National Audit Office
MALTA

Performance Audit

Provision of residential long-term care (LTC) for the elderly through contractual arrangements with the private sector

Report by the Auditor General

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List of Abbreviations

DfE	Department for the Elderly
EAR	Effective Annual Rate
EoI	Expression of Interest
EU	European Union
HDU	High Dependency Unit
KGRH	Karin Grech Rehabilitation Hospital
LTC	Long-Term Care
MDH	Mater Dei Hospital
NAO	National Audit Office
PPPs	Public Private Partnerships
pppn	per person per night
SVPR	St. Vincent De Paule Residence
VAT	Value Added Tax

Executive summary

Executive summary

Introduction

1. The National Audit Office (NAO) has conducted the performance audit: "Provision of residential long-term care (LTC) for the elderly through contractual arrangements with the private sector". The main focus of this review was the provision of care through Public Private Partnerships (PPPs) and the procurement of services available at residential homes run by the private or Church[1] sectors – also known as the '*Buying of Beds*' scheme. To this end, this performance audit analysed the extent to which services related to residential LTC for the elderly provided through contractual arrangements with the private sector and the Archdiocese of Malta constituted favourable terms for the contracting authority – the Department for the Elderly (DfE). Consequently, the audit's objectives sought to determine the degree to which:

   i. the appropriate policies and strategies are in place to address the prevailing demand pressures for LTC beds;

   ii. the appropriate mechanisms were in place to ascertain the effectiveness of the procurement process;

   iii. the projects resulted in good value for money and the desired outcomes with respect to both the construction and daily operational elements.

2. The findings and conclusions presented in this Report are based on a comprehensive review of agreements and their implementation regarding the Mellieħa, Żejtun, Roseville and Casa Leone Homes. Unless otherwise indicated, findings and conclusions reflect the situation as at end 2013. For the purpose of this review, this audit considered contracts, which were in force as at this date even though the relative agreements had been entered into in previous years.

Disequilibrium between the demand and supply of residential LTC for the Elderly

3. Despite efforts to increase the availability of LTC beds, there still exists disequilibrium between the demand and supply for such services. The historical predominance of providing LTC through residential homes for the elderly and changing demographics brought about by an ageing population are the two main variables affecting the demand for such services. Over time, various care services for the elderly were introduced and delivered through the community, but these were insufficient in terms of reach, accessibility and coordination to ease the demand on residential care.

[1] Throughout this Report, "Church" refers to elderly homes pertaining to the Archdiocese of Malta that are providing LTC services.

4. The supply of government-financed homes is dependent on available resources as well as the propagation and nurturing of an environment where national authorities can provide residential care for the elderly through collaborative agreements with the private sector. The number of government-financed LTC beds has increased significantly in recent years. However, this rate of increase is still not sufficient to address prevailing and future demand pressures, as can be evidenced by the number of persons registered on waiting lists as well as the number of patients awaiting transfer to care homes for the elderly from Mater Dei Hospital (MDH) and Karin Grech Rehabilitation Hospital (KGRH). While acknowledging the social benefits derived, these initiatives predominantly materialised as a short to medium term response to demand pressures and in an environment where national policy on LTC for the elderly is still developing. The existing policy and regulatory gaps, to varying degrees, are contributing to the continuous stream of additional LTC beds, which goes against trends being experienced by other European Union (EU) countries.

Procuring residential LTC services for the Elderly

5. Bridging the gap between the demand and supply for residential LTC beds for the elderly entailed, that over a number of years, the DfE supplemented the supply of beds through new agreements that constituted various levels of partnerships with third parties. PPPs entrusted third parties with the management and operations of government-owned LTC homes whereas the '*Buying of Beds*' scheme related to the procurement of accommodation and the related caring and nursing services in privately-owned homes.

6. Faced with chronic demand pressures, on many occasions the DfE deviated from guidelines issued by the Ministry for Finance, which recommended that procurement initiatives, including PPPs, were to be fully supported by the relative business cases. Consequently, through the insufficient documentation of business cases, the DfE forfeited the opportunity to clearly illustrate the need, costs, outputs and outcomes of individual projects – factors that are deemed an integral part of the investment decision-making process. To this end, the Department contended that the lack of committed funds hampered its procurement planning, which included the formal documentation of comprehensive project specific business cases. Consequently, in order to deal with prevailing demand pressures, the DfE was constrained to conduct procurement negotiations with the few contractors available who could provide the required services within tight timeframes.

7. This performance audit reviewed six circumstances where the DfE invoked the provisions of the Public Procurement Regulations to utilise direct negotiated procedures with third parties to procure residential LTC services, generally citing urgency to deal with prevailing demand pressures. The following refers:

   i. Two cases related to the Żejtun Home extensions in 2003 and 2013 concerning the increase of this Home's capacity by a minimum of 80 beds and 37 beds respectively, where the latter also included the establishment of a High Dependency Unit (HDU). The relevant approvals for proceeding with these procurement initiatives through the direct negotiated procedure emanated through a Cabinet Memo and the Department of Contracts respectively.

   ii. The direct negotiated procedures provisions were also invoked twice with respect to increasing the Mellieħa Home's capacity by additional 24 and 26 beds in 2011 and 2013 respectively. It is to be noted that discussions between the DfE and the operator regarding the 24-bed increase in this Home's capacity commenced during the building of the Home, a few weeks after the signing of the contract in April 2007. These circumstances raise concerns as to why such matters were

not dealt with during the tendering process. Documentation available suggests that in both cases the Department of Contracts granted the relevant approvals belatedly.

iii. Direct negotiated procedures were also employed to procure 80 beds from Roseville Home following an Expression of Interest (EoI) to provide residential LTC services. The Department of Contracts granted the mandatory approvals in terms of the Procurement Regulations. In this case, an EoI was issued to expedite the procurement process. However, it is to be noted that the Procurement Regulations do not make any reference to basing procurement initiatives on EoIs. In such circumstances, although an EoI has been issued, procurement is still deemed to have been undertaken through direct negotiated procedures.

iv. The provisions relating to direct negotiated procedures were also employed in Agreements for the procurement of a minimum of 40 residential LTC beds from the Archdiocese of Malta in November 2011 which was later extended to a minimum of 60 beds a year after, including 26 beds at Casa Leone Home. Documentation made available to the NAO shows that the relevant approval to proceed with the procurement of these services was tacitly granted by the Ministry for Health, the Elderly and Community Care when the operator's requirements to deposit a bank guarantee were waived.

8. Awarding contracts through direct negotiated procedures may stifle the competitive element encouraged by the tendering process to the detriment of more favourable pricing as well as innovative and qualitative service delivery. Competiveness was also potentially affected as a result of the respective agreements, through which, over a number of years, a major supplier - Care Malta Group Limited, became the operator responsible for the management and service delivery of around three quarters of all the residential LTC beds under the PPP arrangements and the '*Buying of Beds*' scheme. To varying degrees, this situation potentially influences the contractor's relationship and negotiating position with the DfE as well as increases the risks associated with a major supplier potentially exiting the industry.

Service Delivery through PPP and '*Buying of Beds*' contracts

9. A major aim of collaboration between governmental entities and the private sector relates to service delivery improvements. This performance audit established that while residents still received qualitative services within the four homes under review - particularly in areas such as caring and nursing – a number of limiting factors are, to varying degrees, prohibiting the DfE from maximizing its return in terms of service delivery as follows:

i. National standards of services to be provided in LTC residences for the elderly are still in the process of compilation. Their absence leads to administrative and operational vacuum, which in turn prohibits robust enforcement of services provided in residential homes by the DfE and other national competent authorities.

ii. Contractual clauses in earlier agreements between the DfE and operators, particularly the Żejtun Home Extension (2003), do not always clearly specify the contractor's obligations. Such circumstances particularly manifest themselves in the provision of caring and nursing services since the relevant clauses only define the level of service to be provided in generic and subjective terms. In part, over time, this situation has been mitigated through better defined and the

development of more comprehensive contractual clauses. However, the scenario relating to the Żejtun Home discussed herein prevails since this agreement remains valid for a further 13 years.

iii. Site inspections carried out through DfE and NAO initiatives has shown that generally operators have delivered hotel services in accordance with contractual obligations.

iv. Such inspections, however, have shown, that to varying degrees operators may not be providing the level of caring and nursing services stipulated in the respective contracts. Due to the absence of the relative national standards and unclearly defined contractual clauses, the level of caring and nursing provided could not be categorically determined and had to be estimated by drawing on a number of approaches.

v. The DfE established the Audit and Management Team to ascertain that the delivery of services by home operators matches contractual terms and conditions. This Team, has solidly laid the foundations for effective monitoring of services. However, it is unlikely that this Team can increase its scope of work unless its human resource component is substantially augmented.

Financing of Capital Element

10. The Żejtun and Mellieħa elderly Homes PPP contracts incorporated the construction and operational elements of the Homes into the daily rates charged by the Contractor to the Government over the 25-year validity of these Agreements. A significant proportion of the chargeable daily fee relates to the financing of capital expenditure incurred by the contractor with respect to the construction, refurbishment or extensions of LTC Homes for the Elderly.

11. To this end, these ventures offered alternative project financing opportunities to those usually employed by governmental entities, usually involving Government borrowing, such as through the issue of bonds at varying rates of interests and dates of maturity. It is to be noted that this assessment did not consider any evaluation of possible prevailing opportunity costs at a macro level at the time of the commencement of these projects.

12. The financing approaches chosen to finance the construction and refurbishments works at the Żejtun and Mellieħa Homes proved costlier than if financing was carried out through the traditional approaches adopted by Government. The financing arrangements through the PPP contract for the Żejtun Home resulted in the DfE incurring an estimated effective annual interest rate of around 13 per cent over a twenty-five year period with respect to the €2.33 million of capital works carried out by and financed by the operator. At the time, the Effective Annualized Rate of Government Bond financing was around seven per cent over the same duration.

13. Although not to the same extent, a similar situation materialised with respect to the financing of capital works at the Mellieħa Home. The cost of financing the €7.59 million construction and refurbishment project over the 25-year contract validity period was estimated at an effective annual interest rate of around eight per cent - reflecting prevailing commercial rates. Nevertheless, through this option the DfE forfeited more favourable financing options, when at the time a reasonable discount rate mirroring alternative Government financing was possible at circa five per cent.

Operational costs of residential LTC homes for the elderly

14. Operational costs mainly comprise hotel services as well as the provision of caring and nursing services. However, for a number of reasons, there were considerable differences in operational costs across the four Homes under review since these ranged from €32.97 to €66.66 per person per night (*pppn*) at the Żejtun and Mellieħa Homes respectively. The operational costs of the two Homes pertaining to PPP schemes, namely Żejtun and Mellieħa Homes were derived by deducting the cost of financing capital works from the chargeable daily rate stipulated in the respective contracts. In addition, the resultant balances of this calculation had to take into consideration other costs incurred directly by the DfE, such as rent as well as the provision of caring and nursing services respectively. On the other hand, the operational costs of Roseville and Casa Leone Homes, whose services were procured through the '*Buying of Beds*' scheme are reflected in the daily chargeable rates per person stipulated in the respective contracts.

15. The 47-bed Żejtun Home (HDU), which according to the relative contractual provision was providing a comparable service – including that relating to caring and nursing services - to that offered at Roseville Home under the '*Buying of Beds*' scheme proved to be costlier than the latter.

16. Such a situation materilised since as at August 2013 the daily chargeable rates at the HDU were €44.51 and €55.64 for the semi and high dependent residents accommodated within this Unit. These rates ranged between 23 to 24 per cent higher for semi and high dependants when compared to Roseville Home, a Level 2 residence that during the same period was charging €35.85 and €45.27 for semi and high dependant residents respectively.

17. The weighted average operational cost for the Mellieħa Home, as at August 2013 was estimated at €66.66 per resident per night. This constitutes the highest operational costs when compared to the other residential LTC Homes for the elderly subjected to this performance audit. One of the main elements attributing to such a high cost is the hotel service (catering, cleaning, laundry and other ancillary services). The weighted average cost paid to the private operator to provide these services amounts to €36.72 per resident per night. This amount is more than the €35.85 semi-dependant rates secured under the '*Buying of Beds*' scheme (paragraph 16 refers), which also comprises the provision of caring and nursing services.

18. For analysis purposes, this performance audit distinguished between capital-financing and operational costs. In practice, these two elements are to be reviewed holistically due to the complementary and compensating nature of these cost components.

Overall conclusions

19. This performance audit sought to determine the extent to which the provision of residential LTC for the elderly through contractual arrangements with the private sector alleviated demand pressures and constituted favourable terms.

20. Through varying levels of collaboration with the private sector, the DfE was successful in significantly increasing the supply of government-financed residential LTC beds. Nonetheless, despite the substantial investment in this area, in recent years the increase in the supply of total LTC beds in Malta was not at par with the population growth of persons aged 75 years and over – that is, the category of persons who are most likely to require residential LTC services. This implies that despite the fact that both the private and Church sector registered a marginal increase in their bed capacity, Government through the '*Buying of Beds*' scheme mainly absorbed this increase. Moreover, the provision of LTC services within the Community is insufficient

in terms of reach, accessibility and coordination to ease the demand on residential care.

21. Matters are exacerbated through fragmentation and gaps in the regulatory and policy frameworks. As at the time of drafting this report, the provision of residential LTC services provided directly by governmental entities or third parties could not be effectively regulated since the relative national standards are in the process of development. Similarly, polices regarding the future provision of LTC, including care within the Community, are also under development. Policy gaps and fragmentation are not only seen as prohibiting more accurate projections of future needs, developing new services and enabling more effective coordination of complementary initiatives but are also a limiting factor in encouraging and attracting more private sector investment in increasingly participating in such a critical social dimension.

22. The disequilibrium between the demand and supply of government funded residential LTC services for the elderly as well as policy lacunae has, to varying degrees, resulted in the relevant competent authorities – particularly the DfE – in constantly seeking short-term or immediate solutions to react to prevailing demand pressures. While the benefits of engaging into contractual relationships with the private sector to augment the supply of residential LTC beds are acknowledged, in some cases, there was scope for securing more favourable terms.

23. A case in point relates to the financing of capital works undertaken at Żejtun and Mellieħa Homes through PPP agreements. More favourable financing terms could have been secured through approaches involving Government borrowing, such as through the issue of bonds at varying rates of interests and dates of maturity. The relevance of this observation is sustained even in circumstances where the Mellieħa Home capital-financing agreement is seen to reflect prevailing commercial rates.

24. Opportunities to secure more favourable operational rates were similarly not always fully exploited. This is evidenced by the wide-ranging operational charges incurred at the four Homes comprising the scope of this performance audit. Clearly, this review showed that the DfE managed to agree better operational rates through the '*Buying of Beds*' scheme. There are a number of contributory factors leading to such circumstances. Over time, the number of residential LTC beds in privately owned and managed homes increased substantially, a situation, which implies a higher degree of competition within an ever-expanding market. The increased supply in the private sector has strengthened the DfE's bargaining power, which ultimately translated itself into a situation where the Department could negotiate better rates. On the other hand, the PPP agreements resulted in less favourable operational rates. To a great extent, this is due to a limited number of suppliers in the market – a situation which may have stifled competitive pricing.

25. Furthermore, at the negotiation level, evidence was not available to show the extent to which the agreed charges took cognisance of the fact that business activities were being carried out on government-owned property. These circumstances translate themselves into a situation where Government is not being accredited for having its property being utilised by private operators although it is separately paying interest on the repayment of capital works undertaken on such properties – which at times surpassed commercial rates.

26. The foregoing is not intended to imply that the '*Buying of Beds*' scheme trumps the construct, manage and operate model reflected by PPP approaches. Both have their benefits and disadvantages as well as potential for viable short and long-term solutions, which can be realistically considered in future policy developments.

27. However, the full potential of increasing and extending collaboration with third parties remains dependant on three core factors. Firstly, a robust policy and regulatory framework has to be solidly in place. Secondly, the governmental entities responsible for implementing, nurturing and monitoring collaborative agreements with third parties must have the adequate organizational and administrative structures as well as the capacity in place to enable effective handling of the various complexities involved. Thirdly, such initiatives must comply to sustainability criteria in terms of encouraging further and more diverse private investment in this area.

Recommendations

28. In view of the findings and conclusions emanating from this performance audit, the NAO is proposing a number of recommendations aimed at strengthening the national policy and strategic framework, reengineering the DfE's organizational set-up, ensuring that services procured constitute more favourable terms, and ascertaining that service delivery by home operators are in accordance with agreed specifications.

National Policy and Strategic Framework

i. The recently published 'National Strategic Policy for Active Ageing' is to be complemented with the development of long-term comprehensive national policies and strategies on residential LTC beds for the elderly. This will entail updating the DfE's objectives and admission criteria for residential LTC to reflect more accurately the future needs of an ageing population. To this end, the policy and strategic framework is to clearly distinguish between the roles of residential and nursing homes.

ii. Policy development should also consider the various approaches available, including PPPs and '*Buying of Beds*' procurement models to augment the supply of government-funded LTC beds. These models offer various benefits and limitations in specific circumstances, which can be realistically considered in the policy making process. Critical to this is the propagation and nurturing of a competitive environment that encourages more investment, innovation as well as a wider participation of existing and new players within the industry.

iii. Studies are to be undertaken to review the long-term effect of PPP and '*Buying of Beds*' initiatives. These studies will serve as major policy development inputs whereby the appropriate levels, in terms of sustainability, of market share to be absorbed between government-funded and personally financed LTC beds are determined.

iv. In tandem with the development of the residential national policies and strategies, consideration is to be given to further extending the provision of LTC for the elderly at community level. The extension of services at community level would enable the development of new approaches to deliver LTC care for the elderly and ease the demand pressures on residential care by enabling homes to focus more intensively on higher dependency cases. More importantly, the extension of services within the community would permit elderly persons to remain an integral part of their respective communities for as long a period as possible.

v. As a matter of priority, the competent authorities are to establish national minimum standards for care homes for older people. These standards are a critical requirement of a robust regulatory framework and effective enforcement. Moreover, these standards constitute an important tool that facilitates and renders more effective the licensing function for residential LTC homes for the elderly.

The DfE's Organizational set-up

vi. The DfE's organizational set-up is reengineered to cater for the complexities of delivering LTC services, including through various level of partnerships with third parties. Such an organizational set-up is to be capable of identifying and addressing demand pressures in a timely and cost-effective manner. This will entail selecting the most favourable approaches to deal with prevailing and long-term demand pressures, implementing ensuing projects as well as actively monitoring and engaging with operators to ascertain that service delivery is in accordance with contractual provisions.

vii. Further to the comments in the preceding paragraph, monitoring initiatives of residential LTC homes for the elderly are to be increased. While acknowledging the work of the Audit and Management Team within the DfE, it is unlikely that the scope and depth of monitoring activities will increase unless the resources available to this Unit are substantially augmented. Investment in the monitoring function is seen as sustaining the contracting authority and home operators' relationship as well as ascertaining that the level of services provided are in accordance with contractual provisions.

