

# Annual Report for 2020

*Issued in accordance with article 25  
of the Standards in Public Life Act*

Office of the Commissioner for Standards in Public Life  
Valletta, Malta

Issued on 14 May 2021

Re-issued on 24 May 2021 with a correction to section 5.1 following a meeting  
of Parliament's House Business Committee

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# **1 Introduction**

## **1.1 The Commissioner for Standards in Public Life**

The Standards in Public Life Act of 2017 (chapter 570 of the laws of Malta) came into force on 30 October 2018. In terms of this Act, the Commissioner for Standards in Public Life is appointed by the President of Malta, acting in accordance with a resolution of the House of Representatives that must be supported by the votes of at least two thirds of all members of the House of Representatives.

The nomination of Dr George Hyzler as Commissioner for Standards was approved by the House of Representatives on 30 October 2018 through a resolution passed with the support of all parties represented in the House. He took his oath of office as the first Commissioner for Standards in Public Life on 12 November 2018.

This annual report covers the second full year of operations of the Commissioner and his office.

## **1.2 The role of the Commissioner**

The Standards in Public Life Act assigns the following functions to the Commissioner:

- to investigate the conduct of persons who are subject to the Act;
- to examine declarations of assets and financial interests filed by persons who are subject to the Act;
- to make rulings, at the request of persons subject to the Act, on whether an action they propose to take would be contrary to their ethical obligations under the Act (“negative clearance”);
- to ensure that members of Parliament pay the administrative penalties to which they become liable if they miss parliamentary sittings without authorisation from the Speaker; and
- to make recommendations for the regulation of lobbying and the improvement of the codes of ethics applying to persons who are subject to the Act. Such recommendations should cover among other things the acceptance of gifts and limitations on employment after ceasing to hold office (“revolving doors”).

This report reviews the activities of the Commissioner in all five areas.

## **1.3 Who is subject to the Act?**

The following persons are subject to the Standards in Public Life Act:

- members of the House of Representatives, including ministers and parliamentary secretaries; and
- persons of trust, defined by the Act during the year under review as persons who are engaged in the private secretariat of a minister or parliamentary secretary and who serve in an advisory, consultative, or executive capacity.<sup>1</sup>

The Act obliges persons in both categories to observe rules of ethical conduct.

The Act itself sets out two codes of ethics – one for members of Parliament, which appears as the first schedule to the Act, and one for ministers and parliamentary secretaries, which appears as the second schedule. Ministers and parliamentary secretaries are bound by both codes.

The Act makes persons of trust subject to the code of ethics for public employees that appears in another law, the Public Administration Act (chapter 595 of the laws of Malta).

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<sup>1</sup> The definition of “person of trust” was changed by virtue of Act XVI of 2021, which was enacted on 9 April 2021 and came into force on the same day. The definition quoted here refers to that appearing in the Standards in Public Life Act before it was amended.

## 2 Complaints and Investigations

### 2.1 The Commissioner's investigative role

The Commissioner for Standards in Public Life can consider whether **members of Parliament, including ministers and parliamentary secretaries**, have:

- acted in breach of the law;
- broken any ethical or other duty set out by law, including the applicable code of ethics in the Standards in Public Life Act; or
- exercised discretionary powers in a way that constitutes an abuse of power.

The Commissioner can consider whether **persons of trust** have broken the code of ethics set out in the Public Administration Act.

However, the Standards Commissioner cannot investigate cases that occurred before 30 October 2018 – the date the Standards in Public Life Act came into force. Nor can he investigate a complaint if it is made later than thirty working days from the day on which the complainant had knowledge of the fact giving rise to the complaint, or more than one year from when the fact giving rise to the complaint happened.

Furthermore, the Commissioner cannot investigate cases that are the subject of legal proceedings or that are already under investigation by the police.

The Commissioner can start an investigation on his own initiative or on receipt of a complaint. Any person can submit a complaint to the Commissioner. Complainants do not need to be personally affected by the matter they complain about.

### 2.2 How the Commissioner handles complaints

The first step the Commissioner takes on receiving a complaint is to conduct a preliminary review to determine whether it is eligible for investigation in terms of the Act. In many cases this can be determined immediately, while in others preliminary inquiries may need to be made – for instance, to find out whether the alleged misconduct can be attributed to a person who is subject to the Act. If a complaint is found eligible, the Commissioner opens an investigation.

If the Commissioner finds from his investigation that a *prima facie* breach of ethics or of a statutory duty has occurred, he has two main options. One option is to report his opinion to Parliament's Standing Committee for Standards in Public Life. This body is made up of two members of Parliament from the government side and two from the opposition, and it is chaired by the Speaker. If the Committee agrees with the Commissioner's findings, it can take remedial action as contemplated in the Act.

Alternatively, if the Commissioner finds that the breach was not of a serious nature, he may, following an admission of the charge, grant the person investigated a time limit within which to remedy the breach, for instance by making an apology. If the remedy is carried out to the Commissioner's satisfaction, he will close the case. This option, which emerges from article 22(5) of the Act, enables cases to be concluded more quickly and recourse to the Standing Committee for Standards in Public Life is avoided.

During the year under review, the Commissioner could also refer cases to the police or the Permanent Commission Against Corruption if it appeared to him that crimes or corrupt practices had been committed.<sup>2</sup>

The Commissioner can also refer cases to other authorities if he considers this appropriate.

### **2.3 Publication of reports by the Commissioner**

On 2 April 2019 the Standing Committee for Standards in Public Life agreed, on the basis of a memorandum prepared by the Commissioner, that:

- if the Commissioner decides that a complaint does not merit investigation, he should not publish his decision to this effect;
- if the Commissioner investigates a complaint but finds no breach of ethics, he may publish his report on the case;
- if the Commissioner finds a breach of ethics but closes the case under article 22(5) of the Act, he may publish his case report;
- if the Commissioner finds a breach of ethics and refers the case to the Committee for its own consideration, it should be up to the Committee to decide on the publication of the case report.

The Commissioner decided that where he is empowered to publish a case report, he should as a general rule do so in the interest of transparency. However, he reserves the right not to publish a report or to publish it in redacted form if he considers this necessary in the circumstances of a particular case. During 2020 the Commissioner continued to follow this practice. He did not consider it necessary to withhold any case reports or to redact them, except for identity card numbers and personal contact details appearing in the correspondence appended to one particular report.

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<sup>2</sup> On 9 April 2021 the Standards in Public Life Act was amended by virtue of Act XVI of 2021 to enable the Commissioner to refer such cases either to the police or to the Attorney General.



## 2.4 Complaints

### 2.4.1 Status of complaints

The Commissioner for Standards in Public Life received a total of 70 complaints up to 31 December 2020. The status of these complaints as on the same date is shown in Table 1 below.

**Table 1: Complaints received, resolved and pending – status on 31 December 2020**

<b>Complaints received</b>	<b>70</b>
Complaints closed	<b>54</b>
Of which:	
Found ineligible for investigation	30
Withdrawn by complainant	1
Investigated and concluded	23
Complaints pending	<b>16</b>
Of which:	
Under preliminary review	4
Under investigation	7
Investigation suspended	5

### 2.4.2 Status of complaints: annual breakdown

Table 2 gives a breakdown of the same data by year. The period from 12 November 2018 (when the Commissioner for Standards was appointed) to 31 December 2019 has been taken as a single year for simplicity's sake.

**Table 2: Complaints received, resolved and pending – annual breakdown**

	<b>2018–19</b>	<b>2020</b>
Complaints outstanding at start of year	–	11
Complaints received	29	41
Total number of outstanding and new complaints	<b>29</b>	<b>52</b>
Complaints closed	<b>18</b>	<b>36</b>
Of which:		
Found ineligible for investigation	7	23
Withdrawn by complainant	–	1
Investigated and concluded	11	12
Complaints pending at end of year	<b>11</b>	<b>16</b>
Of which:		
Under preliminary review	3	4
Under investigation	8	7
Investigation suspended	–	5

It is worth noting from this table that the number of complaints submitted to the Commissioner in 2020 represents an increase of 41 per cent over the number of complaints submitted in 2018–19. The number of complaints closed by the Commissioner during 2020 increased by 50 per cent when compared to 2018–19.

Five complaints were the subject of suspended investigations as of 31 December 2020. Two of these complaints concerned the same case and a third was closely related. The investigation of these three complaints, together with a fourth one which concerned a separate matter, was suspended since it appeared that the same matters were also under investigation by the police.

The fifth complaint concerned a matter that was under investigation by the Permanent Commission Against Corruption. The Standards Commissioner is not obliged by law to suspend his investigation of a case if it is also under investigation by the Permanent Commission Against Corruption. However, he decided as a matter of prudence to suspend his investigation so as to avoid a situation where the same matter is under investigation by two different authorities at the same time, provided that this would not lead to undue delays in his own investigation.

