

# Follow-up Reports by the National Audit Office

2020

Volume II





Follow-up Reports  
2020  
Volume II

Report by the Auditor General  
October 2020



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# Foreword

In June 2020, the National Audit Office published Part I of the Follow-up Report which focused on a number of financial and compliance write-ups that appeared in the Reports by the Auditor General on Public Accounts over recent years.

Part II of this Follow-up Report now focuses on various Performance and Information Technology follow-up audits that have also been carried out by the respective Audit Sections more or less during the same period. As in the case of Part I, the purpose was to establish to what degree the recommendations given in the respective original audit reports were effectively addressed.

These follow-up assignments are in line with International Standards of Supreme Audit Institutions (ISSAI 12) – ‘The Value and Benefit of Supreme Audit’ Principle 3 which states, inter alia, that: ‘SAIs should report, as appropriate, on the follow-up measures taken with respect to their recommendations.’

Indeed, we consider such follow-up reports to be an important link in the audit process that helps ensure accountability, transparency and value for money in government operations. We seek to establish, in particular, whether our recommendations on identified issues in previous National Audit Office reports are being duly and effectively addressed.

We are pleased to note that in the case of the various audits included in this Report, over 90% of our recommendations were fully or partly implemented. Obviously, we reiterate that there is always room for further improvement, continuously striving to achieve better results. Higher level of implementation effectively leads to enhanced good governance in the public service; hence, fulfilling our constitutional objective of providing assurance to Parliament and to our citizens that public funds are being used in the best manner possible.



Charles Deguara  
Auditor General

October 2020



# List of Abbreviations

AdCo	Administration Cooperation
AML/TF	Anti-Money Laundering/Financing of Terrorism
ARPA	Agriculture and Rural Payments Agency
BCP	Business Continuity Plan
CCTV	Closed Circuit Television
CD	Compact Disc
CDRT	Center for Development, Research and Training
CIO	Chief Information Officer
CMS	Content Management System
CMU	Construction and Maintenance Unit
COVID-19	Corona Virus Disease 2019
CV	Curriculum Vitae
DOA	Department of Agriculture
DPD	Directorate for Projects and Development
DRP	Disaster Recovery Plan
DVD	Digital Video Disc
EC	European Community
ECHA	European Chemicals Agency
E-ID	Electronic Identity Card
EOI	Expression of Interest
ETC	Employment and Training Corporation
EU	European Union
EURES	The European Jobs Network
FIAU	The Financial Intelligence Analysis Unit
GIS	Geographic Information System
GMICT	Government of Malta ICT
HRIU	Human Resources Information Unit
ICO	Inspections Coordination Office
ICSMS	The Information and Communication System on Market Surveillance
ICT	Information and Communications Technology
IMU	Information Management Unit
IPM	Integrated Pest Management
IT	Information Technology
MCCAA	Malta Competition and Consumer Affairs Authority
MCVS	Malta Council for the Voluntary Sector

MEDE	Ministry for Education and Employment
MEIB	Ministry for the Economy, Investment and Small Business
MESDC	Ministry for the Environment, Sustainable Development and Climate Change
MF	Ministry for Finance
MFIN	Ministry responsible for Finance
MGOZ	Ministry for Gozo
MITA	Malta Information Technology Agency
MITC	Ministry for Infrastructure, Transport and Communication
MoU	Memorandum of Understanding
MRD	Maintenance and Restoration Directorate
MRL	Maximum Residue Levels
MS	Microsoft
MSD	Market Surveillance Directorate
NAO	National Audit Office
NAP	National Action Plan
NSO	National Statistics Office
OHIM	Office for Harmonisation in the Internal Market (EU)
OCVO	The Office of the Commissioner for Voluntary Organisations
OPM	Office of the Prime Minister
PC	Personel Computer
PCN	Harmonised Poison Centres
PDCA	Plan-Do-Check-Act
PPP	Plant Protection Product
Q3/4	Quarter Three/Four
RAPEX	Rapid Alert System for dangerous non-food products
RDD	Rural Development Department
RS	Road Section
SAN	Storage Area Network
SKOP	Malta's National Platform of development NGOs (Soliderjeta` u Koperazzjoni)
S.L.	Subsidiary Legislation
SOP	Standard Operating Procedure
SQL	Structured Query Language
SUD	Sustainable Use Directive
TRD	Technical Regulations Division
UPS	Uninterrupted Power Supply
VO	Voluntary Organisation
WSC	Water Services Corporation

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Follow-Up Reports by the  
Information Technology Section

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# Commerce Department

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## Background

The Information Technology (IT) Audit within the Commerce Department was published by the National Audit Office (NAO) in early 2015. The audit had sought to examine the Department's IT operations and investment to determine whether the necessary controls were in place to ensure that the IT and Information Systems maintained data integrity, assisted in making efficient use of resources, safeguarded assets, and allowed organisational goals to be achieved effectively. In the end, the audit identified potential risks and made the necessary recommendations to mitigate those risks.

The Commerce Department aims to provide the necessary infrastructure to encourage the securing, utilisation and respect of intellectual property rights, whilst assisting business and facilitating trade.

## Audit Scope and Methodology

The key objective of this follow-up IT audit was to determine and assess whether the Commerce Department's Management had addressed and tackled the issues raised and highlighted by this Office in its original report, mainly by implementing suitable remedial measures, in line with, or surpassing, the recommendations put forward by the NAO in the same report.

An introductory meeting was held with the Ministry's Senior Management, including the Chief Information Officer (CIO) and the Director General Commerce, where the scope of this exercise was defined and an overview of the follow-up audit process outlined by the NAO. Subsequently, a second meeting/walkthrough was performed on-site, where the NAO's officers were briefed on the main developments at the Department since the publication of the audit, from an IT perspective, and were then given a familiarisation walkthrough to reacquaint themselves with the Department's setup and see some of these developments first hand. In the meantime, the main issues stemming from the original report were identified and collated in the form a checklist. This was then forwarded to the auditee, to be filled-in with their feedback and submitted back to the NAO. This provided the Office with an updated picture of the actions taken and whether or not the Department had addressed the issues highlighted. This Office analysed in detail the feedback submitted and verified and assessed the progress achieved through additional information and documentation requested from, and provided by Commerce Department Management.

For each issue, developments were assessed against a scale, which determines the different stages that exist along the process leading to the resolution of that issue. The key issues and the corresponding recommendation/s from the original report are also shown in grey text below.

## Key Issues

### IT Management

#### IT Strategy

*The NAO was informed that the Commerce Department does not have a formally documented IT strategy plan or refer to a specific IT strategy. However, the Commerce Department together with the Ministry's IMU have a formalised plan documenting the proposed IT projects for the forthcoming year. In this regard, the NAO recommends that the Commerce Department formulates an IT strategy that should focus on creating and measuring the business value from the investment in ICT.*

#### **Developments: Fully implemented**

Management stated that the Ministry's CIO has devised a brief four-year plan, covering 2020 – 2023, outlining various ICT initiatives pertaining to the Ministry for the Economy, Investment and Small Business (MEIB), including various ICT projects specific to the Commerce Department. The plan is to be revised annually with the respective Permanent Secretary. Moreover, it was also stated that a yearly ICT plan is likewise prepared for the Commerce Department. Extracts of the Ministry's detailed four-year plan, and a copy of the Department's latest annual plan, both detailing various ICT initiatives, were provided to this Office for audit purposes.

#### Local Printers

*...a high number of local printers installed on most of the PCs and laptops. In this regard, the NAO remarked on the high usage of local printers and their related running costs. In return, the NAO was informed that the Commerce Department intends to adopt a greener environment by reducing the amount of local printers installed and will instead introduce a networked multi-function printer in every Directorate.*

#### **Developments: Fully implemented**

During the on-site walkthrough, the NAO observed the increased presence of networked multi-function printers around the Commerce Department Offices. This was corroborated in the feedback submitted, where the NAO was informed that networked multi-function printers were successfully implemented within Commerce Department.

#### IT Hardware & Software Inventory

*The NAO noted that the IT Unit has an updated hardware inventory, which is continuously being updated on a spreadsheet... the NAO was informed that the Ministry's IMU carried out an IT inventory whereby every piece of IT equipment within the Commerce Department was affixed with an inventory sticker provided by the Ministry's IMU...*

*With reference to the software inventory, the NAO was informed that this list is currently being maintained by the Ministry's IMU. In this regard, the NAO recommends that the Ministry's IMU carries out an internal audit to verify that all the PCs and laptops are compliant in terms of authenticity of software applications and software licences. As a result of this audit, the Ministry's IMU should compile an inventory list of all software applications in use and their respective licenses and amalgamate this list with the hardware inventory list.*

**Developments: Fully implemented**

Through the feedback submitted, the NAO was informed that the Ministry's Information Management Unit (IMU) holds an inventory list of all software applications in use, including respective licences, at the Commerce Department. This list is amalgamated with the hardware inventory list on the same system. The latter is kept updated by IMU officers, whilst, continuous audit exercises are carried out, it was claimed.

**Supplier Service & Maintenance Contract**

*The NAO noted that one of the services and maintenance contracts pertaining to a multi-function printer is endorsed with all the relevant details of the previous owner under the MITC. In this regard, the NAO recommends that the Commerce Department should ensure that all the services and maintenance contracts are kept up-to-date, and if necessary, a covering letter documenting any changes that is signed by both parties should be attached to the respective contract.*

**Developments: Not applicable – Contract no longer in place**

Referring specifically to this service, the NAO was notified that the multi-function printer referring to the former Ministry (MITC) is no longer on a contract agreement.

**IT Applications**

**Vacation Leave Cards**

*...the NAO was informed that all the vacation leave cards prior to 2014, of every individual within the Commerce Department, have to be inputted manually into the system. Unfortunately, due to the lack of resources, this process is being carried out after office hours but to date, the Commerce Department cannot quantify the effort required to input all the data. In this regard, the NAO recommends that the Commerce Department should establish a cut-off date, analyse the amount of vacation leave cards that needs to be processed and the effort required to input all the data, taking into consideration the resources available.*

**Developments: Fully implemented**

The Commerce Department has clarified that, as from 2014 to date, all absences are now recorded in the Dakar Absences Management system, replacing the previous system.

## Trademark System

*...the NAO was informed that the TMS system will be replaced by a modern Back Office application, which will be provided by OHIM. The new system will be implemented in two stages and should be running live in the first quarter of 2015. Thus, the NAO recommends that the Commerce Department should ensure that the new application complies with the GMICT password policy, a full audit trail is in place and the new system complies with the software development life cycle process.*

### **Developments: Fully implemented**

The Commerce Department stated that it had deployed the new applications in 2015/2016, which systems comply with the software development life cycle process, and with Malta Information Technology Agency (MITA)'s Government of Malta ICT (GMICT) password policy, as had been recommended by this Office. This Office was pleased to note that these new systems also have a full audit trail in place.

## Information Security

### Procedure for Disposal of Confidential Information

*...the NAO recommends that the Department should ensure that the disposal of information on all types of media... Thus, a policy should be drafted and communicated internally describing the procedure to be adopted for the disposal of any confidential information, which may reside on paper, flash memory devices, CD/DVDs, through shredding, securing wiping and/or physical destruction etc.*

### **Developments: Fully implemented**

As per feedback submitted to the NAO, the Commerce Department claimed that a policy covering the procedure for the Disposal of Confidential Information has been drawn up and disseminated to all the Department's employees, as had been recommended by this Office. A copy of this policy, providing for normal or secure erasing procedures, was provided to this Office for review.

### Information Security Awareness Guidelines & Training

*The NAO recommends that such training initiatives can be offered as part of the induction session given to new employees and should also be part of an ongoing programme that seeks to ensure that all users are familiar with the information security policies and best practices that govern the use of IT assets. Awareness on security policies and best practices is normally communicated through the use of e-mails, publication of leaflets and handbooks or communicated verbally, to ensure that information is conveyed to the appropriate users in a timely manner...*

*In this regard, the NAO recommends that officials within the Department should attend to the “Information Security Awareness” course, which is offered from time-to-time by the Centre for Development, Research and Training (CDRT) in Floriana...*

*Furthermore, the NAO suggests that IT Unit together with the Ministry’s IMU should draft a set of computer security guidelines for all the officials within the Department.*

**Developments: *Partly implemented***

According to the response presented to the NAO, the Commerce Department asserted that Information Security awareness training has been provided to the Department’s staff as had been suggested by this Office. Furthermore, it was pointed out that the Ministry’s IMU periodically notifies all the Department’s officials that they are obliged to adhere to MITA’s GMICT policies, which are accessible through the Commerce Department Intranet. However, it was not stipulated whether any supplementary, practical explanatory notes had been issued to increase awareness amongst staff.

***IT Operations***

***Physical Access Controls***

*...anyone who wishes to visit the Lascaris War Rooms or the NSO can pass through the Commerce Department’s main reception ...any individual can easily roam about the Lascaris Bastions and pass through the Commerce Department’s corridors. This poses a physical threat to the Department’s offices as any individual with wrong intentions can easily enter any of the offices, even though the door offices are kept closed. In fact, it has been highlighted that at times theft of personal belongings, such as mobile phones, was reported. In this regard, the NAO recommends that the Commerce Department should immediately find ways on how to improve the physical access controls within the building.*

*The NAO was informed that discussions are currently underway with the Commerce Department and the Ministry’s IMU, on how to enhance the physical access controls within the building. Furthermore, the NAO was informed that the Department intends to introduce CCTV cameras and install them at strategic points within the building. The Department is considering how to limit the access within the building to persons wishing to visit the Lascaris War Rooms or the NSO.*

**Developments: *Insignificant Progress***

During the on-site walkthrough, the NAO auditors’ attention was drawn to the security cameras installed on the exterior of the National Statistics Office (NSO) building and covering the common areas shared with the Commerce Department at War Rooms level. Feedback submitted by the auditee also suggested that these cameras’ coverage included the Department’s offices/building or entry access points. The Commerce Department still intends to extend such cameras to the Department’s ground floor level, as had already been mentioned in the original IT audit report, although it claimed that the installation timeframe is still dependent on several factors.

## e-Forms

*From the statistics obtained..., the NAO observed that these e-Forms are hardly being used. ...only four e-Forms are being used out of the 10 e-Forms found online.*

*In this regard, the NAO suggests that the Commerce Department should try to identify possible reasons for the low usage of e-Forms by the audience required. The NAO feels that part of the reason may be...the fact that the application forms can be downloaded from the Commerce Department website but are not directed to the e-Form platform. ...another reason for the low usage of these e-Forms may be due to the proliferation of the e-ID amongst the targeted audience. ...Furthermore, the NAO recommends that the Commerce Department reviews the current e-Forms and ensures that they are all updated and accompanied with a proper workflow, especially in view of a possible increase in e-Forms usage as a result of a wider distribution of e-ID in the coming months.*

### **Developments: Fully implemented**

The Department claimed that, pursuant to the NAO's initial audit, all services offered by the Commerce Department were reviewed, simplified and redeveloped, either using a new workflow platform or as stand-alone systems, and that usage of such e-Services is on the increase.

## Offline Mailboxes

*...during the course of this IT audit, the NAO observed that offline mailboxes of personal or generic e-mail accounts are being stored locally on the end user's PC or laptop. In this regard, the NAO recommends that the Ministry's IMU together with the Department's IT Unit should provide guidelines to all the officials within the Department, on how to backup and securely store offline mailboxes.*

### **Developments: Fully implemented**

As per reply provided by the Commerce Department, it was stated that the Department's employees were encouraged to use Government's cloud-based storage to back up all their office work, including offline mailboxes. In this regard, the NAO was informed that a step-by-step guideline was drafted and communicated to all the employees, as well as being uploaded onto the Commerce Department Intranet for easy access, whilst relevant training was also provided in this respect. A copy of the standard operating procedure concerning offline e-mail backup was provided to the NAO.

## Business Continuity Plan and Disaster Recovery Plan following Business Impact Analysis and Risk Assessment

*Even though all the IT systems are hosted at MITA-01 Data Centre in St. Venera...*

*At the time of this IT audit, the NAO observed that the Commerce Department does not have a formalised Business Continuity and Disaster Recovery plans at the Department level. ...the NAO noted that MITA has*

*implemented a number of measures to mitigate the risks involved in the event of a disruption or total failure in the Department's IT systems and network connectivity. Furthermore, all the software applications hosted at MITA are being backed up daily and all the backup media are being stored in an offsite location.*

*The NAO has however noted that in the event of a total system failure, the Commerce Department will adopt a manual process whereby the end user will take note of any activity that was carried out and when the systems are restored, all the data is then inputted in the respective software application.*

*Thus, the NAO suggests that the Commerce Department should perform a Business Impact Assessment and a Risk Assessment exercise from which a BCP and a DRP can be drafted at a Department level.*

### **Developments: Fully implemented**

Management stated that, following this Office's recommendations, the Commerce Department carried out a Business Impact Assessment and a Risk Assessment exercise, from which a Business Continuity Plan and a Disaster Recovery Plan were then drafted. A copy of these policies, providing for different scenarios and applicable actions, was provided to this Office for review.