Procurement of residential LTC services

viii. The importance of compiling formal and comprehensive business cases prior to procurement and investment initiatives cannot be overemphasized since this constitutes an integral part of the decision making process as well as enhances audit trails and consequently transparency and accountability. The drawing up of business cases enables the evaluation of alternative investment options, confirms the extent to which the proposed initiatives adhere with agreed strategies and fulfills business and service requirements.

ix. When evaluating investment options particularly with respect to PPP initiatives, for business case purposes, particular consideration is to be given to the extent to which the overall chargeable rate is to be influenced by the potential of rent due to Government since business activities are being undertaken by third parties on government-owned property.

x. The procurement management process of residential LTC homes for the elderly is to be strengthened. To this end, due consideration is to be given to demand forecasts and lead times associated with major procurement initiatives, as well as securing the relative funding commitments. The enhancement of procurement business processes will minimize the need for resorting to direct negotiated procedures with contractors under the premise that residential LTC beds are urgently required. The better management of the procurement process should also provide the competent authorities the opportunity to evaluate business options available and exploit competitiveness arising through tendering when embarking on major projects.

xi. The strengthening of the management of the procurement process also necessitates that all mandatory approvals are sought and granted prior to agreements between governmental entities and contractors are reached. Moreover, mandatory procurement related approvals, as referred to in the Public Procurement Regulations (2010), should not follow the commencement of works or the admission of residents in the respective Homes.

xii. Contractual agreements are to be signed before the start date of their validity. This approach constitutes good business practice since it precludes exposing the contracting authority to avoidable risks associated with post-dated contracts.

xiii. A clear distinction is to be made between the capital-financing and operational components included in the daily chargeable rate per unit in cases of PPP initiatives. This approach enhances the availability of clear information on the various components making up the overall chargeable rate. In the more complex cases, it may be necessary to draw up separate contracts to deal with capital-financing and operational matters. The clear distinction between these cost components enhances transparency as well as the monitoring and evaluation of contract implementation.

Service delivery

xiv. In cases where contract breaches result, the contracting authority is to deal expediently with the matter and, if deemed appropriate, invoke the penalty clauses in accordance with contract provisions.

xv. Contractual clauses are to be strengthened to enable governmental entities to categorically monitor and determine that Home operators deliver services, particularly caring and nursing services, in accordance with agreed quality, quantity and frequency specifications. Such opportunities may present themselves in cases where contracts are being renewed or Addendums are being drawn up for the purpose of introducing new services or establishing new chargeable rates.

xvi. Furthermore, the strengthening of contractual provisions is required in agreements relating to homes where the mix between private and government-funded LTC services precludes conclusive assessment of service provision - a situation that has specific implications with regards to caring and nursing services. To this end, governmental entities, including Homes' Licensing Authority, are to be afforded full information on the deployment of carers and nurses between Government and privately financed LTC beds as well as a declaration of the number of residents and their respective dependency levels.

Chapter 1
Introduction

Chapter 1 – Introduction

1.1 Introduction

1.1.1 The National Audit Office (NAO) has conducted the performance audit: "Provision of residential long-term care (LTC) for the elderly through contractual arrangements with the private sector". This performance audit sought to determine the extent to which the provision of these services through collaboration between Government and the private or Church sector is alleviating demand pressures in the provision of LTC for the elderly. To this end, the focus of this review was on the provision of care through Public Private Partnerships (PPPs) and the procurement of services available at residential homes run by the private or Church[2] sectors – also known as the '*Buying of Beds*' scheme. Residential LTC for the elderly is mainly funded through a 60 or 80 per cent pension contribution from residents – the latter rate if residing at St. Vincent De Paul Residence (SVPR). This amount is supplemented through funds voted in the national budget.

1.1.2 This review was mainly concerned with the situation as at end 2013. For the purpose of this review, this audit considered contracts, which were in force as at this date even though the relative agreements had been entered into in previous years.

1.2 Audit aims and objectives

1.2.1 This performance audit analysed the extent to which services related to residential care for the elderly provided through contractual arrangements with the private sector and the Archdiocese of Malta reflect good value for money. Consequently, the audit's objectives sought to determine the degree to which:

i. the appropriate policies and strategies are in place to address the prevailing demand pressures for LTC beds;

ii. the appropriate mechanisms were in place to ascertain the effectiveness of the procurement process; and

iii. the projects resulted in good value for money and the desired outcomes, with respect to both the construction and daily operational elements.

[2] Throughout this Report, "Church" refers to elderly homes pertaining to the Archdiocese of Malta that are providing LTC services.

1.3 Audit methodology

1.3.1 The contractual arrangements entered into with the private sector are mainly classified into two types – those where government-owned homes are managed and operated by the private sector and other private and/or Church homes where the Department for the Elderly (DfE) entered into an agreement for the procurement of residential LTC beds for the elderly.

1.3.2 This audit was mainly concerned with the provision of residential LTC in 2013 in four elderly homes. Two of these Homes are government-owned and are being managed by the private sector, namely '*Dar il-Madonna tal-Mellieħa*' (henceforth referred to as '*Mellieħa Home*') and Żejtun Home. In addition, the review also comprised a private and a Church home, namely Roseville and Casa Leone Homes, where Government entered into agreements for the procurement of residential LTC beds for the elderly. The Homes featuring in the NAO sample were chosen since they were deemed to represent the main approaches adopted by Government and which entail significant third party collaboration.

1.3.3 The NAO reviewed various documentation, including the relative agreements and operational records related to the four sampled Homes. All documentation utilised in this audit was generally accessed through the DfE. For the purpose of this audit, the NAO considered the contracts that were in force during August 2013.

1.3.4 The NAO carried out various visits and inspections at the four elderly Homes under review. All of these visits were undertaken with the collaboration of the Audit and Management Team within the DfE. These visits enabled the NAO to conduct interviews with the respective home's management, to verify operational documentation related to the implementation of contracts and to obtain first hand information related to the running of these four Homes.

1.3.5 Through this audit, the NAO also sought to determine the costs incurred by each of the elderly Home under review. The determination and ensuing analysis of costs were classified into the construction and operational elements. With respect to costs related to the construction element at the Żejtun and Mellieħa Homes, the NAO utilised various project appraisal techniques to determine the extent to which the relevant financing agreements constituted good value for money. Additionally, a cost comparison exercise of the operational costs between the various elderly homes was also undertaken. The latter exercise enabled a detailed evaluation of the operational cost incurred in each of the four Homes under review. To this end, the cost comparison exercise highlighted cost and service provision variances.

1.4 Report structure

1.4.1 Following this introductory Chapter, the Report proceeds to discuss the following:

i. Chapters 2 outlines how an ageing population, together with long-term policy and strategy lacunae with regards the provision of LTC is creating a disequilibrium between the demand and supply of government-financed residential homes for the elderly.

ii. Chapter 3 discusses the mechanisms and processes leading to the contractual agreements with the private sector. Towards this end, the Chapter evaluates the degree to which the agreements reflect predetermined objectives and that the relative contracts appropriately safeguard Government's interests.

iii. Chapter 4 evaluates the contracts' compliance levels with respect to the delivery of services in the homes under review. For this purpose, the discussion outlines the degree to which services were delivered to the appropriate quality and time

standards. The Chapter also discusses the mechanisms in place to enable the DfE to appropriately monitor the implementation of the relevant contracts.

iv. Chapter 5 discusses the financing of the construction and refurbishment projects at the Żejtun and Mellieħa Homes. To this end, the Chapter discusses the extent to which the financing approaches adopted constitute cost-effectiveness.

v. Chapter 6 evaluates the operational costs incurred in the provision of residential LTC for the elderly in the homes under review. The discussion therein comprises a comparison of costs as well as analysis of the resultant cost variances.

1.4.2 The overall conclusions drawn and recommendations emanating from this performance audit are included in this Report's Executive Summary from page 8 to 16.

Chapter 2
Disequilibrium between the demand and supply of residential LTC for the elderly

Chapter 2 – Disequilibrium between the demand and supply of residential LTC for the elderly

2.1 Introduction

2.1.1 An ageing population together with community care for the elderly, which is limited in scope and coverage, continue to create demand pressures on government-financed LTC for the elderly. To date, Government has no formal documented policy regarding the provision of residential care for the elderly. Current practices aim to mitigate demand pressures arising from an increasing ageing population through increasing the supply of beds through various approaches, which include varying degrees of collaboration with the private sector and the Archdiocese of Malta (Church). Policy and long-term strategy gaps imply that residential care remains the predominant approach in the provision of LTC for the elderly.

2.1.2 This Chapter outlines the status of policy development relating to the provision of LTC for the elderly, taking into consideration the consultative document entitled '*National Strategic Policy for Active Ageing 2014 – 2020*'. This Section also comprises a discussion on recent studies undertaken by Government to serve as policy inputs in the provision of LTC. The Chapter then proceeds to evaluate the effects on demand for residential LTC in terms of Malta's ageing population and the relative waiting lists for admission in an elderly home. The discussion then outlines the forecasted provision of government-financed LTC beds in the coming years, and how the current disequilibrium in the supply and demand for residential care is creating additional pressures at Mater Dei Hospital (MDH) and Karin Grech Rehabilitation Hospital (KGRH). An overview of the supply approaches, which have been utilised in recent years to increase the capacity of government-financed LTC beds is then provided.

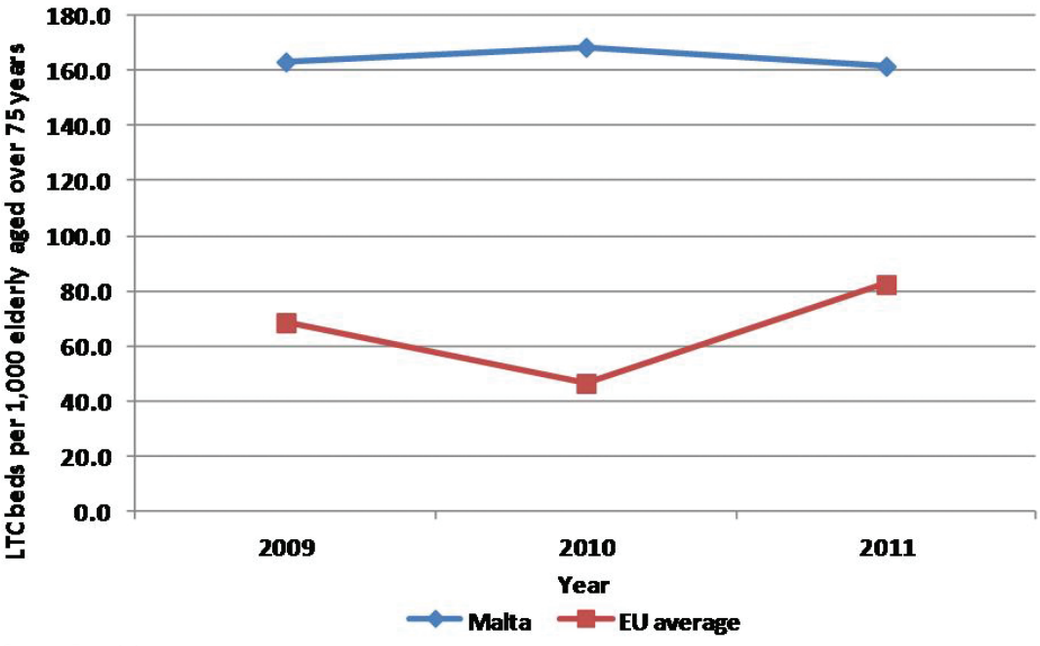
2.2 Compared to other EU countries, studies show that Malta has a high elderly residential bed per capita

2.2.1 Despite, the continuous demand pressures, Malta has a high elderly residential bed per capita when compared to other European Union (EU) countries. A study prepared in June 2008 by the DfE entitled '*Care for Older People – A long-term view*' showed that Malta had a high number of LTC beds when compared to other EU countries. In 1995, Malta had approximately 43 LTC beds per 1,000-population aged 65 years and over. This contrasts with other EU countries like Denmark and UK, which had 35 and 23.5 LTC beds respectively around that time. By 2003, the number of LTC beds in Malta rose to 3,085, and the approximate ratio of beds to 1,000 population aged 65 years and over rose to 55 LTC beds.

2.2.2 This state of affairs is collaborated by recent statistics published by EUROSTAT. These statistics show that between 2009 and 2011, the number of residential LTC beds per 1,000 elderly over 75 years in Malta declined by one per cent, from 163.4 beds to

161.8 beds. During 2011, Malta had the second highest LTC beds per 1,000 elderly over 75 years within the EU.[3] For the scope of this audit, NAO data comparison is based on the number of persons aged 75 years and over since these constitute the majority of elderly currently living in residential LTC homes for the elderly.[4] Chart 1 refers.

Chart 1 : Number of LTC beds per 1,000 elderly over 75 years



Source: Eurostat.

2.2.3 Chart 1 shows that, in 2011, the EU-average stood at 82.4 beds, registering an increase of 20 per cent per cent during the period from 2009 to 2011. An important variable contributing to Malta's relatively high residential beds to population ratio is that residential LTC remains the predominant approach in the delivery of such services. Currently national authorities are still in the process of developing a policy framework, which takes into consideration changing demographics and the latest approaches in the provision of LTC for the elderly.

2.3 A long-term and comprehensive residential LTC beds for the elderly strategy is still in the development process

2.3.1 Up to the time of drafting this Report, the DfE was not guided by long-term and comprehensive national policies and strategies on residential LTC beds for the Elderly. As referred to earlier, various government commissioned studies projected the future demand for LTC beds. However, these projections were based on the consideration that prevailing practices and approaches in the delivery of care for the elderly persist in future years. In this context, for example, these projections do not take into account the effect on LTC bed demand if community care services for the elderly are extended in reach and scope.

2.3.2 A milestone has recently been reached in the development of the national strategic framework for the elderly with the formal adoption of the '*National Strategic Policy for Active Ageing – Malta 2014 – 2020*'. This policy provides the foundations and consequently, the opportunity for the further development of national strategies

[3] EU-28 countries excluding Greece, Cyprus, Luxembourg, Portugal and Slovenia since data for these five countries was not available.

[4] Source: *Task Force on Programming and Planning Sustainable Institutional and Community Developments to Address Changing Demographic Associated Requirements,* pg. 12, February 2012.

concerning LTC for the elderly. The recent public consultation related to the national minimum standards for care homes for older people marks another important phase in the development of the national strategic framework. However, until such time that the national standards are in place, enforcing the qualitative levels of residential LTC is rendered a more difficult endeavor.

2.3.3 However, currently national strategies and policies outlining long-term objectives and goals with regards LTC for the Elderly can, at best, be described as fragmented. In this context, this performance audit has come across various documentation, which can be interpreted as outlining national strategies and polices such as cabinet memos and budget speeches. Nevertheless, to date, a single document which comprehensively highlights the national objectives related to the provision of government-funded LTC for the elderly has not been compiled. Additionally, the limited documentation available referred to previously is subject to significant strategic and policy lacunae.

2.3.4 Officially approved polices and strategies, which clearly distinguish the future roles and development of both nursing and residential homes are not yet in place. Such references in national strategies and polices are critical to enable a more robust regulatory framework, which includes the licensing of homes and the relative enforcement function, to be in place.

2.3.5 Similarly, although its benefits have been acknowledged in various government commissioned studies, the future role of community care has not yet been comprehensively reviewed to enable this concept to feature clearly in national policies and strategies. To this end, policy direction intended to harmonise and extend existing LTC for the elderly through community-based services is still to be developed.

2.3.6 The lack of a comprehensive national strategic framework also affected the compilation of business cases intended to secure the relevant administrative approvals and financing of individual LTC projects. In this context, when compiled, business cases primarily portrayed the short and medium term outputs rather than highlighted the extent to which project outcomes compare to Government's predetermined long-term vision. This issue is discussed in detail in the next Chapter.

2.3.7 Nevertheless, over time, various initiatives and projects related to the provision of LTC for the elderly were undertaken. These included an increase in the number of government-financed, private and Church residential LTC beds. Despite their contribution towards improving the quality, reach and accessibility of care for the elderly, the current policy and strategic as well as the regulatory framework in place do not fully support the implementation of these initiatives. This scenario materialises since the development of a holistic and integrated policy framework for the elderly sector is still in its early stages.

2.3.8 As outlined earlier within this Section, currently, national legislation, policies and strategic frameworks do not fully define Government's medium to long-term overarching objectives and outcomes with regards to care for the elderly. Although various studies have been conducted in this area, their main objectives related to projecting future demand for LTC beds. These projections are generally based on the consideration that current care practices and approaches prevail in future years. The chronic demand for LTC beds was again emphasised through an Expression of Interest (EoI) issued in 2013 for the supply of 300 LTC beds annually through private sector and other interested suppliers.[5]

[5] Source: Press Release PR1575 / 2013.

2.3.9 Various studies, however, conclude that policies need to be developed to integrate and extend further care for the elderly within the community to ease demand pressures for residential care as well as to enable the implementation of the principles outlined in the consultative document entitled '*National Strategic Policy for Active Ageing: Malta 2014 – 2020*'.[6] The studies point out that it is imperative that Malta adopts new approaches to deliver LTC for the elderly, thus decreasing the prevailing reliance on residential care. The reports conclude that although a continuous stream of additional LTC beds will continue to be required, the strategic focus should be on expanding community services.[7] To this effect, further development of community care whereby carers provide home care to persons with low levels of dependency will be required.[8]

2.3.10 The studies referred to in the preceding paragraph show that national authorities acknowledge that prevailing practices relating to residential care for the elderly would continue to further stress national resources in light of an ageing population and the ever-increasing public expectations of easier access to qualitative care for the elderly.

