD provided more details and clarification regarding the Roving Fund. Through various exchanges of correspondence, the Ombudsman was provided with policy documents governing the PAF and the Empowerment Scheme, which subsidises 70-75% of expenses.</p> <p>On 16 December 2021, the Ombudsman requested the Manual of Procedures for the Independent Community Living Services (ICL) from AS. On 20 April 2022, Ombudsman issued his Final Opinion to AS.</p> <p>AS implemented the recommendation given by the Ombudsman by taking on board different actions.</p> <p>In the past months, the PAF Board changed to Independent Community Living Monitoring Services (ICLM), wherein the three different boards under the PAF were merged into one board that reviews all applications. An appeals board was appointed. Thus, measures are in place to avoid delays in reviewing beneficiaries' circumstances and renewals of agreements. The ICLM guidelines are also being reviewed to be aligned with Art 19 of the UN Convention for the Rights of Persons with Disabilities (UNCPRD). These guidelines will be made public through the Agency's website. Moreover, the Ombudsman's final opinion states that "in the interest of equity it therefore recommends that complainant be reimbursed" which also falls within the above reasoning. The complainant was paid on 10 June 2022.</p> <p>The Ombudsman closed the case on 17 June 2022.</p>
Recommendation by Ombudsman	The Ombudsman recommended that the complainant be granted the funds to cover the costs incurred.
Status last year	Pending at Ombudsman
Status	Closed and recommendation implemented

Sector/Department	<b>Malta Competition and Consumers Affairs Authority (MCCAA)</b>
Ombudsman case reference	<b>S 0213</b>
Brief details of case	A complaint by a candidate claiming that the recruitment process related to a post applied for had been irregular.
Action taken and management comments	<p>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.</p> <p>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.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

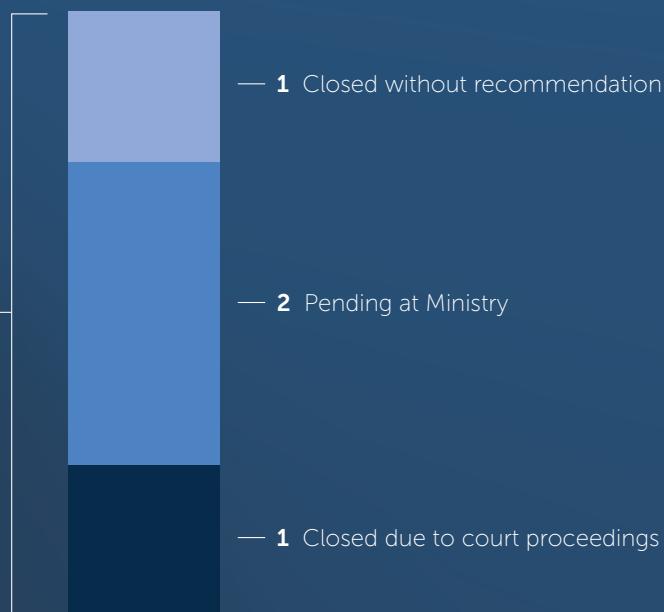
Sector/Department	<b>Malta Competition and Consumers Affairs Authority (MCCAA)</b>
Ombudsman case reference	<b>U 0238</b>
Brief details of case	<p>A complaint concerning an officer who was not reappointed in the position held previously. The complainant contended that the selection process had been irregular and unfair, as the outcome had been determined before the process was carried out. The complainant objected about the fact that they were neither provided with the full breakdown of marks, nor their ranking, and that the authority had, upon terminating their contract, deducted the allowances attached to the position held previously.</p>
Action taken and management comments	<p>The complaint was received on 13 January 2021. The Chairperson replied on 18 May 2021. The Ombudsman requested further clarification. A request was made by HR to the Selection Board to provide the requested information, including on the questions asked to candidates during the interview and whether notes/minutes were taken. MCCAA replied to the Ombudsman's queries on 20 October 2021.</p> <p>On 2 February 2022, MCCAA received the Ombudsman's final opinion. The Ombudsman concluded that after due analysis, it did not consider that the process was unjust or irregular.</p> <p>The Ombudsman noted that the time taken to conclude the interview process was beyond the realms of the acceptable.</p> <p>The MCCAA have taken on board the recommendation made by the Ombudsman by effecting amendments to the recruitment policy.</p>
Recommendation by Ombudsman	<p>The Ombudsman recommended that measures are put in place to avoid such delays in future selection processes.</p>
Status last year	<p>Pending at Ombudsman</p>
Status	<p>Closed and recommendation implemented</p>

MIVC  
**Commissioner for Health Pre 2021**

Sector/Department	<b>Malta Competition and Consumer Affairs Authority (MCCAA)</b>
Ombudsman case reference	<b>HU 0077</b>
Brief details of case	A complaint regarding 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	<p>The case was received at MCCAA on 1 October 2021. However, it is connected to a case which has been reported upon in the Governance Action publication 2021 under MFH (CPSU) with case number HU 0076.</p> <p>On 18 November 2021, the Authority furnished the Commissioner for Health with copies of exchange of emails with the supplier, together with other information and legislative extracts.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

# MINISTRY FOR JUSTICE

04  
cases



During 2021, the Ministry for Justice (MFJ) dealt with four cases. One case was referred by the Parliamentary Ombudsman in 2021. The case was closed without a recommendation being given by the Ombudsman. Three cases have been pending from previous years. One of these cases has been closed due to Court proceedings, while the other two cases are pending at the Ministry for more than two years due to the complex actions required.

MFJ  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Court Services Agency</b>
Ombudsman case reference	<b>OMB-21-2567</b>
Brief details of case	A complaint regarding the utilisation of quarantine leave versus sick leave and the deduction of related allowances when an employee is diagnosed positive with COVID-19.
Action taken and management comments	<p>The complaint was received on 29 December 2021.</p> <p>The management replied on 6 January 2022, stating that when an employee is diagnosed as positive with COVID-19, they must utilise sick leave. Regarding allowances, the Public Service Management Code (PSMC) states that when 15 days sick leave are exceeded, allowances are to be deducted accordingly.</p> <p>The Ombudsman replied on 20 January 2022, stating that the officer should have been marked as mandatory quarantine leave and not sick leave and is to be refunded accordingly.</p> <p>The office of the Permanent Secretary MFJ replied on 31 January 2022, reiterating its position.</p> <p>On 12 September 2022, upon enquiring, MFJ was informed by the Office of the Ombudsman that the case had been closed on 20 January 2022.</p>
Status	Closed without recommendation

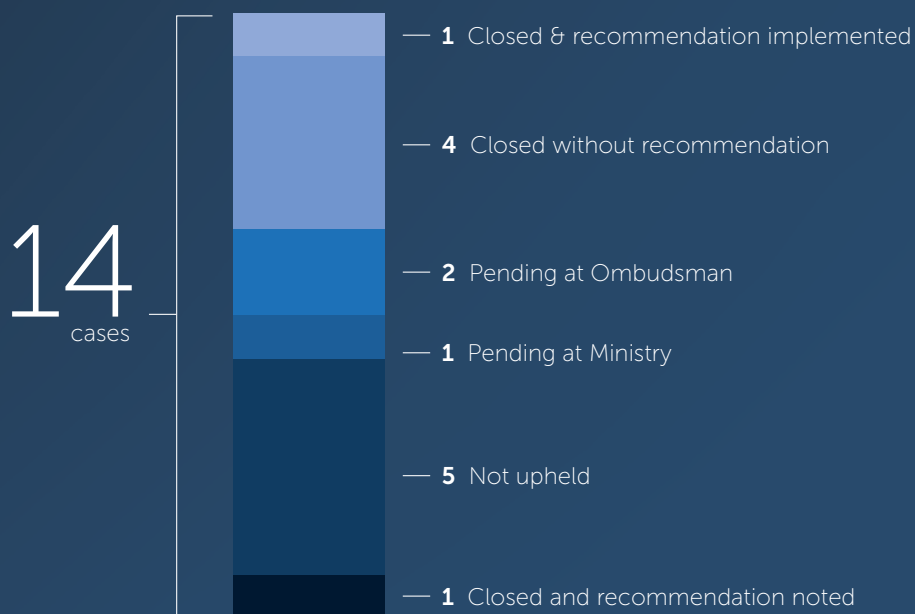
MFJ  
**Parliamentary Ombudsman Pre 2021**

Sector/Department	<b>Law Courts</b>
Ombudsman case reference	<b>R 0246</b>
Brief details of case	A member of the public lodged a complaint that the refusal on the part of the Law Courts Registry to accept the application for self-representation was in breach of a right which is prescribed in the provisions of article 48(2) of the EU Charter and article 6(3)(b) of the European Convention on Human Rights.
Action taken and management comments	The same grievance was raised before the First Hall Civil Court in its Constitutional jurisdiction. In the circumstances, the Office of the Ombudsman closed the investigation in terms of article 13(5) of the Ombudsman Act.
Status last year	Suspended due to court proceedings
Status	Closed due to court proceedings
Sector/Department	<b>Ministry for Justice</b>
Ombudsman case reference	<b>U 0098</b>
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 of a property.
Action taken and management comments	<p>The case was received from the Ombudsman on 21 July 2020.</p> <p>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. Every office submitted feedback accordingly. A reply was sent to the Ombudsman on 25 September 2020.</p> <p>The office of the State Advocate conducted several meetings internally and discussed this matter with the Notary to Government, the President of Notarial Council, and with other respective stakeholders to devise a possible solution. Technical and high-level discussions are ongoing.</p>
Recommendation by Ombudsman	On 7 January 2021, the Ombudsman recommended 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.
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department	<b>Ministry for Justice</b>
Ombudsman case reference	<b>U 0123</b>
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 of a property.
Action taken and management comments	<p>The case was received from the Ombudsman on 4 August 2020.</p> <p>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. Every office submitted feedback accordingly. A reply was sent to the Ombudsman on 25 September 2020, addressing this case and case U 0098.</p> <p>The Office of the State Advocate conducted several meetings internally and discussed this matter with the Notary to Government, the President of Notarial Council, and with other respective stakeholders to devise a possible solution. Technical and high-level discussions are ongoing.</p>
Recommendation by Ombudsman	The Ombudsman recommended 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.
Status last year	Pending at Ministry
Status	Pending at Ministry



# MINISTRY FOR THE NATIONAL HERITAGE, THE ARTS AND LOCAL GOVERNMENT



During 2021, the Ministry for the National Heritage, the Arts and Local Government (MHAL) dealt with fourteen cases. Eight cases were received from the Parliamentary Ombudsman in 2021. Two of these cases were closed without a recommendation having been made by the Ombudsman, and five other cases were not upheld by the Ombudsman. One case was closed and the recommendation by the Ombudsman was noted by the Ministry.

The Ministry also dealt with three cases received from the Ombudsman in previous years. One case was closed in 2022, and the recommendation made was implemented. The other two cases are pending at the Office of the Ombudsman.

Furthermore, MHAL dealt with three cases which were received from the Commissioner for Environment and Planning during 2021. Two cases were closed by the Ombudsman without making a recommendation, whilst another case is pending at the Ministry.

MHAL  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Local Councils (LC)</b>
Ombudsman case reference	<b>V 0034</b>
Brief details of case	A complaint regarding an incident in Rabat, when a car tyre burst due to the alleged poor state of the road, both in terms of surfacing as well as of signage. The complainant stated that their claim with the Local Council (LC) for reimbursement of the expenses they incurred was rejected for allegedly unfair reasons, and that the Council's conclusions were unfounded.
Action taken and management comments	<p>The complaint was received on 23 April 2021.</p> <p>On 12 May 2021, the Rabat Local Council replied to the Office of the Ombudsman, stating that the responsibility rested with the Environment and Resources Authority (ERA). Furthermore, the LC argued that there was an element of negligence on the complainant's side since his driving speed was the reason for going on the unpaved part of the road.</p> <p>In July 2021, the Office of the Ombudsman informed the Ministry that an on-site visit was scheduled.</p> <p>On 18 March 2022, the Office of the Ombudsman informed the Ministry that the case had been closed. The complaint was not upheld as the Rabat Local Council was not held responsible for the damages incurred by the complainant.</p>
Status	Complaint not upheld
Sector/Department	<b>Local Councils (LC)</b>
Ombudsman case reference	<b>V 0051</b>
Brief details of case	A complaint regarding a towing fine.
Action taken and management comments	<p>In April 2021, the Parliamentary Ombudsman made preliminary verbal enquiries with the Ministry. However, the matter was never formally referred to the Ministry.</p> <p>The case was closed by the Office of the Ombudsman as the complainant did not forward the requested documentation.</p> <p>The case was closed on 5 May 2021.</p>
Status	Case not upheld

Sector/Department	<b>Local Councils (LC)</b>
Ombudsman case reference	<b>OMB-21-2174</b>
Brief details of case	A complaint regarding a couple who were prevented from setting up their stalls at the Rabat Street Market due to traffic exigencies, even though they were in possession of separate permits to set up a stall each.
Action taken and management comments	<p>The case was received on 4 August 2021. The Office of the Ombudsman requested a detailed explanation of the policy, rules, and regulations related to this type of economic activity.</p> <p>On 11 August 2021 the Rabat Local Council (LC) replied to the Office of the Ombudsman, stating that on 27 November 2020, a diversion plan by Infrastructure Malta was published on its website, in connection with the reconstruction of an arterial road in Rabat which adjoins St Rita Street, where the market hawkers set up their stalls.</p> <p>The LC stated that there was no alternative way out during market hours for residents residing in the vicinity. In such circumstances, the LC had no alternative but to remove the stalls from the lower part of St Rita Street for traffic to pass. This was a temporary measure until works were completed.</p> <p>On 9 November 2021, the LC informed the Office of the Ombudsman that works were complete and thus the complainants could resume with setting up their market stalls.</p> <p>On 17 November 2021, the Office of the Ombudsman informed the complainants of these developments and considered the case closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Local Councils (LC)</b>
Ombudsman case reference	<b>OMB-21-2410</b>
Brief details of case	A complaint regarding a claim for damages made to complainant's vehicle in Naxxar.
Action taken and management comments	The case was closed immediately by the Office of the Ombudsman since the vehicle in question was registered in the name of the complainant's partner and not in his name.
Status	Case not upheld