### 2.4.3 Ineligible complaints

Table 3 below indicates on what grounds complaints were found ineligible for investigation.

**Table 3: Reasons why complaints were found ineligible for investigation**

	2018–19	2020	Total
Complaint concerned a person who was not subject to Act	2	3	5
Complaint concerned conduct that did not fall under Act	1	9	10
Complaint was time-barred	1	2	3
Complainant was anonymous	3	1	4
Complaint was trivial	–	1	1
Complaint fell within the remit of another authority	–	4	4
More than one reason	–	3	3
<b>Total number of ineligible complaints</b>	<b>7</b>	<b>23</b>	<b>30</b>

During 2020 nine complaints were found ineligible for investigation because they concerned conduct that did not fall under the Standards in Public Life Act. This means that the complaints concerned actions by members of Parliament or persons of trust that did not amount to misconduct in terms of the Act, even if those actions were considered objectionable by the complainants.

By way of an example, the Commissioner for Standards received a complaint alleging that a member of Parliament had been given a consultancy contract by a public authority

without the approval of the authority's board of directors. The Commissioner found no grounds to investigate this complaint because, while it was undesirable for members of Parliament to be engaged by the government in capacities such as that of a consultant, there was no provision in the Code of Ethics for MPs or in any law which prevented an MP from accepting such a role. In addition, if the consultancy contract had not been approved by the authority's board of directors, this was a matter for the authority to address and there was no indication that the MP was at fault for it.

Another example concerned a complaint about the use by an MP of Parliament of Malta postage-paid envelopes to communicate with his constituents. The Commissioner for Standards found that it was established practice for the House of Representatives to grant each MP an allowance of 100 postage-paid envelopes per week with no restrictions on how these envelopes could be used. This being the case, the Commissioner decided that the use of such envelopes to communicate with constituents could not be considered misconduct and there were no grounds to investigate the complaint.

The second most important reason why complaints were found not to merit investigation during 2020 was because they fell within the remit of another authority. Of the four complaints not investigated for this reason, two concerned matters that fell within the jurisdiction of the Speaker; a third concerned an allegation of corruption, which was a matter for investigation by the police; and a fourth concerned an allegation of misuse of personal data, which was a matter for the Information and Data Protection Commissioner to consider.

In considering the third of these complaints, the Standards Commissioner noted that he himself was bound to refer cases of criminal behaviour to the police if he came across such cases while investigating potential breaches of ethics. Therefore, he took the view that allegations of criminal behaviour should be referred by the complainant directly to the police. It was not the role of his office to act as an intermediary between the complainant and the police.

In connection with the fourth case the Standards Commissioner took the view that, as a general rule, complaints falling within the jurisdiction of other authorities should be investigated by those authorities in the first instance. He acknowledged that a complaint could fall simultaneously within his remit and that of another authority, in the sense that the alleged misconduct could represent both a breach of ethics in terms of the Standards in Public Life Act and an irregularity in terms of the legislation enforced by the other authority. In such a case, however, the Commissioner could not find that misconduct had occurred in terms of the Standards in Public Life Act unless the other authority first found an irregularity in terms of the legislation enforced by it. The Standards Commissioner took the view that he could not supplant the role of the other authority by determining for himself whether such an irregularity had occurred.

An unusual request for an investigation that was submitted to the Commissioner during 2020 concerned one from an MP who asked that he himself should be investigated. This

case concerned the Hon Dr Jason Azzopardi MP, who requested the Commissioner to investigate him in connection with media reports that he had benefited from free accommodation during a visit to Tel Aviv in 2017. Dr Azzopardi stated that he was authorising the Commissioner to investigate the case notwithstanding any restrictions of a temporal nature in the Standards in Public Life Act.

In considering this request the Commissioner took the view that, in principle, he could investigate an individual who was subject to the Act at the request of that same individual. However, the Commissioner could not investigate actions that occurred prior to 30 October 2018, and the Act did not cater for this restriction to be waived by any person. Hence the case was time-barred. The Commissioner did however observe that, as a general principle, an MP who was given a gift (including free accommodation) could not cancel it by giving a reciprocal gift of his own. Nor did a reciprocal gift nullify the requirement for the MP to register the gift received by him or her, if such a requirement applied.

## **2.5 Investigations**

### *2.5.1 Own-initiative investigations*

During 2020 the Commissioner did not consider it necessary to start any investigations on his own initiative. It is the Commissioner's policy that he should start own-initiative investigations only in cases that appear particularly serious in nature.

### *2.5.2 Investigations concluded*

The Commissioner concluded eleven investigations during 2020. The case reports pertaining to all eleven investigations appear on the Commissioner's official website at <https://standardscommissioner.com/case-reports/>.

These eleven investigations correspond to the twelve complaints shown as investigated and concluded in table 2 above. Two of the complaints considered by the Commissioner during 2020 concerned the same case, so both complaints were addressed by means of the same investigation.

The outcome of the investigations concluded by the Commissioner is summarised in table 4.

### *2.5.3 Findings of misconduct*

During 2020 the Commissioner concluded six investigations with a finding that misconduct had taken place. Two of these cases were referred to Parliament's Standing Committee for Standards in Public Life while the remaining four were resolved by means of the summary procedure under article 22(5) of the Act.

**Table 4: Outcome of investigations concluded by the Commissioner**

	2018–19	2020	Total
Case referred to Parliament’s Standards Committee	–	2	2
Case referred to other authorities	–	–	–
Case resolved by the Commissioner	3	4	7
Case report dealt with practices rather than individuals	1	2	3
Investigation was inconclusive	1	1	2
No misconduct found	6	2	8
<b>Total investigations concluded</b>	<b>11</b>	<b>11</b>	<b>22</b>

The two cases referred to the Standards Committee both concerned former Prime Minister Joseph Muscat.<sup>3</sup> In both cases the Committee endorsed the Commissioner’s report. More is said about these cases in sections 2.6.1 and 2.6.2 of this annual report.

Of the cases resolved by the Commissioner, two concerned persons of trust, one concerned a parliamentary secretary, and one concerned the former Prime Minister.<sup>4</sup> One of the cases concerning a person of trust was resolved on the basis of an apology, while the other was resolved as a result of the removal of personal data that had been placed online. These cases are discussed in more detail in section 2.6.3.

The case concerning a parliamentary secretary was resolved as a result of the removal of official videos that were adjudged by the Commissioner as giving an improper advantage to a private firm. The case concerning the former Prime Minister was resolved on the basis of the fact that he had resigned from office by the time the case was concluded. While the Prime Minister’s resignation was not connected to the case, it still constituted a remedy since he was no longer in a position to engage in the conduct that had given rise to the complaint. This was in keeping with a decision taken in 2019 in an earlier case involving a minister.<sup>5</sup>

#### *2.5.4 Investigations dealing with general practices rather than the conduct of individuals*

In two cases during 2020, the Commissioner decided to focus his investigation on a common practice rather than on the conduct of any individual. Such an approach had already been adopted in one case during 2019.<sup>6</sup>

<sup>3</sup> Reports on cases K/019 (issued on 1 July 2020) and K/022 (5 October 2020).

<sup>4</sup> Reports on cases K/016 (24 January 2020), K/013 (24 March 2020), K/018 (8 Jun 2020), and K/024 (1 September 2020).

<sup>5</sup> Report on case K/008, issued on 2 December 2019.

<sup>6</sup> Report on case K/002, issued on 5 July 2019.

The two cases in which this approach was taken during 2020 concerned the use of public funds to produce content for the personal social media pages of ministers and parliamentary secretaries, and alleged absenteeism from work on the part of opposition MPs employed in the public sector.

In the first of these cases, the Commissioner found that it was widespread practice for ministers to use public resources in the generation of content for their personal social media pages. The report set out guidelines that were intended to avoid misuse of public resources. The government agreed to adopt the guidelines, and this was duly noted by the Commissioner in his case report. The Commissioner expressed his satisfaction that “with the active cooperation of the government, the fundamental objective of my office, that is improving standards in public life, is being realised in connection with the matters addressed by this report.”<sup>7</sup>

In the second case the Commissioner found that it was the practice to permit MPs who worked in the public sector to attend parliamentary activities that took place during office hours. However, this practice was being abused by some Opposition MPs. In his case report the Commissioner recommended measures to curtail the abuse.

The Commissioner also noted that opposition MPs in public sector employment were in a situation of conflict in that they depended on the very executive that, as MPs, they were meant to scrutinise. This eroded the principle of separation of powers. The conflict was exacerbated in cases where opposition MPs in public sector employment were made opposition spokespersons on the same sectors in which they worked.

