



# GOVERNANCE **ACTION**

on the Parliamentary Ombudsman's  
Annual Report 2018





OFFICE OF THE PRINCIPAL PERMANENT SECRETARY  
OFFICE OF THE PRIME MINISTER

**GOVERNANCE ACTION**  
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Annual Report 2018*

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**FOREWORD**



**B**uilding on last year's endeavours, this report provides further testimony to the significant investment made by the Public Administration to ensure that its commitment to greater accountability and transparency bears fruit.

This is also acknowledged by the Ombudsman himself, who, in the Annual Report for 2018 states, *"One cannot but concur that the great majority of public officers and employees in public authorities deserve recognition for hard work, dedication and sterling efforts to ascertain that the Public Administration acts fairly, equitably and with transparency. The function of the Office of the Ombudsman is to ensure that, that sterling work is not tainted by the failure of the few to attain the required standards of efficiency and accountability expected of them."*

The Malta Public Administration continues to strengthen its governance and accountability framework resulting in the continuous improvement in its performance and in the provision of public services of excellence.

**Achieving client centricity is the focal point of the drive towards excellence. Being client centric also requires that we not only listen to what our clients tell us but to effectively address their concerns.**

Our internal customer care and quality assurance systems are being effective. The Public Administration handles millions of unique contacts with its multitude of

clients on a 24/7 basis. Despite all our sterling efforts for internal improvement, it is inevitable that there will be cases where we fail in meeting client expectations. Sometimes this may be justified. In others it reflects a failure in the system, incident or approach, and once such shortcomings are brought to our attention, we strive to address such situation. To this end, the cases referred to the Ombudsman serve as a possible indicator of such instances.

The work of Parliamentary Offices charged with the oversight of the Public Administration's performance and accountability is essential to make sure that where our systems fall short, and citizens fall between the cracks in the Public Administration, there is an additional layer of redress and oversight.

Through this report we are practising open government, presenting publicly and transparently how the Public Administration functions in response to issues referred to it by the Office of the Ombudsman and what has been done to ensure that our citizens are given due redress. Functional transparency is a two-way street and we would like to see a more structured procedural approach and operational standards implemented by the Office of the Ombudsman especially to eliminate certain grey areas and for clarity on timelines.

It is not the intention to engage in any debate, more so when the Ombudsman has rested his case on the matter. However, it is only right to clarify and correct inaccuracies stated by the Ombudsman in the Annual Report 2018. The first inaccuracy concerns persons in positions of trust. Serious reservations on any matter are not tantamount to fact. Legal advice

sought by the Public Administration does not state that the engagement of persons in positions of trust is unconstitutional. Such persons never obtain indefinite status, and this was what was attested by the Public Service Commission in 2012 when a number of such persons were given indefinite status. It was on this point that the Public Service Commission had raised an objection. The Public Service Commission upholds its stance then and now, even though there was never any issue of a person of trust being given indefinite status since 2013. To state that the practice has gone out of hand now raises our concerns about the credibility of such a statement. Similarly, so does the point about there being more stringent regulations for persons in positions of trust in 2004. There were between 545 and 638 persons in positions of trust between 2008 and 2012 and there are 683 today.

The second clarification concerns the accusations by the Ombudsman that, our Governance Report in reply to his Annual Report for 2017, breached the General Data Protection Regulations. The competent authority to rule about any GDPR breach is the Commissioner for Information and Data Protection whom, in August this year, we requested to view our Governance Report and to give us a ruling thereon. We were given advice on mitigating risks and more importantly we received a clean bill of health as there was no breach of personal data in the said report. We have also taken on board the Commissioner's advice to further safeguard citizen rights to privacy and are religiously adhering to it. Our aim in publishing the Governance Report is to account for our actions as a Public Administration in so far as we address complaints referred to us by the Ombudsman.

The positive outcome of most of the cases investigated by the Office of the Ombudsman and each of the Commissioners attests our endeavours to achieve excellence.

**I am quite pleased to note that the Public Administration was almost always either considered by the Office of the Ombudsman to have acted correctly or otherwise has adopted and taken note of any recommendation presented to it.**

This requires that the Public Administration handles with utmost seriousness the recommendations for improvement presented to it as a result of these investigations and reports. To better do this we have appointed a liaison officer, a single point of contact within the Office of the Permanent Secretary in each Ministry, who is charged with having full visibility of every Ombudsman case and who is required to report centrally on a periodical basis on the status, progress or lack thereof of each case referred to their Ministry.

This is further evidence of the commitment we have made to leave no stone unturned to effectively meet the expectations of our clients and to provide redress where it results that they have been let down.

In the ensuing Sections we present a case-by-case account of what has been done by the Public Administration to ensure that corrective action is taken where necessary.

It is surely of note that:

- Of the 383 cases deemed as meriting further inquiry by the Parliamentary Ombudsman and the Commissioners, a substantial 60% (246 cases) were closed during 2018.
- 189 new cases received were closed by the Office of the Parliamentary Ombudsman and Commissioners during 2018 – i.e. within the same year of submission.
- In 152 cases (i.e. 80% of cases closed), 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 70%<sup>1</sup> of cases closed. This is a significantly positive testimony to the performance of the Public Administration.
- For another 32 closed cases (17%), the recommendations presented had already been implemented at the time of reporting.
- Together, an impressive 97% of cases (184 from 189 cases closed during 2018) were closed with the complaint either deemed unjustified or otherwise being suitably addressed. The remaining 3% represent cases needing further and frequently complex analysis, statutory or policy considerations. This is however also testimony to the seriousness with which the Public Administration evaluates recommendations presented to it.
- Of the 75 cases still pending conclusion, only 22 are pending at Ministry level, 12 of which pertain to the Commissioner for Health.

Furthermore, there was no instance where it concluded that there was any breach of law; policy or abuse of power by the Public Administration.

For the remaining cases, this exercise sought to ensure that action was being taken by the Public Administration to evaluate and consequently implement recommendations made to it by the Office of the Ombudsman.

It is noteworthy to mention a number of cases referred to the Prime Minister for his consideration. Most of these concerned cases received by the Commissioner for Health and had medical-considerations as their basis. Although ideally this statistic would not feature, it is inevitable that some recommendations are considerably more complex in nature hence requiring in-depth analysis. Moreover, these potentially implicate the need for amendments to the statutory framework and their sustainability is not always easy to determine. I believe this is an area where we need to secure a closer collaboration and exchange with the Ombudsman and the Commissioners to minimise the need for such escalation.

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

Looking now beyond the generality and considering a more in-depth analysis that in respect of the cases handled by the Parliamentary Ombudsman it emerged that:

- A total of 161 new cases were presented in 2018. Of these, 13 (9.5%) were deemed invalid. An additional 69 cases pre-dated 2018. Together, they represent the Ombudsman total case load.
- 2018 saw the conclusion of 73% (107) of new cases and 36.7% (25) of older cases. This means that there are 84 cases yet to be concluded. Especially for the older cases, this is an area that could potentially represent a focus for improvement on both sides.
- Of the cases closed in 2018, there was only 1 (0.9%) instance where the recommendations made were not fully implemented by the time of reporting. It is to be noted, that in 94% (101) of cases investigated and closed during 2018, the Ombudsman either presented no recommendation or otherwise deemed management's first explanation as enough evidence of no 'wrong-doing' from the part of the public entity concerned. This is certainly a feather in the Public Administration's cap. But we will strive to continue to improve.

As attested and in all areas, we have indications that point to a significantly better performance than the strong performance already reported last year. I interpret this as an indicator of excellence.

We strongly believe in a Public Administration that is quality oriented with a mindset for excellence and this report is one of the several links that manifest this publicly.

**MARIO CUTAJAR**

Principal Permanent Secretary

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| Follow up on pre-2018 Cases                                              |            |

## LIST OF ABBREVIATIONS

### A

|       |                                              |
|-------|----------------------------------------------|
| AACCD | Active Ageing and Community Care Directorate |
| AAS   | Air Malta Aviation Services Ltd              |
| ACHCB | Action Committee on Health Care Benefits     |
| ACM   | Asbestos Containing Material                 |
| ACM   | Arts Council Malta                           |
| AD    | Assistant Director                           |
| AFM   | Armed Forces of Malta                        |
| AWAS  | Agency for the Welfare of Asylum Seekers     |

### B

|      |                                           |
|------|-------------------------------------------|
| BTEC | Business and Technology Education Council |
| BTI  | Binding Tariff Information                |
| BRO  | Building Regulation Office                |

### C

|      |                                           |
|------|-------------------------------------------|
| CAE  | Civil Aviation Engineering                |
| CAPA | Corrective and Preventive Action          |
| CCF  | Corradino Correctional Facility           |
| CEP  | Commissioner for Environment and Planning |
| CJEU | Court of Justice of the European Union    |
| CEO  | Chief Executive Officer                   |
| CfR  | Commissioner for Revenue                  |
| CMO  | Chief Medical Officer                     |
| COJ  | Court of Justice                          |
| COP  | Commissioner of Police                    |
| CPA  | Certified Public Accountant               |
| CPSU | Central Procurement and Supplies Unit     |
| CTD  | Capital Transfer Duty                     |
| CTP  | Council for the Teaching Profession       |

### D

|        |                                                               |
|--------|---------------------------------------------------------------|
| DAACC  | Department of Active Ageing and Community Care                |
| DCO    | Deputy Chief Officer                                          |
| DCS    | Directorate Corporate Services                                |
| DES    | Directorate for Educational Services                          |
| DG     | Director General                                              |
| DIER   | Department for Industrial & Employment Relations              |
| DIY    | Do It Yourself                                                |
| DLG    | Director Local Government                                     |
| DNO    | Development Planning Order                                    |
| DRILLE | Directorate for Research, Lifelong Learning and Employability |
| DSS    | Department of Social Security                                 |
| DSWS   | Department for Social Welfare Standards                       |

**E**

|         |                                           |
|---------|-------------------------------------------|
| ECDL    | European Computer Driving Licence         |
| ECO-TAX | Ecological Taxation                       |
| ECTS    | European Credit Transfer System           |
| EIRA    | Employment and Industrial Relations Act   |
| EMR     | Electromagnetic Radiation                 |
| EMTC    | Exceptional Medicinal Treatment Committee |
| ELT     | English Language Teaching                 |
| EO      | Education Officer                         |
| EPB     | Engineering Professions Board             |
| EPC     | Energy Performance Certificate            |
| EPRT    | Environment and Planning Review Tribunal  |
| ERA     | Environment and Resources Authority       |
| ERDF    | European Regional Development Fund        |
| ERL     | Energy Resources Limited                  |
| ESP     | Employment Support Programme              |
| EU      | European Union                            |

**F**

|      |                                        |
|------|----------------------------------------|
| FES  | Foundation for Educational Services    |
| FMS  | Foundation for Medical Services        |
| FSWS | Foundation for Social Welfare Services |

**G**

|       |                                              |
|-------|----------------------------------------------|
| GDPR  | General Data Protection Regulation           |
| GFL   | Government Formulary List                    |
| GFLAC | Government Formulary List Advisory Committee |
| GPD   | Government Property Department               |
| GWU   | General Workers Union                        |

**H**

|    |                   |
|----|-------------------|
| HA | Housing Authority |
| HR | Human Resources   |
| HS | Harmonized System |

**I**

|      |                                             |
|------|---------------------------------------------|
| ICT  | Information and Communications Technology   |
| IM   | Infrastructure Malta                        |
| IMA  | Identity Malta Agency                       |
| INCO | Inclusion Coordinators                      |
| IPCB | Independent Police Complaints Board         |
| IPPC | Integrated Pollution Prevention and Control |
| IRD  | Inland Revenue Department                   |
| IT   | Information Technology                      |
| ITTC | Institute Tourism, Travel and Culture       |
| IVF  | In Vitro Fertilization                      |

**L**

|      |                                  |
|------|----------------------------------|
| LA   | Lands Authority                  |
| LC   | Local Council                    |
| LESA | Law Enforcement System Authority |
| LN   | Legal Notice                     |
| LSA  | Learning Support Assistant       |
| LTC  | Long Term Care                   |
| LTD  | Licensing and Testing Department |

**M**

|        |                                                                          |
|--------|--------------------------------------------------------------------------|
| MAM    | Medical Association of Malta                                             |
| MATSEC | Matriculation and Secondary Education Certificate                        |
| MCA    | Malta Communications Authority                                           |
| MCCAA  | Malta Competition & Consumer Affairs Authority                           |
| MCAST  | Malta Collage of Arts, Science & Technology                              |
| MCH    | Mount Carmel Hospital                                                    |
| MDD    | Malta Dry Docks                                                          |
| MDH    | Mater Dei Hospital                                                       |
| MEAE   | Ministry for European Affairs and Equality                               |
| MESDC  | Ministry for the Environment, Sustainable Development and Climate Change |
| MEDE   | Ministry for Education and Employment                                    |
| MEIB   | Ministry for the Economy, Investment & Small Businesses                  |
| MEPA   | Malta Environment and Planning Authority                                 |
| MGA    | Malta Gaming Authority                                                   |
| MFSA   | Malta Financial Service Authority                                        |
| MFC    | Malta Freeport Corporation                                               |
| MFCS   | Ministry for the Family, Children's Rights and Social Solidarity         |
| MFH    | Ministry for Health                                                      |
| MFIN   | Ministry for Finance                                                     |
| MFTP   | Ministry for Foreign Affairs and Trade Promotion                         |
| MHAS   | Ministry for Home Affairs and National Security                          |
| MIB    | Mediterranean Insurance Brokers                                          |
| MJCL   | Ministry for Justice, Culture and Local Government                       |
| MMA    | Malta Medicines Authority                                                |
| MOT    | Ministry for Tourism                                                     |
| MPF    | Malta Police Force                                                       |
| MPT    | Malta Public Transport                                                   |
| MQF    | Malta Qualifications Framework                                           |
| MQRIC  | Malta Qualifications Recognition Information Centre                      |
| MSc    | Master of Science                                                        |
| MSD    | Manufacturing and Services Division                                      |
| MTA    | Malta Tourism Authority                                                  |
| MTIP   | Ministry for Transport, Infrastructure and Capital Projects              |
| MUMN   | Malta Union for Midwives and Nurses                                      |
| MUT    | Malta Union of Teachers                                                  |

**N**

|       |                                                      |
|-------|------------------------------------------------------|
| NACE  | Nomenclature of Economic Activities                  |
| NCFHE | National Commission for Further and Higher Education |

|       |                                                |
|-------|------------------------------------------------|
| NCPE  | National Commission for Promotion and Equality |
| NGO   | Non-Government Organisation                    |
| NHS   | National Health Services                       |
| NI    | National Insurance                             |
| NLA   | National Literacy Agency                       |
| NPICU | Neonatal Paediatric Intensive Care Unit        |
| NSO   | National Statistics Office                     |

## **O**

|      |                                          |
|------|------------------------------------------|
| ODZ  | Outside Development Zone                 |
| OHSA | Occupational Health and Safety Authority |
| OPM  | Office of the Prime Minister             |

## **P**

|       |                                                  |
|-------|--------------------------------------------------|
| PA    | Planning Authority                               |
| PACBU | Public Administration Collective Bargaining Unit |
| PAHRO | Public Administration Human Resources Office     |
| PGCE  | Postgraduate Certificate of Education            |
| PhD   | Doctor of Philosophy                             |
| PM    | Prime Minister                                   |
| PV    | Photovoltaic                                     |
| PS    | Permanent Secretary                              |
| PSC   | Public Service Commission                        |
| PSD   | People & Standards Division                      |
| PSMC  | Public Service Management Code                   |

## **R**

|      |                                      |
|------|--------------------------------------|
| RHKG | Karin Grech Rehabilitation Hospital  |
| RID  | Roads and Infrastructure Directorate |

## **S**

|       |                                      |
|-------|--------------------------------------|
| SAMOC | Sir Anthony Mamo Oncology Centre     |
| SAWTP | Sant Antnin Waste Treatment Plant    |
| SCH   | Superintendence of Cultural Heritage |
| SEO   | Sanitary Engineering Officer         |
| SIS   | Schengen Information System          |
| SL    | Subsidiary Legislation               |
| SLTD  | Stolen and Lost Travel Document      |
| SMGB  | Students Maintenance Grant's Board   |
| SPH   | Superintendence of Public Health     |
| SS    | Social Security                      |
| SVPR  | St. Vincent De Paule Residence       |

## **T**

|       |                                             |
|-------|---------------------------------------------|
| TAC   | Treatment Abroad Committee                  |
| TM    | Transport Malta                             |
| TMRSD | Traffic Management & Road Safety Department |
| TSD   | Trade Services Directorate                  |

**U**

|      |                                          |
|------|------------------------------------------|
| UADB | University Assessment Disciplinary Board |
| UHM  | Union Haddiema Maghqudin                 |
| UK   | United Kingdom                           |
| UM   | University of Malta                      |
| US   | United States                            |

**V**

|     |                             |
|-----|-----------------------------|
| VAT | Value Added Tax             |
| VOA | Voluntary Organisations Act |
| VO  | Voluntary Organisation      |

**W**

|     |                            |
|-----|----------------------------|
| WC  | Water Closet               |
| WSC | Water Services Corporation |
| WSM | Wasteserv Malta            |

*N.B. Nomenclatures denoting gender are used interchangeably to refer to either male or female complainants.*

## THE REPORT IN NUMBERS





As in the previous edition, the focus of this statistical analysis was directed at establishing the status and outcomes of the caseload handled by the Office of the Parliamentary Ombudsman, the Commissioner for Education, the Commissioner for Environment and Planning, and the Commissioner for Health during the period January to December 2018, as well as cases carried forward from previous years. The only excluded cases are those that were referred to the Public Service Commissioner.

As is now customary for the Public Administration, ministries and concerned public entities were requested to submit to the Office of the Principal Permanent Secretary a detailed account of the status and outcome of each case identified in the Ombudsman's Annual Report for 2018. Where necessary, further clarification was requested and secured.

As a result of this intensive effort, this report presents an outline of the case itself and its current status. The report also presents the conclusions or recommendations made to the Public Administration and how these have been acted upon by the ministries concerned. A full account of this follow-up action is presented for each case individually and can be referred to in this report.

The following account, and those just before each section, provide a consolidated snapshot of the analysis of all cases. They provide an overview of the cases handled by the Parliamentary Ombudsman and the Commissioners during 2018 and their status and/or outcomes as at 15th September 2019.

OVERVIEW

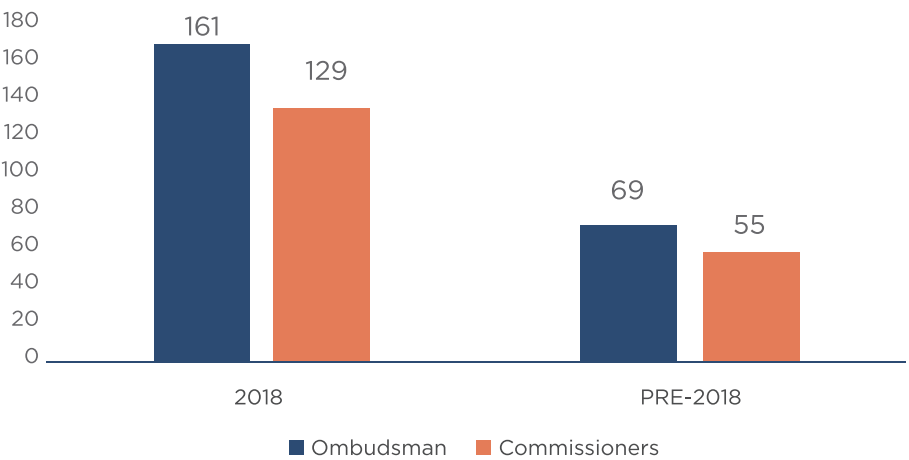
CASES RECEIVED BY THE OFFICE OF THE PARLIAMENTARY OMBUDSMAN AND COMMISSIONERS IN 2018

The data available to the Public Administration shows that the Office of the Ombudsman (i.e. the Parliamentary Ombudsman and the three individual Commissioners) has, during 2018, investigated a total of 290 new complaints. An additional 124 cases pre-date 2018. Hence, the total caseload for the Office of the Parliamentary Ombudsman and Commissioners was equivalent to a total of 414 cases. This is depicted in **Diagram 01** below.

Diagram 01 depicting the total caseload pertaining to the Office of the Parliamentary Ombudsman and Commissioners in 2018.

Diagram 01

Total Caseload



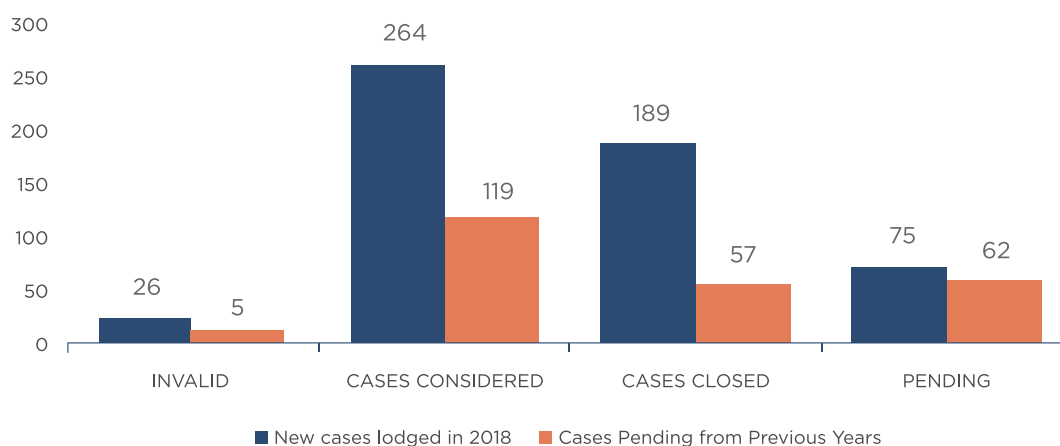
Further investigation reveals that of the total caseload of 414 complaints:

- 31 (8.9%) were deemed invalid or otherwise withdrawn.
- 246 cases (60%) were closed during the reporting period. Of these:
  - 189 of complaints made during 2018 were closed. This represents just over 65% of the total new (2018) caseload received.
  - Another 57 cases which pre-date 2018 were also closed. This represents a 48% reduction in the total pre-2018 pending cases.
  - 137 cases remain pending. With 75 (19.6%) and 62 (16.2%) pending respectively, this cohort is almost equally composed of new (2018) and old (pre-2018) cases.
  - From the total pending cases, 90 (66%) are pending at Ombudsman, 34 (25%) are pending at Ministry and 13 (9%) are pending in view of being suspended due to proceedings before the Courts or Tribunal.

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

**Diagram 02 depicting the status of cases considered<sup>1</sup> in 2018 and those pending from previous years.**

### Complaints handled by the Office of the Ombudsman - Status



*Note:* The pending cases include cases suspended due to referral to Courts or Tribunals. These amount to two cases from the cases submitted in 2018 and 11 cases from the previous years' caseload.

<sup>1</sup> Cases Considered refers to the total caseload less invalid cases. Cases Considered is the total of Cases Closed and Pending cases.

Correspondingly, our analysis of the new cases received in 2018 shows that in a significant number of cases the Office of the Ombudsman and Commissioners concluded the investigation once their Office had received the management's explanation and technical considerations of the case as handled by the Public Administration.

In fact, in 152 cases (80%), the investigation was closed without the presenting of any recommendations for corrective action to be taken by the management of the concerned public entity. In these cases,

it can be concluded that the Office of the Ombudsman and Commissioners gave a vote of confidence to the way in which the Public Administration acted.

For another 32 closed cases (17%), by the time of reporting, the concerned public entity had already implemented the recommendations presented to it. This means that

for complaints considered by the Office of the Ombudsman and Commissioners in 2018, the complaint has been suitably addressed in 97% of cases

which is a significant improvement registered in 2018. This result attests to the constant commitment towards the adherence to stringent quality levels by the Public Administration with an emphasis made on implementation, accountability, and transparency.

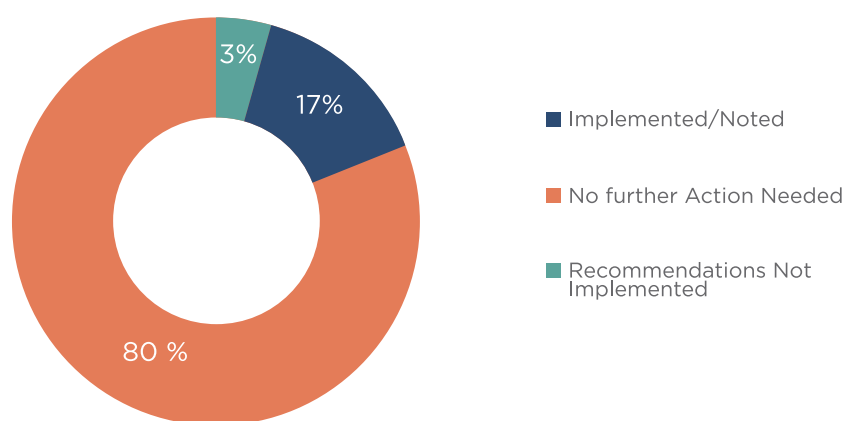
It is only in a small number of cases (5 or 3%) that recommendations presented were not implemented. Generally, it was found that such recommendations needed further policy, or in some instances, statutory analysis or revision that did not allow for their immediate adoption by the Public Administration. It is however to be stressed that in none of these cases was the decision taken without serious and responsible consideration.

Moreover, in none of these cases was it concluded that there was maladministration by the Public Administration.

This is summarised in **Diagram 03** below.

**Diagram 03 depicting the status of the cases concluded in 2018 by the Office of the Ombudsman.**

### 2018 Complaints concluded by the Office of the Ombudsman: Status



*Note:* Corresponding data for the 57 cases closed predating 2018: 86% implemented or otherwise no further action was needed. 13% where recommendations are yet to be implemented. In 52% of cases from previous years, investigations are ongoing.

As identified, of the 137 cases not closed at the time of reporting, 13 were suspended due to processing by the courts and the Grievances Unit and 124 remain pending. Despite all efforts and significant improvements in this area, this is an element that needs further strengthening. Thirty-four cases are pending at Ministry while 90 cases are pending at Ombudsman. It was noted that several of the latter cases were, so to say dormant, and not closed for several months, with the Office of the Ombudsman informing the entity concerned that these were still under consideration. This is presented in **Table 01** below:

**Table 01 depicting pending cases by length of time and indicating where they are pending.**

| <b>Timespan</b>        | <b>Pending at<br/>Ombudsman/<br/>Commissioners</b> | <b>Pending at Ministry</b> | <b>Amount</b> |
|------------------------|----------------------------------------------------|----------------------------|---------------|
| Less than 1 month      | 17                                                 | 06                         | 23            |
| Between 1 & 3 months   | 11                                                 | 06                         | 17            |
| Between 3 & 6 months   | 24                                                 | 10                         | 34            |
| Between 6 & 12 months  | 14                                                 | 08                         | 22            |
| Between 12 & 18 months | 08                                                 | 03                         | 11            |
| More than 18 months    | 16                                                 | 01                         | 17            |
| <b>TOTAL</b>           | <b>90</b>                                          | <b>34</b>                  | <b>124</b>    |

In conclusion, it can be said that compared to the previous year, a significant improvement in the performance of the Public Administration is noted. In fact, 80% of cases needed no specific corrective action.

This is a positive testament to the Public Administration's endeavours to be transparent and accountable through its actions and is evidenced in reports such as this.

Where corrective action was necessary, the Public Administration generally adopted and implemented the Ombudsman's and Commissioners' recommendations with relative expediency. Only a very small minority of cases are held up in terms of implementation or otherwise contested.

## CASES HANDLED BY THE PARLIAMENTARY OMBUDSMAN

Based on the Public Administration's findings, the Parliamentary Ombudsman has, during the year 2018, been presented with 161 new cases.

Of these, it has been reported that 7 cases (i.e. 3.7% of all complaints received in 2018) were complaints presented but which the Office of the Ombudsman could not investigate. There were another 6 cases where the complaint was either withdrawn by the complainants themselves or by the Ombudsman. In one instance, proceedings in Court or a Grievance Board meant that the Ombudsman's investigation could either not begin or had to be suspended pending a decision by the Courts or Board. This is presented in **Table 02** below.

**Table 02 depicting the reasons for received complaints that could not be considered by the Parliamentary Ombudsman**

|                                                                    | 2018 Cases      | Pre-2018 Cases  |
|--------------------------------------------------------------------|-----------------|-----------------|
| Withdrawn by Complainant                                           | 06              | 01              |
| Suspended due to Court Proceedings or referral to Grievances Board | 01              | 05              |
| <b>TOTAL</b>                                                       | <b>7 (4.4)%</b> | <b>6 (5.1)%</b> |



Of the remaining **148** cases (161 less 13 invalid cases that were not upheld by the Ombudsman or withdrawn) submitted in 2018, our analysis brings 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.

In many instances, 32 cases (or 22%) in fact, the Parliamentary Ombudsman deemed the management's first explanatory account as sufficient to close the case without any recommendation for corrective action being necessary, whilst in a further 69 cases (or 47%), the Parliamentary Ombudsman investigated and closed the cases without recommending any further action.

**Diagram 04** below maps the status (at the time of reporting) of the 161 cases raised during 2018 and which were considered by the Parliamentary Ombudsman.

**Diagram 04 mapping the status of the 2018 reported Parliamentary Ombudsman caseload**

## Parliamentary Ombudsman Caseload Status - 2018

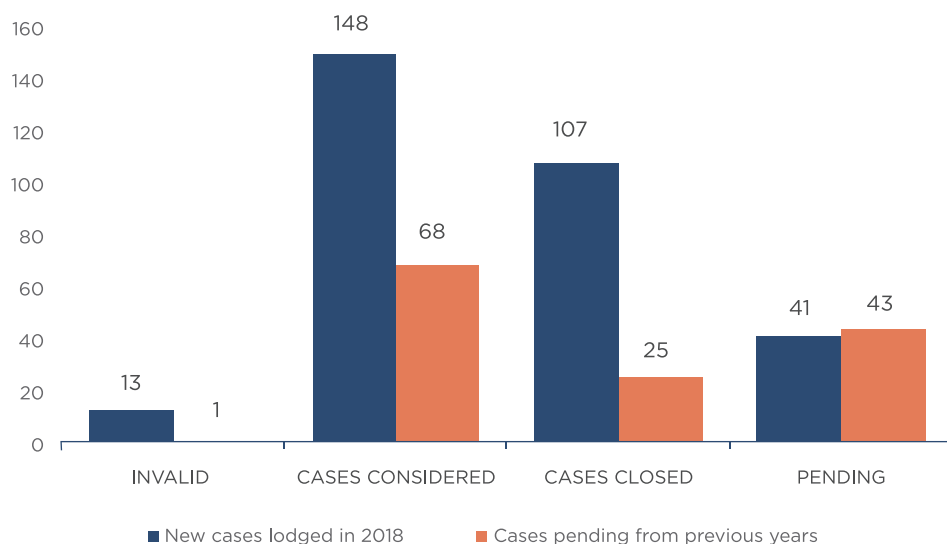
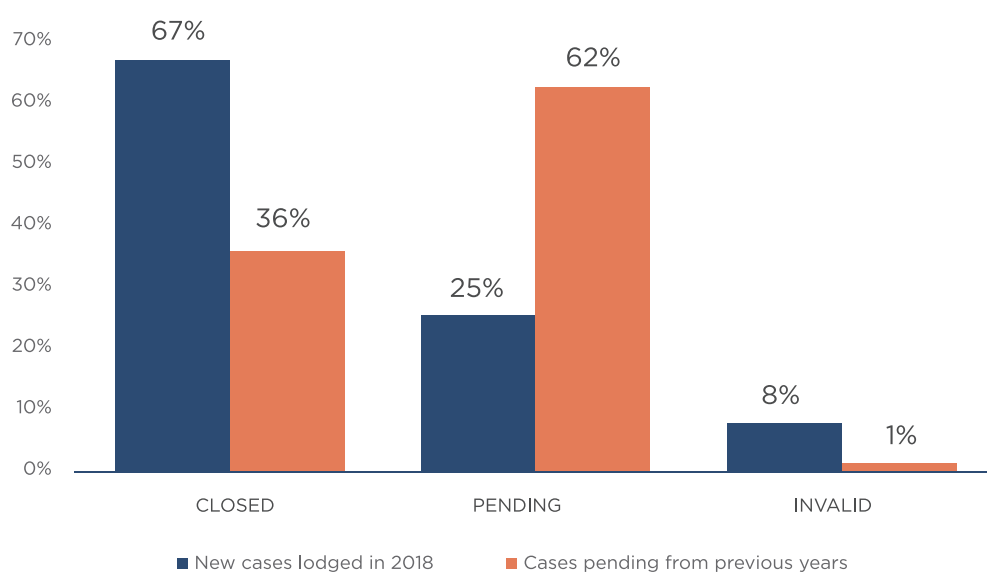


**Diagram 05 mapping the status of the 2018 Parliamentary Ombudsman caseload presented as a percentage of the total number of cases accepted (n=161).**

### **Parliamentary Ombudsman Caseload Status 2018 - in percentage of total cases considered (n=161)**

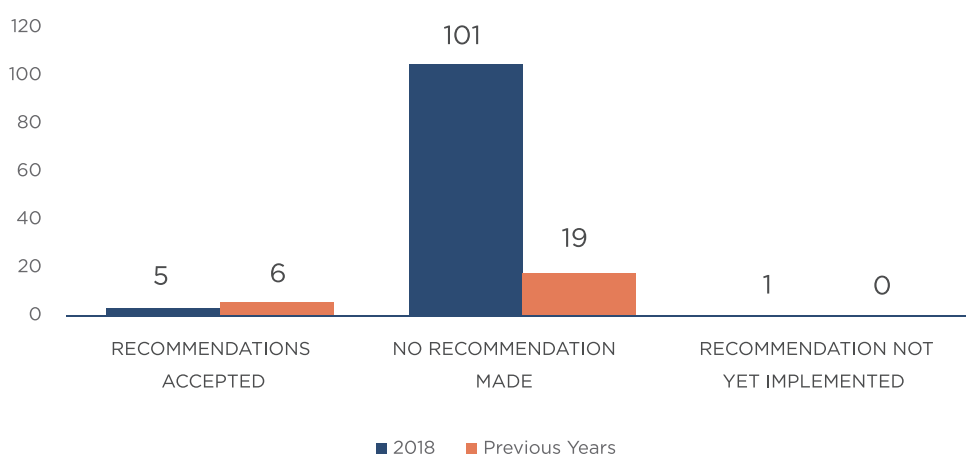


*Note:* Corresponding data for caseload pre-dating 2018: From a total of 69 cases pre-dating 2018, 25 (36%) were closed; 43 (62%) remain pending and 1 (2%) was withdrawn.

A further analysis of the 2018 caseload reveals that out of the 161 total cases accepted by the Ombudsman, 107 were investigated and closed. Out of these 107 cases, in 101 (94%) cases the Ombudsman closed the case without the necessity of forwarding any recommendation. For the remaining cases, the Public Administration accepted and implemented the recommendations made in five instances. There was only one instance where the proposed recommendation was not accepted.

**Diagram 06 identifying the outcome of cases investigated and closed by the Parliamentary Ombudsman and the degree to which the Public Administration implemented recommendations made.**

## Parliamentary Ombudsman: Investigation Outcome and Compliance



41 cases originating in 2018 remain pending conclusion. From our analysis, it transpires that one (2%) of these cases has been suspended due to court proceedings whereas 7 cases (17%) are pending at the relevant ministry. The remaining 33 cases (81%) are pending at the Ombudsman.

It is with some satisfaction that the analysis carried out evidences that, in the great majority of cases investigated, 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 acted without hesitation to correct identified shortfalls by implementing the recommendations made by the Parliamentary Ombudsman.

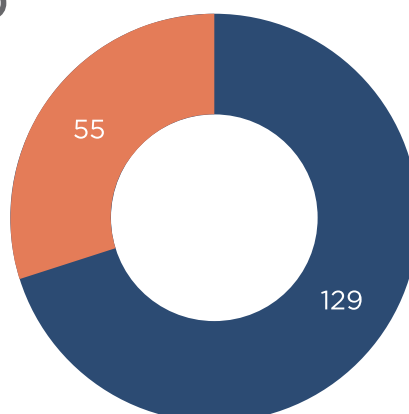
## CASES HANDLED BY THE OFFICES OF THE COMMISSIONER FOR EDUCATION, THE COMMISSIONER FOR ENVIRONMENT AND PLANNING AND THE COMMISSIONER FOR HEALTH.

Data analysed by the Public Administration shows that in 2018, together, the Commissioners handled a total of 184 cases. Of these, 129 (70%) were new cases while the remaining 55 (30%) cases pre-date 2018.

**Diagram 07 depicting the cases handled by the Commissioners**

### Total Caseload (2018)

■ 2018 ■ Pre - 2018



The new caseload received during 2018 (129) was equally distributed, with each of the Commissioners receiving 43 new complaints during the 2018 reporting period.

Further analysis sought to establish the current status of the total caseload for the Commissioners.

As exhibited in Diagram 08, the majority of both 2018 and pre-2018 cases, that is 104 (56.5%) cases, had been closed by the time of reporting. Another 17 (9.3%) cases were not accepted, either because the complaint was withdrawn by the complainant or otherwise the Commissioner's Offices deployed their discretion to not launch an investigation<sup>2</sup>.

Of the remaining cases, 7 (3.8%) were suspended since the cases in question are being currently considered in the Courts of Malta or any Tribunal and hence cannot be investigated.

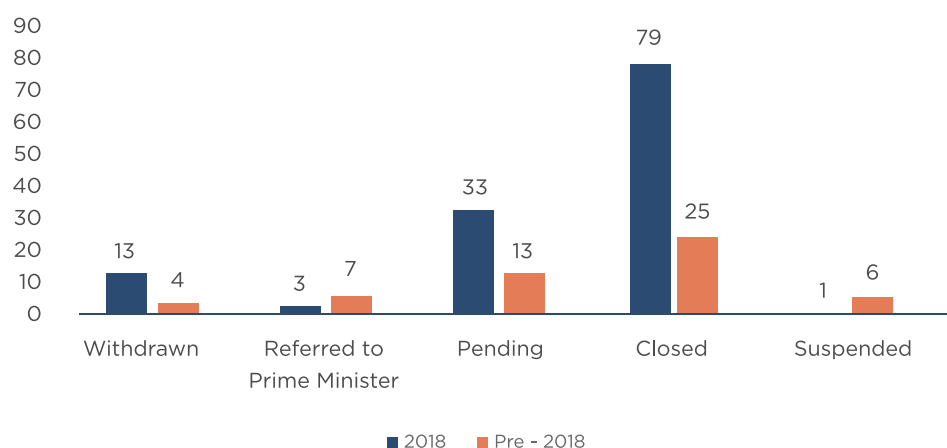
<sup>2</sup> CAP 385, Article 13 and Article 17

Another 10 (5.4%) were referred to the Prime Minister as is the right<sup>3</sup> of the Office of the Ombudsman to do where the Public Administration has exerted its right to not accept or implement the recommendations made, whether in part or in full.

The remaining 46 (25%) cases were, at the time of reporting, pending further action, 21 cases were pending at Ombudsman and 25 cases at Ministry. This is depicted in **Diagram 08** below.

**Diagram 08 identifying the status of the caseload handled by the Commissioner Offices during 2018.**

## Status of 2018 Caseload (n=184)



It is to be noted that only in one instance were the recommendations presented by any of the Commissioners to the Public Administration not accepted by the concerned ministry or public entity. In another case, the recommendation(s) made by the Commissioner was not accepted by the complainant himself.

recommending any further action or after the Public Administration provided the requested information. This indicator effectively means that in a significant number of cases, the Public Administration's position was accepted and deemed as appropriate by the Office of the Ombudsman.