Sector/Department	<b>Local Councils (LC)</b>
Ombudsman case reference	<b>OMB-21-2429</b>
Brief details of case	<p>A complaint lodged against the Naxxar Local Council following the latter's refusal to refund the cost for the replacement of two tyres of the complainant's vehicle, which was allegedly damaged by a pothole in Naxxar.</p>
Action taken and management comments	<p>On 2 November 2021 the Local Council (LC) replied to the Office of the Ombudsman stating that the Council refused to entertain complainant's request for reimbursement and will not assume responsibility of the alleged incident. The LC's position had been explained to the complainant.</p> <p>On 19 November 2021, the Office of the Ombudsman asked the Council about the illumination in the street and about whether any road repairs had been carried out in the street following the incident.</p> <p>The LC replied on 24 November 2021 stating that there is a streetlamp only a few meters away from the pothole. The LC confirmed that as soon as it was informed of the pothole it took the necessary action to fix it.</p> <p>Furthermore, the Local Council argued that they did not disclaim responsibility for the maintenance of the road in question, neither did it contest the existence of the pothole. What concerned the Local Council was the fact that the claimant allegedly damaged two tyres and presumably must have been driving at a higher speed than the normal in a residential area.</p> <p>The case was closed by the Office of the Ombudsman by a Final Opinion sent to the Naxxar Local Council on 30 December 2021.</p> <p>The Office of the Ombudsman argued that it cannot fault the Council's decision not to accept the complainant's claim for reimbursement and dismissed this complaint. Requests for compensation involving the disbursement of public funds should be well administered, thus reimbursement should be effected only where a case is clear, and a claim is supported by incontestable and irrefutable evidence.</p>
Recommendation	The Ombudsman's Final Opinion was to decline the claim for reimbursement.
Status	Complaint not upheld

Sector/Department	<b>Malta Libraries</b>
Ombudsman case reference	<b>OMB-21-2553</b>
Brief details of case	A complaint regarding a call for applications for a senior management position. The complainant argued that they were unjustly deemed unsuitable.
Action taken and management comments	<p>On 4 January 2022, the Office of the Ombudsman asked MHAL and Malta Libraries for their comments on the complainant's grievances, who was requesting that the selection process is invalidated entirely since the marks awarded for the Intellectual Ability criterion were very prejudicial.</p> <p>Malta Libraries replied on 11 February 2022, arguing that the candidate did not use readily available tools as part of the preparation of the interview. Such preparation would have indicated knowledge and the ability to lead and guide a professionally qualified team.</p> <p>Further information regarding points raised by the Office of the Ombudsman was provided on 21 February 2022 and 7 April 2022.</p> <p>On 9 June 2022, the Office of the Ombudsman issued a Final Opinion and stated that no clear objective evidence could be found that the assessment of the candidates was not concluded fairly, or that it was not in line with the established criteria.</p> <p>On 15 June 2022, Malta Libraries replied to the Ombudsman's recommendations, stating that these were duly noted and will be adhered to in future calls.</p> <p>On 21 June 2022, the Ombudsman closed the case.</p>
Recommendation	The Ombudsman recommended that greater care should be taken by Malta Libraries when drawing up calls for applications. Furthermore, in the interest of fairness and transparency, notes should be taken, documenting the performance of each candidate during their interviews, and upon request, candidates should be provided with a full breakdown of the marks awarded, including marks awarded for the individual sub-criteria.
Status	Closed and recommendation noted.

Sector/Department	<b>Malta Libraries</b>
Ombudsman case reference	<b>OMB-21-2557</b>
Brief details of case	A complaint regarding an application for remote working dated September 2021, for which no feedback was sent to the applicant.
Action taken and management comments	<p>The case was received on 3 January 2022, requesting MHAL and Malta Libraries (ML) for their comments.</p> <p>On 15 January 2022, ML confirmed that they received the complainant's application in September 2021. On 5 October 2021, ML sent the complainant's application together with two other applications from other staff members that were received during the same period, to the Office of the Director (Corporate Services) at MHAL. Subsequently, the DCS informed ML that the applications were sent to the Institute for the Public Services (IPS). ML argued that the IPS cannot conduct a course with one or two employees. Therefore, IPS had to wait until there were enough participants to conduct the required Remote Working Course. It is to be noted that in 2021 the Public Service was in transition switching from teleworking to remote working.</p> <p>On 10 January 2022, IPS contacted ML employees who had applied for remote working, together with other public officers, to attend a mandatory course. Subsequently, ML informed the Office of the Ombudsman that this issue was resolved.</p> <p>On 22 February 2022, the Office of the Ombudsman informed ML that they consider that appropriate action was taken to address the delay and that the case has been closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Malta Libraries</b>
Ombudsman case reference	<b>OMB-21-2560</b>
Brief details of case	<p>A complaint regarding four internal calls for applications. The complainant argued that following their request for clarification, Malta Libraries (ML) issued an <i>errata corrige</i> on 4 October 2021, renumbering the call for the post of Assistant Administrative Officer to ML 30/2021.</p>
Action taken and management comments	<p>The case was received on 26 January 2022. MHAL and ML comments were requested on the complainant's claim, who maintained that if the numbering of calls for applications was not done in a chronological manner, internal memos cannot be easily referenced. Moreover, the complainant argued that there is no indication of the point in time these documents were issued, and do not permit easy identification to ascertain whether recipients have received all the memos/circulars issued by their department, or whether any of them have been missed. The complainant requested ML to number its internal memos in a chronological sequential order.</p> <p>On 21 February 2022, ML replied to the Office of the Ombudsman stating that internal memos are issued in a chronological order and that the Call Reference number is not an internal memo number but a File Registry number.</p> <p>The case was closed by the Office of the Ombudsman on 26 May 2022. It was deemed that ML did not act in breach of administration or created an injustice and it did not cause the complainant any personal prejudice or affect their personal rights.</p>
Status	Complaint not upheld



MHAL  
**Parliamentary Ombudsman Pre 2021**

Sector/Department	<b>Heritage Malta (HM)</b>
Ombudsman case reference	<b>U 0059</b>
Brief details of case	<p>A complaint lodged against the Office of the Chief Herald of Malta. The complainant contended that the Chief Herald did not have the appropriate authority to regulate heraldry, grant new armorial bearings, or to register and matriculate existing foreign armorial bearings that have no cultural or heritage connection with Malta.</p>
Action taken and management comments	<p>The complaint was received in June 2020.</p> <p>HM replied on 16 February 2021, stating that an updated strategy which included Heraldry and the Office of the Chief Herald of Malta, was due for public consultation. Legislative intervention was required, and action will be taken to update legislation to include the function of the Chief Herald of Malta to regulate the duties, powers, and functions of the latter.</p> <p>The Ombudsman issued his final opinion on 21 July 2021. On 11 August 2021, MHAL replied to the Office of the Ombudsman, stating that regarding the first recommendation, the Ministry had coordinated the drafting of amendments to the Cultural Heritage Act which was published as Act XLI of 2021 on 20 July 2021.</p> <p>As regards the second recommendation, the functions and powers of the Office of the Chief Herald will be promulgated through a legal notice.</p> <p>On 10 September 2021, the Ombudsman requested to be notified once the subsidiary legislation is in place.</p> <p>With reference to the recommendations, he asked the Ministry what measures will be put in place to deal with actions taken by the Office of the Chief Herald of Arms of Malta prior to the amendment of the Cultural Heritage Act.</p> <p>On 5 October 2021, the Permanent Secretary (MHAL) replied that the proposed Regulations will provide a transitory provision which, in brief, will regulate retroactively that any action taken under the authority published in the Government Gazette of 25 June 2019, until the publication of the Regulations, will be deemed to have been issued under the proposed Regulations.</p> <p>On 24 March 2022, MHAL informed the Office of the Ombudsman that these Regulations, entitled Herald and Genealogy Regulations, 2021 were published by the Minister responsible for Culture on 24 December 2021, as Legal Notice 489 of 2021.</p> <p>The Ombudsman closed the case in April 2022.</p>

<p>Recommendation by Ombudsman</p>	<p>In his final opinion issued on 21 July 2021, the Ombudsman recommended the establishment of the Office of the Chief Herald in an appropriate manner (be it legislative or otherwise) and underlined that Cap 445 does not include regulation of heraldry, thereby recommending that the law provide ground for the powers and functions of the Office of the Chief Herald.</p>
<p>Status last year</p>	<p>Pending at Ombudsman</p>
<p>Status</p>	<p>Closed and recommendation implemented</p>
<p><b>Sector/Department</b> <b>Local Councils (LC)</b></p>	
<p>Ombudsman case reference</p>	<p><b>U 0192</b></p>
<p>Brief details of case</p>	<p>A complaint lodged against Birkirkara Local Council in relation to damages caused to the complainant's vehicle due to a pothole in Birkirkara.</p>
<p>Action taken and management comments</p>	<p>The case was received on 4 November 2020. The 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, and proof should have been provided about the state of the tyre being claimed.</p> <p>On 11 April 2022, the Office of the Ombudsman informed MHAL that the information concerning the case is being reviewed.</p> <p>On 1 September 2022, the Office of the Ombudsman informed MHAL that a response from Infrastructure Malta was awaited.</p>
<p>Status last year</p>	<p>Pending at Ministry</p>
<p>Status</p>	<p>Pending at Ombudsman</p>

Sector/Department	<b>Local Councils (LC)</b>
Ombudsman case reference	<b>U 0219</b>
Brief details of case	The complainant alleged that on 20 October 2020, while driving through Triq ix-Xatt, Gżira, a tyre of his vehicle burst due to a deep pothole. The tyre had to be replaced, costing him €85.
Action taken and management comments	<p>On 15 September 2021, after investigating the case, the LC replied to the Ombudsman that it emerged 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 was repaired immediately.</p> <p>On 1 September 2022, the Office of the Ombudsman informed MHAL that its office was still working on the case.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

MHAL  
**Commissioner for Environment  
& Planning 2021**

Sector/Department	<b>Local Councils (LC)</b>
Ombudsman case reference	<b>EV 0017</b>
Brief details of case	A complaint regarding the pruning of trees in B'Kara.
Action taken and management comments	<p>On 17 March 2021, the Office of the Ombudsman sent a letter to Birkirkara Local Council asking whether pruning of trees in the locality is being considered.</p> <p>On 18 May 2021, the Local Council informed MHAL that they were requesting funds for the trimming of the trees in question. The Office of the Ombudsman informed the Local Council that their office had contacted Infrastructure Malta (IM) and they agreed to assist in the trimming of the trees. The Ombudsman requested the Local Council to liaise with IM and to keep the Office of the Ombudsman informed of developments.</p> <p>On 3 June 2021, IM informed MHAL that Environmental Landscapes Consortium (ELC) officials will be going on site, as agreed with the Local Council, to verify the nature of the works required. The complainant was informed of these developments by the Ombudsman on 30 July 2021.</p> <p>On 15 February 2022, the Commissioner for Environment and Planning informed the complainant that ELC had carried out an assessment of the works and it resulted that ELC was against the pruning of the trees in question as there was a high possibility that they might not survive.</p> <p>The Office of the Ombudsman closed the case on 15 February 2022.</p>
Status	Closed without recommendation

Sector/Department

**Local Councils (LC)**

Ombudsman case reference

**CEP-21-1301**

Brief details of case

A complaint concerning parking in Mqabba.

Action taken and management comments

The case was received on 19 April 2021. The Office of the Ombudsman argued that during a Council meeting it had been agreed that the access to the street in question becomes one way, and that the proposal for a double yellow line was not approved. The Office of the Ombudsman requested clarification why the proposal from Transport Malta (TM) for a double-yellow line was not followed, and whether the Local Council considered placing a single yellow line (instead of a double-yellow line) given that a loading/unloading space was required.

On 28 July 2021, the Local Council (LC) informed the Commissioner for Environment and Planning (CEP) that even though the proposal was approved by TM, following a meeting on site with the residents, it was clear that the residents were against this proposal, with the exception of the complainant. The LC argued that, in the interest of the majority of the residents, this proposal was not to be implemented. In fact, should there be a double yellow line, the residents would not be able to enter the alley with their vehicle.

Following the LC's reply, the CEP informed the complainant that if the double-yellow lines were to be placed as proposed, no resident would be able to enter the alley, not even to unload. Moreover, the CEP recommended to the complainant to make a fresh proposal to the LC and recommend a sign of no entry except for un/loading, emergency, and access to garage (as approved) instead of double-yellow lines.

Since no feedback was provided by the complainant, the CEP closed the case on 29 November 2021.

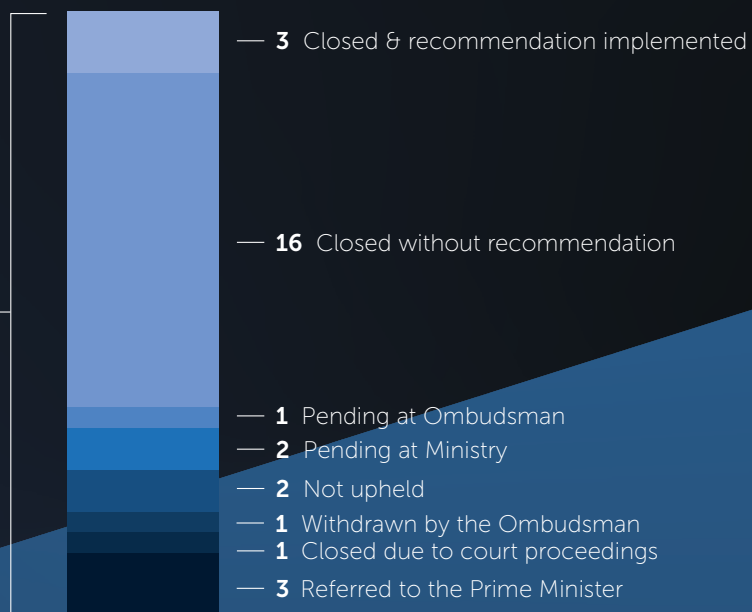
Status

Case closed after management replied to one request for information.