The Commissioner reiterated a recommendation he had made in 2019, in the context of a different case, for MPs to be given the option of serving in Parliament on a full-time basis, in which case they would receive a substantially higher honorarium.<sup>8</sup> The current honorarium should continue to be paid to those who opt to remain part-time MPs. The Commissioner added that, upon the introduction of this system, public sector employment should be regarded as incompatible with service as an MP. Members of Parliament who held public sector jobs should be required to resign, although they should have the right of reversion to their jobs should they step down from Parliament or should they not be re-elected. This would resolve the conflict embodied in the current system.<sup>9</sup>

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<sup>7</sup> Report on case K/010, issued on 7 May 2020.

<sup>8</sup> Report on case K/002, issued on 5 July 2019.

<sup>9</sup> Report on case K/021, issued on 2 November 2020.

### *2.5.5 Investigations resulting in a finding of no misconduct*

In two cases during 2020, the Commissioner's investigation resulted in a finding that no misconduct had occurred. One of these cases concerned a minister while the other concerned former Prime Minister Joseph Muscat.<sup>10</sup>

The latter case concerned a visit abroad undertaken by the then-Prime Minister and his family with funding from a third party. This case attracted two separate complaints which were considered by the Commissioner as part of the same investigation. The Commissioner found that, in the circumstances, the visit did not represent a breach of ethics.

In his report the Commissioner did not disclose the purpose of Dr Muscat's visit abroad. This attracted controversy, but the Commissioner felt that there were circumstances in which politicians were entitled to personal privacy, provided that those circumstances did not involve any misconduct or breaches of ethics. In such cases the fact that an investigation had been carried out by the Commissioner, as an independent officer appointed with the backing of MPs on both sides of the House of Representatives, represented grounds for reassurance to the public that no misconduct had occurred.

### *2.5.6 Inconclusive investigation*

In one case the Commissioner's investigation was inconclusive, meaning that it was possible neither to prove nor to disprove the complaint.

This case concerned an allegation that one minister had interceded with another to offer preferential treatment to a third party in return for political support by the latter. The case hinged on a video in which the third party was recorded recounting a conversation with one of the ministers. In his evidence to the Commissioner, the third party stated that he had been bluffing in the video. The Commissioner found this claim unconvincing, but he was unable to uphold the complaint in the absence of any other evidence to support it.<sup>11</sup> More information on this case is given in section 2.6.1 of this report.

## **2.6 Selected issues arising from cases**

### *2.6.1 Links between ministers and private firms*

Three cases considered by the Commissioner for Standards during 2020 raised the issue of the propriety of contacts between members of the government and private firms or entrepreneurs.

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<sup>10</sup> Reports on cases K/015 (22 June 2020) and K/020 (17 July 2020).

<sup>11</sup> Report on case K/012, issued on 5 February 2020.

One of these cases concerned promotional videos shot by a private legal firm in the Auberge de Castille with the involvement of a parliamentary secretary. In his considerations on this case the Commissioner observed that it was legitimate for members of the government to support initiatives by private firms where this was in the public interest, but there was a fine line between providing legitimate official support to a private firm and giving it an improper advantage. Care had to be taken to ensure that this line was not crossed.<sup>12</sup>

Another case concerned a meeting for dinner between a minister and a major local entrepreneur. A video later emerged in which the entrepreneur recounted proceedings during this dinner to a third party. In the video, the entrepreneur stated that he had sought the minister's intercession to obtain a beach concession for commercial purposes. The minister was not responsible for beach concessions, but he had allegedly contacted the responsible minister there and then to raise the issue with him. As already noted, the entrepreneur subsequently claimed that he had been bluffing in the video. The Commissioner stated that this case highlighted the need for meetings between ministers and persons who had an interest in permits, concessions or other state benefits to be held in a formal setting and in the presence of officials.<sup>13</sup> The Commissioner's proposals on the regulation of lobbying (see section 3.4 below) addressed this among other issues.

The third case concerned high-value gifts of wine given by another major entrepreneur to then-Prime Minister Joseph Muscat during the latter's birthday party. The Commissioner pointed out that, even if one left aside the criminal charges against the entrepreneur in question, close social links between ministers and major entrepreneurs would give rise to suspicions that the latter enjoyed undue influence in government decision-making. It was therefore important for ministers to maintain an appropriate social distance from such persons.<sup>14</sup>

#### *2.6.2 Ministerial authority over public entities*

One of the cases considered by the Commissioner during 2020 concerned the engagement of Dr Konrad Mizzi as a consultant by the Malta Tourism Authority (MTA) shortly after he stepped down as Minister for Tourism. The Commissioner found that this engagement had been made by the chief executive of the MTA on the direct instructions of the then-Prime Minister, Dr Joseph Muscat, who had assumed ministerial responsibility for tourism following the resignation of Dr Mizzi. The Chairman and the governing board of the MTA appeared to have been bypassed in the process.

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<sup>12</sup> Report on case K/013, issued on 24 March 2020.

<sup>13</sup> Report on case K/012, issued on 5 February 2020.

<sup>14</sup> Report on case K/019, issued on 1 July 2020.



Dr Muscat stated that he had given his instructions on the strength of article 6(1) of the Public Administration Act. This provision empowers ministers to give directions on any matter to the entities under their responsibility, including operational matters, except only for matters with respect to which an entity is required by law to decide independently or on the directions of third parties. A minister can give directions under article 6(1) of the Public Administration Act not only to the board of directors of an entity, but also to its chief executive officer and even to lower-level employees.

However, the Commissioner found that the Malta Travel and Tourism Services Act, which governed the MTA, gave the responsible minister much more limited powers of direction. This Act did not permit the minister to give directions on operational matters such as the engagement of a particular individual as a consultant.

Article 2(3) of the Public Administration Act specified that where this Act came into conflict with another law governing a public body, the other law should prevail. This meant that the extensive powers of direction accorded to ministers by the Public Administration Act did not apply to the MTA, and Dr Muscat had exceeded his legal powers in instructing the chief executive of the MTA to engage Dr Mizzi as a consultant.

This case led the Commissioner for Standards to consider article 6(1) of the Public Administration Act in more general terms. He stated that it was bad practice for ministers to bypass the governing boards of the public entities under their responsibility, even in cases where article 6(1) applied. This practice was contrary to the principles of good governance. It undermined the authority of governing boards and could place board members in situations where they have to answer for irregular decisions by others.

The Commissioner noted that article 6(1) of the Public Administration Act dated back to 2009, so it was not a recent development.<sup>15</sup> Nevertheless, he recommended that the Act should be reviewed from the point of view of good governance. Ministers should not assume a management role in public entities, and in particular they should remain at arm's length from employment decisions and contract awards.<sup>16</sup>

### 2.6.3 *The role of persons of trust*

During 2020 the Commissioner concluded two investigations concerning persons of trust. One case concerned a person of trust employed in the Prime Minister's secretariat who published on Facebook the names and identity card numbers of persons who had signed a petition calling for the resignation of Dr Joseph Muscat as Prime Minister. The

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<sup>15</sup> Article 6(1) was enacted as part of the Public Administration Act of 2009 (chapter 497 of the laws of Malta). It was transposed with minor changes to the Public Administration Act of 2019 (chapter 595), which superseded the earlier Act.

<sup>16</sup> Report on case K/022, issued on 5 October 2020.

petition was still circulating for signature at the time, and its final version as published by the petitioners included their names but not their identity card numbers.

In his defence, the person of trust stated among other things that he was exercising his own right to free speech, just as the signatories to the petition had done. However, the Information and Data Protection Commissioner had already found that the publication by him of the signatories' identity card numbers constituted misuse of personal data. The law imposed particular safeguards on the use of identity card numbers.

Furthermore, the Commissioner for Standards noted that, because of their position, persons of trust had to exercise greater care than ordinary citizens in expressing their opinions. In this particular case the publication by a person employed in the Prime Minister's secretariat of the names and identity card numbers of persons signing a petition could be taken as a form of intimidation, even if this had not been intended. The Commissioner reserved his position on the issue of whether persons of trust could freely express their political views, given that regular government employees were subject to limitations in this regard.

This case was considered resolved as a result of the removal of petitioners' details from Facebook.<sup>17</sup>

The second case concerned a person of trust who leapt to the defence of his minister on Facebook and, in the process, insulted Prof Arnold Cassola. Ironically, this individual was serving as head of the government's Hate Crime and Speech Unit when he made his Facebook post.

In this case the Commissioner considered whether or not persons of trust were subject to the requirement to maintain political neutrality that appeared in the code of ethics for public employees, which was set out in the Public Administration Act. Persons of trust are not considered public employees, but they are still obliged to follow this code by virtue of article 3(1)(b) of the Standards in Public Life Act. The Commissioner concluded that the political neutrality requirement applied to persons of trust since neither Act exempted them from it.

The Commissioner therefore found the Facebook post in breach of ethics not only because of the insult, but because it represented a comment on a matter of considerable political controversy. The public would be unlikely to distinguish between persons of trust and normal public employees, so if persons of trust found themselves in the media spotlight on account of controversial political statements, this could damage public confidence in the political impartiality of the public administration as a whole. This case was resolved by means of an apology.