## **Conclusions**

Since the publication of the original NAO IT audit report, the Commerce Department explained that it has successfully undertaken a number of strategic ICT initiatives.

Whilst acknowledging the Commerce Department's achievements through these initiatives, this Office also commends the Department's Management, including the MEIB's IMU, for taking the necessary actions to mitigate ICT concerns raised by the NAO in its original report. In fact, as indicated in this report, Management has taken on board most of the recommendations put forward by this Office, and substantial progress has been registered in approximately 91%<sup>1</sup> of the key issues reviewed, where core recommendations were either fully or partly implemented, or where significant progress was evident, at the time of this follow-up IT audit.

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<sup>1</sup> Calculated as 10 of 11 key issues reviewed in this follow-up IT audit (excluding issues which are no longer applicable at the time of review) and deemed to be fully or partly implemented or where significant progress has been registered, based on feedback submitted by the auditee.

## Background

In 2014, the National Audit Office (NAO) published an Information Technology (IT) audit report on the former Employment and Training Corporation (ETC), focusing mainly how the IT and Information Systems were being used, and the measures adopted in terms of maintenance and security of its IT systems, including business continuity and disaster recovery procedures amongst others. The audit also looked into the workflow management, to evaluate the processes and procedures involved and recommend how these could be improved in terms of increasing efficiency and reducing any possible errors.

In 2016, an Act of Parliament brought about the change in name from ETC to Jobsplus – *“the change in name is not cosmetic but is part of a wider branding strategy aimed at positioning Jobsplus as an innovative and dynamic organisation that excels in meeting the labour market needs of employers, jobseekers and employees.”*

## Audit Scope and Methodology

The objective of this follow-up IT audit was to determine the extent to which Management addressed the issues that had been raised by this Office and implemented the appropriate corrective measures, in line with the recommendations put forward by the NAO in the above-mentioned IT audit report.

An introductory meeting was held with senior officials to explain the scope of this follow-up IT audit and to highlight the key issues that were raised in the previous IT audit report. These issues were presented to Jobsplus as a checklist to obtain an update of the actions taken and verify whether Jobsplus had addressed the highlighted issues. The respective replies and supporting documentation were analysed and the developments pertaining to every issue were assessed against a scale, in order to determine the level of implementation of the recommended actions.

As a point of reference, the key issues and the corresponding recommendations highlighted in the previous IT audit report are shown in grey text below.

## Key Issues

### ***No formal documented ICT strategy***

*The ETC does not have a formally documented Information and Communication Technology (ICT) strategy, however, the IT Manager has a yearly plan documenting the top priority projects ... the NAO suggests that the ETC formulates a strategy that:*

- *Makes reference to the IT and Information Systems projects and explains how these projects are linked to the ETC Business Strategy, and how these projects shall be implemented;*
- *Prioritises future ICT investment;*
- *Covers the development being planned in the next three to five years; and*
- *Refers to the Logical and Physical architecture of the ETC IT systems.*

**Development: Fully implemented**

Whilst the planning of major tasks and projects is still being carried out and discussed internally, the NAO is pleased to note that Jobsplus has drawn up a three-year Information Systems Strategic Plan to identify the ICT requirements for Jobsplus and a way forward regarding its implementation. This also included a number of recommendations that should be taken on board during the ICT systems modernisation project.

***Issue related to logging of IT related maintenance calls***

*The NAO noted that the ETC's IT technical staff carries out first-line support on all IT equipment at the ETC Head Office and the ETC branches (excluding the training labs) ... the NAO noted that only a few calls on IT related maintenance are currently logged in by the IT helpdesk. In this regard, the NAO suggests that this same principle is applied to all IT maintenance calls. The IT helpdesk would then be able to analyse trends of problematic suppliers or calls of a particular nature, which may collectively indicate a common source.*

**Development: Significant progress**

The ICT department within Jobsplus is continuously emphasising the importance that employees make use of their internal helpdesk system. In this context, the NAO was provided with a statistical report<sup>1</sup> on the number of ICT related calls that were recorded monthly over a period of one year. Whilst a great improvement has been registered in this regard, especially in the area of software applications, however, a few of their employees still use email instead of the internal helpdesk system.

***Lack of system and user manuals***

*The NAO noted that the ETC has no system manuals and no user manuals for most of its IT applications. The NAO observed that this situation has already attributed to in-house software being unsupported after the developer, who had built this software resigned from the Corporation leaving no system manuals and in one particular instance no source code was left. The NAO suggests that the ETC's IT Unit creates and maintains a source code repository of its internal developed software that is accessible by multiple IT officers.*

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<sup>1</sup> The report clearly shows the number of calls that were raised and eventually resolved, together with a list of pending calls.

**Development: *Fully implemented***

The NAO was informed that a common source code repository system is in place that hosts the source code of all the in-house developed software applications. Any changes affected and comments included in the source code are easily tracked with version control, and system code documentation for the newly developed systems can also be generated.

***Business process re-engineering exercise***

*The NAO also suggests that the ETC carries out a business process re-engineering exercise, to study how its current IT systems can meet the end users' and to identify software enhancements, which would minimise duplication of work, whilst ensuring current software requirements are met.*

**Development: *Partly implemented***

As part of the ICT systems modernisation project, Jobsplus informed NAO that they are currently documenting all their processes in terms of operational tasks, ICT systems that need to be accessed and all the data flows involved. Upon completion, the Malta Information Technology Agency (MITA) will be assisting Jobsplus to carry out a business process re-engineering exercise to simplify the existing processes and to develop new ICT systems, which must be then aligned with the process requirements.

***Integration of present software applications***

*The NAO also recommends that the ETC embarks on a study to verify whether the present software applications can be integrated together into one or two main systems incorporating all modules.*

**Development: *Not yet implemented***

As part of the three-year Information Systems Strategic Plan, it is envisaged that an enterprise-wide system is implemented that incorporates the required modules for the respective business process and with the aim of having one central data repository system for data consistency purposes.

***Safeguarding networking equipment***

*The NAO observed that not all networking equipment is connected to an Uninterrupted Power Supply (UPS). The NAO suggests that each device is connected to a UPS that incorporates a network management card.*

**Development: Fully implemented**

All the networking equipment at Jobsplus' Head Office were connected to a UPS, to serve as a backup power supply, in the event of a power failure, until the backup generator kicks in. A network monitoring tool was also implemented, to monitor the networking and other equipment, and alert whenever a component fails or reaches a critical stage.

**Insufficient use of e-Forms**

*The ETC has 11 e-Forms that can be used for engaging employees/apprentices, applying for an employment licence, courses and a number of other services ... the NAO noted that although these e-Forms were live and could be accessed through the government portal, the ETC did not seem to have taken this project on board to its full extent ... the NAO also noted that these e-Forms had a number of errors ... the NAO recommends that the ETC reviews all the e-Forms and carries out a study to verify which e-Forms are working according to the initial specifications. Following this exercise, the NAO suggests that the ETC embarks on a study so as to find out why such forms are not being used by the audience being targeted.*

**Development: Fully implemented**

The 11 e-Forms, which had been reviewed during the original audit process, were deactivated in view of the several changes that had taken place in the respective business processes. Instead, Jobsplus implemented a number of online services, which could be accessed directly via an eID or a registered login through its portal. Meanwhile, statistics in relation to the usage of these online services is being captured daily.

**Better utilisation of the Human Resources Information Unit system**

*The NAO noted that most users were not using this application to its full potential and were still reverting to the old system to view certain records ... the NAO noted that most of the users were not given official training and learned how to use this system on their own. The NAO suggests that all users using this application are given an appropriate training course as soon as possible. Upon completion of this training course, the NAO recommends that the old system is disabled, and the users would then be obliged to use this new system to its full potential.*

**Development: Fully implemented**

Several enhancements were implemented on the Human Resources Information Unit (HRIU) system so that it could be used to its full potential, even though the 'old system' was still operational due to other functional requirements. However, following these changes, all the system's functions are now being used by the HRIU users and training was provided to users accordingly.

### **Replacement of the Enrolment Card System**

*The NAO was informed that the ETC intended to replace this system in the past. In fact, a call for tender was issued twice, with the first one not awarded due to all bidders being out of budget and the second call for tender was not awarded since only one bidder was compliant and the ETC management at that time was not confident to award such a tender at the specified budget ... the NAO suggests that the ETC considers carrying out a business process re-engineering exercise to analyse and re-design workflows, with the aim to improve the current functional requirements and achieve a quantum leap in performance measures, such as return of investment, cost reduction and quality of service. With this information in hand, the ETC can then issue a call for tender to replace this system.*

#### **Development: Fully implemented**

The system is no longer in use and instead, Jobsplus has devised a new system and process, whereby users are nowadays being offered an online facility to submit their registration without the need to call on site at the Jobsplus offices. The new system offers the functionality to track the registrant's activity (in terms of search for work, work/job applications and curriculum vitae (CV) updates) to determine whether the individual should remain in the list of those seeking employment or not.

### **The use of the InfoCentre software application by both internal and external users**

*The NAO noted that all the information available to ETC officials such as Client Data, Employer Data, Vacancies etc. can be viewed from a multitude of applications and not just from the InfoCentre System. The NAO suggests that the ETC's Management and the IT Unit should reconsider the necessity of this system and assess whether it would be more viable to integrate some of the above-mentioned systems into one of the other systems, such as the Profiling application.*

#### **Development: Not yet implemented**

The InfoCentre software application is still being used for viewing purposes by both internal and external users from Government entities. However, it is envisaged that the InfoCentre application is removed once the new systems are implemented as part of the ICT systems modernisation project.

### **Data Analyser Tool**

*The NAO noted that that since the data in this application is being uploaded/updated every few days, the information elicited from this application is not reliable ... the NAO recommends that since the ETC is migrating the backend of all its applications to MS SQL, the ETC considers replacing this system with an integrated tool that can extract data from all other databases and that has a data mining and business intelligent capabilities. This application should also have data cleaning capabilities to detect and remove errors and inconsistencies from data through record matching, de-duplication, and column segmentation, in order to improve the quality of data.*

**Development: *Partly implemented***

To date, Jobsplus is still using the Data Analyser Tool. However, a new business intelligence tool is gradually being implemented to integrate directly with the existing database applications. Jobsplus also intends to implement a data warehouse as a single data repository for data analytical purposes, which will then be integrated with the business intelligence tool. Once the whole process is completed, the business intelligence tool will then replace the current Data Analyser Tool.

***Business process re-engineering the Employment Licenses Database***

*The NAO noted that according to Legal Notice 160, issued in May 2014, the Director of Citizenship and Expatriate Affairs is now expected to issue a “Single Permit as regards Residence and Work”. In light of this legal notice, the NAO was informed that residence permits will now be issued by the Director of Citizenships. However, there will still be a number of Employment Licenses (estimated to be around 50% circa 3500 yearly), which would not fall under this act and thus it is likely that the ETC would still be the entity issuing such licenses ... the NAO suggests that a business process re-engineering exercise is carried out, incorporating all stakeholders to evaluate whether the Employment licenses that would not fall under the remit of this Legal Notice would be issued by the ETC. If so, all the stakeholders must decide whether the ETC would process these applications using the current software or whether it would be more viable for the ETC to process such applications using the same IT system as the Employment licenses issued as part of a Residence permit.*

**Development: *Not yet implemented***

Jobsplus intends to carry out a business process re-engineering exercise that will integrate the above-mentioned process with the ICT systems modernization project. Jobsplus is also considering using Identity Malta’s working permit system to be used for the recommendation works required by Jobsplus, or to integrate its existing Employment License Database with Identity Malta’s database with the aim of sharing data and updating the processes automatically, thus eliminating data inputting and duplication of work.

***Broken links and missing/outdated information on website***

*The ETC website has a number of broken links and missing/outdated information amongst others ... the NAO suggests that the ETC rectifies these problems and engages in a study to evaluate the user friendliness of its website amongst its target audience.*

**Development: *Fully implemented***

Jobsplus has implemented a new user-friendly website with enhanced online services.

### **EURES Malta Website**

*The EURES Malta website was not kept up to date ... the NAO suggests that the ETC reviews this website and update it ... however, the NAO observed that the European Commission has its own EURES website through which a user can select a European Country and load all the details in his/her own language and access the information pertaining to his/her country. The NAO therefore suggests that the ETC analyses the need of the EURES Malta website and decides whether it is feasible to retain and update this website.*

#### **Development: Fully implemented**

Jobsplus management feels that the EURES Malta website is still required. In this regard, the NAO was informed that a new EURES Malta website was created and is continuously being updated by its business user.

### **Content Management System**

*The Content Management System is being accessed by two users sharing the same password ... the ETC does not have the facility to delete the files uploaded on its website since the Content Management System does not cater for this functionality ... the NAO suggest that the ETC liaises with the supplier of this system to address these findings.*

#### **Development: Fully implemented**

A new website with a new Content Management System (CMS) was implemented. This system is restricted to only three users, and each user has been granted access through login credentials. The CMS also offers the functionality to delete any files that are uploaded on its website.

### **Backup logs**

*The NAO observed that no back-up logs are being kept to record whether a back-up has failed or completed successfully. Furthermore, the NAO could not ascertain that backups of all physical and virtual servers were actually being taken on the SAN. The NAO suggests the ETC does a full detailed review of its backup processes and ensures that a full backup of all physical and virtual servers is being taken. Moreover, the NAO suggests that backup logs are kept and seen to regularly.*

#### **Development: Fully implemented**

Jobsplus has implemented a backup software application to backup all of its virtual machines and data onto physical tapes or networked storage devices. The backup software application has been configured to monitor all the backup schedules and trigger an alert if a backup was successful or not.

### **Better use of multi-function printers**

*The NAO observed that the ETC was phasing out stand-alone printers and shifting to the sole use of multi-function printers ... such a move also reduces energy consumption and in the long run reduces purchasing costs of stand-alone printing and scanning equipment ... the NAO recommends that the ETC configures all these multi-function printers enabling all features of such machines including scan to e-mail and secure printing, where applicable. The NAO also recommends that the ETC configures the management protocols of these printers enabling management to audit the files being printed. Such software would offer real-time activity logs ensuring that there is no misuse of the equipment and controlling the personal data being printed by members of staff.*

#### **Development: Partly implemented**

Jobsplus only implemented the 'scan-to-email' functionality on all multi-function printers.

### **Business Continuity and Disaster Recovery plans**

*The NAO observed that the ETC has no formal documented Risk Assessments and Business Continuity and Disaster Recovery plans ... the NAO suggests that a Business Impact Analysis and a Risk Assessment exercise are carried out from which a Business Continuity plan that includes a Disaster Recovery plan is drafted.*

#### **Development: Fully implemented**

Jobsplus drafted an ICT disaster recovery plan for its core ICT hardware systems, a copy of which was provided to the NAO.

### **Conclusion**

The NAO acknowledges that significant efforts were made by Jobsplus to address the shortcomings and take on board the recommendations put forward in the 2014 IT audit report. In fact, this report indicates that approximately 83% of the key recommendations reviewed in this follow-up IT audit were implemented, partly implemented or significant progress was made.

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Follow-Up Reports by the  
Performance Audit Section

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# An Evaluation of the Regulatory Function of the Office of the Commissioner for Voluntary Organisations

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## Background

This follow-up audit aims to report on the progress registered since the publication of the performance audit report: *An evaluation of the regulatory function of the Office of the Commissioner for Voluntary Organisations*, which was published in December 2018. Issues and conclusions presented in this follow-up audit reflect the information made available to the National Audit Office (NAO) as at end June 2020.

The NAO's 2018 report raised the following main issues:

- The Office of the Commissioner for Voluntary Organisations (OCVO) did not have information regarding total number of Voluntary Organisations (VOs) operating in Malta due to a large number of unregistered organisations, thus hindering OCVO's planning capabilities, risk assessments and regulatory function;
- OCVO was not being informed when VOs were receiving funds and grants from Ministries. Furthermore, other fundraising activities, such as public collections, were not being reported by VOs; and
- A large number of VOs were not submitting their Annual Returns.