Sector/Department	<b>Local Councils (LC)</b>
Ombudsman case reference	<b>CEP-21-2525</b>
Brief details of case	A complaint regarding blocked access to a garage in a street in Mosta which had become one way. The complainant argued that this practice was not in line with established standards.
Action taken and management comments	<p>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.</p> <p>The LC replied on 9 December 2021, informing the CEP that traffic flow in some roads in Mosta has changed. The LC informed the CEP that the complaint will be forwarded to the Traffic Management Committee for their review and feedback.</p> <p>On 18 December 2021, the LC informed the CEP that the case was discussed with the Traffic Management Committee. The LC advised that these traffic directions were temporary during works carried out by Infrastructure Malta. The Local Council further remarked that it is evaluating the implementation of a one-way system in this street and will be consulting with Transport Malta on the matter. Moreover, the complainant was to be kept informed of developments.</p> <p>On 24 January 2022, the complainant informed the CEP that no contact was made by the LC.</p> <p>On 11 April 2022, the LC informed MHAL that works were still ongoing and the diversion of traffic remained the same.</p>
Status	Pending at Ministry

# MINISTRY FOR PUBLIC WORKS AND PLANNING

29  
cases



The Ministry for Public Works and Planning (MPWP) dealt with twenty-four cases which were referred by the Commissioner for Environment and Planning (CEP) during 2021. Seven cases were closed without a recommendation, while seven other cases were closed after the management replied to one request for information. Two cases were not upheld, whilst one was withdrawn by CEP. One case was closed due to court proceedings. Two other cases were closed, and the CEP's recommendations have been implemented. One case is pending at the Commissioner. Three cases were referred to the Prime Minister by the CEP in terms of the Ombudsman Act.

Regarding cases lodged prior to 2021, MPWP dealt with five cases which had been referred by the CEP. Two cases have been closed without a recommendation being made by the Commissioner. One case was closed, and the CEP's recommendation has been implemented. The remaining two cases are pending at Ministry.

MPWP  
**Commissioner for Environment and  
Planning 2021**

Sector/Department	<b>Building and Construction Authority (BCA)</b>
Ombudsman case reference	<b>CEP-21-2333</b>
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	<p>The case was received on 14 September 2021. The Commissioner for the Environment and Planning (CEP) requested the Building and Construction Authority (BCA) to send their remarks regarding EU directive 2010/13 EU article 12/4: <i>“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.”</i></p> <p>On 15 September 2021, the BCA wrote to the CEP that real estate agents were aware about the obligations to indicate Energy Performance Certificate ratings when advertising property for sale or rent.</p> <p>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 Energy Performance Certificates 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 an adequate group of professionals started to review all estate agent websites and samples of each agent’s adverts published online. Adverts with missing EPC information were being visually recorded.</p> <p>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.</p>
Status	Pending at Ombudsman

Sector/Department	<b>Building and Construction Authority (BCA)</b>
Ombudsman case reference	<b>CEP-21-2355</b>
Brief details of case	A complaint regarding the condition of a street in Mellieha after a spillage of cement on the road.
Action taken and management comments	<p>The case was received on 30 September 2021.</p> <p>On 7 October 2021, the zone enforcement officer gave instructions to developers and site managers to keep the street and vicinity clean following reports of cement spillage. One of the developers replied that they had acted immediately by hiring a water bowser to clean the spillage. In the meantime, the BCA received an email from Infrastructure Malta that the road was in an adequate condition.</p> <p>On 29 October 2021 the case was closed by the Commissioner for the Environment and Planning.</p>
Status	Closed without recommendation

Sector/Department	<b>Building and Construction Authority (BCA)</b>
Ombudsman case reference	<b>CEP-21-2519</b>
Brief details of case	A complaint related to the imposition of administrative fines by the Authority.
Action taken and management comments	<p>The case was received on 3 December 2021.</p> <p>On 18 December 2021, the BCA informed the Commissioner for the Environment and Planning (CEP) that the Authority has the power to issue administrative fines in cases of infringement under article 23 of Chapter 623. Every person who is served with an administrative fine is informed of the right to appeal in terms of article 25 of same Act.</p> <p>The CEP closed the case on 10 January 2022.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EV 0001</b>
Brief details of case	A complaint relating to lack of action at a premises in Valletta
Action taken and management comments	<p>The case received on 14 January 2021. The Commissioner for Environment and Planning (CEP) stated that a permit to sanction a minor change in a shop façade had been revoked by the Inferior Court on 28 January 2020 but, to date no action had been taken by the PA to decide on this application. The CEP asked how the PA intends to proceed with this application and to review the daily fines in the enforcement issued, as these had been stopped.</p> <p>On 18 January 2021, the PA replied that the daily fines were still accruing in the enforcement file, but in view that there was a pending court case, the PA was awaiting legal advice on this application.</p> <p>On 29 January 2021, the CEP stated that in the light of the pending court case, he would be contacting the Authority at a later stage.</p> <p>On 1 March 2021, CEP informed the complainant that his office would not be proceeding with the investigation since there was a pending court case.</p>
Status	Case closed due to Court proceedings

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EV 0003</b>
Brief details of case	A complaint relating to hazards from a petrol station at Żebbuġ, Malta.
Action taken and management comments	<p>The case was discussed during a meeting held on 22 January 2021. The Commissioner for Environment and Planning (CEP) asked the PA about the status of the permit in question. The PA informed the CEP that there was a request for revocation of the permit in terms of Article 80 of the Development Planning Act.</p> <p>Following the outcome of this meeting, the CEP also discussed the case with REWS and ERA.</p> <p>On 10 January 2022, the CEP wrote to the PA asking what action was being taken by the PA Board regarding the request for the revocation of permit. The PA informed the CEP that on 27 January 2022, the case was heard in front of the PA Board, and it was decided that there were no grounds for revocation. The applicant of the request for revocation was informed through the system of the Board's decision.</p> <p>Following a request for update on the status of the case, the PA were informed that the case was closed on 18 February 2021.</p>
Status	Closed without recommendation
Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EV 0004</b>
Brief details of case	A complaint relating to trenching works without a PA permit in Dingli.
Action taken and management comments	<p>The case was received on 14 January 2021.</p> <p>During a meeting with the PA on 22 January 2021, the Commissioner for Environment and Planning (CEP) was informed that these trenching works did not require a planning permit.</p> <p>On 18 February 2021, CEP confirmed that the case was closed.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EV 0006</b>
Brief details of case	A complaint relating to trenching and resurfacing works without a PA development permit in Dingli.
Action taken and management comments	<p>The case was received on 28 January 2021.</p> <p>The Commissioner for Environment and Planning (CEP) asked the PA if trenching and resurfacing works required a development permit or a notification under the strength of a Development Notification Order (DNO).</p> <p>On 3 February 2021, the Authority replied that such works were permitted development under Schedule 1, Regulation 3, Class 5 of the same DNO.</p> <p>On 9 February 2021, the CEP closed the case.</p>
Status	Closed after management replied to one request for information.
Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EV 0008</b>
Brief details of case	A complaint related to works on a pavement in Ghajnsielem.
Action taken and management comments	<p>The case was received on 9 February 2021. The Commissioner for Environment and Planning (CEP) asked the PA why no action had been taken with regard to a report lodged by the complainant on 5 August 2019.</p> <p>On 11 February 2021, the PA replied that the works related to the finishing of the pavement in front of a catering establishment were covered by a valid planning permit.</p> <p>On further investigations the Enforcement Directorate noted that the height of the pavement was increased due to levelling with concrete to facilitate a potential use for tables and chairs on the mentioned pavement.</p> <p>On 17 March 2021, the CEP issued the final opinion.</p> <p>On the 13 April 2021, the Authority informed the CEP that an enforcement notice had been issued.</p> <p>On 19 April 2021, the Commissioner closed the case.</p>
Recommendation by Ombudsman	The CEP indicated that PA should issue an Enforcement Notice against this development and follow up with daily fines and direct action.
Status	Closed and recommendation implemented

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EV 0014</b>
Brief details of case	A complaint relating to a misleading proposal description for works on a slipway at Baħar iċ-Ċagħaq.
Action taken and management comments	<p>The case was received on 30 March 2021.</p> <p>The Commissioner for the Environment and Planning (CEP) informed the PA that this case had been closed after having informed the complainant that according to the submitted drawings, and the description of works in the report, it was clear that the slipway originally protruded into the sea and thus it was not a new proposition and could not be considered as land reclamation.</p> <p>The case was formally closed on 9 April 2021.</p>
Status	Compliant not upheld

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EV 0015</b>
Brief details of case	A complaint relating to concrete paving of roads in scheduled areas or areas of high landscape value.
Action taken and management comments	<p>The case was received on 1 March 2021.</p> <p>The Commissioner for Environment and Planning (CEP) confirmed with the PA that the contentious works did not require a development permit. On the same day, the Environment and Rural Authority (ERA) replied that the area in question was not protected under the Environment Protection Act, that works by Infrastructure Malta were restricted to the existing roadway, and that they were not in breach of environment legislation.</p> <p>On 30 March 2021, the CEP informed the PA that the case had been withdrawn.</p>
Status	Case withdrawn by the Ombudsman.

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EV 0021</b>
Brief details of case	A complaint relating to services on the roof of the Valletta Design Cluster in Valletta.
Action taken and management comments	<p>The case was received on 18 March 2021. The Commissioner for the Environment and Planning (CEP) stated that condition 3e of the development permit stated that all services shall not exceed the height of the parapet wall of the uppermost roof.</p> <p>During a meeting held on 23 April 2021, the PA informed the CEP that the Enforcement Directorate informed the architect that works cannot be sanctioned through a minor amendment and a full development application must be submitted.</p> <p>On 27 July 2021, the architect in charge of the project changed the proposal text and included the text “sanctioning” in the proposed project description. The PA thereafter continued processing of the PA application.</p> <p>On 10 September 2021, the CEP informed PA that the case was closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EV 0028</b>
Brief details of case	A complaint regarding works carried out in a sensitive area at Blue Lagoon, Comino.
Action taken and management comments	<p>The case was received on 5 April 2021.</p> <p>The Commissioner for the Environment and Planning (CEP) stated that road engineering works had been carried out on the passage leading to Blue Lagoon Bay in Kemmuna and asked if the PA has taken any action against such works. Following communication between the CEP and the PA, the CEP issued his partial opinion on the subject and stated that the PA should issue an enforcement notice against these works since no authorisation had been obtained by Infrastructure Malta.</p> <p>On 23 April 2021, the CEP issued his final opinion on the case with recommendations.</p> <p>On the 30 April 2021, the PA stated that according to Article 70(2)(d) of the Development Planning Act, emergency works in the public interest did not constitute development.</p> <p>On 3 May 2021, the CEP insisted that the PA had the responsibility to prevent additional works, not according to the original method statement, from being carried out without a permit. Also, the PA as the regulator, should prevent such works, which were of dubious urgency, in such a sensitive area.</p> <p>Since none of the recommendations were accepted, the CEP referred case to the Prime Minister.</p>
Recommendation by Ombudsman	<ol style="list-style-type: none"> <li>1. The PA should immediately issue a stop and enforcement notice.</li> <li>2. The PA should make sure that the site is returned to its original state as it was before the works.</li> <li>3. The PA is to impose fines and recuperate the monies and place them in a fund for the benefit of Kemmuna.</li> <li>4. To carry out works in relation to a service culvert, the PA should make sure that a full development application is submitted, making sure to implement environment measures and alternative energy.</li> </ol>
Status	The Ombudsman stated that the case was referred to the Prime Minister as provided for in the Ombudsman Act.

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>CEP-21-1291</b>
Brief details of case	A complaint relating to a development application at Mtaħleb.
Action taken and management comments	<p>The case was received on 5 April 2021.</p> <p>The complainant alleged that the declaration in this development application was incorrect, since more than one person owned this land. The Commissioner for Planning and the Environment (CEP) replied to the complainant an investigation was not possible at that stage, since the development application was still pending.</p> <p>On 29 April 2021, the CEP informed the PA that the complaint had not been upheld.</p>
Status	Complaint not upheld

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>CEP-21-1294</b>
Brief details of case	A complaint relating to the construction of a pedestrian bridge without permit at Marsa.
Action taken and management comments	<p>The case was received on 6 April 2021.</p> <p>The Commissioner for Environment and Planning (CEP) enquired how works were carried out when official clearance had not yet been issued by the PA.</p> <p>On 15 July 2021, the CEP was informed by the PA that, on the notion of public interest, a clearance had in fact been issued by the PA.</p> <p>The CEP referred case to the Prime Minister on 2 August 2021.</p>
Status	Ombudsman stated that the case was referred to the Prime Minister as provided for in the Ombudsman Act.