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<sup>17</sup> Report on case K/018, issued on 8 June 2020.

In considering this case the Commissioner noted that persons of trust were precluded by government policy from exercising executive powers – that is to say giving directions to public employees outside ministers’ secretariats. However, the post of head of the Hate Crime and Speech Unit involved precisely such an executive role. The Unit was not part of a minister’s secretariat: indeed it merited being kept at arm’s length from politics on account of its role. Yet the post of head of the Unit had been filled by the simple assignment of a person of trust who had been recruited as a ministerial advisor. The Commissioner expressed his preoccupation at the ease with which it was possible to circumvent the policy that persons of trust should not exercise executive powers. He recommended that the policy should be more effectively enforced.<sup>18</sup>

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<sup>18</sup> Report on case K/024, issued on 1 September 2020.

## **3 Other Functions Arising from the Act**

### **3.1 Review of annual declarations by MPs and ministers**

Article 13(1)(a) of the Standards in Public Life Act tasks the Commissioner with examining and verifying declarations relating to financial interests and assets by persons subject to the Act. Members of Parliament, ministers and parliamentary secretaries are obliged by their respective codes of ethics to make such declarations on an annual basis. Declarations are made in the spring of each year setting out the position as of 31 December of the previous year. In addition, the Commissioner for Revenue is obliged by law to submit to the Speaker a statement setting out each MP's income for the year. These statements can be examined by the media and are also subject to verification under article 13(1)(a) of the Act.

Towards the end of 2019 the Commissioner requested all MPs to complete a detailed questionnaire about their employment, income, assets and liabilities. The questionnaire requested the same information with respect to the spouses and partners of MPs. The rationale for requesting information about spouses and partners was that any MP who wanted to keep illicit income undetected could simply record it as income earned by his or her spouse or partner. The Commissioner assured MPs that this information would be kept confidential and might only be made public, if at all, in the context of a formal investigation.

The number of MPs who completed this questionnaire was limited, even after the Commissioner sent a reminder on 13 August 2020. On 28 August 2020 the Hon Glenn Bedingfield, Whip of the Labour Party parliamentary group, replied to this reminder on behalf of Labour MPs stating that the questionnaire went beyond the reporting requirements prescribed by law and, moreover, it requested information about third parties who were not subject to the Standards in Public Life Act.

The Commissioner decided that the non-completion of the questionnaire should not impede the examination and verification of declarations made by MPs and ministers in terms of article 13(1)(a) of the Act. Accordingly, in December 2020 the Commissioner adopted an alternative procedure whereby declarations would be scrutinised, potential anomalies highlighted, and requests sent to MPs to explain the anomalies. Letters began to be sent out in December 2020 covering MPs' declarations of assets as of 31 December 2018 and 31 December 2019. Earlier declarations are not subject to scrutiny by the Commissioner since they were made by MPs and ministers before the Standards in Public Life Act came into force.

Each letter explained that any information provided by the MP to whom it was addressed in response to the queries set out therein would be kept confidential, provided that the Commissioner was satisfied with the MP's explanation. However, the Commissioner stated also that he was reserving the right to seek further clarifications

or documentary evidence, or to open a formal investigation in terms of the Act should he consider it necessary to do so.

### **3.2 Negative clearance**

Article 13(1)(c) of the Standards in Public Life Act empowers the Commissioner to give a ruling on whether a particular action constitutes misconduct, if such a ruling is requested by a person who is subject to the Act. If the Commissioner rules that the action is permissible, and the person who has requested the ruling acts accordingly, he or she cannot then be charged with misconduct under the Act. The Act refers to this procedure as negative clearance.

During 2020, the Commissioner received a single request for negative clearance by a member of Parliament concerning the proper use of his parliamentary email account. The MP in question, a lawyer, enquired whether he could use his parliamentary email account to correspond with clients, given that clients would write to him using his parliament.mt email address on both political and professional matters.

The Commissioner took the view that MPs should use their parliamentary email accounts solely for purposes relating to their parliamentary work (including constituency relations). In reaching this conclusion the Commissioner took into account paragraph 6 of the Code of Ethics for MPs, which stated that “Reference shall not be made in professional, occupational or business matters to membership of the House of Representatives which in any way can give undue advantage to a member.”

### **3.3 Administrative penalties for non-attendance in Parliament**

Article 13(1)(e) of the Act assigns to the Commissioner for Standards the role of writing to members of Parliament to inform them of any administrative penalties due by them for unauthorised absences from parliamentary sittings in terms of Standing Order 159 of Parliament’s Standing Orders.

During the year under review, the Office of the Commissioner wrote to members of Parliament concerning administrative penalties due by them with respect to the 2019/2020 session of Parliament and also, in some cases, the early part of the 2020/2021 session.

### **3.4 Proposals for the regulation of lobbying**

Article 13(1)(f) of the Act empowers the Commissioner to “identify those activities which are to be considered as lobbying activities, to issue guidelines for those activities and to make such recommendations as he deems appropriate in respect of the regulation of such activities”.

On 28 February 2020, the Commissioner published a consultation paper setting out proposals to regulate lobbying.<sup>19</sup> The aim of the consultation paper was to obtain public feedback on the proposals, after which the proposals would be revised and presented as formal recommendations to the government in terms of article 13(1)(f) of the Act.

The paper proposed that lobbying should be regulated by means of a new law to be titled the Regulation of Lobbying Act. The Regulation of Lobbying Act would define lobbying as any “relevant communication” on “relevant matters” to “designated public officials”. The consultation paper proposed detailed definitions for all three terms.

The paper proposed that all individuals and bodies that carry out lobbying should be governed by a code of conduct. In addition, some of these individuals and bodies should be required to register in a Register of Lobbyists that would be maintained by the Commissioner. These lobbyists should submit regular returns on their activities.

Furthermore, the paper proposed that ministers, parliamentary secretaries, and the heads and deputy heads of their secretariats should register all relevant communications (including meetings) in a Transparency Register which would be accessible to the public.

The paper also proposed that ministers, parliamentary secretaries and some other designated public officials should be barred from acting as lobbyists for a specified period after they cease to hold office. This would prevent private individuals from gaining privileged access to government decision-making through senior officials who have recently left office.

Finally, the paper proposed that there should be a minister responsible for the administration of the Regulation of Lobbying Act, in keeping with normal practice, but the Regulation of Lobbying Act should be enforced by the Standards Commissioner. The Commissioner should have the power to impose administrative penalties, subject to review by the courts.

Initially a two-month consultation period was set, but this was later extended by a further month. A summary paper was also issued setting out the Commissioner’s proposals in abbreviated form.<sup>20</sup>

The Commissioner received a number of detailed submissions in response to the consultation paper. These were subsequently analysed by his office with a view to determining what changes should be made to the Commissioner’s proposals. It is also

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<sup>19</sup> Available from <https://standardscommissioner.com/wp-content/uploads/consultation-paper-lobbying.pdf>.

<sup>20</sup> Available from <https://standardscommissioner.com/wp-content/uploads/summary-paper-lobbying-EN.pdf>.

intended to obtain specialised inputs through a project to be funded by the European Union before the proposals are finalised and presented to the government.

### 3.5 Review of codes of ethics

Article 13(1)(g) of the Act empowers the Commissioner to “make recommendations for the improvement of any Code of Ethics applicable to persons who are subject to this Act”. Such recommendations may deal with, among other things, the acceptance of gifts, the misuse of public resources and confidential information, and restrictions on employment after a person ceases to hold state office (“revolving doors”).

On 29 July 2020, the Commissioner issued a document proposing the adoption of revised codes of ethics for MPs and ministers. He submitted the document to Parliament’s Standards Committee as a recommendation under article 13(1)(g) of the Act.

The revised codes were intended to replace the current codes of ethics for MPs and ministers, which are found in the first and second schedules of the Standards in Public Life Act. The revised codes were intended to strengthen the ethical standards applying to MPs and ministers and reinforce the framework of accountability within which Malta’s governing institutions operated. The revised codes also addressed recommendations by the Group of States Against Corruption (GRECO), a body within the Council of Europe.

Both codes of ethics incorporated a common set of principles based on those in the current ministerial code, which reflect the Nolan principles.<sup>21</sup> In addition, the revised Code of Ethics for Members of the House of Representatives incorporated the following elements among others:

- new principles that would require MPs not to expose themselves to any risk of being placed under undue pressure and influence in the performance of their duties;
- a provision obliging members not to abuse the power and privileges enjoyed by them;
- a Register for Gifts, Benefits and Hospitality in which MPs should duly record not only gifts, benefits and hospitality received but also those bestowed by them to third parties, if such gifts are related to their parliamentary or political activities;
- a Register of Interests for registration of financial and non-financial interests.