An analysis of the 79 cases closed by the Commissioners within the Office of the Ombudsman indicates that 51 cases (65%) were closed by the Ombudsman without

<sup>3</sup> CAP 385, Article 22(4)



OFFICE OF THE PRIME MINISTER  
PEOPLE AND STANDARDS DIVISION

In 2018, the OPM's People and Standards Division dealt with a total of seven cases referred by the Parliamentary Ombudsman, five of which were opened in 2018 and two cases pre-dating 2018. Four of these cases were closed, two without the receipt of a recommendation from the Ombudsman and two after P&SD replied to one request for information. The remaining three cases are still open, two of which have been pending at the Office of the Ombudsman since November 2018 and May 2019 respectively. The other case is presently suspended due to it having been referred to the Grievances Unit.



| SECTOR/<br>DEPARTMENT       | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                      | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                | STATUS                                                                           |
|-----------------------------|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| People & Standards Division | S 0141                         | The complainant alleged that when enquiring about entitlement to a Treasury pension, he was given conflicting information by AACD and DSS. |                                | The Office of the Ombudsman was informed in November 2018 that the complainant is not entitled to a Treasury pension as he joined the Public Service after 1979. The lack of clarity was due to the fact that he was a student-worker before joining the public service.                                          | Pending at Ombudsman.                                                            |
| People & Standards Division | S 0195                         | The complainant is contesting a backdated appointment.                                                                                     |                                | The Office of the Ombudsman was provided with the requested information. A meeting was later held in May 2019 between P&SD and the Office of the Ombudsman.                                                                                                                                                       | Pending at Ombudsman.                                                            |
| People & Standards Division | S 0207                         | The complainant alleged that the Grievances Board did not consider his complaint.                                                          | No recommendation              | P&SD explained to the Office of the Ombudsman that this case was not within the remit of the Grievances Board because the complainant was not a public officer.                                                                                                                                                   | Closed by the Ombudsman after management replied to one request for information. |
| People & Standards Division | S 0227                         | The complainant contested not being promoted from Salary Scale 17 to 16.                                                                   | No recommendation              | P&SD provided the Office of the Ombudsman with the requested information.<br><br>The complainant was allowed to apply for the post in Scale 17 but was not eligible for the one-time concession to be promoted to Scale 16 which emanated from an addendum to the Agreement on Industrial and Supervisory Grades. | Closed without recommendation.                                                   |
| People & Standards Division | S 0256                         | The complainant alleged that his case was not properly investigated by the Grievances Unit.                                                | No recommendation              | P&SD provided the Office of the Ombudsman with the requested information.<br><br>The Office of the Ombudsman did not go into the merits of the case, but simply requested copies of documentation regarding the Grievances Unit.                                                                                  | Closed without recommendation.                                                   |



OFFICE OF THE PRIME MINISTER  
FINANCIAL SERVICES AND IDENTITY

In 2018, the Office of the Permanent Secretary, Financial Services and Identity through the various entities falling under its remit, dealt with a total of twenty-seven cases referred by the Parliamentary Ombudsman. Twenty-three of these cases are new 2018 cases with the remaining four pre-dating 2018. It should be noted that the large majority of these cases, 19 were closed, one after the implementation of the recommendation issued by the Ombudsman, and the remaining eighteen without the Ombudsman issuing a recommendation. All of the remaining eight cases are still open, six of which have been pending at the Office of the Ombudsman (two each since May 2019 and July 2019 and one each since November 2018 and March 2019), with the remaining two still awaiting further action from the Ministry. The latter two cases have been pending since April 2019 and July 2019 respectively.

| SECTOR/<br>DEPARTMENT                         | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                   | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                         |
|-----------------------------------------------|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| <b>Malta Gaming<br/>Authority</b>             | S 0111<br>(N 0281)             | The complainant is one of a number of players who complained to MGA since they were left with dues owed to them when a gaming company became insolvent. |                                | MGA provided clarifications requested by the Office of the Ombudsman on the 9 <sup>th</sup> of April 2019 but the investigation by the Ombudsman is still ongoing as per correspondence with the Office of the Ombudsman dated 25 <sup>th</sup> July 2019. In this regard, the case in question was re-opened in 2018 after it was closed due to pending criminal proceedings against the former Director of the unsolved company. It was the Office of the Ombudsman's decision to postpone such cases until the related criminal proceedings were over. The complainant was not amongst those that testified in court, hence his case was re-opened. | Pending at Ombudsman.          |
| <b>Malta Gaming<br/>Authority</b>             | S 0110<br>(N 0211)             | The complainant is one of a number of players who complained to MGA since they were left with dues owed to them when a gaming company became insolvent. |                                | MGA provided clarifications requested by the Office of the Ombudsman on the 9 <sup>th</sup> of April 2019 but the investigation by Ombudsman is still ongoing as per the correspondence with the Office of the Ombudsman dated 25 <sup>th</sup> July 2019. In this regard, the case in question was re-opened in 2018 after it was closed due to pending criminal proceedings against the former director of the insolvent company. It was the Ombudsman's office decision to postpone such cases until the related criminal proceedings were over. The complainant was not amongst those that testified in court, hence his case was re-opened.       | Pending at Ombudsman.          |
| <b>Malta<br/>Communications<br/>Authority</b> | S 0146                         | A complaint by a staff member in connection with the salary offered to him.                                                                             | No recommendation              | A staff member was offered a suitable salary backdated and effective as from 1 <sup>st</sup> January 2018 until December 2020. This shortcoming in the staff member's salary was due to the fact that he was on long-term unpaid leave and thus missed a salary review.                                                                                                                                                                                                                                                                                                                                                                                | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT                                             | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                              | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                             | STATUS                         |
|-------------------------------------------------------------------|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| <b>Malta Business Register (previously Registry of Companies)</b> | S 0124                         | A complaint by an individual holding a diploma offered by MIM who asked to be considered to serve as a liquidator in terms of Article 305(1) of the Companies Act. | No recommendation              | Following advice from the Office of the Ombudsman, a meeting was held with the complainant who accepted the existing situation, whereby only warrant holders (advocates and CPAs) may act as liquidators. If other individuals holding a diploma, even if covering the subject of liquidations, are allowed to serve as liquidators, this can be interpreted as a lowering of standards. Such a change should be made only after a high-level policy decision. | Closed without recommendation. |
| <b>Identity Malta</b>                                             | S 0029                         | A complaint filed in view of the lack of timely issuance of new ID cards following a change in address.                                                            | No recommendation              | Identity Malta was not contacted by the Office of the Ombudsman in connection with this complaint since the relevant ID cards were received by the complainant and his family before the Ombudsman could write to IMA.                                                                                                                                                                                                                                         | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                         |
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| Identity Malta        | S 0042                         | A complaint lodged in connection with Identity Malta's refusal to issue residence documentation to a third country national who is declaring to be the husband of a refugee. The complainant's situation, however, cannot be regularised since no marriage certificate is available. | No recommendation              | <p>The Office of the Ombudsman requested comments and views in connection with the grievance, keeping in mind that in terms of Article 11 (2) of EU Directive on Family Reunification 2003/86/EC on which regulations are based, where a refugee cannot provide official documentary evidence of the family relationship, as "... <i>Member States shall take into account other evidence, to be assessed in accordance with national law, of the existence of such relationship. A decision rejecting an application may not be based solely on the fact that documentary evidence is lacking</i>".</p> <p>Identity Malta wrote to the Office of the Ombudsman regarding this request and in view of the fact that both partners presented a sworn detailed affidavit. IMA also made reference to Subsidiary Legislation 217.06.</p> <p>In this case, the applicant provided only an Affidavit to attest his marriage status. It is at the discretion of the Director to declare whether the documents provided suffice for the application to be accepted. In this case, the Director and Identity Malta think that an affidavit does not constitute sufficient proof of a marriage relationship, thus the application will remain pending until a formal marriage certificate is provided to Identity Malta. On the 26<sup>th</sup> November 2018, IMA informed the Office of the Ombudsman that the matter has been resolved and that the complainant has been requested to submit the relative documentation.</p> | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                             | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS                         |
|-----------------------|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| <b>Identity Malta</b> | S 0094                         | Complainant alleging that his request for the re-issue of an identity card was not processed by Identity Malta and that he was merely informed to seek legal advice.                                                                                                                                                                                                              | No recommendation              | <p>The Office of the Ombudsman requested comments regarding this grievance and explanation on the complainant's situation. The complainant was summoned to the offices of the IMA and confirmed that he never spoke to the IMA official as alleged in the complaint. He promised that he would return to the Office of the Ombudsman to rectify the contents of the complaint. The complainant was also instructed to set an appointment with the Citizenship Unit in order to apply for the exempt person status.</p> <p>On 24<sup>th</sup> May 2018, the Office of the Ombudsman was informed accordingly. On 12<sup>th</sup> June 2018, the Ombudsman wrote to inform IMA that the case has been closed.</p>                                                                                                                                                               | Closed without recommendation. |
| <b>Identity Malta</b> | S 0097                         | Complainant attesting that the 'Request for Publication of Banns Form' does not include the option to keep his own surname and to add it to the other spouse. The complainant made reference to Article 4(2) of the Civil Code of Malta, contending that the paperwork provided by the Marriage Registry is unfairly restrictive in the options it provides as to surname choice. | No recommendation              | <p>The Office of the Ombudsman asked for comments on this matter, whereby Identity Malta replied on 29<sup>th</sup> May 2018, making reference to the introduction of Sub-Article 13 to Article 4 in the Civil Code with respect to surname/s which the spouses may adopt after marriage. This sub-article applies to all those spouses who apply for the publication of banns after 1<sup>st</sup> September 2017. Sub-Article 13 makes it clear that the choice of surname after marriage can only be made out of the options available under Article 13 and no other choice is available. Attached to the reply was the 'Request for Publication of Banns Form' which includes a declaration by the spouses regarding their choice of surname after marriage. On 31<sup>st</sup> May 2018, the Office of the Ombudsman informed IMA that it considers the case closed.</p> | Closed without recommendation. |



| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                       | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS               |
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| Identity Malta        | S O119                         | A complaint lodged by a private company contracted by IMA to provide staff for IMA. The complainant contends that for the months of May, June, and July 2018 payments were made directly to the individuals instead of the service provider being paid as per the contract. |                                | <p>In November 2018, the Office of the Ombudsman requested IMA's views on this matter. In January 2019, IMA replied that the contract signed with the private company stipulated the payment at a certain rate per hour for each worker.</p> <p>For the months of June and July 2017, the private company failed to pay the respective wages to the staff concerned and eventually the Department of Industrial and Employment Relations instituted criminal proceedings against the private company for failing to pay these two employees for the work carried out during their employment during these two months. Criminal proceedings found the private company guilty of the charges brought against it and the court judgement stated that it had to pay all outstanding salaries to the employees concerned. Despite this court judgement, the cheques given to the employees concerned bounced back when they tried to cash them, and it was only recently that one of the employees was paid the amount due.</p> <p>The other employee, however, has still not been paid. Due to the fact that the private company was failing to pay these employees, IMA decided to start issuing direct salary payments to them and the remaining outstanding amounts to the private company. No remaining amounts are due to the private company. On 24<sup>th</sup> May 2019, IMA provided the clarifications requested by the Office of the Ombudsman and in July 2019, and the Office of the Ombudsman reverted back to IMA with further queries.</p> | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                      | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                         |
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| <b>Identity Malta</b> | S 0125                         | A complaint lodged by the Malta Emigrants Commission on behalf of a female third country national who was granted subsidiary protection in October 2017 and who was now seeking family reunification since her minor child has never met his father.                                                                                                                                       | No recommendation              | The Office of the Ombudsman requested comments in connection with this complaint, and in August 2018 the IMA replied by informing them that family reunification issues are regulated by the Family Reunification Regulations Subsidiary Legislation 217. In accordance with Sub-Regulation 3(2)(c), persons enjoying subsidiary protection are not entitled to family reunification rights. With regard to the reference to other persons mentioned by the complainant—who, notwithstanding the fact that they enjoy subsidiary protection and were allowed to bring over their family members—it should be noted that, based on the information furnished in the letter, no record has been found of the persons concerned. The complainant was asked to provide further details in order that the agency may continue to search for any relative records. On the 17 <sup>th</sup> October 2018, the Office of the Ombudsman, informed that it had closed the case. | Closed without recommendation. |
| <b>Identity Malta</b> | S 0137                         | A complaint lodged in connection with an application for a work permit submitted for a foreign carer to take care of an elderly person who requires constant care. The complainant claims that all necessary documentation was sent to IMA in February 2018 but was consequently informed that the process had to be initiated once again since some documentation was lost at the Agency. | No recommendation              | On 3 <sup>rd</sup> July 2018, the Office of the Ombudsman communicated to IMA informing it that the permit has been issued.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                     | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | STATUS                         |
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| <b>Identity Malta</b> | S 0150                         | A complaint lodged by a third country national residing in Malta for over 15 years asking to be informed about the reasons why IMA refused to renew the residence permit previously granted to his son to study in Malta. | No recommendation              | In August 2018, IMA communicated with the Office of the Ombudsman informing about the procedure that had to be followed together with confidential details of this case. IMA continued to follow up, however, in January 2019 it informed the Office of the Ombudsman that a study permit cannot be issued to the student concerned, stating cogent reasons for this decision.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Closed without recommendation. |
| <b>Identity Malta</b> | S 0159                         | A complaint lodged in connection with IMA's refusal of an application for registration as a citizen of Malta.                                                                                                             | No recommendation              | On 6 <sup>th</sup> August 2018, IMA wrote to the Office of the Ombudsman bringing to his attention Article 19 of the Citizenship Act which provides that, <i>"The Minister shall not be required to assign any reason for the grant or refusal of any application under this Act and the decision of the Minister or any such application shall not be subject to appeal to or review in any court"</i> . Furthermore, on 9 <sup>th</sup> July 2018, the complainants filed a judicial letter on the same merits. IMA replied on 5 <sup>th</sup> October 2018 by informing the Office of the Ombudsman that, on 27 <sup>th</sup> August 2018, the complainant had filed a sworn application before the First Hall Civil Court on the same subject matter. The case is due for its first hearing on 9 <sup>th</sup> October 2018. On 9 <sup>th</sup> October 2018, the IMA was informed that the Ombudsman has closed the case. | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                   | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | STATUS               |
|-----------------------|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| Identity Malta        | S 0175                         | A complaint received by IMA in August 2018 lodged on behalf of a third country national who has been living in Malta for a number of years and who is the father of a Maltese citizen. He complained with regard to the failure of IMA to take a decision and to issue a residence document in accordance with the law. |                                | <p>In October 2018, the Office of the Ombudsman requested comments regarding the status of the employment application of the individual in question whose application has been pending since 2015. In February 2019, the Office of the Ombudsman again requested feedback as to whether a decision has been taken with regard to this application. In September 2018, the IMA informed the Office of the Ombudsman that only one application for employment is still pending. The said application is being examined on the grounds of current labour market policies, whereby consideration will be given to community legislation and the individual's background regarding his immigration position and conduct in Malta. In October 2018, the IMA replied that the agency is still examining the individual's request, taking also into consideration the fact that he is a repeat offender, having already been convicted twice. In April 2019, the IMA informed the Office of the Ombudsman that the agency is still examining the case in view of the fact that other entities are involved in the matter and therefore IMA requires more time in order to finalize case. In April 2019, IMA wrote to the Malta Police Force requesting their views on the case. In June 2019, IMA again wrote to them stating that in the circumstances, a work/residence permit which has been pending for such a long period of time, should be issued. They were further asked by IMA to review their position since they are objecting. A reply has not yet been received. In August 2019, IMA wrote to them again informing them that the request for work/residence permit should be acceded to.</p> | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                   | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                         |
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| <b>Identity Malta</b> | S 0191                         | A complaint lodged in connection with the refusal by Marriage Registry to issue marriage banns in view of the fact that one of the partners is present in Malta in an irregular manner. |                                | On 22 <sup>nd</sup> October 2018, IMA responded to the Ombudsman's letter of 8 <sup>th</sup> October 2018, highlighting that the Marriage Registrar's policy is to ensure that both spouses are "legally residing in the country". For this reason, the Marriage Registrar, prior to proceeding with the application for the publication of banns, demanded both spouses to present a valid VISA/residence permit if they are non-EU citizens. In this particular case, one of the partners did not as of yet hold such documentation. As such, if he was in possession of such a document and satisfied the other requisites established by law, the Marriage Registrar would have proceeded with the publication of the banns. The policy adopted by the Marriage Registrar is in line with the legal advice given by the Office of the Attorney General. The case was therefore closed by the Office of the Ombudsman. | Closed without recommendation. |
| <b>Identity Malta</b> | S 0203                         | A complaint lodged by a refugee who filed a request for his spouse to join him in Malta in February 2018.                                                                               | No recommendation              | In October 2018, IMA informed the Office of the Ombudsman that the applicant had been requested to provide an attestation by an architect confirming that his accommodation is adequate to a comparable family in Malta and meets general health and safety standards. However, the requested documentation was not provided. Furthermore, on 18 <sup>th</sup> October 2018, an IMA representative contacted the applicant and again requested him to submit such a report at his earliest. However, the report has still not been submitted. In this regard, the IMA informed the Office of the Ombudsman that, although the application is still pending, if the applicant fails to provide the document                                                                                                                                                                                                                | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | STATUS                |
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|                       |                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                | <p>within a further reasonable period of time, IMA will not be in a position to assess further his application.</p> <p>In October 2018, the Office of the Ombudsman was informed that the case has been closed.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                       |
| <b>Identity Malta</b> | S 0205                         | <p>A complaint lodged in October 2018 by a third country national in connection with his application for EU Permanent Residence. The complainant applied for an EU Permanent Residence Card in March 2018 and experienced considerable delays and contends that the application process was badly administered. The residence document, which was eventually issued, is valid for five years. He claims that this goes against Regulation 7 of S.L.460.17, wherein it is stated that an EU Permanent Residence Card should have a validity of ten years. He is therefore requesting that the EU Permanent Card be issued with the correct period of validity as indicated by law without needing to go through the entire process again.</p> |                                | <p>In February 2019, IMA replied to the Office of the Ombudsman stating that, contrary to what the complainant is claiming, the IMA has addressed all requests submitted by the said complainant through the various channels at his disposal. IMA adopted procedures emanating from S.L. 460.17-Freedom of Movement of EU Nationals &amp; Family Members Order. The agency felt that the documentation provided by the complainant to establish whether he was absent from Malta for a continuous period of six months was inconclusive. Following the submission of further documents, his right to permanent residency was confirmed. The document issued in this case is a permanent residence certificate and in this respect S.L 460.17 sub-article 7(8) applies, whereby there is no specific validity or specific format. The card issued also serves as an identification document that enables access to online government services and has electronic features embedded in it. In view of such technical features, the card—not the status—needs to be renewed every five years. With reference to the duration encountered when processing his application, IMA acted in accordance with the provisions of the EU directive and the document in caption was, as stipulated in the said directive, issued as</p> | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                            | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                                | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS                |
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|                       |                                |                                                                                                                                                                  |                                                                                                                                               | soon as possible. In March 2019, the Office of the Ombudsman requested copies of letters/ emails sent to the complainant, which were forwarded by IMA in April 2019.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                       |
| <b>Identity Malta</b> | S 0221                         | A complaint by an IMA officer who was deemed ineligible and whose qualifications were not recognised, and hence said officer was not promoted to a higher grade. | The Office of the Ombudsman requested IMA comments on this alleged grievance, together with any documents IMA feels are relevant to the case. | <p>The Office of the Ombudsman requested IMA comments on this alleged grievance. IMA replied by explaining that the internal call was issued on 27<sup>th</sup> February 2018, but that by the closing date the applicant had failed to satisfy the eligibility criteria with respect to the qualifications required for this call. In December 2018, the Office of the Ombudsman communicated with IMA following the IMA letter dated 2<sup>nd</sup> November 2018. The Ombudsman pointed out that the applicant is already in possession of two qualifications which are equivalent to the eligibility requirements of the call. However, IMA does not agree that the complainant is in possession of the requisite qualifications. It should also be noted that by the closing date of the call, the applicant failed to provide the necessary proof of qualifications. The clarifications on the certificates were only provided five months after the closing date.</p> | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | STATUS                         |
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| <b>Identity Malta</b> | S 0222                         | Case No S0222 also refers to Case No. R0216. A complaint lodged by a refugee who filed a request for family reunification following his marriage. IMA was informed that that the complainant had informed the Office that a decision had been taken by the RefCom on 31 <sup>st</sup> July 2018 that the refugee status granted to him in August 2012 was still valid and should not be withdrawn. This letter was provided to IMA by complainant and its authenticity verified with RefCom. | No recommendation              | The Office of the Ombudsman requested information regarding the status of the complainant's request for family reunification. There were several communications on the matter, namely those of October and November 2018. In September 2018, IMA informed the Office of the Ombudsman that IMA has been officially informed that the Refugee Commissioner decided against terminating the refugee status of the subject. Following the said decision, IMA and MHAS resumed the examination of the complainant's request. Following feedback received from MHAS, the Director for Citizenship and Expatriates Affairs noted the decision in writing to the complainant on 14 <sup>th</sup> December 2018 in terms of the Family Reunification Regulations, S.L.217.6 of the Laws of Malta. In January 2019, the Office of the Ombudsman informed IMA that the Ombudsman had closed the case. | Closed without recommendation. |
| <b>Identity Malta</b> | S 0229                         | This case is a continuation of Case R 0333 published in last year's Governance Action publication. The complainant is requesting recognition of a marriage celebrated with his partner in a clandestine manner in an Orthodox Church in Libya which has now been destroyed.                                                                                                                                                                                                                  | No recommendation              | The complainant had firstly been guided by Identity Malta to obtain a copy of the certificate of marriage celebrated in Libya and to submit the same to the Marriage Registry, but this was not possible to obtain since the said church had been destroyed. Identity Malta thus requested the complainants to produce sworn affidavits with regard to their status and the marriage entered into Libya. This documentation was duly submitted by the complainants to the Marriage Registry. The rationale behind this was mainly to properly ascertain the marriage since areligious marriage in Libya is not recognised as a civil one, neither in accordance with Libyan legislation nor                                                                                                                                                                                                 | Closed without recommendation. |



| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                     | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | STATUS                         |
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|                       |                                |                                                                                                                                                                                                                                                                                                                                                                                                           |                                | <p>Maltese Law. However, it was brought to the attention of the Marriage Registrar that one of the partners does not enjoy international protection and, in such instances, the Marriage Registrar's policy is to ensure that both spouses are <i>"legally residing in the country"</i>. For this reason, the Marriage Registrar, prior to proceeding with the application for the publication of banns, demands both spouses to present a valid VISA/residence permit if they are non-EU citizens.</p> <p>In this particular case, one of the partners did not hold such documentation and thus the Marriage Registrar could not proceed with the publication of the banns. In this regard, the Office of the Ombudsman communicated feedback to the complainant with further information on how he can enter into a civil marriage in Malta.</p> |                                |
| <b>Identity Malta</b> | S 0231                         | A complaint lodged by a Maltese citizen requesting a refund for the fees paid for the issue of a new passport. The Office of the Ombudsman made reference to an email sent by the complainant to IMA in September 2018, in which he wrote that when he travelled his passport was withheld since it was reported as lost and the border police could only release it when the block notice is effectively | No recommendation              | <p>The Office of the Ombudsman requested comments and views in connection with the grievance, to which IMA replied in October 2018 stating that instructions on lost/stolen documents are inserted in the Schengen Information System and Interpol's Stolen and Lost Travel Document. Such notifications are entered by the member state—in the case of Malta, by the Malta Police Force. IMA has taken action by contacting the Malta Police Force to investigate the matter. It is to be noted that such reports are handled internally by the Police, and that the Passport Office is not involved in the process. Although acknowledging the inconvenience experienced by the complainant, this</p>                                                                                                                                            | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT                                                   | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                           | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS                         |
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|                                                                         |                                | removed. On his return to Malta, he applied for a new passport as he needed to travel again. He contended that what happened was beyond his control and he ended up paying for the omission or errors that were still unresolved. He requested to be refunded the €70 fee which he paid for the new passport.                                                                   |                                | cannot be linked to any imperfection which his passport may have contained or to any shortcomings which could be attributed to the Maltese Passport Authorities. In the circumstances, the Passport Office cannot accept the complainant's request to be issued with a new passport by waiving off the relative fee. IMA has been informed by the Office of the Ombudsman that the case will soon be closed once the complainant informs them that he has received payment from Malta Police. |                                |
| <b>Malta Financial Services Authority -Investor Compensation Scheme</b> | S 0001                         | This case concerned claims for compensation from the Investor Compensation Scheme by investors of a company that had gone into insolvency. One of the claimants made a claim that was paid in full, and later the same claimant made a second claim from the scheme. However, the scheme could not meet this claim because there were other two investors who also had a claim. | No recommendation              | The first and only letter of communication received from the Office of the Ombudsman was on the 18 <sup>th</sup> January 2018, to which the Scheme replied with a letter. From then onwards, e-mail correspondence ensued. Ultimately, the Investor Compensation Scheme settled the contested claim and payment was made by bank transfer in July 2018.                                                                                                                                       | Closed without recommendation. |
| <b>Malta Financial Services Authority</b>                               | S 0288                         | A complaint arising from one of the major banks' refusal to provide complainants with information. The complainants had originally referred their grievance to the MFSA, which had however remained unresolved.                                                                                                                                                                 | No recommendation              | The Ombudsman wrote to the MFSA on 5 <sup>th</sup> December 2018, to which MFSA replied back on 24 <sup>th</sup> January 2019. On 2 <sup>nd</sup> April 2019, the Office of the Ombudsman, communicated with the MFSA that the case was deemed closed.                                                                                                                                                                                                                                        | Closed without recommendation. |

MINISTRY FOR THE ECONOMY,  
INVESTMENT AND SMALL BUSINESSES

In 2018, the Ministry for the Economy, Investment and Small Businesses was approached by the Parliamentary Ombudsman for just one case, which cases is still open since the Ministry has presented the complainant with a proposal in a bid to solve the issue through a suitable solution for all parties involved.

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                           | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                           | STATUS               |
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| MEIB                  | S 0308                         | Complaint lodged by employee following the undertaking of disciplinary procedures against him by a limited liability company under MEIB, leading to the employee being suspended without pay. He appeared before a board and until the date of complaint there was no decision. |                                | The company met the employee in question together with union representatives and presented him with a proposal. To date, the company is still awaiting feedback on the proposal that may lead to an out-of-court settlement. | Pending at Ministry. |



MINISTRY FOR EDUCATION AND EMPLOYMENT

In 2018, the Ministry for Education and Employment dealt with a total of 16 cases referred by the Parliamentary Ombudsman. Ten of these cases were new cases opened in 2018 whereas the remaining six cases were opened by the Ombudsman prior to 2018. The majority of the cases (eight in all) were closed – two without recommendation, one closed after the Ombudsman’s recommendation was implemented, one closed after only one request for information, and another one closed and recommendation not accepted by the Ministry. One case was withdrawn by the complainant whereas another one was withdrawn by the Ombudsman. Another case was not upheld by the Ombudsman. The remaining two cases are still open, currently pending at the Office of the Ombudsman since June 2019.

Out of the six cases which were opened by the Ombudsman prior to 2018, two were closed without recommendation whereas the remaining four are still pending at the Ombudsman, with three of them pending between 3 to 6 months and another one pending for less than one month.



| SECTOR/<br>DEPARTMENT                        | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                     | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | STATUS                                 |
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| Commission<br>for Voluntary<br>Organisations | S 0244                         | An association filed a complaint stating that they lost funds earmarked for voluntary organisations due to a delay in receiving compliance certification.                                                                                                                                                                                                                                                                                                                 | No recommendation              | The Office of the Commissioner for Voluntary Organisations claims that even though the Office of the Ombudsman has no jurisdiction to investigate the Office of the Commissioner for Voluntary Organisations, it provided the Office of the Ombudsman with the necessary documents within 2 days. However, on 27 <sup>th</sup> November 2018, the Office of the Ombudsman informed them that it has no jurisdiction to investigate the Office for the Commissioner for Voluntary Organisations and closed the case. | Closed without recommendation.         |
| Education<br>Department                      | S 0180                         | Complaint alleging a discriminatory system regarding retired teachers who are re-engaged after engaging regular teachers and supply teachers. Furthermore, it was alleged that misleading information was given leading the complainant to sell belongings to earn some money. After this sale, the complainant managed to find a job, thereby claiming that if misleading information was not provided, he would have been employed without the need to sell belongings. | No recommendation              | The Ministry for Education and Employment (MEDE) provided the Office of the Ombudsman with a reply.<br><br>MEDE adheres to Public Service procedures when engaging human resources, including how retired employees are re-engaged. Regarding the other complaint concerning misleading information, MEDE stated that it is not responsible for wrong assumptions made on information provided.<br><br>The case was withdrawn after the complainant found a job.                                                    | Closed, case withdrawn by complainant. |

| SECTOR/<br>DEPARTMENT   | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                             | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | STATUS                                                                                      |
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| Education<br>Department | S 0182                         | Complainant claiming that the IT system for applying for vacancies within MEDE is too complicated.                                                                                                                | No recommendation              | The IT system is very user-friendly and is used by over 40,000 people every year. Only minor difficulties are sometimes encountered. Moreover, MEDE offered to assist the complainant in applying by means of a set of instructions which are provided in case of difficulty. MEDE also offered to help the complainant upload the documents which seemed to have been the main problem. However, the complainant refused assistance more than once.                                                                                                                                                                                                     | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |
| Education<br>Department | S 0246                         | The complainant argued that an injustice was suffered because the Ministry did not approve his request to revert to his previous post, even though the Ministry acted differently in the case of another officer. |                                | MEDE replied to the Office of the Ombudsman stating that an employee would be able to revert to one's previous position if there is a vacancy. In this case, there was a vacancy, and in fact a colloquium was held. If there were no vacancy, the complainant would not have been given the opportunity to participate in the colloquium. It should also be noted that the colloquium is a separate matter from the call and it is done in order to check whether the applicant is still deemed suitable for the position. In this case, the complainant was informed that the Colloquium Board did not find him suitable for the position in question. | Pending at Ombudsman.                                                                       |

| SECTOR/<br>DEPARTMENT                   | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                   | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | STATUS                                                 |
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| Education<br>Department                 | S 0271                         | Complaint regarding the selection process of part-time adult educators. The complainant contended that the application misled candidates in thinking that they will be working for approximately 25 hours, and that he was not engaged. |                                | MEDE replied to the Office of the Ombudsman who came back with a request for further details. A second reply was sent to the Ombudsman on 24 <sup>th</sup> June 2019.<br><br>MEDE informed the Office of the Ombudsman that the Directorate for Research, Lifelong Learning and Employability (DRLLE) did inform participants that this was a rolling call. MEDE also confirmed that currently the DRLLE is holding language lessons and that the teachers who were engaged to deliver these lessons are those who were engaged through previous calls and who have already been teaching with DRLLE. If the need for teachers to teach language lessons arises, the complainant is first in line to be engaged. | Pending at Ombudsman.                                  |
| English<br>Language<br>Teaching Council | S 0169                         | Complaint concerning the decision of the English Language Teaching Council (ELT) decision not to renew the ELT permit.                                                                                                                  | No recommendation              | The ELT Council replied to the correspondence received from the Office of the Ombudsman including reasons justifying the decision taken on the case. No further action was required.<br><br>The decision taken by the ELT Council was not to renew an ELT Permit which had been withdrawn. The Office of the Ombudsman accepted the reasons justifying the decision and withdrew the case.                                                                                                                                                                                                                                                                                                                       | Closed, case withdrawn by the Office of the Ombudsman. |

| SECTOR/<br>DEPARTMENT                                                   | OMBUDSMAN<br>CASE<br>REFERENCE          | BRIEF DETAILS OF CASE                                                                                | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                                                                                                       | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS                                       |
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| <b>Foundation for<br/>Educational<br/>Services</b>                      | S 0190 (same<br>as Case No.<br>US 0005) | Complaint regarding late<br>payment of wages at the<br>Foundation for Educational<br>Services (FES). | No recommendation                                                                                                                                                                                                    | <p>FES provided the Office of the Ombudsman with a justification and with details regarding the action taken. The situation of the payroll system was improved for SkolaSajf 2019 so that similar issues do not arise again.</p> <p>During SkolaSajf 2018 there was an issue with the wages whereby staff claimed that they were being paid late. The FES planned the payroll dates in line with the government payroll dates and this resulted in SkolaSajf falling between two pay dates. Given that part-timers are always paid 4 weeks behind full-timers, and that over 2000 timesheets had to be processed during this time, this resulted in first payment for SkolaSajf taking place at the end of the 8 weeks. The issue has now been resolved.</p> | Closed without<br>recommendation.            |
| <b>National<br/>Commission<br/>for Further and<br/>Higher Education</b> | S 0295                                  | Complaint regarding<br>qualifications that were not<br>accredited.                                   | The Office of the<br>Ombudsman recommended<br>that both applications<br>should be reassessed.<br>This reassessment had to<br>be conducted by a new<br>evaluator to check whether<br>there is a conflict of interest. | Both applications have been finalised<br>and accreditation of both programmes<br>confirmed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Closed and<br>recommendation<br>implemented. |

| SECTOR/<br>DEPARTMENT       | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                         | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS                |
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| National Literacy<br>Agency | S 0312                         | The complainant reported an alleged malpractice and irregularities in the procedures followed by the National Literacy Agency (NLA) for the procurement of Maltese Alphabet magnetic letters. | No recommendation              | NLA denies that the complainant was told or given the impression that the aforesaid Authority will place a direct order with the complainant for larger quantities. NLA declared that on 18 <sup>th</sup> September 2018, the Authority issued another call for quotations for 315 sets of Maltese wooden alphabet magnetic letters, and that the complainant was one of the suppliers contacted to submit an offer. Therefore, the authority denies that the complainant was not aware of this call, as alleged. In fact, the complainant was one of the suppliers who submitted a quotation. Furthermore, NLA stated that the result of this call was published on its notice board on 8 <sup>th</sup> October 2018, and was also sent to the complainant. The complainant also reported the alleged malpractice to the Department of Contracts. The latter concluded that the NLA followed all necessary public procurement regulations and that there were no irregularities throughout the process. In view of the above, the Ombudsman decided that the complaint cannot be sustained. | Complaint not upheld. |

| SECTOR/<br>DEPARTMENT  | OMBUDSMAN<br>CASE<br>REFERENCE               | BRIEF DETAILS OF CASE                                                                                                               | RECOMMENDATION BY<br>OMBUDSMAN                                                                        | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                   | STATUS                                  |
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| University of<br>Malta | S 0200<br>(Same as<br>Case Number<br>US0003) | The complainant applied for a lecturing post within the Solar Research Laboratory and was not satisfied with the selection process. | The Commissioner for Education suggested that the complainant should be engaged on a part-time basis. | The University of Malta offered the complainant a part-time position, but he refused this offer. Consequently, he requested from the Office of the Ombudsman a review of the Final Opinion by the Commissioner for Education. The University of Malta replied to the Office of the Ombudsman. Following the request for a review of the Final Opinion, no further correspondence has been received from the Office of the Ombudsman. | Closed and recommendation not accepted. |

MINISTRY FOR ENERGY AND  
WATER MANAGEMENT

In 2018, the Ministry for Energy and Water Management dealt with a total of 23 cases referred by the Parliamentary Ombudsman. Eighteen of these cases were new cases opened in 2018 whereas the remaining five cases were opened by the Ombudsman prior to 2018. The absolute majority of the cases (17 in all) were closed during the same year, 14 of which were closed without recommendation, two were not upheld by the Office of the Ombudsman, and one case was withdrawn by the complainant himself. The remaining case is still pending at MEW and has been as such for less than one month.

All of the five cases which were opened by the Ombudsman prior to 2018 have been closed, four of which were closed without recommendation while the other one was closed and recommendation noted.



| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                   | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                     | STATUS                         |
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| <b>ARMS</b>           | S 0070                         | A complaint concerning the accumulation of a consumption bill received and the wrong tariff being applied.                              | No recommendation              | ARMS informed the Ombudsman that a change in tariff was effected as from the date of submission and a revision of bills was implemented accordingly. The consumer also requested the workings for the revision to be effected, which were duly sent accordingly. No other adjustments can be made on account. A meeting between the parties concerned also took place.                 | Closed without recommendation. |
| <b>ARMS</b>           | S 0080                         | A complaint concerning premises that were returned to the Lands Departments in 2013 but the transfer of the account was never effected. | No recommendation              | After ARMS were contacted by the Lands Department, the said transfer was effected.                                                                                                                                                                                                                                                                                                     | Closed without recommendation. |
| <b>ARMS</b>           | S 0101                         | A complaint relating to interest incurred due to a water meter that stopped functioning.                                                | No recommendation              | The case was reviewed and a decision was taken to waive off the interests incurred.                                                                                                                                                                                                                                                                                                    | Closed without recommendation. |
| <b>ARMS</b>           | S 0130                         | A complaint regarding a bill received that was allegedly high due to an undetected underground water leakage.                           | No recommendation              | ARMS consulted with WSC and the corporation concluded that there is no case of any adjustments on the bill issued. Only the interests incurred can be waived off. The Office of the Ombudsman was informed of the outcome and the Ombudsman informed the consumer accordingly. A monthly payment agreement was drawn up, following which the Office of the Ombudsman closed this case. | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                         | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | STATUS                         |
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| ARMS                  | S 0133                         | A complaint relating to a pending transfer of account and a 7-year bill.                                      | No recommendation              | After investigating the case it transpired that the electricity meter was never registered on the account. A meeting with the consumer was held at Enemalta and an agreement reached in connection with the electricity consumption. The transfer of the account has also been effected on the new owner. After receiving confirmation from WSC, it has been decided to revise water consumption on the rate applicable for four persons registered on the account and this resulted in a considerable reduction. In this regard, ARMS informed the Office of the Ombudsman that water consumption has been revised and that there are no further grounds for any more adjustments on this account. | Closed without recommendation. |
| ARMS                  | S 0134                         | A complaint regarding a bill received that was allegedly high due to an undetected underground water leakage. | No recommendation              | ARMS consulted with WSC and the corporation concluded that there is no case of any adjustments on the bill issued. Only the interests incurred can be waived off. Interests have been waived off and the amount due on the account settled accordingly.                                                                                                                                                                                                                                                                                                                                                                                                                                             | Closed without recommendation. |
| ARMS                  | S 0161 corrected to S 0166     | A complaint relating to estimate bills received that were allegedly high.                                     | No recommendation              | Following the receipt of this complaint, a meter reader was sent to take the actual readings. A revision of bills was effected accordingly.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | STATUS                         |
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| <b>ARMS</b>           | S 0167                         | A complaint relating to the billing tariff. When applying for a new service the consumer did not indicate the number of persons as the applicant stated that he was misguiding by an ARMS agent.     | No recommendation              | As per the applicable legislation (CAP 545.01/545.03), the distribution system operators/utility providers shall take into account any change in the number of persons after being notified in writing of such change, ergo submission of application. In view of this, the applicant's claim was not justified and hence not accepted. The Office of the Ombudsman accepted the justification and closed the case as per the letter dated 19 <sup>th</sup> February 2019.                                                                                                                                                                                                                                                                                              | Closed without recommendation. |
| <b>ARMS</b>           | S 0176                         | A case relating to missing meters and pending transfer of account. The consumer is contesting the fact that the account remained in his name, even though it should have been transferred years ago. |                                | <p>It transpires that the consumer sold the property in December 2006 but a change in the consumer was never submitted to ARMS. Moreover, the building was demolished and a block of flats was built. Although it is not within ARMS' remit, the new owner was informed to contact ARMS so a meeting could be held between the parties involved. The new owner never replied to the letter sent. The Ombudsman was informed accordingly.</p> <p>The case was discussed by ARMS and the Office of the Ombudsman on 23<sup>rd</sup> August 2019. Both parties are doing their utmost to conclude this case and are trying to contact the prior owner and the present owner of the block despite the fact that this case is not the result of any shortcoming by ARMS.</p> | Pending at Ministry.           |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                          | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | STATUS                         |
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| <b>ARMS</b>           | S 0194                         | A complaint regarding a bill received that was allegedly high due to a leakage.                                                | No recommendation              | <p>The case was referred to the appropriate board for consideration. After reviewing the case, the board decided to apply a lower tariff for the water consumed and thus an ex-gratia credit was granted.</p> <p>A meeting was held with the consumer where the consumer was informed that an internal leak was determined and therefore ex-gratia credit would be allocated. No further reduction in the bill can be given.</p>                                                                                                                                                                                                  | Closed without recommendation. |
| <b>ARMS</b>           | S 0264                         | A complaint relating to incorrect calculations made regarding water consumption.                                               | No recommendation              | <p>The complainant's bill calculations were checked and resulted to be incorrect. When using the bill calculator one has to consider the dates on when the water and electricity were consumed. In some instances both water and electricity readings are taken on different dates, which means that when using the bill calculator one needs to calculate water and electricity separately and always from the last actual to the present period of each invoice.</p> <p>A detailed explanation was sent to the account holder explaining that bills issued are correct and therefore no adjustments can be made on account.</p> | Closed without recommendation. |
| <b>ARMS</b>           | S 0301                         | A case relating to the purchase of a property through <i>subbasta</i> , where the previous owner left pending dues on account. | No recommendation              | A meeting was held with the new owner where it was concluded that the pending dues will be settled. The payment was effected and the account was transferred to the new owner accordingly.                                                                                                                                                                                                                                                                                                                                                                                                                                        | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                 | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                            | STATUS                                   |
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| <b>ARMS</b>                      | S 0304                         | A complaint relating to a bill received in view of a water meter that stopped functioning.                                                                                                                                                                                                                                                                                            | No recommendation              | The case was reviewed and another calculation was effected. A revised bill was issued accordingly and the case was closed.                                                                                    | Closed without recommendation.           |
| <b>Enemalta</b>                  | S 0281                         | A complaint relating to a claim for damages. A rebuttal of Enemalta's decision was received by REWS through the Office of the Ombudsman and forwarded to Enemalta.                                                                                                                                                                                                                    | No recommendation              | Enemalta duly considered this claim and it was settled. A cheque was sent to complainant in April 2019.                                                                                                       | Closed without recommendation.           |
| <b>Engineering Resources Ltd</b> | S 0024,<br>S 0049 &<br>S 0065  | The case was opened by three employees on the same subject and while the Office of the Ombudsman opened three distinct cases, the matter was treated collectively as if it were one case. The relevant claims referred to a one-time payment as per a recently signed collective agreement for which they were not entitled since they retired prior to 1 <sup>st</sup> January 2018. | No recommendation              | No action required from ERL's end. The Office of the Ombudsman did not uphold the claims and all three cases were closed, with ERL being notified through a closing letter dated 20 <sup>th</sup> March 2018. | Complaint not upheld in all three cases. |

| SECTOR/<br>DEPARTMENT                 | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                            | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                   | STATUS                                 |
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| <b>Engineering<br/>Resources Ltd</b>  | S 0185                         | A case submitted by an ERL employee who was released by Enemalta plc. The complainant made a claim to be paid Sundays, Public Holidays and Emergency Response Team (at Enemalta plc) allowances that he paid while at Enemalta for the period while he was reporting for day duty at ERL's Head Office pending redeployment with another entity. | No recommendation              | No action was required. The Office of the Ombudsman did not uphold the employee's claim, with ERL being notified through a closing letter dated 1 <sup>st</sup> July 2019.                                           | Complaint not upheld.                  |
| <b>Water Services<br/>Corporation</b> | S 0044                         | A claim by a third party for alleged damages suffered in connection with WSC operations.                                                                                                                                                                                                                                                         | No recommendation              | The Water Services Corporation paid in full the amount claimed by the complainant in full and final settlement, which was duly accepted. As such, no final recommendation was issued by the Office of the Ombudsman. | Closed without recommendation.         |
| <b>Water Services<br/>Corporation</b> | S 0253                         | A complaint by an employee regarding disciplinary action taken against him.                                                                                                                                                                                                                                                                      | No recommendation              | The complainant dropped this case and thus no action was required from the Corporation.                                                                                                                              | Closed, case withdrawn by complainant. |

MINISTRY FOR EUROPEAN AFFAIRS AND EQUALITY

In 2018, the Ministry for European Affairs and Equality handled a total of five cases referred by the Parliamentary Ombudsman, namely two new cases opened in 2018 and three cases from previous years. All of these cases are presently still open and are awaiting further feedback from the Parliamentary Ombudsman following the action or feedback provided by the Ministry. In this regard, the three pre-2018 cases have been pending since September 2019 (two cases) and August 2019, whilst the two new cases have been pending at the Ombudsman since November 2018 and March 2019 respectively.



| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                      | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | STATUS                |
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| European Affairs<br>and Equality | S 0010                         | A complaint lodged by an employee performing duties at the Permanent Representation of Malta to the EU. The complainant is contesting that a 15% remuneration supplement owed to him in terms of the contract of employment was not settled despite various requests.                                                      |                                | <p>The Ministry replied to the queries raised by the Ombudsman and also met with the Ombudsman to discuss this case.</p> <p>The recommendations addressed in the memo of the former Permanent Representative of Malta to the EU dated 2<sup>nd</sup> May 2012 were implemented. In fact, the 15% supplement which was removed from that particular grade agreement was provided in the 3<sup>rd</sup> term extending the agreement, which covered the period between 2012 and 2015.</p>                                                                                                                                  | Pending at Ombudsman. |
| European Affairs<br>and Equality | S 0013                         | A complaint lodged by an officer posted in Brussels requesting reimbursement for accommodation following a trip to Malta organised during the Maltese EU Presidency. The officer further contends that both the Duty Travel Request form and the Internal Clearance Form for Duty Travel were amended without his consent. |                                | <p>In August 2018, the Ministry replied to the queries raised by the Office of the Ombudsman stating that PREU officers are not entitled to accommodation in Malta but are only covered for their air ticket and contingency. The Ministry also met with the Ombudsman to discuss this case.</p> <p>The said forms had to be modified accordingly and were amended by the officials processing the request. This was done in bona fide.</p> <p>The original travel file was forwarded to the Ombudsman on 8<sup>th</sup> November 2018 as per the request and in terms of Article 19 of the Ombudsman Act (Cap 385).</p> | Pending at Ombudsman. |



MINISTRY FOR THE FAMILY,  
CHILDREN'S RIGHTS AND SOCIAL SOLIDARITY

In 2018, the Ministry for the Family, Children's Rights and Social Solidarity dealt with a total of 29 cases referred by the Parliamentary Ombudsman. Twenty-three of these cases were new cases opened in 2018 whereas the remaining six cases were opened by the Ombudsman prior to 2018. All the cases opened in 2018 have been closed. Half of the cases (twelve in all) were closed without recommendation, nine cases were closed after only one request for information, one case was closed and the recommendation implemented by MFCS, and another one was withdrawn by the Office of the Ombudsman.