The 2018 Report concluded that the regulatory function delegated to the Office of the Commissioner for Voluntary Organisations (OCVO) was in transition and that the OCVO had embarked on strengthening its internal mechanisms to screen and monitor Voluntary Organisations (VOs), which were given further substance by the legislative changes of November 2018. These legal amendments extended OCVO's remit, streamlined enforcement mechanisms and laid the obligation on all VOs to register. The effectiveness of these initiatives was greatly dependent on the extent to which the Regulator's resources were augmented and the organisation's structure was re-engineered in line with OCVO's broadened mandate and the Sector's risk environment.

## Audit Scope and Methodology

In view of the findings and conclusions emanating from the 2018 performance audit report, the NAO had proposed a number of recommendations, the implementation of which is the primary focus of this follow-up audit. For the purpose of this follow-up study, the NAO retained the same objectives of the 2018 Report, which sought to determine the degree to which the regulatory function entrusted to the Office of the Commissioner for Voluntary Organisations (OCVO) is conducive to good governance of all Voluntary Organisations (VOs), namely in terms of transparency and accountability.

The findings and conclusions presented in this follow-up report are primarily based on documentation reviews. To illustrate the progress achieved by the OCVO in implementing the NAO’s recommendations, this follow-up Report reproduces the proposals made in the 2018 Report in italic text. This is followed by an outline of the progress registered. The ensuing text also classifies implementation progress in one of the following six self-explanatory categories, namely: fully implemented, partly implemented, significant progress, insignificant progress, not implemented or not accepted.

***The OCVO is to be adequately resourced to strengthen its monitoring and enforcements functions, to be able to ascertain that a more effective regulatory function is in place***

*The regulatory function within OCVO is to be adequately resourced. Investing in such resources strengthens monitoring and enforcement possibilities, all of which contribute towards better governance within the Voluntary Sector in Malta. With the introduction of the new legislation, which obliges all VOs to enrol, it is imperative that OCVO’s administrative capacity is augmented to enable it to implement and enforce its broader remit. To this effect, this performance audit acknowledges the work that is being done in this respect and encourages the entities concerned to maintain the momentum to ascertain that a more effective regulatory function is in place at the earliest opportunity.*

**Developments: Significant Progress**

- a. A restructuring exercise was undertaken by the OCVO in order to meet the various regulatory and legal obligations as well as to be able to implement the Office’s strategic plans. As a result, since 2018, a number of persons have been employed by the OCVO. The total number of employees stands at 15, but is envisaged to increase to 35 with projected recruitment.
- b. Four Directorates were created, namely, Strategy and Support, Services, Legal Services and Corporate Affairs. The Headship positions were filled through internal calls, in accordance with Directive 7, namely, the Delegation of Authority to Recruit in Public Sector Entities.
- c. The table below shows the recruitment exercise carried out by the OCVO until June 2020 and its outcome. However, due to additional work required by new Subsidiary Legislation to be published shortly, additional staff will be required.

<b>Calls issued for various positions</b>	<b>Status</b>
Senior Manager Investigations and Monitoring	Recruited
Senior Manager Enrolment	Recruited
Senior Manager (vetting of annual returns and annual accounts)	Recruited
Manager (Investigations and Monitoring)	Recruited
Managers Enrolment (x2)	Recruited
Manager (vetting of annual returns and annual accounts)	Recruited
Manager Systems Administrator	Unsuccessful. Another external call was published on 5 July 2020. Call closed on 24 July 2020.
Investigating officers (x2)	Recruited
Support Officers (x6)	Recruited

- d. Apart from the initiatives undertaken regarding the recruitment of staff, the OCVO has been requesting enlargement to the existing premises or else rehousing in premises that should comfortably cater for a projected employment of 35 members of staff, from the present 15 members of staff. OCVO has issued an Expressions of Interest (EOI) for new premises but each time premises visited in the interim are either taken up before the termination of the EOI or else the price requested was not within OCVO's budget allocation for 2020.

***The OCVO is to sustain its staff training programme to enable it to better identify risks and potential irregularities***

*OCVO is to embark on further and sustained staff training programme on money laundering and tax evasion recognition. This will increase OCVO's capacity in better identifying risks and potential irregularities in connection with such a sensitive subject area.*

**Developments: Fully Implemented**

- a. A number of training initiatives were carried out during 2019. These included both staff training opportunities as well as outreach training.
- b. Staff were encouraged to attend several training programmes on money laundering and funding of terrorism. Staff also attended training programmes in Accounts to upgrade their skills in this area as well as to be able to analyse VO's annual accounts.
- c. Three members of staff at OCVO regularly attend and actively participate in monthly meetings of the National Coordination Committee for the combating of money laundering and financing of terrorism. Moreover, these three members of staff have attended numerous meetings with the Ministry responsible for Finance (MFIN) and the Financial Intelligence Analysis Unit (FIAU) experts on the Anti-Money Laundering / Financing of Terrorism (AML/FT) and have written several reports on progress achieved by the OCVO. Furthermore, one Officer has completed a University course in Block Chain technology while others have attended a number of seminars and conferences.
- d. It is to be noted that the concept of due diligence relating to VOs was discussed with a local bank during meetings held by the Legal Office, the Commissioner and the highest ranks of the bank in February 2019 and during months that followed, to discuss a common strategy. It resulted that the bank accepted to provide due diligence training to the staff of the Office of the Commissioner.

***OCVO is to lobby the Ministry for Finance to issue a circular directing Government Ministries and entities to inform OCVO of public funds transferred to VOs***

*The Ministry for Finance is to consider issuing an MF Circular whereby Government Ministries and entities are directed to inform OCVO when public funds, including European Union (EU) funds and Service Agreements, are transferred to VOs. This will assist OCVO in developing its risk assessments and financial evaluation of VOs.*

### **Developments: Fully Implemented**

- a. The Ministry for Finance, in consultation with OCVO, issued the circular ‘Government Funding provided to Voluntary Organisations’ to all Ministries and entities (MFIN Circular 2 /2019 dated 14 June 2019) informing them that no public or European Union (EU) funds are to be disbursed to VOs without VOs being enrolled with the Commissioner. Furthermore, VOs had to be fully compliant to the VO Act in order to be able to receive such funds.

***The Ministry for Finance is to sustain its initiatives to compile a central Government policy of the funding of VOs, that would render public funding more transparent and provide an objective basis for OCVO’s enforcement***

*The Ministry for Finance is to sustain its initiatives regarding the compilation of a central Government policy on the funding of VOs. This policy should clearly outline the objectives, criteria and method for the provision of funding to VOs. Such a policy would render public funding more transparent as well as provide an objective basis for OCVO’s enforcement related to VOs’ financing aspects.*

### **Developments: Partly Implemented**

- a. In June 2019, MFIN issued a circular to all Ministries that no funding to VOs which are not enrolled and compliant is allowed. It is acknowledged that that the Ministry for Finance policy outlining the eligibility of funding to VOs is a step in the right direction. Nonetheless it is felt that this Ministry still needs to establish policy which regulates the allocation and use of public funds by VOs.

***The OCVO and the MCVS are to encourage the setting up of platform VOs, that would assist and guide their member organisations to develop, promote and advocate the values associated with their respective Sector***

*OCVO, together with the MCVS, should encourage the setting up of platform VOs, which would provide a national forum covering the various functions and sectors of VOs in Malta. Platform VOs would assist and guide their member organisations to develop, promote and advocate the values associated with their respective Sector and be a point of reference to assist VOs to comply with their legal and administrative requirements.*

### **Developments: Fully Implemented**

- a. OCVO stated that it has identified 21 platform VOs or federations enrolled that could potentially provide a national forum. These include several platforms in the following areas – international development and humanitarian aid (SKOP), environment (TerraFirma), mental health (Mental Health Network) and band clubs (Għaqda Kazini tal-Banda). OCVO contends that one area which definitely needs to set up an energetic platform is the environment sector.
- b. OCVO commented that setting up platforms is not in the remit of the OCVO, and it depends on the initiative of the actors within the sector.

- c. OCVO has reached out to the platforms to organise webinars about financial abuse and how to safeguard the VOs from financial abuse.

***The OCVO is encouraged to invest in an integrated IT system, which would minimise data fragmentation and enable more in-depth oversight of VOs' operations***

*OCVO is encouraged to invest in an integrated IT system, which would incorporate the various databases maintained by this Office. Such a system would minimise the data fragmentation within OCVO, facilitate the generation of statistics and enable more in-depth oversight of VOs' operations.*

**Developments: Significant Progress**

- a. An analysis of all the databases at OCVO was carried out. OCVO sections identified data which could be made available for the public and data of a confidential and sensitive nature to be viewed only at the back end and who should have access to such data.
- b. There are no additional costs involved as this system is being developed in-house.
- c. This integrated IT system is currently being mapped out, and it is targeted to be launched by end of 2020. Although not yet finalised, OCVO stated that it is targeting July 2020 to conclude work on this project.

***OCVO's vetting of enrolment applications is to encompass the reconciliation of information submitted by VOs with other external sources***

*OCVO's vetting of enrolment applications is to extend to the reconciliation of information submitted by VOs with other external sources, such as those referred to in Section 2.3.12 of this Report. The recent broadening of vetting concerning administrators is a step in the right direction. Nonetheless, through the enactment of new legislative provisions, OCVO is encouraged to reconcile with external sources, the information submitted by VOs, particularly that related to their financing.*

**Developments: Significant Progress**

- a. OCVO stated that at present, the Office does not have enough personnel to carry out verification of fund movement. However, this has not stopped the OCVO from seeking further clarifications from VOs about their sources of funds.
- b. Furthermore, as stated by OCVO, enrolment applications vetting now involves a spectrum of external sources. In part, this has become possible as one of the more important changes in the Act (November 2018) is the possibility to ask financial institutions for financial accounts pertaining to VOs and their administrators.

- c. OCVO confirmed that it has continued to exercise due diligence on each VO and on each administrator of each organisation and this is carried out prior to the completion of the enrolment process. Such due diligence has depended on the cooperation of the security services, on in-house due diligence through online searches, and, more recently, on interviewing enrolment applicants prior to the Commissioner signing the Enrolment Certificates.
- d. As part of due diligence procedures, the Legal Office was responsible for:
  - Sending requests to public authorities for information on the good standing of administrators (including the FIAU and Courts of Justice).
  - Issuing letters for refusal of administrators found to be ineligible to hold their position, and in turn these were listed in a blacklisting register.

***OCVO is to establish robust mechanisms to enforce the provisions which oblige VOs to declare with OCVO private donations that exceed €15,000 and on any material loan arrangements undertaken***

*OCVO is to establish robust mechanisms to be able to enforce the provisions of the new legislation which oblige VOs to declare with OCVO private donations that exceed €15,000. Along the same lines, consideration is to be given to oblige VOs to provide related information to OCVO on any material loan arrangements undertaken.*

**Developments: *Significant Progress***

- a. To date, the OCVO has never received notification of any private donations to any VO of over €15,000, although, through media monitoring, the OCVO may pick up any donations reportedly awarded to VOs. However, OCVO stated that they will be working on this recommendation to establish robust mechanism when additional staff is recruited.

***OCVO is to enforce the legal requirement whereby VOs report on their fund-raising initiatives***

*OCVO is encouraged to enforce the legal requirement whereby VOs report on their fund-raising initiatives. While acknowledging that completing the 'Statement of Account for Public Collections' can be an added burden, particularly to the smaller VOs, legal compliance would be conducive to more transparency and accountability.*

**Developments: *Partly Implemented***

- a. OCVO contends that, as from year of assessment 2018, for all annual accounts and returns submitted by VOs during 2019, a statement of public collections for every event organised must be submitted. Every event must be reported separately and apart from submitting the statement, any donations received must also be reported in the annual returns and annual accounts. Nonetheless, OCVO is encouraged to

increasingly use social media to track events organised by VOs. This approach would decrease the reliance on submissions to OCVO to track events organised by VOs as well as providing real time information.

- b. During 2019 the OCVO has worked on a number of additional legislative provisions, which are practically completed pending final reviews. These include legislation regulating public collections and regulations concerning charity shops as well as tax exemption legislation. In the process of evaluating the efficacy of the public collection regulations, OCVO stated that it has identified other stakeholders and has had extensive meetings with them so that the eventual publication of this legislation is as comprehensive as possible.
- c. The Statement of Account for Public Collections emanate from the Subsidiary Legislation 492.01, (Annual Returns and Annual Accounts Regulations) and it refers to fundraising activities. The public collections regulations will further enhance the transparency and accountability in fundraising initiatives taken by the VOs. These regulations will enable OCVO to monitor and regulate public collections carried out by these organisations.
- d. Public Collections Regulations and Tax exemptions legislation are envisaged to be enacted by October 2020 whilst the Charity Shops legislation is planned to be enacted by March 2021. Plans for capacity building are in place. Additional staff is required as the current workforce is unable to enforce the legislation.

#### ***The OCVO is to introduce mechanisms to encourage VOs to comply with legal requirements***

*The OCVO is to introduce mechanisms to encourage VOs to comply with legal requirements concerning the Annual Returns in terms of timeliness and information submitted. Such an initiative can be two pronged. Firstly, OCVO together with the MCVS should embark on an awareness campaign on compliance to Annual Return which in turn is conducive to better governance and enhances the public perception of VOs. While acknowledging recent efforts in this regard, which included a seminar and the provision of literature, OCVO is encouraged to sustain awareness campaigns through a structured programme. Secondly, OCVO can invoke the enforcement measures stipulated in the VO Act. These measures include penalties and eventually the striking-off of defaulters from the Register.*

#### **Developments: *Partly Implemented***

- a. During 2019, the OCVO started a process of identifying VOs which had not submitted their Annual Returns for a number of years. Organisations that had not submitted Annual Returns since 2013 and 2014 were contacted and given a final notice. This action has led to the closure of 51 organisations, ensuring that any funds remaining were transferred to other VOs or to the Malta Council for the Voluntary Sector (MCVS) VO fund.
- b. OCVO stated that it took a very cautious approach to invoke the penalties envisaged in the Act. Many defaulting organisations still had active bank accounts with funds still available. The Legal Office assisted administrators to transfer the balance of their assets in accordance with the dissolution clauses of their

statutes or else to the Voluntary Organisations Fund managed by the Malta Council for the Voluntary Sector. In total, over €6,894 were transferred to this Fund and a further €19,274 were transferred to other VOs before the defaulting VOs were allowed to close down. OCVO stated that the appointment of two Commissioners of Oath at the Office of the Commissioner has been instrumental to achieve these results and conclude investigations.

- c. However, the OCVO together with the MCVS should embark on an awareness campaign on compliance to Annual Return. The OCVO stated that the Office will be working on this recommendation when staff is recruited.

***OCVO is to develop mechanisms to enable a more systematic review of documentation submitted by VOs and to further use the risk analysis of VOs to focus on the more problematic areas***

*OCVO is to develop mechanisms to enable a more systematic review of documentation submitted by VOs. To this effect, OCVO can also employ the recently developed risk analysis of VOs to ascertain that the limited resources available at this Office focus on the more problematic areas within this Sector.*

#### **Developments: Significant Progress**

- a. OCVO stated that it is developing further its due diligence procedures to compliment the risk analysis and is actively seeking to procure software to assist in the due diligence process. This will enable the Office to effect due diligence not only prior to enrolment, but also routinely and periodically on each VO enrolled. The OCVO envisages that once such software is procured, due diligence on each organisation is carried out at least once a year and preferably at shorter intervals.
- b. The software for carrying out due diligence has been selected and an agreement has been signed with the supplier on 19 June 2020. OCVO stated that they will start using this software very shortly. It is estimated that for the first year of operation, this will cost €20,550 (excluding VAT).

***OCVOs Standard Operating Procedures (SOPs) are to incorporate action plans relating to VOs' risk categories and OCVO is to develop a programme relating to each risk category***

*Standard Operating Procedures (SOPs), which have been recently compiled by OCVO, are to incorporate action plans or the Office's modus operandi relating to VOs' risk categories. To this end, OCVO is to develop a programme outlining the level, frequency and type of monitoring which is to be carried out for each risk category.*

#### **Developments: Partly Implemented**

- a. OCVO has worked on a policy of risk assessment for all VOs. This policy has been further fine-tuned and a Standard Operating Procedure (SOP) has been developed to include the frequency and type of monitoring necessary. The frequency ranges from once every six months to a yearly analysis.

- b. However, OCVO stated that the implementation of this procedure depends on the employment of further personnel. This is required as presently, the employment of only a Senior Manager for Investigations and Monitoring is not sufficient to adequately monitor the 1,890 VOs that are currently enrolled on OCVO's Register.