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>CEP-21-1302</b>
Brief details of case	A complaint regarding irregular development at a complex in St Paul's Bay.
Action taken and management comments	<p>The case was received on 12 April 2021.</p> <p>On 22 April 2021, the PA informed the Commissioner for Environment and Planning (CEP) that an application to sanction had been submitted and that in the meantime, works which were being carried out underneath the building had been stopped by the Enforcement Directorate.</p> <p>On 10 September 2021, the CEP informed the PA that the case had been closed.</p>
Status	Closed after the management replied to one request for information.
Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>CEP-21-1934</b>
Brief details of case	A complaint relating to a fine imposed by the PA against a developer.
Action taken and management comments	<p>The case was received on 30 April 2021. The Commissioner for Environment and Planning (CEP) suggested that the PA waive off the fine.</p> <p>After further investigation, it transpired that the fine had been issued after the developer had not submitted the requested information for the alignment of a new building. After internal consultations, the PA decided that the fine was to be waived off since it had been issued erroneously.</p> <p>The case was closed by the Commissioner for Environment and Planning (CEP) on 28 May 2021.</p>
Recommendation by Ombudsman	<ol style="list-style-type: none"> <li>1. The Planning Authority waive the fine in question.</li> <li>2. On a general note, the Planning Authority inform applicants that if the 10 days established in Circular 1/96 were going to be exceeded, they were to indicate the reasons for this delay, and if required, to inform applicants not to start any works before the setting is carried out.</li> </ol>
Status	Closed and recommendations implemented

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>CEP-21-1935</b>
Brief details of case	A case regarding fines issued by the PA for planning permits.
Action taken and management comments	<p>The case was received on 28 April 2021.</p> <p>The Commissioner for Environment and Planning (CEP) enquired how the PA had issued fines relating to the non-submission of a request notice for setting out the alignment of a building, when in fact the request notice had been submitted by the complainant. The PA replied on the same day that the fine had been erroneously issued because there were two files relating to the same site.</p> <p>The setting out of alignment had in fact been requested by the applicant and entertained by the PA. In the circumstances, the PA waived off the fine.</p> <p>On the 29 April 2021, the CEP closed the case.</p>
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>CEP-21-1981</b>
Brief details of case	A complaint regarding permitted development on the topmost allowable roof at Mannarino Road, Birkirkara.
Action taken and management comments	<p>The case was received on 30 July 2021. The Commissioner for Environment and Planning (CEP) stated that if pools and terraces were permitted on topmost roofs, the following issues arise:</p> <ol style="list-style-type: none"> <li>1. privacy issues</li> <li>2. permitted uses on the topmost floor do not constitute a legal commitment since these are subject to other laws like the civil code</li> <li>3. due to this, height relaxation may be induced, and another floor may be permitted.</li> </ol> <p>The Planning Authority agreed with the CEP's comments. A minor amendment application had been submitted and was approved on 17 May 2021.</p> <p>The CEP closed the case on 30 September 2021.</p>
Status	Closed without recommendation

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>CEP-01-21-2048</b>
Brief details of case	A complaint regarding a structure on a roof in Valletta
Action taken and management comments	<p>The case was received on 17 May 2021.</p> <p>In relation to the investigation opened by the Commissioner for Environment and Planning (CEP), the PA remarked that when the complaint had been lodged with the CEP, the owner had submitted a sanctioning application with the PA. However, the application was dismissed by the PA since the applicant did not comply with requirements for further processing of the application.</p> <p>On 17 May 2021, the PA contacted the owner, informing them that an enforcement notice will be issued. The owner replied that the structure will be removed by 23 May 2021.</p> <p>On 27 May 2021, the PA informed the CEP that the structure had been removed.</p> <p>On 28 May 2021, the CEP confirmed that the case had been closed.</p>
Status	Closed without recommendation
Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>CEP-21-2070</b>
Brief details of case	A complaint regarding the publication of site notices not in the Maltese language.
Action taken and management comments	<p>The case was received on 12 July 2021. The Commissioner for Environment and Planning (CEP) requested that all site notices should be published in both English and Maltese.</p> <p>The PA agreed with this suggestion and as of 2 March 2022, all site notices were published both in the English and Maltese languages.</p> <p>The case was closed by the CEP on 9 March 2022.</p>
Status	Closed without recommendation

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>CEP-21-2133</b>
Brief details of case	A complaint regarding unfair treatment in the processing of a minor amendment for a development in Sliema.
Action taken and management comments	<p>The case was received on 15 June 2021. The Commissioner for Environment and Planning (CEP) stated that the PA should consider informing interested parties, such as neighbours, when there are cases of minor amendments.</p> <p>The PA replied on 18 June 2021 and followed this up with a final letter on 30 August 2021, stating that in cases of development which might affect third parties, in lieu of a minor amendment, the officer in charge will request the submission of a full development application.</p> <p>However, the CEP did not agree with the interpretation of the PA as to what constitutes the building boundary in this case and stated that the case would be referred to the Prime Minister.</p>
Status	Ombudsman stated that this case was referred to the Prime Minister in terms of in the Ombudsman Act.
Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>CEP-21-2184</b>
Brief details of case	A complaint relating to the narrowing of a street through a formal application with the PA. The complainant made a claim for damages against the PA through the Commissioner for Environment and Planning (CEP).
Action taken and management comments	<p>The case was received on 7 September 2021.</p> <p>The PA explained that in such applications the Authority was responsible only for shifting the street alignment. The PA also remarked that any claim for damages or compensation must be against the person or persons who have benefited from the current circumstances.</p> <p>The CEP agreed and closed the case on 29 September 2021.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>CEP-21-2242</b>
Brief details of case	A complaint related to the uprooting of trees in a scheme area in Sliema to create construction access to a development site.
Action taken and management comments	<p>The case was received on 5 November 2021.</p> <p>The PA stated that the works were covered by a Development Notification Order (DNO) and that the uprooting of trees was followed by the recommendation of Environment and Resources Authority which had stated that the tree species was invasive and was not protected by law.</p> <p>The Commissioner for Environment and Planning (CEP) closed the case on 10 November 2021.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>CEP-21-2357</b>
Brief details of case	A complaint relating to a structure with tables and chairs in Valletta
Action taken and management comments	<p>The case was received on 13 September 2021. The Commissioner for Environment and Planning (CEP) enquired about a development being executed without a Commencement Notice as required by law.</p> <p>Subsequently, the PA instructed that the works be stopped until a Commencement Notice was validated. The Commencement Notice was submitted and a fine was imposed by the PA.</p> <p>The CEP closed the case on 22 September 2021.</p>
Status	Closed without recommendation



MPWP  
**Commissioner for Environment and  
Planning Pre 2021**

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EU 0035</b>
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 PA.
Action taken and management comments	<p>The case was received on 11 May 2020.</p> <p>The Superintendence for Cultural Heritage submitted the application for the scheduling. During a meeting held on 29 May 2020 between the PA and Commissioner for Environment and Planning (CEP), the latter was informed that discussions between all parties involved were ongoing.</p> <p>Following the conclusion of discussions, a full development application was submitted to the PA to be decided upon.</p>
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EU 0046</b>
Brief details of case	A complaint regarding no direct action on a structure in an internal yard in Sliema.
Action taken and management comments	<p>The case was received on 11 August 2020.</p> <p>The Commissioner for Environment and Planning (CEP) was informed that the PA had contacted the owner of the property in question.</p> <p>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 same Directorate reported that direct action was still not feasible since the property in question was still 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.</p> <p>On 22 February 2022, there was a meeting between the Direct-Action team on the behalf of PA and the contravener to seek a way forward for the removal of the illegality.</p>
Status last year	Pending at Ministry
Status	Pending at Ministry

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EU 0051</b>
Brief details of case	A complaint relating to height limitation issues.
Action taken and management comments	<p>The case was received on 1 July 2020. The Commissioner for Environment and Planning (CEP) referred to a drawing which was not showing the correct height limitation for the area as set out in the Marsaxlokk Bay Local Plan and Development Control 2015. This incorrect information appeared also in the case officer's report. This error misled the Planning Authority Board in taking an incorrect decision.</p> <p>On 4 September 2020, the PA replied to the CEP that there were grounds for a modification/revocation based on the error. On 10 September 2020, the CEP wrote to the applicant/architect informing them of the findings of the PA and inviting them to make written submissions prior to 25 September 2020, following which a Final Opinion would be issued.</p> <p>On 13 October 2020, the CEP sent his Final Opinion, stating that the difference in height limitation between the sites had not been highlighted to the Commissioner by the case officer, and thus the Commission could have taken a different decision. The Commissioner also recommended that the PA should invoke Article 80 of the Development Planning Act onto the permit. On 22 February 2021, the PA informed the CEP that in terms of Article 80, the report had been referred to the PA Board, and subsequently set on the PA Board agenda for 20 May 2021, as well as on the agenda of the 4 November 2021 of the Environment and Planning Commission, for a decision.</p> <p>On 29 November 2021, the CEP closed the case.</p>
Recommendation by Ombudsman	<ol style="list-style-type: none"> <li>1) The PA should invoke Article 80 of the Development Planning Act onto the permit since the Authority had failed to consider the lesser height limitation adjacent to the site in question. Had this material information been correctly made available to the Commission, the decision would have been different.</li> <li>(2) This procedure should lead to the modification of this permit for that part of the development that exceeds the lesser height limitation of 2 floors.</li> <li>(3) In line with the same Article 80 and the basic principles of <i>audi et alteram partem</i>, the Office of the Ombudsman should be involved in the whole planning process leading to the eventual decision of the Planning Board.</li> </ol>
Status last year	Pending at Ministry
Status	Closed and recommendations implemented

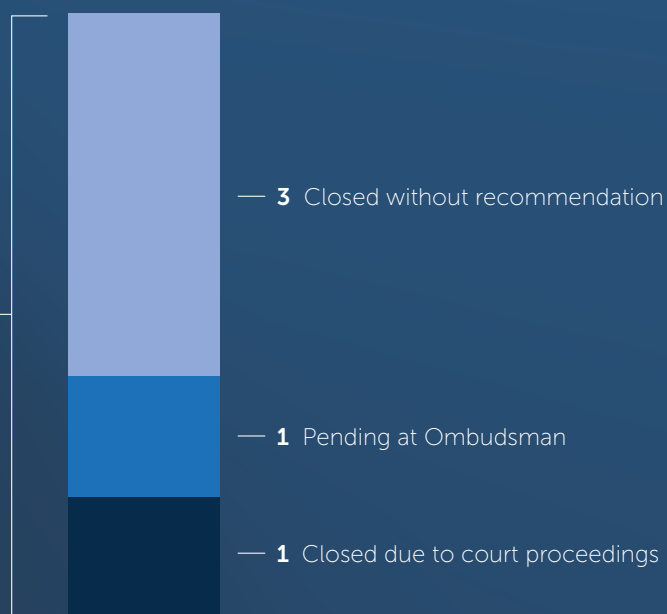
Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EU 0083</b>
Brief details of case	A complaint relating to a report submitted to the PA regarding illegal hunting structures at il-Miżieb.
Action taken and management comments	<p>The case was received on 14 October 2020.</p> <p>The Commissioner for Environment and Planning (CEP) stated that following a report submitted to the PA, the complainant alleged that the PA did not reply with information as to what action had been taken.</p> <p>On 22 January 2021, the PA started discussions with the Federazzjoni Kaċċaturi, Nassaba u Konservazzjonisti (FKNK) through the Enforcement Directorate, to start a gradual clean-up of the area.</p> <p>On 22 January 2021, the CEP wrote to the complainant with the discussion details and stated that his office will continue to monitor the situation to arrive to a positive closure of the case. FKNK submitted information regarding alleged illegal structures, and this information was evaluated by the PA in October 2021.</p> <p>On 6 October 2022, the CEP informed the PA that this case was closed.</p>
Status last year	Pending at Ministry
Status	Closed without recommendation

Sector/Department	<b>Planning Authority (PA)</b>
Ombudsman case reference	<b>EU 0091</b>
Brief details of case	A complaint relating to a report failure to notify interested parties.
Action taken and management comments	<p>The case was received on 27 October 2020.</p> <p>The Commissioner for Environment and Planning (CEP) stated that the PA had failed to inform the interested third parties of a Planning Board sitting, in line with Article 71(8) of the Development Planning Act, and that in consequence this application should be revoked in line with Article 80 of the Act.</p> <p>On 10 November 2020, the CEP suspended the case due to an appeal submitted to the Environment and Planning Review Tribunal (EPRT).</p> <p>The PA were informed that the CEP closed the case on 19 November 2021.</p>
Status last year	Suspended due to tribunal proceedings
Status	Closed without recommendation



# MINISTRY FOR SOCIAL AND AFFORDABLE ACCOMMODATION

05  
cases



During 2021, the Ministry for Social and Affordable Accommodation (MSAA) investigated four cases referred by the Parliamentary Ombudsman. Two of these cases have been closed without any recommendations being made by the Ombudsman. One case was closed after management replied to one request for information, while another case is pending at the Office of the Ombudsman.

The Commissioner for Environment and Planning (CEP) referred one case to MSAA. This case was closed by the CEP due to pending court proceedings.

MSAA  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Housing Authority (HA)</b>
Ombudsman case reference	<b>OMB-21-2157</b>
Brief details of case	A complaint regarding the purchase of a flat from the HA. The complainant argued that there was a serious issue with damp which was increasing and although the Authority Officials inspected the flat, the issues were not resolved.
Action taken and management comments	<p>The case was received on 25 August 2021.</p> <p>On 3 September 2021, the HA informed the Ombudsman that the Authority was responsible to carry out repairs of a structural nature such as repair and replacement of concrete slabs, balconies, and so on. Non-structural repairs fell under the responsibility of tenants. The HA may grant financial assistance to tenants based on eligibility by means testing. Repairs related to dampness fell under this category.</p> <p>Moreover, condition 8a of 'Sir Sid Darek' Scheme (for which the complainant applied), stated <i>'the property is being sold tale quale with the exclusion of the guarantee against latest defects'</i>. In clause 2 it is also stated that if the applicant <i>'had submitted a request for structural repairs with the Housing Authority between the first date of the publication of the scheme in the Government Gazette until the date of the signing of the final deed, he/she will agree to pay for such works'</i>. Therefore, such repairs were to be paid by the complainant.</p> <p>The Ombudsman closed the case on 17 September 2021, due to the satisfactory information provided.</p>
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Housing Authority (HA)</b>
Ombudsman case reference	<b>OMB-21-2180</b>
Brief details of case	A complaint concerning the hindering of career progression. The complainant alleged that the HA purposely demanded language proficiency requisites, which rendered them ineligible for two administrative calls for applications.
Action taken and management comments	<p>The case was received on 23 July 2021.</p> <p>On 28 July 2021, the CEO (HA) replied to the Ombudsman that the role for both posts included administrative tasks that consist of correspondence in Maltese and English with various stakeholders and the public. Thus, proficiency in both languages was a prerequisite that applicants should satisfy for such posts. The complainant did not possess any basic certificates, and on this basis, their applications were rejected.</p> <p>On 2 August 2021 the Ombudsman pointed out that such basic qualifications were required in any administrative posts such as Administration Officer - Accounts Section and Administration Officer - Private Residential Leases. The Ombudsman queried why calls for applications for these posts did not require such qualifications.</p> <p>On 12 August 2021, the HA replied that the two applications did not require such qualifications as the role was specifically for back office. However, the HA reiterated that these basic qualifications were being requested for all vacancies to recruit the best employees and to promote continuous learning. The Authority provided two other applications which were issued after the two indicated by Ombudsman to prove that basic qualifications were an eligibility requirement.</p> <p>On 26 August 2021 Ombudsman informed the Ministry that this case has been closed.</p>
Status	Case closed without recommendation