Out of the six cases which were opened by the Ombudsman prior to 2018, one case was closed without the recommendation, another was closed and recommendation implemented, and four are still pending at the Ombudsman. Out of these four cases, three have been pending between 12 to 18 months and another one has been pending for over 18 months.

| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                    | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                                                                                      |
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| Department of<br>Social Security | S 0060                         | The complainant applied for sickness benefit after he fell ill following the exhaustion of his sick leave allowance. As his claim was for 1.5 days, the DSS refused to pay out any benefits since payments are made from the fourth day of incapacity onwards.                                                                                                                                                                           | No recommendation              | On 22 <sup>nd</sup> March 2018, the DSS informed the Office of the Ombudsman that the claimant was not eligible for sickness benefit in accordance with Article 18 (2) of the Social Security Act.<br><br>The Office of the Ombudsman observed that Article 18(2) of the Social Security Act may in certain circumstances cause a measure of unfairness as it may result in an individual being constrained to report to work which may have negative repercussions, not only on the individual but also on colleagues at the workplace.               | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |
| Department of<br>Social Security | S 0009                         | A complaint about negligence by the officer at the DSS district office who failed to enter his sibling's date of death, thus creating an overpayment of benefit. The complainant paid the amount from his own pocket. The complainant requested that the overpayment be deducted from his late sibling's account through the department, because if he were to do it himself he would have to pay charges to the bank and to the notary. | No recommendation              | On 8 <sup>th</sup> February 2018, the DG (SS) informed the Office of the Ombudsman that the management wrote to the bank on several occasions, advising about the situation. For reference, a copy of one of the letters was also sent to the Office of the Ombudsman.<br><br>The Office of the Ombudsman closed the case after meeting the complainant and explaining the situation.<br><br>The complainant decided to close the case and wait until the Department recovers the overpayment from the bank so that he is be paid back the difference. | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |

| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                             | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                           | STATUS                                                                                      |
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| Department of<br>Social Security | S 0043                         | The complainant alleged that he was not paid the arrears which were due to former Malta Drydocks employees, and that the reply sent to him by the DSS in 2018 did not address his query, as the information provided to him referred to an increase in pension which was not related to the arrears paid to former MDD employees. | No recommendation              | Following a request by the Office of the Ombudsman for feedback on this case, in August 2018, the DG (SS) replied to this complaint to inform about details of this case and what the arrears the complainant is referring to are, subject to a reassessment of his pension. | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |
| Department of<br>Social Security | S 0085                         | A complainant claiming that he was misled by the DSS as regards the pension he would receive upon retirement.                                                                                                                                                                                                                     | No recommendation              | Following a request by the Office of the Ombudsman for feedback on this case, in January 2018, the DG (SS) replied, giving a comprehensive account which was accepted by the claimant.                                                                                       | Closed without recommendation.                                                              |
| Department of<br>Social Security | S 0120                         | The complainant claimed that the Invalidity Pension granted is incorrect and alleged that the department failed to provide him with details on how it was computed.                                                                                                                                                               | No recommendation              | Following a request by the Office of the Ombudsman for feedback on this case, in January 2018, DG (SS) informed the Office of the Ombudsman that the complainant's pension rate was revised and arrears were paid accordingly.                                               | Closed without recommendation.                                                              |

| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                  | STATUS                         |
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| Department of<br>Social Security | S 0128                         | <p>A complainant claiming that he was misinformed about the award of 10.5% increase in his pension rate if he were to retire at 63 instead of 61. In fact, at first he was informed that he qualifies for this increase and, based on this, he replied that he had decided to continue working up to age 63. However, when he requested another estimate based on his latest payslips, he was informed that this scheme does not apply to public sector employees. The complainant is therefore requesting to be given the relevant percentage increase since he should not have to suffer prejudice on account of someone else's mistake. He also urged the Government to amend the current law so as to eradicate any discrimination between workers in the public sector and workers in the private sector.</p> | No recommendation              | <p>Case received by MFCS in June 2018. The Office of the Ombudsman asked the DG (SS) to confirm if the complainant's claim is subject to appeal before the Umpire.</p> <p>The DG (SS) informed the Office of the Ombudsman that a tentative assessment for the retirement pension of the claimant was issued and sent to the claimant, which assessment also included the incentive percentage.</p> | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                           | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | STATUS                                                                                      |
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| Department of<br>Social Security | S 0145                         | The complainant queried the DSS about not being entitled for a pension after being informed by the DSS that the contributions he paid from 1966 to 1970 cannot be taken into consideration because he was underage.                                                                                                                                                             | No recommendation              | Following a request by the Office of the Ombudsman for the Department's feedback on this case, in August 2018, the DG (SS) informed the Office of the Ombudsman that the Department acted according to the legal provisions of the Social Security Act, quoting Article 3 of the Social Security Act and the Eleventh Schedule of the same Act. These state that the yearly average of contribution considered for retirement pension purposes starts from age 19 or from age 18 for those born on or after 4 <sup>th</sup> April 1958, which meant that in the complainant's case (born prior to 4 <sup>th</sup> April 1958), contributions paid prior to their 19 <sup>th</sup> birthday could not be considered. | Closed without recommendation.                                                              |
| Department of<br>Social Security | S 0198                         | The complainant contested the rejection of his application for the 'Once-only grant for persons who on officially joining the Public Service after 16th January 1979 had worked in Government Departments before 1979'. The complainant contends that he is entitled to this grant and that the Social Security Department failed to give him a valid reason for the rejection. | No recommendation              | Case received by MFCS in September 2018. The Office of the Ombudsman requested comments from the DG (SS) about the complainant's grievance.<br><br>In October 2018, DG (SS) informed the Office of the Ombudsman that the rejection of this application was also confirmed by the Grant Review Board, where the claimant was notified that he was never engaged in one of the Labour Corps which were established in the 1970s.                                                                                                                                                                                                                                                                                     | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |



| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                     | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                       | STATUS                                                                                      |
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| Department of<br>Social Security | S 0287                         | The complainant contested the amount of overpayment which resulted following the admission of the parent to a long-term residential home. | No recommendation              | Following a request by the Office of the Ombudsman for the Department's feedback on this case, in February 2019, the DG (SS) informed the Office of the Ombudsman that the overpayment was revised and the complainant was refunded the amount which was overpaid due to an error generated from the Department's side.                                  | Closed without recommendation.                                                              |
| Department of<br>Social Security | S 0151                         | A complaint lodged with regard to a case pending before the DSS Umpire.                                                                   | No recommendation              | The Office of the Ombudsman requested the Secretary to the Umpire to confirm whether or not the case was still pending before the DSS Umpire and its status.<br><br>On 3 <sup>rd</sup> September 2018, the Secretary to the Umpire informed the Office of the Ombudsman that claimant was informed of the decision of the DSS Umpire by registered post. | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |

| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                       | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                  | STATUS                         |
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| Department of<br>Social Security | S 0260                         | The Office of the Ombudsman requested the Secretary to the Umpire as to whether there were any pending appeals lodged by the complainant before the DSS Umpire.                                                                                                                                             | No recommendation              | <p>The Office of the Ombudsman inquired with the Secretary to the Umpire as to whether or not there were any pending appeals lodged by complainant before the DSS Umpire.</p> <p>On 22<sup>nd</sup> November 2018, the Secretary to the Umpire informed the Office of the Ombudsman that the complainant lodged three appeals, the status of which was also communicated to the Office of the Ombudsman. The complainant was also informed of the decision of one of the cases.</p> | Closed without recommendation. |
| Department of<br>Social Security | S 0196                         | A complaint lodged by a foreign worker residing in Malta regarding two pending cases before the Umpire. The two complaints regarded the fact that the correspondence for the proceedings of these two cases were in Maltese, and that some of the notifications were not being received by the complainant. | No recommendation              | <p>Following a request by the Office of the Ombudsman for the Department's feedback on this case, in November 2018, the Secretary to the Umpire informed the Office of the Ombudsman that he contacted the complainant to apologise, as normally all correspondence to foreigners is sent in English. The complainant was also informed of both decisions and all the documents were sent to him via email.</p>                                                                     | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT                                                                       | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                          | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                                                                                      |
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| Department of<br>Social Security                                                            | S 0298                         | The complainant is contesting the fact that although he has an agreement with the DSS to pay back an overpaid amount by deducting 15% from his pension entitlement, he still received a notification from the DSS to settle the overpayment.                                                   | No recommendation              | Following a request by the Office of the Ombudsman for the Department's feedback on this case, in January 2019, the DG (SS) informed the Ombudsman that the overpayment is going to be deducted from the claimant's pension entitlement or from any other benefit to which he might be entitled to in the future, at the rate of 15%. The claimant was informed of this decision and agreed to the arrangement. No legal action is going to be taken against the complainant.                                                                                                             | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |
| Department of<br>Social Security<br>&<br>Active Ageing<br>and Community<br>Care Directorate | S 0015                         | A complaint regarding incorrect pension deductions when complainants were admitted to a residential home for the elderly.<br><br>The Office of the Ombudsman requested clarifications on the calculation assessments and also requested that a meeting is set to discuss the matter in detail. | No recommendation              | Upon receipt of the complaint in February 2018, the DG (SS) referred it to Director (AACCD). The Office of the Ombudsman requested clarifications on the calculation assessments and also requested that a meeting is set to discuss the matter in detail. The complainant was informed in person by the Director as to how calculations were worked out, quoting LN 259 of 2004. The DG (SS) replied to the Ombudsman's Office informing that the case has been reassessed according to the new rates/deductions communicated by AACCD. A copy of the workings was annexed to the reply. | Closed without recommendation.                                                              |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                               | RECOMMENDATION BY<br>OMBUDSMAN                                                               | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                        | STATUS                                                                                      |
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| Housing<br>Authority  | S 0034                         | Complaint regarding the lack of progress on a request for alternative accommodation made with the Housing Authority in April 2012 due to health reasons. Only an acknowledgement letter was received on 5 <sup>th</sup> October 2017.                                                                                               | No recommendation                                                                            | Following request by the Office of the Ombudsman dated 12 <sup>th</sup> June 2018 for the Department's feedback on this case, the Housing Authority informed the Ombudsman on 14 <sup>th</sup> June 2018 that, considering the applicant's medical reasons, the Housing Authority is doing its utmost to find suitable accommodation that can meet the applicant's needs. | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |
| Housing<br>Authority  | S 0057                         | Case regarding a complaint from two tenants who live in accommodation provided by the Housing Authority who complained that no officers from the H/A went to inspect what repairs needed to be carried out after they reported water bursting in one of the complainant's bathroom, causing damage to the roof of the other tenant. | The Office of the Ombudsman requested the HA to provide a speedy resolution to this problem. | The management informed the Office of the Ombudsman that the complainant was directed to apply under a repair scheme in order to receive a cash grant. The application was successful and works were carried out accordingly.                                                                                                                                             | Closed and recommendation implemented.                                                      |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                 | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                   | STATUS                                                                                      |
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| Housing<br>Authority  | S 0066                         | A complaint lodged in connection with an application for alternative accommodation with the Housing Authority, submitted in 2011. The application was however put on hold as the complainant went to live with a relative in 2013. Owing to changes in the complainant's circumstances, the application was re-activated in 2017 and the complainant requested that the application be evaluated and processed without further delay. | No recommendation              | Following a request by the Office of the Ombudsman for feedback on this case, in November 2018, the HA informed the Ombudsman that the complainant was allocated a property in a different location.                                                                                 | Closed without recommendation.                                                              |
| Housing<br>Authority  | S 0106                         | A complaint regarding an application to acquire a residence under the Sir Sid Darek 2014 scheme. The complainant maintains that the property valuation by the Housing Authority was excessive and not in line with the valuations of similar properties in the neighbourhood. The complainant insisted that the value of the property should be revised.                                                                              | No recommendation              | Following a request by the Office of the Ombudsman for feedback on this case, in October 2018 the HA notified that the price requested for the said property was to stand. The HA also informed the Office of the Ombudsman that the deed had been signed and the property acquired. | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                            | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                               | STATUS                                                                                      |
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| Housing<br>Authority  | S 0107                         | A complaint regarding an application for alternative accommodation. The complainant allegedly submitted his urgent representation to the Authority and requested alternative accommodation years ago with no successful outcome. | No recommendation              | Following a request by the Office of the Ombudsman for the Department's feedback on this case, in June 2018, the HA informed the Ombudsman that this case was discussed and the complainant was allocated a government property.                                                                                                                                                                 | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |
| Housing<br>Authority  | S 0136                         | The complainant objected to the installation of drainage pipes next to his garage door and maintains that this is prejudicing his rights as a co-owner of the common parts of the block where he lives.                          | No recommendation              | The Office of the Ombudsman requested information on the works which were being carried out in this block of buildings and the property belonging to the complainant.<br><br>The Ombudsman was informed that all the residents of the block, except for the complainant, approved of such works. A court hearing on the same case was also in favour of the HA's proceeding with the said works. | Closed without recommendation.                                                              |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                     | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | STATUS                                                 |
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| Housing<br>Authority  | S 0263                         | A candidate complained that he was placed at a disadvantage in the selection process when compared to other candidates by virtue of the fact that he was transferred away from one particular workplace to work on an EU-funded project. He further contended that the marks awarded for the 'Position Related Requirements' were unfair. | No recommendation              | Following a request by the Office of the Ombudsman for the Department's feedback on this case, in January 2019, the HA replied in detail to the information requested on the selection process including an extract of the file relating to the selection process. Subsequent requests for information on the selection process were also met and documents provided.                                                                                                                                                           | Closed, case withdrawn by the Office of the Ombudsman. |
| Housing<br>Authority  | S 0272                         | The complainant contended that the installation of a lift in a block of apartments where he resided was excessively delayed.                                                                                                                                                                                                              | No recommendation              | The Office of the Ombudsman requested further information regarding the date of the publication of the tender and the projected timeframes for the installation of the lift.<br><br>On 26 <sup>th</sup> March 2019, the HA informed the Office of the Ombudsman that the tender for the installation of the lift was referred to the MFCS Ministerial Procurement Unit for publication. Subsequently, in other correspondence, the HA updated the Office of the Ombudsman on further developments on the issuing of the tender. | Closed without recommendation.                         |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                               | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                        | STATUS                         |
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| Housing<br>Authority  | S 0292                         | The Ombudsman requested that the HA provide alternative accommodation to the complainant because he had to leave since the flat was leased to the former spouse. The complainant claimed that the rent being paid for alternative accommodation was not affordable. | No recommendation              | The HA notified that this particular case is competing with other similar cases for alternative accommodation. In the meantime, the Housing Authority is giving rent subsidy to the complainant, which subsidy makes the rent affordable. | Closed without recommendation. |





In 2018, the Ministry for Finance dealt with a total of 18 cases referred by the Parliamentary Ombudsman, ten of which were new cases opened in 2018. Most of these cases, eleven in total were successfully closed – six after the Ministry replied to one request for information, four without the receipt of a recommendation and one after the implementation of the recommendation forwarded by the Ombudsman. All of the remaining seven cases are thus still open, six of which are pending at the Office of the Ombudsman with the remaining case being suspended due to court proceedings. In this regard, four of the six pending cases have been pending for a period of between 3 and 6 months, whilst the remaining cases have been pending at the Ombudsman since July 2018 and November 2018 respectively.

| SECTOR/<br>DEPARTMENT                                               | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                               | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS                         |
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| <b>Commissioner<br/>for Revenue<br/>(Capital Transfer<br/>Duty)</b> | S 0310                         | Complaint arising from a request to benefit from the second-time buyer's exemption under SL 364.17. | No recommendation              | <p>The request was refused by CTD due to the fact that the applicant failed to satisfy a number of conditions under SL 364.17. Internal discussions took place at CTD regarding the case and 2 replies were sent to the Office of the Ombudsman. In May 2018, the second and final reply was sent to the Ombudsman.</p> <p>The management replied to two requests for information, following which the case was closed in June 2019.</p>                                                                                                                                                                                                                                                                                                                                                                                     | Closed without recommendation. |
| <b>Commissioner<br/>for Revenue<br/>(Customs)</b>                   | S 0046                         | Complaint lodged in connection with the refusal by Customs to release the consignment of items.     |                                | <p>On 16<sup>th</sup> April 2018 the Ombudsman was informed that, as guided by the Sanctions Monitoring Board on the basis of Council Decision 1333/2015 of the 31<sup>st</sup> July 2015, enhanced due diligence was being exercised by the Malta Customs. On the particular export consignment, direction was sought from the Sanctions Monitoring Board, in view of the restrictive measures. Customs adhered to the advice of the Sanctions Monitoring Board.</p> <p>The management replied to 3 requests for information from the Office of the Ombudsman up to July 2018. On 25<sup>th</sup> April 2019, the Ombudsman confirmed that the file is being reviewed to verify whether further information is required. No further progress was reported, however, the Ombudsman confirmed that case is still pending.</p> | Pending at Ombudsman.          |

| SECTOR/<br>DEPARTMENT                                    | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                  | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                                                                                  |
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| <b>Commissioner<br/>for Revenue<br/>(Inland Revenue)</b> | S 0050                         | The complainant concerned the alleged incorrect calculation of tax on dividends.       | No recommendation              | Case referred by the Office of the Ombudsman to MFIN in March 2018 and a reply sent on 24 <sup>th</sup> April 2018, whereby the Ombudsman was informed that tax was charged in terms of the Income Tax Act applicable for Y/A 2014. Whilst the rate of tax on chargeable income was reduced from 35% to 25%, the rate of tax on dividends [passive income] remained at the rate of 35%. Tax was calculated correctly.                                                  | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Commissioner<br/>for Revenue<br/>(Inland Revenue)</b> | S 0108                         | The complainant concerned a discrepancy in the computation of capital gains tax.       | No recommendation              | Case referred by Office of the Ombudsman to Capital Transfer Duty Department in May 2018. Following an objection letter by the complainant dated November 2017, another valuation was made by another appointed architect in December 2017, and the property valuation provided was revised downwards. The additional duty and penalty were thus also revised. The case was settled and closed.                                                                        | Closed by the Ombudsman after management replied to one request for information.        |
| <b>Commissioner<br/>for Revenue<br/>(Inland Revenue)</b> | S 0122                         | The complainant requested a statement of his paid contributions for a specific period. | No recommendation              | MFIN informed the Office of the Ombudsman that such a statement is issued by the Director of Social Security and not by the Commissioner for Revenue. The case was settled and closed. The case officer at the Ombudsman Office informed the complainant to refer to the proper channel as indicated above, and in case they were not satisfied, to revert back. The complainant did not revert to the Ombudsman Office and, following some time, the case was closed. | Closed without recommendation.                                                          |

| SECTOR/<br>DEPARTMENT                                    | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                              | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                               | STATUS                                                                                  |
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| <b>Commissioner<br/>for Revenue<br/>(Inland Revenue)</b> | S 0158                         | The complaint concerned a delay by the Office of Cfr in issuing a promise of sale notification to the complainant. | No recommendation              | The case was referred to Capital Transfer Duty Department. It was confirmed that there was a backlog of cases regarding promises of sale due to staff shortage, which was subsequently addressed internally until the backlog was dealt with and resolved. The case was settled and closed.                                                                                                                                      | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Commissioner<br/>for Revenue<br/>(Inland Revenue)</b> | S 0211                         | Complaint arising from a tax refund due to separated spouses.                                                      | No recommendation              | Complainants received a joint refund after they separated (referring to a year of assessment during which they were still married). One of the spouses requested that the said refund cheque be split in half since the other spouse was refusing to sign.<br><br>The cheque was returned to Cfr and the complainants were reissued with a split refund separately. The Office of the Ombudsman closed the case in October 2018. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Commissioner<br/>for Revenue<br/>(Inland Revenue)</b> | S 0283                         | Complaint concerned the granting of a tax refund.                                                                  | No recommendation              | The complainants got married in 2016 and they informed the Office of the Commissioner for Revenue of their marriage in 2018. Owing to this discrepancy, the tax refund for both of them was due in 2019.<br><br>The management replied to 3 requests for information from the Office of the Ombudsman following which the case was closed.                                                                                       | Closed without recommendation.                                                          |

| SECTOR/<br>DEPARTMENT                | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                    | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS                                                                                  |
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| Commissioner<br>for Revenue<br>(VAT) | S 0115                         | Complaint concerned the Application for Grant Paid on Expenses connected with a wedding.                 | No recommendation              | This case was investigated by the VAT Department and a reply was provided to the Ombudsman Office, where the investigating officer was informed of the reasons why such a request has not been accepted. Following that, in August 2018, the VAT Department was informed by the Office of the Ombudsman that the case has been closed.                                                                                                                                                                                                                                                                                                                        | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| Finance                              | S 0217                         | The complainant contested not being awarded a disturbance allowance on resuming duties after long leave. |                                | On 30 <sup>th</sup> October 2018 the Office of the Ombudsman referred complaint to Permanent Secretary (Merger and Administration) and a detailed reply was given on 9 <sup>th</sup> November 2018. The request for a disturbance allowance was not upheld by MFIN because the officer was not required to perform work after office hours and thus does not qualify for disturbance allowance.<br><br>On 25 <sup>th</sup> April 2019 the Office of the Ombudsman confirmed that file is being reviewed to verify whether further information is required. No further progress was reported, however, the Ombudsman confirmed that the case is still pending. | Pending at Ombudsman.                                                                   |



In 2018, the Ministry for Gozo dealt with a total of three cases referred by the Parliamentary Ombudsman. Presently, all three cases are still open, since Ministry is still awaiting feedback from the Office of the Ombudsman. The last feedback received from the Ombudsman for the three cases was in February 2019, March 2019 and June 2019 respectively.



| SECTOR/<br>DEPARTMENT                | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                     | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | STATUS                   |
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| Gozo<br>Channel<br>Operations<br>Ltd | S 0255                         | Complaint lodged by a<br>Maltese citizen contending<br>that the way Gozo<br>Channel concession fares<br>are applied is unjust and<br>discriminatory against<br>Malta-born Gozo residents. |                                | <p>The Office of the Ombudsman sought the management's comments and views on this complaint, in addition to requesting the policy documents or information regarding the provision that governs the payment of such fares.</p> <p>The Office of the Ombudsman was informed by Gozo Channel Operations Ltd that it is not responsible for the issue of regulations or policies that regularise reduced or subsidised ferry tickets. Gozo Channel Operations Ltd must abide by tender conditions issued and awarded by MTIP.</p> <p>On 23<sup>rd</sup> January 2019, the Ombudsman referred this case to MTIP whereby he was informed that the Ministry for Transport, Infrastructure and Capital Projects is the contracting authority administering the public service obligation, whilst the fares are regulated by means of a legal notice found under the Authority for Transport in Malta Act, which are usually communicated by the government, specifically by the Ministry for Gozo.</p> | Pending at<br>Ombudsman. |

| SECTOR/<br>DEPARTMENT                      | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                     | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | STATUS                |
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| Projects and<br>Development<br>Directorate | S 0274                         | Complaint lodged by a retired civil servant who contends that, between 2006 and 2018, he was assigned duties and responsibilities commensurate to a higher grade and not to his actual grade. The complainant holds that he has suffered an injustice and is therefore claiming compensation.                                                                                                             |                                | In March 2019 the Ombudsman sought the management's comments and views as well as the claimant's personal file, which were submitted on 3 <sup>rd</sup> April 2019. A query was consequently raised by the Ombudsman on 24 <sup>th</sup> May 2019, which was replied to by MGOZ on 3 <sup>rd</sup> June 2019.<br><br>MGOZ maintains that the claimant never complained to MGOZ administration, which moreover deemed his grade as commensurate with the duties he was carrying out.                                                                                                                                                                                      | Pending at Ombudsman. |
| Services Gozo                              | S 0269                         | Complaint by an employee who felt aggrieved after being transferred within the same Directorate. The employee claims that this transfer is unjust and an abuse of power, referring also to poor marks given for Personal Attributes in the Performance Appraisal for a particular period. The employee alleged that she objected in writing to this appraisal but never received her superior's response. |                                | In January 2019 the Ombudsman sought the management's comments to this complaint. MGOZ replied to Ombudsman in February 2019. On 5 <sup>th</sup> March 2019 Ombudsman requested clarification re transfer due to exigencies of the Public Service a reply to which was sent on 21 <sup>st</sup> March 2019.<br><br>MGOZ maintained that this transfer, similar to other transfers during the same period, was necessary in order to man a number of sections that were under-staffed.<br><br>With regard to the Performance Appraisal MGOZ declared that, in the relevant Appraisal, the Complainant did not state any reasons why she was disagreeing with the ratings. | Pending at Ombudsman. |

MINISTRY FOR HOME AFFAIRS  
AND NATIONAL SECURITY

A total of 30 cases were handled by the Ministry for Home Affairs and National Security in 2018, of which however only nine were new cases referred to by the Parliamentary Ombudsman in 2018. Three of these nine cases were closed by the Ombudsman after receiving just one reply from the Ministry whilst another two cases included complaints that were not upheld. The remaining four cases are thus still pending, all at the Ombudsman - one since April 2019, another since June 2019 and another since August 2019. The remaining case is pending in view of being suspended due to court proceedings.

A total of 21 cases from the 30 handled in 2018 thus pre-date 2018. Most of these cases however, seventeen, are pending at the Office of the Ombudsman, fourteen of which for a considerable period of time exceeding 18 months. Another case has been pending at the Ombudsman between 6 and 12 months and the final two cases have been pending for less than one month. Two cases of the remaining four pre-dating 2018 are on the other hand pending at the Ministry, one for a period of between 3 and 6 months and the other between 6 and 12 months. Finally, of the remaining two cases, one has been closed and the other is suspended in view of court proceedings.

| SECTOR/<br>DEPARTMENT                    | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                             | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                     | STATUS                                                                                      |
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| <b>Correctional Services</b>             | S 0075                         | The inmate is alleging that he is not receiving prompt medical treatment.                                                                                                                                                                                                                         |                                | CCF cooperated with the Office of the Ombudsman case officer by providing requested details on the provided medical treatment.                                                                                                                                         | Pending at Ombudsman.                                                                       |
| <b>Correctional Services</b>             | S 0076                         | The inmate complained that an injustice was suffered after his parole was terminated.                                                                                                                                                                                                             | No recommendation              | The Ombudsman's case officer visited the inmate at the Corradino Correctional Facility (CCF) and discussed his situation with CCF medical staff.                                                                                                                       | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |
| <b>Armed Forces of Malta</b>             | S 0056                         | A complaint regarding the promotion of an individual who was less senior than the complainant.                                                                                                                                                                                                    |                                | Personnel are awarded points for seniority but are not promoted exclusively on the basis of seniority. In addition, officers in the complainant's particular grade need to satisfy certain criteria and a vacancy needs to be available for the promotion in question. | Pending at Ombudsman.                                                                       |
| <b>Office of the Permanent Secretary</b> | S 0117                         | A complaint arising from a request for the payment of overtime carried out by police officers from 1 <sup>st</sup> September 1993 to 31 <sup>st</sup> December 2009. Such a request for overtime by the complainant was turned down after he applied for scheme after the application's deadline. |                                | The Office of the Ombudsman was informed that application period for the submission of requests was extended but still, the complainant applied over two months after the closure of scheme extension.                                                                 | Pending at Ombudsman.                                                                       |
| <b>Police</b>                            | S 0064                         | The complainant requested an investigation on the behaviour of certain police officials who were investigating him.                                                                                                                                                                               | No recommendation              | The Independent Police Complaints Board (IPCB) did not accede to complainant's request as the case was filed over two and a half years after the alleged incident.                                                                                                     | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                     | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                             | STATUS                                                                                      |
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| <b>Police</b>         | S 0068                         | The complainant complained that his right to free movement had been infringed due to the closure of certain arterial roads by the Malta Police Force for sporting events. |                                | The Malta Police Force provided the Office of the Ombudsman with the requested information.                                                                                                                                                                                                                    | Complaint not upheld.                                                                       |
| <b>Police</b>         | S 0078                         | The claimant alleged that his car was towed illegally and is demanding reimbursement of towing fees from the Police.                                                      |                                | The Police acted as permitted by law and on the basis of a Police Notice published in the Government Gazette when towing away the complainant's vehicle. The Police had no option but to tow the car away after various attempts were made to contact the registered owner of complainant's car with no avail. | Complaint not upheld.                                                                       |
| <b>Police</b>         | S 0112                         | The complaint by a police officer claiming reimbursement of expenses due to a late hotel booking for an international conference.                                         | No recommendation              | As per usual practice, the choice of hotel when attending an international conference is made by the officer attending. Thus, the complainant himself chose the hotel that was costlier than the subsistence allowance granted to him.                                                                         | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |
| <b>Police</b>         | S 0153                         | The complainant stated that he was refused the third pip in line with Police Circular 16/81 due to an appeal instituted in front of the Courts of Justice.                |                                | The Malta Police Force (MPF) informed the Office of the Ombudsman that there is a pending civil court case involving complainant besides another pending case on this matter before the Public Service Commission.                                                                                             | Suspended due to Court proceedings.                                                         |

MINISTRY FOR JUSTICE, CULTURE  
AND LOCAL GOVERNMENT

The Ministry for Justice, Culture and Local Government handled a total of 22 cases in 2018, all referred by the Parliamentary Ombudsman. Most of these cases, 19 were new cases which the Parliamentary Ombudsman opened in 2018 with the remaining three being 2017 cases, two of which have now been closed. Similarly another nine cases from the 2018 cohort have also been closed, most of which, seven without any recommendation from the Ombudsman.

A total of ten cases referred by the Parliamentary Ombudsman in 2018 are thus still open, but MJCL is awaiting feedback from the Office of the Ombudsman. In this regard, three of these cases have been pending at the Ombudsman for a period of between 6 and 12 months, another three between 3 and 6 months, two cases between one and 3 months and the final two cases have been pending at the Ombudsman for less than one month.



| SECTOR/<br>DEPARTMENT         | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                  | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                                                                                                                                     | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                    | STATUS                           |
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| <b>Arts Council<br/>Malta</b> | S 0018                         | A complaint concerning a recruitment process.                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                    | The Office of the Ombudsman requested that the ACM forward the file related to the selection process in view of the fact that the complainant is contending that marks awarded to him were not fair. In April 2019, the Ombudsman requested further clarifications and the ACM replied to all queries in May 2019.                    | Pending at Ombudsman.            |
| <b>Courts of Justice</b>      | S 0017                         | Case concerning an EU citizen who claimed that he wanted to file a case with the Small Claims Tribunal online, but the eForm was only available in Maltese. Therefore, he claimed that he was prevented from access to justice since non-Maltese speakers could not make use of these online services. | The Ombudsman declared that this was not a case of maladministration. However, it recommended that the management may wish to consider amendments to current procedure that would allow the relative eForms to be completed in Maltese or English. | Replies were sent in February 2018. The law states that the Maltese language shall be the language of the courts and, as such, the law was adhered to. The complaint was closed; however, the Ombudsman's recommendation is noted and will be taken into consideration to see how access for non-Maltese speakers can be facilitated. | Closed and recommendation noted. |
| <b>Courts of Justice</b>      | S 0025                         | A complaint raised by an EU citizen who is currently serving a prison sentence at the Corradino Correctional Facility concerning a request for transfer to his country.                                                                                                                                | No recommendation                                                                                                                                                                                                                                  | The Office of the Ombudsman requested remarks on this case. MJCL replied that from inquiries made by the Office at the Attorney General, it resulted that the complainant is required to give evidence in another criminal trial, and therefore the transfer of the complainant cannot be considered.                                 | Closed without recommendation.   |

| SECTOR/<br>DEPARTMENT         | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                       | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | STATUS                                                                                      |
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| <b>Justice<br/>Department</b> | S 0268                         | A confidential case concerning the Justice Department.                                                                                                                                                                                                                                                      | The Office of the Ombudsman recommended that a decision should be taken and to inform the complainant about the decision.     | In March 2019, a meeting was held with the Office of the Ombudsman in the presence of respective higher authorities to discuss details of the case and the best way forward.<br><br>In April 2019, direction was given and the complainant was informed accordingly.                                                                                                                                                                                                                                                                                                                                                                                              | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |
| <b>LESA</b>                   | S 0007                         | A complaint lodged by a private company complaining that it had acquired vehicles by virtue of a judicial sale by auction ( <i>subbasta</i> ) but that, since there are several fines imposed on the vehicles from previous owners, the vehicles could not be released to enable their re-sale accordingly. | The Ombudsman recommended the release of the vehicles from the previous owners so the complainant could re-sell the vehicles. | Consultations are ongoing, and the last correspondence between the legal representatives of the complainant and LESA date back to March, April, and May 2019.<br>Work is still ongoing on the setting up of the proper procedure for the release of the vehicles in question. Legal documents have been requested from the Courts. Once such documents are provided, LESA can release the vehicles and proceed to take further action against the previous owners.<br><br>There is an agreement in principle, but in order to be concluded the company has to follow the proposed procedures. The Ombudsman was informed accordingly on 7 <sup>th</sup> May 2019. | Pending at Ombudsman.                                                                       |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                          | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | STATUS                |
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| LESA                  | S 0236                         | A complaint lodged in connection with a request for CCTV footage which was not provided following the theft of a mobile phone. |                                | <p>The complainant filed a police report on 6<sup>th</sup> June 2018 stating that his mobile phone had been stolen, indicating that the area from where it was stolen was equipped with CCTV cameras pertaining to LESA. The complainant called LESA Offices and requested a copy of the footage, as guided by the Police. It was established that the CCTV cameras were the property of G4S but were leased to LESA. G4S was in this regard solely responsible for the storage of footage. Due to data protection issues only the Police have the authority to request the footage and not the complainant. The complainant communicated with LESA on 22<sup>nd</sup> June 2018 but, by that time, the footage had already been deleted. The Ombudsman requested an explanation as to why the LESA employee had failed to act in time.</p> <p>The issue was outside LESA's remit since the complainant was misguided, and when the request for footage was made, this had already been deleted. LESA replied to the Office of the Ombudsman on 6<sup>th</sup> December 2018.</p> | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                 | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                                           |
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| Local Council         | S 0087                         | A complaint by a civilian against the Siggiewi Local Council prompted by the refusal of the said Council to accept the complainant's request for reimbursement of damages to his vehicle, allegedly sustained as a result of a pot hole in a main street in Siggiewi. | The Office of Ombudsman gave its recommendation on 20 <sup>th</sup> September 2018 whereby it concluded that it could not sustain the complaint. It did however recommend that the Council deliberate on the remarks made in this report referring those claiming compensation for alleged damages sustained as a result of lack of maintenance of streets, and to consider implementing the directives issued by the Local Governance Board in its decision of 25 <sup>th</sup> February 2015. | <p>The complainant elaborated that the Local Council had directed him to refer this issue to arbitration and advised him to seek the assistance of a lawyer of his confidence. The complainant argued that the decision of the Local Council not to consider and evaluate his claim, but to direct him to file arbitration proceedings for reimbursement, was unfair and led to the disbursement of unnecessary fees.</p> <p>The Office of the Ombudsman sought the comments of the Siggiewi Local Council with regard to this grievance, and even met with the Local Council's legal advisor, who explained that the Council had decided that those claiming compensation for damages caused by an alleged lack of maintenance of roads within the locality would be directed to refer their request to arbitration so that the matter could be decided upon by an independent adjudicating body. The position taken by the Council was dictated by the need for transparency when dealing with public funds.</p> <p>The Local Council, in its Council meeting, made reference to Ombudsman's report which recommended that the Local Council appoints a board to evaluate claims received by the Local Council. The Mayor stated that the Local Council's lawyer recommended that a set of guidelines will be made for the establishment of this board, which guidelines will have to be approved by the Council. The Local Council accepted this proposal for the establishment of a board, which board will be composed also of professionals who are independent of the Council.</p> | Closed and recommendation partially implemented. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | STATUS                         |
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|                       |                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                | The Local Council decided to start the process to establish a board whose functions will be to evaluate and recommend to the Council on similar requests.                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                |
| <b>Local Council</b>  | S 0096                         | A complaint by a civilian against the Naxxar Local Council concerning two large trees which are so large that the branches are very close to his balcony. It was requested that the branches be trimmed so that there would be enough space between the trees and the balcony. The complainant claimed that he had already forwarded the request to the Naxxar Local Council, but the Council's reply was that they do not have adequate machinery to go inside the garden and trim the said trees. | No recommendation.             | On 26 <sup>th</sup> April 2018 the Office of the Ombudsman wrote to the Local Council regarding the complaint lodged by a third party and asked for the Council's comments. After several correspondence, on 19 <sup>th</sup> September 2018 the Ombudsman wrote again to the Local Council making reference to reports commissioned by the Naxxar Local Council and forwarded to the Office of the Ombudsman. The Office of the Ombudsman claimed that it was satisfied that the Council gave due consideration to the complainant's grievance and has found no evidence of maladministration in this regard and closed the case. | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                  | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | STATUS                         |
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| Local Council         | S 0098                         | A complaint by a civilian against the Żejtun Local Council regarding the removal of two pedestrian crossings near the local school.                                                                                                                                    | No recommendation              | <p>On 24<sup>th</sup> August 2018 the Office of the Ombudsman wrote to the Żejtun Local Council stating that the same complaint was dealt with by the Office of the Ombudsman back in 2016 following another complaint by the same complainant. The Ombudsman stated that, in 2016, he was informed by the Council that the necessary permits had been obtained and that the Council was preparing the necessary signage and infrastructural works which were going to be carried out. The complainant was now alleging that one of these pedestrian crossings had been painted over and removed.</p> <p>The Council forwarded correspondence from Transport Malta dated 12<sup>th</sup> December 2017 stating that, following a site inspection, it was noticed that the zebra crossing was not located in a safe place, with risks for all road users. Hence, it was recommended that this pedestrian crossing be removed from there and the approval be revoked with immediate effect. The pedestrian crossing was thus removed on Transport Malta's recommendation.</p> | Closed without recommendation. |
| Local Council         | S 0131                         | A complaint by a civilian against the Mosta Local Council wherein the complainant made reference to correspondence exchanged with the Council subsequent to a collision with a bollard affixed at the corner of a road. He claimed that the bollard was not authorised |                                | The Ombudsman requested the Council's comments and in particular the reasons for the placement of the bollards and any permits related thereto. The Council replied, stating that bollards were installed way back in 2003, when the re-construction of roads was done, and when no approvals were required by Transport Malta. The Council argued that back then Local Councils implemented and approved all traffic management signs and road fixtures at a Council level. On 10 <sup>th</sup> October 2018 and again                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Pending at Ombudsman.          |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                 | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS |
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|                       |                                | according to what officials at TM had informed. He also claimed that despite filing a complaint with the Council requesting payment for damages, he remained without a reply, thus being treated in an unfair and prejudicial matter. |                                | <p>on 6<sup>th</sup> November 2018, the Office of the Ombudsman wrote to the Council outlining the response given by the complainant to the Council's comments. The Council replied on 16<sup>th</sup> November 2018, still sustaining its arguments. On 6<sup>th</sup> December 2018, the Ombudsman claimed that after the Council's letter, the Ombudsman pursued enquiries with Transport Malta on the matter, with the Traffic Management and Road Safety Department within the Authority informed the Ombudsman that the Local Council did not have any authorisation to install the bollards in that location—the location was in fact unsuitable, if not dangerous for both pedestrians and motor vehicles, and the street was too narrow for their installation. This indicates that the accident in question was the consequence of the illegal and dangerous position of the bollards. The Ombudsman again asked for the Council's views on 7<sup>th</sup> January 2019.</p> <p>On 11<sup>th</sup> January 2019, the Council replied, standing its ground and arguing that the installation of the bollards was legal and did not consent to their removal.</p> |        |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                    | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | STATUS                         |
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| Local Council         | S 0144                         | A complaint by a civilian against the San Pawl il-Baħar Local Council for the Council's failure to give the complainant feedback on the points submitted during a meeting with the Mayor on 29 <sup>th</sup> March 2018. | No recommendation              | <p>The Office of the Ombudsman requested the Local Council to answer the complainant as soon as possible and keep the Ombudsman in copy. After several reminders from the Ombudsman, on 26<sup>th</sup> September 2018, the Mayor wrote to the Office of the Ombudsman and explained how the points raised by the complainant were being addressed. On 7<sup>th</sup> November 2018, the Office of the Ombudsman asked the Local Council again for an update on any further progress. After several reminders, a reply was given on 18<sup>th</sup> July 2019 whereby it was explained how the complaints that were still not tackled at the time of the email sent on 26<sup>th</sup> September 2018 were dealt with. The Mayor also stated that two months previously, the former Mayor had spoken with the complainant when he called the Council's office. On 22<sup>nd</sup> July 2019, the Office of the Ombudsman wrote again wherein he stated that the Ombudsman's Office updated the complainant with the feedback provided, which they believe should satisfy his grievance. The Office of the Ombudsman further stated that it will proceed to close the complaint.</p> | Closed without recommendation. |



| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                   | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | STATUS                |
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| Local Council         | S 0193                         | A complaint by a civilian against the Munxar Local Council alleging a delay by the Local Council in removing ducks in Xlendi Bay following the direction of the Gozo Health Inspectorate Services. The complainant was alleging that ducks were being given free rein in the bay with detrimental effect on the persons who swim there. |                                | In August 2018, the Office of the Ombudsman requested the council's views on how the problem could be alleviated, to which the Mayor replied that the Council is doing its utmost to remove these ducks; however, the council cannot manage on its own, and thus requested the intervention of the Gozo Animal Welfare. The Mayor claimed that some months before, these ducks had been removed by Animal Welfare, but that some time later several other ducks were put to sea again. When the Department of Animal Welfare tried to remove these ducks, it did not manage to do so but the Mayor stated that it was planned that Animal Welfare will again try to remove these ducks. On 18 <sup>th</sup> June 2019, the Office of the Ombudsman wrote again to the Munxar Local Council, claiming that it received a similar complaint from the same complainant. The Council replied that it would be forwarding the complaint to Animal Welfare again, considering that the matter falls within their competence. On 1 <sup>st</sup> August 2019, the Local Council forwarded the complaint to Animal Welfare but the latter replied by stating that the ducks in question are considered as wildlife and as such this case does not fall within the responsibility of Animal Welfare Department. The Local Council hence informed the Ombudsman accordingly on 5th September 2019. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | STATUS                         |
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| Local Council         | S 0262                         | A complaint against the Haż-Żebbuġ Local Council concerning the constant parking illegalities in a particular alley. | No recommendation              | <p>The Council replied to the Office of the Ombudsman, stating that the complainant was informed that his request was forwarded to Transport Malta for further comments from their end, as the complainant's request is purely enforcement, which falls within the competence of the Police Force and LEA.</p> <p>On 3<sup>rd</sup> December 2018, the Ombudsman asked for copies of correspondence with Transport Malta on the matter. On 23<sup>rd</sup> January 2019, the Council informed the Ombudsman that the Mayor spoke to a Transport Malta official about this matter in June/July 2018. On 1<sup>st</sup> April 2019 the Office of the Ombudsman stated that it was informed that Transport Malta issued instructions to the council to implement signage in connection with the street in question, and thus it asked whether the said requirements were implemented. On 23<sup>rd</sup> May 2019, the Ombudsman wrote to Transport Malta and the Council where amongst other things it stated that given the circumstances and in light of the provisions found in the Ombudsman Act, it will proceed to close the case and it called Transport Malta and the Żebbuġ Local Council to rectify this situation quickly and decisively. On 29<sup>th</sup> May 2019 the council informed DLG that the proposal could not be implemented after talks with Transport Malta. A meeting was held with the Traffic Management Committee, which was also attended by a representative from the Ombudsman's Office, and the case was closed.</p> | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                               | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                         |
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| <b>Local Council</b>  | S 0267                         | A complaint by a civilian against the Pembroke Local Council after his vehicle was damaged.                                                         | No recommendation.             | On 19 <sup>th</sup> November 2018, the Office of the Ombudsman requested feedback from the Pembroke Local Council for which, on 21 <sup>st</sup> November 2018, the Mayor replied that an agreement had been reached with the complainant and the Council paid half of the expenses. A cheque was made payable to the complainant and the case was deemed closed from the Council's end.                                                                                                                                                                                                                               | Closed without recommendation. |
| <b>Local Council</b>  | S 0294                         | A complaint by a civilian against the Żejtun Local Council regarding the removal of the yellow lines which were in front of a garage in his street. |                                | A letter was sent by the Office of the Ombudsman to the Permanent Secretary, MJCL, and Żejtun Local Council regarding this case. The Council was asked to provide information with the aim of reaching an amicable agreement. On 4 <sup>th</sup> June 2019, the Local Government Division asked the Local Council to provide the necessary details.<br><br>On 12 <sup>th</sup> June 2019, the Żejtun Local Council replied to the Ombudsman stating that the removal of yellow lines had been approved by the Chief Officer of Transport Malta on 17 <sup>th</sup> November 2016.                                      | Pending at Ombudsman.          |
| <b>Local Council</b>  | S 0307                         | A complaint by a civilian against the Gormi Local Council in relation to damage caused to a vehicle when he hit a pothole in Triq l-Imdina, Gormi.  |                                | In January 2019, the Office of the Ombudsman sent a letter to Gormi Local Council regarding the complaint and asked the Council to communicate with the complainant, possibly by 5 <sup>th</sup> February 2019, with a view to an amicable solution on the matter. On 24 <sup>th</sup> January 2019, the Office of the Ombudsman communicated with Transport Malta informing it of the case and any assistance that may be given by the Legal Unit on the case. The Council sent letter to the Office of the Ombudsman on 28 <sup>th</sup> January 2019, claiming that Triq l-Imdina falls under the responsibility of | Pending at Ombudsman.          |

| SECTOR/<br>DEPARTMENT   | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                         | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS                |
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|                         |                                |                                                                                                                                                                                                                               |                                | <p>Infrastructure Malta, and in fact restructuring of the said road was carried out by Infrastructure Malta in 2018. The Council stated that, without prejudice, it reserved its position to refuse the request of complainant and refer case to Transport Malta.</p> <p>On 12<sup>th</sup> February 2019, the Ombudsman informed the Local Council that since the Council stated that the road in question falls under the responsibility of Infrastructure Malta, the case was referred to the latter. The Local Council informed the Ombudsman on 27<sup>th</sup> May 2019 that it is still discussing the case and will raise correspondence for the attention of the Council, following which it informed the Ombudsman that it will not accept responsibility for the damages claimed by the complainant due to the fact that, contrary to what has been decided by Transport Malta, the spot in Triq l-Imdina where the accident occurred was never within the Council's responsibility. The Local Council informed the Ombudsman of its decision on 21<sup>st</sup> August 2019.</p> |                       |
| <b>Local Government</b> | S 0121                         | A complaint by a former public employee concerning the wrong computation of his pension. It was claimed that his service within a Local Council was disregarded, which led to his pension being calculated on a lower salary. |                                | <p>In October 2018, the Office of the Ombudsman met with the DG (Local Government) to discuss complaint in question. The Ombudsman asked for the DG's views and details on the procedure adopted by the department with regard to public officers who work within the Councils holding the position similar to that of the complainant. On 22<sup>nd</sup> October 2018, the DG sent an email to the Office of Ombudsman explaining the timeline of facts relating to the complainant's secondment with the Local Council. No reply has been received as of yet.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT                                     | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                           | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                |
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| Malta<br>Competition and<br>Consumer Affairs<br>Authority | S 0197                         | A complaint concerning a recruitment process.                                   |                                | <p>The Office of the Ombudsman requested various documents such as the qualifications of the top two candidates, as well as the report drawn up by the selection board.</p> <p>The Authority provided all the required documentation and replied to the questions forwarded by the Office of the Ombudsman. Further feedback and documentation was requested by the Ombudsman between October 2018 and June 2019, the last feedback being provided by the Authority in June 2019.</p> | Pending at Ombudsman. |
| Malta<br>Competition and<br>Consumer Affairs<br>Authority | S 0213                         | A complaint by a candidate claiming that the recruitment process was irregular. |                                | <p>The Office of the Ombudsman requested the file containing all the documentation related to this particular call for applications. The Authority provided all the required documentation and replied to the questions posed by the Office of the Ombudsman. The final feedback was provided by the Authority in April 2019.</p>                                                                                                                                                     | Pending at Ombudsman. |



MINISTRY FOR THE ENVIRONMENT,  
SUSTAINABLE DEVELOPMENT AND CLIMATE CHANGE

In 2018, the Ministry for the Environment, Sustainable Development and Climate Change dealt with a total of three cases referred to by the Parliamentary Ombudsman. All cases were closed; two were closed after the Ministry replied to one request for information by the Parliamentary Ombudsman, and the remaining one was closed after the case was withdrawn by the complainant.



| SECTOR/<br>DEPARTMENT                                  | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                         | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                            | STATUS                                                                           |
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| <b>Pitkalija, Rural<br/>Development<br/>Department</b> | S 0184                         | The complainant was released and transferred to another Ministry. Allegations of bullying were withdrawn, as was the case with the Ombudsman. |                                | Complainant withdrew the allegations. His request to be released to another Ministry was acceded to.                                                                                                                          | Closed, case withdrawn by complainant.                                           |
| <b>Wasteserv</b>                                       | S 0245                         | The complainant requested the Ombudsman to investigate why the Good Neighbourhood Scheme allowance was not received.                          | No recommendation              | The Ombudsman asked for comments and views on the said complaint. The Good Neighbourhood cheque was issued.<br><br>The management verified that the change of residence occurred prior to having received the list from ARMS. | Closed by the Ombudsman after management replied to one request for information. |
| <b>Wasteserv</b>                                       | S 0311                         | The complainant requested the Ombudsman to investigate why the Good Neighbourhood Scheme allowance was not received.                          | No recommendation              | The Ombudsman asked for comments and views on the said complaint. The Good Neighbourhood cheque was issued.<br><br>The management verified that the change of residence occurred prior to having received the list from ARMS. | Closed by the Ombudsman after management replied to one request for information. |



MINISTRY FOR TOURISM

In 2018, the Parliamentary Ombudsman referred three cases to the Ministry for Tourism of which for one of them the Ministry accepted and implemented the Parliamentary Ombudsman's recommendation. For another case, the Ombudsman was satisfied with the Ministry's action and closed the case without a recommendation. However, the 3<sup>rd</sup> case has been pending at the Office of the Ombudsman since December 2018, despite a meeting being held between parties involved to agree on a way forward.