2.4 An ageing population critically impinges on the demand for LTC beds

Projections reveal that by 2060, the number of persons aged 75 years and over will constitute 16 per cent of the Maltese population

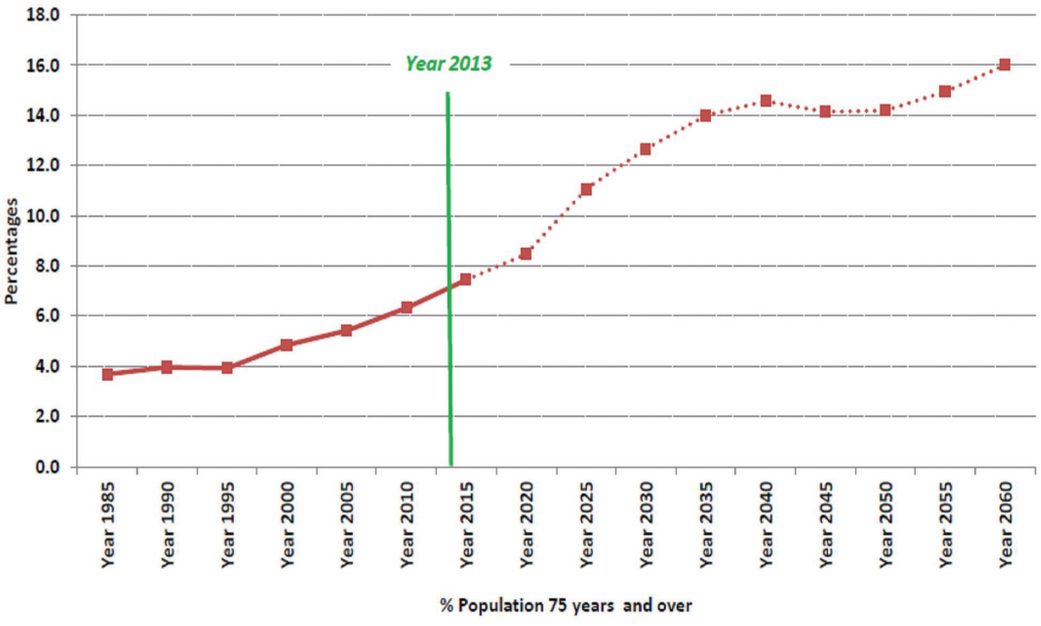
2.4.1 In addition to the demand pressures arising from the predominance of residential LTC, the demographic changes in Malta associated with an ageing population have been evident over a number of years. Over the period from 1985 to 2013, the number of persons aged 75 years and over increased by 141 per cent from 12,221 to 29,444.

2.4.2 In the coming decades, all EU countries will continue to experience changes in the demographic ageing structure due to a steep increase in the proportion of elderly persons when compared to the total population. This mainly ensues through the consistently low birth rates and higher life expectancy. Consequently, the share of young people, and those within the working age, is expected to register a significant decline in the share of population. The EU28 population is projected to continue to grow older, with the share of the population aged 75 years and over rising from nine per cent in 2013 to 17 per cent in 2060.[9]

2.4.3 The Maltese population is also subject to similar demographic trends. Projections reveal that during the same period the number of persons aged 75 years and over will rise from seven per cent in 2013 to 16 per cent of the total population, in 2060. Chart 2 refers:

[6] The development of the regulatory framework is discussed in further detail in Chapter 4.
[7] '*Care for Older People – A long-term view*', Dr Stephanie Xuereb, Director Elderly Care, pg 11, June 2008.
[8] '*Report of Task Force on Programming and Planning Sustainable Institutional and Community Developments to Address Changing Demographic Associated Requirements*', Office of the Chief Medical officer, Ministry of Health, the Elderly and Community Care, pg 16, February 2012.
[9] Extracted through Eurostat website http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home on 10 July 2014.

Chart 2 : Projected Maltese total elderly population distributions



Source: Eurostat database (July 2014).

2.4.4 Chart 2 clearly highlights that demographic changes brought about by an ageing population have been in evidence for a considerable period. These trends, to an extent, are also manifested through the Government waiting list for admission into LTC residences.

Around 2,000 applicants are awaiting admission to a residential LTC for the elderly

2.4.5 Demand pressures for LTC beds are clearly illustrated by the constantly high number of persons listed on waiting lists for admission in government-financed residential homes. As at end June 2014, there were 2,120 persons included in the waiting list. On average, during recent years, the DfE received over 1,000 applicants annually. However, as at the date indicated, only 564 (27 per cent) have been reviewed for prioritization purposes in accordance with practices established in 2013. Moreover, 30 of the applicants have been included in this waiting list for over ten years. Appendix 1 presents a detailed illustration of waiting list applicants together with their respective prioritization classification as at end June 2014.

The unavailability of residential LTC beds for the elderly is prolonging bed occupancy by patients awaiting transfer from MDH and KGRH

2.4.6 The unavailability of residential beds in care homes for the elderly translates itself into a situation where patients who do not require the specialised services of MDH and KGRH remain at these hospitals. Due to their dependency level, medical and/or social conditions these patients will not be in a position to live independently. Therefore it would be necessary that they continue to receive LTC in homes for the elderly.

2.4.7 During the period under review, 2013, it was estimated that 473 and 488 patients were accommodated at MDH and KGRH respectively since LTC beds at government-financed residential homes were not available. These figures represented 8.7[10] and 43 per cent of the total annual bed night availability at MDH and KGRH. The prolonged unwarranted occupancy of MDH and KGRH beds raises operational and financial concerns for these hospitals. For example, such circumstances contribute to increase waiting times for elective treatment and interventions. Moreover, due to their specialised services, the costs incurred per bed night and the provision of care

[10] Based on an assumption of 292,451 total MDH bed days from December 2012 to November 2013.

supplied by MDH and KGRH are significantly higher than that provided by residential homes for the elderly. Table 1 portrays the number of bed nights occupied by patients awaiting transfer from MDH and KGRH to homes for the elderly.

2.4.8 In 2014, there were marginal changes from the situation pertaining in 2013. To this end in 2014, it was estimated that 536 and 433 patients were accommodated at MDH and KGRH respectively since LTC beds at government-financed residential homes were not available. These figures represented 8.7[11] and 45.1 per cent of the total annual bed night availability at MDH and KGRH.

Table 1 : Length of stay of elderly patients accommodated at MDH and KGRH in lieu of residential homes (2011 – 2014)[12]

Year	Occupancy at MDH by elderly patients awaiting transfer to LTC residential home	Total occupancy at MDH	Occupancy at KGRH by elderly patients awaiting transfer to LTC residential home	Total occupancy at KGRH
	(Bed nights)		*(Bed nights)*	
2011	8,134 (*since September 2011*)	93,731 (*since September 2011*)	23,261	*Not available*
2012	18,905	293,786	34,493	85,005
2013	25,555	292,451	42,392	97,096
2014	26,482	303,607	43,350	96,021

Source: MDH and KGRH.

2.4.9 The total annual bed nights availability at MDH and KGRH for 2014 is conservatively estimated at 303,607 and 96,021. Consequently, the figures in Table 1 show that since 2011 the proportion of residents accommodated at MDH and KGRH was constantly higher than 6.48 and 40.6 per cent respectively of total beds available.

2.5 Government sought various levels of partnerships with third parties to increase the supply of government-funded LTC beds

2.5.1 To counter the demand for residential care for the elderly, in recent years Government entered into a number of contractual arrangements with LTC service providers within the private and the Church sector. These contractual agreements together with other development projects in government-owned and managed homes increased the capacity of government-financed beds by around 18 per cent during the years 2011 to 2014, whereas on a national scale the total LTC beds increased by 10 per cent. As at the end of 2014, government-financed beds constituted 66 per cent of the total LTC beds in Malta. Table 2 categorises the number of LTC beds available in Malta between 2011 and 2014 in accordance with the respective supply source, that is, Government, the private and Church sectors.

[11] Based on an estimate of 303,607 total MDH bed days for year 2014.
[12] In a few cases, patients stay at MDH and KGRH may be further prolonged due to arising medical reasons while awaiting transfer to a residential LTC Home.

Table 2 : Classification of LTC beds for the elderly (2011 – 2014)

Year	Government-financed elderly beds				*Total government-financed elderly beds*	Other: Private sector beds	Other: Church elderly beds	Total beds available in Malta	Malta elderly population of 75 +	% of total beds available in Malta over the elderly population of 75+
	Government home	Public Private Partnership (Cospicua, Mellieħa, Żejtun, Zammit Clapp)	*'Buying of Beds'* (from the private)	*'Buying of Beds'* (from the church)						
2011	1,678	448	357	2	***2,485***	805	726	**4,016**	**27,255**	**14.7**
2012	1,682	547	369	49	***2,647***	864	679	**4,190**	**28,417**	**14.7**
2013	1,644	648	390	80	***2,762***	801	683	**4,246**	**29,444**	**14.4**
2014	1,624	649	556[13]	93	***2,922***	833	670	**4,425**	**31,789**	**13.9**

Source: Department of Health Care Standards, Departmental Annual Reports, SVPR, DfE, MDH data and EUROSTAT.

2.5.2 Table 2 outlines that during 2011 to 2014 the total LTC beds in Malta increased by around 10 per cent. However, this contrasts significantly with the increase in the elderly population of persons aged 75 and over, which increased by 17 per cent during the same period. Although government-financed LTC beds increased almost linearly with the increase in elderly population, the same cannot be argued to Malta's total number of LTC beds. This implies that despite the fact that both the private and Church sector registered an increase in their bed capacity, Government through the '*Buying of Beds*' scheme mainly absorbed this increase. This has effectively resulted in a decline of around two per cent in personally financed LTC beds. In the lack of appropriate structures to cater for community care services, the slower increase in the total number of LTC beds in Malta when compared to the growth in the elderly population is potentially increasing the number of persons awaiting admission into a residential LTC home. Consequently, the disequilibrium between demand and supply prevails.

2.5.3 Furthermore, the foregoing raises another important issue, namely relating to the population's affordability of residential LTC. The issues raised in the preceding paragraph imply that as costs of care continue to increase, the margin of the population who can afford and are willing to finance personal residential LTC is decreasing. The scope of this audit did not extend to evaluate the respective level of market share to be absorbed between government-funded and personally financed LTC beds. However, it is clear that such an issue needs to be reassessed by the relevant governmental authorities in terms of these findings and their implications on the sustainable provision of this service.

2.5.4 The increase in supply of government-funded LTC beds for the elderly necessitated an increase in recurrent expenditure. The recurrent expenditure to finance residential LTC increased from €43,157,013 in 2011 to €56,921,041 in 2014. Table 3 refers.

Table 3 : Recurrent expenditure relating to government-financed LTC beds (Exclusive of pension contribution)

Year	Government's recurrent expenditure
2011	€43,157,013
2012	€48,745,626
2013	€49,594,383
2014	€56,921,041

[13] During the year 2014, 'Mater Dei Hospital' entered into two agreements with the private sector for the procurement of 95 LTC beds through the '*Buying of Beds*' scheme.

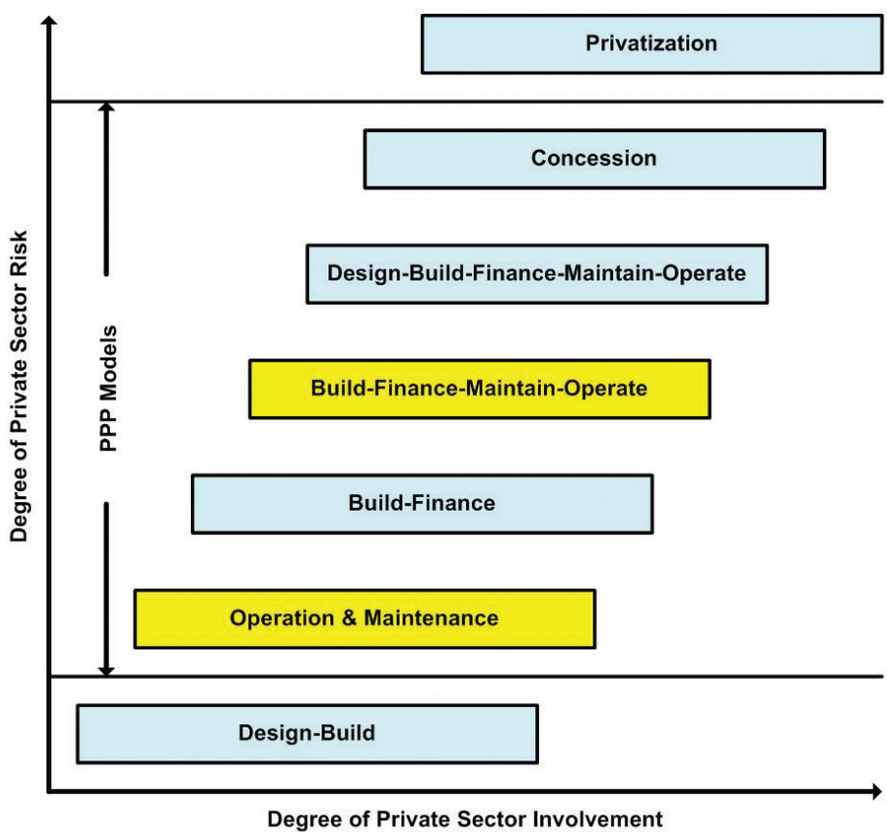
2.5.5 Historically, LTC beds were provided through homes for the elderly, which were totally owned, resourced and managed by the Public Sector, such as SVPR, which, as at end 2013, the year under review for the scope of this performance audit, accommodated 1,130 residents. During the same period, the Floriana, Mosta, Msida and Mtarfa Homes as well as other wards located in various institutions provided LTC for the elderly for a further 514 residents through similar arrangements.

2.5.6 In recent years, the provision of government-financed LTC services for the elderly entailed various levels of partnerships with third parties. To varying degrees, such provision invoked the principles of PPPs. The rationale of such an approach is based on the notion that private companies are often more efficient than public bodies. It is envisaged that in trying to bring the public and private sector together, the management skills and financial acumen of the business community will create better value for money for taxpayers.

In 2013, provision through collaboration with third parties constituted 40 per cent of government-financed LTC beds

2.5.7 Figure 1 shows the range of potential collaboration within PPPs, where the approaches featuring in the higher levels of the chart imply a greater transfer of business risks from the public to the private sector. The partnership models highlighted in yellow show the type of approaches utilised in the provision of government-funded LTC for the elderly.

Figure 1 : The scale of Public Private Partnerships



Source: PPP model modified by NAO from the link http://www.pppcouncil.ca/resources/about-ppp/models.html accessed as at 29 July 2014.

Operation and Maintenance contracts with private sector contractors aimed to enhance the efficiency of the day-to-day running of government-owned residential homes

2.5.8 An Operation and Maintenance contract is a partnership agreement where the private operator operates a publicly owned asset for a defined period under a specified contract, while ownership of the asset remains with the public entity.[14] The provision of government-funded LTC beds for the elderly entailed that some public sector owned homes are managed by the private sector through such contractual agreements. These agreements generally entailed that the contractor has full responsibility for the day-to-day operations of the home. In these cases, the services stipulated in the agreement are provided through the contractor's resources at the agreed rates as stipulated in the contract. Elderly homes operated under this type of PPP agreement included the Cospicua Home, Żammit Clapp Home and part of the Żejtun Home, which amongst them cater for around 362 beds.[15]

PPP approaches at the Żejtun and Mellieħa Homes entailed varying levels of contractor involvement in the construction, management and operation of residential homes

2.5.9 The approach of delivering LTC services for the elderly, discussed in the preceding paragraphs, was further extended to permit a greater level of private sector involvement. Such collaboration between Government and the private sector entailed that the Contractor was responsible for the building, financing, maintaining and operating of homes for the elderly as well as for providing the necessary facility management services under a long-term agreement.

2.5.10 To this end, the Żejtun Elderly Home contract signed in March 2003, typically falls within this PPP arrangement. This agreement entailed the construction of an extension to the Home to initially increase its capacity by an additional 80 beds. This contract stipulated that the costs related to the capital-financing would be incorporated in the daily rates over the agreement's 25 years duration. Subsequent to this increase in capacity, the Home's capacity was increased by a further 27 beds under PPP arrangements. These 107 beds constitute more than one-half of this Home's current capacity.

2.5.11 Government and a private sector contractor entered into another PPP agreement for the construction of the '*Dar il-Madonna tal-Mellieħa*' Elderly Home.[16] This Home, which currently accommodates 180 residents, has been housing residents since March 2008. The contract entered into stipulated that the private contractor would be responsible for the construction and the provision of the related hotel services. Similarly to the Żejtun Home scenario, the rate payable incorporated both the costs for the construction and operational elements related to the running of the Home.

Government-funded LTC bed supply was further increased through the procurement of accommodation and related services in privately owned homes

2.5.12 In addition to the PPP arrangements referred to in the preceding paragraphs, in recent years, Government continued to increase its LTC bed capacity by entering into other contractual agreements with private and Church homes. These '*Buying of Beds*' agreements allow Government to buy LTC related accommodation and services in these elderly homes to cater for the continuous demand pressures in this sector. As at end 2013, the year under review, around 470 beds were being provided to Government through such arrangements.

2.6 Conclusions

2.6.1 This Chapter has shown that despite efforts to increase the availability of LTC beds, there still exists disequilibrium between the demand and supply for such services. The historical predominance of providing LTC through residential homes for the elderly and changing demographics brought about by an ageing population are the two main variables affecting the demand for such services.

[14] Source: http://www.pppcouncil.ca/resources/about-ppp/models.html accessed on 16 July 2014.
[15] 362 beds are composed of 136 beds in Cospicua Home, 129 beds in Żammit Clapp Home and 97 beds in Żejtun Home.
[16] Throughout this Report, Dar il-Madonna tal-Mellieħa Elderly Home is referred to as Mellieħa Home.

2.6.2 In recent years, the DfE increased its supply of government-financed LTC beds by 18 per cent. However, on a national basis, the total LTC beds in Malta have not increased linearly with the increase in the elderly population. Although over time various care services for the elderly were introduced and delivered through the community, these proved insufficient in terms of reach and accessibility to ease the demand on residential care.

2.6.3 On the other hand, the supply of government-financed homes is dependent on available resources as well as the propagation and nurturing of an environment where national authorities can provide residential care for the elderly through collaborative agreements with the private sector. The number of government-financed LTC beds has increased significantly in recent years. However, this rate of increase is still not sufficient to address prevailing and future national demand pressures, as can be evidenced by the number of persons registered on waiting lists as well as the number of patients awaiting transfer to care homes for the elderly from MDH and KGRH. Moreover, in the last four years, personally financed residential LTC beds have declined by around two per cent in recent years as the increase in the private and Church LTC beds were mainly absorbed by Government through the '*Buying of Beds*' scheme. While acknowledging the social benefits, these initiatives predominantly materialised as a short to medium term response to demand pressures and in an environment where national policy on LTC for the elderly is still developing. The resultant decline in personally financed residential LTC raises concerns relating to the long-term sustainability of these government provided services.