Sector/Department	<b>Housing Authority (HA)</b>
Ombudsman case reference	<b>OMB-21-2249</b>
Brief details of case	A complaint concerning the lengthy process for the signing of a contract.
Action taken and management comments	<p>The case was referred to the HA on 1 August 2021.</p> <p>On 9 August 2021, the HA sent a copy of all the correspondence exchanged with the complainant's notary related to the respective contract.</p> <p>On 10 August 2021, the Ombudsman asked the HA to provide a tentative timeframe for the vetting and signing of the contract, since the complainant remarked that such vetting had been done in the previous year. The HA clarified that vetting of contract was done two years before, thus the contract had to be revised due to different prices and other conditions. Moreover, the HA remarked that the process was extended due to various problems encountered by the complainant regarding the redemption of the ground rent.</p> <p>On 26 August 2021, the Ombudsman informed the HA that the case has been closed since the complainant confirmed that contract had been vetted and processed.</p>
Status	Case closed without recommendations

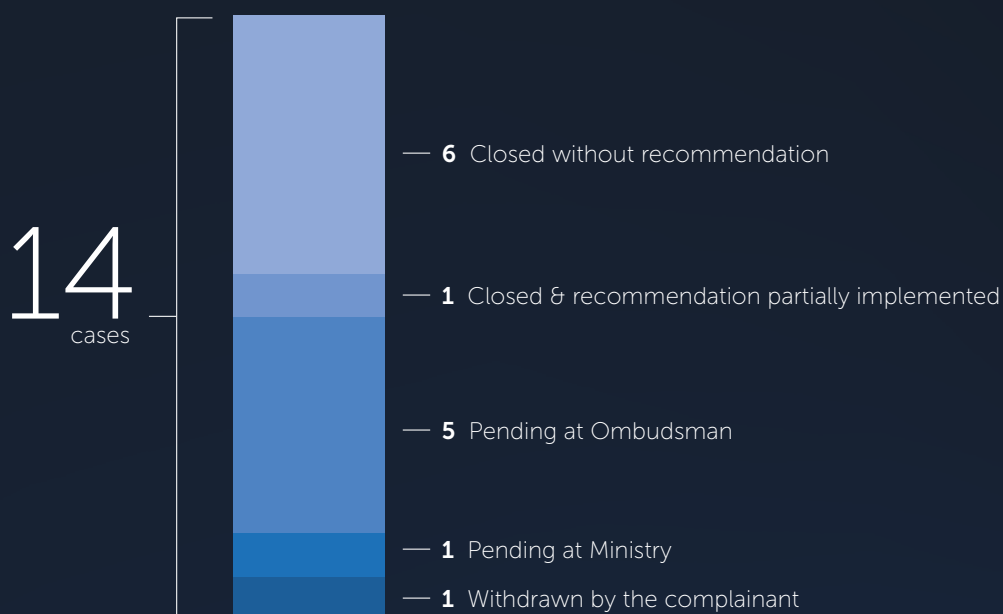
Sector/Department	<b>Housing Authority (HA)</b>
Ombudsman case reference	<b>OMB-21-2364</b>
Brief details of case	<p>A case related to the engagement of a Senior Officer at the HA without a call for applications. The complainant claimed that this was unfair treatment towards them and other employees who were not given the opportunity to apply for the post.</p>
Action taken and management comments	<p>The case was referred to HA on 17 November 2021.</p> <p>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 &amp; Standards Division, OPM. A copy of these approvals was enclosed with the reply to the Ombudsman.</p> <p>On 14 December 2021, the Ombudsman stated that the grievance was not the re-deployment action, 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.</p> <p>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 re-deployed with the HA. In fact, the HA had compiled the appropriate form for this person to return with HA.</p> <p>On 15 February 2022, the Ombudsman requested HA to provide a copy of all documents related to this case.</p> <p>On 7 March 2022, the HA explained that in the Public Administration there was 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. The requested documentation was provided to the Ombudsman.</p>
Status	Pending at Ombudsman



MSAA  
**Commissioner for Environment  
& Planning 2021**

Sector/Department	<b>Housing Authority (HA)</b>
Ombudsman case reference	<b>CEP-21-2399</b>
Brief details of case	A complaint regarding the rejection of an application for the purchase of an apartment through the "Sir Sid Darek 2014" scheme.
Action taken and management comments	<p>The case was received on 6 October 2021. The Commissioner for Environment and Planning (CEP) requested the HA to provide an explanation on why the complainant's application had been turned down, whilst another apartment in the same block was sold by the HA through the same scheme. Furthermore, he requested the HA to state how such sale was permitted since the block in question was classified as a historical one.</p> <p>On 7 December 2021, the HA replied that the two cases could not be processed in the same way. The HA sold the apartment in question because the tenants provided the requested documents in time and had no other properties. The complainant owned another property and did not submit the requested documents on time. Meanwhile, according to Article 12 of the Scheme, the HA decided not to sell further properties.</p> <p>On 9 February 2022, the CEP sent his final report including recommendations. On 7 March 2022, the HA requested a meeting with the CEP to discuss matters related to this case in person.</p> <p>On 5 April 2022, the HA informed the Commissioner that on 7 February 2022, the complainant had filed an application with the Courts of Malta against the Authority. A copy of this application was sent to the Commissioner. Subsequently, the CEP informed the complainant that the case was closed in accordance with Article 13(5) of the Ombudsman Act.</p>
Recommendation by Ombudsman	<p>The CEP had submitted recommendations based on the premise that the HA took a different approach towards two similar cases.</p> <ol style="list-style-type: none"> <li>1. The Housing Authority was to continue the application process.</li> <li>2. The HA should consider the transfer of similar properties that were sold under the "Sir Sid Darek" scheme.</li> <li>3. Lack of information related to an applicant's assets should only impact the decision to be taken under such subsidy and should not lead to the refusal of the application.</li> </ol>
Status	Case closed due to court proceedings

## MINISTRY FOR SOCIAL POLICY AND CHILDREN'S RIGHTS



The Ministry for Social Policy and Children's Rights (MSPC) investigated seven cases referred by the Parliamentary Ombudsman during 2021. Four of these cases were closed after management replied to one request for information. Two cases have been closed without any recommendation being made by the Ombudsman, whilst one case is pending at the Office of the Ombudsman.

During 2021, three other cases were referred to MSPC by the Commissioner for Health (CfH). One case was withdrawn by the complainant, one case is pending at Ombudsman, whilst another case is pending at the Ministry.

Regarding cases lodged prior to 2021, the MSPC dealt with four cases. Three cases, which had been referred by the Parliamentary Ombudsman, are pending at the Office of the Ombudsman. One case pertaining to the CfH has since been closed, and the recommendation was partially implemented.

MSPC  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Department of Social Security (DSS)</b>
Ombudsman case reference	<b>V 0050</b>
Brief details of case	A complaint concerning a pensioner who was claiming entitlement to the Deferral Incentive mentioned in the 2016 budget.
Action taken and management comments	<p>The case was received on 23 April 2021.</p> <p>On 29 April 2021, the Ministry informed the Ombudsman that the complainant was not entitled to the Deferral Incentive as they were awarded pension with effect from 29 August 2015. The Legal Notice 289 of 2016 came into effect on 1 January 2016. Furthermore, on attaining the age of 62 years, the complainant had already paid the number of social security contributions required to benefit from the full contributory average.</p> <p>The Ombudsman closed the case on 12 May 2021.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Department of Social Security (DSS)</b>
Ombudsman case reference	<b>V 0058</b>
Brief details of case	A complaint regarding difficulties encountered when applying for a widow's pension.
Action taken and management comments	<p>The case was received on 14 April 2021. The Ombudsman stated that the complainant lived abroad and, after her husband's demise, she tried to apply for a widow's pension, since her husband had paid contributions for 23 years. After contacting DSS staff, she was told that they would try to apply on her behalf. However, after waiting for some months, no action was taken.</p> <p>On 5 May 2021, the MFSC informed the Ombudsman that the application for the widow's pension had been processed since authorisation was attained. The pension was being effected and complainant was to receive payment.</p> <p>On 6 May 2021, the Ombudsman declared that complainant was in receipt of the pension and, subsequently, closed the case.</p>
Status	Closed by Ombudsman after management replied to one request for information.

Sector/Department	<b>Department of Social Security (DSS)</b>
Ombudsman case reference	<b>OMB-21-2077</b>
Brief details of case	A complaint relating to the retirement pension. The complainant claimed that the pension was incorrect due to an error in the assimilation of grade according to the Collective Agreement.
Action taken and management comments	<p>The case was received on 2 July 2021.</p> <p>On 16 September 2021, the DSS replied to the Ombudsman, stating that the complainant's employment contract was issued for employment on a part-time basis. This was also verified with the records at Jobsplus through the termination of employment sheet and on the employment history sheet. There was no official documentation that proved otherwise, and this employment status was not covered by the Collective Agreement.</p> <p>On 27 September 2021, the Ombudsman asked DSS to clarify whether the Department had considered the legislation which states that part-time employees are not to be less favoured.</p> <p>On 27 December 2021, DSS kept the Ombudsman updated with the actions taken to investigate the matter further.</p> <p>On 28 February 2022, the DSS informed the Ombudsman that from further investigations it transpired that the complainant's pension rate was based on information related to the payment of social security contributions in 2003, 2004 and 2005, submitted by the Inland Revenue Department.</p> <p>On 12 April 2022, a DSS representative met with the complainant and explained again the procedure for the assessment of pensions. The complainant was satisfied with this information and the Ombudsman closed the case on 13 April 2022.</p>
Status	Closed without recommendation

Sector/Department	<b>Department of Social Security (DSS)</b>
Ombudsman case reference	<b>OMB-21-2148</b>
Brief details of case	A complaint related to an overpayment due to the Department of Social Security (DSS). The complainant requested a further reduction in the monthly recovery payment rate set at 20%, since assets shared with her former husband were held in abeyance.
Action taken and management comments	<p>The case was received on 9 July 2021.</p> <p>On 3 August 2021, MSFC informed the Ombudsman that this case had been discussed internally, and it was agreed that for the following six months, the recovery payment rate was to be reduced to 10%. This decision was taken in accordance with the provisions of article 102 of the Social Security Act (Cap 318).</p> <p>The Ombudsman subsequently closed the case on 10 August 2021.</p>
Status	Closed by Ombudsman after the management replied to one request for information.

Sector/Department	<b>Department of Social Security (DSS)</b>
Ombudsman case reference	<b>OMB-21-2420</b>
Brief details of case	A complaint regarding an alleged incorrect retirement pension rate.
Action taken and management comments	<p>The case was received on 15 November 2021. The Ombudsman requested the DSS to reassess the complainant's pension.</p> <p>On 16 November 2021, the ministry informed the Ombudsman that this pension was reassessed, and the complainant was to receive arrears in the payment which was to follow.</p> <p>On 19 November 2021, the Office of the Ombudsman informed MSFC that the information was satisfactory, thus case has been closed.</p>
Status	Closed by Ombudsman after management replied to one request for information.

Sector/Department	<b>Department of Social Security (DSS)</b>
Ombudsman case reference	<b>OMB-21-2559</b>
Brief details of case	A complaint related to an increase in pension due which was never received by the complainant.
Action taken and management comments	<p>The case was received on 27 November 2021.</p> <p>On 30 December 2021, the DSS informed the Ombudsman that a revision of the complainant's pension was carried out and re-affirmed that the rate was correct. Moreover, the DSS informed the Ombudsman that the complainant was in receipt of a 10.5% top up which was awarded to those persons who opt to retire at their actual retirement age instead of retiring at the age of 61.</p> <p>On 3 January 2022, the Ombudsman requested further information related to the alleged letter sent to the complainant on 23 December 2021, whereby the DSS confirmed that no increase in pension was due. On the same day DSS replied to Ombudsman whereby it confirmed the aforementioned information was correct. Furthermore, DSS stated that no letter was issued by the Department on the mentioned date and that it was never provided with a copy of such a letter.</p> <p>On 16 June 2022, the Ombudsman informed DSS that the case has been closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Foundation for Social Welfare Services (FSWS)</b>
Ombudsman case reference	<b>OMB-21-2258</b>
Brief details of case	<p>A complaint relating to the selection process for the appointment of a chairperson of a Board within FSWS. The complainant alleged that the process was biased and unfair and that the decision was not taken on the basis of the order of merit. Furthermore, the complainant remarked that the composition of the selection board was changed on the day of the interview. The complainant also referred to several meetings held with FSWS and MSFC in an attempt to redress this situation.</p>
Action taken and management comments	<p>The case was received on 26 August 2021.</p> <p>On 3 September 2021, FSWS sent a detailed report to the Ombudsman, reiterating that all applicants were treated equally throughout the selection process. The same questions were 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 Board on the same day of the interviews, since 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.</p> <p>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.</p>
Status	Pending at Ombudsman

MSPC  
**Parliamentary Ombudsman Pre 2021**

Sector/Department	<b>Department of Social Security (DSS)</b>
Ombudsman case reference	<b>T 0086</b>
Brief details of case	A complaint regarding an incorrect pension rate. The complainant alleged that their pension was reduced because they had continued to work after they had been discharged in 2003.
Action taken and management comments	<p>The case was received on 27 May 2019.</p> <p>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 by virtue of the relevant Budget 2019 measure, and not because there had been an error in the computation.</p> <p>On 20 January 2021, the Ombudsman argued that Act VII of 2019 reflected the claim made by the complainant. Furthermore, the complainant and their 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.</p> <p>On the same day, the Permanent Secretary clarified immediately that as he explained to the complainant and union representatives many times, no arrears were due for the period preceding the amendments made to the pertinent, and Act was not amended retrospectively. The law was amended and 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.</p> <p>Upon enquiring with the Office of the Ombudsman in September 2022, MSPC was informed that the case was being evaluated.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Department of Social Security (DSS)</b>
Ombudsman case reference	<b>U 0214</b>
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 an elderly home under the Government Public-Private Partnership (PPP) Scheme.
Action taken and management comments	<p>The case was received on 17 November 2020.</p> <p>On 15 January 2021, the DSS sent a reply to the Ombudsman including a detailed report, confirming that workings for contributions were correct.</p> <p>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.</p> <p>On 8 March 2021, MSFC explained that deductions by the DSS are made according to Legal Notice No 259 of 2004. Furthermore, MSFC stated that the overpayment goes back to 2010 as contributions started when the elderly was admitted to Karen Grech Rehabilitation Hospital.</p> <p>Upon enquiring with the Office of the Ombudsman in August 2022, MSFC was informed that the case was being evaluated.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Foundation for Social Welfare Services (FSWS)</b>
Ombudsman case reference	<b>R 0225</b>
Brief details of case	A complaint from a person who was undergoing a rehabilitation programme for a dependency, claiming discrimination upon discharge from the programme as a disciplinary measure.
Action taken and management comments	<p>On 27 June 2018, the Ombudsman requested contact details of individuals who were undergoing the rehabilitation programme. Information requested was given in emails dated 3 and 9 July 2018. Following further investigation, the Ministry forwarded feedback to the Office of the Ombudsman in April 2019. No further feedback was received from the Ombudsman.</p> <p>Upon enquiring with the Office of the Ombudsman in August 2022, MSPC was informed that the case was being evaluated.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