The revised Code of Ethics for Ministers and Parliamentary Secretaries incorporated important provisions such as the following:

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<sup>21</sup> See <https://www.gov.uk/government/publications/the-7-principles-of-public-life>.

- ministers would be subject to employment restrictions for a period of three years after leaving office;
- ministers would be required to record their assets and financial and other interests in a Register of Interests;
- ministers would be required to record all relevant communications with lobbyists in a Transparency Register;
- ministers would be obliged not to accept any gifts, benefits and hospitality for themselves or for members of their families except as permitted by guidelines issued by the Commissioner for Standards;
- ministers may not bestow gifts, benefits and hospitality except as permitted by the Commissioner's guidelines;
- ministers would be required to avoid associating with individuals who could place them under any obligation or inappropriate influence;
- ministers would be required to avoid putting themselves in situations in their private lives that may expose them to any undue pressure or influence;
- meetings between ministers and persons with an interest in obtaining permits, authorisations and other state benefits should be held in an official setting and in the presence of officials;
- ministers would be required to avoid conducting official business through unofficial email accounts;
- ministers would be required to channel public funding to the media on the basis of objective criteria.

Each code was accompanied by a set of guidelines which elaborated on specific aspects. Each code itself contained enabling provisions empowering the Commissioner for Standards to issue such guidelines. This approach avoided encumbering the codes with excessive detail and enabled the guidelines to be changed as necessary in the light of experience or changing circumstances.

On 17 August 2020 the Committee briefly considered the Commissioner's document and agreed that its members should consult their respective parliamentary groups before the Committee discussed the report in detail. There have been no further developments.



## 4 Other Activities

### 4.1 Proposal on abuse of parliamentary privilege

On 18 June 2020 the Commissioner submitted a memorandum to Parliament's Standing Committee on Standards in Public Life proposing that Parliament should introduce a mechanism to deal with cases in which an MP makes defamatory statements about private individuals under cover of parliamentary privilege. Such a mechanism might empower the Commissioner himself to take action on such cases.

The Commissioner stated that, in his opinion, the Standards in Public Life Act did not currently empower him to consider complaints about MPs who abused their parliamentary privilege, and his role under the Act was limited to considering the actions of MPs outside Parliament. He took this view because parliamentary privilege, under which no MP can be sued or charged in court for anything said by him or her in Parliament, is enshrined in the Constitution of Malta.

The Commissioner added that if the Committee took the view that the Act in its current form was a sufficient basis for him to consider complaints about abuse of parliamentary privilege, the Committee could propose a motion to this effect in Parliament in terms of article 15 of the Act. Article 15 empowers Parliament to issue rules for the guidance of the Commissioner in the form of resolutions.

The Committee has yet to discuss this proposal.

### 4.2 Persons of trust

On 7 October 2020 the Commissioner wrote to the Hon Dr Edward Zammit Lewis, Minister for Justice, Equality and Governance, expressing concerns about Bill no. 159, then before Parliament. The bill was intended to establish a legal basis for the appointment of "persons of trust". It proposed amendments to both the Standards in Public Life Act and the Public Administration Act. The Commissioner copied his letter to all members of Parliament.

In his letter the Commissioner expressed the view that it was necessary to amend the Constitution in order to establish a clear legal basis for appointments on trust. Any such amendments should include effective safeguards to ensure that appointments on trust were limited to ministers' secretariats, and that vacancies elsewhere in public administration were filled on the basis of merit.

The Commissioner also expressed concern because the bill proposed to introduce a mechanism whereby posts in the permanent machinery of government that remained vacant following repeated public calls for applications could be filled through appointments on trust. The Commissioner observed that this would permit appointments on trust in any occupational group of public employees as long as some

vacancies within the group remained unfilled through public calls. He stated that, over time, the bill could lead to the recruitment of an increasing number of persons of trust. This would politicise Maltese public administration and bring about a reduction in ethical standards.

The Commissioner also raised issues of a more technical nature concerning the provisions of the bill that were intended to amend the Standards in Public Life Act.

On 17 November 2020 the Minister for Justice, Equality and Governance replied to the Commissioner stating that there were points in his letter on which the government had already taken a clear position and others which could be discussed with a view to improving the bill.<sup>22</sup>

On 20 December 2020 the Office of the Commissioner updated its own guidance note on persons of trust, which is available from its website.<sup>23</sup> This guidance note had originally been issued on 17 October 2019 with a view to clarifying the meaning of the term “person of trust”, both as conventionally understood and as defined in the Standards in Public Life Act.

### **4.3 Outreach**

The Commissioner was requested to deliver a presentation on the regulation of lobbying to students in the University of Malta’s Department of Public Policy. Because of the COVID-19 pandemic, this presentation took the form of a video which was made available online as part of the Department of Public Policy’s web resources on 2 April 2020. The video was shot by the staff of the Office of the Commissioner. The Office of the Commissioner also made this video available on its own Facebook page.

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<sup>22</sup> The bill was passed into law with minor amendments on 9 April 2021 as Act XVI of 2021.

<sup>23</sup> <https://standardscommissioner.com/wp-content/uploads/persons-of-trust-guidance-note.pdf>.

## 5 Trends and Developments

### 5.1 The role of the Standards Committee

This section discusses the manner in which reports by the Commissioner have been considered by Parliament's Standing Committee for Standards in Public Life. Two case reports were submitted for consideration by the Committee in 2020, followed by a further two in 2021. All four instances are discussed here for the sake of continuity. The aim of this section is not to enter into the merits of the cases themselves but of the manner in which they have been discussed by the Committee.

On **1 July 2020**, the Commissioner referred his report on case K/019 to the Committee. The Committee authorised publication of the report on 3 July 2020, in keeping with the procedure agreed in 2019 whereby it is up to the Committee to decide on the publication of case reports that are submitted for its consideration (see section 2.3 of this annual report). The Committee considered the report in detail subsequently. It endorsed the report on 22 July 2020 and closed the case on the basis of what was deemed to be an apology on 14 August 2020.

This sequence of events – rapid publication of the case report, followed by discussion subsequently – is considered to be good practice. Prompt publication of the case report contributes to transparency and strengthens public confidence in the process. It also enables the Committee to discuss the report without undue media pressure.

On **5 October 2020**, the Commissioner referred his report on case K/022 to the Committee. On this occasion the Committee withheld publication of the report until it was discussed in detail, which the Committee did *in camera* so the public was not able to follow the discussion. The Committee authorised publication of the report on 14 October 2020 and endorsed it on 5 January 2021. On the basis of a ruling by the Speaker, the Committee did not apply any sanctions since the subject of the investigation was no longer an MP.

On **11 February 2021** the Commissioner referred a third report to the Committee, that on case K/017. The Committee did not discuss this report. On a request by the government representatives on the Committee, the Speaker ruled that the report should not have been issued since the investigation concerned a matter that was still *sub judice* and consequently the Commissioner had acted *ultra vires* by proceeding with the investigation.<sup>24</sup> As a result, the report was never released by the Committee, although it was leaked to the media and published unofficially.

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<sup>24</sup> The Speaker's ruling is available from <https://www.parlament.mt/media/110928/s-434-02032021-kummissarju-dwar-l-istandards-setgha-li-jinvestiga.pdf>.

On 4 March 2021 the Commissioner wrote to the Speaker to express his disagreement that this case had been put aside by a ruling. The Commissioner argued that the ruling was itself *ultra vires* and based on an incorrect premise. The Commissioner published his letter online through the official website of his office.<sup>25</sup> On 5 March 2021 the Speaker, in response, published legal advice which he had obtained on the same matter.<sup>26</sup> The Commissioner disagreed with the advice and responded accordingly.

On **17 March 2021** the Commissioner referred a fourth report to the Committee, that on case K/028. The Committee twice scheduled meetings on this report that were aborted. On the first occasion, the meeting was aborted because the members representing the government side walked out after claiming that one of the members on the opposition side was in a conflict of interests, since the case under consideration derived from a complaint that had been lodged by his brother on behalf of the NGO Repubblika. This led the member in question to be substituted by another opposition MP for the purposes of the discussion of this particular report. On the second occasion the meeting was boycotted by the government side because they alleged that details of the report had been leaked.

On 9 April 2021 the Commissioner wrote to the Speaker to express his concern at the delay in the publication of his case report. The Commissioner referred to the Standards Committee's decision of 2 April 2019 concerning the publication of case reports (see section 2.3 of this annual report) and proposed that it should be his responsibility to authorise the publication of case reports. The Commissioner also expressed his views on the allegation that details of the report had been leaked. The Commissioner published his letter online.<sup>27</sup>

The Committee authorised the publication of the case report on 14 April 2021 without going in camera. This represented a reversion to the procedure adopted by the Committee in July 2020 for the consideration of case reports, albeit with a delay of almost one month between submission and publication of the case report.