***OCVO is to increasingly approach investigations in a more dynamic manner***

*OCVO is to increasingly approach investigations in a more dynamic manner. While acknowledging the importance of reacting to complaints received, the triggering of investigations should also encompass issues elicited by OCVO itself and which would have been reflected in the Office's risk assessment, such as long periods of noncompliance with legal reporting requirements.*

**Developments: Fully Implemented**

- a. OCVO stated that it has stepped up its investigative role, with work ranging from investigations on VOs prior to their enrolment, random sampling of enrolled VOs as well as investigations following social media monitoring. It is noted that, the media monitoring exercise regularly identifies activities carried out by local and foreign VOs in Malta as well as activities of non-enrolled/non-enlisted organisations. This exercise has flagged 124 organisations to date. Nonetheless, the opportunity exists for OCVO to further strengthen its criteria for subjecting VOs to an investigation by considering additional risk factors relating to non-compliance.
- b. The employment of a Senior Investigation and Monitoring Officer has led to deeper investigations, resulting in at least six organisations to be identified as potentially connected to the Anti-Money Laundering (AML) /Financing of Terrorism (TF). Complete investigations are then handed over to FIAU and / or the Police for further investigations.
- c. Furthermore, during 2019, OCVO has undergone four inquiries all of which have been solved. Three of these inquiries were opened after complaints received by the Office and the fourth one was initiated after routine monitoring. Furthermore, in 2019, 10 investigations were carried out. Four investigations have been closed whilst the other six are still ongoing.
- d. OCVO stated that the Legal Office also started a system of reviewing all government activities organised for the public to ensure that all participating VOs are compliant. In cases where non-enrolled VOs were involved, government departments were contacted so that such promotion or assistance is halted, as stated in Article 4(4) of the Act.
- e. The 2018 amendments to the VO Act oblige all VOs to notify their existence with the OCVO and in this regard, the Office has employed an officer to thoroughly monitor the social media and newspapers to identify organisations which have not abided with this obligation to enrol, with the Legal Office and the monitoring division contacting such organisations and instructing them to enrol. The regulations were also brought to the attention of the public through a press release and publication in the Government Gazette. In many cases, the persons contacted stated that the respective organisations were terminated or are no

longer operating due to various reasons, so OCVO assisted the winding up of these organisations. Since many VOs still had active bank accounts with funds still available, the Legal Office assisted administrators to transfer assets as per statute or into the Voluntary Organisations Fund.

## Conclusion

In a relatively short span, OCVO has remodelled itself into a more dynamic organisation and, as shown by this follow-up report, it is now in a much stronger position to regulate the VO sector. In part, this is due to the enactment of new legislation, which placed more onerous obligations on VOs and provided a broader access to VO documentation to the regulator. These steps lend themselves to the better governance of this sector by promoting transparency, accountability and a more robust regulatory framework.

The enactment of the new legislative provisions was complemented with a business process re-engineering programme, whereby the OCVO organigram has changed to enable more efficient and effective procedures to be implemented. The Commissioner is, to varying degrees, now enabled to perform oversight and enforcement procedures within the VO sector through formalised risk analysis procedures, more comprehensive due diligence evaluations and unfettered access to a broad range of VO related documentation through various sources.

This follow-up report showed that OCVO has fully implemented or made substantial progress in all recommendations proposed by the NAO in 2018. The former have made significant strides due to the additional staff complement with regards to administrative capacity. However, due to additional work required by the new Subsidiary Legislation to be published shortly, additional staff will be required.

The NAO is confident that the filling of these key positions together with the availability of IT systems ensure that the regulatory function of this socially and economically important sector enables the sustainable growth and further contribution to society by Voluntary Organisations.

# Maintaining and Repairing the Arterial and Distributor Road Network in Gozo

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## Background

In 2017, the National Audit Office (NAO) published a report entitled 'Maintaining and Repairing the Arterial and Distributor Road Network in Gozo'. In the original exercise, NAO's primary objective was to determine whether the then Directorate for Projects and Development (DPD - now renamed Maintenance and Restoration Directorate - MRD), within the Ministry for Gozo (MGOZ) manages road related works efficiently, effectively and economically while observing the principles of good governance, accountability, transparency and good value for money throughout. Through the 2017 review, NAO had established that DPD addressed its roadwork related responsibilities through two main sections, namely the Road Section (RS) and the Construction and Maintenance Unit (CMU), and therefore these two departments were NAO's primary auditees at the time. The focus of this review was directed towards: the adequacy of the Directorate's road related financial allocation (namely Vote 7240) and how this was being managed; the efficiency and effectiveness of the same Directorate's human resource element; and the Directorate's adopted processes in procuring or executing road related works.

While the 2017 report found that Vote 7240 was insufficient for MGOZ to address its road related responsibilities, it also expressed concerns on the Directorate's overall lack of good governance in the reviewed areas. These particularly included issues of overstaffing and lack of personnel expertise, as well as significant shortcomings in contractual safeguards. The audit team also encountered considerable difficulties in completing the 2017 exercise as information was passed on very late and in a piecemeal and inconsistent manner.

## Audit Scope and Methodology

This follow-up review is intended to delve into the recommendations set in the 2017 report and gauge any developments, and extent thereof. Analysis is based on MRD's operations as at August 2020. Reviewed project files have been selected from a list of projects (as forwarded by MRD), which were undertaken in 2018 and 2019. It is important to point out that the selected files were analysed solely to follow up on the original recommendations made in the 2017 audit. To this end, a full analysis on the procurement processes and compliance aspects was not carried out for the purpose of this exercise.

In order to complete this follow up review, the 2017 recommendations were sent to the auditee and feedback on them was solicited. Following receipt of this feedback and due analysis, a semi-structured meeting was held with key MRD officials and was intended at providing the audit team with a better understanding of the current situation. Supporting evidence was requested by this Office to substantiate any assertions made by the Directorate. Amongst others, NAO requested a list of files documenting each project undertaken by the entity during 2018 and 2019, from which a random indicative sample was chosen for review. The recommendations as featured in the 2017 report are reproduced in this publication, accompanied by the developments relating to each issue.

## Key Issues

### **MRD is to increase the limited financial allocation under Vote 7240**

NAO acknowledges the difficulties faced by DPD with the relatively limited financial allocation in Vote 7240. In view of this, NAO encourages the Directorate to exert continuous pressure, through the appropriate channels, for this allocation to better reflect the exigencies of the Gozitan arterial and distributor road network, especially in view of the social and economic implications, which may materialise from a road network infrastructure that is not up to scratch.

### **Developments: Fully Implemented**

NAO notes that the financial allocation in Vote 7240 amounted to €4,000,000 in the year 2019 and €10,000,000 for the year 2020. When compared to the approved estimate for the year 2015 of €1,500,000 as quoted in NAO's original report, these figures are an obvious and significant improvement.

### **MRD should streamline its Human Resources pool and ensure that it is getting full value for the money it is investing in its employees**

NAO strongly urges the Directorate to streamline its human resource pool and make sure that it is getting full value from its employees for the money it is investing in their wages, while ascertaining that it does not employ or retain excess staff. Seeing that the annual financial allocation made available to the Directorate for it to address road related works is rather limited, it does not help DPD's case for this allocation to be increased if significant inefficiencies prevail in the corresponding human resource element. To this end, and in view of the lack of expertise of some of DPD's employees, NAO strongly recommends that the Directorate engages in an internal exercise to determine whether it may reassign a segment of its workforce to carry out other work, which would better justify the funds being allocated for their engagement. This exercise should be accompanied with a rigorous, carefully planned-out training programme intended at elevating each employee to a competence level that is commensurate to his/her respective grade. NAO further recommends that in complementing these initiatives, the Directorate, should carry out thorough monitoring of its staff performance and take decisive action, disciplinary or otherwise, in a timely manner, if any of its personnel is identified as consistently and unjustifiably not measuring up to one's expected performance.

### **Developments: Insignificant Progress**

When reviewing submitted documentation, NAO noted that the RS and CMU are not the only entities which tap from Vote 7240. Specifically, NAO requested from MRD a list of transactions carried out under Vote 7240 for the years 2018 and 2019. Following a thorough analysis of the documentation provided, this Office observed that in 2018 CMU and RS utilised 5% and 1% respectively of Vote 7240 for the year, while in 2019 CMU and RS respectively utilised 2% and 0% (negligible amount) of the same Vote for that year.

When queried about this, MRD stated that the bulk amount of this fund is utilised by MGOZ Head Office in order to finance tenders issued by the same Ministry. These tenders are either work tenders or framework agreements (previously referred to as period contracts) or quotations. The work tenders are usually managed by the Architects and/or Engineers and/or Project Leaders that fall under the Head Office or by a Project Manager and/or Project Management Team that is appointed by the Ministry through an outsourcing tender. MRD explained that, in such instances, CMU and RS are not involved in these work tenders. Specifically, the audit team was informed that RS's work is limited to: the refreshing of all road markings in Gozo; the installation and repair of road signs; and carrying out road preventive and corrective road patching. MGOZ officials also highlighted that any materials used by the RS are procured by a framework agreement, though it remains unclear to the NAO whether this is financed through Vote 7240 or otherwise as information submitted to NAO was incomplete. On the other hand, MRD highlighted that the CMU is responsible to carry out general maintenance works across Gozo, as well as urgent works which need to be carried out expeditiously to address damages such as those caused by storms and others which pose safety risks to the public. The Ministry also explained that, though urgent, these works generally do not require a considerable expenditure in equipment and/or materials.

Notwithstanding the above, NAO still followed up its recommendation, namely that the HR complements of these two units should be streamlined. In this respect, MRD has informed this Office that, as at time of writing, an internal exercise was being prepared intended at changing the existing organisational structure and to redistribute current employees accordingly. These employees, MRD officials stated, are being allocated specific tasks according to their designated roles and capabilities. MRD also highlighted that there was a change in organisational set up, which resulted in the shift of certain departments from one Directorate to another. Table 1 on next page shows the slightly reduced RS and CMU staff complement as at December 2019 and compares it to what these were in July 2017 as reported in the original publication.

**Table 1: Comparison of staff complement together with relative salaries allocated between July 2017 and December 2019**

DESIGNATION	ANNUAL SALARY*	JULY 2017				DECEMBER 2019			
		TOTAL EMPLOYEES		TOTAL EMOLUMENTS		TOTAL EMPLOYEES		TOTAL EMOLUMENTS	
		CMU	RS	CMU	RS	CMU	RS	CMU	RS
PERSON OF TRUST	€32,170.00	1	-	€32,170.00	-	-	-	-	-
SUPPORT SERVICES OFFICER	€24,617.00	1	-	€24,617.00	-	1	-	€24,617.00	-
PRINCIPAL 2	€24,617.00	-	-	-	-	1	-	€24,617.00	-
SENIOR TECHNICAL OFFICER 2	€23,049.00	1	-	€23,049.00	-	1	-	€23,049.00	-
PRINCIPAL 1	€23,049.00	-	-	-	-	-	-	-	-
ASSISTANT PRINCIPAL 2	€23,049.00	2	-	€46,098.00	-	2	-	€46,098.00	-
SENIOR TECHNICAL OFFICER 1	€21,601.00	-	-	-	-	-	1	-	€21,601.00
ASSISTANT PRINCIPAL 1	€21,601.00	2	-	€43,202.00	-	2	-	€43,202.00	-
CUSTOMER CARE OFFICER	€21,601.00	1	2	€21,601.00	€43,202.00	1	-	€21,601.00	-
NURSING AIDE	€20,266.00	1	-	€20,266.00	-	1	-	€20,266.00	-
FOREMAN	€20,266.00	-	2	-	€40,532.00	-	-	-	-
ASSISTANT FOREMAN	€18,998.00	-	1	-	€18,998.00	-	-	-	-
SENIOR TRADESMAN	€17,771.00	10	4	€177,710.00	€71,084.00	10	2	€177,710.00	€35,542.00
EXECUTIVE OFFICER	€17,771.00	2	-	€35,542.00	-	-	-	-	-
SENIOR CLERK	€17,771.00	1	-	€17,771.00	-	-	-	-	-
GARDENER 2	€17,771.00	-	-	-	-	1	-	€17,771.00	-
SUPERVISOR 2	€17,771.00	-	-	-	-	1	-	€17,771.00	-
GARDENER 1	€15,491.00	-	-	-	-	1	-	€15,491.00	-
SUPERVISOR 1	€15,491.00	3	3	€46,473.00	€46,473.00	6	4	€92,946.00	€61,964.00
SENIOR OPERATIVE 2	€15,491.00	58	21	€898,478.00	€325,311.00	42	9	€650,622.00	€139,419.00
TRADESMAN	€15,491.00	4	-	€61,964.00	-	5	-	€77,455.00	-
OTHER INDUSTRIAL GRADES	€15,491.00	3	-	€46,473.00	-	-	-	-	-

DESIGNATION	ANNUAL SALARY*	JULY 2017				DECEMBER 2019			
		TOTAL EMPLOYEES		TOTAL EMOLUMENTS		TOTAL EMPLOYEES		TOTAL EMOLUMENTS	
		CMU	RS	CMU	RS	CMU	RS	CMU	RS
OPERATIVE	€13,398.00	-	-	-	-	1	3	€13,398.00	€40,194.00
ASSISTANT CLERK		1	-	-	-	-	-	-	-
GENERAL HANDYMAN	€13,398.00	2	1	€26,796.00	€13,398.00	3	1	€40,194.00	€13,398.00
LABOURER	€11,560.00	7	7	€80,920.00	€80,920.00	3	2	€34,680.00	€23,120.00
<b>TOTAL</b>		<b>101</b>	<b>41</b>	<b>€1,616,528.00</b>	<b>€639,918.00</b>	<b>92</b>	<b>28</b>	<b>€1,485,848.00</b>	<b>€421,854.00</b>

\*AS PER SCHEDULE GRADES 2020

As table 1 shows, both RS's and CMU's staff complements have decreased slightly since NAO's original review. This reduction in staff complements amounted to 9 and 13 in the CMU and RS respectively and translated in a reduction of salaries from what was registered in the 2017 NAO publication of €130,680 for CMU and €218,064 for RS (if 2020 schedule grades are applied throughout). MRD highlighted that this decrease was due to a reallocation of staff as well as due to a number of retirements. Table 2 on next page highlights changes in personnel per designation for more context.

**Table 2: Difference in staff complement between July 2017 and December 2019**

DESIGNATION	DIFFERENCE IN HR BETWEEN JULY 17 AND DECEMBER 19	
	CMU	RS
PERSON OF TRUST	-1	0
SUPPORT SERVICES OFFICER	0	0
PRINCIPAL 2	1	0
SENIOR TECHNICAL OFFICER 2	0	0
PRINCIPAL 1	0	0
ASSISTANT PRINCIPAL 2	0	0
SENIOR TECHNICAL OFFICER 1	0	1
ASSISTANT PRINCIPAL 1	0	0
CUSTOMER CARE OFFICER	0	-2
NURSING AIDE	0	0
FOREMAN	0	-2
ASSISTANT FOREMAN	0	-1
SENIOR TRADESMAN	0	-2
EXECUTIVE OFFICER	-2	0
SENIOR CLERK	-1	0
GARDENER 2	1	0
SUPERVISOR 2	1	0
GARDENER 1	1	0
SUPERVISOR 1	3	1
SENIOR OPERATIVE 2	-16	-12
TRADESMAN	1	0
OTHER INDUSTRIAL GRADES	-3	0
SENIOR OPERATIVE 1	9	6
SOCIAL ASSISTANT 2	1	0
SOCIAL ASSISTANT 1	-1	0
OPERATIVE	1	3
ASSISTANT CLERK	-1	0
GENERAL HANDYMAN	1	0
LABOURER	-4	-5
<b>TOTAL</b>	<b>(9)</b>	<b>(13)</b>

Moreover, NAO also enquired if any progress was registered in improving the quality of these personnel. The Directorate stated that training courses are intended to be organised for all employees, particularly those who require a skills card. This Office was however further informed that this training has yet to commence and that at time of writing this initiative had to be put on hold due to the COVID-19 pandemic. NAO is nonetheless in receipt of correspondence which shows that effort and work in preparing this training has indeed been undertaken. Moreover, MRD further asserted that, similarly to what was reported in 2017, it is still suffering from a shortage in technical personnel. In view of this, and due to the overall increase in road works, NAO was informed that the Ministry issued an expression of interest for architects to submit bids for outsourced expertise.