2.6.4 The recent publication of the consultative document '*National Strategic Policy for Active Ageing: Malta 2014 – 2020*' acknowledges that the fulfillment of the principles outlined therein necessitates that the adoption of new approaches to deliver LTC for the elderly. However, to date, a documented holistic policy and a regulatory framework, which comprehensively outlines and supports the Government's medium to long-term objectives is still in its early stages of development. As a result, historically, strategies were more inclined to be reactive to prevailing circumstances rather than oriented towards the long-term. The existing policy and regulatory gaps, to varying degrees, are contributing to the continuous stream of additional LTC beds, which goes against trends being experienced by other EU countries. These policy lacunae, coupled with the historic reactive approaches adopted in this area, may inhibit national authorities from optimising resources allocated for care for the elderly.

2.6.5 This Chapter provided the context within which Government sought various levels of collaboration with the private sector. The next Chapter discusses the processes leading to the relative agreements between Government and suppliers of residential LTC for the elderly.

Chapter 3
Procuring residential LTC services for the elderly

Chapter 3 – Procuring residential LTC services for the elderly

3.1 Introduction

3.1.1 Over a number of years, the DfE sought to bridge the gap between the demand and supply for residential LTC beds for the elderly. In order to supplement the supply of beds through government-owned and managed homes, new contractual agreements were entered with the private sector, predominantly with Care Malta Group Limited and the Archdiocese of Malta. These constituted various levels of partnerships with third parties – from agreements where the private sector was entrusted with the operation and delivery service of government-owned LTC homes to the procurement of accommodation and the related caring and nursing services in privately owned homes.

3.1.2 The DfE was generally driven by short-term demand pressures when entering into agreements with third parties, rendering the Department's procurement initiatives as reactive to prevailing circumstances. Faced with chronic demand pressures, on many occasions the DfE cited urgency as the main reason for procuring services through direct negotiated procedures with the private operator as stipulated in the Public Procurement Regulations (2010). However, in certain instances these methods did not always fully conform to mandatory procedures stipulated in the afore mentioned regulations and lacked the necessary procurement and tendering transparency.

3.1.3 Against this backdrop, this Chapter discusses:

i. The status of comprehensive and formal strategic planning related to the provision of residential LTC beds for the elderly;

ii. The procurement approaches adopted;

iii. The inherent risks associated with a high percentage of government-financed beds through collaborative agreements being operated by a single supplier; and

iv. Administrative issues related to contract awarding and extending.

3.2 Project business cases for the Żejtun and Mellieħa Homes PPP ventures did not fully evaluate alternative investment options

3.2.1 The compilation of a business case, which outlines the need, costs, outputs and outcomes of individual projects is considered as an integral part of the investment decision-making process. It is a systematic and structured approach, which sets out the key elements for investment decision-making. The business case demonstrates that the project is in line with agreed strategy and that it meets business and service requirements.

3.2.2 In view of the significant financing involved, the Ministry for Finance published a guide that sets out the practice that is to be adopted by governmental entities when awarding contracts under the PPPs programme. The guide provides a business case template that is to steer ministries and other government entities during the procurement process. The main elements that set out the framework for a business case are:

i. The need for and the nature of the proposed investment;

ii. Alternative options for investment;

iii. Estimates of annual cost and considerations of affordability;

iv. The risks and implementations of the project as an investment; and

v. Timing and preparedness for procurement.

3.2.3 However, generally the procurement of residential LTC beds for the elderly lacked the formation of a proper and comprehensive business case. This performance audit reviewed two PPP contracts. The first related to the contract award in 2003 for the construction of an extension to the Żejtun Home, which was to accommodate an additional minimum of 80 to the existing 60 beds. This contract also included the management and operation (including caring and nursing services) of the Home. The agreement was for a 25-year period at an estimated cost of €42,302,512 over the contract duration.[17]

3.2.4 The second pertained to the construction and management, under the PPP scheme, of '*Dar il-Madonna tal-Mellieħa*' (referred as '*Mellieħa Home*'). In this case, the private contractor was responsible for the construction and the provision of the related hotel services, whereas the caring and nursing services were to be provided by Government. In the original agreement, the Home catered for 130 residents, which was later extended to 180 residents following further contract Addendums. The estimated cost of this contract was for €84,955,670 over its 25-year duration.[18]

3.2.5 Despite the financial materiality and the social contribution associated with these two projects and the ensuing extensions, the business case criteria outlined in paragraph 3.2.2 were not fully adhered to. In many instances, the business case comprised a series of ad hoc documents that were separately filed. The resulting fragmentation rendered it more laborious and complex to ascertain that the NAO had actually received all the available documentation and information necessary for the purpose

[17] The Żejtun Home estimated cost does not take into consideration the additional extra care fee charged to elderly residents requiring extra care needs. Furthermore, cost is based on a Home capacity of 140 beds and does not refer to the further increases in bed capacity carried out after 2003.

[18] The Mellieħa Home estimated cost only takes into account the original 25-year contract of 130 LTC beds. Further increases of 24 and 26 additional beds are not taken into consideration. In addition, it is assumed that costs will increase by an RPI of two per cent.

of the audit. To this effect, the NAO relied on documentation filed in manual files that various departments made available following file searches based on key words. To this end, the participating departments and ministries were the DfE, the Ministry for Family and Social Solidarity, the Ministry for Energy and Health, the Ministry for Finance, the Office of the Prime Minister and the Department of Health Care Standards. It is pertinent to point out that two files relating to a 24-bed extension at the Mellieħa Home, maintained by the DfE and the Ministry for Energy and Health respectively, could not be traced during the course of this audit.

3.2.6 The documentation review referred to in the preceding paragraph highlighted that although, in certain instances, some studies comprising elements of this framework were conducted, these were not always comprehensive. Such circumstances generally materialised since the business case criteria outlined in the Ministry for Finance guidelines were not always consistently followed as depicted in Table 4.

Table 4 : Adherence to business case criteria with respect to the Żejtun and Mellieħa Homes

	Żejtun Home	Mellieħa Home
The need for and the nature of the proposed investment	Yes	Partially
Alternative options for investment	No	No
Estimates of annual cost and considerations of affordability	Yes	Yes
The risks and implementations of the project as an investment	Yes	Yes
Timing and preparedness for procurement	Yes	Yes

3.2.7 ***The need for and the nature of the proposed investment*** - The need for and the nature of the proposed investment at the Żejtun and Mellieħa Homes were not always comprehensively articulated in the respective business cases. Business case related documentation, including Cabinet memo 724 (dated 18 July 2002), portrayed the critical importance for the original 80-bed extension of the Żejtun Home, citing demographic, logistical, financial and operational reasons to proceed with the project. The foregoing was supplemented with a financial evaluation of the contractor's proposed bid over the 25 years duration of the ensuing contract.

3.2.8 With respect to the Mellieħa Home, the need for and the nature of the proposed project was generally justified through a Project Information Memorandum.[19] This document discussed most of the critical elements highlighted by the Ministry for Finance guidelines referred to in paragraph 3.2.2. An important omission relates to the evaluation of alternative project options, which will be discussed later within this Section. This document does not make references about the possibility of increasing the Home's bed capacity – a situation which materialised a few weeks after the signing of the contract for the 130-bed Home where the original agreement was extended to cater for a further 24 beds. Moreover, the document under discussion does not clearly note the extent to which the Home would be envisaged to be able to accommodate high dependency level residents.

3.2.9 ***Alternative options for investment*** – Documentation compiled in connection with developing a business case for both the Żejtun and Mellieħa PPP projects did not extend to evaluating other possible investment options. In both instances, appraisals

[19] Source: The Project Information Memorandum was carried out in the beginning of the tendering process and was later included as part of the contractual agreement for the Mellieħa Home.

analysing the costs involved against those that would have been incurred had the project been fully implemented on the basis of the traditional public sector model or other possible joint ventures with the private sector, as outlined in Figure 1 of this Report, were not available.

3.2.10 ***Estimates of annual cost and considerations of affordability*** – In both PPP projects the relevant authorities, namely the DfE, the Ministry for Social Policy and the Ministry for Health, the Elderly and Community Care compiled documentation which estimated the annual project costs and the relative financing. With respect to the Żejtun Home, such documentation was mainly sourced from an evaluation report prepared by KPMG, analysis of such report prepared by the Ministry for Finance and other financial workings prepared by the DfE. The main source of documentation relating to the Mellieħa Home was a comparative exercise of the financial proposals submitted by the two bidders, which was prepared by a consultant appointed by the Mellieħa ad hoc Committee.

3.2.11 ***The risks and implementations of the project as an investment*** – Documentation available indicate that the DfE generally analysed the critical risks and implementation of the project as an investment in accordance with Ministry for Finance guidelines for compiling PPP ventures business plans. In both, there was documentation identifying the potential risks to the project, such as the availability of land, planning permits, project designs, stakeholders reactions to the project, the distribution of the main project risks between the contracting parties as well as how services provided by the contracting parties will be interfaced over the duration of the joint venture. With regards to the Żejtun Home, such documentation was mainly retrieved through official files maintained at various government entities. On the other hand, to this end, the Ministry for Health, the Elderly and Community Care compiled the report Project Information Memorandum for the Mellieħa Community Home PPP project.

3.2.12 ***Timing and preparedness for procurement*** – Official documentation shows that generally there was compliance with the Ministry for Finance PPP business case guidelines. To this end records show the envisaged procurement timescales, budget requirements, the inputs of external advisors and other governmental entities as well as the procurement approach to be adopted.

3.3 Limited business case documentation endorsed the buying of residential LTC beds from third parties on the basis of costs, flexibility and demand pressures

3.3.1 Similarly to the PPP projects concerning the Żejtun and Mellieħa Homes, business case documentation relating to the procurement of residential beds at Casa Leone and Roseville Homes was limited and, where available, fragmented in various files. The methodology adopted for reviewing PPP business cases was also utilised by the NAO to review the business cases associated with the procurement of LTC bed services from the latter two Homes. Evaluating criteria to assess the effectiveness of business cases was also derived from the Ministry for Finance guidelines for PPP business cases in view of the good business practices they portray.

3.3.2 The limited documentation available showed that the '*Buying of Beds*' scheme would ease immediate and urgent demand pressures. In particular, the additional supply would enable the transfer of patients from MDH and KGRH requiring LTC rehabilitation. Documentation also shows the financial benefits of procuring LTC beds from third parties. This is illustrated on two principal levels. Firstly, an acute bed at MDH is significantly more costly than the rates payable for an LTC bed procured. Secondly, DfE evaluations showed that the rates secured were considered favourable.[20]

[20] A value for money assessment related to the expenditure incurred with respect to Casa Leone and Roseville Homes is presented in Chapter 6 of this Report.

3.3.3 Although, not supported by any official documentation, interviews with DfE officials revealed that another important consideration for embarking on the '*Buying of Beds*' approach related to the transferability of business risks from the public to the private sector. Such risks mainly related to the construction and ownership of the homes for the elderly as well as operations and maintenance risks. These interviews also revealed that such procurement was not as laborious and complex when compared to other approaches, for example PPP projects. Additionally, such procurement could be expedited since it involved readily available bed stock within the market.

3.4 In some instances, planning shortcomings influenced the procurement methods adopted

3.4.1 To varying degrees, the absence of comprehensive long-term policies and strategies impinged on procurement practices adopted by the DfE. Strategy and policy lacunae would have rendered it more problematic for this Department to map out its future needs together with the adoption of efficient procurement processes and to secure the relative resources required to increase the supply of government-funded LTC beds for the elderly. Nevertheless, the DfE had ample information indicating the required annual increase in LTC beds for the elderly. However, the Department contended that its procurement plans were repeatedly hampered by budgetary limitations.

3.4.2 The foregoing led to a situation where the demand for LTC beds became a seriously pressing concern. This Report has already discussed such circumstances in Chapter 2. Consequently, the DfE procurement practices were influenced by the immediate and urgent need to address prevailing demand pressures. To this end, in many cases, the DfE had to resort to procuring LTC beds through direct negotiations procedures, as stipulated in the Public Procurement Regulations.

3.4.3 In the majority of cases, particularly those relating to agreements involving '*Buying of Beds*' from third parties, the issue and subsequent analysis of an Expression of Interest were the starting point for the procurement process. In the case of the Archdiocese of Malta, similar services were procured through an ad hoc agreement between Government and the Church. Additionally, agreements pertaining to Home extensions at Żejtun and Mellieħa Homes were affected on the basis of direct negotiations.

3.4.4 This Section of the Report aims to discuss the issues arising out of the various procurement approaches adopted to increase the supply of government-funded residential LTC beds for the elderly. The NAO reviewed the procurement process relating to agreements pertaining to the sampled Homes, which were in force during August 2013. This exercise primarily entailed the review of contract related documentation, including files pertaining to the Department of Contracts. A series of interviews, including with former Directors of the DfE, complemented this exercise. Table 5 presents the contract awards that featured in this review.

Table 5 : Agreements pertaining to the sampled Homes reviewed by NAO

Date	Home	Procurement description	Method of procurement
March 2003	Żejtun Home	Additional 80 beds to the existing 60 beds. (*Subsequently, a further 27 LTC beds were procured*). [*Valid from March 2003 to March 2028*].	Direct Order following negotiations with Care Malta Ltd
April 2007	Mellieħa Home	Building of Mellieħa CommunityHome composed of 130 LTC beds. Home became operational in March 2008. [*Valid fromMarch 2008 to March 2033*].	Tender - Competitive Dialogue
August 2010	Roseville Home	80 LTC beds. [*Valid from 5 August 2010 to 31December 2011*].	Direct Order (negotiated procedure) following an EoI
June 2012	Casa Leone Home	Procurement of 40 LTC beds from Casa Leone, Dar Sant Anna,Dar Saura and Dar Sagra Familja. [*Valid from 1 November 2011 to 31 October 2012*].	Direct Order following negotiations with the Archdiocese of Malta
February 2013	Roseville Home	Procurement of 150 LTC beds from Casa Arkati, Villa Messina and Roseville. [*Valid from 1 January 2012 to 31 December 2013*].	Extension of contract following expiry of first contract (negotiated procedure)
February 2013	Casa Leone Home	Procurement of 60 LTC beds from Casa Leone, Dar Sant Anna, Dar Saura and Dar Sagra Familja. [*Valid from 1 November 2012 to 31 October 2013*].	Extension of contract following expiry of first contract (negotiated procedure)
March 2013	Żejtun Home	Introduction of High Dependency Unit (HDU) andincrease of LTC beds. [*Valid from March 2013 to March 2028*].	Direct Order following negotiations with incumbent contractor
March 2013	Mellieħa Home	Introduction of 24 additional LTC beds (*as from 1 January 2011*) and a subsequent 26 LTC beds (*as from March 2013*). [*Both valid till February 2032*].	Direct Order (negotiated procedure) following negotiations with incumbent contractor

3.4.5 Table 5 shows the chronological order within which the sampled agreements occurred and the different methods of procurement adopted. Table 5 also demonstrates that tendering procedures were utilised only in one instance, that is, with respect to the procurement for the building and operation of the first 130 beds in the Mellieħa Home. Additionally, the Table shows that a high percentage of beds procured through the agreements under review resulted through direct negotiated procedures with the eventual contractors. Direct negotiated procedures, which are also known as direct orders, were embarked upon in four main circumstances. The first related to the award of the initial contract with the operator. The second related to ad hoc agreements entered into with the Archdiocese. The third category of situations where direct negotiations were resorted to related to the renewal of contracts following the expiry of the initial agreement. Lastly, direct negotiations were adopted as the main procurement method in the two instances where agreement was reached with the incumbent operators to construct and operate extensions housing additional 37 and 50 beds at the Żejtun and Mellieħa Homes respectively.

DfE cited urgency to justify the procurement of LTC beds through direct negotiations with the private operator

3.4.6 The current and previous Public Procurement Regulations have both provided for procurement through direct negotiations with private operators, more commonly referred to as direct orders. The principles surrounding such an award are dictated, amongst others, by circumstances where the goods or services to be procured are of a nature which for technical, artistic or reasons connected with the exclusivity of provision may be provided only by a particular contractor. Other provisions within the Public Procurement Regulations, which permit public procurement to be undertaken through direct negotiated procedures, relate to urgency – namely brought about by circumstances where it would not be feasible to effect procurement through the usual call for tenders procedures. The Public Procurement Regulations also stipulate that procurement through direct negotiations with private operators can also be undertaken as may be directed by the Minister of Finance.

3.4.7 ***Żejtun Home 80-bed extension (March 2003)*** - The Żejtun extension agreement for an additional 80 beds was signed in 2003 with Care Malta Limited (formerly known as Health Care Services Limited). Prior to this extension, the Żejtun Home accommodated 60 residents and was the first to embrace PPP principles. It is to be noted that the previous contract concerning this Home was for a period of two years commencing on 10 April 2000.

3.4.8 The contract stipulated an automatic renewal for further periods of one year unless any side gives a written notice of its intention not to renew at least 120 days prior to the expiration of the period. Since such a notice was not given by either side, the contract remained in force for the additional period stipulated in the contract. The foregoing illustrates that the option for the DfE to issue a public call for tenders for the construction of the 80-bed extension as well as the running of the existing 60-bed residence at the Żejtun Home was available as a procurement approach. At the time, the DfE had to weigh out the pros and cons between issuing a new call for tender and proceeding with the project through direct negotiations with the incumbent contractor, particularly as the latter presented the DfE a proposal (dated 2 January 2002 and 16 April 2002) for the extension of the Żejtun Home.

3.4.9 It is to be noted that, in July 2002, the DfE received two memos from an industry operator wherein the company's intention to participate in ventures with Government regarding the provision of various services in the operation of established government-owned homes for the elderly was expressed. The company was also prepared to invest at its expense should further enlargement of the existing premises allow for the construction of additional accommodation and facilities. This memo was followed by another a few days later specifying the operator's willingness to invest in the Żejtun Home project.

3.4.10 The direction to effect procurement through direct negotiations emanated through Cabinet Memo 724/2002. The Memorandum advised that direct negotiations with the contractor are to ensue since, in the previous call for tender, the private operator had been the sole tenderer to submit a bid for the running of the Żejtun Home and the number and degree of complaints received about the Home were negligible. Moreover, the incumbent contractor was considered as an established leader in the industry with a strategic partnership with a leading private company in England. In addition, the memo cited Government policy to increase the supply of LTC beds in the South of Malta. The Ministry for Social Policy believed that if the traditional method of tendering was adopted for the proposed extension, the very crucial time constraints of providing these additional beds in Malta's most needy region would most definitely be missed. The Memo also noted that it was advantageous for Government and the DfE to participate in such ventures since the 25-year contract would enable expenditure to be spread over a long period of time instead of the initial years of construction and completion.