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                                                                                                                                                                                                                                                                                                                                                                   | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                     | STATUS                                 |
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| Air Malta/AAS         | S 0140                         | The Complainant filed a complaint with the Office of the Ombudsman in connection with a selection process for a managerial position. The complainant also requested to be appointed to a managerial role or be given the difference in salary between his current role and that of a managerial post. The complainant triggered the complaint following the receipt of a correspondence from the company informing him that his application for the position of manager for which had applied could not be processed, without providing any justifications. | The Ombudsman's final opinion is that the company was not just or fair towards the complainant and that its actions amounted to an act of bad administration. Despite considering this case as unjust, the Ombudsman did not uphold the complainant's request to be either appointed to a managerial role or be given the difference in salary between that of the current role and a managerial post for one year, but recommended that the company provide an adequate remedy. | A decision has been taken that henceforth any Air Malta Aviation Services (AAS) employees will be given the opportunity to apply for any calls issued from Air Malta's end apart from those which are issued internally (through AAS). | Closed and recommendation implemented. |

| SECTOR/<br>DEPARTMENT          | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                 | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | STATUS                         |
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| <b>Air Malta</b>               | S 0105                         | The complaint referring to the selection process for a post at Air Malta. The complainant raised doubts about the selection process, its fairness and seriousness, and alleged that he was not made aware of the exact reasons of his failure, contrary to the agreement that the airline signed with the airline pilots association. |                                | The Office of the Ombudsman requested comments from Air Malta and documentation, including the application forms of all the applicants, the agreement between Air Malta plc and CAE on the conduct of this selection process, an unabridged copy of the reports of the successful candidates and that of the complainant's, and any other documents which Air Malta thinks are relevant to the case. The company's lawyer provided a detailed explanation of how the selection process was carried out. All the requested documentation (and more) were 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 <sup>th</sup> December 2018 between both parties, and the case was discussed in detail. Awaiting the evaluation and final recommendation from the Ombudsman. | Pending at Ombudsman.          |
| <b>Malta Tourism Authority</b> | S 0092                         | A complaint concerning the termination of service by MTA of 5 members of a re-enactment group.                                                                                                                                                                                                                                        | No recommendation              | The Office of the Ombudsman requested feedback from MTA on the complainants' contention that MTA's decision was arbitrary and discriminatory. MTA explained that it used the complainants' re-enactment services whenever it so required, for which services the complainants received payment. However, there was no contractual agreement in place between the complainants and MTA binding the latter in any manner or form to use the complainants' services for a specific period of time and/or indefinitely. Thus, MTA had every right not to make further use of their services.                                                                                                                                                                                                                                                                                 | Closed without recommendation. |

MINISTRY FOR TRANSPORT, INFRASTRUCTURE  
AND CAPITAL PROJECTS

A total of 38 cases were handled by the Ministry for Transport, Infrastructure and Capital Projects in 2018, the majority of which, 30 were new cases which the Parliamentary Ombudsman opened in 2018. A good number of these cases, 23 were successfully closed by the Ombudsman mostly after receiving just one reply from the Ministry or otherwise without a recommendation. Only seven cases thus remain open, four of which are pending at Ombudsman whereas the remaining three are pending at MTIP. Five of these seven cases have, in this regard, been pending for a period of between 3 to 6 months whilst the remaining two have been pending between 6 to 12 months.

A total of eight cases from the 38 handled in 2018 thus pre-date 2018 but most of these cases, seven were successfully closed in 2018, all without the provision of a recommendation or after the receipt of one reply from Ministry. Just one case thus remains open, being pending at Ombudsman since August 2018.



| SECTOR/<br>DEPARTMENT               | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                         | RECOMMENDATION BY<br>OMBUDSMAN                                                                                         | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                                                                                  |
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| Engineering<br>Professions<br>Board | S 0099                         | Complaint received regarding a rejected application by the Engineering Professions Board for the consideration of a warrant.                                                                                                                                                                                                                                                  | The Office of the Ombudsman recommended that EPB should acknowledge application by client and reply to further emails. | First communication from the Office of the Ombudsman with EPB took place in May 2018 following which a reply was sent in August 2018. The Office of the Ombudsman was informed that the complainant had already been sent an acknowledgement for his application at the start of the year. The Ombudsman was also informed that the complainant has a pending court case against the Attorney General (Constitutional Case) after having already lost another court case prior to this one. A letter was sent to complainant and a copy was passed to the Office of the Ombudsman regarding the issues on which the application is being rejected. The case was closed by the Office of the Ombudsman on 31 <sup>st</sup> August 2018. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| Infrastructure<br>Malta             | S 0206                         | The Ombudsman requested the Commissioner for Environment and Planning to start an investigation regarding road safety with particular reference to bridges, subways, etc., as well as places wherein road levels would be above areas accessible to the general public. As a result, CEP requested information from Infrastructure Malta by presenting a number of questions. | No recommendation                                                                                                      | On 28 <sup>th</sup> August 2018 the Office of the Ombudsman forwarded a number of questions concerning bridges, tunnels, subways, other places above road levels, their condition, use and also inspections on such structures. On 28 <sup>th</sup> September 2018, IM replied to such questions to CEP following which on 4 <sup>th</sup> October 2018 the Office of the Ombudsman informed IM that the case was being closed.                                                                                                                                                                                                                                                                                                        | Closed by the Ombudsman after management replied to one request for information.        |

| SECTOR/<br>DEPARTMENT   | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | STATUS                                                                                  |
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| Land Registry<br>Agency | S 0297                         | Complaint regarding an application filed and eventually registered regarding land registration of property in the south of Malta whereby complainant claimed that the Lands Registry was misled by a family member.                                                                                                                                                                                                                                                                    | No recommendation              | Following request for feedback by the Office of the Ombudsman in January 2019, the Registrar replied in February stating that the documents presented had legal basis whereby it was legally admissible to register on the basis of prescription. Following such communication, on 11 <sup>th</sup> March 2019, the Office of the Ombudsman informed Land Registry that the case has been closed.                                                                                                                                                                                                                          | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| Lands Authority         | S 0014                         | Complaint relates to a plot in a housing estate, which was built on expropriated land. Acquisition process relating to such expropriated land is not yet finalised. Complainants entered into a promise of sale agreement with the Housing Authority to reside in such property. However, since land is not yet government-owned, such property cannot be transferred to the complainants. Communication from the Office of the Ombudsman was received on 20 <sup>th</sup> April 2018. |                                | On 3 <sup>rd</sup> May 2018, the Office of the Ombudsman was informed that the land on which the complainant's property is located is not yet expropriated by the Government and it is not the Authority's intention to acquire the said plot of land in the near future whilst also informing the Office of the Ombudsman that there is no policy in place. However once the process of land acquisition is finalised, the Housing Authority will be informed accordingly and the complainants would be contacted for the publication of the final contract. Status of case was confirmed on 5 <sup>th</sup> August 2019. | Pending at Ombudsman.                                                                   |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | STATUS                         |
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| Lands Authority       | S 0028                         | Complaint relates to the tenancy of a shop. Following the company's liquidation, keys were returned to the Lands Department through the Department's lawyers. However, the requisite forms for the transfer of the water and electricity services had not been duly filled in by the Lands Department. Consequently, ARMS Limited is still issuing water and electricity bills in the name of the Company Director, whereas the Lands Authority is still issuing rental bills for the outlet. | No recommendation              | The Office of the Ombudsman requested feedback on this case from the Lands Authority in February 2018. In this regard, the Lands Authority forwarded the Change of Consumer Form together with other required documents, as well as two cheques in respect of ARMS invoices. Regarding the outstanding bill for rent, the Office of the Ombudsman was informed that the invoices that were issued after the reacquisition of the shop by the Commissioner of Lands were reversed, but the complaint still has a remaining balance due to the Lands Authority. On 6 <sup>th</sup> May 2019, the Office of the Ombudsman informed the Lands Authority that it had closed the case. | Closed without recommendation. |
| Lands Authority       | S 0037                         | Complaint lodged in connection with compensation due for the expropriation of land situated in the north of Malta.                                                                                                                                                                                                                                                                                                                                                                            | No recommendation              | The Office of the Ombudsman requested feedback on this case from the Lands Authority in February 2018 for which the Authority replied that it's Notary was vetting the root of title so that compensation due is paid accordingly and once the vetting is concluded, they will contact the owners of the land in question for the publication of the contract.<br><br>The Office of the Ombudsman closed the case on 26 <sup>th</sup> April 2019.                                                                                                                                                                                                                                | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT  | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                    | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | STATUS                                                                                  |
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| <b>Lands Authority</b> | S 0079                         | Complainant and the committee he represented leased office premises from the Lands Authority, which premises were returned back on 1 <sup>st</sup> September 2003. Notwithstanding settlement of payments, complainants continued receiving utility bills from ARMS Limited.                                                                                             | No recommendation              | The Office of the Ombudsman requested feedback on this case from the Lands Authority in April 2018. In this regard, the Lands Authority sent the change of consumer forms as well as copy of IDs and meter readings to ARMS Limited. Complainant was informed not to settle any other invoice and that he was to receive final invoices confirming the transfer. The Office of the Ombudsman closed the case on 2 <sup>nd</sup> October 2018.                                                                                  | Closed without recommendation.                                                          |
| <b>Lands Authority</b> | S 0147                         | The complainant, a Lands Authority employee, alleged that he suffered an injustice when he was not chosen for a vacant post in terms of a circular issued on 28 <sup>th</sup> June 2017. The complainant also stated that his request for the revocation of his detailing with the Authority and the consequent transfer to a Government department remained unanswered. | No recommendation              | The Office of the Ombudsman requested feedback on this case from the Lands Authority in October 2018, following which in November 2018, the Lands Authority forwarded the relevant information to the Ombudsman. Communication took place with Director (Resourcing) within the Office of the Prime Minister regarding information concerning the complainant's request for the revocation of detailing with the Lands Authority.<br><br>The case was closed by the Office of the Ombudsman on 26 <sup>th</sup> February 2019. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                 | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | STATUS                         |
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| Lands Authority       | S 0149                         | The complainant, a Lands Authority employee, complained regarding the recent assimilation process in his grade. He alleged that he was assimilated to a grade which he had already been occupying for the last number of years. Complainant added that he was only given €20 monthly following this assimilation process and that his request to be transferred to a government department has still not elicited any reply from the Lands Authority. | No recommendation              | The Office of the Ombudsman requested feedback on this case from the Lands Authority on 14 <sup>th</sup> December 2018 following which, on 20 <sup>th</sup> December 2018, the Lands Authority provided the requested information to the Office of the Ombudsman. Regarding the assimilation exercise, the present management of the Lands Authority proceeded to investigate the claims made by employees of the Authority. A meeting was also set up with the People and Standards Division within OPM and the union concerned to discuss the way forward. The union convened a meeting for their members, following which, the management proceeded to implement a corrective exercise. In January 2019, the Office of the Ombudsman closed the case following which in February 2019, the Lands Authority informed the Office of the Ombudsman that the complainant is amongst the persons benefitting from the corrective exercise. | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                          | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | STATUS                |
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| Lands Authority       | S 0152                         | Complaint relates to the acquisition of premises under the Sir Sid Darek scheme issued by the Housing Authority. HA would require a clearance for transfer of the said property from the Lands Authority. The Housing Authority claimed that to date they had not received clearance from the Lands Authority. |                                | <p>The Office of the Ombudsman requested feedback on this case from the Lands Authority in December 2018 following which the Ombudsman was informed that the said clearance cannot be issued since firstly it is the Authority's policy not to transfer Government-owned properties in Valletta and Pembroke, the property in question was scheduled, and finally Article 12 of the Sir Sid Darek scheme conditions stipulated that historical properties cannot be sold. The Lands Authority also forwarded to the Office of the Ombudsman the policy's background, together with the relevant information. The Office of the Ombudsman was informed that the policy was in fact a Ministerial Directive and that Housing Authority's officials were informed of such directive.</p> <p>This request was investigated on its own merits prior to the taking of the final decision. It resulted that this block of flats is listed in the list of the Planning Authority Scheduled Properties, and that it is scheduled as Level 1, which is the highest level of protection. Due to this fact, it was decided that this property falls within the category of properties that should be retained by the Government.</p> | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT  | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                                                                                  |
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| <b>Lands Authority</b> | S 0162                         | The Office of the Ombudsman requested Lands Authority to indicate an alternative method of acquisition by the Government with regard to a property which is possessed by Government and where rent is paid to the owner.                                                                                                                                                                                                                                                                                                                                                 | No recommendation              | On 28 <sup>th</sup> September 2018, the Lands Authority informed the Office of the Ombudsman that the applicable article of the law is Article 68 of the Government Lands Act. Following inquiry from MTIP, the Office of the Ombudsman informed that the case has now been closed.                                                                                                                                                                                       | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Lands Authority</b> | S 0178                         | Complaint lodged in connection with property which belonged to the late parent of the complainants. Their late father had entered into a promise of sale agreement with the Housing Authority to reside in such property. However, since land is not yet government-owned, such property cannot be transferred to the complainants. The Housing Authority was informed of this complaint and it advised the Lands Authority that unless and until the expropriation procedure is exhausted, the Housing Authority cannot transfer the said property to the complainants. | No recommendation              | The Office of the Ombudsman requested feedback on this case from the Lands Authority in November 2018 following which the Lands Authority informed that the land where the property is situated, is still in the course of acquisition and that the Lands Authority will be able to transfer the soil area to the Housing Authority when acquisition is finalised.<br><br>The Office of the Ombudsman informed that this case was closed on 13 <sup>th</sup> August 2019. | Closed by the Ombudsman after management replied to one request for information.        |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                  | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | STATUS                                                                           |
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| Lands Authority       | S 0215                         | Complaint concerning a request made by an employee already reporting to work at the Authority's regional office, to the management of the Lands Authority to be able to work 5 days a week within this regional office due to health reasons.                                                                                                                                                                                                                          | No recommendation              | The Office of the Ombudsman requested feedback on this case from the Lands Authority in October 2018. After internal consultation, the Authority concluded that the functions entrusted to the complainant need to be conducted at the Lands Authority's Head Office especially in view of the fact that the regional office includes only three employees, mainly customer-oriented. The complainant's services are thus exclusively required in Malta. Following request for information in October 2018, information was forwarded to Ombudsman in November 2018. Case was consequently closed.                                                                                                                                                                                                                                   | Closed by the Ombudsman after management replied to one request for information. |
| Lands Authority       | S 0232                         | Complaint referring to the acquisition on lease or by outright purchase of a parcel of government land adjoining the complainant's property which had been left abandoned following the demise of its occupiers. The complainants claimed that the Lands Authority never formally replied to their request. Complainants claimed that this land was given to a third party who started developing the land and allegedly building a swimming pool within its confines. |                                | The Office of the Ombudsman requested feedback on this case from the Lands Authority in October 2018 following which the Lands Authority informed that the site was granted on encroachment terms to a third party. The Lands Authority informed the Office of the Ombudsman that encroachment permits are extended on a yearly basis, hence if the complainants are still interested in acquiring the land by lease or outright purchase, they need to make a request via the Lands Authority's website. It is then the Board of Governors of the Lands Authority that takes the final decision with regard to such requests. The Office of the Ombudsman was informed that complainant had submitted another online application through Lands Authority's website, which was consequently forwarded to Ombudsman upon his request. | Pending at Ombudsman.                                                            |



| SECTOR/<br>DEPARTMENT     | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                      | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS                                                                           |
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| <b>Lands Authority</b>    | S 0239                         | Complaint referred to two court cases which were adjudged in favour of the complainant's family and which obliged the Lands Authority to compensate the owners of land which had been expropriated by the Authority. Complainant alleged that the Lands Authority is refusing to pay the interests upon the amount of compensation contrary to what the judgment of the Land Arbitration Board stipulated. | No recommendation              | The Office of the Ombudsman requested feedback on this case from the Lands Authority in December 2018 following which the Board of Governors informed the complainants that they will be paid with interest at the rate of 8% applicable from the date of LAB judgement. Moreover, the Office of the Ombudsman was also informed that the Contracts Section within the Lands Authority made contact with the owners of the land to proceed with the publication of the contract. Case was closed by the Office of the Ombudsman in May 2019. | Closed without recommendation.                                                   |
| <b>Lands Authority</b>    | S 0247                         | Complainant made reference to the alleged improper transfer of a divided portion of Government-owned land to his sibling without the authorisation of the heirs of the late title holder (the parent).                                                                                                                                                                                                     | No recommendation              | The Office of the Ombudsman requested feedback on this case from the Lands Authority in November 2018 following which the Lands Authority informed that the transfer of a divided portion of Government land was made before the late title holder's death. In such case, therefore the signature of the heirs was not necessary. Following an inquiry with Ombudsman's Office it transpired that the complaint was not sustained and thus case was closed.                                                                                  | Closed by the Ombudsman after management replied to one request for information. |
| <b>Planning Authority</b> | S 0027                         | On 31 <sup>st</sup> January 2018 the Ombudsman opened an investigation on alleged failure by the Planning Authority in taking action to stop the illegal destruction of Villa St Ignatius in St Julian's.                                                                                                                                                                                                  | No recommendation              | All requested documentation was forwarded to the Office of the Ombudsman, following which it transpired that the case was closed due to court proceedings instituted by the complainant.                                                                                                                                                                                                                                                                                                                                                     | Closed without recommendation.                                                   |

| SECTOR/<br>DEPARTMENT         | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                       | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                             | STATUS                         |
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| <b>Planning<br/>Authority</b> | S 0053                         | On 2 <sup>nd</sup> March 2018, the Ombudsman requested the Commissioner for Environment and Planning and the Commissioner for Health to start an investigation in connection with emergency access involving individuals who reside in medium-rise and high buildings and who would need medical attention. | No recommendation              | Following communication with the Commissioner, it was agreed that this case is not within the remit of the Planning Authority and should thus be referred to the Health Authorities.                                                                                                                                                                                                           | Closed without recommendation. |
| <b>Transport Malta</b>        | S 0030                         | Complaint regarding the inaction of TM to place a sleeping policeman in a street in Rabat. The dangerous passage of vehicles, especially trucks, compelled the complainant to complain with TM and Rabat Local Council.                                                                                     |                                | In July 2018 the Office of the Ombudsman requested information regarding this case following which there is ongoing communication between Ombudsman and Ministry. Infrastructure Malta has in this regard written to TM and Ombudsman informing that IM architects will go ahead with the construction of the humped zebra crossing, which is planned to be completed by end of November 2019. | Pending at Ministry.           |

| SECTOR/<br>DEPARTMENT  | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                       | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS                         |
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| <b>Transport Malta</b> | S 0045                         | Complaint received from the owner of a lotto booth situated in Valletta. Complainant is complaining that as an authorised lotto receiver he is entitled to reserved parking.                                                | No recommendation              | Complainant informed that a reserved parking bay was previously in place, but this was painted over. The Ombudsman contacted the Valletta Local Council who informed that requests for reserved parking are handled by Transport Authority. The complainant is alleging that there is an agreement between the Authority and Lotto Receivers Union which guarantees a parking place for security reasons. His appeals to the Authority has allegedly led nowhere, and he was informed that the parking place was withdrawn due to abusive use.<br><br>TM, after consultation with the Office of the Ombudsman, agreed to rectify the situation in favour of the complainant. | Closed without recommendation. |
| <b>Transport Malta</b> | S 0089                         | Complaint by a pensioner, who is a blue badge holder stating that the Review Panel for Reserved Parking acceded to his request for a parking bay however he received a letter from TM stating that his request was refused. | No recommendation              | TM informed the Office of the Ombudsman that complainant in question was seen walking without aid and that the medical certificate was issued by a relative.<br><br>The complainant informed the Office of the Ombudsman that the parking bay was painted on 8 <sup>th</sup> October 2018. As the matter is now resolved, the Office of the Ombudsman closed the case.                                                                                                                                                                                                                                                                                                       | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT  | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | STATUS                                                                           |
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| <b>Transport Malta</b> | S 0093                         | Complainant is alleging that he had returned his driving licence at a regional office in April 2016 and that his driving instructor had been informed by an official of the said regional office that the document had been misplaced by that office.                                                                                                                                                                                                                                                                                                   | No recommendation              | Upon investigating the matter it transpired that the complainant had returned his driving licence at the regional office and consequently informed Transport Malta that he would (voluntary) wait for 6 months before re-applying for his driving licence. The Office of the Ombudsman was informed about this and also that complainant lost his driving licence due to accumulation of penalty points and thus, the regional office requested that he returns his driving licence. Case was closed by Ombudsman in May 2018.                                                                                                                                                                                                                                                                           | Closed without recommendation.                                                   |
| <b>Transport Malta</b> | S 0095                         | Complaint is mainly directed at the Public Transport Services Limited, the company which provides bus transport. Complainant states that he suffered injuries caused by the sudden braking of a bus. Complainant informed that the bus driver was acquitted. This accident has inflicted pain, discomfort and medical expenses which the complainant's family are trying to resolve with the bus company. It was being queried whether Transport Malta has some policy, programme or sanction which safeguards passengers who are hurt on public buses. | No recommendation              | The contract between Transport Malta and Malta Public Transport specifies that the Operator must have an insurance policy to cover, amongst other matters, such instances. The Office of the Ombudsman was informed that TM supervises the execution of the contract regulating the scheduled public transport service as prescribed in the contract of service between Malta Public Transport and Transport Malta. This, very broadly, includes but is not limited to the actual provision of the service as scheduled and that vehicles used on the service are in a good state of repair. Furthermore the contract provides for third party liability in relation to passengers whilst travelling on a scheduled public transport vehicle. Case was closed by Ombudsman on 6 <sup>th</sup> July 2018. | Closed by the Ombudsman after management replied to one request for information. |

| SECTOR/<br>DEPARTMENT  | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                          | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS                                                                                  |
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| <b>Transport Malta</b> | S 0187                         | Complaint concerning the payment of a 'road tax' (meaning the yearly vehicle licence).<br>Complainant alleges that this is exorbitant when compared to the minimal amount charged for other large vehicles imported from the United States (referring to vintage vehicles from USA which pay the €8 p.a. vintage licence fee). | No recommendation              | Transport Malta informed the Office of the Ombudsman that the annual circulation licence fees differ according to the vehicle classifications and vehicle categories.<br>The vehicle in question mentioned by complainant is not a vintage car and hence the annual licence fee is calculated on the CO <sup>2</sup> emissions, Euro standard and age, and that the country of importation does not make a difference with regard to the calculation of the annual licence fee. Case closed by the Office of the Ombudsman on 30 <sup>th</sup> November 2018. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Transport Malta</b> | S 0189                         | Complainant claiming that the decision not to include a reserved parking bay was unjust.                                                                                                                                                                                                                                       | No recommendation              | Through communication between Transport Malta and the Office of the Ombudsman it was agreed that the complainant ought to apply again since there was an updated change in policy during 2018. The Office of the Ombudsman informed that the new policy is good and that it ought to be communicated further to the public.<br><br>The Office of the Ombudsman closed the case since the complainant had passed away.                                                                                                                                         | Closed, case withdrawn by the Office of the Ombudsman.                                  |
| <b>Transport Malta</b> | S 0249                         | Complaint lodged in view of damages sustained whilst driving in a road in Birkirkara.                                                                                                                                                                                                                                          | No recommendation              | Following query by Ombudsman dated 25 <sup>th</sup> January 2019, TM informed the Office of the Ombudsman that the said road falls under the remit of Infrastructure Malta. On the other hand, Infrastructure Malta replied that due to the fact that the road was in the Mrieħel Industrial Estate, it falls under the remit of Malta Industrial Parks.                                                                                                                                                                                                      | Closed without recommendation.                                                          |

| SECTOR/<br>DEPARTMENT  | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                              | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | STATUS               |
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| <b>Transport Malta</b> | S 0250                         | Complaint concerning the Humanitarian Pilots Initiative Foundation. Complainants maintain that the Directorate had not provided a justification for its decision that they would no longer be allowed to enter the Flight Information Region of Libya and further alleged, that the Directorate had acted abusively and in an arbitrary manner as the decision was not based on any local or international applicable legislation. |                                | Case is being discussed internally to find the best way forward for a smooth closure. The Office of the Ombudsman is being kept in copy and attending meetings with regard to this case.                                                                                                                                                                                                                                                                                                                                                                    | Pending at Ministry. |
| <b>Transport Malta</b> | S 0282                         | Complainant claiming that due to a take-away outlet in Kalkara, double parking has become a constant problem when clients stop in the two-way street to collect their orders and thus, suggested the fixing of bollards in this area.                                                                                                                                                                                              |                                | The Office of the Ombudsman was informed that TM had discussed this matter with the Safety Audit Department and concluded that bollards cannot be fixed as these would be dangerous to buses and heavy vehicles. However, they have come up with a temporary measure for the area which includes cat eyes in the middle of the road and a road hump which will be installed by TMRSD. It was highlighted again that the area needs to be monitored by Community Officers. The Office of the Ombudsman informed TM that complaint has been referred to LESA. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT  | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                      | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                         |
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| <b>Transport Malta</b> | S 0294                         | Complainant stating that on 31 <sup>st</sup> October 2018 he had sent a registered letter to TM regarding the removal of yellow lines in front of a garage in his street and never received a reply or an acknowledgement. |                                | On 7 <sup>th</sup> May 2019 TM informed the Office of the Ombudsman that according to policy there should be double yellow lines around the corner up to but not in front of the said garage, and then another 1m double yellow lines on the other side of the garage, but these had been removed by the Local Council. The Ombudsman's Office wrote directly to the Local Council involved and to MJCL to take the necessary action. | Pending at Ombudsman.          |
| <b>Transport Malta</b> | S 0300                         | Complainant stating that on 8 <sup>th</sup> November 2018 he wrote to TM alleging that he was treated badly by two TM employees but received no reply or acknowledgement for his letter.                                   | No recommendation              | TM wrote to complainant for any delay, frustration or inconvenience which he might have experienced when visiting TM offices and thanked the complainant for his comments, suggestions and recommendations. The Office of the Ombudsman was informed about this communication and closed the case.                                                                                                                                    | Closed without recommendation. |





FOLLOW-UP ON PRE-2018 CASES  
(ALL MINISTRIES)

| SECTOR/<br>DEPARTMENT               | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                   | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                                                                                                            | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                                                                           | STATUS LAST<br>YEAR                            |
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| Office of the<br>Prime Minister     | R 0010                         | The complainant, whose detailing with an agency was revoked, claimed that he was entitled to the arrears as provided in the Agency Collective Agreement for the period he was detailed with the entity. | The complainant should not be penalised because he ceased to be detailed with the agency to pursue another appointment with the Public Service, and therefore he should be paid the arrears as provided in the agreement. | The reply provided by P&SD was as follows - the date when the agreement was signed occurred after the revocation of the detailing and, as such, the officer was no longer performing duties with the agency. The date of signing of the agreement was the cut-off date and therefore the officer could not benefit from the agreement. Moreover, the administration was keeping in mind that awarding arrears to employees whose detailing had been revoked prior to the signing of the agreement could potentially result in claims not just from this agency but from across the public administration. | Closed by the Ombudsman after management replied to one request for information. | Closed and re-com-mendation not accepted.      |
| People and<br>Standards<br>Division | R 0250                         | The complainant asked the Office of the Ombudsman to investigate a revocation of detailing which resulted in a loss in salary.                                                                          |                                                                                                                                                                                                                           | The Ombudsman requested the views of P&SD. P&SD replied that the conditions of public officers detailed with public entities are governed by the provisions of the respective manual. A public officer reverting back to the public service will do so with the same conditions as when the detailing occurred. This means that the pay package and other conditions acquired from the agency cannot be retained.                                                                                                                                                                                         | Suspended due to referral to Grievances Board/ EPRT Tribunal.                    | Suspended due to referral to Grievances Board. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                           | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | STATUS                         | STATUS LAST<br>YEAR   |
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| <b>Identity Malta</b> | R 0326                         | A complaint lodged regarding an application for the issue of a working visa which was still pending after 146 days.                             |                                | The complainant had actually applied for an employment licence directly at Jobsplus. Therefore, before he could apply for a residence permit with Identity Malta, he had to be in possession of an employment licence issued by Jobsplus. Identity Malta was made aware about this issue when the complainant had already exhausted his original authorisation period to stay in Malta, and therefore he was in Malta illegally. In February 2018, Identity Malta replied to the Office of the Ombudsman informing it of all the above. A meeting involving Identity Malta, the Office of the Ombudsman, Jobsplus, and the Immigration Police consequently took place in May 2018. | Pending at Ombudsman.          | Pending at Ombudsman. |
| <b>Identity Malta</b> | R 0058                         | The complainant claimed that since he was not issued with a residence permit, he was unable to verify if he was eligible for a Maltese pension. | No recommendation              | Following receipt of the complaint from the Office of the Ombudsman, Identity Malta inquired with the MFCS to verify whether the subject needed a residence document to verify his eligibility for a pension. The MFCS confirmed that the complainant did not need to present a residence document in order to check his eligibility for a pension. The Office of the Ombudsman was informed accordingly.                                                                                                                                                                                                                                                                          | Closed without recommendation. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | STATUS                | STATUS LAST<br>YEAR   |
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| Identity Malta        | R 0195                         | A complaint by an EU citizen on behalf of his partner alleging an injustice in the application of Directive 2004/38 on the freedom of movement of EU nationals and members of their family. It was claimed that his relationship with a third country national outside the European Union is depriving his partner of legitimate rights and is causing prejudice even with respect to an indefinite work permit and to foster a stable family relationship with him. The complainant insisted that being an EU national residing in Malta entitled his partner to all EU family membership rights. |                                | <p>The Ombudsman requested IMA views on the matter and any documents related to the case.</p> <p>IMA replied to the Ombudsman that the request for admittance and residence of the complainant's partner cannot be considered under the provisions of Directive 2004/38, which were transposed into the Maltese Legislation by SL 460.17-Free Movement of European Nationals and their Family Members Order. IMA submitted links to documents in its reply to the Ombudsman to show that the request can only be considered under national legislation and policies.</p> <p>A meeting between IMA and the Office of the Ombudsman was held in May 2019 following which the case is still pending at the Ombudsman.</p> | Pending at Ombudsman. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT                             | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                    | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                     | STATUS                                 | STATUS LAST<br>YEAR   |
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| <b>Malta Financial<br/>Services<br/>Authority</b> | Q 0231                         | A complaint with regard to an ETC public call by MFSA. The complainant alleged that the procedure followed during the selection process was unjust, and in certain aspects discriminatory. It was further claimed that the selection process lacked transparency, was totally subjective, in breach of the guidelines issued by PAHRO, and not in line with the best practices applicable in such cases. | The Ombudsman recommended that the authority must ensure that (i) prior to the selection processes, all grades are assessed on the basis of criteria and/or sub-criteria together with the respective weightings to ensure transparency; (ii) eligibility criteria should be clearly defined and that the wording of calls for applications leaves no room for doubt as to whether a candidate is eligible or otherwise and (iii) that when appeals are filed with the authority in connection with the selection processes, the Board of Governors should appoint independent members who are not involved in the selection process. | This case was investigated in 2018 and there were multiple communications between the MFSA and the Office of the Ombudsman. The authority has amended eligibility criteria in order to ensure clarity and transparency regarding candidates' eligibility for a particular vacancy and will implement procedures for appeals to be conducted by independent members not involved in the selection process. | Closed and recommendation implemented. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT   | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                            | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                                                                  | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                | STATUS LAST<br>YEAR   |
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| Education<br>Department | Q 0001                         | Complaint by two co-ordinators contesting the decision not to be awarded a qualification allowance.                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                 | MEDE put forward a number of reasons for not approving their Qualification Allowance.<br><br>The Office of the Ombudsman requested a number of documents, including personal files. The Ministry provided the aforesaid office with such documents for further investigation. In June 2019, the Office of the Ombudsman informed MEDE that the investigation has been concluded and that they are currently reviewing all information and documentation they have in hand prior to making a decision.                                        | Pending at Ombudsman. | Pending at Ombudsman. |
| Education<br>Department | R 0055/<br>R 0063              | The cases concerned the appointment of a number of officers in technical grades after a call for applications issued in 2012/13. A number of officers 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 are to be appointed officers-in-scale. This prompted the group who were promoted through the interview to complain that it was | The Ombudsman has so far suggested (verbally) that MEDE issue a job description for the officers in scale and try and assimilate as many of these instead of issuing new calls. | On 26 <sup>th</sup> July 2019, MEDE provided the Office of the Ombudsman with a copy of the job description that will be sent to officers in scale 11 and 12 in mid-September 2019.<br>This is a very complicated case. Neither side is ready to accept that everyone suffered a degree of injustice and therefore deserve a degree of compensation. Suggestions made by MEDE were not accepted by the complainants.<br><br>Various meetings were held with staff from the Ombudsman's Office and by the Ombudsman's staff with both groups. | Pending at Ombudsman. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                               | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                | STATUS LAST<br>YEAR   |
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|                       |                                | not fair that the others are now being paid the same salary with different responsibilities and that the others were given the salary backdated when they were not performing the duties of the scale now given.                                                                                                                                                                                                                                                                    |                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                       |                       |
| <b>Jobsplus</b>       | R 0326                         | Jobsplus received an application for a temporary permit. At the time of application, the applicant was still within the 90-day entry visa and the application was accepted. However, on 31 <sup>st</sup> August, Jobsplus received communication from the Police Immigration Office requesting an interim authorisation confirming that the applicant was in Malta legally. The client failed to obtain an interim authorisation from Identity Malta after his 90-day stay expired. |                                | Representatives from various entities attended a meeting at the Office of the Ombudsman.<br><br>There is ongoing correspondence between the Office of the Ombudsman, Jobsplus and Identity Malta. In August 2018, Jobsplus furnished the Office of the Ombudsman with information including timelines concerning the complainant's application for an Employment Licence. Jobsplus had clearly explained to the client that it was his responsibility to ensure that his stay in Malta was legal and that Jobsplus is not the entity responsible for issuing Interim Residence Permits. As regards the application for the issuing of a licence, this is still pending, awaiting security clearance from the police. Last communication was from Jobsplus to the Office of the Ombudsman in August 2018. | Pending at Ombudsman. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT                                                   | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                         | STATUS LAST<br>YEAR   |
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| <b>National<br/>Commission<br/>for Further and<br/>Higher Education</b> | R 0070                         | A complaint regarding the selection process for the position of head.                                                                                                                                                                                                                | No recommendation              | The Office of the Ombudsman requested information from the complainant but no further feedback was provided. Accordingly, the Office of the Ombudsman informed the complainant that the case is closed. No action was required by NCFHE.                                                                                                                                                                                 | Closed without recommendation. | Pending at Ombudsman. |
| <b>National<br/>Commission<br/>for Further and<br/>Higher Education</b> | R 0202                         | The complainant argued that a course he has undertaken was not issued with the appropriate certificates.                                                                                                                                                                             | No recommendation              | After discussions between NCFHE and the Department for Lifelong Learning, the complainant was awarded a new certificate that is accredited to date.<br><br>The Office of the Ombudsman did not put forward any recommendations. There is no remedy which can be recommended because the course is no longer being offered. The Office of the Ombudsman was informed regarding the closure of the case in September 2019. | Closed without recommendation. | Pending at Ombudsman. |
| <b>SportMalta</b>                                                       | Q 0150                         | A senior employee at SportMalta claimed that his duties were a level above his grade. He stated that he was promised a promotion which never materialised. After the restructuring of SportMalta in 2017, the complainant was promoted, however he is still asking for compensation. |                                | The Office of the Ombudsman requested MEDE's views regarding this complaint following which MEDE forwarded feedback to Ombudsman.                                                                                                                                                                                                                                                                                        | Pending at Ombudsman.          | Pending at Ombudsman. |



| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                 | STATUS                         | STATUS LAST<br>YEAR  |
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| <b>ARMS</b>           | R 0110                         | A complaint concerning the payment of arrears and applicable fees by owners of a premises in which the account was registered in the name of a client who is now deceased. The complainants contested the payment of arrears and applicable fees due by the previous owner. The client's son occupied the premises without a valid title at law and the owners proceeded with the eviction and managed to obtain a favourable decision which was then confirmed on appeal. The owners have now submitted a request for electricity and water supply. | No recommendation              | Dues have been settled by previous owner and transfer of account onto complainants was effected accordingly.                                                                                                                          | Closed without recommendation. | Pending at Ministry. |
| <b>ARMS</b>           | R 0209                         | A complaint concerning contestation of charges raised due to a missing electricity meter.                                                                                                                                                                                                                                                                                                                                                                                                                                                            | No recommendation              | The missing meter charges were raised by Enemalta. A reply was issued by Enemalta in which they reiterated that, in this case, the missing meter charge of €1,500.00 applies. No further action was required and the case was closed. | Closed without recommendation. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT                          | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                              | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                   | STATUS                           | STATUS LAST<br>YEAR   |
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| <b>ARMS</b>                                    | R 0331                         | The complaint concerned a missing water meter.                                                                                                     | No recommendation              | Related case has been discussed with WSC. Since it has been confirmed that no removal application had ever been submitted and in accordance with S.L. 545.03, the missing meter charge of €1,500.00 has been raised on account accordingly. The consumer has been informed that this decision is final. | Closed without recommendation.   | Pending at Ministry   |
| <b>Engineering Resources Ltd</b>               | R 0119                         | A complaint from an applicant who applied for a higher position who contested the mark allocated in an interview as the pass mark was not reached. |                                | In a letter dated 4 <sup>th</sup> April 2019, the Office of the Ombudsman concluded that there was not enough evidence to sustain the claim and hence the case was closed.                                                                                                                              | Closed and recommendation noted. | Pending at Ombudsman. |
| <b>Regulator for Energy and Water Services</b> | R 0272                         | A complaint contesting the non-approval of a grant for a PV system.                                                                                | No recommendation              | The management replied to the Office of the Ombudsman on 6 <sup>th</sup> March 2018, noting that there is no justifiable reason to reverse the rejection of the applicant's claim for payment of the grant.<br><br>No further action was required.                                                      | Closed without recommendation.   | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                         | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                  | STATUS                | STATUS LAST<br>YEAR   |
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| NCPE                             | Q 0025                         | The complainant filed a complaint with the Office of the Ombudsman after he had already referred his case to NCPE who had provided a decision in 2015 with which the complainant did not agree. This case arose after the complainant was not allowed to be deployed to a foreign posting.    |                                | NCPE provided feedback to the Ombudsman in 2016 and since then case is still open. Feedback from the Ombudsman was provided on 1 <sup>st</sup> August 2019 indicating that they are in the process of drafting a final opinion.                        | Pending at Ombudsman. | Pending at Ombudsman. |
| European Affairs<br>and Equality | R 0130                         | The complainant claimed that an extension of the previous conditions of service onto a new higher position was not consonant with the conditions of services of this new appointment, and that this amounted to discriminatory treatment.                                                     |                                | Feedback was sent by both Permanent Secretaries (MEAE) to the Office of the Ombudsman in September 2019 in reply to the Ombudsman's letter of July 2019. The complainant's personal file was provided to Ombudsman in September 2019.                  | Pending at Ombudsman. | Case Pending.         |
| European Affairs<br>and Equality | R 0284                         | A complaint lodged by a public officer who was transferred from one ministry to another with immediate effect. The transfer was never discussed with the complainant and no reasons for the sudden change were given. The complainant contends that the transfer was unreasonable and unfair. |                                | The Ministry provided a management letter to the Ombudsman's Office with an explanation in relation to HR requirements for people working on EU funds-related issues.<br><br>A personal file was provided to the Ombudsman's Office in September 2019. | Pending at Ombudsman. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | STATUS                         | STATUS LAST<br>YEAR   |
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| Department of<br>Social Security | R 0213                         | The Ombudsman did not initiate a formal investigation on this case, as this complaint concerns an alleged grievance, namely an event that happened 24 years ago with regard to a contributory pension.                                                                                                                                                                                                                                                                                                                                                                   | No recommendation              | <p>The Ombudsman requested the DSS's guidance on whether the complainant's parents could be entitled to a contributory pension.</p> <p>The DSS investigated the case and it transpired that the parent has been receiving a widow's pension since 2016. It also resulted from the NI records and employment records that the parent could never have qualified for a contributory pension on reaching age 60.</p>                                                                                                                                                                                                                                                                             | Closed without recommendation. | Pending at Ombudsman. |
| Department of<br>Social Security | R 0231                         | A complaint regarding the contributory old-age pension. Complainant alleged that the National Insurance contributions for the years spent in gainful occupation until 1985 were not being considered. The complainant further alleged that only the National Insurance contributions credited to him are those pertaining to years 1995 to 2001 when he was receiving a Carer's Allowance for taking care of a parent. Following the parent's death, the complainant started receiving a non-contributory pension. However, the amount received is also being contested. |                                | <p>The Ombudsman requested the comments of the Permanent Secretary about this complaint, together with any documents related to this matter. He also asked whether the complainant could benefit from Section 126 of the Social Security Act.</p> <p>Following the first reply by the Permanent Secretary in October 2017, the Ombudsman presented further allegations from the complainant and requested that, in line with Section 19 of the Ombudsman Act, any file, documentation, and investigation papers in the claimant's name be sent to his Office. Files were referred on 17<sup>th</sup> November 2017 as requested. On 17<sup>th</sup> April 2018, the Ombudsman requested a</p> | Pending at Ombudsman.          | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                        | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS                | STATUS LAST<br>YEAR   |
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|                       |                                |                                                                                                                                                              |                                | <p>meeting with the Director, Non-Contributory Benefits, to further discuss this complaint. The meeting was held on 24<sup>th</sup> April 2018 and nothing has been received from the Ombudsman since.</p> <p>In its reply to the Ombudsman, the DSS explained in great detail the possible permutations under contributory and non-contributory pension entitlement that the complainant could benefit from. The provisions of Section 126 of the Social Security Act do not apply in this case.</p> <p>The conclusion is that, with or without the contributory pension, the complainant would still get the same pension.</p> |                       |                       |
| <b>FSWS</b>           | R 0225                         | A client who was undergoing a rehabilitation programme for a dependency claimed discrimination when discharged from the programme as a disciplinary measure. |                                | <p>On 27<sup>th</sup> June 2018, the Ombudsman requested further contact details of individuals who were undergoing a rehabilitation programme. Information requested was given in emails dated 3rd July 2018 and 9<sup>th</sup> July 2018 respectively. Following further investigation, the Ministry forwarded feedback to Office of the Ombudsman in April 2019. No reply has yet been received.</p>                                                                                                                                                                                                                          | Pending at Ombudsman. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                | RECOMMENDATION BY<br>OMBUDSMAN                                                                          | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                         | STATUS                | STATUS LAST<br>YEAR  |
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| Housing<br>Authority  | P 0161                         | The complainant, who lives in sub-standard housing in Valletta, requested alternative accommodation. | The Office of the Ombudsman recommended that the complainant should be given alternative accommodation. | The HA carried out the necessary evaluation, including a social assessment, and it was confirmed that this was a deserving case. The complainant was allocated a property in Mrieħel but he refused to take it. The complainant's application for social accommodation is still pending. The Office of the Ombudsman was informed that complainant refused the allocated property even though this property was in good condition and suitable for his needs. | Pending at Ombudsman. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                  | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                             | STATUS                                 | STATUS LAST<br>YEAR   |
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| Housing<br>Authority  | R 0049                         | Complaint by owner that the property was not built according to the plans provided by the HA. When the project was finalised, the HA did not apply with the then MEPA to update plans. | On 27 <sup>th</sup> May 2019, the Ombudsman issued the following final recommendations:<br><i>'Fid-dawl ta' dak spjegat, u tenut kont tat-trapass taż-żmien u tal-fatt li sal-lum il-complainants għadhom ma applikawx sabiex isir is-sanzjonar neccessarju u jiminimizzaw l-ispejjeż involuti, dan l-Uffiċċju huwa tal-fehma li jkun gust u ekwu li l-Awtorità tirrifondi lill-complainants nofs l-ispejjeż, wara li l-complainants jipprezentaw l-irċevuti tal-ispejjeż inkorsi. Il-complainants għandhom jiehdu hsieb li l-applikazzjoni neccessarja ssir fi żmien sitt xhur mid-data ta' dan ir-rapport.'</i><br><br>The Ombudsman requested to be informed by 27 <sup>th</sup> June 2019 of the action the HA intends to take in line with his recommendations. | In January 2017, the Housing Authority informed the Ombudsman that since the sale was made tale quale, the beneficiaries had the opportunity to view and also had the option of not buying the property.<br><br>Following the issuance of the Ombudsman's Final Opinion on 23 <sup>rd</sup> July 2019, the HA informed the Ombudsman and the complainants that it was going to adhere to the Ombudsman's recommendations in full. | Closed and recommendation implemented. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                    | STATUS                | STATUS LAST<br>YEAR  |
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| Housing<br>Authority  | R 0248                         | A complaint lodged by a client who benefitted from a shared ownership scheme, specifically on the valuation regarding rescission of contract. Clients have the right emanating from the contract to sell back their share of the property to the HA. The Housing Authority then appoints its architect to carry out a valuation of the share to be returned, together with a valuation of the works carried out in the property. The complainants did not agree with this valuation. |                                | The estimates were carried out as per contract requirements and valuations indicated in the same contract of sale. The Office of the Ombudsman was informed accordingly. | Pending at Ombudsman. | Pending at Ministry. |



| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                               | RECOMMENDATION BY<br>OMBUDSMAN                                                                                   | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | STATUS                                 | STATUS LAST<br>YEAR   |
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| <b>Finance</b>        | R 0283                         | Collision between complainant and uninsured government vehicle (which nonetheless remains covered by the agreement between the Malta Insurance Bureau on behalf of the Protection and Compensation Fund). AFM are contesting liability and the complainant is demanding compensation through his insurance company. | The Ombudsman is of the opinion that this current set-up is unfairly complicated and leads to multiple expenses. | <p>The complainant's claim, regarding a collision with an AFM vehicle, was sent by the Malta Insurance Bureau on behalf of the Protection and Compensation Fund to MFIN. Each time a claim is lodged with the MIB against the government in connection with such vehicles, MFIN is notified and forwards such notice to the department owning the vehicle. In this case, AFM initially refused to accept liability but subsequently accepted the fault, and the amount due in repair damages was suppressed from the AFM vote.</p> <p>In this regard, in connection with this Ombudsman's opinion concerning the current set-up, a new improved agreement concerning government-exempt vehicles is currently in the pipeline but not yet finalised.</p> | Closed and recommendation implemented. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT                             | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                           | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | STATUS                              | STATUS LAST<br>YEAR                 |
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| <b>Commissioner<br/>for Revenue<br/>(Customs)</b> | O 0339                         | The complainant is one of three company directors who were found to be in possession of alcoholic consignments on which neither VAT nor excise duty had been paid. The complainant was then refused an importation licence on the basis that he and the other two company directors did not pass the 'fit and proper test' as defined by the Customs Ordinance. |                                | When the taxable imported goods were seized by Customs officials via the relevant seizure notes, the complainant chose to settle out of court by signing an agreement to admit to the non-payment of tax and to settle that same tax due. However, such an incident made complainant fail the definition of the 'fit and proper' test as defined by the Customs Ordinance. This resulted in a refusal by the Customs Department to grant a further importation licence to complainant.<br><br>The case is still pending due to court proceedings. | Suspended due to court proceedings. | Suspended due to court proceedings. |
| <b>Commissioner<br/>for Revenue<br/>(VAT)</b>     | P 0009                         | Complaint lodged in 2014 by a person who applied for a position within the VAT Department. The complainant requested an explanation of the result due to non-selection.                                                                                                                                                                                         | No recommendation              | The complainant was provided with an explanation of the result and a breakdown of how marks were given during the selection process. The selection process in question, like other calls issued, had a set of defined pre-requisites against which applicants were assessed and marked accordingly. The complainant was not selected and requested an explanation of how he was assessed during the selection. The chairman of the selection board provided an explanation of the results.                                                        | Closed without recommendation.      | Pending at Ombudsman.               |

| SECTOR/<br>DEPARTMENT                | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                       | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS                | STATUS LAST<br>YEAR   |
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| Commissioner<br>for Revenue<br>(VAT) | R 0103                         | The complainant is an undertaking of imported products that were classified under one particular NACE code. The undertaking feels that these products could be classified under a different NACE code which does not incur tax. The undertaking's request to be reimbursed tax was refused. |                                | ECO-tax is assessed through the taxpayer's self-declaration, whereby the HS (NACE) code relevant to a product on which tax is due is specified on the relevant forms. In this case, the taxpayer indicated a given HS (NACE) code and even provided documentation which supports the fact that these products may be classified under this HS (NACE) code. After a significant lapse of time after the self-declaration was made and the tax paid, the taxpayer was informed that these products could possibly be classified under a different HS (NACE) code. A taxpayer who is unsure what HS (NACE) code to assign to a product may request a ruling by the Customs Department which has the facility of scientifically inspecting each product and determining the correct HS (NACE). The ensuing Binding Tariff Information (BTI) is valid across the EU and will remain valid for a certain period of time to ensure certainty for the importer. In this case, a BTI was not obtained by the taxpayer and the taxpayer provided no evidence confirming the claim that the products were classified under this HS (NACE) Code erroneously. | Pending at Ombudsman. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT                         | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                               | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | STATUS                | STATUS LAST<br>YEAR   |
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|                                               |                                |                                                                                                                                                                                                                                                                                                                                                                                                     |                                | The VAT Department informed that the classification of NACE codes is carried out by the Customs Office within the Commissioner for Revenue. To date, no hard evidence was brought showing that these products could be classified under a different NACE code.                                                                                                                                                                                                                                                                                                                                                                                     |                       |                       |
| <b>Commissioner<br/>for Revenue<br/>(VAT)</b> | R 0229                         | Complaint by an undertaking alleging that it was wrongfully treated by the VAT Department when it insisted that the directors of a foreign company, who applied for registration, had to be present in person. However, the Cfr (VAT) Department did not require that the directors of another company to be present in Malta when the latter applied for VAT registration under the same criteria. |                                | The complainant wished to obtain a VAT registration number on behalf of its client, in terms of Articles 10 to 17 of the VAT Act. The complainant made reference to another case of another undertaking known to have obtained the same registration without its foreign clients being present. This is because the latter company presented all documentation—including the power of attorney—required by the registration process, whilst the complainant failed to provide all necessary documentation. On 9th April 2019, the Ombudsman Office requested feedback for a number of clarifications, a reply for which was sent on 14th May 2019. | Pending at Ombudsman. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT                                    | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                     | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                   | STATUS                                                                                  | STATUS LAST<br>YEAR   |
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| <b>Commissioner<br/>for Revenue<br/>(Inland Revenue)</b> | R 0236                         | Complaint arising from a refund due from the International Tax Unit, which was not issued to the company. |                                | <p>Although the complainant satisfied the criteria, no refund was due since this was absorbed by interest generated after non-payment by the company of taxes due (offsetting).</p> <p>The complainant and CfR signed an offsetting agreement. No further investigation was needed and the case was closed by Ombudsman in July 2019.</p>                                               | Closed by the Ombudsman after management replied to <u>one</u> request for information. | Pending at Ombudsman. |
| <b>Commissioner<br/>for Revenue<br/>(Inland Revenue)</b> | R 0237                         | Complaint arising from a refund due by the International Tax Unit, which was not issued to the company.   |                                | <p>Refunds are due to the shareholders of the company and not to the company. The company cannot rely on such refunds to pay tax due as the company and its shareholders are two separate legal entities. Furthermore, the refund was not due as such amount has been absorbed by interest generated after lack of payment (offsetting).</p> <p>The investigation is still ongoing.</p> | Pending at Ombudsman.                                                                   | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT                                    | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | STATUS                | STATUS LAST<br>YEAR   |
|----------------------------------------------------------|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|
| <b>Commissioner<br/>for Revenue<br/>(Inland Revenue)</b> | R 0258                         | Claim of capital losses<br>against employment<br>income.                                                                                                                                                                                                                                                                             |                                | The CfR explained to the Ombudsman that capital allowances may be claimed only against the relative business income. Therefore, a number of losses claimed were not allowable. This resulted in tax due [including additional tax and interest]. Article 5 (10) of the Income Tax Act specifies that there is an upper limit to the number of allowances that may be claimed against earnings derived from an undertaking. The complainant made claims in excess of what is lawfully allowed, and incurred tax and interest from non-payment. | Pending at Ombudsman. | Pending at Ombudsman. |
| <b>Foreign Affairs<br/>and Trade<br/>Promotion</b>       | R 0211                         | Complaint by an officer who was not appointed to a higher position following a call for applications in which the preceding candidate was appointed and took up duties elsewhere. Furthermore, the complainant claimed that despite continuing to carry out the duties of this higher position, no deputising allowance was awarded. |                                | MFTP informed the Office of the Ombudsman that it made a request to P&SD for the complainant to be appointed on a back-to back basis, which was not approved as it did not conform with the applicable Manual and with P&SD Circular No. 05/2017 and, therefore, such a request could not be acceded to. The Ombudsman requested documentation, and this was submitted on 14 <sup>th</sup> March 2018.<br><br>In the meantime, and in parallel with the Ombudsman's proceedings, MFTP submitted a request for a deputising                    | Pending at Ombudsman. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                               | RECOMMENDATION BY<br>OMBUDSMAN                                                       | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                              | STATUS LAST<br>YEAR                 |
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|                       |                                |                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                      | allowance in November 2018, which was acceded to as from 18th December 2018 for a period of 6 months or until the position is filled. Nevertheless, a subsequent request for P&SD reconsideration for a deputising allowance since 1 <sup>st</sup> April 2017 has been submitted in view of the complainant's assertions (with which MFTP agrees). This deputising allowance has not yet been granted. The officer has in the meantime moved to another section within the Directorate.                                   |                                     |                                     |
| <b>Gozo Affairs</b>   | R 0099                         | Complaint by an employee who felt aggrieved after missing out on a promotion for a particular position. Sometime after the publication of the interview results, two officers were transferred on a temporary basis to fill in vacancies in the grade for which the complainant had applied. The complainant claimed that he should have been promoted to fill the vacancy instead of such temporary redeployments. | The Ombudsman recommended MGOZ to review the case with the aim of providing redress. | MGOZ could not implement the Ombudsman's recommendation since there were no vacancies for the position in question. Two other officers in this grade were moved temporarily to the site where the complainant had applied for due to the seasonality of their work, and in accordance with the principle of flexibility of employees and exigencies of the service.<br><br>The complainant filed a judicial protest and the case is now suspended due to court proceedings.<br><br>Awaiting outcome of court proceedings. | Suspended due to Court proceedings. | Suspended due to Court proceedings. |

| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                  | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS | STATUS                | STATUS LAST<br>YEAR   |
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| <b>Armed Forces of<br/>Malta</b> | N 0272                         | A senior officer complained that he was passed over for promotion to a higher rank by individuals who were less qualified, less experienced, and less senior.                                                                          |                                | Pending investigation outcome.        | Pending at Ombudsman. | Pending at Ombudsman. |
| <b>Armed Forces of<br/>Malta</b> | N 0296                         | A senior officer complained that he was passed over for promotion to a higher rank by individuals who, in his view, had lower professional and academic qualifications and who were less qualified, less experienced, and less senior. |                                | Pending investigation outcome.        | Pending at Ombudsman. | Pending at Ombudsman. |
| <b>Armed Forces of<br/>Malta</b> | N 0307                         | A senior officer complained that he was passed over for promotion to a higher rank by individuals who were less qualified, less experienced, and less senior.                                                                          |                                | Pending investigation outcome.        | Pending at Ombudsman. | Pending at Ombudsman. |
| <b>Armed Forces of<br/>Malta</b> | N 0310                         | A senior officer complained that he was passed over for promotion to a higher rank by individuals who were less qualified, less experienced, and less senior.                                                                          |                                | Pending investigation outcome.        | Pending at Ombudsman. | Pending at Ombudsman. |



| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                           | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                                                                                         | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                 | STATUS                           | STATUS LAST<br>YEAR   |
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| <b>Armed Forces of<br/>Malta</b> | N 0326                         | The complainant directed his grievance against the Permanent Secretary's decision to transfer him from one command post to another.                                                                                             | The Ombudsman is of the opinion that the complainant suffered an injustice when transferred from one command post to another. The Ombudsman recommended that such situations be avoided in the future. | The Ministry explained that the complainant was transferred in view of the exigencies of the service. | Closed and recommendation noted. | Pending at Ombudsman. |
| <b>Armed Forces of<br/>Malta</b> | P 0008                         | The grievance arises out of a General Order whereby the complainant's appointment was relinquished. He was later informed that he would be transferred to another place and was allegedly given no operational reason for this. |                                                                                                                                                                                                        | The Ministry explained that the complainant was transferred in view of the exigencies of the service. | Pending at Ombudsman.            | Pending at Ombudsman. |
| <b>Armed Forces of<br/>Malta</b> | P 0022                         | The complainant is claiming that he suffered an injustice following the relinquishment of his appointment.                                                                                                                      |                                                                                                                                                                                                        | The Ministry explained that the complainant was transferred in view of the exigencies of the service. | Pending at Ombudsman.            | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                    | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | STATUS                | STATUS LAST<br>YEAR   |
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| <b>Armed Forces of<br/>Malta</b> | P 0230                         | An officer in the grade of Warrant Officer II complained with respect to the accelerated promotion granted to Warrant Officer I in 2014. |                                | The AFM provided the Ombudsman with documentation with respect to a previous identical case in which the Ombudsman stated that the AFM can be flexible and that it did not exceed its powers or abused the discretion afforded to it at law when promoting personnel on an accelerated basis.                                                                                                                                                                                                                                                                                                                                                                          | Pending at Ombudsman. | Pending at Ombudsman. |
| <b>Armed Forces of<br/>Malta</b> | Q 0349                         | Grievance following the promotions to the rank of Colonel.                                                                               |                                | Appointments and subsequent promotions are governed by the Malta Armed Forces Act. Rule 4 (1) (a) and (c) of the Appointments and Conditions of Service of the Regular Force Regulation, S.L. 220.03 of the Laws of Malta states that “ <i>Appointments to the staff in the rank of Colonel and above shall be made by the Minister and the qualifications and procedure for staff appointment, the tenure of appointment on the staff and the termination of such appointment shall be such as the Minister may from time to time determine.</i> ” The appointments referred to by the complainant were made in accordance with powers vested at law as stated above. | Pending at Ombudsman. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT            | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                     | STATUS                | STATUS LAST<br>YEAR   |
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| <b>Armed Forces of<br/>Malta</b> | R 0048                         | The officer complained that he was not promoted in the 2015 promotion exercise because there was no vacancy in his section. The officer expected to be treated as a special case due to duties performed.                                                            |                                | MHAS replied to the Ombudsman, addressing the points being raised in this case, and submitted the requested documentation.                                                                                | Pending at Ombudsman. | Pending at Ombudsman. |
| <b>Armed Forces of<br/>Malta</b> | R 0052                         | Claim of alleged injustice consequent to the promotion exercise to a higher rank.                                                                                                                                                                                    |                                | 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.                                                        | Pending at Ombudsman. | Pending at Ombudsman. |
| <b>Armed Forces of<br/>Malta</b> | R 0318                         | A complaint with respect to a number of promotions issued following complaints submitted to the AFM Complaints Board set up by the Ministry. It was alleged that promotions were given to junior officers following the recommendations of the AFM Complaints Board. |                                | MHAS replied to the Ombudsman, addressing the points being raised in this case, and submitted the requested documentation.                                                                                | Pending at Ombudsman. | Pending at Ombudsman. |
| <b>AWAS</b>                      | R 0249                         | A confidential case concerning professional services to AWAS.                                                                                                                                                                                                        |                                | Meetings have been held with AWAS and the complainant to determine whether payments are actually due to the complainant. However, no agreement could be reached and legal procedures have been initiated. | Pending at Ministry.  | Pending at Ministry.  |

| SECTOR/<br>DEPARTMENT                 | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                              | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                     | STATUS                | STATUS LAST<br>YEAR                                        |
|---------------------------------------|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|------------------------------------------------------------|
| Home Affairs and<br>National Security | Q 0288                         | A complaint by an officer with regard to the decision of the Commission for Injustices in the Armed Forces of Malta that a favourable redress could not be given. The complainant was not satisfied with the decision of the Commission for Injustices in the Armed Forces of Malta, and thus initiated a case with the Ombudsman. |                                | Pending investigation outcome.                                                                                                                            | Pending at Ombudsman. | Pending at Ombudsman.                                      |
| Police                                | O 0237                         | A complaint filed by a foreign couple with regard to abuse of power by the Divisional Police following a wrongful arrest.                                                                                                                                                                                                          |                                | The investigator assigned to the case in question has presented the Ombudsman with all the information requested. Last correspondence dates back to 2016. | Pending at Ombudsman. | Pending at Ombudsman.                                      |
| Police                                | R 0146                         | A complaint filed by a high-ranking officer alleging discrimination in the selection process for a higher rank.                                                                                                                                                                                                                    |                                | The Malta Police Force replied with remarks and documentation to the Office of the Ombudsman.                                                             | Pending at Ombudsman. | Pending at Ombudsman.                                      |
| Police                                | R 0186                         | A complaint by an officer regarding an on-call allowance.                                                                                                                                                                                                                                                                          |                                | All the information requested was forwarded to the Office of the Ombudsman.                                                                               | Pending at Ombudsman. | Pending at Ombudsman.                                      |
| Police                                | R 0199                         | A complaint about the lack of replies by the Police Board.                                                                                                                                                                                                                                                                         |                                | The Independent Police Board has reviewed case and recommended reimbursement to the complainant.                                                          | Pending at Ombudsman. | Pending recommendation of board under the new legislation. |

| SECTOR/<br>DEPARTMENT    | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                   | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                                                                                                 | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                        | STATUS                              | STATUS LAST<br>YEAR                 |
|--------------------------|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------|
| <b>Police</b>            | R 0261                         | A complaint filed by a police officer claiming discrimination after asking to be transferred for medical reasons.                                                                                                                                                                                                       |                                                                                                                                                                                                                | The complainant was transferred according to the exigencies of the services.                                                                 | Pending at Ombudsman.               | Pending at Ombudsman.               |
| <b>Police</b>            | R 0281                         | A complaint filed by an officer claiming discrimination in the selection process to a higher rank.                                                                                                                                                                                                                      |                                                                                                                                                                                                                | Following the submission of replies to the Ombudsman, the Police are considering this case closed.                                           | Pending at Police.                  | Pending at Police.                  |
| <b>Police</b>            | R 0312                         | A complaint filed by a shop owner in the absence of Police action against a fixed hawkker.                                                                                                                                                                                                                              |                                                                                                                                                                                                                | The Police took action against the fixed hawkker. Court proceedings are at an appeals stage.                                                 | Suspended due to Court proceedings. | Suspended due to court proceedings. |
| <b>Courts of Justice</b> | R 0246                         | A member of the public lodged a complaint that the refusal on the part of the Law Courts Registry to accept the application for self-representation was in breach of a right which is prescribed within the provisions of Article 48(2) of the EU Chapter and Art. 6 (3)(b) of the European Convention of Human Rights. | The same grievance was raised before the First Hall Civil Court in its Constitutional Jurisdiction and the Office of the Ombudsman suspended the investigation in terms of Article 13(5) of the Ombudsman Act. | No action was taken as the case was suspended.<br><br>The complaint is before the First Hall Civil Court in its Constitutional Jurisdiction. | Suspended due to Court proceedings. | Suspended due to Court proceedings. |

| SECTOR/<br>DEPARTMENT                                | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                   | RECOMMENDATION BY<br>OMBUDSMAN                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                                 | STATUS LAST<br>YEAR   |
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| <b>Justice, Culture<br/>and Local<br/>Government</b> | R 0134                         | A complaint lodged regarding alleged injustice following a call for applications for a managerial post. | No recommendation                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Following a request for feedback from the Office of the Ombudsman, a reply was provided in January 2018 with the necessary information concerning the call for applications, the selection criteria, the rationale behind each mark, and the report on the selection process. On 22 <sup>nd</sup> January 2018, the Office of the Ombudsman formally requested the original copies which were provided on 31 <sup>st</sup> January 2018. | Closed without recommendation.         | Pending at Ombudsman. |
| <b>Local Council</b>                                 | R 0005                         | Request for reimbursement of damages sustained to a vehicle.                                            | The complainant is to be reimbursed actual costs of damages incurred whilst driving along a particular road in Siġġiewi. The Ombudsman further recommended that the council deliberates on the remarks made in his report in connection with its policy of referring those claiming compensation for alleged damages sustained as a result of a lack of maintenance of streets, roads, and passageways in their locality to arbitration, and to consider implementing the directives issued by | The Local Council considered the Ombudsman's recommendation to implement the directives of the Local Governance Board and reimburse the amount that was recommended by the Ombudsman.<br><br>The council implemented the recommendation of the Office of the Ombudsman and reimbursed the complainant in full.                                                                                                                           | Closed and recommendation implemented. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT   | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                 | RECOMMENDATION BY<br>OMBUDSMAN                                                                         | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | STATUS                         | STATUS LAST<br>YEAR   |
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| Ministry for<br>Tourism | R 0325                         | Complaint regarding the alleged injustice suffered by a complainant following termination of employment with AirMalta. The complainant is claiming that other employees have received monetary compensation for the period when there was the wage freeze. The complainant also reported not being aware of the need to apply to lodge his grievance. | the Local Governance Board in its decision of 25 <sup>th</sup> February 2015.<br><br>No recommendation | The Ombudsman requested the Ministry to submit feedback to resolve the issue. The case was internally investigated and the Ombudsman was informed that, contrary to what the complainant is claiming, in actual fact he filed a grievance case in 2014 and was given a reply through a letter dated 19 <sup>th</sup> September 2016, concluding that the applicant did not suffer any injustices. The complainant did not appeal this decision. Furthermore, the Ombudsman incorrectly stated that the complainant had retired from Air Malta, when in reality the complainant had applied for the alternative employment scheme. | Closed without recommendation. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT   | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                   | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                  | STATUS                                                                           | STATUS LAST<br>YEAR   |
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| <b>Joint<br/>Office</b> | R 0321                         | On 12 <sup>th</sup> December 2017, complainant claimed that in 2004 a letter was sent to Joint Office, expressing a wish to purchase a property which is adjacent to another property owned by complainant. The requested property was transferred to the Housing Authority (HA) to be allocated to third parties, while the complainant's request remained unanswered. | No recommendation              | In February 2018, the Ombudsman was informed that the property in question was passed on to HA for social accommodation purposes. Property in question was allocated in line with the Government Policy, and hence the complainant could not assume that there was a right over the property. The Office of the Ombudsman closed the complaint since it was not found to be justified. | Closed by the Ombudsman after management replied to one request for information. | Pending at Ombudsman. |
| <b>Lands Authority</b>  | Q 0337                         | The complainant claimed that a property that was requisitioned for a social accommodation project was not used for this project; however the requisition order was never revoked.<br><br>This meant that the complainant could not dispose of the said property.                                                                                                        | No recommendation              | The Office of the Ombudsman was informed that the Lands Authority is now in the process of releasing the property in question, together with other properties in the same area.                                                                                                                                                                                                        | Closed without recommendation.                                                   | Pending at Ombudsman. |



| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                        | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                          | STATUS                         | STATUS LAST<br>YEAR   |
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| Lands Authority       | R 0245                         | Complainant alleged that the redemption of the ground rent was long overdue and requested that he should be recognised as the sole emphyteutic of the property in question, thus terminating his former spouse's entitlement as they were legally separated. | No recommendation              | The Authority contacted the complainant, requesting the necessary documents to process the request for recognition and later the complainant was informed that he has been recognised as the sole emphyteutic of the property in question and that an annual ground rent burdens the property. | Closed without recommendation. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                         | STATUS LAST<br>YEAR  |
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| Lands<br>Authority    | R 0296                         | A complaint lodged by several complainants in connection with the expropriation of part of a residence in Żurrieq. The said expropriation occurred in the 1970s. The declaration, which was published in the Government Gazette, stated that the expropriated land had an area of 65m <sup>2</sup> . The complainants are arguing that in actual fact, the land had an area of 85.48m <sup>2</sup> , hence the measurements, as provided in the said declaration, were substantially incorrect. The plot was measured once again. However complainants are arguing that no progress was made and have received no compensation. | No recommendation              | <p>The Board of Governors of the Lands Authority informed the complainants that their request for the expropriation of the remaining part of their property was acceded to and that the process of expropriation commenced.</p> <p>The Office of the Ombudsman informed the Lands Authority that the case has been closed since the information provided the complainants with a sufficiently detailed update to move things forward from their end.</p> | Closed without recommendation. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                    | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | STATUS                | STATUS LAST<br>YEAR  |
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| Lands<br>Authority    | R 0335                         | Confidential case concerning the contestation of an eviction order from two properties following the demise of a parent. |                                | <p>The Authority informed the Office of the Ombudsman that complainant was advised on more than one occasion that he was occupying the property without title and that complainant was aware that a call for tenders was about to be issued. Moreover, it was also contended that eviction notice was erroneously affixed to the wrong door. An on-site inspection was carried out by the Office of the Ombudsman in the presence of Lands Authority's officials. To date, the Lands Authority is still awaiting feedback from the Office of the Ombudsman.</p> <p>Since the case with the Office of the Ombudsman is still pending, the Lands Authority chose not to proceed with the issuance of the tender until the case is closed by the former. In this case, the delay from the Office of the Ombudsman is hindering the Lands Authority from taking further actions related to this case.</p> | Pending at Ombudsman. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT  | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                          | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | STATUS                                                 | STATUS LAST<br>YEAR  |
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| <b>Transport Malta</b> | P 0404                         | <p>Complainant requested the extension of a footpath/ pavement to ensure the safety of pedestrians, other residents, family and business clients.</p> <p>Complainant also alleged that the lack of a footpath is resulting in damage to the façade by passing vehicles, apart from the safety aspect of traffic passing right against the façade in front of the entrance.</p> | No recommendation              | A site inspection was carried out by TM, together with a representative from the Office of the Ombudsman at the site in question and also met the complainant for a better understanding of the case. A solution for this case was reached during a meeting held in March 2019 of which the Office of the Ombudsman was informed. Case was subsequently closed by the Office of the Ombudsman on 27 <sup>th</sup> March 2019.                                                                                                                                                                                                                  | Closed without recommendation.                         | Pending at Ministry. |
| <b>Transport Malta</b> | R 0078                         | Landowner complained that during road works, the contractor at the behest of TM, invaded the complainant's property and in effect expropriated it without paying any compensation.                                                                                                                                                                                             | No recommendation              | TM informed the Office of the Ombudsman that it did not take over any land belonging to the complainant. The street had already been formed by the private owners when the asphalt was laid. LN 29/10 (clause 12) specifies that the street should be formed prior to the commencement of any new building, so it was the complainants' duty to form the road prior to the construction works on his property. Once the street is formed to its proper level, TM does the finishing works, such as the kerbs and asphaltting. The vast majority of roads within urban areas, such as this case, are formed through private development, and no | Closed, case withdrawn by the Office of the Ombudsman. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT  | OMBUDSMAN<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                 | RECOMMENDATION BY<br>OMBUDSMAN | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS                         | STATUS LAST<br>YEAR  |
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|                        |                                |                                                                                                                                                                                                                       |                                | <p>compensation is ever paid by Government for these roads. Should the complainant's request be acceded to, it would go counter to LN 29/10 and create a very serious and dangerous precedent.</p> <p>On 17<sup>th</sup> August 2018, the Office of the Ombudsman wrote to the complainant that the case cannot be sustained and hence it was decided to close the case.</p>                                                                                                                                                                                                                                                    |                                |                      |
| <b>Transport Malta</b> | R 0270                         | Complaint against the removal of a rain water drain in pavement that was constructed to protect storm water from entering inside the common area of underground garages when other pavement gutters were not removed. | No recommendation              | <p>TM replied to the Office of the Ombudsman making reference to the principles of public road safety and to the possibility of providing specific legal references relating to the use of rain water gutters in pavements. TM also suggested that the matter should have been forwarded to the Local Council of the area for its review.</p> <p>A meeting between TM and the Office of the Ombudsman had to be convened to discuss this case further with a view for closure but meeting did not take place. A letter of closure dated 19<sup>th</sup> September 2018 was later received from the Office of the Ombudsman.</p> | Closed without recommendation. | Pending at Ministry. |



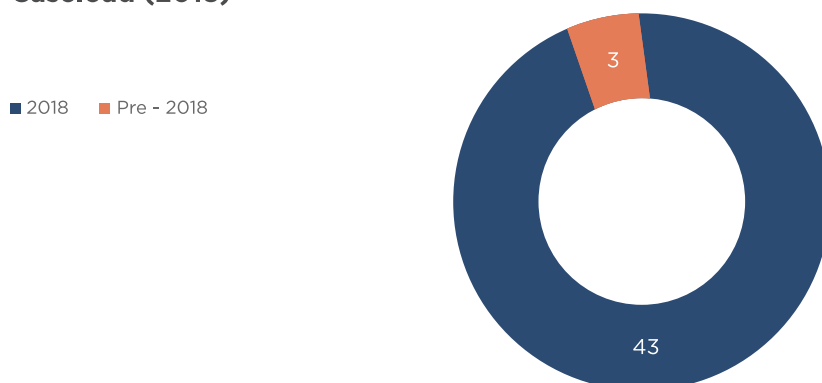
CASES HANDLED BY THE  
COMMISSIONER FOR EDUCATION

## CASES HANDLED BY THE COMMISSIONER FOR EDUCATION

Data analysed by the Public Administration indicates that the Commissioner for Education received 43 new cases during 2018 whilst also inheriting 3 cases that pre-dated 2018, thus this Office handled a total caseload of 46 for the year being reported on (2018).

**Diagram 09 showing the status of the Commissioner for Education's caseload during 2018.**

### Commissioner for Education Caseload (2018)



Further analysis of the 43 cases received during 2018 revealed that 10 cases were not upheld and one withdrawn, leaving a caseload of 32 cases to be investigated by the Commissioner. A significant 26% of complaints received were thus deemed to not necessitate any consideration or investigation by the Commissioner.

Of the remaining 32 cases (74%):

- 29 cases (67.4% of the total caseload) have been closed. Of these:
  - 12 (27.4% of the total caseload) have been closed without any recommendation.



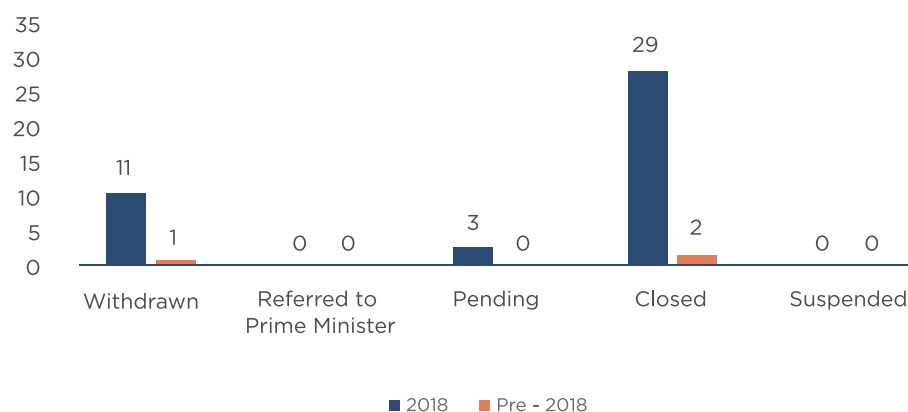
- 7 (16.3% of the total caseload) were closed on receipt by the Commissioner of the public entity's first explanatory note. This was deemed as sufficient for the case to be closed and archived.
- 1 case where the complainant did not accept the recommendation(s) made and another where it was the Public Administration to contest the recommendation(s) made.
- In the remaining cases, the recommendation was already implemented by the time of reporting (7 cases, 16.3%) or otherwise noted to be actioned (1 case, 2.3%).
- No cases have been suspended or referred to the Prime Minister by the Commissioner for Education during the reporting period.
- 3 cases (7% of total caseload) remain pending, one case at the Ministry and 2 cases at the Commissioner for Education.

As indicated above, in addition to the 43 cases received in 2018, the Commissioner for Education inherited 3 cases predating 2018. Two of these cases were closed in 2018, one without recommendation and the other after the Commissioner received the Ministry's first explanatory note. The remaining case was withdrawn from the investigation caseload by the Commissioner.

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

**Diagram 10 showing the status of concluded investigations of the Commissioner for Education during 2018.**

### Commissioner for Education Caseload Status (2018) (n=46)





COMMISSIONER FOR EDUCATION 2018

| SECTOR/<br>DEPARTMENT          | COMMISSIONER<br>CASE<br>REFERENCE          | BRIEF DETAILS OF CASE                                                                                                                      | RECOMMENDATION BY<br>COMMISSIONER                                                                     | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | STATUS                                                 |
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| <b>University of<br/>Malta</b> | US 0003<br>(same as<br>Case<br>No. S 0200) | The complainant applied for a lecturing post within the Solar Research Laboratory and was not satisfied with the selection process.        | The Commissioner for Education suggested that the complainant should be engaged on a part-time basis. | <p>The University of Malta offered the complainant a part-time position, but he refused this offer. Consequently, he requested the Office of the Ombudsman for a review of the Final Opinion by the Commissioner for Education. The University of Malta replied to the Office of the Ombudsman. Following the request for a review of the Final Opinion, no further correspondence has been received from the Office of the Ombudsman.</p> <p>The complainant refused the recommendation.</p>                  | Closed and recommendation not accepted by complainant. |
| <b>University of<br/>Malta</b> | US 0006                                    | Complaint regarding an application for a headship position at an institute.                                                                |                                                                                                       | The complainant applied for a headship position at the institute. He was considered eligible to present his candidacy to the Council during its meeting held on 3 <sup>rd</sup> November 2017 as he had applied before his retirement date. The Council selected him for the post but the offer was to be held in abeyance due to a pending legal advice regarding his employment situation. The advice was that he could not be offered the post since this was conditional to one being a resident academic. | Complaint not upheld.                                  |
| <b>University of<br/>Malta</b> | US 0010                                    | The complainant had applied for promotion to Associate Professor and was informed that at that stage he was not recommended for promotion. |                                                                                                       | <p>The complainant was given the opportunity to address queries/concerns put forward by the assessors and to submit any updates to her application. The complainant resubmitted an updated application which is currently being reconsidered by the Promotions Board.</p> <p>The Commissioner for Education advised her to request reconsideration.</p>                                                                                                                                                        | Pending at the Ministry.                               |

| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                             | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                 | STATUS                                                                                  |
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| University of<br>Malta | US 0012                           | The complainant claimed that he paid €60 for a revision of paper but he did not receive any feedback from the University of Malta after 2 months. | No recommendation                 | <p>The Dean of the Faculty informed the Commissioner for Education that the results of the revision exercise were sent that same morning when the Commissioner for Education called the Dean. Henceforth, the Commissioner for Education communicated with the complainant who confirmed that he had received the results.</p> <p>After verifying the facts, the Commissioner for Education called the Dean of the Faculty informing him that the case has to be investigated.</p> | Closed without recommendation.                                                          |
| University of<br>Malta | US 0015                           | Request for a refund of the application fee since applicant was not accepted.                                                                     |                                   | The Registrar sent a letter to the Commissioner for Education informing him that the €23 application fee is intended to cover costs incurred during the evaluation and administration process of applications and is payable by all Maltese and other EU applicants, whether they are accepted or not. It is clearly stated on the website of the University of Malta that this fee is non-refundable.                                                                             | Complaint not upheld.                                                                   |
| University of<br>Malta | US 0018                           | Complaint by a student because he was not awarded the MATSEC certificate.                                                                         | No recommendation                 | <p>The Commissioner for Education requested the University of Malta to investigate the case.</p> <p>The student was then awarded the MATSEC certificate since the eligibility criteria were satisfied. The Commissioner for Education was informed by means of a letter dated 28<sup>th</sup> August 2018.</p>                                                                                                                                                                     | Closed by the Ombudsman after management replied to one request for information.        |
| University of<br>Malta | US 0020                           | A complaint regarding the transfer of credits obtained from MCAST to apply to a Programme offered by the University of Malta.                     | No recommendation                 | It was agreed that the ECTS credits obtained at the MCAST will be included in the award of the Programme.                                                                                                                                                                                                                                                                                                                                                                          | Closed by the Ombudsman after management replied to <u>one</u> request for information. |

| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                       | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                              | STATUS                         |
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| University of<br>Malta | US 0021                           | The Complainant applied for a post with the University of Malta and was not selected. He felt that the person who was selected was less experienced and did not have the qualifications required for the role. He contended that the selection process was defective and requested to reverse the Selection Board's decision in his favour. |                                   | <p>The University of Malta claimed that the information provided is correct and that there is nothing to add.</p> <p>The complaint was not upheld by the Commissioner for Education. The latter urged the University of Malta to consider whether its internal auditing structures and procedures are in harmony with EU best practice so that it may not be subject to sanctions.</p>          | Complaint not upheld.          |
| University of<br>Malta | US 0022                           | The complainant argued that no calls for a particular post have been published at the Junior College which, in his opinion, is hindering him in his career progression.                                                                                                                                                                     | No recommendation                 | <p>The University of Malta informed the Commissioner that a call will be issued once an audit of needs across the university is successfully concluded.</p> <p>The complainant did not put forward a "formal opinion". The Commissioner for Education felt that he has no jurisdiction over an employer's right to issue calls for application whenever the employer deems it fit to do so.</p> | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                       | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | STATUS                                  |
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| University of<br>Malta | US 0024                           | During an examination, the student was in possession of a banned item. Accordingly, the University Assessment Disciplinary Board (UADB) failed the student in the study-unit with a mark of 0F and he was inflicted a €50 fine. As a result, the student opened a case with the Commissioner for Education so that UM reconsiders the decision of the UADB. | <p>The Commissioner for Education recommended that the fine should be inflicted. However, the Commissioner recommended that the letter from the UADB, together with the sanctions relating to the original sitting and the assignment, should be withdrawn on the basis that there was no actual plagiarism, the student's answers were uncontaminated, and that the student was in possession of the banned object for a very short period of time and cannot be evidenced that the act was intentional and resulting from <i>mens rea</i>. For the same reasons, the Commissioner also recommended that his original examination paper should be corrected without reference to the event, and the mark which the complainant impartially deserves and received, for good or ill, should stand and be judged as legitimate. Furthermore, the Commissioner recommended that his original assignment should be assessed in the same fashion, the mark assigned must be duly registered,</p> | <p>During a meeting, the Senate agreed that the decision by the University Assessment Disciplinary Board should stand.</p> <p>The Rector agreed with the decision taken by UADB and informed the Commissioner for Education that the decision should not be taken as a rebuff to him personally or to the Office of the Commissioner for Education, but that it was the result of serious deliberation and the effect such an action would have, going forward, on the conduct of university examinations. The Commissioner acknowledged this decision but informed the Rector that his final opinion is to stand for the record, since it is based on the prevailing printed rules, which give the impression that there is a scale of punishments applicable when in fact there is only one. The Commissioner added that he will inform the complainant of this development.</p> | Closed and recommendation not accepted. |

| SECTOR/<br>DEPARTMENT      | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                        | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                             | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                         |
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|                            |                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                              | and that no limitation or curbing of the mark achieved should be applied. Finally, the Commissioner recommended that a remark indicating the commission of the infringement should be made in his personal record, replacing the current one. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                |
| <b>University of Malta</b> | US 0027                           | The complainant argued that the University of Malta should have issued a visiting call for applications for lecturing duties for a study unit and was concerned that the coordinator of another study unit was a casual appointment.                                                                                                                                                                                                         | No recommendation                                                                                                                                                                                                                             | The University of Malta replied with clarifications regarding the procedures of staff recruitment to deliver study units.<br><br>After the complainant failed to provide feedback to the Commissioner for Education, the Commissioner closed the case without pronouncing a final opinion.                                                                                                                                                                                                                                                                                                                                                                                | Closed without recommendation. |
| <b>University of Malta</b> | US 0038                           | The Complainant, who submitted a PhD research proposal, claimed that there was undue and avoidable delay in taking the decision and in replying to correspondence. Moreover, he argued that there was an inequitable application of rules and procedures as well as a failure to observe correct procedures. The complainant also argued that the University of Malta failed to make good for any damaged caused by the University of Malta. |                                                                                                                                                                                                                                               | The University of Malta explained in detail the procedural arrangements that were followed during the evaluation of the submitted research proposal.<br><br>All procedures in accordance with the PhD regulations were adhered to. A revised proposal had not been submitted by the applicant, and therefore the University could not proceed any further with the application. A revised proposal was recently submitted by the complainant and is under consideration. The Doctoral Academic Committee recommended to the Senate that the applicant be accepted to commence studies as a PhD candidate. The applicant was informed of the Senate's decision soon after. | Pending at Ombudsman.          |



| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                             | RECOMMENDATION BY<br>COMMISSIONER                                                                              | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | STATUS                                                                                  |
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| University of<br>Malta | US 0039                           | A student reading for a BA (Hons) made a request to the Registrar's Office to be able to select 12 ECTS as an elective unit.                                                                                                                                                                      | No recommendation                                                                                              | The Registrar's Office provided the complainant with positive feedback.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| University of<br>Malta | US 0042                           | The complainant was withdrawn from the course as the last 3 assignments were not submitted by the extended deadline. To this effect, the complainant opened a case with the Commissioner for Education requesting a change in deadline so that he would have more time to finish the assignments. | The Commissioner for Education recommended that the complainant be given an extension on humanitarian grounds. | The University of Malta gave the student a concession to do the assignments. Staggered deadlines were given so all assignments do not have to be submitted at one go. Once again, the University of Malta decided to extend the submission date for the 3 assignments on humanitarian grounds.<br><br>The student did not submit the required assignments even though she was given the maximum possible time. Only 40 ECTS credits were obtained out of the 60 ECTS credits required for the year. Therefore, the student was not eligible to proceed with her studies at the University of Malta. | Closed and recommendation implemented.                                                  |
| University of<br>Malta | US 0043                           | A complaint for not being admitted to an MSc course since the student failed to obtain the average mark. When the student realised that he will not be accepted for the course, he informed the University of Malta that he has a hearing impairment.                                             |                                                                                                                | The Commissioner did not uphold this complaint and closed the case.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Complaint not upheld.                                                                   |

| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                               | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                           | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | STATUS                                           |
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| University of<br>Malta | US 0048                           | The Complainant is in disagreement with the awarded final classification. According to the complainant, he should have been given a higher final classification.                                                                                                                                                                                    | The Commissioner for Education closed the case but informed the University of Malta that there is a problem with the bye-laws of the institution which, in his opinion, needs to be addressed with urgency. | A reply was sent to the Commissioner for Education following his final opinion. The Commissioner for Education was informed that the Dean of the Faculty of Laws confirmed that the Award Classification Board decided not to change the classification and not to avail itself of the provisions of the General Regulations for University Postgraduate Awards, 2008, regulation 37, paragraphs (3) and (4). It is up to the Awards Classification Boards to decide whether to upgrade students or otherwise. | Closed and recommendation partially implemented. |
| University of<br>Malta | US 0049                           | The student did very well throughout the course but failed his teaching practice. To this effect, he achieved a second lower ranking. However, the student complained that the University of Malta should have taken into account his performance throughout the entire course, even if mathematically he did not achieve the second upper ranking. |                                                                                                                                                                                                             | As instructed by the Commissioner for Education, the complainant's request for a review of the Awards Classification Board was not upheld.                                                                                                                                                                                                                                                                                                                                                                     | Complaint not upheld.                            |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                | RECOMMENDATION BY<br>COMMISSIONER                                                                                             | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | STATUS                                 |
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| <b>MCAST</b>          | US 0001                           | The complainant did not receive the stipend for the last part of his academic year due to a lack of proper attendance records by a lecturer at the Institute of Creative Arts. This occurred when he was involved in outdoor end-of-year exhibition work outside the normal lecturing rooms.                                                         | The Commissioner for Education recommended to give the complainant the total amount of this missing stipend within two weeks. | MCAST reacted immediately to rectify this mistake and a cheque with the amount due was sent to the complainant.                                                                                                                                                                                                                                                                                                                                                                                                                                  | Closed and recommendation implemented. |
| <b>MCAST</b>          | US 0007                           | The complainant claimed that he had not been selected to fill a part-time vacancy at MCAST because of his age.                                                                                                                                                                                                                                       |                                                                                                                               | The Commissioner for Education decided that there was no case of discrimination against the complainant. The complainant's unsuitability stemmed from technical and academic issues which lie outside the Commissioner's remit and which preclude the Commissioner from passing judgement on the selection of staff. The Commissioner was satisfied that MCAST followed all procedures without committing any malpractice.                                                                                                                       | Complaint not upheld.                  |
| <b>MCAST</b>          | US 0009                           | The complainant applied to progress to Senior Lecturer 1 under the terms of the old agreement (2011-2016). His application was refused since he did not satisfy the requirement of 5 years satisfactory teaching experience. He claimed that this was unfair because the Malta Union of Teachers and his shop steward told him that he was eligible. | No recommendation                                                                                                             | After MCAST had given its interpretation of the Collective Agreement clause regarding progression, it was agreed that the case cannot be upheld. MCAST re-examined the complainant's request for progression but it was clearly established that his claim regarding the 5-year satisfactory working experience was unfounded as it is one of the conditions required for progression to Senior Lecturer 1. The Commissioner informed the complainant verbally about his decision that there was no scope for further consideration of his case. | Closed without recommendation.         |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                            | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                            | STATUS                                 |
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| <b>MCAST</b>          | US 0014                           | A lecturer has filed a complaint concerning recruitment procedures utilised for the selection of lecturers for evening courses held by MCAST in a specific course. He claimed to have taught such courses for the last fifteen years, but was not selected during the last recruitment exercise, even though, as he alleged, he scored 76% in the interview whereby the highest score registered was 81%. When he drew attention to this, he was offered work in only two modules out of four as a concession, and this was refused by the complainant. | The Commissioner for Education recommended that in the light of such allegations, which in the Commissioner's conclusions were justified, MCAST should pay the complainant the full amount of the entire part-time module to compensate him for the injustice he had suffered when he was not chosen to deliver this module. | MCAST issued a cheque to the complainant, covering the full amount paid to a lecturer who used to deliver a part-time evening course.<br><br>MCAST embarked on a review of its recruitment process to ensure the fine-tuning of good governance in this sector.                                                                                                                               | Closed and recommendation implemented. |
| <b>MCAST</b>          | US 0016                           | A student complained about the fact that the MCAST Corporate Disciplinary Board had concluded that two of his assignments were plagiarised and therefore both assignments were not being recognised by MCAST as per the MCAST Plagiarism Policy.                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                              | Soon after the Commissioner of Education drew his conclusions about the case, the student left MCAST. The aforesaid college offered additional support to the complainant in order to continue with his studies, even after the Commissioner of Education concluded that MCAST's position, in terms of plagiarism policy and its application, were correct. However, he refused to cooperate. | Complaint not upheld.                  |