Notwithstanding the above, even if the total staff complement of these two sections decreased slightly and efforts seem to have been made for training to be provided in the future, NAO still has difficulties understanding how 120 employees engaged jointly between the RS and CMU (costing approximately €1.9 million per annum in salaries and wages) are being efficiently deployed to tackle road related works in Gozo, especially since, as already indicated, they absorb marginal amounts from Vote 7240. NAO enquired about this consideration with MRD, to which the latter replied that the urgent nature of works carried out by these personnel cannot be outsourced as, in MRD's opinion, this would become too costly as the service provider would have to have a pool of people constantly on stand-by.

***MGOZ is to entertain NAO's request in a more professional manner***

*With respect to the issue that information continually reached this Office inconsistently and either in a piecemeal fashion or altogether significantly late, NAO strongly urges the Directorate to honour requests which it is legally bound to entertain (such as those forwarded by this Office), in a timely, comprehensive and structured manner, thereby demonstrating accountability and transparency. To this end, in the event that NAO embarks on a follow-up exercise of this audit, it expects a more professional approach to be adopted by the Directorate in this regard*

**Developments: *Partly Implemented***

NAO reports that, even if to a lesser extent than what was experienced during the 2017 exercise, requests for documentation and information made to MRD during this follow up review were still at times received late and in a manner that was unduly difficult for the audit team to understand. Specifically, up till writing of this report, and after multiple attempts, the audit team still could not fully understand and reconcile information forwarded by MRD on the utilisation of Vote 7240 during the years 2018 and 2019. In addition, the five project files which were selected for review (discussed in more detail in subsequent parts of this report), were forwarded to NAO significantly late, thereby hindering the smooth running of the audit team's work.

***MRD to ensure that its procurement processes are covered by adequate contractual and performance safeguards.***

*NAO further strongly urges the Directorate to ensure that its procurement processes are consistently covered by adequate contractual and performance safeguards. It is also of pivotal importance that these safeguards are to be consistently and adequately documented to preserve an adequate audit trail. Moreover, this Office urges the Directorate to consistently utilise and enforce all available performance safeguards at its disposal so as to ensure that the best value for money is achieved in its operations.*

**Developments: *Partly Implemented***

In order to gauge progress on this recommendation, the audit team conducted a review on a random indicative sample of five project files selected from lists of works forwarded by MRD for 2018 and 2019. From this review, the audit team observed that pivotal documentation was found missing in all reviewed files.

In one of these, NAO was not forwarded with a signed contract. The Office was neither forwarded with a related performance guarantee which covers the works in question, nor with an adequate insurance policy. In reply to this observation, MGOZ officials asserted that this project was awarded through a direct order (following a failed attempt at procuring works through a tender) and therefore, a performance guarantee and insurance policy were not required. The audit team also observed that none of the forwarded files featured site inspection reports. When enquiring about this with MRD, the latter acknowledged that no such documentation is generally generated by the Directorate. In addition, this Office also noted that four of the five reviewed projects did not feature the implementation of retention money as a performance safeguard mechanism. In reply to NAO's queries on this, the Directorate stated that this was an administrative error and that it was in the process of drafting a standard operating procedure to ensure that no such reoccurrences materialise. In four of the forwarded five files the audit team also could not find any photographic evidence of completed works, quantity surveyor reports nor quality controls tests. When these were flagged with MRD, the latter informed the audit team that it will forward this documentation accordingly but, as at time of writing of this report, only photographic evidence of works-in-progress on one of these four projects was forwarded to NAO.

## Conclusion

NAO notes that the concerns outlined in the 2017 audit still prevail to a considerable extent. This becomes even more pressing when one considers that the financial allocation to address road works in Gozo has significantly increased. This Office once again urges MGOZ to give due attention to the outlined concerns so that it could ascertain better value for the money being invested in this respect.

# Managing and Monitoring the State Schools' Transport Service

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## Background

School transport to and from State Schools is provided by the Government, for free, to all intended service users. In view of the social importance of this service as well as the financial materiality involved, the National Audit Office (NAO) undertook a performance audit and consequently published the 2016 report entitled 'Managing and Monitoring the State Schools Transport Service'. This first audit outlined a number of contractual clauses which could have better safeguarded government's interests. It also identified a number of concerns in relation to the manner by which the Ministry for Education and Employment (MEDE) monitored the service in question.

Following the expiry of the service contracts reviewed in the 2016 report, eight new contracts were awarded to provide school transport services to state schools. These contracts were signed for a validity period of 5 years (running to the end of the scholastic year June 2023) and service ten categories of transportation. They are financed by Vote No 5063 from which both state and non-state school transport expenditure is incurred. For context, the 2019 allocation from this Vote towards state school transportation was €11,620,759.

## Audit Scope and Methodology

This follow-up audit is intended to assess any developments and progress made by MEDE on the recommendations set out in the 2016 report. The audit team had the original intention to cover the whole 2019/2020 scholastic year as its scoped period for this follow-up review, but the COVID-19 pandemic forced NAO to restrict this as schools were shut down during the first quarter of 2020. To this end, where possible, the presented analysis is based on the service's operational period from the start of the mentioned scholastic year up to December 2019.

This review follows-up on the more salient of the 2016 recommendations. It is also important to point out that, while recommendations on the contractual clauses have been addressed individually, the others have been grouped into four umbrella recommendations and followed-up accordingly. Considerations made in the original report on financial compliance and payment processes have been scoped out of this follow-up review.

As the original review was undertaken before Government started financing transportation to and from non-state schools, this follow-up study omits any analysis on the latter.

In order to complete this study, a compilation of the 2016 recommendations was sent to the auditee via email and initial feedback on these was returned to NAO. After analysing this information, NAO held a semi-structured meeting with MEDE officials so that the audit team could get a better understanding of the issue at hand. Additional documentation (as required) was requested by the audit team so that assertions made by MEDE could be substantiated.

## Key Issues

*NAO recommended that a number of clauses in the service agreement should be revised in the new contracts so that better value for money is secured.*

### **Developments: *Significant Progress***

When reviewing the new contracts for service (which followed the ones analysed in the original report), NAO positively noted that a considerable number of recommendations as set by it in 2016 were taken on board by MEDE. The following is a detailed account of the more salient of these recommendations and respective developments as at time of writing.

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
01.1	<p>Under the terms of this Agreement the service provider is to provide school transport services for routes for the scholastic years 2011 / 12 to 2017 / 18.</p> <p>This Agreement shall run for a period of seven (7) years.</p>	<p>The duration of the contract currently in vigore may be somewhat excessive. Among others, it may potentially be serving as a barrier to entry to other suppliers and increasing the Ministry's exposure to risks associated with the development of unforeseen scenarios (such as new entrants to the market).</p>	<p>A shorter contract period is considered more appropriate to preserve competitiveness and to minimise risk exposure.</p>	<p>Implemented</p>	<p>Clause 01.1.1.2 under the Term of Agreement, says that the Agreement shall be valid for a period of five (5) scholastic years.</p>	<p>N/A</p>

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
01.3.1	<p>In providing the school transport services for the routes the service provider shall ensure that:</p> <p>Primary school students residing within a distance of four (4) km from their respective school shall not be picked up earlier than thirty (30) minutes before school starts.</p>	<p>The starting point of a route here refers to where the students 'reside'. This is not conformant with how routes are actually measured, that is, from first pick-up point to the respective school.</p> <p>This sub-clause does not include a service level governing routes spanning over a distance of more than 4kms. This situation also implies that, should a route exceed the set distance (4kms), all pick-up points within this route would not be covered by time related service levels. This means that, even pick-up points falling within the 4km range, yet still part of such a longer route, are also not covered.</p>	<p>Given that the actual routes are measured by the distance between the furthest pick-up point and the respective school, reference should be made to these initial pick-up points rather than to where students actually reside.</p> <p>A study should also be undertaken to determine what is considered as an acceptable time related service level for all distances. It is also recommended that such a study explores the possibility of pinning different time related service levels to pick-up points (depending on their individual respective distances from schools) rather than to the overall route.</p>	Partially Implemented	<p>The suggestion to streamline the starting point of a route to refer to the 'pick-up point' rather than to where students reside was not implemented. Notwithstanding, MEDE Officials informed the audit team that, in practice, the furthest pick-up point is what is considered as the starting point of a route.</p> <p>An additional clause was however introduced to set out service levels for routes spanning between 4-10 kms. This reads as follows:</p> <p>Article 2: Routes and Schedules, 02.1 (ii),</p> <p><i>"Students attending a kindergarten or primary school who reside further than four (4) kilometers, but less than ten (10) kilometers from their respective school, shall not be picked up earlier than forty five (45) minutes before school starts."</i></p>	N/A

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
(a)(ii)	Students are to arrive not later than five (5) minutes before the commencement of the school day, and not earlier than thirty-five (35) minutes before schools starts.	Given that this clause is numbered as a subsidiary of sub clause 01.3.1 (a), it is not clear whether it is only referring to Primary Students (as in 'a' above) or to all students (secondary included).	This service level should apply to all students. Consequently, for clarity's sake, this clause should not be listed as a subsidiary of clause 01.3.1 (a) but rather stand on its own.	Implemented	<p>This clause has been amended to clearly refer to students attending a kindergarten or primary school:</p> <p><i>“(iii) Students attending a kindergarten or primary school are to arrive not later than five (5) minutes before the commencement of the school day, and not earlier than thirty-five (35) minutes before schools start.”</i></p> <p>In addition a new clause was also included to set service levels for transport of secondary school students. This clause states that:</p> <p><i>“(iii) Students attending a middle and secondary school are to arrive not later than five (5) minutes and not earlier than one (1) hour before school starts.”</i></p>	

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
(c)	Primary students are to find their transport waiting for them no later than fifteen (15) minutes of when the school finishes.	This clause only binds the service providers to have their vehicles waiting for students within a particular timeframe, and consequently does not specifically dictate by when should transport set off on the actual trip. This concern is further compounded by the fact that this clause does not set a limit by when students are to reach their respective drop-off point.	Further to the recommendation corresponding to clause 01.3.1 (a) (i) above, it is strongly recommended that service levels governing the time by which students are to reach their designated afternoon drop-off points should be included. This should be carried out with the aim of ensuring that students reach their destinations within a set timeframe and provide MEDE with adequate authority to control this important service parameter.	Partially implemented	The new contract of service has been amended to read:  <i>“(iv) Students attending a kindergarten or primary school shall not be picked up later than fifteen (15) minutes after school finishes:  Provided that, as long as all schools finish at the same time during officially designated half day school days, students attending a kindergarten, or a primary school shall not be picked up later than one hour from their time their school ends. This shall not be applicable in respect of students attending resource centers.”</i>	This Office acknowledges the changes in the clause that partially satisfy NAO’s original commendation. Nonetheless, the new contract still fails to provide a set timeframe by which the students should be dropped-off at their final destination.

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
3.(d)	Secondary students are to find their transport waiting for them no later than thirty (30) minutes of when the school finishes.	(Same as above)	(Same as above)	Partially Implemented	<p>The new contract of service has been amended to read that</p> <p>“(iv) Students attending a middle and secondary school shall not be picked up later than thirty (30) minutes from the time their school ends:</p> <p><i>Provided that students attending resource centers shall not be picked up later than fifteen (15) minutes from the time their school ends:</i></p> <p><i>Provided further that, as long as all schools finish at the same time during officially designated half day school days students attending a middle or secondary school shall not be picked up later than one hour from the time their school ends.</i></p> <p><i>This proviso shall not be applicable in respect of students attending resource centres.”</i></p>	Same as above



Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
(c)	provided during officially designated half day school days;	Half-day school days are a normal part of a typical scholastic year. To this end, adequate planning can be carried out for this foreseeable situation well in advance insofar as school transport is concerned. To this end, this clause unnecessarily slackens control on the quality of service during this period.	The new upcoming contract should undoubtedly feature service levels which also govern the delivery of the school transportation service during half days.	Implemented	<p>The respective clauses in the new contract have been amended to state that:</p> <p><i>“Provided that, as long as all schools finish at the same time during officially designated half days students attending a kindergarten or primary school shall not be picked up later than one hour from the time their school ends. This proviso shall not be applicable in respect of students attending resource centres;”</i></p> <p>“Provided further that, as long as all schools finish at the same time during officially designated half days students attending a middle or secondary school shall not be picked up later than one hour from the time their school ends. This proviso shall not be applicable in respect of students attending resource centres;”</p>	N/A

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
1.7	The service provider will pick-up a person designated as an 'escort' from the first pick-up point of a particular route or any other pick-up point agreed between the Directorate and the Service Provider.	NAO notes that the term 'escort' may specifically imply that the person in question is limited to supervising students rather than monitoring the trip overall, including the quality of the service being provided.	NAO recommends that this individual should not only be assigned to act as an 'escort' to students but also to monitor the service provision as a whole.	Implemented	Sub-clause 02.9 under Article 2 of the new Contract states that:  <i>"In the event that the service is supervised, the Service Provider will pick up a person designated as a supervisor from the first pick up point of a particular route or any other pick up point agreed between the Contracting Authority and the Service Provider. After dismissal, the Service Provider has to finish the trip at the first pick up point agreed between the Contracting Authority and the Service Provider."</i>	N/A

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
1.8  (a)	The Directorate guarantees payment for:  Transport services to and from mainstream schools for a minimum of one hundred and sixty five (165) school days.	This clause can be interpreted as guaranteeing payment for 165 days, regardless of the performance of the service providers.	A clear emphasis needs to be made that MEDE will guarantee work rather than payment for a set number of days (which in itself should not exceed the average annual number of school days), while giving leeway on the adjustment of the daily required number of trips, rather than guaranteeing payment itself. It is also imperative that this clause is written in a manner that allows MEDE to impose applicable penalties in the event of low performance by the service providers.	Not implemented	Clause left as is.	N/A

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
(b)	Transport services to and from special needs schools for a minimum of one hundred and seventy five (175) school days.	Same as above. Moreover, the guaranteed number of days in these cases exceeds the average annual number of 172 school days, which themselves include 3 School Development Plan meetings, 2 study days and 1 Parents' Day, with a number of secondary schools allowed a further Parents' day due to their higher student population.	Same as above	Not implemented	Clause left as is	N/A

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
1.16	Where a route is adjusted, a pro-rata amendment in the applicable rates will be effected if the mileage to the schools changes.	Throughout the contract, reference is only made to applicable rates for the provision of either short and long routes (which, as already stated in Chapter 1, are categorised solely on whether their respective distance is less or more than 4kms). To this end, this clause conflicts with these already set rates.	Given that the contract only makes specific reference to applicable rates for short and long distances, this conflicting clause should not feature in the contract document. To this end, in the eventuality that a route is adjusted, amendments to the route price should be solely based on whether the new route is considered as short (within 4kms) or long (exceeding 4kms).	Implemented	Although, this clause has been retained in the new Contract, it has been amended to read:  <i>"03.9 Where a route is adjusted by Contracting Authority, a pro-rata amendment in the applicable rates will be effected if the mileage from the first pick up point to the school changes, according to the rates established in Annex 1".</i>	N/A

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
3.2	The service provider can only operate a vehicle for the purpose of this Agreement if it is licensed to operate under the Passenger Transport Services Regulations (S.L. 499.56) provided that a vehicle:	This clause merely states that the vehicle needs only to be equipped with a fully functioning air-conditioning or air-circulation system, without specifically stating that these need to be utilised, as necessary, during trips.	It should be clearly stated that the air-conditioning or air-circulation system should not only be available on all vehicles but that these should be used, as necessary, during all trips.	Not Implemented	Clause left as is in the new Contract.	N/A
(c)	has a fully functioning air-conditioning or air-circulation system.					
(d)	is not open-top.	This clause is somewhat too limited in terms of what is perceived as an inadequate vehicle for school transport.	This clause should be broadened to include not only open-top vehicles, but also double-decked, trackless train, articulated or any other vehicle deemed not adequate for the transportation of minors and/or normal school premises.	Not Implemented	Same as above.	N/A

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
8.2.3	<p>A moratorium period of four (4) weeks from the start of the scholastic year 2011 / 12 is introduced with regards to the application of Paragraphs 08.2.2 and 09.1 to allow the service provider to refine and tune-in its operations to the service levels set.</p> <p><i>(This clause was superseded by an addendum signed between MEDE and the suppliers on 16/05/2012, in which this moratorium period was set to a "specified duration" rather than 4 weeks)</i></p>	<p>The moratorium period of four weeks is considered somewhat excessive since route details, as well as school start and end times, are agreed upon by MEDE and the suppliers before the start of each respective scholastic year. In view of this, only minor adjustments should be required to fine-tune the service. It is also noted that this clause does not give MEDE leeway to reassign routes and/or categories between the suppliers to address any problems which may surface at the start of each scholastic year.</p>	<p>The upcoming contract should provide a definite and more reasonable grace period following a comprehensive planning exercise while allowing for any reassignment of routes as MEDE deems fit for the proper and smooth running of the service.</p>	<p>Implemented</p>	<p>The clause in the new Contract has been implemented to read:</p> <p><i>"10.2.6 A moratorium period of two (2) weeks from the start of each scholastic year is to apply with regards to the application of the Service Provider to refine and tune-in its operations."</i></p>	<p>N/A</p>