On 28 April 2021 the Committee voted on whether to endorse the report. The two members from the government side voted against while the two members from the opposition side voted in favour. The Speaker, who chairs the Committee and who has a casting vote according to article 26(2) of the Standards in Public Life Act, abstained. This has created an unprecedented and deeply preoccupying situation.

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<sup>25</sup> <https://standardscommissioner.com/wp-content/uploads/Letter-to-Speaker-2021-03-04.pdf>.

<sup>26</sup> <https://www.parlament.mt/media/111022/pr210482.pdf>.

<sup>27</sup> <https://standardscommissioner.com/wp-content/uploads/Letter-to-Speaker-2021-04-09.pdf>.

## 5.2 Political attacks on the office of the Commissioner

The situation described above has been accentuated by attacks against the Commissioner and his office that were made by an MP in Parliament on at least two occasions. On each occasion the Commissioner was compelled to write to the Speaker to rebut the accusations made against him and his office.<sup>28</sup>

The Commissioner is particularly preoccupied by the fact that, on both occasions, the attacks were directed not only at him but also at members of his staff. On each occasion gratuitous allegations were made about members of the Commissioner's staff. On each occasion the Commissioner stated in his letter to the Speaker that his own inquiries into these allegations had not yielded anything to substantiate them, but the MP who made the attacks was being invited to present any evidence if he had it. The MP did not take up this invitation.

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<sup>28</sup> See letter dated 21 April 2021 at <https://standardscommissioner.com/wp-content/uploads/Letter-to-Speaker-2021-04-21-1.pdf>, and letter dated 6 May 2021 at <https://standardscommissioner.com/wp-content/uploads/Letter-to-Speaker-2021-05-06.pdf>.

## **6 Resourcing and Logistics**

### **6.1 Staffing**

Up to 31 December 2020, the Office of the Commissioner for Standards in Public Life consisted of seven members of staff including the Commissioner. Other than the Commissioner, staff members consisted of a Director General; an Assistant Director (Research and Communications); a Research Analyst and Investigator; an Office Manager/Personal Assistant; and two support staff, a driver and a messenger/cleaner. The Commissioner is entitled to a driver as part of the terms and conditions of his appointment, which are the same as those of a judge. However, the driver also performs general office duties, including accompanying visitors to the office for security purposes, as does the messenger/cleaner. An organisation chart appears in Appendix 1 to this annual report.

In addition, the Commissioner retained a legal advisor, an auditor and a media consultant on a contract-for-service basis. The role of the legal advisor is to give advice on legal issues arising primarily from investigations. The role of the auditor is primarily to assist in the examination and verification of the declarations of assets and interests that are submitted by ministers, parliamentary secretaries and members of Parliament. The role of the media consultant is to provide support and advice in connection with communications with the media and the use of online platforms by the Office of the Commissioner.

### **6.2 Funding**

The financial plan for 2020 as submitted by the Commissioner provided for a total of €640,364 in expenditure for the year, consisting of €312,810 in personal emoluments and €327,554 in operational and maintenance expenses. The funds allocated to the Office of the Commissioner in Vote 5 as approved by Parliament amounted to €640,000, representing virtually the entire amount requested by the Commissioner.

Actual spending by the Office of the Commissioner during 2020 amounted to €402,549, leaving an unspent balance of €237,451 as of 31 December 2020. This was primarily the result of the following factors:

- the COVID-19 pandemic prevented travel in connection with the Commissioner's intention to develop international links;
- COVID-19 also disrupted the procurement of training for staff, as well as the organisation of conferences or seminars to raise awareness about ethical issues; and
- the need for specialised professional services, in addition to the legal advisor and auditor, to assist in the investigation of complaints turned out to be considerably less than expected.

The unspent balance as it was forecast in September 2020 was put towards the Office's budgetary requirements for 2021, as set out its financial plan for 2021.

Audited financial statements for the Office of the Commissioner covering the period to 31 December 2020 are presented in Appendix 2 to this report. The financial statements were audited by the National Audit Office as required by article 12 of the Standards in Public Life Act.

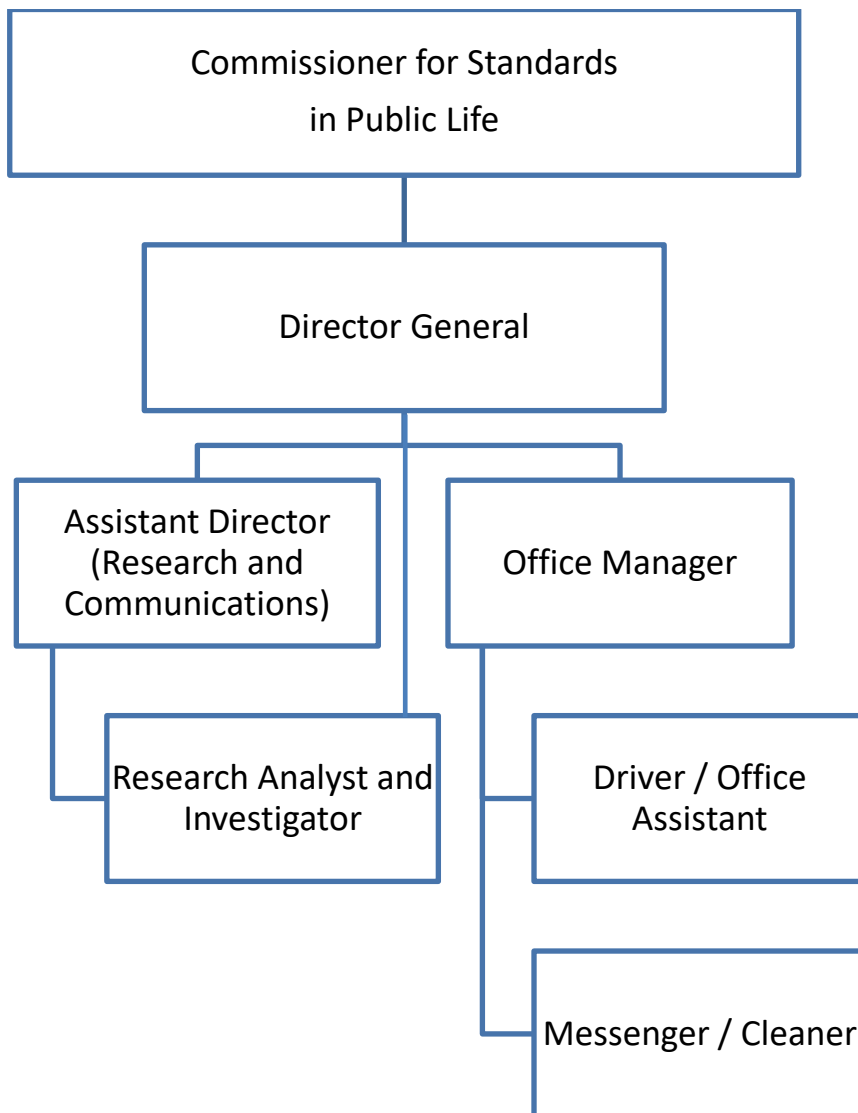
### **6.3 Premises**

The Office of the Commissioner is housed on the fourth floor of the Office of the Ombudsman at 11, St Paul Street, Valletta.

This arrangement allows for a degree of synergy between the two bodies, since both represent institutions of oversight that report to Parliament.

These premises were made available by the Office of the Ombudsman under a tenancy agreement whereby the Office of the Commissioner is required to pay €20,000 annually for a period of ten years in defrayal of refurbishment expenses, together with €1,463 as a contribution to rent. In addition, the Office of the Commissioner reimburses the Office of the Ombudsman for its share of electricity and water consumption within the building, together with part of the salary of the receptionist.

## Appendix 1 – Organisation Chart





## Appendix 2 – Audited Financial Statements for the Year 2020

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*Office of the Commissioner for Standards in Public Life*

*Report and financial statements for the year ending 31 December 2020*

## **STATEMENT OF RESPONSIBILITIES OF THE OFFICE OF THE COMMISSIONER FOR STANDARDS IN PUBLIC LIFE**

The main role of the Commissioner for Standards in Public Life ("the Office") is to investigate allegations of misconduct by members of Parliament and persons of trust as defined in the Standards in Public Life Act (chapter 570 of the laws of Malta). The Commissioner may conduct any such investigation on his initiative or on the written complaint of any person.

The Office of the Commissioner is responsible for ensuring that:

- proper accounting records are kept of all transactions entered into by the Office, and of its assets and liabilities;
- adequate controls and procedures are in place for safeguarding the assets of the Office, and the prevention and detection of fraud and other irregularities.

The Office is responsible to prepare accounts for each financial year which give a true and fair view of the state of affairs as at the end of the financial year and of the income and expenditure for that period.

In preparing the accounts, the Office is responsible to ensure that:

- appropriate accounting policies are selected and applied consistently;
- any judgements and estimates made are reasonable and prudent;
- International Financial Reporting Standards are followed;
- the financial statements are prepared on the going concern basis unless this is considered inappropriate.