3.4.11 The Agreement for the Żejtun Home extension for an additional 80 beds as well as the running of the existing 60-bed residence at the Żejtun Home was signed on 20 March 2003, effective from 10 April 2003 for a period of 25 years. Figure 2 presents a timeline of events leading to this contract award.

Figure 2 : Timeline of events leading to the contract award relating to the Żejtun Home extension in 2003

Date	Event
10 April 2000	Another two year contract extension relating to the existing 60-bed Żejtun Home signed with the incumbent contractor Care Malta Limited (formerly known as Health Care Services Limited).
2 January 2002	Proposal for an extension to the Żejtun Home by incumbent contractor.
10 April 2002	Automatic renewal of the Żejtun Home contract for a further period of one year.
16 April 2002	A detailed proposal brief (unsigned) for the Extension of Żejtun Home was presented to the Ministry for Social Policy.
3 July 2002	General inquiry by Care Services Limited for the further enlargement and operation of established government-owned homes for the elderly.
22 July 2002	Approval by Cabinet for the award to Care Malta Limited (formerly known as Health Care Services Limited) as a direct order in the extension of the Żejtun Home.
23 July 2002	Specific inquiry by Care Services Limited for the extension and operation of the Żejtun Home.
20 March 2003	Agreement, effective 10 April 2003, between DfE and Contractor signed.

3.4.12 Figure 2 implies that the Żejtun extension project initiated through the incumbent contractor's initiative. Stimulating private sector initiative is certainly one of the benefits that can be derived through joint ventures such as PPPs. At the time an industry operator noted an interest in investing and managing government-owned homes for the elderly through various ventures. This may have been indicative that if a call for tender had been issued the ensuing competitive element introduced may have resulted in more favourable conditions than those ultimately agreed through the direct negotiated procedure adopted.

3.4.13 ***Żejtun Home extension for a further 37 and the upgrading of 26 existing beds (March 2013)*** - In 2013, the Żejtun Home's capacity was further extended on the grounds of addressing demand needs as well as the need to cater for higher dependency cases rather than transferring them to other institutions. This initiative is deemed to have constituted a variation order on the original contract. To this end, the Department of Contracts granted its approval for a 29 per cent variation order on the contract value of 2003.

3.4.14 ***Mellieħa Home 24-bed extension (March 2013)*** - The Mellieħa Community Home originally comprised 130 LTC beds for the elderly. The Home became operational in March 2008. The Agreement with Care Malta Mellieħa Limited governing the construction and operation of this Home embraced PPP principles. The Agreement ensued following an issue of a competitive call for tenders in 2005.

3.4.15 During the construction phase, Mellieħa Home Liaison Committee minutes dated 10 May 2007, that is, four weeks after the signing of the above-mentioned contract

outlined the opportunities that the Home's capacity could be further increased. This Committee was composed of both Government's and Contractor's representatives. The capital expenditure required to carry out the necessary alterations to furnish an additional 24 beds amounted to €162,852 whereas the operational cost to be incurred throughout the remaining duration of the contract amounted to €7,664,422.

3.4.16 Documentation available does not indicate on whether the initiative to increase the Home's capacity emanated from Government or the Contractor. To this end, official documentation only noted that there were on-going discussions within the Liaison Committee during and after the construction of the Mellieħa Home.

3.4.17 Regardless of the source of the initiative, the mandatory procedures stipulated in Regulation 60 of the Public Procurement Regulations, 2010, regarding negotiated procedure without prior publication were not followed. To this effect, the relevant approval for the necessary alterations to extend the capacity of the Mellieħa Home by an additional 24 beds was granted belatedly by the Director of Contracts in June 2012 – that is at least 18 months after residents were admitted in the 24-bed extension.[21] This timeline implies that the refurbishment works to accommodate the additional residents were initiated and completed significantly before the admission of residents in January 2011. Figure 3 refers.

Figure 3 : Timeline leading to a 24-bed extension at Mellieħa Home

10 May 2007	1 Jan 2011	12 Jun 2012	1 Mar 2013
Prior to the official opening of the Mellieħa Home, the Home Liaison Committee started evaluating the possibility of a home extension.	Elderly residents were admitted in the 24-bed extension.	Approval for the 24-bed extension was granted by the Department of Contracts.	Addendum contract with Care Malta Mellieħa Limited for the 24-bed extension was signed.

3.4.18 Discussions to extend the bed capacity by 24 beds commenced during the construction of the Mellieħa Home and within four weeks after the signing of the contract. This reinforces previous remarks made in this Report about business planning and the undertaking of a robust needs assessment prior to embarking on major projects. This 24-bed extension necessitated major design changes that entailed the conversion of offices, stores and mortuaries into residential rooms for the elderly. Uncertainty about the Home's capacity also manifested itself during the tendering negotiations with bidders, including the selected contractor. During the competitive dialogue procedures undertaken with bidders, the possibilities of increasing the Home's capacity from the compliant bid of 112 beds to variant bids of around 130 and 150 beds were discussed. Ultimately, the contract was awarded for the best bid for a Home catering for 130 residents. The foregoing raises the question as to why it was not foreseen and decided at the outset that the Home's capacity was to be in excess of 150 beds.

3.4.19 ***Mellieħa Home 26-bed further extension (March 2013)*** – It is pertinent to point out that in March 2013 the Mellieħa Home's capacity was further extended by an additional 26 beds to better exploit the available area within the Home, and consequently address the prevailing demand pressures. This initiative constituted direct negotiation procedure with the private contractor currently operating in the Home. The 26-bed

[21] This issue will be further discussed later within this Chapter.

increase at this Home necessitated major refurbishment works costing €450,307. The operational costs to provide 24-hour residential care - excluding caring and nursing services, covered by this agreement amounted to €25,497 (excluding Value Added Tax [VAT]) per month (increasing annually by the retail price index). Throughout the duration of this Addendum contract, set to expire in 2032, total operational costs incurred would have amounted to around €8.8 million assuming an annual RPI of two per cent.

3.4.20 To this end, the Department of Contracts and the Ministry of Finance, the Economy and Investment granted its approval in January 2013 and in February 2013 respectively. The contractor invoiced the DfE for the 26 residents occupying the newly available beds as from March 2013. Given that the contract for the 26-bed increase was signed on 1 March 2013 and that the refurbishment was substantial indicates that the relative works commenced prior to the signing of this agreement and possibly before the granting of the approvals referred to in this paragraph.

3.4.21 ***Roseville Home (August 2010)*** – Direct negotiations with Care Malta Limited were also undertaken during the procurement of LTC beds for the elderly in Roseville Home. This course of action ensued market-scanning research through an EoI issued in 2009 through the Foundation for Medical Services and analysed in collaboration with the latter. On the basis of information received, the DfE decided to procure 80 LTC beds from Roseville Home. It is pertinent to point out that the Public Procurement Regulations do not refer to EoIs, and, consequently, they are not deemed to constitute a replacement for quotations or a call for tender.

3.4.22 Through the above-mentioned EoI, the Department received a range of responses from 15 operators who were interested in providing services or entering into future ventures with Government. Five of the responses received related to the provision of LTC beds from readily available bed-stock in established residential homes for the elderly while the others constituted medium to long-term projects as well as the provision of community care services. However, it is to be noted that not all of the five responses claiming their disponibility to supply LTC beds at ex-stock were deemed appropriate due to the level of services offered and the adequacy of homes' facilities. In view of demand pressures, the short-term solutions proposed in the former responses were considered as more feasible since the DfE would have been able to increase the supply of LTC beds in a relatively short period.

3.4.23 Consequently, based on the information received, the DfE decided to procure 80 LTC beds at Roseville Home by invoking the provisions of the Public Procurement Regulations related to direct negotiated procedures. The DfE contends that, from the various companies who had applied for the EoI, none had the immediate required facilities to offer LTC services for the elderly, except Roseville Home. Responses received were either at the planning stage of constructing the Home or else not in a position to offer a 24-hour nursing care for the elderly. The foregoing raises the following issues:

i. The only documentation related to the responses of the EoI made available to the NAO comprised a schedule of responses received.

ii. The DfE and the Foundation for Medical Services did not fully follow generally accepted business procedures since a comprehensive evaluation report analysing all the responses received through the EoI, and consequently to justify proceeding with the procurement of the 80 LTC beds from Roseville Home, was not compiled.

iii. The Department of Contracts laid out three conditions in its approval enabling the DfE to proceed with direct negotiations for the procurement of LTC beds at Roseville Home. The requirements entailed that the services to be procured were absolutely necessary, considered value for money criteria and that funds were available to effect procurement. However, this review raised the following issues:

a) Urgency could have been avoided through appropriate planning since the Department was aware of demand trends and projections. Through appropriate planning, the DfE could have been in a position to effect procurement through a competitive tendering process. However, it is to be noted that the Department's efforts to secure the commitment of funds for this project were not endorsed and, consequently, precluded the tendering process from being undertaken.

b) The Department of Contracts did not satisfy itself that the DfE fulfilled the conditions laid out prior to the granting of its approval. Instead, it placed the onus on the DfE to ascertain that the conditions qualifying its approval were attained. The NAO acknowledges that ultimately the responsibility to fulfill these conditions vests with the DfE. Nevertheless, as a central department, the Department of Contracts, should ascertain itself that conditions laid out are fully satisfied prior to the granting of approvals.

3.4.24 The absence of formal and comprehensive evaluation reports justifying the utilisation of direct negotiation procedure clauses, as well as the ensuing procurement of 80 LTC beds at Roseville Home for the Elderly, is deemed to have digressed transparency, good business practices and internal control mechanisms.

3.4.25 ***Casa Leone Home (June 2012)*** – Direct negotiations were also held with the Archdiocese of Malta to procure ex-stock residential LTC beds from Church Homes for the Elderly. It is to be noted that a number of Church Homes, including Casa Leone Home, which was randomly selected in the NAO sample for the purpose of this review, is registered as a Limited Liability Company with the Malta Financial Services Authority. Direct negotiations with the Archdiocese were undertaken in circumstances where ongoing discussions relating to the precarious financial situation of Church Homes for the elderly were being held at ministry level. Following these discussions, a contract was signed in June 2012 with the Archdiocese of Malta for the procurement of 40 LTC beds for the elderly from four Church Homes, including Casa Leone Home. In a subsequent contract, signed in February 2013, the number of LTC beds was increased to 60. Given that Casa Leone Home was, and still is, a registered Limited Liability Company, for the purpose of this performance audit, as in the contractual agreements discussed in this Chapter, this review sought to ascertain that this procurement adhered to Public Procurement Regulations and sound business practices.

3.4.26 The DfE contended that the '*Buying of Beds*' from Church run homes allowed for a win-win situation where beds were made available for Government and, through the relative chargeable fees received, the Archdiocese was able to continue keeping the Homes in operation. Moreover, this arrangement prevented circumstances where the Government would have needed to intervene by providing a bail out or through relocating residents to alternative government-funded residential LTC homes should they have been closed. Nevertheless, the following administrative issues were observed:

i. Although a specific business case to procure ex-stock LTC beds at Casa Leone Home was not compiled, the urgent need to augment the supply of government-

funded LTC beds was well known to the government authorities concerned. In the circumstances, the need to procure LTC beds was present regardless of the financial situation of Church Homes.

ii. Documentation outlining the key phases and decisions leading to this Agreement was sparse.

iii. Documentation relating to the Department of Contracts approval in terms of Regulation 39 (3) of the Public Procurement Regulations to proceed with direct negotiations to procure LTC beds from the Archdiocese in 2012 was not made available to the NAO.

iv. An email from the former Minister for Health, Elderly and Community Care to the Permanent Secretary of the same ministry dated 21 May 2012 provides a strong indication that approval to proceed with direct negotiations and the ensuing agreement was on the basis of policy direction. Although this above-mentioned communication could be interpreted as the formal approval to engage in direct negotiations with the contractor, it is to be noted that at this point negotiations between the DfE and the Archdiocese were at their conclusion.

iv. In accordance with policy direction noted in the communication referred to in the preceding paragraph, the Archdiocese was exempted from submitting a Bank Guarantee estimated to range from €30,000 to €50,000, prior to the signing of the Contract. The ministry was officially advised by its officials that unless this requirement is waived, in view of its financial situation, the Archdiocese would not be in a position to sign the contract.

3.4.27 The 2012 procurement through direct negotiations of LTC beds for the elderly from the Archdiocese of Malta also raises concerns relating to governance issues. The circumstances discussed in this Section illustrate a lack of clear approvals to proceed with direct negotiations with the Curia. In addition, shortcomings in the maintenance of documentation weaken audit trails, diminish transparency and good business practices.

3.5 A number of contracts were signed after the start date of their validity

3.5.1 This audit revealed that two out of the eight agreements reviewed by the NAO for the purpose of this study were signed after the commencement of their validity. Such circumstance is not considered as good business practice since it potentially exposes the contracting authority to avoidable risks. Table 6 shows the defaulting agreements and the elapsed period between the commencement of the agreement and the actual signing of the contract.

Table 6 : Post-dated contracts signed by the DfE

Elderly home	Duration of contract	Total estimated cost over the duration of the contract	Commencing date of contract	Approval date from Department of Contracts	Signing of contract
Mellieħa Home 24-bed extension (*March 2013*)	21 years 2 months	€7,827,273	01 Jan 2011	13 June 2012	01 Mar 2013
Casa Leone Home (*June 2012*)	1 year	Varies from €124,100 to €156,950 according to dependency of residents[22]	01 Nov 2011	n/a	12 Jun 2012

[22] Assuming that Casa Leone incurred 10 out of the 40 LTC beds procured from Church Homes for the elderly.

3.5.2 ***Mellieħa Home 24-bed extension (March 2013)*** - Table 6 shows that post-dated contracts occurred in two out of the four Homes included within the scope of this audit. Despite the financial materiality involved, the Mellieħa 24-bed extension Addendum contract was signed 26 months following the contract initiation date indicated in the agreement and the admission of residents to occupy the newly available beds.

3.5.3 It is to be noted that the agreement could not be signed prior to the relevant approvals being granted by the Department of Contracts in terms of the Public Procurement Regulations. As outlined in Table 6, the relevant approval from the Department of Contracts was granted in June 2012, which implies that the DfE permitted the incumbent contractor to carry out refurbishment works and admitted residents in the Home prior to mandatory approvals in terms of the Public Procurement Regulations.

3.5.4 Although the relevant approval was eventually granted, in correspondence exchange the Department of Contracts remarked that it is being requested to act on what it termed as a 'fait accompli'. The DfE justified its actions by claiming that it was facing a major crisis in the number of acute admissions at MDH resulting in a sudden influx of LTC patients.

3.5.5 ***Casa Leone Home (June 2012)*** - Practically during the same period, a similar situation occurred in the contractual agreement signed with the Archdiocese of Malta with respect to the Casa Leone Home. This contract came into force on 1 November 2011. However, the contract was signed almost eight months later on 12 June 2012.

3.5.6 The files reviewed by the NAO did not contain any documentation explaining these post dated contracts. However, interviews with senior officials from the DfE revealed that the Department had to expedite matters to increase the supply of LTC beds for the elderly at the earliest opportunity.

3.6 One contractor is operating over three quarters of residential LTC beds supplied through collaborative agreements

3.6.1 As noted in Table 2 and further emphasized by the discussion within this Chapter, a situation has developed whereby government-financed LTC beds are increasingly being operated by third parties through collaborative agreements with the DfE, namely through PPPs and the '*Buying of Beds*' scheme. As at end 2013, the year under review, there were 648 and 470 beds pertaining to the former and latter approaches respectively. A factor, which to varying degrees, could have influenced some of the issues raised in this Chapter emanates from circumstances whereby one contractor was responsible for the operations and management of 76 per cent of LTC beds subject to collaborative agreements with third parties. Table 7 refers.

Table 7 : Operator capacity and the respective supply of government-financed LTC beds through collaborative agreements with the DfE

Contractor	LTC beds subject to Contractual Agreements with the DfE		Personally-financed LTC beds	Total
	PPPs	'Buying of Beds'		
Care Malta Group Limited	648	207	244	**1,099**
Archdiocese of Malta	0	80	683	**763**
Caring First Limited	0	92	22	**114**
Age Concern Company Limited	0	91	12	**103**
Others	0	0	523	**523**
Total	**648**	**470**	**1,484**	**2,602**

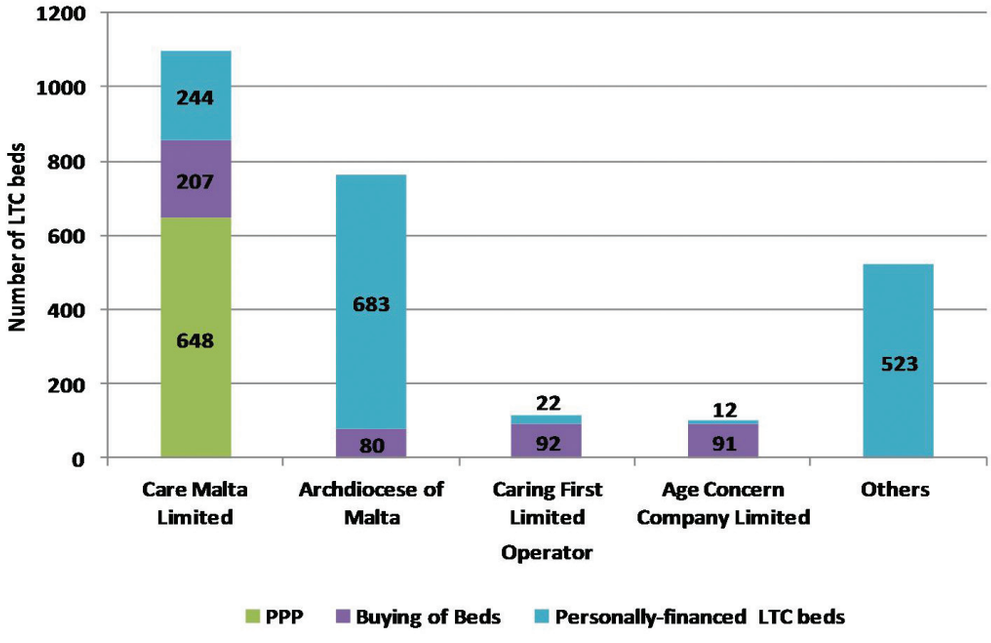
Source: Department of Health Care Standards, DfE and MDH.

3.6.2 The information in Table 7 raises two important points, namely related to the relative market dominance of certain operators and the number of LTC beds per operator, which are government-financed either through a PPP Agreement or through the '*Buying of Beds*' scheme.