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
8.3	In the event that an unscheduled service breakdown occurs as a result of an accident or incident that occurred whilst students are transported during a route the service provider is to inform the Contract Manager on whether any injuries occurred, if so, the number of persons injured, and the place of occurrence of the accident.	It is noted that this clause does not specifically determine a timeframe within which the service provider is to inform the Directorate of such an occurring incident/accident.	It is therefore suggested that the new contract should bind the service providers with a set time period within which they are to inform MEDE of any occurring incidents/accidents, while clearly identifying applicable penalties in the eventuality that the service provider does not abide by this obligation.	Implemented	The clause in the new Contract has been amended to read:  "10.2.3 In the event that an unscheduled service breakdown occurs as a result of an accident or incident that occurred whilst students are transported during a route the Service Provider is to inform the Contracting Authority within ten (10) minutes on whether any injuries occurred, the number of injured persons and the place of occurrence of the accident and if applicable, file a police report."	N/A
8.4	Further to Paragraph 08.3 above the service provider is to provide to the Contract Manager a police report and / or supporting documents as established by due process within eight (8) days from when the accident would have occurred.	This clause may be exerting undue pressure on the service provider since the duration of the issuance of a police report is completely out of the supplier's control.	It is recommended that any timeframe enforced in this regard would apply following the issuance of the said police report, and consequently not as from the date of the accident/incident.	Implemented	This clause has been amended to read that the police report and/or supporting documents have to be forwarded to the Contracting Authority within eight (8) days of issuance. The clause reads:  "10.2.4 Furthermore to clause 10.2.3, the service provider is to provide the Contracting Authority with a police report and/or supporting documents as requested by the Contracting Authority within eight (8) days from when the police issues said report."	N/A

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
9.1	<p>Reference is made to clause 9.1, in which the contract identifies three different performance management criteria against which performance is measured. This clause however applies different penalties according to the level of performance by the supplier (e.g. if the supplier would be registering a performance of between 84% and 80%, a penalty of 5% of the route value is imposed, while no penalty is applied if the provider performs at 85% or more).</p> <p>This clause also stipulates that months of 'good performance' by the providers may be offset against other months in which their performance is not up to the 'required standards' (e.g. if the supplier achieves a performance of 90% [which is 5% higher than the first penalty tier]</p>	<p>This clause is considered unnecessarily complex and one sided in the suppliers' favour. The leniency allowed by this setup may well incentivise an element of slack in the provision of the school transport service, with providers putting their minds at rest of not having to incur penalties on the first 15% of defaulting instances. This situation cushions suppliers and potentially allows them to aim at this lower accepted level of performance rather than aiming to achieve the level and quality of service which was actually agreed in the contract.</p> <p>Further to the above mentioned leniency, suppliers are also provided with an opportunity to reduce penalties in instances of low performance by offsetting the latter with 'good performance credits', even</p>	<p>It is strongly recommended that, while maintaining the mentioned three performance management criteria as the metrics by which overall performance is assessed, penalties should be made applicable from the first instance of defaulting. In so doing, service providers would be more inclined to strive to supply a service with the level of quality agreed in the contract.</p>	Implemented	<p>This clause has been omitted completely from the new contract. Instead a new clause has been included which states:</p> <p>11.1.1 Excluding the event of a force majeure, the Service provider shall be liable to penalties as stipulated hereunder:</p> <p>Timeliness of First Pick-up Point: 10% penalty of trip price for any trip performed early or late</p> <p>Missed Pick up/Drop Off Point: Pro rata penalty of trip according to number of missed pick up or drop off point/s</p> <p>Unauthorised Subcontracting: 10% penalty of trip where there was unauthorized subcontracting</p> <p>Overloading: Any infraction will reflect a 50% deduction on the relative trip and a report shall be made to Transport Malta</p> <p>Vehicle not kept clean: 10% penalty of trip where the vehicle is reported and verified as dirty by ad hoc inspections on the first route</p>	<p>Unlike the old contract this new contract does not specify from when these penalties become applicable and therefore it is assumed that they are applicable from the first incidence.</p>

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
	<p>during one particular month, the 'extra' 5% registered performance can be offset against another month registering 80% performance level. In such a case, the service provider will therefore incur no penalty for either month).</p>	<p>though such levels would still be below a 100% service quality standard. This clause further compounds NAO's concern as it projects an increased sense of tolerance for lower performance levels.</p>				
9.3	<p>The service provider will provide access to the vehicle tracking system on the following schedule periods:  all school days  0645hrs to 0900hrs 1340hrs to 1605hrs.</p>	<p>It is noted that the afternoon time bracket in which the provider is obliged to provide access to the tracking system to MEDE, does not cover school end times during half days.</p>	<p>In view of the importance of continuous monitoring by MEDE throughout the scholastic year, it is advised that the time brackets in which MEDE is to be provided access to the tracking system, are extended to adequately cover all school days, including half days.</p>	Implemented	<p>Clause 11.3 of the new Contract set a time bracket to cover short days has been included from 11:15 am to 14:00pm. The Clause states that:  The Service Provider will provide access to the vehicle tracking system on the following schedule periods:  All school days except on short days.  06:00 am to 09:30am 13:30pm to 16:05pm Short days: 06:00am to 09:30am 11:15am to 14:00pm</p>	N/A

Original Contract Clause No.	Original Contract Clause	Concern	Proposed Revisions	Developments	New Contract Clauses	Further Comments
9.4.1	<p>The Directorate will contribute a part sum of the cost that the service provider will bear to introduce a GIS vehicle tracking system subject to the following conditions:</p> <p>The maximum amount to be contributed by the Directorate towards this cost is €100,000 annually over the term of the agreement; which contribution is to be apportioned amongst the service providers on the basis of the routes assigned to each service provider for the scholastic term 2011/12 as shown in Paragraph 05.2.1 above. The apportionment of this cost contribution is attached in Annex V.</p>	<p>NAO notes that the financial contribution due by government with regards to the maintenance of the GIS tracking system, has been allocated as per the routes for the scholastic year 2011-2012 but was not kept in line with the number of routes in subsequent scholastic years.</p>	<p>It is recommended that the upcoming contract should feature a mechanism enabling an annual revision of the contribution apportionment aligning this to the number of routes allocated to each supplier at the start of each scholastic year.</p>	<p>No Longer Applicable</p>	<p>This clause has been removed entirely from the contract.</p>	<p>N/A</p>
11.1	<p>The service provider on the 15th of every month for the term covered by this Agreement shall submit a pre-invoice for that particular month that covers 75% of the estimated cost of the service provided during that month.</p>	<p>Paying 75% of what is due every month to the supplier without any verifications and assessments on the service provider's performance, may promote a slack in performance by the latter due to peace of mind that the majority of payments due are secured.</p>	<p>It is suggested that a study is carried out to by MEDE determine whether the portion comprising this part payment should stand at 75% or be lowered to incentivise further positive performance by the service providers.</p>	<p>Not implemented</p>	<p>Clause left as is.</p>	<p>N/A</p>

### **MEDE to enhance the monthly reporting system**

*MEDE is to emphasise the importance of schools submitting consistent and comprehensively filled-in monthly performance reports including all shortcomings experienced by the school transportation service to reduce the risk of information loss. It is also recommended that complaints received by schools are forwarded to the Ministry so that the latter may proceed with the necessary actions and take effectual enforcement measures wherever applicable. NAO also suggested that MEDE could carry out proactive and random monitoring through a selected sample of routes, to increase the probability that defaulting incidents are detected.*

### **Developments: Significant Progress**

During a meeting with MEDE officials the audit team was informed that during the scholastic year 2019/2020, the former introduced what they consider to be a streamlined, digitised, reporting system. Specifically, MEDE officials explained that at the beginning of the scholastic year, the Ministry sends an Excel template to all schools which, amongst others, includes a drop-down menu featuring all infringements as listed in the service contract. The audit team was further informed that this template (known as a 'Performance Report') is filled-in by schools and sent daily, or as necessary, via email to a specifically set-up MEDE email address. Ministry officials stated that, once received, these performance reports are analysed so that any identified infringements are duly communicated with the service provider. As per contract, the latter is allowed a stipulated period in which it can contest such incidents, following which the respective penalty is applied.

NAO requested a sample of these performance reports to better observe this system. Given the limitations presented by the COVID-19 pandemic, the audit team limited its scope to the period between October 2019 and December 2019, specifically to one week for each of these months. Forwarded documentation included both the reports which are forwarded to MEDE by each school, as well as subsequent reports sent by the Ministry to the service providers. After a preliminary review of the sent reports, NAO further narrowed down its sample and selected five schools, specifically those which had the largest amount of reports sent to MEDE. These were then successfully reconciled to the reports sent by the Ministry to each respective service provider. However, this Office noted that although MEDE asserted that these reports were sent by the schools daily, there were instances in which the complaints related to incidents which were observed on different days were amalgamated into one report and, at times, sent between two to ten days later.

MEDE additionally highlighted the intention to further enhance the existing reporting system for the upcoming scholastic year (2020/2021) so that all schools can report infringements directly into a newly acquired IT system. MEDE explained that all schools and service providers will have access to this reporting system with the aim to increase efficiency. The audit team was also informed that through this new system, the Ministry would be in a better position to identify schools that default on their reporting obligations and address this issue in a timelier manner. The Ministry also highlighted that it aims to schedule meetings with all the schools to provide an explanation of the prospective reporting process and importance thereof. The technical document for this new system has been forwarded to NAO for reference.

The audit team was also informed that MEDE has now centralised the process by which complaints are handled. Specifically, MEDE instructed all schools to refer any received complaints to the Directorate in order for the

latter to deal with the service providers directly. According to Ministry officials, this approach has led to a considerable improvement, namely by putting MEDE in a better position to take appropriate action thereby serving as a more effective deterrent and resulting in a decrease in incidence of infringements.

In addition to monthly performance reports, MEDE also informed the audit team that a plan for spot checks had been drafted in March 2020 with the intention of allowing the Ministry to monitor service performance and all applicable service levels more closely. The intended spot checks were to be carried randomly and consistently and would have included on-site visits at schools and pick-up/drop-off points as well as verification procedures on the submitted tracking reports. The introduction of this system however coincided with the outbreak of the COVID-19 pandemic and consequently has as yet to be implemented. Notwithstanding, as evidence of the Ministry's real intention to adopt this system, NAO was forwarded with the proposed plan for spot checks intended to be carried out during the scholastic year 2019/2020.

***MEDE to ascertain better performance from the school transportation service tracking system.***

*MEDE is to carry out an examination to determine the reason the Geographic Information System (GIS) tracking system is not performing up to standard. NAO recommends that discussions are held between MEDE and the respective Departments/Authorities so that this issue is resolved. In addition, NAO recommends that the existing maintenance contribution being made is subject to performance criteria in the upcoming new agreement.*

**Developments: Fully Implemented**

Through discussions with Ministry officials and its contract review, NAO observed that the new contracts for service did away with MEDE's obligation to contribute financially towards the provision of the tracking system and instead, any defaults with respect to this system from the suppliers' part are subjected to an umbrella penalty as discussed further in this report. The contract further specifies that the service providers either have to give MEDE access to their electronic tracking system, or forward reports thereof upon request from the latter. In following up on the 2016 highlighted concern that the tracking system was not performing adequately, MEDE officials did not flag any issues on this when queried by the audit team. It was NAO's intention to triangulate this assertion and evaluate the overall performance of the current tracking system with real time observation, but the closure of schools and consequently the suspension of school transportation service due to COVID-19, inhibited the audit team from doing so. In view of this, the audit team had no option but to rely solely on the auditee's assertion in its evaluation on progress made on this issue.

***MEDE to introduce a better system to supervise students when waiting for and while on board the school transportation***

*NAO recommends that MEDE communicates with schools and formally directs them to ensure that students do not wait unsupervised for school transport outside school premises. NAO also urges the Ministry to ascertain that the assignment of responsibility for student welfare during trips is clearly defined and a system of adequate student supervision provided.*

### **Developments: *Partly Implemented***

During discussions with the audit team, MEDE Officials highlighted that supervision on board school transport vehicles was introduced as from scholastic year 2018/2019, but limited only to those routes that service Kindergarten students as well as students with special needs or challenging behaviour. NAO was informed that wherever this supervision is assigned, the service provider is directed to pick up the designated supervisor from the first pick up point of the respective route and drop this individual back at the same location after the trip is completed. MEDE further pointed out that these supervisors also contribute to the monitoring of service levels. When queried whether there is the intention to further roll out the service to cover all routes, MEDE officials replied in the negative.

With respect to supervision on school premises during the periods between student drop off and start of school day in the morning, and end of school day and student pick up in the afternoon, MEDE officials stated that this is provided as per sectoral agreement with the Malta Union of Teachers. The audit team reviewed the agreement in question and confirms that it provides for this responsibility. For further verification, NAO is also in receipt of an example of communication sent by the Ministry to one of the local State schools detailing the number of supervisors required in this respect.

While it was the intention of the audit team to conduct visits to observe both of these supervision arrangements and assess their effectiveness, this could not materialise due to school closures in response to the COVID19 pandemic.

Furthermore, MEDE informed NAO that an automatic student tagging system was being piloted in two colleges, namely Gozo College and St. Margaret College and, as at time of writing, this system was undergoing an audit process. If it is determined that this system is performing up to the required standard, it is the Directorate's intention to extend it to other schools. Apart from assisting MEDE in service monitoring, this system is intended to feature a messaging facility through which parents can be notified of their children's arrival at school premises.

### ***MEDE to carry out a revision of financial penalties in new contract***

*Given that NAO perceives the possibility that defaulting incidents could have materialised as the penalties laid out in the contract may not be set at a sufficiently high level to adequately serve as a deterrent, it urges MEDE to carry out a review to this effect as well as to determine whether cited penalties cover all aspects of the new contract.*

### **Developments: *Fully Implemented***

In response to this recommendation, MEDE forwarded the audit team with a comparative table which offsets penalties included in the previous contract text (as reviewed in the 2016 NAO exercise) and those cited in the new contract document (in vigore as at time of writing of this follow-up). After conducting a verification exercise with the respective contract documents, the audit team can ascertain that the content within this comparative table is accurate. Table 1 on next page is a reproduction of this forwarded document.

**Table 1: Comparison of Penalties**

INFRINGEMENT	PREVIOUS CONTRACT SY 2011/2012 - 2017/2018		NEW CONTRACT SY 2018/2019 - 2022/2023	
	ARTICLE	PENALTY	ARTICLE	PENALTY
Route not serviced due to unexplained vehicle failure	08.2.2	Trip not paid + €25 fine	10.1.2 + 11.1.2	100% of trip value + 10% of trip value
Timeliness of first pick up point	9.1	IF performance =>85% fine = 0% of Route Value IF performance 80-84% fine = 5% of Route Value IF performance 75-79% fine = 7.5% of Route Value IF performance =<74% fine = 10% of Route Value	11.1.1	10% of trip value
Speed within safety threshold	9.1	IF performance =>85% fine = 0% of Route Value IF performance 80-84% fine = 5% of Route Value IF performance 75-79% fine = 7.5% of Route Value IF performance =<74% fine = 10% of Route Value	11.1.2	10% of trip value
Unexplained major deviations of school route	9.1	IF performance =>85% fine = 0% of Route Value IF performance 80-84% fine = 5% of Route Value IF performance 75-79% fine = 7.5% of Route Value IF performance =<74% fine = 10% of Route Value	11.1.2	10% of trip value
Missed pick up/drop off point	n/a	n/a	11.1.1	Pro rata penalty of trip according to number of missed pick up or drop off point/s.
Unauthorised Subcontracting	n/a	n/a	11.1.1	10% of trip value
Overloading	n/a	n/a	11.1.1	50% of trip value
Vehicle is not kept clean	n/a	n/a	11.1.1	10% of trip value
Not adhering to any other conditions in the Agreement	n/a	n/a	11.1.2	10% of trip value
Moratorium Period (during which no penalties are applied)	08.2.3 - four (4) weeks from start of Scholastic Year 2011/2012		10.1.6 - two (2) weeks from the start of each Scholastic Year	

This Office positively notes that, with the exception of the first listed infringement in the table above (i.e. route not serviced due to unexplained vehicle failure) all other penalties have been revised upwards. This said, the audit team acknowledges that the mentioned first item has been revised downwards with such a slight margin that it renders this change insignificant. It is also observed that a number of infringements which were previously not provided for have now been included, and that an umbrella penalty is also laid out in the event of non-adherence to any other conditions in the agreement which have not been specifically assigned with a penalty. The reduction in the moratorium period at the beginning of the scholastic year is also noted.