MSPC  
**Commissioner for Health 2021**

Sector/Department	<b>Malta Psychology Profession Board (MPPB)</b>
Ombudsman case reference	<b>CH-21-2362</b>
Brief details of case	A request from the Ombudsman enquiring why a complainant was declared not eligible for a qualification allowance due to the fact that the credits attained were not sufficient for the attainment of a warrant to practice as a Psychologist.
Action taken and management comments	<p>On 23 November 2021, the Commissioner for Health (CfH) asked the MPPB to re-examine the case and clarify whether complainant was eligible for the respective warrant and qualification allowance or otherwise.</p> <p>The complainant had informed the CfH that the MPPB had not been given all the information and, therefore, the Board could not examine the transcripts and understand well the programme of studies sent to the Department of Health; thus the warrant for Psychologist could not be awarded.</p> <p>On 1 December 2021, the MPPB informed the CfH that the Board re-examined the case, and on the basis of new information provided, affirmed that the complainant's qualification entitled them to a warrant since they were in possession of a Doctorate with the minimum requirement in the area of Psychology. The MPPB confirmed that the complainant was in possession of a warrant and was listed in the official register. However, it was not the Board's remit to indicate whether the complainant was eligible for a qualification allowance or otherwise.</p> <p>On 3 February 2022, the MPPB was informed by CfH that the complainant had withdrawn the case and, therefore, the case was closed.</p>
Status	Closed, case withdrawn by complainant

Sector/Department	<b>Malta Psychology Profession Board (MPPB)</b>
Ombudsman case reference	<b>CH-21-2436</b>
Brief details of case	A complaint regarding a letter sent to the Board by an applicant's lawyer.
Action taken and management comments	<p>On 12 November 2021, the Commissioner for Health (CfH) sent a complaint to MPPB.</p> <p>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.</p> <p>Moreover, it was highlighted that the course description clearly indicated 'the course does not constitute a professional training in clinical psychology'.</p>
Status	Pending at Ombudsman

Sector/Department	<b>Malta Psychology Profession Board (MPPB)</b>
Ombudsman case reference	<b>CH-21-2531</b>
Brief details of case	The complainant alleged that although the Board allowed candidates holding a Master's degree consisting of 90 ECTS credits to apply for a three-year supervision, his application was refused by the MPPB since the Master's degree was not accredited by the British Psychological Society.
Action taken and management comments	<p>The case was received on 9 December 2021.</p> <p>On 13 January 2022, the MPPB sent an interim reply, stating that an internal investigation was in process.</p> <p>Subsequently, the MPPB was temporarily without a Chairperson. The Board is now fully composed and functioning. Pending cases, including the case in question, are being dealt with.</p>
Status	Pending at Ministry



MSPC  
**Commissioner for Health Pre 2021**

Sector/Department

**Department of Social Security (DSS)**

Ombudsman case reference

**HU 0064**

Brief details of case

A complaint contesting the decision of non-entitlement to a social security pension due to a shortfall of NI contributions.

Action taken and management comments

The case was received on 19 August 2020. The CfH stated that the complainant started working as an expatriate and signed a contract that stated that they were to receive a net salary and that the employer had to pay their NI contributions. The Inland Revenue Department (IRD) noticed that such payments were not being paid by the employer and requested the latter to pay such contributions. The complainant alleged that a public officer told them to pay a rate of 241% to make up for the shortfall in contributions. However, the DSS informed them that they were not eligible for a social security pension as they had missing NI contributions.

On 21 August 2020, the MFCS replied to the Ombudsman, clarifying that the Social Security Act did not provide that one paid double contributions to make up for missing contributions. The DSS requested a copy of the document by which the complainant had been instructed to pay a double rate of NI.

On 18 March 2021, the CfH sent his recommendations, after reiterating that the Public Administration was responsible for errors made by public officers.

On 21 May 2021, the DSS replied to the Commissioner's recommendations as follows:

8.1 The complainant paid Social Security Contributions in Malta from January 2004 to March 2020; thus it was not possible to pay the recommended pension. From investigations carried out, it transpired that the complainant paid contributions in the UK up to 5 April 2009. In the circumstances, the DSS agreed to reassess the pension on the contributions paid in Malta despite the overlap of voluntary contributions paid in the UK.

8.2. DSS clarified that it did not hold any unauthorised money in its coffers as these were made at the office of the Commissioner for Revenue and subsequently were made available to the consolidated fund.

8.3. In view of the reply to recommendation 8.1, social security contributions paid from 2004 to April 2009 should not be refunded as these were to be taken into consideration for the re-assessment of the pension.

8.4. The complainant's contributory pension was being abated by €117.54 per week. The amount was reassessed and reduced annually, with the employing department paying the difference. The employing department was to communicate with DSS every January to establish the new rate due to complainant.

8.5. This recommendation was to be discussed between the Department of Social Security and the employing department.

Upon enquiring, on 16 June 2022, the DSS was informed by CfH that the case had been closed.

Recommendation  
by Ombudsman

Recommendation 8.1 – The complainant was to be given the full pension for the years the complainant was in government employment, between 1 April 1995 and 12 March 2020.

Recommendation 8.2 - DSS was to transfer the “unauthorised” money in its coffers that should cover the years when contributions were not paid.

Recommendation 8.3 – If, for some reason, the DSS would not be in a position to implement the recommendation at 8.2, it should refund to the complainant the extra money paid. The deduction in pension should be borne by the employing department. DSS was to inform the employing department what payments were to be made monthly.

Recommendation 8.4 - To be compliant with the provision of the Social Security Act, the DSS was to inform the employing department of the amount deducted as service pension so that the latter would effect payment to the complainant on a regular basis.

Recommendation 8.5 - The overpayment claimed by DSS regarding the service pension should be claimed from the employing department.

Status last year

Pending at Ombudsman

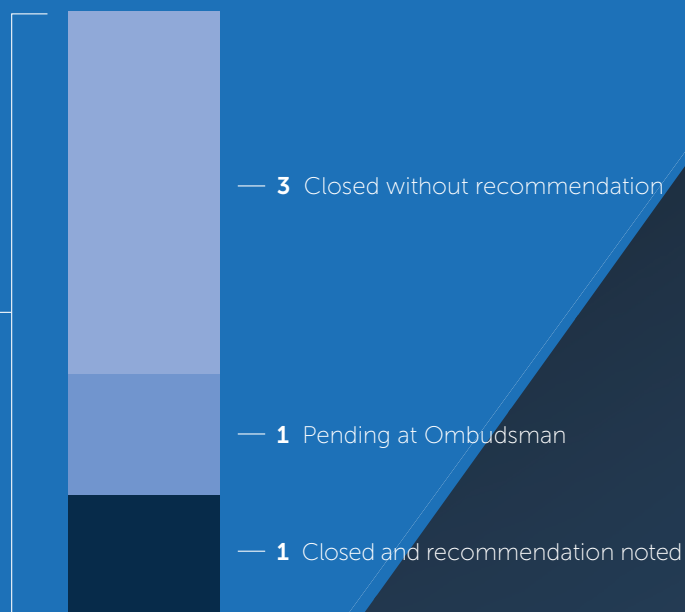
Status

Closed and recommendation partially implemented



## MINISTRY FOR TOURISM

05  
cases



During 2021 the Ministry for Tourism (MFT) dealt with three cases referred by the Parliamentary Ombudsman. Two new cases referred during 2021 were closed after management replied to a request for information. One other case, which had been referred to the Ministry by the Parliamentary Ombudsman prior to 2021 is pending at the Office of the Ombudsman.

During the year in question, MFT dealt also with one case referred by the Commissioner for Environment and Planning. This case was closed, and the recommendation was noted by MFT.

Another case was referred by the Commissioner for Education, which was closed without a recommendation being made by the Commissioner.

MFT  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Institute of Tourism Studies (ITS)</b>
Ombudsman case reference	<b>OMB 21-2270</b>
Brief details of case	A complaint regarding a request for an extension to work beyond retirement age which was rejected.
Action taken and management comments	<p>The case was received on 17 August 2021.</p> <p>The Ministry for Tourism and Consumer Protection (MTCP) replied to the Ombudsman's request for information on 14 September 2021, providing justification why the complainant was incorrect in their assertions.</p> <p>The Ministry further explained that it was the prerogative of ITS to decide whether to grant an extension or not, and this was not an automatic privilege to be enjoyed by the employee.</p> <p>On 6 October 2021, the Office of the Ombudsman replied that the complaint had been closed.</p>
Status	Closed after management replied to one request for information.

Sector/Department	<b>Malta Tourism Authority (MTA)</b>
Ombudsman case reference	<b>V 0040</b>
Brief details of case	A complaint regarding the schemes launched by MTA. The complainant felt that clubs (kazini) were being discriminated against in view that the MTA did not assist these clubs and commercial bars in the same way.
Action taken and management comments	<p>The case was received by MFT and MTA on 21 April 2021.</p> <p>On 26 April 2021, MTA replied to the Commissioner, explaining that kazini are not licensed by MTA but are regulated by the Commissioner of Police. Furthermore, kazini should not operate as commercial bars but as members-only bars. The MTA maintained that the complainant's statement that MTA is discriminating was incorrect.</p> <p>The Ombudsman declared the case as closed on 21 May 2021.</p>
Status	Closed by the Ombudsman after management replied to one request for information.

MFT  
**Parliamentary Ombudsman Pre 2021**

Sector/Department	<b>Malta Film Commission (MFC)</b>
Ombudsman case reference	<b>U 0049</b>
Brief details of case	A complaint regarding alleged discrimination on the part of the MFC.
Action taken and management comments	<p>The case was received on 24 April 2020.</p> <p>On 9 December 2020, MTCP replied to the queries of the Ombudsman, including the submission of supporting documentation.</p> <p>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.</p> <p>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.</p> <p>On 29 July 2022, the Ombudsman requested MFT to provide the required information requested by 20 August 2022.</p> <p>On 19 August 2022, MFT replied to the queries raised by the Ombudsman, explaining that the introduction of the <i>Opportunity for All</i> directory was intended to regulate and open opportunities in the film industry in an equitable manner.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

MFT  
**Commissioner for Education 2021**

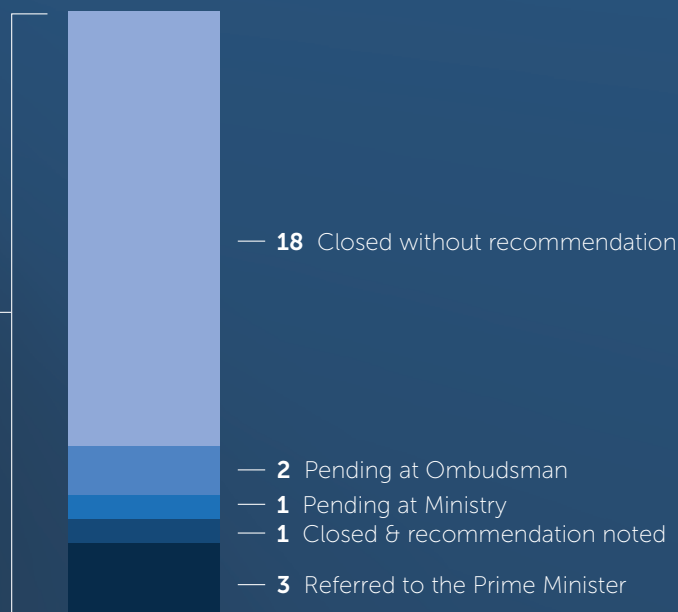
Sector/Department	<b>Institute of Tourism Studies (ITS)</b>
Ombudsman case reference	<b>CEDUC-21-2103</b>
Brief details of case	A claim for an allowance to be backdated to January 2020 instead of 17 February 2021, the latter being the date that the allowance was approved by ITS management.
Action taken and management comments	<p>The case was received on 1 June 2021.</p> <p>During June and July 2021, there were several exchanges of correspondence between ITS and the Commissioner for Education (CfE), concerning the implications of clause 62 – Work at a Higher Grade of the ITS Collective Agreement. Following a meeting held with the CfE, it was concluded that the complainant had already been doing part of the tasks listed in the job description of the higher grade during the period between 16 February 2020 and 17 February 2021. On this basis, the ITS accepted the proposal of the CfE to pay the complainant the difference in pay in the form of an allowance for the period between 16 February 2020 and 17 February 2021, a year during which the complainant was performing duties pertaining to a higher grade.</p> <p>The Ombudsman closed the case on 29 July 2021.</p> <p>The payment to the complainant was made on 12 August 2021.</p>
Status	Closed without recommendation

MFT  
**Commissioner for Environment  
& Planning 2021**

Sector/Department	<b>Malta Tourism Authority (MTA)</b>
Ombudsman case reference	<b>EV 0028</b> Note: This case was also reported under the Ministry for Public Works and Planning (MPWP - Planning Authority)
Brief details of case	A complaint regarding works allegedly carried out illegally at Blue Lagoon in Comino.
Action taken and management comments	<p>On 13 April 2021, the Commissioner for Environment and Planning (CEP) communicated with the CEO, Malta Tourism Authority (MTA) and the Permanent Secretary (MTCP), amongst others.</p> <p>On 20 April 2021, MTA replied to the CEP, stating that MTA always insisted that the management plan should be respected. The MTA also stated that work should be strictly limited to necessary interventions. The responsibility to implement the Commissioner's final recommendations rested upon the Planning Authority.</p> <p>It is to be noted that the MTA was only approached by CEP to give its views on the matter in the final stages of the investigation.</p>
Recommendation	The Commissioner recommended that the Planning Authority should stop the works related to the service culvert as well as other ancillary works. He also recommended that the site is to be returned to its original state and that applicable penalties are to be charged and deposited in a dedicated fund for the improvement of Comino. He also stated that a service culvert should be covered by a development application and that all related entities and the public are consulted.
Status	Closed and recommendation noted

# MINISTRY FOR TRANSPORT, INFRASTRUCTURE AND CAPITAL PROJECTS

25  
cases



During 2021, the Ministry for Transport, Infrastructure and Capital Projects (MTIP) dealt with a total of twenty-five cases.