3.6.3 The dominant market position of Care Malta Group Limited and the Archdiocese of Malta in terms of their LTC bed capacity is clearly evident. To this end, these two organizations account for 42 and 29 per cent respectively of the total bed capacity operated by the private and Church sectors. The market position of the latter in terms of the number of beds, however, has to be interpreted in the context that the Church subsidises a high proportion of its LTC bed capacity in accordance with its social objectives. Moreover, one Home that accounts for around seven per cent of the Church's bed capacity is exclusively reserved for priests and religious persons. The foregoing, together with its social dimension suggests that the Church's position in terms of market domination becomes somewhat diminished since a significant part of its capacity is allocated for non-profitable purposes.

3.6.4 Against this backdrop, Care Malta Group Limited emerges as the dominant operator within the industry, particularly due to the PPP agreements within four residential LTC Homes. In this context, an important consideration is that the initial and subsequent capital investments are all government-financed. This leads to the second point portrayed by Table 7, that is, the proportion of government-financed out of the operator's total capacity of residential LTC beds. Chart 3 refers.

Chart 3 : Operator's share of personal and government-financed LTC beds



Source: Department of Health Care Standards, DfE and MDH.

3.6.5 Chart 3 shows that Care Malta Group Limited operates over 855 of the 1,118 government-financed LTC beds. This amounts to around 76 per cent of the beds managed through collaborative agreements with third parties or 78 per cent of the total LTC beds managed by Care Malta Group Limited. The substantial proportion of government-financed residential LTC beds managed by this Operator comprises 648 and 207 beds pertaining to the PPPs and '*Buying of Beds*' schemes. The former constitutes 100 per cent of the government-financed beds under the PPP agreements. The 207 beds pertaining to the '*Buying of Beds*' scheme amounts to 44 per cent of the total LTC beds operated under this scheme. These figures contrast sharply with

the share of government-financed LTC beds out of the respective capacity managed by other third party operators.

3.6.6 The foregoing raises a number of implications. There is a clear relationship between operators' market position and the relative share of business through collaborative agreements with governmental entities – in this case the DfE. While acknowledging that the private sector strives to achieve market dominance, from a regulatory and consumer point of view such a situation can be seen as stifling a competitive environment, which is key to optimise pricing and to ascertain continuous improvement in service delivery.

3.6.7 The increasing number of beds being made available by third party operators is being procured by governmental entities through various levels of collaborative agreements. These circumstances render the DfE as a major, if not the main, residential LTC industry's consumer. Within this context, the current situation whereby a major supplier is responsible for over three quarters of the PPPs and '*Buying of Beds*' capacity poses a number of risks. The dominant operator's position within the industry, which has already been alluded in this Section, can potentially influence favourably the contractor's relationship and negotiating position with the DfE. Another major risk brought about by the high percentage of government-financed beds being managed by a single supplier emanates from the potential exit from the industry by this operator.

3.7 Conclusions

3.7.1 This Chapter sought to address the efficacy with which the DfE increased the supply of residential LTC beds for the elderly to meet prevailing and future demand for these services. To a great extent, the Department's initiatives to enter into partnerships or procure these services from the private sector were hampered due to the absence of a medium to long-term strategic and policy framework. Over time, such a lacuna led to the DfE to assume a predominantly reactive role to address prevailing and short-term demand pressures rather than to employ a more dynamic approach to evaluating possible opportunities, and consequently produce realistic plans outlining the provision of such services in the medium to long-term.

3.7.2 Although approaches to address the disequilibrium between the supply and demand of government-financed residential LTC beds were discussed at Ministry Level, uncertainty as to whether the required funds will be made available to the DfE precluded this Department from documenting strategic plans. Such circumstances however, need not have detracted the DfE from documenting project specific business cases. The absence of such documentation impacted negatively on the Department's ability to manage the relative procurement processes and encroached on the principle of transparency.

3.7.3 The absence of a comprehensive strategic and policy framework and the non-formalisation of project-specific business plans led to circumstances where the Department was not in a position to manage appropriately procurement processes. In a number of instances, the Department was constrained to employ direct negotiations with suppliers rather than issue a call for tenders to shorten procurement lead times. Admittedly, these eventualities are catered for in the Public Procurement Regulations. However, by invoking the direct negotiations clauses of these Regulations competitiveness can be stifled, to the potential detriment of possible savings emanating through the tendering process.

3.7.4 To varying degrees, competitiveness related issues become more exacerbated through circumstances where a major supplier has been entrusted with the management and

operation of over three quarters of the LTC beds pertaining to the PPPs and '*Buying of Beds*' scheme. Moreover, this scenario potentially influences the contractor's relationship and negotiating position with the DfE as well as increasing the risks associated with a major supplier potentially exiting the industry.

3.7.5 Administrative capacity limitations also resulted in situations where the DfE could not always manage to fully comply with the provisions of the Public Procurement Regulations when conducting direct negotiations. This was evidenced by the fact that, in at least two instances, mandatory approvals were sought after major works had already been carried out. Moreover, financially material agreements were reached with suppliers and residents were admitted into the respective Home prior to the signing to the relevant contract.

3.7.6 The next Chapter evaluates the extent to which various services provided in the four Homes under review adhered to the provisions of the relative contracts. To this end, the discussion mainly focuses on the provision of hotel as well as caring and nursing services in the sampled residences.

Chapter 4
Service Delivery through PPP and '*Buying of Beds*' contracts

Chapter 4- Service Delivery through PPP and '*Buying of Beds*' contracts

4.1 Introduction

4.1.1 This Chapter discusses the extent to which residential LTC for the elderly services within the four Homes under review comply with the provisions of the respective contracts. To this end, the scope of this audit comprised the PPP contracts relating to the Mellieħa and Żejtun Homes and the '*Buying of Beds*' agreements relating to Roseville and Casa Leone Homes.

4.1.2 This performance audit noted that, at best, in certain instances, it could not be categorically certified that caring and nursing services were being provided accordance with the contract provisions or generally accepted criteria. This review also noted that the meals board, established to monitor the quality of catering supplied in homes for the elderly, was not meeting regularly. Enforcement of service delivery in accordance to contract provisions proved problematic for the DfE for two main reasons. In some cases, contract clauses did not clearly outline service delivery specifications. Additionally, the Department was not in a position to further extend its monitoring and control function relating to the implementation of the various residential LTC bed contracts due to resource constraints.

4.1.3 In view of the foregoing, this Chapter discusses service delivery relating to caring, nursing and hotel services (catering, cleaning and laundry) at the four Homes under review. Additionally, the Chapter also highlights administrative issues of concern that emerged during the conduct of this performance audit, mainly related to controls over payments made to contractors. The Chapter concludes by discussing the monitoring function undertaken by the DfE to ascertain that service delivery in the Homes under review was in accordance to contract provisions and other generally accepted standards or criteria.

4.1.4 This exercise entailed that the NAO conducts site inspections and hold meetings with the DfE's Audit and Management Team (detailed with the contract implementation monitoring function). Additionally, the methodology comprised the review of site inspection reports compiled by this Team. The NAO also analysed caring and nursing services documentation and held interviews with the respective Homes' management. Invoicing and respective payments for the period of August 2013 relating to the four Homes under audit were also reviewed. Audit findings presented in this Chapter are mainly categorised by issue. Nevertheless, the ensuing discussions will link the emerging concerns with the relative Home.

4.2.1 Caring and nursing services are critical to ensure a qualitative provision of LTC for the elderly. Caring services mainly entail the provision of services relating to assisted living and LTC, and assumes a more important role with increasing levels of dependency. To this effect, caring services seek to provide personal care and attention whilst respecting individual dignity and privacy by assisting residents in their daily living routines and activities. On the other hand, nursing services include the protection, promotion, and optimisation of health and abilities; prevention of illness and injury; alleviation of suffering through the diagnosis and treatment of human responses; and advocacy in health care for individuals, families as well as communities.

4.2.2 For the purposes of evaluating the extent to which the appropriate level of caring and nursing services are provided in the four Homes under review, the NAO adopted various criteria, namely those emanating from provisions in contracts that were in force as at August 2013. Such provisions mainly relate to the average daily caring and nursing time provision per resident. This scope of this audit did not include evaluating qualitative aspects relating to the provision of these services.

4.2 The DfE is not in a position to categorically determine whether caring and nursing services fulfill contract provisions

4.2.3 Except for the Żejtun Extension Contract, signed in 2003 and valid for 25 years, all contracts regarding the provision of residential LTC services provided by the appointed operators with respect to various Homes specified the daily minimum caring and nursing-minutes requirements per resident for different classifications of dependency levels. Such contract provisions are essential for ascertaining that homes are appropriately staffed to ascertain that residents receive the appropriate levels of care.

The Żejtun extension contract (2003) does not specify minimum caring and nursing-minutes provision per resident

4.2.4 Additionally, the caring and nursing functions constitute two of the major cost elements of the chargeable rate. Thus, clear contract clauses also enable the DfE to monitor and ascertain that service delivery and fees charged are in accordance with contractual obligations. Table 8 shows the contractually agreed minimum caring and nursing-minutes in the respective Homes.

Table 8 : Contract provisions specifying daily minimum required caring minutes per resident

Home	Daily minimum required caring minutes per resident		Daily minimum required nursing minutes per resident	
	High	Semi	High	Semi
Żejtun Home – 157 beds (*Contract signed in 2003*)	Not specified	Not specified	Not specified	Not specified
Żejtun Home (HDU) – 47 Beds (*Addendum contract signed in 2013*)	144	117	27	22.8
Mellieħa Home[23] (*Contract signed in 2007*)	Not applicable	Not applicable	Not applicable	Not applicable
Roseville Home (*Contract signed in 2013*)	144	120	27	22.8
Casa Leone Home (*Contract signed in 2013*)	144	120	27	22.8

[23] In Mellieħa Home, Government is responsible for the provision of caring and nursing services.

4.2.5 The omission of such clauses from the Żejtun Home extension contract implies that the DfE could not be in a position to effectively enforce that the contractor employs the appropriate number of staff to care for the 157 residents covered by the 2003 contract, which still has over 14 years to elapse. The 2003 Żejtun Home extension was the first Agreement related to the four Homes under audit that was signed. It seems that, over time, the DfE has acknowledged the critical importance of such contractual clauses and included a daily-minimum caring and nursing provisions in subsequent agreements.

Contractual omissions prohibit the DfE from certifying that agreed caring and nursing to residents' ratios are fully respected by operators

4.2.6 The DfE's endeavours to certify that contractors fully respect caring and nursing to residents' ratios, as stipulated in the various contracts, are rendered problematic due to circumstances where homes comprise both private and government-funded residential LTC beds. Similar concerns arise in circumstances where more than one contract governs the operation of a home, such as is the current situation in the Żejtun Home.

4.2.7 ***Mix of Private and Public residential LTC beds***: In cases where homes operate both private and government-funded residential LTC beds, such as Roseville and Casa Leone Homes, the respective contracts enable the DfE to be furnished with information on the number of carers and nurses deployed by the contractor at any point in time. This implies that the DfE is fully informed on the staff complement providing caring and nursing services throughout the home – that is catering for private residents and those who were admitted through the '*Buying of Beds*' scheme. Such information on its own only permits the DfE to estimate, rather than categorically determine, that the contractor is supplying government-funded residents with the contractually agreed caring and nursing hours.

4.2.8 These circumstances arise since the DfE is not contractually privy to information relating to the dependency level of private residents. Consequently, the Department would not be in a position to determine whether the staff complement deployed throughout the respective homes is adequate to fulfill contractual obligations. Matters are further aggravated due to the lack of national standards outlining the minimum daily caring and nursing hours per resident in accordance with their level of dependence.

4.2.9 ***Two or more contracts governing the same residential home***: As at August 2013, two main contracts defined the level of caring and nursing to be provided at the Żejtun Home. As already outlined in this Report, the 2003 contract does not clearly stipulate the required caring and nursing hours to be provided to residents in accordance with respective dependency levels. On the other hand, the 2013 Addendum to this contract stipulates caring and nursing hours to be provided in the newly established HDU. Consequently, a situation arises where the DfE is not able to categorically determine the extent to which caring and nursing hours are provided within the 47-bed HDU or within the remaining part of the Home, which accommodates another 157 residents.

Contractual agreements relating to caring and nursing services may not be fully satisfied

4.2.10 The preceding Section (paragraphs 4.2.6 to 4.2.9) has outlined various limiting factors that prohibit the accurate determination of the extent to which contractual obligations related to the provision of caring and nursing services are fulfilled. Naturally, these limiting factors also manifested themselves when the NAO sought to determine the degree to which the provision of caring and nursing services complied with contractual obligations.

4.2.11 To mitigate these limitations, the NAO sought to obtain various indicators relating to the number of caring and nursing staff deployed in the sampled Homes.

4.2.12 The first approach adopted considered the various reports relating to surprise inspections carried out by the DfE's Audit and Management Team during the period from May to September 2013. These inspections had a wide-ranging scope including compliance testing of caring and nursing ratios with contractual provisions or other generally accepted practices.

4.2.13 The second approach adopted considered the average complement deployed in the four Homes during August 2013. This month was chosen for two main reasons. The first was that this month proved to be practical with respect to the scheduling of this audit. Secondly, discussions between the NAO and the DfE did not reveal any factors which would impinge on the representativeness of the case studies undertaken with respect to the four Homes.

4.2.14 The third approach entailed that the NAO together with the DfE's Audit and Management Team perform surprise inspections at each of the sampled Homes. These inspections were carried out between January and February 2014. For this purpose, the inspection sought to establish the caring and nursing staff complement deployed at the respective Homes on the day through collating information from staff time sheets maintained by the contractor.

4.2.15 The three approaches outlined above pose two main limitations. The first relates to the different periods when each of the four approaches was undertaken. On the other hand, the different time frames can also be viewed favourably since they provide information over a wider period.

4.2.16 The second limitation relates to the absence of information relating to:

i. the caring and nursing requirements of private residents accommodated in homes operating both privately and government-funded residential LTC beds (see paragraphs 4.2.7 and 4.2.8); and

ii. agreements which do not clearly specify the required caring and nursing hours to be provided (see paragraph 4.2.9).

4.2.17 Mitigation of this limitation entailed the assumption that all residents in the Homes under audit require the minimum levels of caring and nursing services as noted in various contracts signed between the DfE and contractors. This approach, which invokes the prudence concept, is based on the premise that:

i. The contractual clauses relating to caring and nursing are based on best practices and are applicable to the Homes under review.

ii. The rates agreed by the DfE with contractors regarding the provision of caring and nursing services are classified into two main dependency levels – the semi and high dependency levels. Consequently, it is being presumed that staffing levels would reflect such dependency categorisations. For the purpose of this performance audit, wherever possible, in accordance with accepted practices, residents were categorised in these two main dependency levels. In cases where residents' dependency levels were not available to the NAO, these were classified as semi-dependent.

Various approaches indicate that the daily caring hours provided is below contractual obligations

4.2.18 The four approaches outlined above present clear indications that the actual daily caring hours provided by private contractors within the four Homes under review may be substantially below contract provisions. Similarly, in cases where such provisions are not specified in the respective agreements, the actual caring hours provided was also below the generally accepted criteria adopted by the NAO (see Appendix II), relating to daily caring hours to residents ratios. Table 9 refers.

Table 9 : Daily Variance between contractual agreements and actual caring service provided

Home	Inspection by DfE *(daily hours)*	August 2013 *(daily hours)*	Inspection by NAO and DfE *(daily hours)*
	May to September 2013	Average for month of August 2013	January to February 2014
Mellieħa Home	*(81 hrs)*	*(80 hours)*	*(81 hours)*
Żejtun Home	*(202 hours)*	*(178 hours)*	*(192 hours)*
Roseville Home	*(35 hours)*	*(40 hours)*	*(44 hours)*
Casa Leone Home	*(36 hours)*	*(34 hours)*	*(36 hours)*

4.2.19 Table 9 shows that caring hours provided is consistently below the established criteria. Moreover, the negative variance in the provision of caring services in specific homes was generally at the same level during three points in time over a period of approximately nine months.

4.2.20 ***Mellieħa Home*** - Table 9 shows that the provision of appropriate caring hours is a problematic issue even in instances where the DfE is fully responsible for the supply of carers. This is illustrated by the joint venture, which embraces PPP principles, between the DfE and the Contractor managing the Mellieħa Home. The contract between these two parties excludes the provision of caring services as these are provided and managed directly by the Department.

4.2.21 Contracts signed in year 2013 by the DfE for the provision of residential LTC beds stipulate that semi and high dependent residents are allocated, at least, 117 and 144 minutes of caring hours daily. When considering that as at August 2013 the Mellieħa Home accommodated 133 and 46 semi and high dependants and the level of caring hours provided, negative variances result as indicated in Table 9.

4.2.22 These negative variances imply that the DfE itself has not been able to supply the minimum level of care hours that Department expects operators of its residential LTC homes to provide. Similar circumstances result in the other three Homes under review. However, there are major factors to be taken into consideration:

i. To a large extent, the excess of nursing hours employed at the Mellieħa Home (see paragraphs 4.2.34 to 4.2.36), mitigates the shortfall in the provision of caring hours.

ii. The operator is contractually obliged to provide the agreed levels of care at the agreed rates. That is, the contracts stipulate that either an appropriate level of care is provided (Żejtun Home) or the supply of caring hours is as contractually defined (Roseville and Casa Leone Homes).

4.2.23 ***Żejtun Home*** - The Żejtun Home contracts, signed in 2003 and 2013 do not make specific references to caring hours to be allocated throughout the Home. It is only

the latter contract that stipulates the levels of caring hours with respect to the 47 beds situated in the newly established HDU. Similarly, contracts pertaining to various homes which ensued the 2003 Żejtun Contract, stipulate and quantify the minimum level of care hours to be provided to semi and high dependent residents. It is to be noted that all residents are classified in these two dependency categories.

4.2.24 Consequently, in the absence of clear contract provisions, as is the case with the Żejtun Home Contract signed in 2003, it can be argued that the provision of minimum care services entails that, at the very least, all residents are considered as semi-dependent. Such circumstances are rendered more realistic when it is considered that as at August 2013, in addition to the 47 residents in the HDU, the Home also accommodated a further 123 and 33 semi and high dependent residents. Furthermore, more than 60 of these residents were deemed to require extra care, which is caring services that are above the minimum levels provided and chargeable at a daily fee of €7.

4.2.25 The foregoing implies that the resultant variances depicted in Table 9, show that the appropriate level of care-hours are not being provided throughout the Żejtun Home. The minimum shortfall of care hours (178 hours) observed during the three points in time suggest that it is equivalent to around 22 additional carers, employed on daily eight hour shifts.