This Office considers these changes to be a fulfilment of the 2016 recommendation. Notwithstanding, NAO still encourages MEDE to continue monitoring whether these new set penalties are serving as an adequate deterrent and take any outcome of such observation into consideration for any future contracts.

## Conclusion

While there still is room for overall improvement in the management and monitoring of the school transportation system, NAO positively notes that progress was, to varying extents, registered on the recommendations followed-up from the 2016 review. This Office therefore commends MEDE on progress made so far and encourages it to continue in its pursuit to further improve this process.

# Protecting Consumers through the Market Surveillance Directorate's Monitoring Role

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## Background

This follow-up audit aims to report on the progress registered since the publication of the performance audit report: *Protecting Consumers through the Market Surveillance Directorate's Monitoring Role* which was published in May 2017. The 2017 report sought to determine the extent to which the Market Surveillance Directorate (MSD) within the Malta Competition and Consumer Affairs Authority (MCCAA) was appropriately safeguarding consumers' interests through adequate monitoring. This performance audit considered two case studies and focused on Children's Products and pesticides. Issues and conclusions presented in this follow-up audit reflect the information made available to the National Audit Office (NAO) as at end June 2020.

## Audit Scope and Methodology

In view of the findings and conclusions emanating from the 2017 report, the NAO had proposed a number of recommendations, the implementation of which is the primary focus of this follow-up audit. For the purpose of this follow-up study, the NAO retained the same objectives of the 2017 Report, which sought to determine the degree to which the MCCAA, through MSD, undertakes market surveillance to ascertain that substandard goods are withdrawn from the local market.

The findings and conclusions presented in this follow-up report are primarily based on documentation submitted by MCCAA. To illustrate the progress achieved by the MCCAA in implementing the NAO's recommendations, the proposals made in the 2017 Report are reproduced in italic text, followed by an outline of the progress registered. The ensuing text also classifies implementation progress in one of the following six self-explanatory categories, namely: fully implemented, partly implemented, significant progress, insignificant progress, not implemented or not accepted.

### ***National Entities involved in this regulatory function are encouraged to enhance coordination between them and amongst each other***

*National Entities are encouraged to enhance coordination amongst each other. This will strengthen the regulatory function related to product safety by ensuring timely enforcement action and adequate coverage within the supply chain as well as the wide spectrum of economic operators. Improved cooperation between National Entities will also contribute towards optimising the use of specialised resources available at the different Institutions.*

**Developments: *Partly Implemented*****a. *Enhanced inspection coverage***

MCCAA stated that the MSD within the Technical Regulations Division (TRD) participates in the implementation of the Coordination of Government Inspections Act,<sup>1</sup> which is being led by the Inspections Coordination Office (ICO) within the Office of the Prime Minister (OPM). Systematic processes were established, and the Information Technology (IT) tools were developed for effective coordinated inspections, which are envisaged to promote timely enforcement and ensure adequate coverage within the supply chain, as well as the wide spectrum of economic operators. Systematic processes have been documented in a standard operating procedure, namely SP-QLT-013 – Handling of Inspections. The IT tools were developed by the ICO taking into consideration MCCAA's requirements and is part of a European Union (EU) funded CONvErGE project. The IT tool was launched in 2019 and 12 inspections were carried out as a primary inspectorate for pet shops (non-animals). Primary inspectorate is the inspector who will physically visit the business on premise. The primary inspector will collate the information in relation to all Governmental Bodies involved and then share the acquired information with interested entities defined as Secondary Inspectorates.

The TRD coordinates and collaborates with relevant entities identified in the Schedule (Article 9) of Cap. 568 – Coordination of Government Inspections Act, as well as other entities within the MCCAA, for optimised utilisation of specialised resources. For each business type, the relevant entities are identified by the ICO, who also coordinate the collaboration with the entities. The table below shows the number of inspections which resulted in data being received by MSD from other entities.

**Table 1: Number of inspections**

<b>Year</b>	<b>Number of operators subject to inspection</b>	<b>Type of business</b>
2018	20	Plant Protection Products (PPPs), Personal Protective Equipment
2019	36	PPPs, Personal Protective Equipment, Machinery, Tattoo Parlours

**b. *Cooperation with the Malta Customs Department***

In addition to the National Entities identified in the Schedule (Article 9) of Cap. 568 – Coordination of Government Inspections Act, the TRD also liaises and cooperates with the Malta Customs Department and other entities in this area such as the Ministry for Health, Ministry for Gozo (MGOZ) and the Ministry for Agriculture, Fisheries and Animal Rights. A guidance document developed by market surveillance experts who are members or Chairpersons of various Administration Cooperation (AdCo) groups, entitled 'Good Practice for Market Surveillance' (2017), recognised the importance of collaboration between market surveillance authorities and customs authorities. To this effect, collaboration and cooperation with Customs has been enhanced through a series of exchanges between TRD and Customs Officers.

<sup>1</sup> Cap. 568 of the Laws of Malta.

MCCAA stated that the collaboration and coordination between the Customs and the TRD is active and ongoing. In 2019, 155 cases were forwarded by Customs to the TRD, as shown in table below:

**Table 2: Cases which were forwarded by Customs to the TRD in 2019**

Product Type	No. of Cases	Product Type	No. of Cases
Toys	10	Recreational crafts	2
PPPs	2	Motor vehicles	1
Construction products	2	Chemicals	1
Fluorinated greenhouse gases	4	General product safety	22
Machinery	28	Cosmetics	3
Electrical equipment	80		

In the field of pesticides, cooperation with Customs has been enhanced through routine meetings in view of the import of products classified under the pesticides umbrella. The collaborative element focuses on the sharing of information pertaining to authorisation status of relevant products to be placed on the market and respective supportive labelling documentation in view of optimising respective resources allocated in the area.

Collaboration is also enhanced as part of projects such as Silver Axe V, which targets illegal trade of pesticides, amongst others. This collaboration, which supports the protection of health and environment from counterfeits, banned products and unregulated imports at European level, is helping Customs and Europol in their investigations. The TRD supports these investigations with the provision of information held by the entity upon request. The results of the fifth edition of operation Silver Axe have been published in a press release issued by Europol on 3 June 2020, which stated that a record number of 1,346 tonnes of illegal pesticides were taken off the market in 2020. The extent of the impact on the Maltese market cannot be established directly as yet.

### **c. Agriculture**

The reviewed National Action Plan (NAP) on the Sustainable Use of Pesticides covering the period 2019 – 2023 was developed following extensive and comprehensive consultation with all stakeholders, including the public. The main aim was to develop and maintain an efficient tool to support the sustainable use of PPPs in Malta in line with the applicable legislation.

In view of the provisions of the Sustainable Use of Pesticides Regulations (2011), through collaboration with entities from the Rural Development Department (RDD-Ministry for the Environment, Sustainable Development and Climate Change (MESDC), officials were trained and recognised as Trainers for Professional Users of Plant Protection Products in line with the provisions of S.L. 430.08. Officials from the same entities were also recognised as advisors in line with the same provisions. This collaboration supports the availability of trainers and advisors in the field and enhances resource availability to the applicable stakeholders.

The number of recognised trainers in this field has increased from 11 in 2017 to 18 in 2019, whilst the number of recognised advisors has increased from zero in 2017 to 12 in 2019, as shown in the table below:

**Table 3: Number of trainers and advisors**

Year of reference	Number of MCCAА Recognised Trainers	Number of MCCAА Recognised Advisors
2017	11	0
2018	11	0
2019	18	12

**MSD is to address outstanding issues within MoUs with stakeholders**

MSD through MCCAА together with the respective Signatories of Memorandum of Understanding (MoUs), namely ARPA, the Customs Department and WSC, are to focus their collective efforts to enhance cooperation. Such cooperation will contribute towards addressing outstanding issues within MoUs, namely those relating to communication, clarification of stakeholders' remits and respective obligations.

**Developments: Partly Implemented**

- a. Following the extensive work undertaken with Agriculture and Rural Payments Agency (ARPA) to develop the NAP, which was launched in 2019, the two entities are currently engaged in drawing up a revised MoU to support the effective implementation of relevant sections within the plan. The MOU is at the final stages, envisaged to be signed within Q3 2020 and valid for four years.
- b. Furthermore, in May 2018 and March 2019 respectively, agreements have been signed for a three-year period with the Department of Agriculture and the Ministry for Gozo (MGOZ) to support the TRD in the inspection of Pesticide Application Equipment. The TRD and the identified Ministries collaborate on the provision of training, inspection site facility and sharing of human resources. Ninety-five inspections were carried out during 2018 and 2019. In line with this agreement, two training sessions were scheduled to support the execution of tasks by MSD personnel. Collaboration with the MGOZ and the Department of Agriculture is ongoing. The below are instances of collaborations as reported:
  - o Four technicians (two from Department of Agriculture (DOA) and two from MGOZ) are being made available to the Standards and Metrology Institute within MCCAА free of charge to carry out inspections on spray equipment, in order to minimise the cost of inspections to farmers;
  - o The MCCAА provided training on how to carry out inspections on spray equipment both in Malta and abroad (Greece) to these four technicians;
  - o Two testing facilities (one in Malta and another in Gozo) were made available to MCCAА to carry out inspections on spray equipment in order to help farmers to have their equipment in line with the applicable regulations;

- o The MCCAА provided the necessary equipment and personal protective equipment to carry out testing in a professional and safe manner.
- c. MCCAА stated that no further developments were made by Water Services Corporation (WSC) regarding their pesticides testing facilities, and MCCAА continues to undertake pesticides testing using specialised laboratories.

***National Entities involved in the monitoring of products for consumers’ safety, are to take on board the policy ‘Improving Business Inspections’ and embark on risk-based joint inspections***

*National Entities involved in the monitoring of products for consumers’ safety, are to take on board at the earliest opportunity the principles and mechanisms outlined in the recently published policy ‘Improving Business Inspections’. Regulators are to increasingly embark on risk-based joint inspections, which will minimise compliance costs for economic operators while ensuring fair competition and consumer’s safety.*

**Developments: *Partly Implemented***

- a. During 2018, the MCCAА was one of the first National Entities to take on board the systems and tools developed by the ICO within the OPM, and to establish relevant internal systematic processes. Initially the system was operated on a manual basis and during 2019, the Authority participated in a pilot project to launch the IT system on pet shops (non-animals).
- b. As mentioned in Recommendation (i)<sup>2</sup> above, coordinated inspections have already been undertaken for pet shops (non-animals). The wide spectrum of products available at these outlets enable the TRD to conduct risk-based inspections. The list of entities involved in the coordinated inspections process are those listed in the Schedule of Chapter 568 of the Laws of Malta. For each business type, the relevant entities are identified by the ICO and collaboration with the entities is coordinated through ICO.

The MCCAА is fully committed to conduct further coordinated inspections related to other areas apart from pet shops (non-animals). During Q3 of 2020, coordinated inspections for electronic equipment are planned to start. Other areas will be incorporated<sup>3</sup>, and these will be launched as directed by ICO to ensure a structured approach.

***Governmental entities are to enhance their cooperation and coordination to extend to the compilation and maintenance of product-safety and injury related data***

*Cooperation and coordination between Governmental Entities namely MCCAА, ARPA, Ministry for Health and the Customs Department is to extend to the compilation and maintenance of product-safety and injury related data. Efforts in this respect will enable the more expedient extraction of critical information required for policy and operational decision-making. Within this context, National Entities are to establish respective needs and determine the mechanisms for more effective sharing of information.*

<sup>2</sup> National Entities involved in this regulatory function are encouraged to enhance coordination between them and amongst each other.

<sup>3</sup> These other areas include Chemical Sellers, Children’s Clothing Shops, Cosmetic Shops, Detergents Shops, Electronics Stores, Equipment Shops, Hawkers Non-Food, Household Appliances, Ironmongery Shops, Pet Shop Non-Animals, Souvenir Shops, Supermarkets (JOINT Inspection), Toy Shops and Wholesalers Non-Food.

**Developments: Significant Progress**

- a. The sharing of information between the MCCA and ARPA is covered by an MoU, as previously referred to in Recommendation (ii)<sup>4</sup> above.
- b. MCCA stated that it is currently involved in the onboarding process of the PCN database (Harmonised Poison Centres), which is being developed at EU level by European Chemicals Agency (ECHA) and currently scheduled for launch in 2021. This will support the functioning of the National Poison Center, which is set to be established this year as announced in the Budget for 2020, with the aim of providing chemical information related to products available on the market. Furthermore, discussions are underway to formalise the compilation and maintenance of product-safety and injury related data in other areas through an MoU between the MCCA and the Directorate for Health Information and Research, whereby the MCCA has submitted a draft MOU and is awaiting feedback. The target date for signing this MOU is within Q4 of 2020.
- c. The Information and Communication System on Market Surveillance (ICSMS), which is an IT platform provided at EU level and developed by the European Commission, is a system which enables product-safety related information to be shared with Customs. The MSD considers the ICSMS to be an effective tool to collect information on products. Product statistics uploaded by Malta on the IT system are shown in the table below.

**Table 4: Number of product investigations uploaded by Malta**

Year data was uploaded <sup>5</sup>	No. of product investigations uploaded
2017	52
2018	31
2019	100

***The NAP provisions are to be further strengthened by establishing more measurable objectives and targets***

*Consideration is to be given to further strengthen provisions within the NAP. This can be attained through the establishment of more measurable objectives and targets, including detailed Key Performance Indicators. The strengthening of the NAP contributes towards further ensuring that the desired outputs and outcomes in relation to product safety and consumer’s protection are attained as planned.*

**Developments: Fully Implemented**

- a. The NAP has been revised to cover the period 2019 – 2023 and expand on the framework of the former NAP to consolidate the previously set objectives and measures with ongoing actions, whilst establishing

<sup>4</sup> MSD is to address outstanding issues within MoUs with stakeholders.

<sup>5</sup> Product statistics for the years prior to 2013 were uploaded by the German authorities after extracting information about products notified by the Maltese authority on Rapid Alert System for dangerous non-food products (RAPEX).

further specific actions, targets and indicators to support the main areas' objectives. The revised NAP has been strengthened by taking into account the social, economic and environmental impacts of the previous actions, as well as the health of the public.

- b. MCCAAs stated that the revised NAP has been developed following comprehensive consultation with stakeholders, including the public. The approach used for its revision was a combination of legislative measures and other initiatives with the main aim of generating an efficient tool to support the sustainable use of pesticides in Malta.
- c. The NAP has been costed and a budget request is made to the Ministry responsible for Finance by MCCAAs on an annual basis, as part of the national annual budget process. A share of the MCCAAs vote is allocated to its implementation. The allocated budget was €100,000 in 2019 and €125,000 in 2020 and the allocated budget for 2021 in this area is €125,000.

### ***MCCAAs is to implement the integrated pest management programme***

*MCCAAs is to sustain efforts with respect to the implementation of integrated pest management. It is imperative that these initiatives are supported through the appropriate level of resources to ensure the expedient adoption of these sustainability-related concepts.*

### **Developments: Significant Progress**

- a. In line with the provisions of S.L. 430.08, MCCAAs supports the promotion of low pesticide-input pest management, which includes integrated pest management (IPM). This is a process that can solve pest related problems while minimising risks to people and the environment. Wherever possible, non-chemical methods are prioritised so that professional users of pesticides are encouraged to switch to practices and products with the lowest risk to human health and the environment among those available for the same pest problem.
- b. Measures to promote alternative low pesticide-input pest management strategies have been addressed through awareness, training leading to certification as professional users and distributors acknowledged by the MCCAAs, as well as the availability of a Guidance Document on Integrated Pest Management in the Maltese Islands (2015) to support IPM. The guidance document, which is publicly available on MCCAAs's portal, supports the general principles of IPM as set out in Schedule III of Legal Notice 489 of 2011, entitled Sustainable Use of Pesticides Regulations transposing Annex III of the Sustainable Use Directive (SUD). Therein are recommendations on prevention and suppression of harmful organisms, monitoring, non-chemical measures, protection of bees, protection of water, protection of human health, disposal and record-keeping which are the minimum measures that farmers should implement. Training and consequentially awareness-raising in view of certification as professional users and distributors, is designed to support the availability of tools and information at the disposal of professional users to implement low-pesticides input pest monitoring and decision-making. The availability of advisory services

including IPM, is an additional tool to support low pesticide-input pest management strategies. In 2018 and 2019, a total of 148 applicants have been awarded certification (initial and additional training) in line with the provisions of S.L. 430.08.