Five cases were referred by the Parliamentary Ombudsman in 2021, while six cases have been pending from previous years. From the total of eleven cases referred by the Ombudsman, five were closed without a recommendation being given by the Ombudsman. Three cases were closed after management replied to one request for information. One case is pending at the Office of the Ombudsman, whilst another case is pending at the Ministry. The Ombudsman referred one case to the Prime Minister in terms of article 22(4) of the Ombudsman Act.

During the year in question, the Ministry also received thirteen cases from the Commissioner for Environment and Planning (CEP). Another case was pending from the previous year. Out of these fourteen cases, seven cases were closed without a recommendation, whilst three cases were closed after management replied to one request for information. One case was closed, and the recommendation was noted by MTIP. Another case is still pending at Ombudsman. Two cases were referred by the CEP to the Prime Minister in terms of article 22(4) of the Ombudsman Act.

MTIP  
**Parliamentary Ombudsman 2021**

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>OMB-21-2076</b>
Brief details of case	A complaint about water gathering in front of residents' houses following works in a street in Santa Lucija.
Action taken and management comments	<p>The case was received on 28 May 2021.</p> <p>On 2 June 2021, the Ombudsman was informed that IM was to investigate the matter further. Subsequently IM constructed a stormwater culvert adjacent to the kerb to address this issue. Works were completed in June 2021.</p> <p>The Ombudsman closed the case on 10 June 2021.</p>
Status	Closed without recommendation

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>V 0059</b>
Brief details of case	A complaint regarding a claim for reimbursement for damages sustained due to a pothole in Iklin. The complainant had sought a full refund for the cost of the tyre from IM. However, the complainant was informed that IM would not be reimbursing the full amount.
Action taken and management comments	<p>The case was received on 21 April 2021. The Office of the Ombudsman requested a reconsideration of the decision taken by IM, since the complainant claimed that the tyre was practically new and hardly used.</p> <p>On 25 May 2021, the Ombudsman was informed that the claimant failed to submit a receipt to show that the tyre was purchased recently. Furthermore, according to the claimant, the tyre was already a year old when the accident occurred. Given that a tyre is normally changed every three years, the Claims Committee believed that it was correct in deducting a percentage from the tyre's cost in view of the wear and tear of the damaged tyre. On 2 June 2021, the Office of the Ombudsman informed IM that complainant wished to accept the compensation which was initially offered by IM.</p> <p>Consequently, the Ombudsman has closed this case on 3 June 2021.</p>
Status	Closed without recommendation.

Sector/Department	<b>Ministry for Transport, Infrastructure and Capital Projects (MTIP)</b>
Ombudsman case reference	<b>OMB-21-1942</b>
Brief details of case	A complaint related to a penalty incurred following the conclusion of disciplinary proceedings.
Action taken and management comments	<p>The case was received on 1 June 2021. The Office of the Ombudsman requested the Permanent Secretary (MTIP) to send a copy of the decision. On 15 June 2021, the requested documentation was forwarded to the Office of the Ombudsman.</p> <p>On 18 June 2021, the Office of the Ombudsman asked the Ministry to provide reasons for its decision. On 19 July 2021, MTIP replied that the complainant's grievance was not justified because the complainant working schedule was based on a 12-hour night-in, night-out shift and suspensions were applicable on normal working days in line with paragraph 5.6.2 of the Manual on Disciplinary Procedures.</p> <p>Following this submission, the Ombudsman closed the case on 19 August 2021.</p>
Status	Closed without recommendation

Sector/Department	<b>Transport Malta (TM)</b>
Ombudsman case reference	<b>OMB-21-2121</b>
Brief details of case	A complaint regarding a fine imposed for failing to register a motorbike within the 30-day timeframe.
Action taken and management comments	<p>The case was received on 5 July 2021. The complainant alleged that they were informed by TM that they would send the required information before they register the motorbike. However, they were subsequently informed by TM that since the 30-day timeframe had lapsed, they were required to pay a fine. The Office of the Ombudsman requested TM to provide the complainant with a reply to his letter.</p> <p>On 19 August 2021, TM replied that the complainant's letter never reached their office. TM stated that their records indicated that the complainant had visited their offices and was instructed to prepare a list of documents to register the motorbike, but they never returned to finalise the transaction. Nonetheless, TM informed the Office of the Ombudsman of the steps that the complainant must follow, and of the documents that must be presented to address the complaint.</p> <p>The case was closed by the Ombudsman on 17 September 2021.</p>
Status	Closed without recommendation
Sector/Department	<b>Transport Malta (TM)</b>
Ombudsman case reference	<b>OMB-21-2442</b>
Brief details of case	A complaint regarding a penalty imposed for the late payment of a Controlled Vehicular Access (CVA) charge.
Action taken and management comments	<p>The case was received on 4 November 2021.</p> <p>On the same date, MTIP sent the reply to the Ombudsman, explaining that CVA was operated by a private company and the contestation process was available on the pertinent website. The Ombudsman replied that the case will not be investigated since the complainant had not utilised the available means of redress.</p> <p>The case was closed on 10 November 2021.</p>
Status	Closed after the management replied to one request for information.

MTIP  
**Parliamentary Ombudsman Pre 2021**

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>T 0021</b>
Brief details of case	The case relates to a review conducted by the Office of the Ombudsman on the decision of the Commissioner for the Environment and Planning (CEP), delivered on 23 January 2019, regarding the formation of a private road and the consequent adjustment made to the main road.
Action taken and management comments	<p>The case was received on 8 April 2019. The Ombudsman requested a meeting with officials from Transport Malta (TM), IM, the Planning Authority (PA), and the Lands Authority (LA). Information and documentation requested by the investigating officer 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.</p> <p>On 21 January 2022, the Office of the Ombudsman requested further information about the planning gain.</p> <p>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.</p>
Status last year	Pending at Ombudsman
Status	Pending at Ombudsman

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>T 0238</b>
Brief details of case	A complaint regarding a claim for compensation for damages which was refused by Infrastructure Malta.
Action taken and management comments	<p>The case was received on 10 October 2019. On 5 February 2020, IM provided the Office of the Ombudsman with documentation and information on the reasons for rejecting this request.</p> <p>On 10 October 2022, IM were informed that the case was closed.</p>
Status last year	Pending at Ombudsman
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Ministry for Transport, Infrastructure and Capital Projects (MTIP)</b>
Ombudsman case reference	<b>U 0241</b>
Brief details of case	A complaint concerning a number of hours worked at the Manufacturing and Services Directorate (MSD), for which the employees concerned were not paid.
Action taken and management comments	<p>In his initial letter dated 12 February 2021, the Ombudsman asked Permanent Secretary (MTIP) for his comments.</p> <p>On 30 March 2021, MTIP replied that breaks were included in MSD shifts. Regulation 5(3) of SL 452.87 Organisation of Working Time Regulations stated that every worker is entitled to a rest break for an uninterrupted period of not less than 15 minutes where the working day is longer than six hours. The rest break is mandatory. Thus, an employee cannot expect to be paid for the 15-minute break, as that period is not considered as working time.</p> <p>The Ombudsman closed the case on 13 January 2022.</p>
Status last year	Pending at Ombudsman
Status	Closed after management replied to one request for information

Sector/Department	<b>Transport Malta (TM)</b>
Ombudsman case reference	<b>U 0072</b>
Brief details of case	A complaint concerning an allegation of discrimination after not having been selected for the post of Assistant Manager and a breach of the Collective Agreement.
Action taken and management comments	<p>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.</p> <p>On three separate occasions, the Ombudsman presented further questions to TM, to which the Authority replied.</p> <p>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.</p> <p>On 29 December 2021, the Ombudsman issued his Final Opinion with recommendations.</p> <p>On 1 February 2022, TM informed the Ombudsman that the first recommendation was being discussed internally, whilst the other recommendations would be implemented.</p> <p>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.</p> <p>TM replied that the recommendations proposed by the Ombudsman were being taken into serious consideration. The Ombudsman replied whether SOPs or guidelines have been drafted in relation to the selection process.</p>
Recommendation by Ombudsman	<p>The Ombudsman recommended that:</p> <ol style="list-style-type: none"> <li>a) Qualifications are included as a criterion in the Authority's selection process and are assessed using objective parameters.</li> <li>b) Balance is ensured between objective and subjective criteria in the selection of applicants.</li> <li>c) Selection boards formulate pre-set questions and interview notes, or minutes are retained.</li> </ol>
Status last year	Pending at Ombudsman
Status	Pending at Ministry

Sector/Department	<b>Transport Malta (TM)</b>
Ombudsman case reference	<b>U 0210</b>
Brief details of case	<p>A complaint concerning a number of employees in a managerial position complaining that the Collective Agreement expired, and that other employees were appointed directly and/or promoted to higher grades.</p>
Action taken and management comments	<p>In an initial email dated 2 December 2020, the Ombudsman requested TM to provide information in relation to the case.</p> <p>On 16 December 2020, TM replied that most of the complainants had their contracts and financial packages negotiated and revised in the past few months. Information regarding the current financial packages of complainants was also provided. TM requested closure of the case.</p> <p>On 20 January 2021, the investigating officer pointed out that the complaint had not been dropped by the complainants, and therefore the Office of the Ombudsman shall continue to investigate the matter.</p> <p>On 16 November 2021, TM informed the Office of the Ombudsman that a newly proposed salary structure was forwarded to the People &amp; Standards Division (P&amp;SD) for their feedback.</p> <p>MTIP were informed that the Ombudsman closed the case on 9 February 2022.</p>
Status last year	Pending at Ombudsman
Status	Closed without recommendation

Sector/Department	<b>Transport Malta (TM)</b>
Ombudsman case reference	<b>U 0242</b>
Brief details of case	A complaint relating to payments requested by TM regarding a motoring school permit.
Action taken and management comments	<p>On 7 January 2021, the Ombudsman asked TM to comment on the case.</p> <p>On 19 January 2021, TM replied that the operator of a motor school was obliged in terms of regulation 66 of SL 65.18 – Motor Vehicles (Driving Licences) Regulations, to inform the Authority by means of a notice which indicates the date after which the operator does not intend to continue to act as an authorised operator under any of the authorisations granted or under such authorisation as may be specified in the notice. If this notice was not received by the Authority, the licence remained valid, and the motoring school could have been operating. Therefore, the annual fee must be paid until the termination date.</p> <p>On 27 January 2021, the Ombudsman requested information on whether TM had a procedure in place to send reminders to motoring schools for payment of this fee, stating that the complainant never received a reminder.</p> <p>On 2 July 2021, TM informed the Ombudsman that the Authority was under no legal or procedural obligation to remind authorised operators with approved permits of the fees due, operational costs, or related commitments. Consequently, unless a formal request from the operator was made that such a pre-approved and agreed operational permit was to be stopped, TM was obliged to keep requesting these fees under the assumption that such operations never ceased.</p> <p>On 24 September 2021, the Ombudsman issued his Final Opinion with the recommendations on the case. TM replied on 29 October 2021, reiterating their stand indicated in the reply of 2 July 2021.</p> <p>On 1 November 2021, the Ombudsman asked TM to reconsider their position. It was pointed out that should TM's position remain unchanged, the Ombudsman will proceed in line with article 22(4) of the Ombudsman Act. The Ombudsman referred the case to the Prime Minister on 18 November 2021.</p>
Recommendation by Ombudsman	<p>The Ombudsman recommended that:</p> <ol style="list-style-type: none"> <li>i) Complainant should pay half of the amount due in arrears, and consequently the Motoring School Permit is cancelled.</li> <li>ii) The Authority reviews all operators to ensure that they are compliant, and paying their respective annual fees.</li> <li>iii) The Authority establishes procedures to ensure that similar cases are avoided in the future.</li> </ol>
Status last year	Pending at Ministry
Status	Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act.