4.2.26 Such a shortfall in the provision of caring hours imply that on average residents at this Home are receiving 73 minutes of caring services. This contrasts with the 117 and 144 minutes of daily caring minutes for semi and high dependents stipulated in contracts recently signed by the DfE and against which the NAO benchmarked the supply of caring services in the absence of clear contractual provisions in the Żejtun Agreement.

4.2.27 Nevertheless, such circumstances do not necessarily imply a breach of contract since the number of caring hours to be adhered by the private contractor only relate to the 47 residents situated within the HDU. Internal reports drawn up by the DfE show that the Department is fully aware of such a situation.[24] However, in view of the lack of contractual clarity and definitions regarding the provision of caring services, the DfE has not been in a position to ensure that the Contractor increases the caring staff complement throughout the Żejtun Home. Furthermore in view of the absence of clear contractual provisions stipulating the caring hours to be provided throughout the Home, the DfE opted not to invoke '*breach of contract*' penalty clauses.

4.2.28 ***Roseville Home*** – Through the '*Buying of Beds*' scheme, as at August 2013, there were 80 government-funded LTC beds in this 138 capacity residential Home. The contract governing the operation of this Home stipulates that the level of daily caring to be provided amount to 120 and 144 minutes for semi and high dependent residents respectively. Compliance testing to ascertain whether the contractor was fulfilling such an obligation proved problematic since governmental agencies are not informed of the dependency level of private residents. As noted in paragraph 4.2.17, this was mitigated by assuming that, at least, all private residents are categorised as semi-dependent.

4.2.29 Table 9 shows that, at the three points in times when compliance testing was undertaken, a minimum negative variance in the daily caring services of 35 hours materialised. This implies that the staff complement employed at this Home had a shortfall of four carers when assuming an eight-hour daily shift. This situation further suggests that, on average, residents throughout the Home are receiving 110 minutes

[24] Source: Żejtun Home Report (dated 9 February 2014) following inspection carried out on 21 January 2014.

of daily caring services rather than the levels stipulated in the contract between the DfE and the Home's operator.

4.2.30 ***Casa Leone Home*** – This Home, operated by the Archdiocese, accommodates 27 and 61 government-funded and private residents respectively. As in other homes within the '*Buying of Beds*' scheme, the contract between the DfE and the contractor stipulates the same number of daily caring hours to be provided to each resident. In view that governmental entities do not have information on the dependency levels of private residents, for the purpose of evaluating the extent to which contract provisions relating to the supply of caring services were being adhered to, all private residents were assumed to pertain to the semi-dependant category.

4.2.31 At the three points in time of the compliance testing undertaken, a minimum negative variance in the daily caring services of 34 hours was recorded. This suggests that this Home is operating with a shortfall in its staff complement of four carers when assuming an eight-hour daily shift. Furthermore, such circumstances imply that, on average, residents throughout the Home are receiving 99 minutes of daily caring services rather than the levels stipulated in the contract between the DfE and the Home's operator.

Nursing hours supplied at the Żejtun and Roseville Homes fall short of adopted criteria

4.2.32 Similarly to the provision of caring hours, the amount of nursing hours supplied by contractors in homes being operated under PPP or '*Buying of Beds*' scheme, fall short of the criteria established by the NAO for the purpose of this review. Paragraph 4.2.6 to 4.2.17 have already presented the approach adopted by the NAO and the ensuing limitations in determining the extent to which home operators were supplying the appropriate amount of nursing hours as contractually agreed. In this context, the term appropriate relates to the adequacy of care provided (Żejtun Home) in terms of the daily average nursing time provided to residents or the supply of nursing hours as is contractually defined (Roseville and Casa Leone Homes).

4.2.33 Table 10 outlines the resultant daily variance between contractual agreements and the actual nursing hours provided in the four sampled Homes. The resultant variances emanate from the three approaches adopted by the NAO that covers the period from May 2013 to February 2014 (see Appendix III). Such approaches provide clear indications that the actual daily nursing hours provided by private contractors at the Żejtun and Roseville Homes may be substantially below acceptable criteria or contractual provisions. Table 10 refers.

Table 10 : Daily Variance between contractual agreements and actual nursing services provided

Home	Inspection by DfE *(daily hours)*	August 2013 *(daily hours)*	Inspection by NAO and DfE *(daily hours)*
	May to September 2013	Average for month of August 2013	January to February 2014
Mellieħa Home	*63 hours*	*63 hours*	*63 hours*
Żejtun Home	*(52 hours)*	*(55 hours)*	*(52 hours)*
Roseville Home	*(33 hours)*	*(28 hours)*	*(34 hours)*
Casa Leone Home	*(1 hour)*	*(3 hours)*	*(1 hour)*

4.2.34 ***Mellieħa Home*** – Similarly to the provisions of caring, the DfE is responsible for supplying nursing services at the Mellieħa Home. Unlike the situation with the provision of carers, Table 10 shows that the provision of appropriate nursing hours at this Home surpasses the NAO criteria outlined in paragraph 4.2.2 by an average of 63 daily hours. This suggests that the Home is employing an extra eight nurses, assuming an eight-hour daily shift.

4.2.35 It can be argued that, to an extent, the additional nursing hours provided are utilised to offset the shortage of caring hours available at this Home. However, supplementing caring service through the excess supply of nurses increases operational costs since the cost of nursing is around 1.4 times more expensive.

4.2.36 The situation of excess nursing hours availability at Mellieħa Home was, to varying degrees, not replicated at the other Homes under audit. To this end, there was a significant shortfall at Żejtun and Roseville Homes, while a marginal negative variance was registered at Casa Leone Home.

4.2.37 ***Żejtun Home*** – As noted earlier, the Żejtun 2003 contract does not stipulate the daily nursing hours to be provided by the Home operator. On the other hand, the 2013 Addendum contract outlines the levels of nursing hours to be provided in the newly established 47-bed HDU. In view of such circumstances, the NAO evaluated the extent to which the nursing complement throughout the Żejtun Home was adequate by benchmarking such deployment against recently signed contracts (which also includes the Żejtun HDU) which stipulated the average daily nursing hours to be provided to semi and high dependant residents. Details of this approach have already been presented under the Section discussing caring services at this Home (see paragraph 4.2.2).

4.2.38 Contracts signed between various operators of homes in 2013 stipulate that the daily nursing hours to be provided is to average 0.38 and 0.45 hours per resident, which equates to 22.8 and 27 minutes for semi and high dependant residents respectively. Such clauses are also included in the 47-bed HDU at the Żejtun Home. When these nursing to residents ratios are applied throughout the Żejtun Home, than a reliable indicator is sought about the adequacy of the nursing complement at this Residence.

4.2.39 This performance audit revealed that the shortfall in the nursing complement employed at the Żejtun Home throughout the three points in time within a five-month time frame covered by this review ranged from 52 to 55 daily hours. This implies a deficiency in the daily nursing complement of around seven nurses daily, assuming an eight-hour daily shift.

4.2.40 On the basis of the foregoing, if it is assumed that there is full compliance with the 2013 contract relating to the 47-bed HDU at the Żejtun Home, then the remaining nursing complement would only be in a position to provide an average of less than three minutes of care to the remaining 156 residents. Table 11 refers.

Table 11 : Allocation of nursing services at the Żejtun Home (August 2013)

	Daily nursing availability (minutes)
Actual total daily nursing minutes.	1,584
Assuming full compliance at the Żejtun 47-Bed HDU. (*14 semi residents at 22.8 minutes and 33 high residents at 27 minutes*)	(1,210)
Remaining daily nursing minutes for 156 residents.	374
Average daily nursing minutes for 156 residents.	2.40

4.2.41 The figures portrayed raise greater concerns when it is considered that the DfE is incurring a daily charge of an additional €7 to the daily rate for each of the 60 residents who are deemed to require extra nursing and caring services due to their deteriorating condition. When consideration is given that residents receiving extra nursing services will absorb a greater proportion of the nursing hours available, then, in practice, residents who are not accommodated within the HDU may be receiving less attention than the 2.40 daily minutes depicted in Table 11.

4.2.42 ***Roseville Home*** - The 2013 contract governing the operation of this Home stipulate that the daily level of nursing to be provided amount to 22.8 and 27 minutes for semi and high dependent residents respectively. However, there are robust indicators that these contractual provisions are not being fully respected.

4.2.43 In accordance with the above contractual provisions, the operator was to supply 2,013 daily nursing minutes to cater for the 80 government-funded residential LTC beds. As at August 2013, it transpired that the nursing complement available throughout the Home, which in total accommodates 138 residents, amounted to 1,647 minutes. It is to be noted that this level of nursing complement is very similar to the other two points in time covered by this review.

Table 12 : Allocation of nursing services at the Roseville Home (August 2013)

	Daily nursing availability (minutes)
Actual total daily nursing minutes for 80 PPP beds and 58 private residents.	1,647
Nursing requirement to cater for 80 PPP beds. (*35 semi dependant residents at 22.8 daily nursing minutes and 45 high dependant residents at 27 daily nursing minutes*)	2,013
Shortfall in daily nursing minutes with respect to 80 PPP beds.	(366)

4.2.44 Table 12 raises limitations and concerns. The main limitation in the above estimate revolves around the assumption that the 58 private residents are not allocated any nursing services. In practice, this may not be, and probably is not the case, since nursing service will be allocated between both Government and other privately-financed residents. Such an assumption was made to facilitate the determination of whether contractual obligations related to the provision of nursing services were being fulfilled.

4.2.45 The main concern portrayed by Table 12 relates to the shortfall of a minimum of 366 daily nursing minutes to residents ratios stipulated in the contract. Such a variance, which equates to around six nursing hours daily, still materialises when presuming that all nurses employed at the Home are deployed to solely care for the 80 PPP residents.

4.2.46 ***Casa Leone Home*** – In the case of Casa Leone Home, the nursing service provided was estimated to be marginally less than contract provisions. Moreover, when contacted by the DfE, the operator agreed to rectify this situation.

4.2.47 This Chapter has already referred to on-site inspections carried out by the DfE's Audit and Management Team. Based on these inspections, this Unit communicated its findings to the respective operators wherein it was indicated that the caring and nursing hours provided at the Zejtun, Roseville and Casa Leone Homes were considered to be either below contractual provisions or of an inappropriate level. It is to be noted that the estimates undertaken by the DfE's were similar to those carried out by the NAO for the purpose of this review.

Generally, operators do not acknowledge shortfall in the provision of daily caring and nursing hours

4.2.48 The Casa Leone Home operator agreed to rectify this situation. However, the operators of Żejtun and Roseville did not acknowledge the shortfalls in caring and nursing outlined by the DfE's Audit and Management Team. Since this correspondence from the contractor dated 30 May 2014, there have been discussions between the DfE and the respective operators but to date, the matter has not been resolved.

4.2.49 The major obstacle relates to the Żejtun Home Contract, which was signed in 2003 and still has 14 years to elapse. In the absence of meeting minutes, the DfE informed the NAO that the contractor is insisting that since the contract only stipulates that the operator is to provide the appropriate caring and nursing services without stipulating the daily required hours per resident, then the contractor is entitled to operate the Home with staffing levels that the operator deems adequate.

4.3 Hotel services provided were generally of the appropriate standard

4.3.1 Contractual agreements signed with private operators in the four Homes under review all provided for the provision of hotel services. This performance audit focused on the extent to which cleaning, laundry and catering services provided at the residences complied with contractual clauses. Towards this end, this review adopted a similar methodology to the approach adopted to evaluate the provision of caring and nursing services. This entailed collecting the relative information through direct observation and / or analysis of historical documentation at three points in time over a nine-month period, which initiated in May 2013. A detailed explanation of the three approaches and their ensuing limitations adopted is presented at paragraphs 4.2.6 to 4.2.17.

4.3.2 This performance audit did not find any material adverse issues of concern with regards the cleaning and laundry services provided in the four Homes under audit. Generally, documentation available, including complaints lodged by residents or visitors, showed that these services were appropriately delivered.

Cleaning and laundry services generally complied with operators' contractual obligations

4.3.3 Meals constitute an important event in the daily routine of residents accommodated in homes for the elderly. Residents, for a number of reasons, eagerly await meal times, namely since they provide a personal gratifying experience and present socialising opportunities. Additionally, catering services are an essential element that contributes to the well-being of residents through appropriate sources of nutrition.

In general, Meals Board inspections are carried out following complaints rather than on a proactive basis

4.3.4 Contractual agreements for the four sampled Homes stipulate that residents are to be provided with breakfast, lunch and dinner as well as various coffee breaks throughout the day. In view of the number of meals being supplied daily, catering service would constitute a significant element of the chargeable daily rate per resident per night.

4.3.5 To monitor the quality of catering services provided, in recent years, the DfE established a Meals Board. The Board's meetings and on-site inspections increased significantly in 2014 over initiatives taken in the previous year. Most of the on-site inspections are carried out following complaints about the quality of food received. Although the benefits of this approach are acknowledged, the Board does not proactively aim to target catering services provided at the various homes through a planned schedule.

4.4 The DfE is not appropriately resourced to expand further its monitoring initiatives at residential LTC homes

4.4.1 The DfE acknowledges that the well-being of residents is greatly dependant on the quality of services provided in homes by the contracted operator. To this end, in 2011, the DfE established the Audit and Management Team. The Team's main focus relates to government-funded LTC residences that are operated by third parties through contractual agreements. To this effect, this Team aims to ensure that care and the general operations of such residences are fulfilled through ongoing audits. The Team also maintains a residents' population for both government homes and PPP beds in relation to residents and staff to ascertain the appropriateness of residents to staff ratios. The team reports to the Director DfE on issues of concern. The Team supplements its findings with the relative recommendations and the compilation of guidelines and standards.

4.4.2 The Audit and Management Team comprises of various professional backgrounds. Amongst others, these include a Departmental Nursing Manager, Principal Physiotherapist as well as Senior Occupational Therapists. Due to other work exigencies, members of this Team, however, are employed on a part-time basis.

4.4.3 The Audit and Management Team carried out at least two inspections in the four residential Homes pertaining to the scope of this audit. The first inspections were undertaken between May and September 2013. The second inspections, carried out between January and February 2014, were stimulated by this performance audit and carried out in the presence of NAO officials. In November 2014, the DfE's Team carried out a third inspection at Casa Leone Home in conjunction with the purchasing of respite beds. Table 13 refers.

Table 13 : Inspections undertaken by the Audit and Management Team in the four sampled Homes

Home	First inspection	Second inspection	Third inspection
Żejtun Home	2 September 2013	21 January 2014	n/a
Mellieħa Home	20 August 2013	22 January 2014	n/a
Roseville Home	27 May 2013	3 February 2014	n/a
Casa Leone Home	22 May 2013	5 February 2014	4 November 2014

4.4.4 The Audit and Management Team acknowledges that the current human resources level within the Team, to a large extent, dictate its current set-up and work practices. Moreover, the Team's initiatives are greatly hindered through fragmented data and information related to residential LTC. To this effect, the Team has compiled various memos outlining how it could extend its scope of operations.

4.4.5 This Team recognizes that the human resource input has to be substantially augmented to enable its coverage to result in effective monitoring of the provision of care and operations at residential homes. The current set-up is unlikely to enable the Team to extend further its monitoring activities of residential homes for the elderly since all the officials within this Team have other responsibilities within the DfE. Moreover, the Team is requesting clearer terms of reference, in which its jurisdiction is better defined. The Team also remarked that the integration of the various data and information held by the DfE on residential LTC operations is essential to render its work more effective.

4.5 Payment irregularities were rectified following NAO's intervention

Over a number of years, substantial payments to home operators did not follow Treasury procedures

4.5.1 Although not within the scope of this review, during the course of this audit, administrative irregularities concerning payments to the suppliers of residential LTC services within the four sampled Homes were observed. Additionally, this performance audit also noted that over-payments resulted following erroneous calculation of monthly charges due in invoices submitted by the contractor operating the Mellieħa Home. Both issues were rectified following NAO intervention.

4.5.2 Treasury procedures[25] stipulate that payments for services provided to government departments are to refer to the vendor's account number as registered in the National Vendor Database. Such a procedure is intended to maintain an updated record of all payments made to suppliers of goods and services to government departments. This information is consequently utilised by tax revenue departments in their verification work connected to tax declarations submitted by vendors.

4.5.3 However, between 2008 and 2013, various governmental entities responsible for effecting payment for residential LTC services rendered by contracted parties did not always follow this procedure. During this six-year period, payments to the four Homes under review, that amounted to around €22 million, were made through a process known as 'Multi-Payments'. This system is intended to cater for transactions between governmental departments and non-vendors – that is, persons who are not registered in the national vendor database due to their short-term service commitment. In such circumstances, no invoice can be expected to be delivered from these providers. This irregular practice implies that tax revenue departments did not have readily updated payment records related to suppliers of residential LTC beds for a six-year period. Table 14 provides a breakdown of all the Multi-Payments effected throughout the afore mentioned six-years period with respect to the four Homes under audit.

Table 14 : Multi-Payments in the four Homes under review (2008 - 2013)

Year	Żejtun Home	Mellieħa Home	Roseville Home	Casa Leone Home
2008	€1,809,710	n/a	n/a	n/a
2009	€1,898,721	n/a	n/a	n/a
2010	€1,936,375	€235,549	€311,337	n/a
2011	€1,989,421	€3,181,492	€1,188,586	n/a
2012	€2,090,346	€3,140,351	€1,042,366	n/a
2013	€1,836,305	€303,853	€863,597	€175,118

4.5.4 Following NAO's communication with the Treasury in November 2013, the latter issued instructions to the relative departments. Therein, the Treasury instructed that henceforth all payments made to residential LTC services suppliers are made in accordance to standard operating procedures and guidelines. It is to be noted that

[25] Source: Departmental Accounting System User Manual, pg 163.

comments within this Section of the Report regarding this administrative shortcoming are not questioning in any way the integrity of tax declarations submitted by the suppliers involved.

Over-payments of €48,739 resulted following erroneous monthly charges calculations in Mellieħa Home invoicing

4.5.5 The Mellieħa Home Addendum Contract concerning services to be provided to an additional 26 residents, signed in March 2013, noted that the charge for such services would amount to €30,086 including VAT monthly. However, the DfE payment control mechanisms in place did not detect that all invoices received up to December 2013 with respect to this Agreement had erroneously calculated the VAT due. Such an error occurred since the invoice considered the chargeable monthly rate exclusive of VAT. These circumstances led to the DfE making over-payments amounting to €48,739. It is to be noted that the DfE has recouped the overpaid amounts following the matter being brought to their attention by the NAO.