### ***MSD is to increasingly adopt a risk-based approach to implement its monitoring programme***

*MSD is encouraged to adopt a more risk-based approach in the selection of the economic operator, the product category as well as the specific product to be monitored to ensure that unsafe goods are withdrawn to ascertain timely consumer's protection. Criteria such as the country of origin eliciting most product recalls, economic operator's history of non-compliance and common non-compliant product features are to be allocated their due weighting for inspections targeting purposes. This will ensure a more efficient allocation of the Directorate's limited resources.*

### **Developments: Significant Progress**

- a. The systematic processes established for effective coordinated inspections, in line with the implementation of the Coordination of Government Inspections Act (Cap. 568), incorporates the PDCA-cycle (Plan-Do-Check-Act) and risk-based thinking. The IT tool developed for coordination of inspections, which was developed by the ICO taking into consideration requirements of the MCCA, includes workflows for the systematic handling of inspections. Moreover, in 2019, MCCA launched an SOP<sup>6</sup> to support the coordinated inspections process.

A risk score is allocated to the economic operator based on non-compliances identified during the inspection. Subsequently, the frequency of inspections for a particular economic operator is calculated by the system based on previous non-compliances identified for the range of products placed on the market or made available on the market by the same economic operator. The nature (weighting) of the non-compliances is also considered to determine the frequency of inspections for launched business types with the new system in line with the lessons learnt from the pilot project. This risk-based approach is envisaged to enhance the allocation of the Directorate's resources.

- b. The MCCA actively participated during the development of the Regulation (EU) 2019/1020, which established the mechanisms of harmonised methodology and criteria for assessing risks in all Member States in order to ensure a level playing field for all economic operators. The MCCA is currently in the process of implementing the internal changes necessary to implement the regulation by 16 July 2021. Internal changes have started and are currently being undertaken to support its implementation, including planning for capacity building of the Single Liaison Office, planning for the establishment of an e-enforcement Unit to support in the implementation of Article 6 as well as finalising the data sharing agreement with DHIR. The ICSMS will be upgraded to allow market surveillance authorities to input data related to injuries caused by non-compliant products. This will also support the establishment of the market surveillance strategy.

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<sup>6</sup> This SOP is the SP-QLT-013 – Handling of Inspections.

**MSD is to set up an online platform intended to facilitate the sharing of product safety-related information with other stakeholders**

*MSD is to consider the setting up of an online platform, supported by a comprehensive database management system, primarily intended to facilitate the sharing of product safety-related information with other stakeholders, including Governmental Entities, economic operators and consumers. Various access levels may enable such an online information-sharing system to cater for cooperation with local stakeholders as well as raising public awareness particularly with respect to product safety alerts. Such an information-sharing platform will also minimise duplication of work and enables timelier consumer protection interventions.*

**Developments: Fully Implemented**

- a. As stated earlier in Recommendation (iv)<sup>7</sup>, MCCA is currently working on the onboarding of the PCN Database. Companies placing hazardous mixtures on the European market have an obligation to provide information about these mixtures to the relevant national appointed bodies. Appointed bodies in each Member State make this information available to Poison Centres to support response in the event of an emergency.
- b. Regulation (EU) 2019/1020 encourages market surveillance authorities to use the ICSMS IT platform. An interface between ICSMS and Safety Gate (formerly known as RAPEX) permits data transfer from one system to another, thereby enhancing the exchange of information related to unsafe products. The ICSMS also provides a facilitated means through which the market surveillance and customs authorities can interact since the system is also accessible by Customs (as per recommendation (iv)<sup>8</sup>).
- c. MCCA's website was enhanced in 2017. One of the new features introduced was the 'Flag a Concern' section, through which the public, economic operators and other interested parties may inform the MSD about product safety-related concerns. Product safety-related information is shared publicly and prominently on the Safety Gate website (EU wide) and on the MCCA's website and social media pages. Results obtained from statistically representative surveys conducted by a third-party on behalf of the MCCA show that the public's awareness of the MCCA website and social media pages has increased by 37 per cent since 2017 whilst the economic operators' awareness has also increased by 67 per cent over the same period of time. Furthermore, MCCA is in the process of launching a feature which enables subscription to an online newsletter via email. Product safety-related information will be shared with other stakeholders through this newsletter.

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<sup>7</sup> Governmental entities are to enhance their cooperation and coordination to extend to the compilation and maintenance of product-safety and injury related data.

<sup>8</sup> Governmental entities are to enhance their cooperation and coordination to extend to the compilation and maintenance of product-safety and injury related data.

**MSD is to follow up RAPEX notification with respect to product recalls and withdrawals from the market**

MSD is to follow up RAPEX notifications as well as its own direction issued to economic operators with respect to product recalls and withdrawals from the market. This will ascertain that, as far as possible, the risk of non-conforming products available for retail is minimised.

**Developments: Partly Implemented**

- a. MCCA stated that inspectors familiarise themselves with recalled products, and if such products are encountered during inspections, they are promptly removed from the market.
- b. Furthermore, inspectors have been trained to perform internet inspections on economic operators’ websites and on social media and if recalled products are seen being sold, steps are taken to remove these products from the market. Various training sessions related to the field were undertaken in 2018 and 2019, including Internal Systems and Procedures, Evidence Generation and Maintenance, Inspecting Difficult Operators, Developments and Implications Affecting Regulators Artificial Intelligence, Digital Marketing and E-Enforcement and Enhancing Capacity for e-Enforcement – Targeted training for the MCCA employees in collaboration with the e-Enforcement Academy of the EU Consumer Protection Cooperation Network.
- c. A weekly information package is sent to economic operators with information about recalled products, based on the type of products they sell. For instance, toys notifications are sent to the importers and distributors of toys. This is also supplemented by articles on social media and other platforms informing the public on the recalls. The TRD updates the mailing list on a regular basis with information about economic operators once they become aware of any changes.
- d. Product safety-related information related to recalls and withdrawal of unsafe products is prominently publicised on the website and social media pages of MCCA. Moreover, the dissemination of information about unsafe products will be supplemented by the online newsletter subscription feature to further minimise the risk identified above. 14 product safety-related notifications were uploaded in 2018 and 2019, whilst approximately 102 RAPEX notifications were shared on MCCA’s social media pages. Some of the product-safety and RAPEX notifications are also featured by media houses and news portals.
- e. The number of toys recalled in 2018 and 2019 was seven and 13 respectively, whilst the number of childcare articles recalled was one and three respectively. The number of pesticides removed from availability on the market in 2018 and 2019 was 15 and 98 respectively. The table below refers to the total number of inspections and recalls carried out in 2018 and 2019.

**Table 5: Number of inspections and recalls**

	<b>2018</b>	<b>2019</b>
Total inspections carried out	396	307
Alerts issued for products found on the market by MSD and recalled and/or withdrawn	22	26
Products recalled by MSD following recalls by other Member States	28	20

***MSD is to redesign more comprehensive inspection forms for better guidance to officials carrying out inspections related to Children’s Products***

*MSD is to consider redesigning inspection forms to provide more effective guidance to officials carrying out inspections related to Children’s Products. Inspection forms are to be more comprehensive and list the relevant harmonised standards.*

**Developments: Fully Implemented**

- a. In line with the Coordination of Government Inspections Act,<sup>9</sup> the TRD is the primary inspectorate for toy shops. A new form has been designed for toy shop inspections. Meanwhile, forms TRD902 – Toys Inspections Form and TRD909 – General Inspection Form have been revised and improved. TRD902 – Toys Inspections Forms was initially revised and improved in October 2019 and revised again in May 2020 as part of the continual improvement process of the entity. The latest revision of TRD909 – General Inspection Form has also been issued in May 2020. The inspectors have been trained to use the inspection forms in the IT system for coordinated inspections, in line with the direction of the ICO.
- b. Based on the analysis of information collected during the initial inspection, MCCA A may conduct a follow-up inspection, which will consist of more comprehensive checks.

***MSD is to link training with licensing-related obligations, in an attempt to increase training participation by economic operators***

*MSD is to consider linking training with licensing-related obligations, as is the case for PPPs. Whilst acknowledging the Directorate’s efforts to organise training in relation to the safety of Children’s Products, economic operators’ participation is still very low.*

**Developments: Not Implemented**

- a. MCCA A stated that as per Articles 38 and 39 of the Product Safety Act,<sup>10</sup> there is no legal power to impose licensing obligations on economic operators with respect to Children’s Products. Nonetheless, the Authority is encouraged to consider updating current legislative provisions to make training to economic operators a prerequisite to licensing.

***MSD is to minimize the lead-time between the collection of agricultural produce for Maximum Residue Levels (MRL) testing to the receipt of results, to facilitate a timelier and more effective action by the Competent Entities***

*MSD is to ensure that the lead-time between the collection of agricultural produce for MRL testing to the receipt of results from the accredited Laboratory is minimised. The more expedient availability of test results would facilitate timelier and more effective action by the Competent Entities.*

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<sup>9</sup> Cap.568 of the Laws of Malta.

<sup>10</sup> Cap.427 of the Laws of Malta.

**Developments: Significant Progress**

- a. MCCA stated that it strives to ensure that the lead-time between commodity collection in line with the provisions of Regulation (EC) No 396/2005 and result availability supports a timelier and more effective action where applicable. MCCA contended that in view of the availability of overseas accredited laboratories and logistical availability for local analysis of sample commodities, such samples are required to be shipped to approved laboratories in line with the same legislative provisions. Internal procedures and technical specification requirements for such laboratories support timelier measures.
- b. The average lead-times between the collection of agricultural produce for MRL testing to the receipt of results from the accredited laboratory has decreased by 47.4 per cent from 2018 to 2019 as follows:

**Table 6: Average lead-times between the collection of produce and receipt of results**

Year of reference	Average lead time [days]	Dates of reference for calculation of lead time
2017 <sup>11</sup>	75.3	Date of sampling to date of testing
2018	63.3	Date of sampling to date of result receipt
2019	33.3	Date of sampling to date of result receipt

Average lead-times to support ‘sample collection to laboratory submission’ and ‘laboratory submission to result receipt’ are as follows:

**Table 7: Average lead-times between sample collection to laboratory submission and laboratory submission to receipt of results**

Year	Average ‘sample collection to laboratory submission’ [days]	Average ‘laboratory submission to result receipt’ [days]
2017 <sup>12</sup>	-	-
2018	12.4	52.9
2019	21.8	11.5

***The Directorate is to increase MRLs testing with a broader range of agricultural produce as indicated at a European level, to reflect local consumption patterns and statistical representativeness***

*The Directorate is to consider increasing Maximum Residue Values (MRL) exceedance testing, to include a broader range of agricultural produce than that indicated at a European level. This will ensure that such testing more readily reflects local consumption patterns and ascertains a higher degree of statistical representativeness.*

<sup>11</sup> The average lead time for year 2017 was calculated from date of sampling to date of testing, rather than to date of result receipt due to the unavailability of date of receipt of results.

<sup>12</sup> For 2017, data recording did not capture timelines to support the above average calculations.

### Developments: *Partly Implemented*

- a. MCCA stated that the Multi Annual National Plan for Residue Monitoring has been revised to include changes that are additional to the regulatory provisions indicated at EU level by means of annual implementing regulations. The revised national plan includes extended sampling with regards to commodities that were found to exceed MRLs in the previous year. The plan also takes into consideration potential risk areas and other countries' monitoring schemes. In addition, the selection of commodities supports the evaluation of local production and import patterns to support local patterns. MCCA also stated that the Multi Annual National Plan for Residue Monitoring is revised annually, in line with the provisions of Regulation (EC) No 396/2005 as implemented through S.L. 430.02 of the Laws of Malta. The plan was revised last year, in line with the provisions of the referenced regulation.
- b. Within this context, MCCA tested the following commodities during 2018 and 2019, as per table below:

**Table 8: Commodities tested by MCCA during 2018 and 2019**

Year	Commodities
2018	Aubergines, baby food, banana, bovine fat, broccoli, chicken eggs, grapefruit, grapes, melon, mushrooms, olive oil, sweet peppers, wheat, peaches, potatoes, strawberries and tomatoes.
2019	Apples, food for infants and young children, barley grain, beans, cabbage, lettuce, melons, cow's milk, oat grain, oranges, peaches, pears, potatoes, rice, spinaches, strawberries, swine fat, tomatoes, wine, grapes.

***MSD is to change practices whereby MSD officials deliver samples of agricultural produce for MRL testing, and to evaluate the options available in terms of sample preservation, legal implications and cost-effectiveness***

*MSD is to seek alternatives to current practices whereby MSD officials personally deliver samples of agricultural produce for MRL testing. The Directorate is encouraged to carry out a thorough evaluation of the options available in terms of sample preservation, legal implications and cost-effectiveness.*

### Developments: *Significant Progress*

- a. In the past three years, MCCA officials have delivered samples for MRL testing abroad 15 times. The total cost of these deliveries has been €8,527.30 since January 2017.
- b. MCCA stated that options available to support timeliness and effective commodity sample transit have been evaluated. Two runs on dry commodities have been conducted using an export courier service to deliver dry commodities for MRL testing. Furthermore, an analysis of packaging materials with regard to their temperature control capabilities and sample preservations has been conducted, to support the ongoing evaluation related to frozen state commodities. An indicative internal target date for completion of the thorough evaluation has been set to Q4 of 2020.

## Conclusions

This follow-up audit acknowledges that MCCA has made good strides forward in its quest to further product safety. This is evidenced by the 13 out of 14 recommendations whereby the authority has taken concrete action towards their implementation. Indeed, three of the NAO's recommendations have been fully implemented. MCCA's action can be categorised in four main areas: administrative capacity, consumer and stakeholder awareness, coordination and cooperation with other governmental entities and operational.

MCCA has improved its administrative capacity by providing training on a range of areas related to product safety. This has been supported by initiatives to raise stakeholder and consumer awareness on product safety. In part, this entailed providing information on new legislative requirements - some of which relate to EU obligations as well as providing training - such as in the use of pesticides - to stakeholders. MCCA has also significantly strengthened mechanisms to ensure better cooperation and coordination with national and EU entities. These will lessen the cost of compliance of wholesalers and retailers as well as ensure a more streamlined regulatory function.

Operationally, MCCA is increasingly employing risk analysis to enable it to be in a better position to target problem areas through its inspectorate regime while optimising available resources. Despite the improvements, some operational problems prevail. A case in point relates to the testing of pesticide residue on agricultural produce. The Authority has piloted initiatives to ensure cost-effectiveness of such testing. Despite the improvement registered the issue of a prolonged lead-time to receive MRL results persist. To date, there are no such facilities in Malta and consequently, the Authority has to send or hand deliver samples of agricultural produce abroad and await results to be communicated. The prolonged lead-time does not ensure that non-compliant produce is removed from the market in time to avoid consumption by consumers.

## 2019-2020 (to date) Reports issued by NAO

### NAO Work and Activities Report

April 2020 Annual Report and Financial Statements 2019

### NAO Audit Reports

November 2019 Report by the Auditor General on the Workings of Local Government 2018

November 2019 Performance Audit: An analysis of issues concerning the Cooperative Movement in Malta

December 2019 Report by the Auditor General on the Public Accounts 2018

December 2019 An investigation of contracts awarded by the Ministry for Home Affairs and National Security to Infinite Fusion Technologies Ltd

January 2020 Performance Audit: Community Care for Older Persons

February 2020 Performance Audit: Assessing the Public Transport Contract and Transport Malta's visibility on the service

March 2020 Information Technology Audit: ICT across Local Councils

March 2020 The disposal of the site formerly occupied by the Institute of Tourism Studies

April 2020 A review of the ethical framework guiding public employees

April 2020 Addendum Investigation: The Mater Dei Hospital Project

May 2020 Performance Audit: Tackling Child Abuse

May 2020 Annual Report and Financial Statements 2019

June 2020 Follow-up Reports 2020 Volume I

June 2020 Performance Audit: A Follow-Up on the 2016 Analysis on OHS's Operations- A Case Study on the Construction Industry

July 2020 An audit of matters relating to the concession awarded to Vitals Global Healthcare by Government Part 1- A review of the tender process.

July 2020 An audit of matters relating to the concession awarded to Vitals Global Healthcare by Government Part 1 | A review of the tender process- Addendum