**Dr George Marius Hyzler**  
Commissioner for Standards in Public Life



**Charles Polidano**  
Director General

*Office of the Commissioner for Standards in Public Life***STATEMENT OF COMPREHENSIVE INCOME**

	<b>12 month to 31.12.2020 €</b>	<b>14 month period to 31.12.2019 €</b>
<b>Income</b>		
<b>Government subvention</b>	<b>640,000</b>	<b>368,332</b>
<b>Expenditure</b>		
Administrative and other expenses	<b>101,138</b>	82,954
Personal emoluments (note 5)	<b>301,411</b>	264,973
	<b>402,549</b>	<b>347,927</b>
<b>Total comprehensive income for the year/period</b>	<b>237,451</b>	<b>20,405</b>

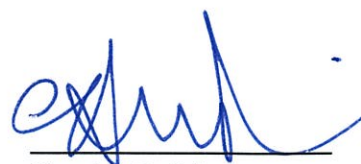
*Office of the Commissioner for Standards in Public Life***STATEMENT OF FINANCIAL POSITION**

	Notes	31.12.2020 €	31.12.2019 €
<b>Fixed assets</b>			
Intangible fixed assets	6	1,240	1,860
Tangible fixed assets	7	<u>177,414</u>	<u>191,812</u>
		<b>178,654</b>	<b>193,672</b>
<b>Current assets</b>			
Receivables	8	450	886
Bank	9	<u>235,793</u>	<u>7,830</u>
		<b>236,243</b>	<b>8,716</b>
<b>Total assets</b>		<b>414,897</b>	<b>202,388</b>
<b>Long-term liabilities</b>			
Leased liabilities	10	<u>129,440</u>	<u>146,510</u>
<b>Current liabilities</b>			
Leased liabilities	10	17,070	16,735
Payables	11	<u>10,531</u>	<u>18,738</u>
		<b>27,601</b>	<b>35,473</b>
<b>Accumulated fund</b>		<u>257,856</u>	<u>20,405</u>
<b>Equity and liabilities</b>		<b>414,897</b>	<b>202,388</b>

These financial statements were approved and authorised for issue on 13 May 2021 and signed by:



**Dr George Marius Hyzler**  
Commissioner for Standards in Public Life



**Charles Polidano**  
Director General

*Office of the Commissioner for Standards in Public Life*

## STATEMENT OF CHANGES IN EQUITY

	Accumulated Fund €
<b>At 30 October 2018</b>	-
<b>Statement of Comprehensive income</b>	
Surplus for the period	20,405
<b>At 31 December 2019</b>	<u>20,405</u>
Surplus for the year	237,451
<b>At 31 December 2020</b>	<u><u>257,856</u></u>

*Office of the Commissioner for Standards in Public Life***STATEMENT OF CASH FLOWS**

	Notes	12 month to 31.12.2020 €	14 month period to 31.12.2019 €
<b>Cash flows from operating activities</b>			
Surplus for the year/period		237,451	20,405
Add: Depreciation and amortisation		25,905	23,580
Add: Finance costs		3,265	3,593
Operating surplus before working capital changes		266,621	47,578
Decrease/(increase) in receivables		436	- 886
(Decrease)/increase in payables		- 8,207	18,738
Net cash generated from operating activities		258,850	65,430
<b>Cash flows from Investing activities</b>			
Payments to acquire tangible fixed assets		- 30,887	- 55,120
Payments to acquire intangible fixed assets		- -	- 2,480
Net cash used in investing activities		- 30,887	- 57,600
<b>Net increase in cash and cash equivalents</b>		227,963	7,830
Cash and cash equivalents at beginning of period		7,830	-
<b>Cash and cash equivalents at end of period</b>	9	235,793	7,830

*Office of the Commissioner for Standards in Public Life***NOTES TO THE FINANCIAL STATEMENTS****1. Legal status**

In 2017, the Maltese Parliament enacted the Standards in Public Life Act, which was brought into force on 30 October 2018. The main role of the Commissioner for Standards in Public Life is to investigate allegations of misconduct by members of Parliament and persons of trust as defined in the Act. The Office of the Commissioner for Standards in Public Life is situated at 11, St Paul Street, Valletta, Malta.

These financial statements were approved for issue by the Commissioner and the Director General on 13 May 2021.

**2. Summary of significant accounting policies**

The principal accounting policies applied in the preparation of these financial statements are set out below. These policies have been applied to the year presented (January 2020 to December 2020).

*Basis of preparation*

The financial statements have been prepared in accordance with International Financial Reporting Standards (IFRS) and their interpretations adopted by the International Accounting Standards Board (IASB). The financial statements have been prepared under the historical cost convention.

The preparation of financial statements in conformity with IFRS requires the use of certain critical accounting estimates. Estimates and judgements are continually evaluated and based on historic experience and other factors including expectations for future events that are believed to be reasonable under the circumstances.

In the opinion of the Finance Manager and the Director General, the accounting estimates and judgements made in the course of preparing these financial statements are not difficult, subject or complex to a degree which would warrant their description as critical in terms of requirements of IAS 1. The principal accounting policies are set out below:

*Materiality and aggregation*

Similar transactions, but which are material in nature are separately disclosed. On the other hand, items of dissimilar nature or function are only aggregated and included under the same heading, when these are immaterial.

*Office of the Commissioner for Standards in Public Life*

## **NOTES TO THE FINANCIAL STATEMENTS**

### **2. Summary of significant accounting policies (continued)**

#### *Revenue recognition*

Revenue derived from the government's subvention is recognised when there is reasonable assurance that all the conditions attached to the subvention are complied with and the subvention will be received.

#### *Property, plant and equipment (PPE)*

Property, plant and equipment are stated at historical cost less accumulated depreciation and impairment losses. The cost of an item of property, plant and equipment is recognized as an asset if it is probable that future economic benefits associated with the item will flow to the group and the cost of the item can be measured reliably.

Subsequent costs are included in the asset's carrying amount or recognized as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to the group and the cost of the item can be measured reliably. The carrying amount of the replaced part is derecognized. All other repairs and maintenance are charged to the income statement during the financial period in which they are incurred.

Property, plant and equipment includes right-of-use assets in terms of IFRS 16. The accounting policy for right-of-use assets is included below in the section entitled 'Leases'.

Depreciation commences when the depreciable amounts are available for use and is charged to the statement of comprehensive income so as to write off the cost, less any estimated residual value, over their estimated lives, using the straight-line method, on the following bases:

	%
Office equipment	20
Computer equipment	25
Computer software	25
Furniture & fittings	10
Motor vehicles	20

The contractual value of the leased premises is depreciated over the term of the lease after deducting the financial charge element of the contractual value.



**NOTES TO THE FINANCIAL STATEMENTS****2. Summary of significant accounting policies (continued)**

An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount. The carrying amount of an item of PPE is de-recognised on disposal or when no future economic benefits are expected from its use or disposal. The gain or loss arising from derecognition of an item of PPE are included in the profit and loss account when the item is de-recognised.

*Receivables*

Receivables are stated at their net realizable values after writing off any known bad debts and providing for any debts considered doubtful.

*Intangible assets*

An intangible asset is recognised if it is probable that the expected future economic benefits that are attributable to the asset will flow to the Office and the cost of the asset can be measured reliably.

Intangible assets are initially measured at cost. Expenditure on an intangible asset is recognised as an expense in the period when it is incurred unless it forms part of the cost of the asset that meets the recognition criteria.

Intangible assets with a finite useful life are amortised. Amortisation is charged to profit or loss so as to write off the cost of intangible assets less any estimated residual value, over their estimated useful lives. The amortisation method applied, the residual value and the useful life are reviewed, and adjusted if appropriate, at the end of each reporting period.

*Website*

The cost of the website is classified as an intangible asset and is amortised on a straight-line basis over four years.

*Cash and Cash equivalents*

Cash and cash equivalents are carried in the Statement of Financial Position at face value. For the purposes of the cash flow statement, cash and cash equivalents comprise cash in hand and deposits held at call with banks.

*Office of the Commissioner for Standards in Public Life***NOTES TO THE FINANCIAL STATEMENTS****2. Summary of significant accounting policies (continued)***Payables*

Payables are carried at cost which is the fair value of the consideration to be paid in the future for goods and services received, whether or not billed to the Office.

*Leases*

The Office assesses whether the contract is, or contains, a lease at inception of a contract. A contract is, or contains, a lease if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

The lease term is determined as the non-cancellable period of a lease, together with both (a) periods covered by an option to extend the lease if the lessee is reasonably certain to exercise that option; and (b) periods covered by an option to terminate the lease if the lessee is reasonably certain not to exercise that option.