| SECTOR/<br>DEPARTMENT             | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                              | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                      | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                         | STATUS                                 |
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| <b>MCAST</b>                      | US 0017                           | The complainant claimed that in March 2018 he had paid for two courses, which were not delivered. Given the importance of these courses for his Licence in summer, he took these courses elsewhere. When he requested a refund, MCAST told him to re-apply in the following September instead of issuing a refund. | The Commissioner for Education concluded that MCAST had to refund the complainant for both courses.                                                                    | MCAST accepted and refunded the complainant.<br><br>MG21 was instructed to sort out any pending refunds without further delays.                                                                                                                                                                                                                            | Closed and recommendation implemented. |
| <b>University of Malta/ MCAST</b> | US 0031                           | A student complained about MCAST's delay in publishing the result of a course component (apprenticeship), impeding him from registering for a course with the University of Malta.                                                                                                                                 | The Commissioner for Education recommended to conclude this case as soon as possible in view of the complainant's pending application to join the University of Malta. | The Registrar's Office confirmed that the complainant has successfully completed his programme and an updated result, prepared by the Institute, was sent to him.<br><br>Action was taken immediately to provide the best support to the complainant in his endeavour to join the University of Malta by providing him with the required programme result. | Closed and recommendation implemented. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                   | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                  | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | STATUS                                 |
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| <b>MCAST</b>          | US 0036                           | An employee informed the Commissioner for Education that he had referred his case—regarding his change from a lecturing role to administrative work, after the MCAST Disciplinary Board had found him guilty of hacking—to the Industrial Tribunal.                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                    | <p>MCAST retained the complainant as an employee at the same grade he was previously holding (as a lecturer), giving him administrative work. In view of the complainant's current situation, MCAST did not accept his request to re-instate him as a lecturer but retained him in an administrative role with the same grade. This was communicated to the Commissioner for Education.</p> <p>The Commissioner for Education informed the complainant that his Office cannot investigate his complaint since he had already referred it to the Industrial Tribunal.</p> | Complaint not upheld.                  |
| <b>MCAST</b>          | US 0037                           | An employee of Mater Dei Hospital joined a course offered by MG21 MCAST. This course was advertised by MCAST as “providing training for an area of employment in Mater Dei Hospital within the central sterile supply department.” However, this was not the case since the course was later refused by Mater Dei as being inappropriate for such a post. The complainant claimed that this had an impact on his economic wellbeing and that he lost a job opportunity. | The Commissioner requested MCAST to change the wording of the advert not to mislead potential part-time students who may wish to join the course, provide a revamped course syllabus in liaison with persons from Mater Dei, and to refund the sum of €240 to the complainant in order to compensate him for the fee which he paid for the course. | The MCAST Registrar met with both the Commissioner for Education and the Ombudsman's Office to discuss and conclude the action required to ensure that the course is reflected as a qualification and not an award. MCAST refunded the course fee (€240) to the complainant.                                                                                                                                                                                                                                                                                             | Closed and recommendation implemented. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                               | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS                         |
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| <b>MCAST</b>          | US 0047                           | A Level 16 student at MCAST complained that his dissertation was failed for the third and final time as a form of retribution by the Director of the Institute on account of the complainant having disclosed failings at MCAST in previous years to third parties. |                                   | The Commissioner for Education did not uphold the complaint after receiving a detailed and extensive feedback from MCAST, which leaves no doubt about two facts: (a) the claim was completely unfounded and (b) an analysis of his dissertation leaves no doubt about his academic shortcomings, despite the full dissertation support he had received.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Complaint not upheld.          |
| <b>MCAST</b>          | US 0052                           | The complainant, who was writing in his name and on behalf of other students following a degree course at MCAST, argued that there was a discrepancy in the number of MCAST and University students.                                                                | No recommendation                 | MEDE replied to the Commissioner for Education providing him with an opinion stating that in accordance with Legal Notice 308/2016 and the guidelines issued by the Students Maintenance Grants' Board (SMGB), students following a course at MQF Level 5, 6 or 7 may qualify for awards on the basis of the classification of their course. The Ministry adds that following discussions between the SMGB, representatives from educational institutions and the Minister for Education and Employment, courses are then placed into three categories namely 1) General 2) Prescribed 3) High Priority. The classification list is revised every academic year and published regularly on the website of the Ministry. The course undertaken by the complainant was classified as 'General' and is not offered by the University of Malta. As such, there was no discriminatory treatment. The Ministry adds that even if the aforementioned course had to be offered by any other educational institution, the Board would still classify it as 'General'. | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT    | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                           | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                        | STATUS                                                                                  |
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| Education<br>Authorities | US 0013                           | A complaint regarding deployment. The complainant had already filed a case which was closed by the Commissioner. The complainant alleged that in other cases MEDE adopted a different approach. | No recommendation                 | MEDE explained that the cases which the complainant referred to were different from the complainant's case. Details of how MEDE acted in each of the cases referred to by the complainant were given.                                                                                                                                     | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| Education<br>Authorities | US 0025/<br>US 0028               | The complainants argued that they are eligible for the '20 years+' allowance.                                                                                                                   | No recommendation                 | The Ministry for Education and Employment (MEDE) was in parallel discussions with the Malta Union for Teachers (MUT) and an agreement was reached in due course. The complainants were satisfied. The Ministry for Education and Employment (MEDE) informed the Commissioner regarding the policy implemented and the issue was resolved. | Closed without recommendation.                                                          |
| Education<br>Authorities | US 0029                           | A parent complained regarding free transport out of location.                                                                                                                                   | No recommendation                 | MEDE explained through correspondence about the eligibility for free transport. The Ombudsman accepted the explanation from MEDE.                                                                                                                                                                                                         | Closed without recommendation.                                                          |



| SECTOR/<br>DEPARTMENT    | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                            | RECOMMENDATION BY<br>COMMISSIONER                                                                   | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                                                                           |
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| Education<br>Authorities | US 0040                           | A complaint regarding 20 years+ allowance.                                                                       | The Commissioner for Education recommended that the complainant should be paid the '20+' allowance. | MEDE is currently having internal discussions regarding the recommendations put forward by the Commissioner for Education.<br><br>MEDE representatives met the complainant on 29 <sup>th</sup> April 2019. They explained that being a temporary teacher, he had to undergo an interview to become a regular teacher, and that the Ministry takes into account the years of service from when he started as a regular teacher. Said representatives also informed the complainant that the meeting does not in any way impinge on the Commissioner's recommendations. | Closed and recommendation noted.                                                 |
| Education<br>Authorities | US 0041                           | A complaint regarding discriminatory treatment in processing an application for a scholarship.                   | No recommendation                                                                                   | MEDE provided a reply to the Commissioner for Education with due explanation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Closed by the Ombudsman after management replied to one request for information. |
| Education<br>Authorities | US 0044                           | The complainant claimed that he did not receive an acknowledgement or reply from the Scholarships Appeals Board. | No recommendation                                                                                   | MEDE informed the Commissioner for Education that acknowledgement was sent to the complainant on 28 <sup>th</sup> November 2018, and that the case was pending before the Appeals Board.                                                                                                                                                                                                                                                                                                                                                                              | Closed by the Ombudsman after management replied to one request for information. |

| SECTOR/<br>DEPARTMENT    | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                       | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | STATUS                         |
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| Education<br>Authorities | US 0045                           | An officer complained that he is carrying out tasks which are not included in his job description. Accordingly, he asked for a compensation or a promotion. | No recommendation                 | <p>Two communications were exchanged with the Commissioner for Education. MEDE provided possible solutions and also provided the Commissioner for Education with the requested documents.</p> <p>The Commissioner argued that testimonials provided by the complainant's superiors confirm that he was carrying out tasks not included in his job description for a number of years. However, the Commissioner warned the complainant that workers who voluntarily carry out tasks exceeding their job description will not be eligible for compensation, especially if there is no agreement stating that they are to be compensated. The Commissioner added that although the complainant knew that there is no agreement, he still continued to carry out such duties. Moreover, the Commissioner stated that one of the clauses included in his job description stipulates "assisting senior officers as required", thus covering any duties not included in his job description. The complainant knew about this clause when he accepted the job. In this light, the Commissioner contends that the complainant is not entitled to receive any financial compensation for any duties he carries out as an employee of the Government of Malta.</p> | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT                                                                                   | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                          | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                          | STATUS                                                                           |
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| Education<br>Authorities                                                                                | US 0051                           | Parent complained that her child is being bullied in a state school.                                           | No recommendation                 | MEDE replied to a query by the Commissioner for Education and also held a meeting. The Ministry and the school monitored the case. The Commissioner also visited the Ministry's Students' Services Section and confirmed first-hand that there are a lot of services which one could avail of including services to support cases of bullying.<br><br>The Commissioner for Education stopped investigating as the student left the country. | Closed without recommendation.                                                   |
| Education<br>Authorities                                                                                | US 0053                           | Parents complained that their children were being bullied in a state school.                                   |                                   | MEDE replied to query by the Commissioner for Education and also held a meeting. The Ministry and the school monitored the case. The Commissioner also visited the Ministry's Students' Services Section and confirmed first-hand that there are a lot of services which one could avail oneself of, including services to support cases of bullying.                                                                                       | Closed, case withdrawn by complainant.                                           |
| Education<br>Authorities<br>(Council for<br>the Teaching<br>Profession)                                 | US 0050                           | Case with confidential details, concerning the loss of a temporary teaching warrant.                           |                                   | Confidential details.                                                                                                                                                                                                                                                                                                                                                                                                                       | Pending at Ombudsman.                                                            |
| Education<br>Authorities<br>(Directorate<br>for Research,<br>Lifelong<br>Learning and<br>Employability) | US 0035                           | The complainant requested refund from the DRLE for a course he applied for but which was not going to be held. | No recommendation                 | The Directorate explained that the complainant will receive a refund between October and November after all payments received by the Directorate are verified.                                                                                                                                                                                                                                                                              | Closed by the Ombudsman after management replied to one request for information. |

| SECTOR/<br>DEPARTMENT                                                              | COMMISSIONER<br>CASE<br>REFERENCE          | BRIEF DETAILS OF CASE                                                                                       | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS                            |
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| <b>Education<br/>Authorities<br/>(Foundation<br/>for Educational<br/>Services)</b> | US 0005<br>(same as<br>Case No. S<br>0190) | Complaint regarding late<br>payment of wages at the<br>Foundation for Educational<br>Services (FES).        | No recommendation                 | <p>FES provided the Office of the Ombudsman with a justification and with details regarding the action taken. The situation of the payroll system was improved for SkolaSajf 2019 so that similar issues will not arise again.</p> <p>During SkolaSajf 2018 there was an issue with the wages whereby staff claimed that they were being paid late. The FES planned the payroll dates in line with the government payroll dates and this resulted in SkolaSajf falling between two pay dates. Given that part-timers are always paid 4 weeks behind full-timers and that over 2000 timesheets had to be processed during this time, this resulted in first payment for SkolaSajf taking place at the end of the 8 weeks. The issue has now been resolved.</p> | Closed without<br>recommendation. |
| <b>Education<br/>Authorities<br/>(Institute for<br/>Education)</b>                 | US 0030                                    | Complainant contested not<br>being accepted as part of<br>the cohort of 25 to read for<br>a Masters degree. | No recommendation                 | <p>The Commissioner for Education was provided with a copy of the Letter Circular and he agreed with the procedure adopted by the Institute. This procedure provided for the selection for the first 25 eligible applicants, the ones that were accepted.</p> <p>Eligibility criteria will continue to be very clear for all.</p>                                                                                                                                                                                                                                                                                                                                                                                                                             | Closed without<br>recommendation. |

| SECTOR/<br>DEPARTMENT                               | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                   | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                         |
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| Education<br>Authorities'<br>Maintenance<br>Grants) | US 0033                           | Complaint by a group of graduates who enrolled in a course and complained that they are being discriminated as other students who followed other courses and continued to study the same course were being granted a maintenance grant. | No recommendation                 | MEDE gave its opinion to the Commissioner for Education. As a general rule, students following a second course are not eligible for maintenance grants except for students who pursue this particular course after having completed or partially followed a degree course in a health care area of studies as determined by the Board.<br><br>MEDE also quoted a decision by the Commissioner in a similar previous case. | Complaint not upheld.          |
| Education<br>Authorities'<br>Maintenance<br>Grants) | US 0046                           | Refusal of a maintenance grants application as the student worked more than he was allowed. The student provided an explanation showing that he was not working more hours than he was allowed.                                         | No recommendation                 | MEDE approved the application. However, the procedure entails that the application must also be confirmed by the student. MEDE informed the Commissioner that as soon as the student confirms, payment will be effected.                                                                                                                                                                                                  | Closed without recommendation. |



COMMISSIONER FOR EDUCATION  
FOLLOW-UP ON PRE-2018 CASES

| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                        | RECOMMENDATION BY<br>COMMISSIONER                                                                     | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                         | STATUS                                                                                  | STATUS LAST<br>YEAR   |
|------------------------|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|-----------------------|
| University of<br>Malta | UR 0009                           | A student complained that he cannot proceed to a Master's level course because he failed to attain the 65% overall mark for just one percentage mark.                                                        | No recommendation                                                                                     | The University of Malta sent a reply to the Commissioner for Education on 13 <sup>th</sup> September 2017 informing him that the case is closed.              | Closed by the Ombudsman after management replied to <u>one</u> request for information. | Pending at Ombudsman. |
| University of<br>Malta | UR 0011                           | A complaint regarding a student not being eligible to proceed to the dissertation study-unit.                                                                                                                |                                                                                                       | The University of Malta sent a reply to the Commissioner for Education on 14 <sup>th</sup> September 2017.                                                    | Complaint not upheld.                                                                   | Pending at Ombudsman. |
| University of<br>Malta | UR 0030                           | A student complained that he was deemed not eligible to proceed to the 4 <sup>th</sup> year of the LLB course or to be readmitted to the 3 <sup>rd</sup> year of the course since he failed 22 ECTS credits. | The Commissioner recommended that the complainant's case be submitted for the Senate's consideration. | The Commissioner for Education met with Officers from the University of Malta. The recommendation put forward by the Commissioner for Education was accepted. | Closed and recommendation implemented.                                                  | Pending at Ombudsman. |



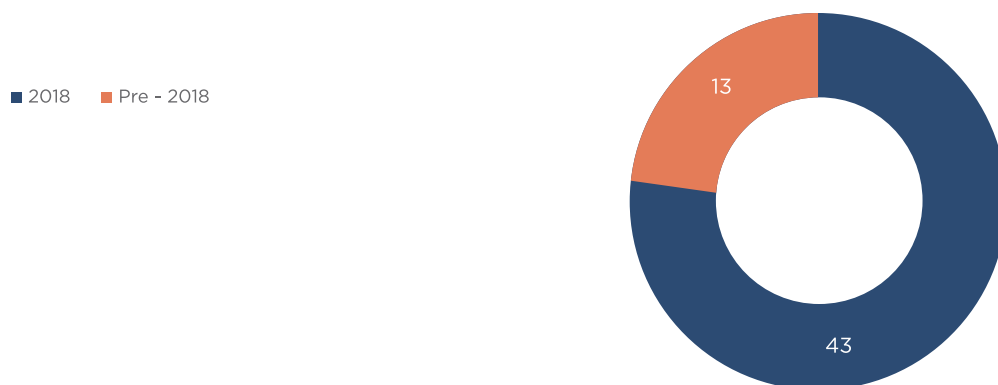
## CASES HANDLED BY THE COMMISSIONER FOR ENVIRONMENT AND PLANNING

## CASES HANDLED BY THE COMMISSIONER FOR ENVIRONMENT AND PLANNING

Data compiled by the Public Administration shows that the Commissioner for Environment and Planning has been presented with 45 new cases in 2018. There was no visibility on 2 cases, therefore 43 cases were followed upon. This is to be added to the 13 cases the Commissioner had on his caseload and which pre-dated 2018, adding up to a total caseload of 56.

**Diagram 11 depicting the cases handled by the Commissioner for Environment and Planning**

### Commissioner for Environment & Planning Caseload (2018)



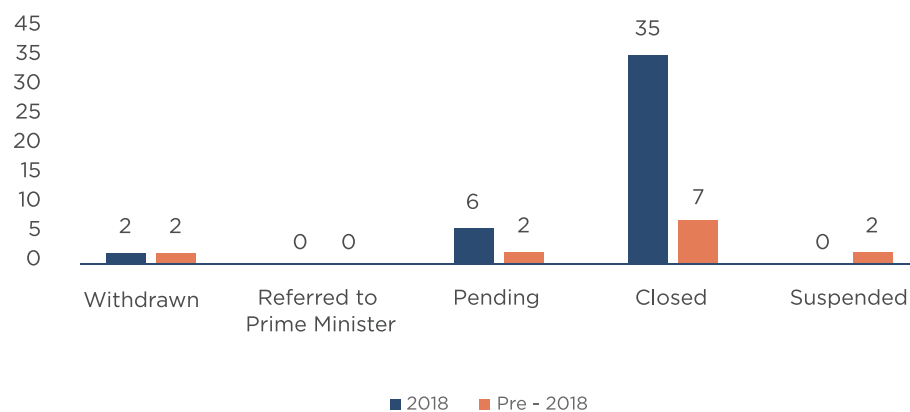
As identified in **Diagram 12**, 42 cases (35 new and 7 pending from pre-2018) were closed during the reporting period. This represents (75%) of the 2018 caseload for the Commissioner. It is also a similar statistic to the 75% cases closed during the previous reporting period (i.e. cases identified in the last report).

A total of 4 (9%) cases were withdrawn either as a result of a decision by the Commissioner or of the complainant. Of these, 2 cases pre-dated 2018.

Eight cases, or 14.3%, of the caseload remain pending at the time of reporting – 3 cases at the Ministry and 5 cases at the Office of the Commissioner for Environment and Planning. Another 2 cases pre-dating 2018 were suspended as these are now being considered by the Courts or a Tribunal.

**Diagram 12 identifying the status of the Commissioner for Environment and Planning caseload.**

### Commissioner for Environment & Planning Caseload Status (2018) (n=56)



On closer inspection, it emerges that of the 42 concluded investigations:

- In 24 instances (42.9%), no recommendations were made. In another 2 cases (4.3%), the case was closed by the Commissioner on receipt of the initial explanation by the concerned ministry.
- In 16 cases, the recommendations were either already implemented (10 cases, 18%) at the time of reporting or otherwise the recommendations were noted and/or are being implemented (6 cases, 10.7%) at the time of reporting.

This represents a significant improvement in terms of the adoption of recommendations by the Public Administration. Testimony to this is the fact that there were no instances where the recommendations presented were not accepted under this sector.



# COMMISSIONER FOR ENVIRONMENT AND PLANNING 2018

| SECTOR/<br>DEPARTMENT        | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                         | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | STATUS                         |
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| <b>Housing<br/>Authority</b> | ES 0038                           | A case concerning drainage manholes located in the front garden of a maisonette in Ta' Xbiex which were frequently blocking up, causing a great inconvenience to the tenants. |                                   | <p>The Commissioner asked whether the HA still has any jurisdiction on the common parts of the said block and whether the authority can provide a solution to this problem by moving the same manholes onto the adjoining pavement.</p> <p>The Housing Authority informed the Commissioner that the common drainage system pertaining to all the apartments in question was originally constructed with a number of manholes in the side gardens of the ground floor unit. In view of the fact that the system was frequently blocking up, the HA is taking action to repair the system, including shifting the inspection manholes onto the pavement. This work will be executed once permits are obtained from Transport Malta.</p> <p>The Housing Authority implemented the Commissioner's request to move the manholes onto the pavement and thus the flooding problem was solved.</p> | Pending at Ombudsman.          |
| <b>Aġenzija Sapport</b>      | ES 0072                           | In November 2018 a complaint was lodged concerning flooding coming from a site being developed by Aġenzija Sapport.                                                           | No recommendation                 | <p>The Commissioner requested comments about the case, together with a copy of the documents and method statement submitted to the Building Regulations Office (BRO) with respect to the Avoidance of Damage to Third Party Property Regulations. Aġenzija Appoġġ resolved the matter from its own funds despite the fact that, according to its architect, there was bad workmanship carried out on the neighbours' personal residences.</p> <p>The Commissioner referred the case to the BRO and closed the case.</p>                                                                                                                                                                                                                                                                                                                                                                    | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT             | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                        | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                         | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | STATUS                                 |
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| <b>Ornis Committee</b>            | ES 0024                           | A researcher objected to the condition imposed on him through a previous case, namely that birds caught for research purposes are to be fitted with a scientific ring, and requested the Ombudsman to open a fresh case.                                     | The Ornis Committee was requested to approve the researcher's proposal as submitted, reiterating that the scientific ringing requirement should be waived. The Ombudsman also requested the Committee to invite the researcher to present his submissions.                                | The researcher attended the Ornis Committee meeting held in July 2018 and, on the same day, after deliberation by the Committee, the Ombudsman and the researcher were informed in writing by the Secretary of the Ornis Committee that the request to waive the scientific ringing requirement was accepted. Thus, the researcher was granted permission to conduct his research without the requirement to fit birds with a scientific ring, and the Wild Birds Regulation Unit subsequently issued a licence in December 2018 to enable the researcher to conduct his studies as originally requested in 2016. | Closed and recommendation implemented. |
| <b>Police</b>                     | ES 0073                           | Investigation regarding lack of action in connection with noise annoyance from a bar situated in a tourist area.                                                                                                                                             | No recommendation                                                                                                                                                                                                                                                                         | Police made regular inspections to the bar but no loud music/noise was heard. No charges were issued against owner/s.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Closed without recommendation.         |
| <b>Water Services Corporation</b> | ES 0014                           | A complaint concerning a request for distribution of rainwater to farmers free of charge.                                                                                                                                                                    |                                                                                                                                                                                                                                                                                           | The Office of the Ombudsman found in favour of WSC as per the letter dated 21 <sup>st</sup> March 2018 on the basis of legal and financial limitations.                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Complaint not upheld.                  |
| <b>Enemalta</b>                   | ES 0021                           | The complainant submitted that he/she could not understand why the decision has been overturned by Enemalta from an "objection letter" to a "no objection letter". The complainant also stated that this cow farm is a detriment to their health and safety. | Final opinion given by the Office of the Ombudsman on 1 <sup>st</sup> June 2018. The Office of the Ombudsman put forward certain recommendations to ensure that the PA process in similar cases is transparent so that all interested parties are aware of what is happening, namely that | On 8 <sup>th</sup> May 2018, the Ombudsman requested clarification as he was considering the case as an alleged maladministration by Enemalta. On 14 <sup>th</sup> May 2018, Enemalta replied by stating that they cannot be accused of maladministration on their part given that they are solely competent to determine what is required for their infrastructure. Therefore, any other ultimate decisions relating to permits are not within their remit. After reviewing all the necessary feedback, the                                                                                                      | Closed and recommendation noted.       |

| SECTOR/<br>DEPARTMENT                    | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                            | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                | STATUS                                 |
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|                                          |                                   | Enemalta replied by stating that health and safety issues are not within their competence but that of other authorities, and further stated that an amicable solution has already been found. In addition, they stated that they will not intervene in civil disputes between neighbours. The complainant replied that no such solution had ever been mentioned and that all the above statements should be addressed in an appropriate manner, and that Enemalta have to take into consideration the fact that cables pass over five other homes. | negotiations are made in writing and published on the PA website.                                                                                                                                                                                                                                                                                                                                            | Office of the Ombudsman sent a detailed report which consisted of observations and queries raised throughout the whole investigation together with a recommendation.                                                                                                                                                                                                                                                                                                                              |                                        |
| <b>European Affairs<br/>and Equality</b> | ES 0003                           | The complainant alleged that an OHSA fine was issued seven months after the alleged infringement took place, thus jeopardising important evidence. The fine did not provide sufficient details of the alleged infringement; the OHSA applied the law incorrectly vis-a-vis the client; and there was no adequate means of redress against the provisions of this fine.                                                                                                                                                                             | Commissioner's Conclusion and Recommendation: <i>The complaint lodged against the Occupational Health and Safety Authority alleging lack of fairness or balance in issuing a fine is unfounded. In order to help citizens, the order and fine letters issued by the OHSA shall include a statement about any procedures related to any right of appeal against the order or revision of the fine issued.</i> | OHSA is reviewing the recommendation regarding appeals against orders issued by OHSA Officers in the context of amending the principal Act. This will be seen in the light of OHSA's statutory responsibility to ensure that the physical, psychological and social well-being of all workers are promoted and to ensure that they are safeguarded by whosoever is so obliged to do.<br><br>OHSA sent its final communication to the Commissioner in November 2018 following his 'Final Opinion'. | Closed and recommendation implemented. |



| SECTOR/<br>DEPARTMENT                          | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                         |
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| Local Council                                  | ES 0017                           | A complaint by a civilian against the Swiegi Local Council requesting the reinstallation of the timed parking signs which were temporarily installed in 2012.                                                                                                                        |                                   | The council received correspondence from Ombudsman on 1 <sup>st</sup> March 2019 stating that the complainant is requesting the council to regularise itself and reinstall the timed parking signs. The Chairman of the Traffic Control Committee provided a written statement wherein it was stated that the request from the Office of the Ombudsman could not be acceded to as the timed parking in the alley in question was not regularised.                                      | Pending at Ombudsman.          |
| Superintendence of Cultural Heritage           | ES 0062                           | A complaint received against the Superintendence of Cultural Heritage in connection with a delay in the issuing of a 'no-objection' reply for a development in Pietà.                                                                                                                | No recommendation                 | Appropriate information with the onsite discovery was submitted to SCH on 12 <sup>th</sup> October 2018 to which SCH replied with a 'no objection' for the development to proceed ten days later on 22 <sup>nd</sup> October 2018. As such, SCH could not have acted earlier due to missing information from the applicant.                                                                                                                                                            | Closed without recommendation. |
| Transport, Infrastructure and Capital Projects | ES 0019                           | Complaint by the owner of a house in Kalkara regarding damages caused to his house during works performed by the Contractor as instructed by the Works and Infrastructure Department. It seems that although an inspection was done from the Contractor's architect, the complainant | No recommendation                 | CEP required the intervention of the Department to ensure that the complainant is reimbursed for damages to his property.<br><br>A meeting was held between the complainant, a Perit, and a WID representative, the outcome of which being that the damages listed by the complainant were in place before the road construction started. CEP informed the complainant that L.N. 72/2013 was not breached thus complainant was to seek legal advice as the case was of a civil nature. | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT                 | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                        | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS                                                                              |
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| <b>Building<br/>Regulation Office</b> | ES 0007                           | <p>was left without feedback regarding the position to be taken up by the Contractor.</p> <p>Complaint concerning unfair treatment by BRO in requesting an Energy Performance Certificate (EPC) regarding a sold property in Birkirkara and requested that he is to be refunded of all the expenses incurred in issuing an EPC after 8 years that his property was sold.</p> | <p>On 18<sup>th</sup> May 2018, CEP through a letter sent to the Head of BRO recommended “Jekk il-BRO trid li taggorna r-records tagħha sabiex ikopru bini żviluppat, mibjugħ jew mikri fil-perjodu ta’ bejn l-2009 u l-2010 għandha tqabbad l-assessuri hi a spejjeż tagħha”, “l-ilmentatur għandu jiġi mħallas is-somma ta’ mitejn u wieħed u tmenin Ewro u ħamsin ċenteżmi mill-BRO” u “kull ittra li toħroġ mill-BRO li tindika ammonizzjoni għandha tindika wkoll meta t-terminu speċifikat fl-istess ammonizzjoni jista’ jiġi sospiż u kif ukoll kif jista’ jsir appell dwar l-istess ammonizzjoni.”</p> <p>No recommendation</p> | <p>After discussion with CEP, the entire sum was refunded to the applicant without prejudice.</p> <p>On 6<sup>th</sup> March 2019, BRO replied to CEP informing that the complainant had never followed up with a copy of the deed of sale and hence the current owner could not be contacted for the EPC. The copy of the deed was received by BRO on 13<sup>th</sup> March 2019 and hence the enforcement notice could then be revoked since it was confirmed that complainant was no longer the owner of the property.</p> | <p>Closed and recommendation implemented.</p> <p>Closed without recommendation.</p> |
| <b>Building<br/>Regulation Office</b> | ES 0016                           | <p>Complaint about unfair treatment by BRO in requesting the EPC regarding an apartment sold in 2012. CEP asked why the enforcement notice was issued six years after the last sale to the previous owner, and enquired whether the EPC has been requested from the current owner.</p>                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                     |

| SECTOR/<br>DEPARTMENT                 | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                    | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                            | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | STATUS                           |
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| <b>Building<br/>Regulation Office</b> | ES 0037                           | Complaint regarding L.N. 47 of 2018 due to unfair treatment by the BRO, since the Energy Performance of Buildings Assessors practising in Malta must be warrant-holders. | No recommendation                                                                                                                                                                                            | In May 2018 BRO replied to CEP advising that L.N. 47 of 2018 was circulated as part of the inter-ministerial consultation process and eventually a wider public consultation exercise was also undertaken. The final draft drawn up by Malta was sent to the EU Commission for its approval and the requirement mentioned had been agreed with the EU Commission itself. Case was confirmed closed by CEP on 20 <sup>th</sup> August 2019.                                                                                                           | Closed without recommendation.   |
| <b>Infrastructure<br/>Malta</b>       | CEP/3/P1                          | The CEP drew the attention of TM with regard to a bottleneck in Mellieħa, where the width of this part of the road is deemed to be too narrow in contrast with the rest. | On 17 <sup>th</sup> July 2018, CEP recommended that TM takes the necessary action so that accidents in this part of the road are avoided.                                                                    | IM architects agreed that mentioned street can be widened and a project description report was submitted to the Planning Authority to initiate the process. CEP was duly informed about this update. Various on-site inspections were carried out by the Lands Authority's Inspectorate, Enforcement and Compliance Directorate to<br><br>1. compile documentary evidence;<br>2. stop illegal construction works; and<br>3. remove timber pallets which were obstructing government-owned land (i.e. not transferred to Kunsill Malti Għall-Isport). | Pending at Ombudsman.            |
| <b>Infrastructure<br/>Malta</b>       | ES 0052                           | Complaint concerning an individual who is having a problem to take his bike outside due to the fact that the pavement is not wide enough.                                | On 29 <sup>th</sup> August, 2018, CEP recommended that IM takes the necessary action in relation to the said pavement in order to aid both pedestrians and cyclists alike, whilst easing traffic congestion. | CEP was informed that all the necessary action will be taken in order to widen the said pavement and works should be completed by end of November 2019.                                                                                                                                                                                                                                                                                                                                                                                              | Closed and recommendation noted. |

| SECTOR/<br>DEPARTMENT   | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                       | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | STATUS                                            |
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| Infrastructure<br>Malta | ES 0061<br>CEP/1/13               | <p>CEP drew the attention of Infrastructure Malta with regard to works that were carried out in Mdina Road, Żebbuġ.</p> <p>Through his letter dated 19<sup>th</sup> September, 2018, two irregularities were pointed out:</p> <ol style="list-style-type: none"> <li>1. IM did not take cognizance of what is established under the Strategic Plan for Environment and Development since the cycle lane was replaced by a shared lane, which is very dangerous;</li> <li>2. Moreover, the point where the two lanes from Żebbuġ to Rabat suddenly merge into one is very critical, as it is at the corner.</li> </ol> | <p>The CEP recommended that:</p> <ol style="list-style-type: none"> <li>1. The central strip adjacent to the service road is narrowed so that the cycle lane would be restored on the other side of the road.</li> <li>2. Better signage is put in place in order to mitigate the situation.</li> </ol> | <p>After several correspondence between CEP and IM and a meeting in March 2019, a letter addressed to CEP was sent on 25<sup>th</sup> April 2019 pointing out the following two points:</p> <ol style="list-style-type: none"> <li>i. the request to extend the line up to central strip shall be met in the coming weeks, and</li> <li>ii. to narrow the central strip adjacent to the service road in order for the cycle lane to be restored on the other side of the road.</li> </ol> <p>IM informed that the latter requests cannot be entertained due to the fact that there is a very large culvert beneath the said central strip. IM further highlighted that it is making its utmost to include cycle lanes where possible and also provided information of the existing and proposed cycle lanes across Malta to the CEP.</p> | Closed and recommendations partially implemented. |

| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                               | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                         |
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| <b>Lands Authority</b> | ES 0029                           | Complaint relating to the formation of a service road in Mellieħa, allegedly on government-owned land, resulting in further construction of property on such land.                                                                                                  | No recommendation                 | On 17 <sup>th</sup> July 2018 CEP inquired whether the land where the said service road was built, was transferred to third parties or otherwise.<br><br>The Lands Authority informed the Commissioner that the last contract that affects the land in question, is one of temporary emphyteusis which dates back to 1933. Therefore, no land was transferred to third parties. On 23 <sup>rd</sup> January 2019, the Commissioner informed the Lands Authority that there was no unjust administration with regard to the formation of the service road. | Closed without recommendation. |
| <b>Lands Authority</b> | ES 0039                           | Complaint relating to government-owned land adjacent to a block of flats in Pembroke. Complainant is alleging that such land is occupied by one of the residents of the block of flats, who has closed it with a gate, and allegedly built a swimming pool thereon. | No recommendation                 | An on-site inspection was carried out in January 2019 by the Lands Authority which confirmed the allegations made by the complainant. In April 2019, CEP was informed that the Legal Section within the Lands Authority informed the occupant to remove the obstacles hindering access to public land and that officers from Lands Authority were to make an on-site inspection. On 9 <sup>th</sup> April 2019, CEP informed the Lands Authority that since immediate action was taken in this regard, the case was closed.                               | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                            | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | STATUS                |
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| <b>Lands Authority</b> | ES 0051                           | Complaint was lodged in connection with the alleged occupation of public land in Floriana.                                                                                                                                       |                                   | The Lands Authority informed the Commissioner that all actions were on hold pending the decision of a PA application that was lodged to sanction irregularities. The Lands Authority forwarded to the Commissioner a site plan with an area edged in red indicating the site transferred to Kunsill Malti Ghall-Isport and a further area marked in yellow showing area outside that allocated, while confirming that no construction was being carried out in the area edged in yellow. On 26 <sup>th</sup> October 2018, Lands Authority was instructed to take action with regard to the quantity of timber pallets placed in the area edged in yellow. On 20 <sup>th</sup> February 2019 the Commissioner was informed that timber pallets were removed.                                                                                                     | Pending at Ombudsman. |
| <b>Lands Authority</b> | ES 0053                           | Complaint relating to a borehole not indicated on a Lands Authority site plan, which might prejudice the complainant's position with respect to the compensation due to him or in the eventual restitution of the same borehole. |                                   | After confirming that the borehole was in fact registered with the Malta Resources Authority, the relative file was passed on to the Contracts Section within the Lands Authority to amend description of the expropriated site. On 15 <sup>th</sup> March 2019, the Lands Authority informed CEP that following various correspondence with Infrastructure Malta, it was determined that IM was going to provide the necessary funds for the expropriation of the borehole after it confirms that in actual fact there was a borehole before the expropriation. CEP was informed that after architect prepares the valuation of the borehole, the complainant would be contacted by the Lands Authority for the publication of the contract.<br><br>Communication is ongoing between Infrastructure Malta and the Contracts Section within the Lands Authority. | Pending at Ministry.  |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                    | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | STATUS                         |
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| Lands Authority       | ES 0079                           | Complaint relating to the occupation of Government-owned land as an extension to a restaurant in Marsamxett, Valletta. Complainant alleged that such area can no longer be used as a passageway by a number of boathouse tenants since it has been covered with tiles causing an elevation difference.   |                                   | The Lands Authority carried out an on-site inspection to verify the alleged irregularities and to compile documentary evidence thereof. The Commissioner was informed that the minimum width of a passageway is 1.5m and not 2.5m and this in line with Section 4.1.3, S1 of the "Outdoor Catering Areas on Public Open Space." CEP requested the Authority to verify whether a passage of 2.5m width should be allowed and if so to be implemented. The restaurant owner was informed by the Lands Authority to ensure that free passage is maintained all the time for the general public and for the occupants of the adjacent boathouses. This matter is being discussed internally at CEO level due to conflict in policy. | Pending at Ministry.           |
| Planning Authority    | ES 0005                           | Case in connection with the application of Circular 3/14 issued by the Planning Authority regarding garages. According to the Commissioner it resulted that the Planning Authority is applying the provisions of the same Circular incorrectly as outlined in three particular development applications. | No recommendation                 | In its response, the Planning Authority, in a letter dated 25 <sup>th</sup> April 2018 noted that the relative permits referred to by the Commissioner were all recommended for a refusal by the Planning Directorate however recommendations approved by the Planning and applications approved by the Planning Commission. In view of the Commission's decisions, the Authority will evaluate the situation with respect to the contents of the Circular 3/14 and propose any amendments if found necessary. Following a query by the Ministry with the Office of the Ombudsman, it transpired that this case is closed.                                                                                                      | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                     | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | STATUS                           |
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| Planning<br>Authority | ES 0013                           | Case regarding the Landscaping and Site Area considerations under the Fuel Service Stations Policy, in particular how this was calculated in three planning applications. | <p>CEP submitted his final opinion on the 8<sup>th</sup> March, 2018 and recommended</p> <ul style="list-style-type: none"> <li>* To strictly abide by the Fuel Service Station Policy when handling applications involving Fuel Service Station</li> <li>* The site area shall not exceed 3,000 square metres including landscaping which are to be included forming part and parcel of the site.</li> <li>* PA is to establish a percentage of the site which is to be earmarked for soft landscaping.</li> </ul> | <p>Following query by CEP, through email dated 28<sup>th</sup> February 2018, PA noted that there was a third party appeal on two of the three planning applications and in line with Article 13(5) of Chapter 385, the Authority will refrain from commenting on these two cases. With regards to the remaining planning application the case qualifies under para 4.2 of FSSP where criteria 4.3 states that the footprint should not exceed 3,000 square metres. The same policy acknowledges the fact that trees could be a potential fire hazard and therefore the visual impact is not only reduced by the implementation of landscaping schemes. The line of sight for drivers is also a crucial factor which determines where and how the landscaping can be placed. One should also take note of the Environmental Planning Statement Report Section 3.4 which related to the Landscape Character and the Visual Amenity. Following a query by the Ministry with the Office of the Ombudsman, it was confirmed that this case has been closed.</p> | Closed and recommendation noted. |



| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                 | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                                 |
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| Planning<br>Authority | ES 0023                           | Case regarding the Public Consultation on the Amendment Notification Order. As the proposed Legal Notice is clearly in conflict with the same section of the Development Planning Act, the Authority was requested to submit its views on the matter. | <p>The Commissioner submitted his Final Opinion on 27<sup>th</sup> July 2018 and concluded that although this amendment to the DNO introduces Class 22 relating to Existing Development in connection with Malta's Culture and Tradition, it did not infringe the relative Section 55(1) of the main Act on which it was based. It is opportune to recommend that in similar 'before established date developments' that are located ODZ, the PA should at least impose the notification procedure for the sake of transparency, consistency and amenity. What existed prior to the year in question would be definitely established through documents that are endorsed by a notification procedure thus avoiding to establish, each time an issue arises, whether the same development is legal or not whilst at the same time encouraging technical inspections to similar old developments that other than being illegal might also have been constructed without any warranted professional assistance.</p> | <p>The Planning Authority replied to the Commissioner's initial email on 17<sup>th</sup> May 2018 stating the underlined phrase 'prior to their carrying out' should be read in its proper context. All works which constitute a development qualify by definition, as works which 'require the submission of an application prior to their carrying out'. Developments already in existence, in so far as they constitute a development in terms of the Development Planning Act, likewise qualify as works which require/would have required 'the submission of an application prior to their carrying out'. The fact that the relative development has already been carried out, does not render the same as one which by definition does not 'require the submission of an application prior to its carrying out'. Therefore Article 55 may be applied indiscriminately to any form of works, existent or otherwise, provided that the same qualify as development under the Development Planning Act, and which therefore by definition, 'require the submission of an application prior to their carrying out'.</p> | Closed and recommendation implemented. |

| SECTOR/<br>DEPARTMENT         | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                 | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS                                 |
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| <b>Planning<br/>Authority</b> | ES 0025                           | Complaint in connection with an alleged failure by the Planning Authority in taking action following the issue of an Enforcement Notice regarding a shop in Pembroke. | No recommendation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | In spite of the pending appeal and pending application, the Authority requested the removal of the oven from the premises to ensure that no cooking takes place on site. The oven was consequently removed. The Authority has taken action within its remit and the limits provided for by DPA and the valid permission on site.                                                                                                                                                                                                                                                                             | Closed without recommendation.         |
| <b>Planning<br/>Authority</b> | ES 0026                           | Case regarding an alleged irregular authorisation of the use of motor servicing in Żejtun.                                                                            | <p>CEP submitted his Final Opinion on 9<sup>th</sup> November 2018 and concluded:<br/><i>L-ilment qed jiġi milqugħ limitatament fis-sens li hemm bżonn Development Notification Application skont il-proċeduri stabbiliti fl-Artikolu 3(3) tal-Ordni dwar il-Klassijiet ta' Użu fl-Ippjanar tal-Iżvilupp. L-Awtorità għandha tinforma lill-Perit tal-applikant sabiex dan il-bdil ta' użu jkompli, l-applikant għandu jintavola Development Notification Application skont il-proċeduri stabbiliti fl-Artikolu 3(3) tal-Ordni dwar il-Klassijiet ta' Użu fl-Ippjanar tal-Iżvilupp minhabba li l-ittra maħruġa mill-uffiċjal tagħha fid-19 ta' Novembru, 2015 inġarret fuq żball tal-istess Awtorità. L-ispejjeż għall-istess notifika għandhom jiġi sopportati mill-Awtorità tal-Ippjanar. L-Uffiċju</i></p> | <p>Following investigation, it transpired that the property in question was erroneously classified as Class 5B instead of Class 5C. On the basis of this mistake, a Trading License was issued for motor servicing in a residential area.</p> <p>PA met with applicant and gave him until 22<sup>nd</sup> February 2019 to submit the relative application. A DNO application was consequently submitted by the applicant and granted by the Authority on 5<sup>th</sup> March 2019.</p> <p>Due to the fact that no further communication was received by CEP, it was communicated that case was closed.</p> | Closed and recommendation implemented. |

| SECTOR/<br>DEPARTMENT         | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                             | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                                      | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                                                 |
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|                               |                                   |                                                                                                                                                                                   | <i>tal-Liċenzji għandu jkun infurmat bid-deċizzjoni aħħarja tal-Awtorità sabiex l-istess Uffiċċju tal-Liċenzji jaġġorna l-informazzjoni relatata mal-istess liċenzja kif maħruġa.</i>                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                        |
| <b>Planning<br/>Authority</b> | ES 0042                           | Complaint regarding alleged misleading information in the approval of a particular development permit at Marsascalea. An appeal was also decided by the EPRT regarding this case. | The Commissioner referred the Final Opinion on 3 <sup>rd</sup> October 2018 and concluded that allegations of false or misleading information leading to the approval of a particular planning application are not sustained. As this opinion is not adverse to any third party not involved in this investigation, no other person was deemed to be given the opportunity to be heard in terms of Section 22(6) of the Ombudsman Act. | Reply was sent by PA on 17 <sup>th</sup> August 2018 noting that in view that a decision by the Tribunal has been delivered which confirms the Authority's decision, at this stage no further action can be taken. The Authority relies on the Tribunal's findings as expressed in the aforementioned decision. This decision has not been appealed and therefore today this case is res judicata for all intents and purposes of law. | Closed, case withdrawn by the Office of the Ombudsman. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                         | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | STATUS                                 |
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| Planning<br>Authority | ES 0043                           | Case regarding a complaint that a minor amendment in a particular case for an extension of a guest house in Silema was processed irregularly by the Authority. It transpires that although an objection was submitted within the stipulated period of 29 <sup>th</sup> October 2016 against a minor amendment submitted on 10 <sup>th</sup> October 2016, this minor amendment was dealt with by the Executive Chairperson and was not referred to the Planning Board in breach of Subsidiary Legislation 552.13 section 15(9). | On 19 <sup>th</sup> October 2018 the Commissioner informed complainants that PA had accepted the recommendation that there are grounds for revocation for the first minor amendment and requested complainants to initiate these procedures with the Planning Authority. A request to invoke Article 80 to the first minor amendment in a particular planning application was received on 26 <sup>th</sup> November 2018. | <p>CEP was informed that due to an electric system update, an email which was received during the weekend was uploaded one day after the expiry date of the representation period. The date of the objection letter was mistakenly considered as late submission through a purely genuine mistake, although the contents of the letter of objection were still taken on board. Had the objection letter been considered to have been filed within the statutory period, the case would have been referred to the Commission rather than be decided by the Directorate.</p> <p>In view of the Directorate's overview of the representation submittal date during the first minor amendment request, it is recommended that the provisions of Article 80 do indeed apply to this case. The Commissioner informed complainants that the PA accepted the recommendation that there are grounds for revocation for the first minor amendment and requested complainants to initiate these procedures with the Planning Authority. Request for Article 80 by complaints lawyer was submitted and accordingly passed to the Planning Authority Board Secretary.</p> <p>Following an inquiry from Ministry, CEP informed that case has been closed.</p> | Closed and recommendation implemented. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                      | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                                                                                  |
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| Planning<br>Authority | ES 0045                           | Case regarding the installation of three service poles near Selmun Palace, Mellieha. Although the installation of these poles is not allowed under the development notification order (Class 5(vii)), no related permits were found from the PA geoserver. | No recommendation                 | Complainant was informed that the telecommunications company concerned submitted an application to sanction these poles in TRK 215876. Since allegations have been sustained and the Authority acted accordingly, although the application is pending, the case is being closed.                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| Planning<br>Authority | ES 0047                           | Case regarding an alleged nuisance from a restaurant roof extractor at Marsascala. An application was submitted to sanction but no enforcement action appears to have been taken on site.                                                                  | No recommendation                 | <p>The Commissioner referred back on 22<sup>nd</sup> August 2018, drawing the PA's attention that the complainant had informed the Planning Authority on 13<sup>th</sup> August 2018 that the illegal use of the extractor was back in use from the 6<sup>th</sup> to the 12<sup>th</sup> August 2018.</p> <p>An unannounced site inspection was carried out to determine whether the extractor fitted at roof level was functioning or otherwise, which transpired that the extractor was not operating. The owner was instructed to fully enclose the extractor with impermeable material in a manner which clearly shows that the unit is not functioning. Sanctioning application was approved on 9<sup>th</sup> October 2018.</p> | Closed without recommendation.                                                          |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                     | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                         |
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| Planning<br>Authority | ES 0049                           | Case regarding a pier in Mellieħa following a complaint alleging that this pier was recently constructed without a permit. An article in the press reported that the Planning Authority said that there are no planning issues related to the works being carried out, since repair works on an existing quay are exempted from the requirement of permission according to Class 2 of the Development Notification Order. | No recommendation                 | <p>The Commissioner was informed that Class 2(vi) of the Development Notification Order refers to 'The repair of buildings or other structures'. Since the site is not located in an ODZ, then no notification to the PA was required.</p> <p>PA replied in October 2019 noting that Class 2(vi) of the DNO further states 'and it does not materially alter the character and, or context of the building or structure and its surroundings'. The damaged/eroded quay which was present on site required maintenance work in view of its exposure to the open sea. The removal of a layer of concrete cannot be considered as a substantial demolition of the quay especially when one notices that the quay is still above the water line level.</p> <p>This case was discussed with CEP whereby the Commissioner explained that the part of the jetty protruding onto the sea is a complete reconstruction of the same jetty. Case was again discussed during the meeting held on 19<sup>th</sup> February 2019, where an undersea video was produced confirming that the protruding part of the quay is a complete reconstruction on the seabed. Executive Chairman directed a Perit to initiate enforcement action. The Commissioner submitted his Final Opinion on 8<sup>th</sup> November 2018 and concluded that the complaint lodged against the Planning Authority is being sustained.</p> <p>In April 2019 CEP informed that this case has been closed.</p> | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                 | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                         |
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| Planning<br>Authority | ES 0050                           | Case regarding an alleged illegal use of a hydraulic car lift in Birkirkara. This case was already the subject of another investigation and on which there was also a decision of the EPRT for the revocation of the permit conditions in a particular planning application. The complainant is alleging that a hydraulic car lift is being used at this site against the relative permit conditions. | No recommendation                 | <p>Further correspondence was received from the Commissioner on 25<sup>th</sup> October 2018, stating that it was brought to his attention that apart from the issue of the hydraulic lift, these premises are not being used according to the approved permit since the premises are used for mechanical repair works and not only for diagnostic and electrical repairs as established in the same permit. The basement is also not being used as a domestic store but for the storage of vehicles, spare-parts, tyres, heavy duty tools and noisy machinery which have been used for panel-beating and spray painting or to fill engine blocks with the use of a milling machine.</p> <p>After various correspondence, CEP on 20<sup>th</sup> November 2018 was referred emails from the Unit Manager Enforcement requesting complainants to meet him on site and that no communication was received by the complainants. The complainants were informed via email that this case was discussed in detail by management and resulted that the Authority is bound to respect the permit as issued. This is also in view of the Tribunal's decision, especially to the part where the Tribunal specifically declared its position regarding the car lift.</p> <p>The following statement is a very clear statement of the Tribunal and hence the Authority will abide with the statement: <i>"Illi fil-fehma ta' dan it-Tribunal, il-Kummissjoni fid-deċiżjoni li tordna t-tneħħija ta' kull apparat li ma għex indikat fil-pjanta [...] hija ultra vires [...]"</i></p> | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                             | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS                                           |
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| Planning<br>Authority | ES 0057                           | Case regarding a structure approved in Paceville. | CEP submitted his Final Opinion on 24 <sup>th</sup> October 2018, which concluded: <i>'L-interpretazzjoni tal-Policy dwar l-imwejjed u siggijiet fi spazji pubbliċi miftuħa għandha ssir mill-Awtorità tal-Ippjanar strettament mas-sezzjonijiet kollha speċifikati fl-Istess Policy fejn il-proposta tkun tinkludi l-użu ta' parti mit-triq. Fuq it-triq għandha tigi permissa li ssir pjattaforma tal-injam mdawwra bil-bollards għall-protezzjoni, liema pjattaforma u bollards ikunu jistghu jitneħħew faċilment. Din il-pjattaforma u bollards għandhom jitneħħew meta l-hanut ikun magħluq għal aktar minn ċertu ammont ta' sigħat jew granet sabiex l-istess spazju jkun lista' jintuża mill-pubbliku. Fuq it-triq m'għandha tigi awtorizzata l-ebda struttura oħra fil-lej tinda ritrattabli jew umbrelel li jiżżarmaw meta l-istabbiliment ikun magħluq'.</i> | A reply was sent to the Commissioner on 3 <sup>rd</sup> September 2018, where it was noted that the policy in question is an agreed policy between Transport Malta, Malta Tourism Authority, Lands Authority and Planning Authority. This policy was drafted by all stakeholders and was subject to both an SEA screening and to public consultation.<br><br>An email was sent to the Commissioner on 7 <sup>th</sup> January 2019 informing him that his recommendations are being accepted. | Closed and recommendation partially implemented. |



| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                    | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                             | STATUS                         |
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| Planning<br>Authority | ES 0060                           | Complaint regarding alleged illegal works outside development zone on a site situated on the road leading from Manikata to Popeye's Village in Mellieħa. | No recommendation                 | A reply was sent by PA on 27 <sup>th</sup> September 2018, stating that the Authority went on site on 18 <sup>th</sup> September 2018 and noted the unauthorised works in Mellieħa. Works were all suspended and owner was instructed to revert the site to its original state. CEP was also informed that a Stop and Enforcement notice has also been issued. | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                           |
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| Planning<br>Authority | ES 0063                           | <p>Investigation by CEP commenced by email dated 1<sup>st</sup> October, 2018 regarding <i>'il-fatt li membru tal-bord tal-Awtorità ngieb minn barra fuq jet privat għas-smiegħ pubbliku tas-seduta tal-bord ta' 20 ta' Settembru, 2018'</i>.</p> <p>Commissioner referred again on 5<sup>th</sup> October 2018 and further informed that the case is not regarding the Authority's position in this regard but that of the Authority Executive Chairman. He also requested any minutes of meetings where this issue was discussed and requested replies to the first 4 questions in his email dated 1<sup>st</sup> October 2018.</p> | <p>The Commissioner submitted his conclusions on 31<sup>st</sup> October 2018 :</p> <p>1. The Executive chairman should undertake the role of recommending and answering to the board's questions and he should not assume any other role which may be interpreted that the Executive had anything to do with it, even if in only one vote, the final decision is of the board.</p> <p>2. The members of the board should do their utmost to be present for the board's meetings and they should inform the board's Secretary in advance when they would not be able to attend or when they have any problems (eg transport) to be able to attend. In any case, the board members should be left free and under no circumstance should they accept any insistence to attend or not.</p> <p>3. The Authority should make recommendations to the Minister as regards to the regulations that</p> | <p>Various correspondence was exchanged between the Planning Authority and CEP regarding this case and also the documentation requested, namely minutes of the meeting where the CEP case was discussed, were forwarded to CEP.</p> <p>In view of CEP's conclusion a reply was sent to the Commissioner on 7<sup>th</sup> January 2019, informing him that recommendations 1 and 2 were already on board whilst the Executive Council did not endorse recommendation 3 since the majority of applications decided by the Planning Board, excluding very few applications which are undelegated by members, are Schedule 1 applications and it would be difficult to decide which of these applications should fall within the scope of recommendation 3. CEP was also informed that with regard to recommendation 4, the Planning Board members have been guided to refer any media requests through the Planning Authority public relations office. It is only the Parliamentary representatives on the Board who have immunity to speak in public on board matters. The Local Council representative should be considered on the same lines as the latter.</p> <p>CEP confirmed that this case has been closed.</p> | Closed and recommendation noted. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | ACTION TAKEN & MANAGEMENT COMMENTS | STATUS |
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|                       |                                   |                       | <p>can be made with regard to Article 85(2)(i) of the Act particularly with regard to the quorum and the decisive majority for specific cases, meaning if there is the need that the quorum and the decisive majority be more than the simple majority established for projects of a certain importance.</p> <p>4. The board members should be and remain impartial until the vote is taken and for this reason, any doubts that may be raised before and during the sitting, should be discussed during the same sitting. I am hereby referring to articles that were in the media before the meeting took place, which indicate how the vote will be cast by certain members of the board and even in the case of a conflict of interest.</p> |                                    |        |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                   | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                         |
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| Planning<br>Authority | ES 0067                           | Case regarding a complaint that a garage was being used as a residence. | No recommendation                 | A reply to the Commissioner was sent in October 2018 'L-Awtorità tal-Ippjanar kienet diġà rċeviet ilment i fuq dan il-każ. Jirriżulta li l-permess PA 5004/02 kien awtorizza t-twessigh tal-bieb ta' barra u li jitbaxxa l-livell tal-art. Il-permess DN 123/13 awtorizza alterazzjonijiet u l-kostuzzjonijiet ta' wc fil-bitha ta' wara. L-Awtorità kienet ukoll harget konċessjoni CTB 695/15, skont Skeda 8 tal-Att tal-2010 li jkopri l-bdil tal-użu ta' dan il-livell għal residenza. Għaldaqstant skont il-liġi, l-Awtorità ma tistax tiegħu azzjoni kontra dan il-bdil tal-użu.' CEP subsequently closed the case. | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                    | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                         |
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| Planning<br>Authority | ES 0070                           | Complaint that the Authority is not providing access to third party for an affidavit in a particular case in connection with a window in the same site overlooking the property of the same third party. | No recommendation                 | <p>The Commissioner was informed that the approved drawing which refers to the development in question was declared by perit as a pre-1967 existing development inclusive of window. There was no proposed modification to this existing window in the planning application. PA's assessment was based on the information provided by the architect in charge of this application, that is that at the back of this property there is an opening (window) which is overlooking third party property. Based on the two defining facts and declarations, Sanitary Officer could not question the legality of this window. Therefore under such circumstances the issue is contested between the involved parties in a civil court with regards to legal rights. On the other hand, if false declaration has been carried out in the application, upon legal proof, invocation of permit may be requested to the same Authority.</p> <p>The Authority replied to the correspondence from the Office of the Ombudsman stating that it is confirmed that the PA officer always assesses changes indicated in the appropriate colour. Following reply to CEP in January 2019, case was closed in March.</p> | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                        | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                           |
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| Planning<br>Authority | ES 0083                           | Complaint regarding an alleged lack of action by the Planning Authority against inconvenience from an extraction system on a site at Żabbar. | <p>The Commissioner informed the complainant in January 2019 of the Planning Authority findings. The Commissioner informed complainant that '[...] <i>Għalhekk jirriżulta li l-Awtorità agħxxiet dwar l-ilment tiegħek, għalkemm dan l-ilment ma laqatux. Billi dan l-Uffiċċju ma jidholx f'aspetti teknici, infakkrek li minkejja din id-deċizjoni ta l-Awtorità int tista' tressaq l-ilment tiegħek mal-Awtorità tas-Saħħa f'każ li tħoss li jkun qed jiġi kkawżat lilek inkonvenjent f'dan is-sens bi ksur tal-ligi</i>'.</p> | <p>A reply to the Commissioner was sent in January 2019 where it was noted that this complaint had already been investigated and the complainant was provided with the results of the investigation. Condition 6 relating to the extraction system included that 'prior to the issuing of the Final Compliance Certificate for this development the applicant shall submit to the PA certification from a qualified engineer confirming that the development fully satisfies the requirements specified in the approved report'. Subsequent to the implementation of works approved by this permission an engineer's certificate was submitted certifying that 'the development under consideration fully satisfies the requirements specified in the engineer's report. A final compliance certificate on this premises was issued on 14<sup>th</sup> December 2017. A further updated Engineer's certificate was submitted on 5<sup>th</sup> September 2018 confirming previous certification.</p> <p>The site was inspected on different occasions however during all the inspections the use of the premises was found to be according to the conditions and approved drawings. The claim that the ventless extraction system on site is not installed according to permission is unfounded. Case was consequently closed by CEP.</p> | Closed and recommendation noted. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                      | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS                                 |
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| Transport Malta       | ES 0001                           | Complaint regarding alleged failure of provision for cycling routes in Paola. Complainant is alleging that after the submission of a Safety Risk Assessment report dated June 2017 to Transport Malta by an NGO, no reply has been forthcoming from Transport Malta. It was required to submit views regarding the matter and on a similar note to provide information on what measures have been taken to provide for cycling routes in the junction being proposed near the Addolorata Cemetery. | Recommendation by CEP to TM Chairman on 23 <sup>rd</sup> April 2018 states that BAG Malta should continue communicating directly with Transport Malta and it was suggested that Transport Malta should hold regular meetings with BAG Malta and any other cycle NGO or Federation to tackle such issues in the future. | On 25 <sup>th</sup> January 2018, CEP was informed that the Marsa Junction Project does have a number of cycle lanes which cater for most of the routes across the same junction in question. The routes also include pedestrian bridges which will be equipped with Lifts to accommodate cyclists. The architect in question stated further that one would not know if the Project Manager at that time consulted the Cyclists groups back then due to changes in personnel. | Closed and recommendation implemented. |

| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                      | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                               | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                                                                                  |
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| <b>Transport Malta</b> | ES 0006                           | Case opened by CEP in connection with the application of Circular 3/14 issued by PA regarding garages.                                                                                                                                                                                                                                                                                                     | No recommendation                                                                                                                                                                                                                                                                                               | <p>In February 2018, TM communicated with CEP informing that the Planning Authority is the competent authority responsible to determine the level of parking provision required for residential and non-residential development and that TM does not get involved in the management or administration of such schemes.</p> <p>In this respect, TM's clearance for planning applications only concern those aspects falling directly under TM's legislative and policy remit.</p> <p>In February 2019 CEP informed that this case has been closed.</p> | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Transport Malta</b> | ES 0008                           | Complaint regarding lack of access ramps for footpaths through tunnels. Legal Notice 365/2012 allows pedal cycles the use of footpaths along tunnels. However, both carriageways leading to the tunnels of Kirkop, Santa Venera and Regional Road, St Julians do not include adequate access ramps from the street onto the footpath and vice-versa both at the entrance and exit points of these tunnels. | Recommendation by CEP to TM Chairman on 23 <sup>rd</sup> April 2018 states that the NGO should continue communicating directly with Transport Malta also suggesting that Transport Malta should hold regular meetings with the NGO and any other cycling NGO or Federation to tackle such issues in the future. | <p>CEP was informed that the contractor representative will construct a drop kerb one metre long from road level up to pavement level on each side together with a two metres flat part in between, similar to the ramps for disabled, with the difference that the part at road level is two metres long rather than one metre. Where the pavements end, such as in the St Julians tunnel, only a ramp will be constructed leading down to street level.</p>                                                                                         | Closed and recommendation implemented.                                                  |



| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                     | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | STATUS                         |
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| <b>Transport Malta</b> | ES 0030                           | Complaint regarding the fact that a street in Mellieha is being narrowed.                                                                                                                                                                                                                                                                                                                                                                                 | No recommendation                 | <p>On 1<sup>st</sup> June 2018, CEP requested that case be forwarded to the architect responsible at the Roads &amp; Infrastructure Directorate (RID). On the same date, TM Chairman informed that this case should be handled by RID. A meeting was held with all architects involved and CEP, and several documentation was passed to the latter.</p> <p>In January 2019 CEP informed that the case had been closed and that TM had acted correctly in its <i>modus operandi</i> and administration.</p> | Closed without recommendation. |
| <b>Transport Malta</b> | ES 0048                           | Case regarding lack of traffic measures to allow access to a private drive-in in Qawra. The drive-in in question was approved by the Planning Authority to serve as access during emergency situations and for the servicing requirements of the block. However, no measures are in place to keep this access free and unencumbered. CEP requested Transport Malta to provide official no obstruction measures as already provided for a nearby drive-in. | No recommendation                 | The Commissioner was informed that there are no approvals for a 'Keep Clear' bay in St Paul's Bay according to records, meaning that there has never been a formal request for this 'Keep Clear' bay both by the Local Council and/or users of this private area car users. On 21 <sup>st</sup> February 2019, CEP informed that the case has been closed.                                                                                                                                                 | Closed without recommendation. |



COMMISSIONER FOR ENVIRONMENT AND PLANNING  
FOLLOW-UP ON PRE-2018 CASES

| SECTOR/<br>DEPARTMENT                       | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                   | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                | STATUS LAST<br>YEAR  |
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| <b>Wasteserv</b>                            | ER 0043                           | A complaint by one Marsascala resident on issues relating to toxic fumes, noise, abnormal operating times, and fire hazards, allegedly all emanating from the plant. Request by the Ombudsman received on 6 <sup>th</sup> October 2017. | The Ombudsman requested WSM to provide:<br>1. Air-monitoring procedures that are carried out around Triq il-Gemmugħa area and relative results.<br>2. Noise pollution mitigation measures.<br>3. Fire prevention measures.<br>4. Risk management operations, particularly near gas production and gas storage facilities.<br>5. Operating times. | The information requested was submitted to Ombudsman on 17 <sup>th</sup> October 2017, providing all details required. Site monitoring and off-site air and water monitoring were conducted. WSM has to abide by the operative framework provided through the IPPC permit (IP 005/13/A), to which they are subjected. WSM continues to take all precautions to minimise inconveniences as much as is physically possible.<br><br>The case is still open at CEP for monitoring of the situation with the relevant authorities. This case stems from one resident's complaints—dating back to previous years—with a view to have the SAWTP closed for good. | Pending at Ombudsman. | On hold.             |
| <b>Superintendence of Cultural Heritage</b> | ER 0025                           | A case about the alleged improper assessment of the heritage cultural value of a site in Gozo.                                                                                                                                          | The Ombudsman endorsed the SCH's position.                                                                                                                                                                                                                                                                                                       | The Superintendence of Cultural Heritage issued an order of conservation and protection on 1 <sup>st</sup> September 2017 and contacted the complainant several times to submit a minor amendment application with the Planning Authority to regularise his position.                                                                                                                                                                                                                                                                                                                                                                                     | Pending at Ministry.  | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                       | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                      | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | STATUS   | STATUS LAST<br>YEAR |
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| Planning<br>Authority | EQ 0028                           | Complaint against alleged failure to take remedial action against incorrect information supplied with a particular planning application on a site in Qormi. | <i>It is recommended that the Authority should recall application [...] and reassess the application in the light of the foregoing so that the Board can have the full facts before it when taking a decision on this application.</i> | <p>Last EPRT held on 29<sup>th</sup> January, 2019 where it was noted that ‘<i>It-Tribunal jliqa’ t-talba u jiddiferixxi dan l-appell għall-aħħar darba, għas-16 t’April 2019 fis-2.00 p.m. It-Tribunal qed jestendi t-terminu għal decizjoni b’sitt xhur skont il-Ligi.</i>’</p> <p>During EPRT held on the 16<sup>th</sup> April 2019 it was noted that ‘<i>It-Tribunal jiddiferixxi dan l-appell għall-finali trattazzjoni għat-23 ta’ Lulju 2019 fis-2.00 p.m.</i>’</p> <p>During the EPRT held on the 23<sup>rd</sup> July 2019, it was noted that ‘<i>It-Tribunal jiddeferixxi dan l-appell għall-decizjoni b’dana illi l-Awtorità u l-permit holder għandhom sal-aħħar ta’ Settembru sabiex jipprezentaw nota ta’ sottomissjonijiet.</i>’</p> <p>Case is on hold as appeal is still pending.</p> | On hold. | On hold.            |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                 | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | STATUS                         | STATUS LAST<br>YEAR                               |
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| Planning<br>Authority | ER 0007                           | Alleged incorrect application of policies and procedures in processing and determination of a specific application on a site in Qrendi.                                               | No recommendation                 | <p>Appeals decision was issued on 26<sup>th</sup> October 2017 concluding 'Dan it-Tribunal qed jilqa' limitament dan l-appell, qed iħassar id-deċiżjoni ta' rifjut u jordna lill-appellant sabiex fi żmien tletin (30) ġurnata mid-data ta' din id-deċiżjoni li jippreżenta pjanta amendati li jindikaw apertura ta' garaxx waħda ta' mhux aktar minn tlett (3) metri wiesgħa [...], u jordna lis-Segretarju tal-Awtorità tal-Ippjanar sabiex fi żmien tletin ġurnata mill-preżentazzjoni ta' tali pjanti joħroġ il-permess tal-iżvilupp [...] bl-impożizzjoni ta' kundizzjonijiet standard, inkluż dawk relatati mar-restawr tal-bini."</p> <p>Executable permit was issued on 24<sup>th</sup> February 2018.</p> | Closed without recommendation. | Suspended, pending decision by the ERPT Tribunal. |
| Planning<br>Authority | ER 0038                           | Complaint regarding alleged incorrect handling of request for enforcement of action and invocation of Article 80 of the Planning Act on illegal development on a site in Marsascalea. | No recommendation                 | The Planning Authority informed CEP that the invocation of Article 80 in connection with a particular PA application will be considered after another PA application is determined and in view of pending appeal, it is only prudent to await the outcome of the Environment and Planning Review Tribunal (EPRT), before considering the invocation of Article 80 on the first planning application.                                                                                                                                                                                                                                                                                                               | Closed without recommendation. | Pending at Ministry.                              |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                       | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                         | STATUS LAST<br>YEAR  |
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| Planning<br>Authority | ER 0046                           | Complaint about failure to take note of previous Audit Officer report in processing a planning application. | No recommendation                 | <p>In April 2019, CEP informed that the case has been closed.</p> <p>The Planning Authority replied to CEP informing that the applications in question were withdrawn by the Authority as requirements requested in the screening letter remained unsatisfied.</p> <p>The Commissioner replied back, enquiring what direct action has the Planning Authority taken in connection with enforcements on the same site as concluded in the Audit Report especially since both these enforcement notices are marked as 'pending at enforcement officer' to date.</p> <p>The Authority informed CEP that the applicant has submitted a full development application for the development of a Master Plan for the whole area. As such further action or any enforcement action is put in abeyance until such time that the said application is granted or refused.</p> <p>CEP office confirmed in June 2019 that the case has been closed.</p> | Closed without recommendation. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                       | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS                              | STATUS LAST<br>YEAR                 |
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| Planning<br>Authority | ER 0056                           | Complaint for failure to abide by law in approving the demolition of ex-Sea Malta building. | <p><i>The complaint lodged against the Planning Authority on alleged failure to abide by law in authorising the demolition of ex-Sea Malta building at Marsa is sustained.</i></p> <p><i>The authorisation issued by the Planning Authority on 27<sup>th</sup> October 2017 for the demolition of part of the Sea Malta Building at Xatt l-Għassara tal-Għeneb, Marsa should be rendered null and void since the Planning Authority did not appoint a Perit to inspect the Site.</i></p> <p><i>The appointment of a Perit by the Planning Authority to inspect the site should be done at the very early stages of the processing of similar applications for the removal of dangerous structures.</i></p> <p><i>A minor amendment to the relative application form for the removal of dangerous structures is being suggested, requiring applicants to state whether the</i></p> | <p>The Commissioner opened investigation on 24<sup>th</sup> November 2017.</p> <p>Reply by the Planning Authority to the Final Opinion was sent on 25<sup>th</sup> April 2016, noting the conclusions and the recommendations in the Final Opinion, and stating that they are not in agreement with the Commissioner's opinion that the authorisation issued by the Authority for the demolition of part of the Sea Malta Building should be rendered null and void.</p> <p>The Commissioner was also informed that the Authority appointed a Perit in private practice to carry out inspections of properties to be demolished and to report thereon before it authorises their demolition.</p> | Suspended due to court proceedings. | Suspended due to court proceedings. |



| SECTOR/<br>DEPARTMENT         | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                             | RECOMMENDATION BY<br>COMMISSIONER                                         | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS                         | STATUS LAST<br>YEAR  |
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| <b>Planning<br/>Authority</b> | ER 0059                           | Complaint regarding a regularisation procedure application in the South of Malta. | <i>building, rather than the site, is scheduled.</i><br>No recommendation | Investigation opened on 18 <sup>th</sup> December 2017.<br><br>Last PA reply is dated 5 <sup>th</sup> February 2018, confirming that the notice of objection to this Regularisation Application was uploaded on the PA's system, and therefore was officially notified to the Authority on 5 <sup>th</sup> February 2018.<br><br>Moreover, it was clarified that in the Lands Authority's No Objection Letter dated 20 <sup>th</sup> July 2017, the LA had stated that <i>'this clearance is also being issued without prejudice to a final decision being taken by the Lands Authority in respect of any development that is permitted by the PA', and that 'the LA also reserved the right to refuse granting the necessary final clearance for any planning permit that might be issued.'</i> | Closed without recommendation. | Pending at Ministry. |
| <b>Planning<br/>Authority</b> | ER 0061                           | Complaint regarding an alleged missing DN File.                                   | No recommendation                                                         | Case concerning a DN file that could not be traced. In March 2019, CEP confirmed that this case was closed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Closed without recommendation. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                  | STATUS                                                 | STATUS LAST<br>YEAR  |
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| <b>Transport Malta</b> | ER 0009                           | Complaint regarding maintenance works, including cleaning of a site in Mosta.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                   | The nature of works require IM to take the necessary action to satisfy CEP requirements. Considering that IM is a separate legal entity, CEP informed that case in question was closed and reopened with Infrastructure Malta in 2019. | Closed, case withdrawn by the Office of the Ombudsman. | Pending at Ministry. |
| <b>Transport Malta</b> | ER 0013                           | <p>Complaint regarding the implementation of cycling rules along public promenades. Transport Malta has given the green light for a bicycle-sharing scheme locally, which is certainly a positive step to encourage diversification in transport modes available to the public. It would seem that there are already encouraging signs of a take-up of this scheme. An interesting detail is that one can now notice people enjoying cycling at a leisurely rate along the promenade.</p> <p>Unfortunately this is a contravention at present since local regulations prohibit cycling by adults on public promenades. However, the matter requires further looking into, since there could be possible situations where carefully controlled</p> | No recommendation                 | Following inquiry on this case, CEP informed that this case has been withdrawn by the Office of the Ombudsman.                                                                                                                         | Closed, case withdrawn by the Office of the Ombudsman. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                          | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | STATUS                           | STATUS LAST<br>YEAR  |
|------------------------|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|----------------------|
|                        |                                   | use would be beneficial.<br><br>The Commissioner has opened an 'Own initiative' investigation on this issue and wishes to hold a meeting with the designated person in charge. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                  |                      |
| <b>Lands Authority</b> | ER 0059                           | Alleged undue interference by one of the Authority's employees which arose when a 'no objection' which had been issued was revoked and changed to an objection.                | <p>The Commissioner's final opinion was issued on 25<sup>th</sup> October 2018 whereby 3 recommendations were provided:</p> <ol style="list-style-type: none"> <li>1. The Lands Authority should substantiate its decisions with detailed information;</li> <li>2. Revocation should also state that the applicant is to communicate such decision of revocation with other concerned entities, authorities or persons; and</li> <li>3. Revocation should also make reference to available appeal methods, in order to enable aggrieved parties to contest the decision of the Lands Authority.</li> </ol> | <p>Relative file was investigated by the Lands Authority whereby it was concluded that no undue interference resulted by one of the Authority's employees and that the no-objection was reversed due to a number of enforcement actions burdening the site in question. Feedback of the Board of Governance regarding the recommendations done by the CEP was given on the 24<sup>th</sup> June 2019 as follows:</p> <ol style="list-style-type: none"> <li>1. The Authority normally does substantiate its decisions with detailed information;</li> <li>2. Should the Authority accept the applicant's request, the applicant's obligation to communicate such decision with other concerned entities, authorities or persons is already in place;</li> <li>3. Such procedure always took place.</li> </ol> | Closed and recommendation noted. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | STATUS                         | STATUS LAST<br>YEAR  |
|-----------------------|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------|
| Lands Authority       | ER 0062                           | <p>An enforcement notice was issued by MEPA in 2014 for an infringement concerning an illegal planter and extension to pavement without permit.</p> <p>The enforcement notice was issued against the Commissioner of Lands after:</p> <ul style="list-style-type: none"> <li>- a private individual applied to sanction the built planter and the Planning Authority refused permission; and</li> <li>- the Żejtun Local Council had widened the footpath without obtaining the necessary permits.</li> </ul> | No recommendation                 | <p>The Lands Authority's officials went on site to measure the width of the pavement, on which the planter was situated. A request was submitted to Żejtun Local Council to clarify whether the necessary approvals were sought for the extension of the pavement. The Council provided an affirmative reply. A letter was sent to the private individual by the Lands Authority requesting to remove the planter and informing that if he fails to abide by the Authority's instructions, the planter would be removed at his expense. The planter was removed by the Authority's officials in December 2018. The Commissioner was informed that the widening of the footpath, which was allegedly carried out without obtaining the necessary permits, was in fact approved by Transport Malta.</p> | Closed without recommendation. | Pending at Ministry. |

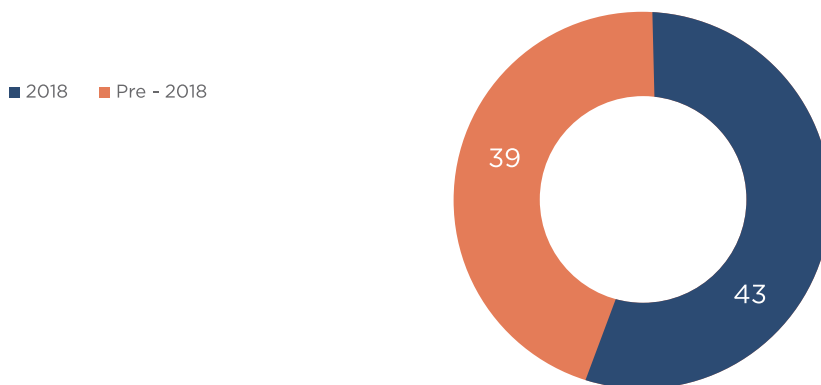
## CASES HANDLED BY THE COMMISSIONER FOR HEALTH

## CASES HANDLED BY THE COMMISSIONER FOR HEALTH

The Public Administration's findings indicate that during 2018, the Commissioner for Health handled a total of 82 cases. Of these, 43 (52.4%) were new cases with the remaining 39 (47.6%) being cases pre-dating 2018. This is presented in **Diagram 13** below.

**Diagram 13 identifying the caseload for the Commissioner for Health in 2018**

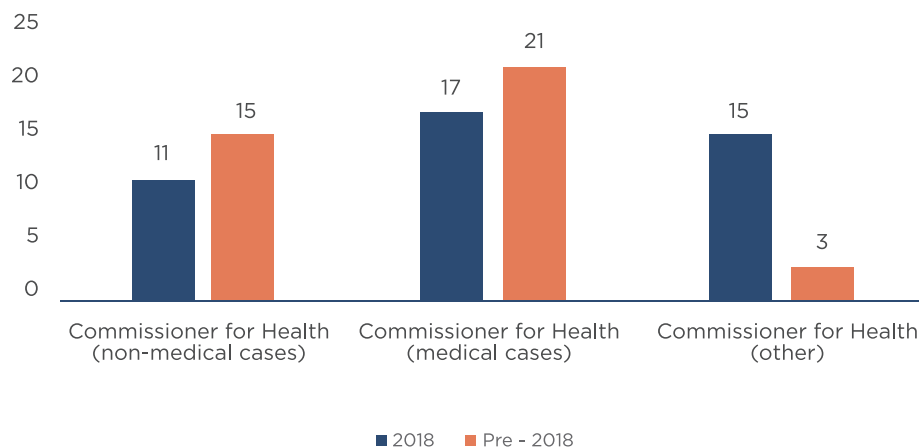
### Commissioner for Health Caseload (2018)



Further categorisation of the caseload shows that the Commissioner for Health has considered complaints that are of a medical or non-medical nature and other cases which concern ministries other than that responsible for health.

**Diagram 14 identifying the caseload for the Commissioner for Health in 2018 categorised according to the principal nature of the complaint.**

### Commissioner for Health Caseload Status (2018)



As depicted in **Diagram 14** above, more than one-fifth of the cases (18 cases, 22% of total cases) received by the Commissioner for Health concern functional areas that are not the direct or exclusive competency of the Ministry responsible for health.

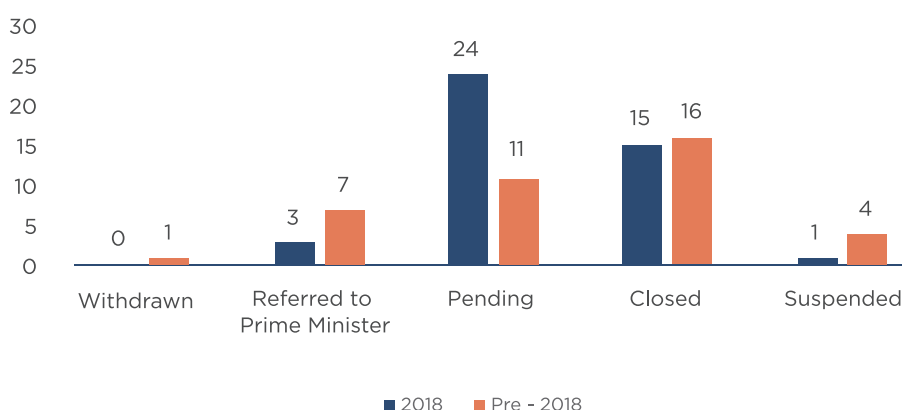
Furthermore, 26 cases (31.7%) referred to the Commissioner were complaints that were not of a medical nature with the remaining 38 cases (46.3%) being of a medical nature. This is a natural reflection of the complexity of the sector.

Considering the caseload from a holistic perspective, data analysed by the Public Administration, and case-by-case it is noted that:

- Except for 1 case (1.2%), all other complaints were deemed suitably founded to merit further investigation. As such, all were upheld by the Commissioner, and the 1 case was withdrawn by the complainant.
- 10 cases (12.2% of total caseload) were referred to the Prime Minister for consideration. 7 of these were cases that pre-dated 2018.
- 5 other cases (6.1% of total caseload) were suspended in view of their presentation for consideration by the Courts or Tribunal.
- 31 cases (37.8% of total caseload) were closed by the time of reporting. Of these:
  - More than 58% (18 of these cases) were closed either without the Commissioner presenting any recommendation(s) or otherwise accepting the Ministry's initial explanatory submission. This is a significant and positive statistic.
  - In addition, in 9 (29%) cases, the recommendation(s) were fully implemented by the time of reporting and in another 4 (13%) cases the recommendations have been taken note of. Again, this is a positive statistic especially when considering that there were no cases for which the recommendation(s) made were not accepted or noted.
- This leaves 35 cases (42.7% of total caseload) which remain pending at date of reporting, 11 of which are cases pre-dating 2018 (nine cases pending at Ministry and 2 cases pending at the Commissioner for Health). The pending cases from 2018 are split down the middle with 12 cases pending at Ministry and 12 cases pending at the Commissioner for Health.

**Diagram 15 identifying the status of the Commissioner for Health caseload.**

### Commissioner for Health Caseload Status (2018) (n=82)





Diagrams 16 to 18 present the status of the Commissioner for Health's caseload classified according to the principal scope of the complaint.

Diagram 16

### Non-Medical Cases Status (2018) (n=26)

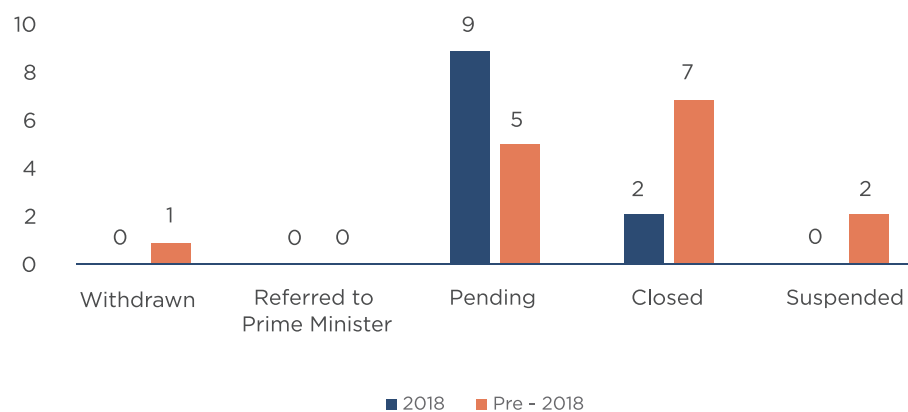


Diagram 17

### Medical Cases Status (2018) (n=38)

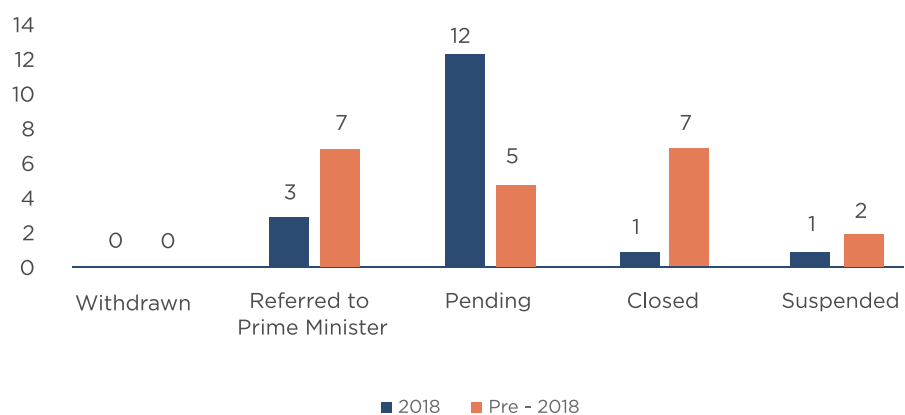
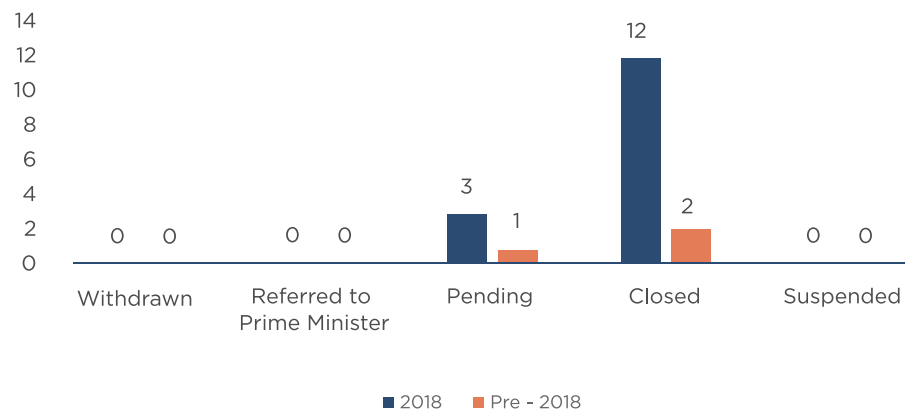


Diagram 18

## Other Ministries

Status (2018)  
(n=18)



COMMISSIONER FOR HEALTH 2018

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                      | RECOMMENDATION BY<br>COMMISSIONER                                               | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                |
|-----------------------|-----------------------------------|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| <b>Health</b>         | HS 0002                           | Case refers to a complainant who requested one year unpaid leave to work overseas to do voluntary work.    |                                                                                 | <p>Management position on this matter is aligned to Public Service Management Code and decision taken is according to the exigencies of the service. Mater Dei Hospital could only approve 6 months unpaid leave which is also in line with Ministry policy across the board.</p> <p>Ministry issued reply to Office of the Ombudsman in August 2019.</p>                                                                                                                                                                                                                                                                                                                                                                                             | Pending at Ombudsman. |
| <b>Health</b>         | HS 0022                           | Case refers to a request by Mater Dei Hospital to an officer to refund allowances paid which were not due. |                                                                                 | <p>The Office of the Ombudsman is challenging the fact that clauses 2.2 and 2.3 in the Refund Policy refer to former employees.</p> <p>Ministry informed the Commissioner that the interpretation of Clauses 2.2. and 2.3 in Refund Policy applies to both Public Officers and former Public Officers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                            | Pending at Ombudsman. |
| <b>Health</b>         | HS 0030                           | Confidential details.                                                                                      | The Office of the Ombudsman requested that complainant's requests be agreed to. | Case was reviewed by Treatment Abroad Committee (TAC). Complainant and Commissioner were informed in writing in February 2019 about the established policy in such cases. The Commissioner requested that complainant's requests be agreed to and in March 2019 requested Terms of Reference of TAC and minutes from TAC meeting where this case was discussed. Also, in March, Commissioner requested further information and in April 2019 the Office of the Ombudsman sent Final Opinion on case with report and recommendations. In June 2019 MFH sent reply to Commissioner confirming previous decision and in July 2019 the Office of the Ombudsman replied contesting decision and asking for a reply about whether his recommendations about | Pending at Ministry.  |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                            | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                  | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                   | STATUS                                                                                                          |
|-----------------------|-----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
|                       |                                   |                                                                                                                                                                                  |                                                                                                                                                                    | <p>this case would be implemented or not by 10<sup>th</sup> July 2019. On 13<sup>th</sup> July 2019 the Office of the Ombudsman requested an update of this case.</p> <p>MFH discussed case with legal counsel on 21<sup>st</sup> August 2019 - MFH's previous position still stands and Ombudsman's recommendations cannot be accepted.</p>                                                                                         |                                                                                                                 |
| <b>Health</b>         | HS 0031                           | Case refers to a query on whether the frozen breast milk that the complainant attempted to import in Malta is to be deemed as food in accordance to the Food Safety Act of 2002. |                                                                                                                                                                    | <p>Ministry referred case to Superintendence of Public Health and informed the Commissioner that a Legal Notice has to be issued.</p> <p>Presently awaiting issue of Legal Notice.</p>                                                                                                                                                                                                                                               | Pending at Ministry.                                                                                            |
| <b>Health</b>         | HS 0039<br>HS 0044                | Complaint arising from a request by a patient for treatment which was turned down. Indication that it was not according to described protocol.                                   | Ombudsman recommending that protocols should be removed, and each case is to be considered on its own merits as protocols are discriminatory and in breach of law. | <p>Reply regarding amendment to Social Security Act dated 6<sup>th</sup> June 2019 sent to Ombudsman on 10<sup>th</sup> June 2019.</p> <p>On 12<sup>th</sup> June 2019, the Office of the Ombudsman replied requesting information.</p> <p>Discussed with legal counsel on 21<sup>st</sup> August 2019 - in view of Ombudsman's feedback stating that issue has been raised with Prime Minister, no further action can be taken.</p> | Ombudsman stated that these two cases were referred to the Prime Minister as provided for in the Ombudsman Act. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                        | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | STATUS                         |
|-----------------------|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| <b>Health</b>         | HS 0046                           | Case concerns an officer who used to work at a health centre who was suspended from work. His case referred to the police who subsequently arraigned him in Court where he was found not guilty.                             | No recommendation                 | The Office of the Ombudsman requested feedback regarding whether any disciplinary action was taken by MFH and whether PSC was informed. It is to be noted that MFH initiated disciplinary proceedings against officer concerned following notification by the Police Authorities. However, in view of Court's decision, MFH informed PSC that disciplinary action would no longer be pursued. The Office of the Ombudsman was informed accordingly.                                                                             | Closed without recommendation. |
| <b>Health</b>         | HS 0048                           | Case refers to a claim raised by an officer who is stating that duties assigned to him are not related to job nomenclature and therefore is requesting a transfer to be able to carry out the duties related to his grade.   |                                   | MDH agreed that the claimant should be transferred following the delivery of equipment the effect of which will enable MDH to release two employees one of which is the claimant. Ministry issued reply to Ombudsman in September 2019.                                                                                                                                                                                                                                                                                         | Pending at Ombudsman.          |
| <b>Health</b>         | HS 0050                           | Complainants employed within a state hospital contested the request by management to refund allowance received since 2013 following their promotion to a higher grade in which they were no longer entitled to an allowance. |                                   | Ministry made reference to the Government refund policy following also guidelines from People & Standards Division that refund needs to be collected over a period of two years commencing from the date that the error has been established. The Ombudsman is challenging the fact that clauses 2.2 and 2.3 in the Refund Policy refer to former employees.<br><br>Ministry informed Commissioner that the interpretation of Clauses 2.2. and 2.3 in Refund Policy applies to both Public Officers and former Public Officers. | Pending at Ombudsman.          |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                               | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                  | STATUS                                                                                                   |
|-----------------------|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| <b>Health</b>         | HS 0054                           | Case refers to Merit scheme award pro-rata. Complainant raised case with Ombudsman on the basis that the Quality Assurance Committee informed him that he will not be eligible on a pro-rata basis. |                                                                                                                                                                  | This matter was discussed with the Merit Award Committee and it was agreed that employees exercising a profession similar to that of the complainant would become eligible for the Merit Award pro-rata for the period in which they opt to serve on 'Contract B' basis. The Commissioner's claim also referred to the delay in issuing payment.                                                                    | Pending at Ministry.                                                                                     |
| <b>Health</b>         | HS 0061                           | Submission to Exceptional Medicinal Treatment Committee (EMTC) not approved - patient requesting reconsideration of case.                                                                           | Requested that case be reviewed and that requested drug be included onto GFL for whole population.                                                               | Case referred to EMTC for consideration. The Office of the Ombudsman was informed verbally on 28 <sup>th</sup> February 2019 and in writing on 14 <sup>th</sup> March 2019 that case was reviewed and original decision still stands. Also, drug will be considered for inclusion onto GFL for whole population once clinicians submit application as per normal procedure.                                         | Pending at Ombudsman.                                                                                    |
| <b>Health</b>         | HS 0062                           | Case concerns alleged malpractice regarding processing of medical prescriptions in pharmacies.                                                                                                      |                                                                                                                                                                  | MFH requested the Office of the Ombudsman to provide more details in order to aid investigation. The Commissioner clarified that issue was related to private pharmacies and had written to Pharmacy Council on this matter. MFH is awaiting feedback from the Ombudsman on the status of this case.                                                                                                                | Pending at Ombudsman.                                                                                    |
| <b>Health</b>         | HS 0067                           | Complaint arising from a request by a patient for treatment which was turned down. Indication that it was not according to described protocol.                                                      | Ombudsman recommended that protocols should be removed and each case is to be considered on its own merits as protocols are discriminatory and in breach of law. | Reply regarding amendment to Social Security Act dated 6 <sup>th</sup> June 2019 sent to Ombudsman on 10 <sup>th</sup> June 2019. On 12 <sup>th</sup> June 2019, the Office of the Ombudsman replied requesting information. Discussed with legal counsel on 21 <sup>st</sup> August 2019 - in view of Ombudsman's feedback stating that issue has been raised with Prime Minister, no further action can be taken. | Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                   | STATUS                |
|-----------------------|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Health                | HS 0068                           | Case refers to patients who are admitted to beds contracted by Government to private Old People's homes and the percentage income deducted. In this regard, Commissioner received a complaint in respect of the fact that those who are admitted to beds contracted by the Ministry for Health have an 80% deduction whilst those who are admitted to beds contracted by the Department for the Elderly and Community Care within the Ministry for the Family, Children's Rights and Social Solidarity have a 60% deduction. The patients have no say on this matter and do not know to which Ministry they should turn in case of need. |                                   | MFH has inquired with Mater Dei Hospital regarding the procedure being used and reference has also been made to Subsidiary Legislation 318.13 which refers to State Financed Residential Services Rates Regulations.<br><br>Ministry issued reply to Commissioner in September 2019. | Pending at Ombudsman. |



| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                         | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | STATUS                              |
|-----------------------|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| Health                | HS 0071                           | Case arising from a submission to EMTC which was not approved. Patient is requesting reconsideration of case.                                                                                                 |                                   | Case referred to EMTC for consideration. The Office of the Ombudsman was informed verbally on 28 <sup>th</sup> February 2019 that case was reviewed and original decision still stands. On 15 <sup>th</sup> April 2019 the Office of the Ombudsman replied that it does not agree with EMTC's decision and requested reconsideration of case. Reply sent to Ombudsman on 17 <sup>th</sup> June stating that <i>"..submissions will only be reassessed if the above procedure is followed, and decisions taken by the EMTC are considered to be final."</i> The Office of the Ombudsman replied on 20 <sup>th</sup> June 2019 contesting reply and decision. | Pending at Ministry.                |
| Health                | HS 0072                           | Complaint from a health care professional alleging discrimination with regards to the job plan and the assignment of post within a clinical department.                                                       |                                   | The Office of the Ombudsman requested that this long-standing issue be addressed and that meeting between complainant and administration be held to clarify issues. In this regard several meetings between complainant and management including CMO were held but a solution is yet to be found. In April 2019 the Office of the Ombudsman requested an update on this case which is still pending.                                                                                                                                                                                                                                                        | Pending at Ministry.                |
| Health                | HS 0080                           | Complaint by an officer in the health care profession claiming that due to an ongoing court case the health authorities failed to appoint him to a higher grade despite placing first in a selection process. |                                   | The Commissioner requested MFH's feedback regarding this case. In February 2019, the Office of the Ombudsman was informed that subject to satisfactory performance, the Department of Health will request the Public Service Commission to extend the validity period/s of the order of merit results of the call for applications in question. Appointment is thus subject to court decision exculpating the complainant concerned.                                                                                                                                                                                                                        | Suspended due to Court proceedings. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                               | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS                         |
|-----------------------|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| Health                | HS 0086                           | Complaint concerns orders online which exceed the legal limit of certain products.                                                                                                                                                                                                                                                  |                                   | MFH has requested feedback from the Environmental Health Directorate on this matter.                                                                                                                                                                                                                                                                                                                                                                                                         | Pending at Ministry.           |
| Health                | HS 0088                           | Complaint arising from an officer's request for a transfer which could not take place because the new recruit earmarked to replace him failed to take up the post.                                                                                                                                                                  | No recommendation                 | MFH informed the Office of the Ombudsman that it remained committed to address this request once a suitable replacement is identified and available. Following recent recruitments, MFH informed the Office of the Ombudsman that the officer's request was acceded to.                                                                                                                                                                                                                      | Closed without recommendation. |
| Health                | HS 0098                           | Complainant alleging breach of GDPR by MDH Customer Care as blood results will now only be given to doctor and not to the patient.                                                                                                                                                                                                  | No recommendation                 | MFH forwarded feedback to the Office of the Ombudsman on this case in May 2019.                                                                                                                                                                                                                                                                                                                                                                                                              | Closed without recommendation. |
| Health                | HS 0099                           | Case concerns a request for a branded product which was approved by EMTc in January 2019 but drug has not been procured to date. Patient is requesting procurement of drug and a refund for treatment bought and paid for by himself. In July 2019, the Office of the Ombudsman requesting that medicine be bought by Direct Order. |                                   | In August 2019 this drug was procured and delivered to patient at home via courier services. MFH is thus now procuring medicine and delivering it to patient. Case still pending as patient had requested reimbursement of costs for medicine bought out of pocket. MFH has decided to reimburse patient once proof of payment is provided – which patient has not yet submitted. Ombudsman has been informed that MFH is still awaiting proof of payment from patient prior to reimbursing. | Pending at Ministry.           |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS               |
|-----------------------|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>Health</b>         | HS 0100                           | Case concerning a request for a branded product made to EMTC, whereby the patient's parent is requesting drug to be procured.        |                                   | The Commissioner requested feedback regarding this complaint. In this regard, drug is extremely costly and MFH is attempting to source the necessary funds to enable its procurement.                                                                                                                                                                                                                                                                                                                                                                                                                        | Pending at Ministry. |
| <b>Health</b>         | HS 0102                           | Case arising from a submission to EMTC which was not approved. Patient is requesting reconsideration of case.                        |                                   | Commissioner requested that case be reviewed and also queried process by which drugs are introduced onto the Government Formulary List (GFL). In January 2019 the Office of the Ombudsman was informed in writing that EMTC had reviewed case and original decision still stands. The Commissioner is still challenging this decision and thus a reply was sent to Office of the Ombudsman in June 2019 regarding procedure for reconsideration of EMTC decisions, as drafted by legal counsel and EMTC chair. In July 2019, the Office of the Ombudsman replied that it is still contesting EMTC decisions. | Pending at Ministry. |
| <b>Health</b>         | CH/5/P33                          | Request by the Office of the Ombudsman for contracts concerning Steward Healthcare and the confidentiality aspect of such contracts. |                                   | The Office of the Ombudsman has been informed that hospital concession agreements include confidentiality undertakings in terms of which information that is sensitive in nature may not be disclosed. In this regard, the redacted documents have already been provided to Ombudsman for his perusal. MFH is not in a position to provide further information regarding this case.                                                                                                                                                                                                                          | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                         | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                      | STATUS                |
|-----------------------|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| <b>Health</b>         | CH/5/P36                          | Case arising from a communication sent by the Office of the Ombudsman regarding the recently set up EMTC, requesting a number of cases to be assessed by EMTC.                                                |                                   | In May 2018 the Office of the Ombudsman was informed of procedure to be undertaken for cases to be assessed by EMTC.                                                                                                                                                                                                                                    | Pending at Ombudsman. |
| <b>Health</b>         | CH/5/P45                          | Case arising from a newspaper article stating that Maltese NHS is giving outdated HIV treatment to NHS patients.                                                                                              |                                   | Commissioner requested feedback regarding this article. In March 2019 the Office of the Ombudsman was informed that the government had initiated the process to update the HIV treatment that is available on the GFL. The tender process is currently underway.                                                                                        | Pending at Ombudsman. |
| <b>Health</b>         | CH/5/P50                          | Case arising from an e-mail received from a foreign consultant in Childhood Disability regarding damage caused to foetuses, babies and children who are exposed to long-term electromagnetic radiation (EMR). |                                   | Commissioner queried whether any guidelines on the subject have been issued to the public. Reply drafted by SPH was sent to the Office of the Ombudsman in June 2019 following which Ombudsman's Office again replied. Feedback is now awaited from SPH to enable a reply.                                                                              | Pending at Ministry.  |
| <b>Health</b>         | CH/5/P51                          | Case concerning the querying of decisions being taken by EMTC.                                                                                                                                                |                                   | Commissioner requested the Terms of Reference of EMTC which were duly provided. Case was discussed verbally with the Office of the Ombudsman in February 2019 following which a reply was drafted by EMTC and sent in March 2019. Latest correspondence was received from Office of the Ombudsman in April 2019. A reply is being discussed internally. | Pending at Ministry.  |

| SECTOR/<br>DEPARTMENT                                                                             | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                             | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                             | STATUS                                                                                      |
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| <b>MFCS<br/>(Department for<br/>the Elderly and<br/>Community Care)</b>                           | HS 0019                           | A complaint lodged regarding an overpayment which was incurred while the complainant's mother was a resident at an old people's home.                                                                                | Since the case is too complicated to deal with it by e-mail correspondence alone, the Commissioner suggested that the Department for Social Security organises a meeting with the complainant to explain in detail how and why the overpayment occurred and how it was going to be retrieved. | The complainant lodged the same complaint in 2014 but was not satisfied with the reply and therefore filed a formal complaint. A meeting was held with the complainant as was suggested by the Commissioner, where it was agreed that the officer who was dealing with this case would write formally to the complainant, with the details explained to him during the meeting. The Commissioner was sent a copy of the letter on 26 <sup>th</sup> April 2018. | Closed and recommendation implemented.                                                      |
| <b>MFCS<br/>(Department for<br/>the Elderly and<br/>Community Care<br/>/ Home Help<br/>Board)</b> | HS 0082                           | Case regarding Home Help Service which was terminated following the demise of the complainant's spouse.                                                                                                              | No recommendation                                                                                                                                                                                                                                                                             | The Commissioner for Health requested comments regarding this case.<br><br>In November 2018, the Home Help Board informed the Commissioner that it had reviewed the case and the complainant was awarded 2 hours of Home Help Service.                                                                                                                                                                                                                         | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |
| <b>MFCS<br/>(Department for<br/>the Elderly and<br/>Community Care)</b>                           | HS 0065                           | The claimant's relatives requested that their sibling, who suffers from a condition known as quadriplegia, is given adequate lodging and medical care because they are not able to take care of him at home anymore. | The Commissioner asked whether the complainant could be considered to be retained at the residential home under the Public-Private Partnership scheme.                                                                                                                                        | The MFCS considered this case and took action to have the person in question admitted to the residential home.                                                                                                                                                                                                                                                                                                                                                 | Closed and recommendation implemented.                                                      |

| SECTOR/<br>DEPARTMENT                               | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                     | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                 | STATUS                         |
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| <b>MFCS<br/>(Department of<br/>Social Security)</b> | HS 0016                           | A pensioner complained that pension was erroneously reduced following spouse's admission into residential care.                                                                                                                                           | No recommendation                                                                                                                                                                | In September 2017, the DSS replied that since complainant's spouse was discharged to his home from residential care, his spouse's pension rate was revised with effect from the date of discharge and that arrears were going to be paid with his next pension.                                                                                                                                                                    | Closed without recommendation. |
| <b>MFCS<br/>(Department of<br/>Social Security)</b> | HS 0024                           | The complainant claimed that he was not paid for 36 days sick leave after he had utilised all his sick leave entitlement (15 days) due to treatment for cancer which entailed a three-day stay in hospital each time he had to take a chemotherapy cycle. | The Commissioner for Health requested that the Ministry may wish to consider whether such cases merit special consideration and not adhering strictly to the wording of the law. | In May 2018, the Commissioner was informed by the DG (SS) that, whatever the medical condition, the wording of the law has to be adhered to. Nonetheless, in April 2019, the Commissioner was further informed that the situation of this particular case has been noted and consideration is being given to propose possible policy changes. In September 2019, the Commissioner was informed that there was no change in policy. | Pending at Ombudsman.          |
| <b>MFCS<br/>(Department of<br/>Social Security)</b> | HS 0047                           | A complaint against the rejection of an application for disability assistance as the Medical Panel decided that the beneficiary's condition does not fall within the definition of visually impaired.                                                     | No recommendation                                                                                                                                                                | The Office of the Ombudsman requested the reason as to why the Medical Panel arrived at its decision.<br><br>In August 2018, the DG (SS) informed the Office of the Ombudsman as to why case was rejected.<br><br>Nonetheless, the complainant's application for assistance for the severely disabled (intellectually) was accepted. The Commissioner was informed of this decision on 27 <sup>th</sup> May 2019.                  | Closed without recommendation. |
| <b>MFCS (Home<br/>Help Board)</b>                   | HS 0014                           | The complainant and his spouse were allocated two hours per week Home Help Service since July 2014. This was increased to three hours in 2016.                                                                                                            | No recommendation                                                                                                                                                                | In March 2018, the Chair of the Home Help Board re-affirmed the fact it is a normal procedure of the board that a medical report is requested after six months. The Board suggested that a new application needs to                                                                                                                                                                                                                | Closed without recommendation. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                 | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | STATUS                                                                                      |
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|                       |                                   | Following his spouse's demise, he continued to enjoy two hours Home Help Service until this was terminated in December 2017 because, according to a recent assessment, the complainant was found to be fully independent. The complainant insisted that he was refused the right to appeal but was requested to re-apply for the service so that the board could re-assess his claim. |                                   | be submitted since the same application provides the board with a detailed recent medical report of the client.                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                             |
| <b>MFCS (SVPR)</b>    | HS 0027                           | A confidential case regarding an incident that took place in April 2018.                                                                                                                                                                                                                                                                                                              | No recommendation                 | The management investigated and took necessary action that resulted in referral of the findings to the PSC.                                                                                                                                                                                                                                                                                                                                                                                                                                      | Closed without recommendation.                                                              |
| <b>MFCS (SVPR)</b>    | HS 0057<br>HS 0073<br>HS 0096     | The complainant lodged three complaints referring to ongoing disciplinary proceedings against him regarding an incident which occurred in August 2018.                                                                                                                                                                                                                                |                                   | <p>The Commissioner for Health asked for an update regarding this case.</p> <p>HS 0057 &amp; HS 0073 – The management held a meeting with the Commissioner, and in August 2019 referred to the final report of the disciplinary proceedings to the Commissioner. Further documentation was also forwarded in September.</p> <p>HS 0096 – The management investigated this complaint and it resulted that it was not a case for disciplinary action against the employees mentioned by complainant. The Commissioner was updated accordingly.</p> | <p>HS 0057 &amp; HS 0073 - Pending at Ombudsman.</p> <p>HS 0096 - Pending at Ombudsman.</p> |

| SECTOR/<br>DEPARTMENT                                                  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                                            | STATUS                                                                                      |
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| <b>MFCS (SVPR &amp; Department for the Elderly and Community Care)</b> | HS 0010                           | The complainant said that when his parent passed away the hospital staff did not contact him immediately. Meanwhile, two funeral directors went to his house and were only stopped short by a friend from actually speaking to the complainant who was not yet aware that his parent had passed away. The complainant claimed that hospital staff must have divulged personal information to these funeral directors giving them his parent's name, time of death, address, and mobile number. | No recommendation                 | The Commissioner for Health requested feedback from the MFCS regarding this case. The MFCS replied by sending to the Commissioner for Health all the pertinent directives issued to members of staff of old people's residences.                                                                                                                                              | Closed by the Ombudsman after the management replied to <u>one</u> request for information. |
| <b>MFCS (SVPR &amp; Department for the Elderly and Community Care)</b> | HS 0090                           | The complaint refers to a call for applications for a nursing management position                                                                                                                                                                                                                                                                                                                                                                                                              | No recommendation                 | The Commissioner for Health asked several questions about the complainant's position and also requested to see the complainant's personal file.<br><br>The management was not informed about the exact nature of the complaint. However, the Commissioner was provided with all the requested information about this case. The complainant's personal file was also referred. | Closed without recommendation.                                                              |



| SECTOR/<br>DEPARTMENT                             | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                        | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT COMMENTS                                                                                                                                                                                                                                                                                                                 | STATUS                                                                                  |
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| <b>Commissioner<br/>for Revenue<br/>(Customs)</b> | HS 0037                           | Complaint by an NGO concerning the charging of VAT on the importation of batteries for personal medical apparatus.                                                                                                                                                                                                                                                           |                                   | VAT was charged on exempted items and thus the case was referred to the VAT Department for refund of overpaid VAT. The case was settled by the Commissioner for Health in 2018, when he advised the complainant to contact the VAT Department, and since no feedback was received from the complainant and VAT was refunded, this case was closed. | Closed by the Ombudsman after management replied to <u>one</u> request for information. |
| <b>Court of Justice</b>                           | HS 0025                           | A complaint concerning a civilian who lost a family member and the death certificate could not be issued before the receipt of tests results from abroad. The complainant was informed that such tests are taken abroad once every six months and hence he enquired whether the system could be changed so that tests are sent abroad by courier as soon as the need arises. | No recommendation                 | The complaint was addressed through a reply by the DG Courts and correspondence with the Commissioner for Health to send tests by courier. The court expert responsible for these tests was contacted and it was agreed that, if need be, the tests would be sent abroad by courier.                                                               | Closed without recommendation.                                                          |
| <b>Justice<br/>Department</b>                     | HS 0029                           | A confidential case concerning the Mental Health Commissioner and Justice Directorate.                                                                                                                                                                                                                                                                                       | No recommendation                 | The Commissioner for Mental Health and MJCL exchanged correspondence. The Office of the Ombudsman was informed accordingly.                                                                                                                                                                                                                        | Closed without recommendation.                                                          |



## COMMISSIONER FOR HEALTH - FOLLOW-UP ON PRE-2018 CASES

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                 | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                                                                                  | STATUS LAST<br>YEAR   |
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| Health                | HM 0029                           | Ombudsman requesting introduction of drug Abiraterone onto Government Formulary List (GFL).                                                                                                                                                                                                                           |                                   | On 22 <sup>nd</sup> March 2019 the Office of the Ombudsman informed that the General Formulary List Advisory Committee (GFLAC) has been asked to reconsider application of drug Abiraterone and will do so during next meeting. Such drug was recommended by GFLAC but Office of the Ombudsman was informed on 4 <sup>th</sup> July 2019 that it is still to be discussed by the Advisory Committee for Health Care Benefits (ACHCB) in its next meeting.                                                                                                                                                                                                                                                                | Pending at Ministry.                                                                    | Pending at Ombudsman. |
| Health                | HN 0020<br>HQ 0025                | Case concerned a complaint by an officer that two posts he was interested in were not included in the Memorandum of Understanding of the pertinent class as had been promised by his superiors.<br><br>A second claim refers to the payment of deputising allowance following the retirement of a previous incumbent. | No recommendation                 | Communication sent to the Commissioner on 27 <sup>th</sup> August 2018 clarified that the role of the positions referred to by the complainant do not fall under the indicated class in substance and function and therefore could not be included therein. Following this communication, this claim was closed on 22 <sup>nd</sup> February 2019.<br><br>In a separate claim, Commissioner raised the point that the individual is requesting Deputising Allowance for acting in a higher position during the period 30 <sup>th</sup> August, 2013 to 6 <sup>th</sup> June, 2014. MFH is investigating this matter in the light that the individual concerned has already received compensation via the Grievance Unit. | Case HN 0020 - Closed without recommendation<br><br>Case HQ 0025 - Pending at Ministry. | Pending at Ministry.  |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                         | RECOMMENDATION BY<br>COMMISSIONER                                                                                          | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | STATUS                            | STATUS LAST<br>YEAR               |
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| Health                | HN 0030                           | Complaint concerning discrimination in treatment protocols as analogue insulin is not given to all diabetics. | Commissioner is claiming that protocols are discriminatory and that all diabetics should have access to analogue insulins. | <p>On 14<sup>th</sup> March 2019 the Office of the Ombudsman was informed that protocol for analogue insulins will be extended to include all diabetics. Such protocol will be updated accordingly once said insulins are available.</p> <p>Recommendation will thus be implemented, and the Office of the Ombudsman has been informed accordingly. Case however is still pending until insulin is made available to type 2 diabetic patients.</p> <p>In this regard a tender for Insulin Analogue has now been finalised and a revised consumption taking into account type 1 diabetics was worked out. The first order from tender was placed for Insulin Glargine and as per tender conditions, delivery is due from week starting 14<sup>th</sup> October 2019. The Office of the Ombudsman will be informed accordingly.</p> | Recommendation to be implemented. | Recommendation to be implemented. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                          | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | STATUS                         | STATUS LAST<br>YEAR   |
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| Health                | HO 0077                           | Case concerned the transfer of a Manager from one hospital to another. Complainant alleged that duties of present posting were not those applicable to his post, but to that of a Head, and requested appropriate allocation to another place. | No recommendation                 | <p>MFH considered communication from the Commissioner, that included a suggestion for a meeting with the Director.</p> <p>In a meeting held between the Ministry and the Director, clarification was sought regarding the actual duties of a manager. The duties of the present posting of the complainant are all operational responsibilities pertaining to the role of manager.</p> <p>Letter from Commissioner dated 19<sup>th</sup> July, 2018 requested that Manager be assigned duties related to his post.</p> <p>Case is being delayed since claimant did not accept the current role, despite the fact that the duties assigned to him pertained to his post. A meeting was also held between Director and individual. MFH replied to the Commissioner on 16<sup>th</sup> August 2018.</p> | Closed without recommendation. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                 | RECOMMENDATION BY<br>COMMISSIONER                                     | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | STATUS               | STATUS LAST<br>YEAR   |
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| Health                | HP 0014                           | Complaint arising from a request for a branded drug which was approved by DPA in 2015 but never procured for patient. | Commissioner is requesting that branded drug be procured for patient. | <p>In February 2019 MFH informed Commissioner that issue concerning branded products is being discussed internally within MFH.</p> <p>In July 2019, the Office of the Ombudsman sent a further request for medicine to be provided to patient for which in August 2019 MFH replied by suggesting that this case should be reconsidered by the Exceptional Medical Treatment Committee (EMTC) within the parameters of the new policy. Legal advice obtained by EMTC on this matter confirmed that since a policy on the review of cases was drawn up on the basis of the Legal Notice through which EMTC was created, such cases, including this request have to be reviewed by EMTC.</p> <p>In addition since this is a branded product, a decision regarding its procurement is also pending finalisation of internal discussions concerning the drawing up of the 'Branded Medicines' policy, which is in its final preparatory stages.</p> | Pending at Ministry. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                            | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                   | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | STATUS                                 | STATUS LAST<br>YEAR |
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| Health                | HP 0028                           | Complaint raised by a second-placed candidate for a specific post. The call stipulated that the chosen candidate will need to ‘... undertake studies which would lead to successfully obtaining the relevant qualifications ...’ | The Commissioner recommended that the Ministry is to ensure that the person selected for this post has started studies to obtain the Master’s Degree as stipulated in paragraph 4.1.2 of the Call for Applications. | MFH informed the Commissioner that the Ministry is following on the case, and confirmed that case is delayed as a result that actions can only be taken by the third year of candidate’s appointment. In the case that no evidence is provided regarding commencement of relevant qualification in the stipulated time, action would be taken to terminate the appointment of the first selected candidate. It is to be noted that in January 2019, the hospital was instructed by Director, Resourcing and Employee Relations to terminate appointment of the individual occupying the post in question since the individual did not provide any evidence regarding attendance to the Master’s Degree Program. Ministry informed Commissioner whereby the latter asked whether the second candidate on the list of applicants is to be automatically selected for the post. However, this is not possible as result has now expired. | Closed and recommendation implemented. | On hold.            |



| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                             | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                  | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                  | STATUS                                                                                                   | STATUS LAST<br>YEAR                                                                                                                                    |
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| Health                | HQ 0009                           | Patient experienced anaphylactic shock while in hospital and claimed that it was due to negligence.                                                                                                                                               | The Commissioner requested investigation into this case.                                                                                                           | MFH informed Commissioner that the case which had been referred for court proceedings is now sub-judice.                                                                                                                                                                                                                                                                                                                                                               | Suspended due to Court proceedings.                                                                      | Suspended due to Court proceedings.                                                                                                                    |
| Health                | HQ 0016                           | Complaint arising from a request by a patient for treatment which was turned down. Indication that it was not according to described protocol.                                                                                                    | Ombudsman recommending that protocols should be removed, and each case is to be considered on its own merits as protocols are discriminatory and in breach of law. | Reply regarding amendment to Social Security Act dated 6 <sup>th</sup> June 2019 sent to Ombudsman on 10 <sup>th</sup> June 2019.<br><br>On 12 <sup>th</sup> June 2019, the Office of the Ombudsman replied requesting information.<br><br>Discussed with legal counsel 21 <sup>st</sup> August 2019 - in view of Ombudsman's feedback stating that issue has been raised with Prime Minister, no further action can be taken.                                         | Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act. | Pending at Ministry.                                                                                                                                   |
| Health                | HQ 0024<br>HP 0044                | Patient with Hepatitis C who used to be employed by the national health service claimed that the infection was contracted through occupational exposure many years ago. Hence a refund of Hepatitis treatment bought out-of-pocket was requested. | The Commissioner requesting that patient is fully refunded.                                                                                                        | As advised by the Office of the Attorney General in June 2017, patient was reimbursed with part of the costs. The Commissioner is however requesting a full reimbursement. Case referred to Prime Minister on 28 <sup>th</sup> August 2018 requesting his consideration since MFH declined to comply with recommendation to reimburse the full cost. On 26 <sup>th</sup> February 2019 a summary of the case, together with legal counsel, was sent to Prime Minister. | Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act. | Closed and recommendation implemented.<br><br>Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                   | RECOMMENDATION BY<br>COMMISSIONER                                                                    | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | STATUS                           | STATUS LAST<br>YEAR  |
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| Health                | HQ 0061                           | Confidential case.                                                                                                                                                                                                                                                                                                                                                      | Requesting that issue be addressed and resolved.                                                     | On 28 <sup>th</sup> February 2019 the Ombudsman was verbally notified that MDH administration are discussing the issue to finalise the case.                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Pending at Ministry.             | Pending at Ministry. |
| Health                | HQ 0063                           | An officer raised a complaint with the Commissioner after receiving compensation from the Grievance Unit on 18 <sup>th</sup> December, 2015 as full and final settlement to a claim. It is understood that the claim presented to the Grievance Unit regarding the reinstatement was also part of the full and final settlement decision reached by the Grievance Unit. |                                                                                                      | Case was reviewed, and it was established that this claim was settled through the Grievance Unit. The Commissioner was informed accordingly on 19 <sup>th</sup> July, 2018.<br><br>Last communication from MFH was referred to the Commissioner on 20 <sup>th</sup> March, 2019 whereby Ministry informed Commissioner that compensation issued by the Grievance Board was in full and final settlement. Reply received from Commissioner raised the point that past correspondence only dealt with payment and not full and final settlement. Last reply was sent to the Commissioner on 22 <sup>nd</sup> August 2019. | Pending at Ombudsman.            | Pending at Ministry. |
| Health                | HQ 0071                           | Patient claimed complications following surgical intervention, requesting compensation for physical and financial damages.                                                                                                                                                                                                                                              | The Commissioner requested an investigation into the case, and suggested an out-of-court settlement. | Case was reviewed and investigation carried out. The Commissioner was informed of findings and also informed that requests for financial compensation can only be addressed through Law Courts. The Office of the CMO and MDH administration held an internal meeting in August 2018 to review this case, and to                                                                                                                                                                                                                                                                                                        | Closed and recommendation noted. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                              | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                | STATUS                           | STATUS LAST<br>YEAR   |
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|                       |                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                | send a further reply to the Commissioner.<br><br>Letter describing outcomes and conclusions of this meeting was sent from PS MFH to the Commissioner on 13 <sup>th</sup> September 2018.                                                                             |                                  |                       |
| <b>Health</b>         | HQ 0075                           | This case refers to three complainants working at the Oncology Centre, who have been asked to be transferred to Mater Dei Hospital, reason being for rotation purposes. Claimants have complained that if rotation is to be applied, this should have been applicable to all staff, and not solely to them. Matter was referred to union which did not involve itself due to conflict of interest. Claimants referred case to another union whereby the latter issued directives and ordered the three complainants to return to Oncology. The situation became more complex as the three claimants transferred from Mater Dei Hospital to Oncology have remained at Oncology, resulting in a situation whereby the former three claimants have been idle for a long | <i>Now that the situation has become precarious, or, in the words of the union 'mhux tenibbli' because of 'pressjoni tax-xogħol fenominali' may I once again ask you to exert pressure on the Mater Dei Hospital Management to solve this problem as soon as possible. May I suggest that Management meets urgently with the two unions to find a way out of this impasse.</i> | Ministry approached both unions, but no solution was found. Case was prolonged due to the complicated situation resulting from the involvement of two Unions. The case was finally settled through communication with the Commissioner on 6 <sup>th</sup> June 2018. | Closed and recommendation noted. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                                   | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                       | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                          | STATUS                                                                                                   | STATUS LAST<br>YEAR  |
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| Health                | HR 0004                           | time given that their work was being performed by others.<br><br>Case referred to a claim submitted by a lawyer representing a staff member at a hospital. The hospital management formally informed the individual to start performing duties related to higher position which he accepted. However, after one year performing such duties, salary was not adjusted to reflect the new duties, and a call for the vacant higher post was never issued. | Commissioner recommended that staff member be given backdated deputising allowance to date and until claimant continues to carry out the duties of the higher position. | MFH engaged in discussions with the hospital management in order to establish a structure and a career stream for the post in question, however this initiative was dropped at a later stage. Case has been further investigated and arrangements were made for the settlement of outstanding payments.                                                                                                                        | Closed and recommendation implemented.                                                                   | Pending at Ministry. |
| Health                | HR 0006                           | Complaint arising from a request by a patient for treatment which was turned down. Indication that it was not according to described protocol.                                                                                                                                                                                                                                                                                                          | Ombudsman recommending that protocols should be removed and each case is to be considered on its own merits as protocols are discriminatory and in breach of law.       | Reply regarding amendment to Social Security Act dated 6 <sup>th</sup> June 2019 sent to Ombudsman on 10 <sup>th</sup> June 2019.<br><br>On 12 <sup>th</sup> June 2019, the Office of the Ombudsman replied requesting information.<br><br>Discussed with legal counsel 21 <sup>st</sup> August 2019 - in view of Ombudsman's feedback stating that issue has been raised with Prime Minister, no further action can be taken. | Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                  | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                     | STATUS                                               | STATUS LAST<br>YEAR                           |
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| Health                | HR 0015                           | Staff member at MFH who referred a case to the Grievances Unit on 28 <sup>th</sup> October 2014 stated that case was not heard, and that he was told that file was lost, and it is not known whether case will be investigated or not. |                                   | MFH met with the Commissioner on this case and stated that matter related to miscommunication as file was not lost. Individual has submitted another claim to the Grievances Unit. MFH and the Commissioner agreed to put this case on hold and to await the outcome from the Grievances Unit.                                                                                                                                                            | Suspended due to being forwarded to Grievances Unit. | On hold, as case referred to Grievances Unit. |
| Health                | HR 0017                           | Claim by three individuals who stated that their pay is pegged below their role and responsibility.                                                                                                                                    |                                   | MFH communicated repeatedly with the Commissioner informing that the outcome of this claim is dependent on negotiations with relevant Union that were ongoing. Case is delayed for this reason.<br><br>On 14 <sup>th</sup> August 2018, MFH informed the Commissioner that case is on hold, given that union concerned is requesting arbitration as opposed to the conciliation meeting proposed by IRU. Discussions with Union are currently in process. | Pending at Ministry.                                 | On hold.                                      |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                           | RECOMMENDATION BY<br>COMMISSIONER                                                                              | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | STATUS                           | STATUS LAST<br>YEAR   |
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| Health                | HR 0023                           | Complainant stated that sizes of elastic stockings are only available up to size XL and requested that stockings in larger sizes for obese patients be stocked. | Commissioner requested that this complaint be considered, and all sizes of stockings should be stocked at MDH. | On 7 <sup>th</sup> August 2018 CMO reiterated longstanding position held by CPSU that larger sizes for obese patients can be procured on a named patient basis. Therefore, complainant can be accommodated in this way. The Commissioner replied on 14 <sup>th</sup> August 2018 requesting reconsideration.<br><br>Case referred to CPSU as this is a procurement issue. Reply by CEO states that this cannot be done due to tender and legal issues. The Office of the Ombudsman has now included it with cases related to branded items. The 'Branded' policy is still to be discussed in internal meetings and finalised. | Pending at Ministry.             | Pending at Ministry.  |
| Health                | HR 0028                           | Complainant requesting recognition of profession as no specialist register exists for this particular field.                                                    | The Commissioner requested that issue be looked into in order to allow professional to work in Malta.          | MFH considered the case and sought AG's advice, and on 25 <sup>th</sup> June 2018 replied to the Commissioner informing of the possibilities available to complainant according to the national policies.                                                                                                                                                                                                                                                                                                                                                                                                                     | Closed and recommendation noted. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                | RECOMMENDATION BY<br>COMMISSIONER                                                     | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | STATUS                                            | STATUS LAST<br>YEAR   |
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| Health                | HR 0031                           | Patient with a complex medical situation who had surgery claimed that during the stay in hospital was never seen by the consultant, and that complications arose because the operation was performed by specialist trainee and resident specialist and hence requested compensation. | Commissioner requested investigation into case and suggested out of court settlement. | <p>MFH carried out the necessary investigation and the Commissioner was informed of findings. Furthermore, MFH again made a statement to the Commissioner that request for financial compensation fall under the remit of the Law Courts.</p> <p>In July 2018 a meeting was held between MDH management, the Office of the CMO and patient. The Commissioner then communicated recommendations from own investigation of case which were forwarded to MDH management.</p> <p>In May 2019 the Commissioner requested updates regarding this case and in July 2019 MFH forwarded updates and informed Commissioner that 3 out of 4 recommendations had been implemented. The Commissioner replied regarding the 4<sup>th</sup> recommendation with suggestions, which were forwarded to MDH administration for feedback accordingly.</p> | Closed and recommendations partially implemented. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                       | RECOMMENDATION BY<br>COMMISSIONER                                    | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                          | STATUS                                                                                                        | STATUS LAST<br>YEAR                                                                                                                                     |
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| Health                | HR 0036<br>HQ 0078<br>HO 0076     | Claim for the reimbursement of Hepatitis C treatment bought out of pocket by patient/ patients who were not on the priority list for such treatment.                                                                                        | Ombudsman requesting that patients be refunded for treatment bought. | Repeated communications sent to Office of the Ombudsman informing him that MFH is refusing to accede to this request and explained reasons for such a decision. The Office of the Ombudsman has referred case to Prime Minister.                                                                                                                                                               | Ombudsman stated that these 3 cases were referred to the Prime Minister as provided for in the Ombudsman Act. | Closed and recommendation not accepted.<br><br>Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act. |
| Health                | HR 0038                           | Case concerned the transfer of a Manager from one hospital to another. Complainant stated that no justification was given for this transfer. However, CEO stated that decision was taken to provide a well-deserved service to the patient. |                                                                      | This case was first presented to MFH by the union. However, following discussions it was no longer pursued by the said Union. Case was then referred by the individual concerned to the Commissioner. MFH replied to the Commissioner on 16 <sup>th</sup> July 2018. Commissioner requested further information however case was discontinued given that the Manager resigned from employment. | Closed case withdrawn by complainant.                                                                         | Pending at Ministry.                                                                                                                                    |



| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                           | RECOMMENDATION BY<br>COMMISSIONER                                                             | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | STATUS                              | STATUS LAST<br>YEAR          |
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| Health                | HR 0039                           | An allied Health Professional alleged being treated unfairly and not given the opportunity to perform overtime. | No recommendation                                                                             | MFH looked into the matter, and it resulted that complainant was found to have committed a number of mistakes and is claiming that Management is finding faults. Reply to the Commissioner was delayed due to a personal situation that developed unexpectedly and prevented management from replying. Commissioner agreed to allow a reasonable time to be given a reply. Reply issued to Commissioner on 5 <sup>th</sup> July 2018 indicated that Management did not discriminate with the individual to perform overtime. | Closed without recommendation.      | Pending at Ministry.         |
| Health                | HR 0047                           | Claim by a patient for financial compensation due to alleged negligence and mismanagement following surgery.    | Commissioner requested an investigation into the case and recommended financial compensation. | Investigation was carried out. After obtaining legal advice, Commissioner was informed that allegations have been rebutted and claim for compensation is unfounded. Commissioner was also informed on 22 <sup>nd</sup> March 2018 that patient is now under the care of a different consultant.                                                                                                                                                                                                                              | Suspended due to Court proceedings. | Recommendation not accepted. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE                   | BRIEF DETAILS OF CASE                                                                                                                                                                                           | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                             | STATUS                         | STATUS LAST<br>YEAR   |
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| Health                | HR 0054<br>HR 0055<br>HR 0056<br>HR 0057<br>HR 0058 | Cases raised by two complainants and concerned management issue at the place of work.                                                                                                                           |                                   | MFH stated that case outcome is dependent on negotiations with Union, which are ongoing. Various meetings have been held with the officers and Union representing them to find a solution.<br><br>Delay resulted from a complicated case which required the involvement of meetings with OPM Industrial Relations Unit to address the issues raised.<br><br>Initiatives have been taken to restructure to ensure that the place of work is accredited, and all the staff need to work coherently. | Pending at Ministry.           | Pending at Ministry.  |
| Health                | HR 0062                                             | Claim by an individual, availing of the provision of free oxygen cylinders, who requested that instead of refilling three oxygen cylinders at a time, four cylinders are refilled to minimise travelling times. | No recommendation                 | Case discussed with Commissioner by CEO CPSU. Case delayed in view that request raised by Commissioner is not in line with established protocols regarding the refilling of oxygen cylinders. Over time MFH identified other solutions to the problem and communicated such solutions to the Commissioner.                                                                                                                                                                                        | Closed without recommendation. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                        | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                  | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | STATUS                                                                                                   | STATUS LAST<br>YEAR                                           |
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| Health                | HR 0065                           | Complaint arising from a request by a patient for treatment which was turned down. Indication that it was not according to described protocol.                               | Ombudsman recommending that protocols should be removed, and each case is to be considered on its own merits as protocols are discriminatory and in breach of law. | Reply regarding amendment to Social Security Act dated 6 <sup>th</sup> June 2019 sent to Ombudsman on 10 <sup>th</sup> June 2019.<br><br>On 12 <sup>th</sup> June 2019, the Office of the Ombudsman replied requesting information.                                                                                                                                                                                                                                                                                                                                                                      | Ombudsman stated that this case was referred to the Prime Minister as provided for in the Ombudsman Act. | Pending at Ministry.                                          |
| Health                | HR 0067                           | Patient requested the inclusion of hormonal treatment for transgender care on General Formulary List.                                                                        | The Commissioner requested that patient be given hormonal treatment for transgender care for free through Schedule V protocol.                                     | Transgender Multi-Disciplinary Team was set up and clinic established at the end of 2018. Patient was consequently prescribed requested treatment.                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Closed and recommendation implemented.                                                                   | Pending at Ombudsman.                                         |
| Health                | HR 0070                           | Claimant contested not being awarded the 'contact with patient allowance' which was granted to employees posted within the Ambulance Garage from 1 <sup>st</sup> April 2014. |                                                                                                                                                                    | Case was reviewed and found not to align with respective sectoral agreements, and therefore claim for the award of the allowance could not be met. Commissioner was notified accordingly; however, the Commissioner was not in agreement with the content of the Sectoral Agreement regarding the entitlement of Category A. Repeated communications sent to the Commissioner ensued, stating that the Category A allowance is paid to employees in the eligible categories who perform 'primarily nursing duties', and not 'contact with patient' as erroneously stated in complainant's claim. This is | Suspended due to being forwarded to Grievances Unit.                                                     | On hold. As complainant referred the case to Grievances Unit. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                                                                                                                                                                                        | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | STATUS                | STATUS LAST<br>YEAR  |
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| Health                | HR 0071                           | Complainant contested management's decision to assign duties that limited contact with patients, given that this particular staff member was found guilty by the criminal court of committing violent indecent assault and committing a crime which the person was duty bound to prevent against a patient. The court handed down a suspended two-year sentence. It was claimed that the assigned duties do not reflect the job description. |                                   | <p>reflected in the respective sectoral agreements. On 13<sup>th</sup> June 2018, MFH sent a letter to the Commissioner stating that the case was considered as addressed.</p> <p>Claim raised by Commissioner ignores the Criminal Court ruling and the subsequent initiative by MFH to limit patient contact to avoid a possible recurrence of the violent assault leading to the court sentence. Case was delayed at MFH due to the deployment problems arising from the criminal court decision and also from Union directives regarding the individual's work placement.</p> <p>In a meeting, it was agreed that the individual submit the latest report from his Probation Officer. On 17<sup>th</sup> June 2019 a meeting was also held in the presence of the Probation Officer and it was suggested to move the claimant to a particular Unit where the nurses and patients are monitored, therefore safeguarding both the complainant and patients. The Probation Officer agreed with this suggestion and the case is now pending at the Commissioner.</p> | Pending at Ombudsman. | Pending at Ministry. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                    | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | STATUS                         | STATUS LAST<br>YEAR   |
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| Health                | HR 0076                           | Complainant by a Health Assistant who was injured on duty claiming incorrect salary adjustments, following deductions in salary based on sick leave and not injury leave.                | No recommendation                 | Case was followed by CEO Primary Health, who replied to the Commissioner on 19 <sup>th</sup> July 2018. Commissioner was informed that case was investigated by Primary Health, and complainant's salary was amended accordingly with sick leave being changed to injury on duty. CEO also expounded on solutions to the problem, and that the individual concerned was certified medically boarded out by the P&SD on 7 <sup>th</sup> May 2018. Management also issued correspondence to Commissioner of the version of events including remuneration due. | Closed without recommendation. | Pending at Ombudsman. |
| Health                | HR 0077                           | Complainant claimed reduced efficacy of a generic drug, and that he must buy branded drug out-of-pocket. Request was not approved by EMTC but patient requested reconsideration of case. | Requested that case be reviewed.  | Case was referred to EMTC for consideration. In February 2019, the Commissioner was informed that original decision still stands.<br><br>In April 2019, the Commissioner replied that he does not agree with EMTC decision and requested reconsideration of case.<br><br>MFH replied sent to Office of the Ombudsman in June stating that "...submissions will only be reassessed if the above procedure is followed, and decisions taken by the EMTC are considered to be final."                                                                          | Pending at Ministry.           | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                    | RECOMMENDATION BY<br>COMMISSIONER                                                  | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                      | STATUS                                 | STATUS LAST<br>YEAR   |
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|                       |                                   |                                                                                                                                                                                                          |                                                                                    | The Commissioner replied again in June 2019 contesting decision. Case has now been referred to legal counsel and EMTC for feedback.                                                                                                                                                                                                                        |                                        |                       |
| <b>Health</b>         | HR 0079                           | Relatives of deceased patient complained regarding the lack of care of patient while in hospital which may have contributed to his passing away and requested a proper investigation into what happened. | Ombudsman requested investigation and communication with relatives about findings. | MFH informed the Commissioner on 6 <sup>th</sup> June 2018 that an investigation was carried out by MDH administration and that Clinical Director MDH contacted patient's relatives and communicated report findings to them. The Commissioner requested a copy of the report concerning this case, which was sent to him on 13 <sup>th</sup> August 2018. | Closed and recommendation implemented. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                                                                         | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | STATUS                         | STATUS LAST<br>YEAR   |
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| MFCS (SVPR)           | HR 0063                           | A health professional complained that another health professional was receiving a deputising allowance for filling in a particular position, and this was denying him the opportunity to progress in his career. The position is in an area in which he is reading for a PhD. |                                   | <p>The Commissioner for Health requested the Ministry's comments on this case.</p> <p>The healthcare institution replied that the concerned vacancy is listed in the 2018 HR Plans. The vacancy can be filled, should approval be forthcoming from P&amp;SD.</p> <p>The complainant had submitted a request to be transferred to the institution, to which said institution has no objection since such vacancy will be filled. However, a replacement was requested from the MFH.</p> <p>A replacement has been provided and the complainant was transferred to the healthcare institution in question in 2018.</p> | Closed without recommendation. | Pending at Ombudsman. |

| SECTOR/<br>DEPARTMENT  | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                    | RECOMMENDATION BY<br>COMMISSIONER | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATUS               | STATUS LAST<br>YEAR   |
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| Medicines<br>Authority | HR 0072                           | Case received by the MMA requesting a copy of the inspection report of the In-Patient Pharmacy at Mater Dei Hospital. Sent to MDH as per section 19(1) of Ombudsman Act. |                                   | <p>The report was sent to the Office of the Ombudsman in May 2018, following which in June, the Ombudsman queried whether deficiencies identified were corrected as per MMA standards. In reply, the MMA noted that while some findings had been addressed, others were still being followed up. The Office of the Ombudsman continued requesting updates to which the MMA replied by stating that most of the findings had been addressed bar for the remaining ones, and that MDH was requesting an extension of timeframes. In this regard, the MMA continued following up on corrective actions in response to the inspection report in line with commitments given by MDH's pharmacy management. Timelines are being continually delayed by pharmacy management in view of human resources constraints.</p> | Pending at Ministry. | Pending at Ombudsman. |



| SECTOR/<br>DEPARTMENT | COMMISSIONER<br>CASE<br>REFERENCE | BRIEF DETAILS OF CASE                                                                                                                                                                                                  | RECOMMENDATION BY<br>COMMISSIONER                                                                                                                                                                                                                                                                                                                                               | ACTION TAKEN & MANAGEMENT<br>COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | STATUS                                 | STATUS LAST<br>YEAR  |
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| <b>OHSA</b>           | HQ 0026                           | An officer detailed with OHSA complained about not being promoted to a position in a higher salary scale and about not being awarded two specific allowances/benefits as provided for in pertinent sectoral agreement. | During the course of this case, the complainant was appointed to the position in the higher salary scale. Following discussions, the Ombudsman accepted that the complainant was not entitled to the arrears of one of the allowances. However, the Ombudsman kept insisting on its other recommendation, namely that the claimant be paid the arrears of the second allowance. | <p>A call for applications was issued through which complainant was eventually appointed. A meeting was also held with the Office of the Ombudsman and with Industrial Relations in 2017, in an attempt to reach a mutually-acceptable solution. Clearance from P&amp;SD was obtained to pay the arrears of the second allowance in question and PS (Administration), MEAE approved in February 2019 to proceed with the reimbursement of arrears.</p> <p>All arrears arising from this allowance due to the complainant have been settled.</p> | Closed and recommendation implemented. | Pending at Ministry. |