MTIP  
**Commissioner for Environment and  
Planning 2021**

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>CEP-21-1294</b>
Brief details of case	A complaint regarding works carried out on a pedestrian bridge in Triq il-Gerrejja, Marsa without obtaining the necessary PA Permit.
Action taken and management comments	<p>The case was received on 19 April 2021. The Commissioner for Environment &amp; Planning (CEP) requested IM to indicate under whose authorisation these works were carried out.</p> <p>On 27 April 2021, IM informed the CEP that the PA application had been submitted prior to the commencement of works on 7 October 2019 and that the life of pedestrians was being endangered as there was no other means of crossing. As a result, works were executed in an urgent manner in January 2021 in line with article 70(2)(d) of Cap 552 of the Laws of Malta.</p> <p>On 18 August 2021, the Ministry was informed that CEP has closed the case.</p>
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>CEP-21-1299</b>
Brief details of case	A complaint concerning road formation works in Dingli.
Action taken and management comments	<p>The case was received on 19 April 2021. The Commissioner for Environment &amp; Planning (CEP) requested the following information from IM: (i) whether IM entered private land without the consent of the landowners; (ii) whether IM entered private land prior to the publishing of the relevant declarations in the Government Gazette; (iii) whether IM was going to enter private land relating to which there has not yet been a declaration published in the Government Gazette.</p> <p>On 27 April 2021, IM informed the CEP that the Agency had not entered in any private land prior to informing landowners. IM had entered into agreements with the pertinent landowners where works have commenced. Furthermore, the declaration which had been published in the Government Gazette incorporated all the lands that are going to be affected by the works.</p> <p>Upon further enquiries from the CEP, IM informed the CEP that a meeting between all parties had been held in Parliament on 7 April 2021. Furthermore, IM pointed out that the approximate value of each site worked out by Lands Authority (LA) had been included in the agreements with landowners. IM also stated that agreements reached with landowners were not intended to replace the expropriation process carried out by LA, but to put landowners' minds at rest that IM will make the request for expropriation and that the necessary funds will be transferred to LA to compensate them.</p> <p>On 29 November 2021, the CEP issued his final opinion and closed the case.</p> <p>IM noted the recommendations made by the CEP but amending the Environment Protection Act did not fall within its remit.</p>
Recommendation by Ombudsman	<p>The CEP remarked that every entity should abide by law.</p> <p>Additionally, the CEP recommended that the changes in the Environment Protection Act are concluded at the earliest.</p>
Status	Closed and recommendation noted

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>CEP-21-1300</b>
Brief details of case	A complaint regarding work delays in Swieqi.
Action taken and management comments	<p>The case was received on 12 April 2021. The Commissioner for Environment &amp; Planning (CEP) requested IM to confirm whether there were any issues related to this delay, and whether a date has been set for the completion of these works.</p> <p>On 15 April 2021, the CEP was informed that the contractor had issues with plant and machinery which were solved on 12 April 2021. Furthermore, the contractor has been contacted by IM officials and confirmed that road works have continued as from the 13 April 2021. The CEP was also informed that the scarifying and laying of asphalt layers will take around five weeks to be completed.</p> <p>On 27 July 2021, IM informed the CEP that works had to be halted in view of defective private drainage house connections. Thus prior to proceeding with asphaltting, the necessary repairs must be carried out by the residents concerned.</p> <p>On 18 August 2021, the Ministry was informed that CEP has closed the case.</p>
Recommendation by Ombudsman	<p>The CEP remarked that every entity should abide by law.</p> <p>Additionally, the CEP recommended that the changes in the Environment Protection Act are concluded at the earliest.</p>
Status	Closed without recommendation

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>CEP-21-1461</b>
Brief details of case	A complaint regarding a field that was allegedly damaged by the contractor engaged by the Agency when works were carried out in Triq ir-Ramla tal-Bir at l-Ahrax tal-Mellieha.
Action taken and management comments	<p>The case was received on 30 April 2021. IM informed the Commissioner for Environment &amp; Planning (CEP) on 3 May 2021 that the Agency had been in communication with the complainant, and appointed a contractor to re-build the rubble walls which may have fallen during the execution of the works. Photos indicated that the rubble walls were partly demolished prior to the commencement of works. Furthermore, the Agency appointed a contractor to clear any stones from the complainant's fields with a stone picking machine.</p> <p>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.</p> <p>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 were ploughed without any issues.</p> <p>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 that its reply dated 21 March 2022 still stands. Moreover, IM stated that its works surely did not affect the whole fields. IM proposed that the complainant submits a quotation for the ploughing of fields for IM's approval and the expenses incurred would be borne by IM so that 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.</p>
Status	Pending at Ombudsman

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>CEP-21-1933</b>
Brief details of case	A complaint regarding clanging noises generated from the metal covers of a culvert situated in a street in Lija.
Action taken and management comments	<p>The case was received on the 30 April 2021. The Commissioner for Environment &amp; Planning (CEP) requested IM to investigate and carry out any works necessary to fix the situation.</p> <p>On 3 May 2021, IM informed the CEP that the necessary works were carried out as requested.</p> <p>The CEP closed the case on 13 May 2021.</p>
Status	Closed without recommendation

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>CEP-21-2011</b>
Brief details of case	A complaint concerning road works in Żabbar that might affect access to the complainant's two garages.
Action taken and management comments	<p>The case was received on 10 May 2021. IM replied to the Commissioner for Environment &amp; Planning (CEP) on the 18 May 2021, stating that the Agency had not made any changes in the road levels at the street in question. However, it transpired that the pavement was higher than the allowed standard.</p> <p>On 19 July 2021, IM informed CEP that a new pavement was constructed meeting the required standards. IM also removed the illegal ramp protruding onto the road and constructed a dropper kerb in line with Transport Malta's standards so that the complainant could access the road with their vehicle easily and safely. The complainant had the option to instruct IM to construct a higher pavement and use temporary ramps instead of a permanent ramp protruding onto the road as this was illegal.</p> <p>CEP was informed on 13 August 2021 that during a meeting between IM and the complainant, they requested IM to construct a higher pavement, to which the IM had no objection. During another meeting held on 10 September 2021 it was agreed that the complainant would hire a contractor to carry out the necessary works and that expenses would be incurred by IM. The complainant had to provide a proposal of how works would be carried out and a quotation for IM's approval. However, till the 8 October 2021, neither the proposal nor the quote had been submitted to IM, and the CEP was informed accordingly.</p> <p>On 4 February 2022, the CEP requested information from the complainant to obtain proper closure to this case.</p> <p>On 22 February 2022, the CEP closed case. However, the complainant got back to the CEP on the same day and on 6 March 2022 they submitted the requested documentation to IM. Subsequently, the complainant was informed to proceed with the works.</p>
Status	Closed without recommendation

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>CEP-21-2059</b>
Brief details of case	<p>A complaint regarding damages sustained in the underside of the complainant's car every time the complainant accessed their driveway in Santa Luċija.</p>
Action taken and management comments	<p>The case was received on 1 June 2021. The Commissioner for Environment &amp; Planning (CEP) asked IM to submit its views and take the necessary action to resolve the issue by making slight modifications to the pavement.</p> <p>On 8 June 2021, IM replied that the garage in question was initially built on a high level. IM had constructed a footpath using a low kerb according to normal practice and in conformity with the CRPD regulations, avoiding to recreate the illegal ramp protruding onto the road.</p> <p>IM stated that the way forward would be either to remove the footpath and construct a normal kerb, or the complainant could also modify the ramp from his drive-in.</p> <p>The CEP closed the case on 9 July 2021.</p>
Status	Closed after the management replied to one request for information

Sector/Department

**Infrastructure Malta (IM)**

Ombudsman case reference

**CEP-21-2341**

Brief details of case

A complaint regarding inconveniences following roadworks in Fgura.

Action taken and management comments

The case was received on 10 September 2021. The Commissioner for Environment & Planning (CEP) requested IM to confirm whether the street levels established by the Planning Authority (PA) had been followed and whether the PA had confirmed these levels as built.

On 8 October 2021, IM informed CEP that its works consisted of scarifying and resurfacing of the road. Since the road was already formed according to the PA's established levels, there was no need for the Authority to provide them again. However, following this complaint, IM conducted a survey, and it was established that rainwater was being diverted appropriately. The fact that some garage owners constructed illegal ramps could be the cause of disrupting the water flow.

On 19 January 2022, the CEP asked IM to lower the pavement and to make the necessary changes to ensure that the water flow is not disrupted.

A meeting with the complainant was held on 4 February 2022. On 9 March 2022, the CEP was informed that water was not flowing properly in view that construction material had gathered in front of the complainant's property following works in a nearby construction site. IM suggested that the complainant address this issue with the construction site's owner. Regarding access to the garage, the CEP was informed that the pavement was constructed according to Transport Malta's standards. IM proposed that an intervention be carried out on the garage floor, but the complainant did not accept this proposal.

The CEP informed the Ministry that the case was closed on 15 June 2022.

Status

Closed without recommendation

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>CEP-21-2430</b>
Brief details of case	A complaint regarding flooding at Triq il-Gvern Lokali, Qasam Industrijali, Marsa.
Action taken and management comments	<p>The case was received on the 1 December 2021. The Commissioner for Environment &amp; Planning (CEP) remarked that this issue developed following works on the Marsa flyovers and requested IM to take the necessary action to resolve this situation.</p> <p>On 7 December 2021, IM informed CEP that a higher wall will be installed but, on 14 December 2021, the CEP suggested the installation of a railing.</p> <p>On 16 December 2021, IM informed the CEP that his suggestions would be implemented. On 21 March 2022, IM informed the CEP that the works had been completed.</p> <p>On 4 April 2022, the CEP closed the case.</p>
Status	Closed without recommendation

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>CEP-21-2517</b>
Brief details of case	The Commissioner for Environment & Planning (CEP) involved IM in this case to find a solution to provide better access to the fields in the limits of Burmarrad.
Action taken and management comments	<p>The case was received on 7 January 2021. In relation to this case, meetings between IM and ERA were held on 25 January 2022 and 8 March 2022.</p> <p>On 25 March 2022, the CEP was informed that following various meetings between ERA and IM, it was agreed that IM submit a method statement for ERA's approval. The method statement submitted by IM was approved by ERA and works were carried out in April 2022.</p> <p>On 30 March 2022, the CEP informed the Ministry that this case has been closed.</p>
Status	Closed without recommendation

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>EV 0019</b>
Brief details of case	A complaint regarding the caving in of the recently resurfaced road in Santa Luċija.
Action taken and management comments	<p>The case was received on 8 April 2021. The Commissioner for Environment &amp; Planning (CEP) asked IM to confirm whether this complaint was received by the Agency. The CEP also asked IM to provide a copy of the reply to complainant or the views of the Agency regarding this complaint.</p> <p>On 14 April 2021, the CEP was informed that the relevant officials have communicated with the complainant on several occasions and even met on site. The documents requested were forwarded to the CEP.</p> <p>The CEP closed the case on 17 May 2021.</p>
Status	Closed after the management replied to one request for information.

Sector/Department	<b>Infrastructure Malta (IM)</b>
Ombudsman case reference	<b>EV 0023</b>
Brief details of case	A complaint regarding resurfacing works in Birkirkara
Action taken and management comments	<p>The case was received on 24 March 2021. The Commissioner for Environment &amp; Planning (CEP) suggested that IM or its contractor contact the complainant to agree upon a solution to this situation.</p> <p>IM followed the suggestions of the CEP and contacted the complainant on 30 March 2021. The Agency explained that slight modifications will be carried out to the pavement. IM also agreed to contact the complainant prior to the commencement of works. On 14 May 2021, the CEP was informed that works were carried out.</p> <p>The CEP closed the case on 17 May 2021.</p>
Status	Closed without recommendation

Sector/Department	<b>Transport Malta (TM)</b>
Ombudsman case reference	<b>EV 0020</b>
Brief details of case	A complaint regarding an un/loading bay in Swieqi.
Action taken and management comments	<p>The case was received on 23 March 2021. The Commissioner for Environment &amp; Planning (CEP) requested TM to provide information as to whether this un/loading bay was authorised by the Authority. If in the affirmative, TM was requested to provide reasons for its the decision, and to state what action was to be taken.</p> <p>On 11 June 2021, TM replied that the un/loading bay in question was permitted according to TM's policy.</p> <p>On 15 June 2021, the CEP asked TM to provide further clarifications and details. TM replied on 6 August 2021, stating that due consideration regarding the impact on traffic was taken, and the decision to reserve the un/loading bay was taken in the interest of residents and in line with TM's policy.</p> <p>On 23 August 2021, the CEP issued his Final Opinion.</p> <p>On 24 September 2021, TM informed the CEP that the Authority did not agree with his recommendation. According to TM, the un/loading bay was authorised and beneficial to the interests of the community at large, and that the authorisation was granted in accordance with laws and regulations. Furthermore, TM stated that such decision did not absolve individuals from the obligations of complying with rules and regulations enforceable by a different competent authority.</p> <p>On 8 October 2021, the Commissioner informed MTIP that the case had been referred to the Prime Minister in terms of article 22(4) of the Ombudsman Act.</p>
Recommendation by Ombudsman	<p>The CEP recommended that:</p> <ol style="list-style-type: none"> <li>1) Transport Malta withdraws the authorization for this un/loading bay and sees to the implementation of its removal;</li> <li>2) Transport Malta only issues authorisations for similar requests after having ensured that conflicting development permit conditions are first overturned by the competent authority.</li> </ol>
Status	The Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act.



MTIP  
**Commissioner for Environment and  
Planning Pre 2021**

Sector/Department	<b>Transport Malta (TM)</b>
Ombudsman case reference	<b>EU 0106</b>
Brief details of case	A complaint concerning alleged car damages due to seawater flooding at Birżebbuġa.
Action taken and management comments	<p>In his initial email dated 13 May 2021, the Commissioner for Environment &amp; Planning (CEP) asked Transport Malta (TM) to clarify how Infrastructure Malta (IM) was responsible for this complaint, considering that the complaint was not related to a maintenance issue but to the low level of an old road with respect to the sea level, and TM still retained the ownership of this road.</p> <p>On 7 July 2021, TM replied that whilst it was acknowledging that sea water overrides the road in Birżebbuġa, any proposed projects related to the quay or the road in this area were within the remit of IM.</p> <p>On 12 July 2021, the CEP replied that TM was nonetheless obliged to provide the complainant with a reasoned reply why this claim was or was not justified and not simply rejecting outright the request on the premise that IM was responsible. Furthermore, the CEP asked TM to submit its comments in this regard.</p> <p>On 17 September 2021, TM refuted any responsibility for the damages. On the same day, the CEP issued his Final Opinion with recommendations.</p> <p>On 2 November 2021, TM replied to the Final Opinion issued by the CEP, whereby the Authority stated that such claims for damages should be decided by the Courts, where the Authority would have the opportunity to defend itself.</p> <p>On 9 November 2021, the Commissioner informed MTIP that the case has been referred the case to the Prime Minister in terms of article 22(4) of the Ombudsman Act.</p>
Recommendation by Ombudsman	<p>The CEP recommended that:</p> <ol style="list-style-type: none"> <li>1) Transport Malta should recognise its responsibilities in connection with the claim put forward by the complainant; and</li> <li>2) Transport Malta should reply to this claim and not abdicate its responsibilities by simply referring the claimant to another entity.</li> </ol>
Status last year	Pending at Ombudsman
Status	Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act.