The Office recognises a right-of-use asset and a corresponding lease liability with respect to all lease arrangements in which it is the lessee, unless otherwise stated below.

Where a right-of-use asset and a corresponding lease liability is recognised, the lease liability is initially measured at the commencement date at the present value of the lease payments that are not paid at that date, discounted by using the rate implicit in the lease. If this rate cannot be readily determined, the Office uses its incremental borrowing rate.

*Foreign currencies*

Items included in the financial statements are measured using the currency of the primary economic environment in which the Office operates. These financial statements are presented in €, which is the Office's functional and presentation currency.

Transactions denominated in foreign currencies are translated into € at the rates of exchange in operation on the dates of transactions. Monetary assets and liabilities expressed in foreign currencies are translated into € at the rates of exchange prevailing at the date of the Statement of Financial Position.

*Office of the Commissioner for Standards in Public Life*

## **NOTES TO THE FINANCIAL STATEMENTS**

### **3. Critical accounting estimates and judgements**

Estimates and judgements are continually evaluated and based on historical experience and other factors including expectations of future events that are believed to be reasonable under the circumstances. The accounting estimates and judgements made in the preparation of the Financial Statements are not difficult, subjective or complex, to a degree that would warrant their description as critical in terms of the requirements of IAS 1 - 'Presentation of Financial Statements'.

### **4. Initial application of an International Financial Reporting Standard, early adoption of International Financial Reporting Standards and International Financial Reporting Standards in issue but not yet effective**

During the year under review, the Office of the Commissioner for Standards in Public Life has adopted a number of standards and interpretations issued by the IASB and the International Financial Reporting Interpretations Committee and endorsed by the European Union. The Office of the Commissioner for Standards in Public Life is of the opinion that the adoption of these standards and interpretations did not have a material impact on the financial statements.

There have been no instances of early adoption of standards and interpretations ahead of their effective date. At the date of statement of financial position, certain new standards and interpretations were in issue and endorsed by the European Union, but not yet effective for the current financial year. The Office of the Commissioner for Standards in Public Life anticipates that the initial application of the new standards and interpretation on 1 January 2020 will not have a material impact on the financial statements.

*Office of the Commissioner for Standards in Public Life***NOTES TO THE FINANCIAL STATEMENTS****5. Personal emoluments**

	<b>12 month to 31.12.2020 €</b>	<b>14 month period to 31.12.2019 €</b>
Wages and salaries	<b>288,406</b>	254,190
Social security costs	<b>13,005</b>	10,783
	<b>301,411</b>	<b>264,973</b>

In the period under review the Commissioner employed the equivalent of 7 (2019 – 6) full time employees.

**6. Intangible fixed assets**

	<b>Website</b>
<b>Cost</b>	
At 30.10.2018	
Additions	2,480
<b>At 31.12.2019 and 31.12.2020</b>	<b>2,480</b>
<b>Amortisation</b>	
At 30 October 2018	-
Charge for the period	620
At 31.12.2019	620
At 01.01.2019	620
Charge for the period	620
<b>At 31.12.2020</b>	<b>1,240</b>
<b>Net book value</b>	
At 31.12.2019	1,860
<b>At 31.12.2020</b>	<b>1,240</b>

## Office of the Commissioner for Standards in Public Life

**NOTES TO THE FINANCIAL STATEMENTS****7. Tangible fixed assets**

	Leased premises €	Motor vehicles €	IT equipment €	Other equipment €	Furniture & fittings €	Total €
<b>Cost</b>						
Additions	179,652	5,668	14,735	2,628	12,089	214,772
31.12.2019	179,652	5,668	14,735	2,628	12,089	214,772
1.01.2020	179,652	5,668	14,735	2,628	12,089	214,772
Additions	-	-	3,249	4,223	3,415	10,887
<b>31.12.2020</b>	<b>179,652</b>	<b>5,668</b>	<b>17,984</b>	<b>6,851</b>	<b>15,504</b>	<b>225,659</b>
<b>Depreciation</b>						
Charge for the period	16,407	1,134	3,684	526	1,209	22,960
31.12.2019	16,407	1,134	3,684	526	1,209	22,960
1.01.2020	16,407	1,134	3,684	526	1,209	22,960
Charge for the year	16,735	1,134	4,496	1,370	1,550	25,285
<b>31.12.2020</b>	<b>33,142</b>	<b>2,268</b>	<b>8,180</b>	<b>1,896</b>	<b>2,759</b>	<b>48,245</b>
<b>Net book value</b>						
31.12.2019	163,245	4,534	11,051	2,102	10,880	191,812
<b>31.12.2020</b>	<b>146,510</b>	<b>3,400</b>	<b>9,804</b>	<b>4,955</b>	<b>12,745</b>	<b>177,414</b>

**8. Receivables**

	31.12.2020 €	31.12.2019 €
Prepayments	450	886

*Office of the Commissioner for Standards in Public Life***NOTES TO THE FINANCIAL STATEMENTS****9. Cash and cash equivalents**

Cash and cash equivalents consist of cash in hand and balances in bank. Cash and cash equivalents included in the cash flow statement comprise the following balance sheet amounts:

	<b>31.12.2020</b>	31.12.2019
	€	€
Cash at bank	<b><u>235,793</u></b>	<u>7,830</u>

**10. Leased liabilities**

On 20 December 2018 the Office of the Commissioner for Standards in Public Life entered into an agreement with another Government organisation to lease a floor within the premises of the said organisation for a period of 5 years, renewable by a further 5 years at the option of the lessee, for a charge of €20,000 per annum.

The Office of the Commissioner for Standards in Public Life believes that the likelihood of taking up the said option is high and therefore, in accordance with IFRS 16, the entire expected 10 year leased payments have been capitalised in the balance sheet. A 2% discount rate has been applied in calculating the present value of this lease obligation.

The present value of the lease payment obligations under finance lease are as follows:

	<b>31.12.2020</b>	31.12.2019
	€	€
Due within one year	<b>17,070</b>	16,735
Due within two and five years	<b>71,762</b>	70,355
More than five year	<b>57,678</b>	76,155
	<b><u>146,510</u></b>	<u>163,245</u>

*Office of the Commissioner for Standards in Public Life***NOTES TO THE FINANCIAL STATEMENTS****10. Leased liabilities (continued)**

The annual charge of €20,000 has been split between finance costs and depreciation as follows:

	<b>12 month to 31.12.2020 €</b>	<b>14 month period to 31.12.2019 €</b>
Depreciation	<b>16,735</b>	16,407
Finance charge	<b>3,265</b>	3,593
	<b>20,000</b>	<b>20,000</b>

**11. Payables due within one year**

	<b>31.12.2020 €</b>	<b>31.12.2019 €</b>
Trade creditors	-	11,964
Accruals	<b>10,531</b>	6,774
	<b>10,531</b>	<b>18,738</b>

**12. Financial assets and liabilities**

Financial assets include receivables and cash held at bank and in hand. Financial liabilities include payables.

**13. Fair values**

At 31 December 2019 and 2020, the fair values of assets and liabilities were not materially different from their carrying amounts.

*Office of the Commissioner for Standards in Public Life*

## **NOTES TO THE FINANCIAL STATEMENTS**

### **14. Capital management**

The Office's capital consists of its net assets, including working capital, represented by its retained funds. The Office's management objectives are to ensure, that the Office's ability to continue as a going concern is still valid and that the Office maintains a positive working capital ratio.

To achieve the above, the Office carries out regular reviews of the working capital ratio ('Financial Situation Indicator'). This ratio was positive at the reporting date. The Office also uses budgets and plans to set its strategy to optimise its use of available funds and implements its commitments.



## Report of the Auditor General

### To the Office of the Commissioner for Standards in Public Life

#### Report on the financial statements

We have audited the accompanying financial statements of the Office of the Commissioner for Standards in Public Life set out on pages 36 to 48, which comprise the statement of financial position as at 31 December 2020, the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

#### The Office of the Commissioner for Standards in Public Life's responsibility for the financial statements

The Office of the Commissioner for Standards in Public Life is responsible for the preparation of financial statements that give a true and fair view in accordance with International Financial Reporting Standards as adopted by the European Union, and for such internal control as the Office of the Commissioner for Standards in Public Life determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

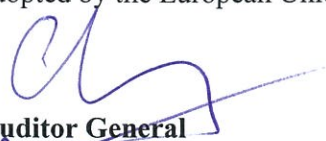
#### Auditors' responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the preparation of financial statements of the Office that give a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the internal control of the Office. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Office, as well as evaluating the overall presentation of the financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### Opinion

In our opinion, the financial statements give a true and fair view of the financial position of the Office of the Commissioner for Standards in Public Life as at 31 December 2020, and of its financial performance and cash flows for the year then ended in accordance with International Financial Reporting Standards as adopted by the European Union, and comply with the Standards in Public Life Act, 2018.



**Auditor General**  
17 May 2021