4.6 Conclusions

4.6.1 Improved service delivery is one of the major benefits to be derived through collaboration between governmental entities and the private sector. The PPPs at Żejtun and Mellieħa Homes as well as the procurement of residential LTC beds through the '*Buying of Beds*' scheme are a case in point. These agreements provided the opportunity to increase the supply of government-funded LTC beds, and that in many aspects the service provided was qualitative. However, while residents still received qualitative services, particularly in areas such as caring and nursing, the DfE has not been in a position to ascertain that home operators are delivering services in full adherence to the spirit and letter of contractual provisions. A consequence of this is that the optimisation of the value for money of the chargeable rates may not be assured. To this effect, this Chapter has shown instances where the level of services provided was not in accordance to contractual obligations or generally accepted practices. Various issues contributed to this situation.

4.6.2 Standards of services to be provided in LTC residences for the elderly are still in the process of compilation. Their absence leads to administrative and operational vacuum, which, in cases, resulted in unclear and undefined contractual clauses – particularly with regards the provision of caring and nursing services. In part, over time, lacunae arising from the absence of national standards were mitigated through better defined and the development of more comprehensive contractual clauses. While the benefits of such a development is acknowledged, the absence of national standards still does not enable governmental entities, namely the DfE, to fully enforce contractual provisions, especially with regards to homes which accommodate both government-funded as well as other private residents.

4.6.3 Ensuring that the delivery of services by home operators matches contractual terms and conditions necessitates a robust monitoring mechanism. To this end, over a period of time, the DfE established the Audit and Management Team. This team, comprising a range of professional backgrounds, has solidly laid the foundations for effective monitoring of services being provided in all LTC homes falling under the jurisdiction of the DfE. However, it is unlikely that this Team can increase its scope of work unless its human resource component is substantially augmented.

4.6.4 The Next Chapter of the Report will further amplify on the extent to which the contractual agreements pertaining to the four Homes under review constitute value for money. To this end, the discussion will evaluate the feasibility of the PPP arrangements concerning the construction and financing of the capital projects at the Żejtun and Mellieħa Homes.

Chapter 5
Financing of Capital Element

Chapter 5 – Financing of Capital Element

5.1 Introduction

5.1.1 The PPP contracts for the Żejtun and Mellieħa elderly Homes entered into between the Government and the private sector incorporated the construction and operational elements of the Homes into the daily rates charged by the Contractor to the Government over the 25-year validity of these Agreements. A significant proportion of the chargeable daily fee relates to the financing of capital expenditure incurred by the contractor with respect to the construction, refurbishment or extensions of LTC Homes for the Elderly.

5.1.2 This Chapter discusses the reasonableness of the financing arrangements entered into between Government and the contractors with regards to the construction and refurbishment works included in the relative contracts. This analysis related to the Żejtun and Mellieħa Homes. In both cases, the contractors were responsible for the construction and the necessary refurbishment to increase the number of LTC beds.

5.1.3 To enable comparisons between the emerging issues, this Chapter discusses audit concerns by issue. Nevertheless, matters under discussion are categorised chronologically by the respective Home. Consequently, following a brief overview, each Section will first discuss issues of concern relating to the Żejtun Home followed by audit findings relating to the Mellieħa Home. At the outset, the Chapter presents the context within which these Agreements were reached. The discussion proceeds to discuss the arrangements relating to the financing of capital expenditure in terms of various project investment techniques.

5.2 Time pressures and financial flexibility influenced contractual arrangements related to the Żejtun and Mellieħa Homes projects

5.2.1 In both the Żejtun and Mellieħa Homes, various studies and preliminary evaluations were carried out by government entities, namely the DfE and other relevant Ministries, to determine whether the planned projects were likely to offer value for money. Despite a period of four years between the signing of the two contracts, there were a number of contextual similarities. Demand pressures for residential LTC beds were increasing over time. Consequently, governmental entities were always under pressure to increase the supply of beds in the shortest possible period. Another main contextual similarity in the two scenarios relates to potential financial constraints which surface when planning and undertaking major infrastructural works.

5.2.2 ***Żejtun Home*** - At the Żejtun Home, the incumbent operator had been providing management, hotel and care services for the eight years prior to the 2003 award. The 2003 contract, valid for 25 years, related to an agreement, whereby the same

contractor was to privately fund, construct and operate an extension to the Home, accommodating a minimum of an additional eighty to the existing sixty beds.

5.2.3 In 2002, the incumbent operator had submitted a proposal for the extension of the Żejtun Home to the then Secretariat responsible for care of the elderly at the then Ministry for Social Policy. The proposal entailed a PPP, under a Build-Operate-Transfer model.

5.2.4 It was proposed that the incumbent operator finances and constructs an 80-bed extension to the Home, at an estimated cost of around Lm1 million (€2.33 million), within a six-month period. The operator had also proposed that the applicable agreement would be extended for a period of twenty-five years, and that the rate for the provision of care applicable to the 80 new beds would be increased from Lm8.27 (€19.27) to Lm12 (€27.96) per resident per day - adjusted for annual cost-of-living increases. It was also proposed that the operator would continue to provide the services in relation to the existing 60 beds in accordance with the same terms and conditions stipulated in the previous contractual agreement (signed 2000).

5.2.5 Government was, prima facie, in favour of the proposal and, in October 2002, an evaluation study of the Żejtun Home extension proposal was carried out by an established accountancy firm. This study documents the outcome of a simulation of the project's sensitivity to the proposed daily charge applicable to the new beds and the 25-year term duration of the operating agreement, as was requested by the Company. The incumbent operator and the DfE eventually agreed on these proposals, as evidenced by the contract signed in March 2003.

5.2.6 However, as outlined in Chapter Three of this Report, the DfE did not document any potential evaluation which may have been carried out to assess all the possible options available and the most suitable form of partnership with the private sector, such as other ways of financing the capital element or by procuring LTC beds through the '*Buying of Beds*' scheme.

5.2.7 ***Mellieħa Home*** - An ad hoc Committee was appointed to conduct the competitive dialogue on behalf of the Government and to identify the tenderer who submitted the most economically advantageous tender for the construction of an elderly home at Mellieħa. As a matter of government policy, it was decided that the Mellieħa Home project would be undertaken through a PPP arrangement. This would entail that the chosen operator be responsible to build, finance and operate (with the exception of health care services) the Home. Moreover, at the end of the 25-year contract period, all assets were to be transferred to Government.

5.2.8 Prior to the tendering process, the ad hoc Committee carried out a business case, entitled '*Project Information Memorandum*'. This mainly included an evaluation of the project's scope and objectives together with a general assessment of the main requirements of the project. The study included a timetable of the procurement process as well as a Risk Allocation table. This table indicated how the risks are to be allocated between the private contractor and the Government or shared between both. Following the submission of bids by the interested bidders, other studies were carried out. These studies, which were undertaken by independent bodies, mainly evaluated the two bids that were submitted by two private contractors. They provide a comparison of the two bids in terms of the financial, value for money and other technical elements.

5.2.9 However, as was the case with regards the Żejtun Home, the studies carried out did not provide an analysis of all the possible options that Government could undertake

with respect to the building of a new elderly Home. Such options could have included the financing of the construction element of the Home through a separate loan agreement, or the provision of elderly residential beds through the public sector instead of a PPP agreement. An evaluation of these possible options was not carried out.

5.2.10 The objectives relating to the building of the Mellieħa elderly Home were not clearly identified from the start of the process, that is, as defined in the '*Project Information Memorandum*'. The requirements with respect to the occupancy and dependency levels of the Home, amenities, financing options to be adopted and others, were not expressed at the outset. This state of affairs resulted in deviations during the tendering process, mainly concerning the Home's capacity in terms of LTC beds (see Section 3.4).

5.2.11 Against this context, the forthcoming Sections of this Chapter are limited to an evaluation of the extent to which the PPP arrangements at the Żejtun and Mellieħa Homes included favourable financing rates for the major capital projects at these Homes.

5.3 Financing arrangements for the Żejtun and Mellieħa PPP projects proved more costly than prevailing rates of Government borrowing

5.3.1 The NAO sought to determine whether the financing arrangements for the construction and refurbishment works of both the Żejtun and Mellieħa LTC Homes for the elderly at the time of contract signing constituted value for money.

5.3.2 For this purpose, it took as its benchmarks the Effective Annual Rate (EAR) for Malta Government Bonds (extrapolated from the yields of the existing bonds to a 25-year period, the period of the contracts) prevailing at the time of contract signing. For the 2003 Żejtun Home contract, the EAR was found to be 7.1688 per cent while for the 2007 Mellieħa Home contract, this was found to be 5.0059 per cent. The rationale for this is that the alternative to contractor funding was Government borrowing at the prevailing yields at the time.

5.3.3 The contractor's agreed construction costs and the monthly repayments agreed therefore were derived from the contract terms and related documentation at the time.

5.3.4 Since, as at the time of drafting of this Report, the validity of the Żejtun and Mellieħa contracts had 14 and 19 years respectively to elapse, for the purpose of the assessments carried out the NAO made a number of assumptions as follows:

i. Both the Żejtun and Mellieħa contracts stipulate that the daily rates were to be increased by the ratio of the increase in the cost-of-living index. For the purpose of this performance audit, from 2016 onwards, this index has been assumed to increase by two per cent annually. This assumption is based on the long-term aspirations of the European Central Bank for the Euro Zone.

ii. The VAT included in the Mellieħa Home repayment rates was excluded from the evaluation on the basis that they are not an ultimate cost to Government.

iii. From the EAR referred to earlier, the effective monthly interest rate was derived and used as the opportunity cost of capital for the 25-year estimated monthly repayments of the construction and refurbishment works of both projects as per the number of LTC beds agreed at the time of contract signing. On this basis, the

effective monthly discount rate for the 2003 Żejtun Home project was estimated at 0.5786257 per cent, while that of the Mellieħa project was 0.4078825 per cent. The assessment exercise then proceeded to calculate:

a) the estimated Internal Rates of Return (*or effective annual interest charged for the period by the contractor*) for the financing of both projects for comparison with the opportunity cost of capital; and

b) the estimated Net Present Value forsaken in such financing taking into account the hypothetical alternative source of financing to be 25-year bonds at the prevailing yields at the time of the contracts.

5.3.5 In the first part of this Section, the financing of the construction of the Żejtun Home will be analysed. A similar analysis to the Mellieħa Home will then follow.

Financing arrangements for the Żejtun Home project (2003) implied an estimated effective annual interest rate of around 13 per cent over the 25-year period of repayment

5.3.6 The NAO analysed the 2003 contract and the subsequent 2013 Addendum with respect to the Żejtun elderly Home. The 2003 contract featured within the scope of this performance audit since it formed the basis of the subsequent 2013 Addendum.

5.3.7 Prior to 2003, the Żejtun Home was capable of accommodating a total of 60 residents. However, in 2003, a new contract, valid for 25 years, was signed with Care Malta Limited (formerly known as Health Care Services Limited) where it was agreed that by means of structural and operational changes and adaptation works in the Home, it could increase the number of residents by a further minimum of 80. The contract did not stipulate the Home's maximum capacity following the agreed construction and refurbishment works. This was the number of beds upon which the DfE based its argument to secure funds and the necessary approvals to proceed with the project through a direct order. Yet, an additional 27 beds were accommodated and charged for within a relatively short time after signing of the contract within its newly constructed extension bringing the Residence total capacity to 167 as at end of 2004.

5.3.8 In addition, the DfE agreed to:

i. increase the term of the management agreement by a period of twenty-five (25) years;

ii. increase the consideration payable for each of the residents (at the time 80) accommodated in the additional beds over and above the sixty beds previously available in the Home.

5.3.9 In consideration of its services, Government agreed to pay the Company:

i. As regards the residents accommodated in the sixty beds previously available at the Home, the sum of Lm8.27 (€19.27) per day per resident.

ii. As regards the residents accommodated in the additional beds over and above the sixty beds previously available in the Home as aforementioned, the sum of Lm12 (€27.96) per day per resident.

iii. The aforesaid charges were agreed to be increased annually by the ratio of the increase in cost-of-living index throughout the duration of the contract.

5.3.10 A proposal brief for the extension of the Home dated 16 April 2002 between the then Ministry for Social Policy and the Contractor attributed the difference between the pre (€19.27) and post (€27.96) 2003 contracts' rates to the financing of the construction works at the Home. The reasoning that the increase in the daily rates constitutes the financing of capital works is further reaffirmed since the level of care provided in both the original (60 beds) and the new parts of the Home was to be the same. Consequently, for the purpose of this review, the NAO considered that €8.69 of the chargeable per person per night (*pppn*) rate due related to the financing of the capital project implemented at this Home.[26]

5.3.11 In order to assess the extent to which the financing arrangements entered into with the contractor were favourable, the following factors were taken into account:

i. Construction and refurbishment costs of €2.33 million as indicated at the time of the signing of the contract in 2003.

ii. As already referred to in paragraph 5.3.4, a discount rate of 0.5786257 per cent on the monthly repayments (equivalent to the estimated prevailing EAR of 7.1688 per cent) for such costs. This monthly rate was derived in order to have it aligned with the monthly repayments as per contract.

iii. The apportionment from the chargeable rate estimated to finance the capital project amounting to €8.69 during the first year of the project. This was derived through the difference between the newly agreed rate for each of the original 80 additional LTC beds in the 'Extension Part' and the prevailing rate applicable for each LTC bed in the older part of the Home, that is €27.96 less €19.27.

iv. The chargeable rates as adjusted with the prevailing increase in the cost-of-living index. As already stated, the increase beyond 2016 was assumed to be two per cent.

5.3.12 Table 15 summarises the results of the assessment of the financing of the 2003 Żejtun Home Project.

Table 15 : Assessment of the Żejtun Home Project Financing

Cost of Construction and Refurbishment Works	€ 2.33 million
Estimated effective annual interest rate of monthly repayments for the above cost of works	13 per cent
Estimated effective EAR of Government Bond financing at time of contract	7.1688 per cent
Estimated Present Value of Total Repayment outflows	€3.68 million
Net Present Value of Repayments over cost of original Construction and Refurbishment Works	€1.35 million (Loss)

5.3.13 Table 15 shows that the cost of financing the €2.33 million of construction and refurbishment works over the 25-year period for the 80 additional LTC beds is now estimated at an effective annualised interest rate of around 13 per cent. In addition, taking circa seven per cent per annum as a reasonable discount rate mirroring alternative government-financing possible at the time, the cost was increased to €3.68 million in March 2003 value terms, this implying an adverse difference of

[26] The chargeable rate is subject to an annual increase by the rate of the cost-of-living index. As stated earlier, for analysis purposes, this adjustment was taken into consideration.

€1.35 million (€2.33m - €3.68m). Of course, such increased cost was not completely foreseeable as it would vary (and still does) with the cost-of-living index. Reliance of Government bond funding would also have estimated one-time commissions and advertising fees of around 0.5 per cent. Yet, despite such mitigating factors being taken into account, the indications persist that this type of financing is proving not to have been favourable for the DfE. Furthermore, the 27-bed extension within a short time after the March 2003 contract only worsened such financial loss as it signified a further one-third increase in monthly repayments to the contractor for such extra beds.

5.3.14 In 2013, through an agreement included as an Addendum to the original contract, part of the Żejtun Home's ground floor dining room was converted into eight additional 2-bedded rooms. The project's proposal, which was made by the incumbent contractor in 2012, noted that the capital expenditure to convert the dining room to enable a further 16 residents to be accommodated would amount to €107,853. Contrary to previous arrangements, the DfE opted to settle this cost rather than financing it through the daily chargeable rates over a defined period.

In a further extension of the Żejtun Home in 2013, the DfE opted to settle the capital expenditure immediately

5.3.15 Consequently, it can be deduced that the agreed *pppn* rates only relate to the operational costs of managing and running the Home. In such circumstances, it would have been expected that these rates would be lower than previously agreed chargeable rates even when the latter would have been adjusted to reflect cost-of-living index fluctuations. However, the chargeable rates for the additional 16 beds in 2013 were at par with those previously agreed and which included a charge to finance capital works undertaken in connection with the 'Extension Part' of the Home. The foregoing raises two issues. The first is that the DfE was not able to negotiate a better rate with the incumbent contractor and / or secondly, that the agreed rates assume that operational overheads have increased at a higher rate than that reflected through the cost-of-living index. These issues will be followed up in detail in the next Chapter of the Report where the main focus is the cost-effectiveness of operational costs incurred by the DfE.

5.3.16 This Section of the Report evaluates the financing arrangements related to the construction of the Mellieħa Home. The construction of this Home was carried out on government-owned land and financed by the Contractor. The estimated construction costs amounted to around €7.6 million. In the tender document, the Contractor noted that construction works would be funded through an 80 and 20 per cent financing from banks and shareholder finance respectively.

The financing arrangements for the Mellieħa Home project (2007) implied an estimated effective annual interest rate of eight per cent over the 25-year period of repayment

5.3.17 The DfE decided to settle the initial construction related cost of €7,590,597 through the agreed chargeable rates over the contract's duration of 25 years, through an all-inclusive monthly rate which for the first year of the agreement amounted to €225,391 (VAT included) equivalent to €191,009.59 VAT excluded. This all-inclusive chargeable rate was composed of a 30 per cent fixed element to cover the repayment of the construction costs of the Home over the Contract's duration and a 70 per cent indexable element representing the operational and day-to-day running of the Home. The latter was subject to an annual increase in accordance with the RPI and other terms and conditions. Table 16 depicts an outline of the monthly chargeable rates from the inception of the contract up to end 2014.

Table 16 : Classification of monthly costs (2008 – 2014)

Year	RPI	Fixed element	Indexable element (*as adjusted by prevailing RPI*)	Total excl. VAT	Total incl. VAT
	(%)	(€)	(€)	(€)	(€)
2008	0.00	57,302.88	133,706.71	191,009.59	225,391.32
2009	4.26	57,302.88	139,402.62	196,705.50	232,112.48
2010	2.09	57,302.88	142,316.13	199,619.01	235,550.43
2011	1.51	57,302.88	144,465.11	201,767.98	238,086.22
2012	2.72	57,302.88	148,394.56	205,697.43	242,722.97
2013	2.42	57,302.88	151,985.71	209,288.58	246,960.53
2014	1.38	57,302.88	154,083.11	211,385.99	249,435.46

5.3.18 In order to assess the extent to which the financing arrangement with the contractor was favourable, the following factors were taken into account:

i. The cost of construction of €7,590,597 as indicated at the signing of the contract in 2007.

ii. As already referred to in paragraph 5.3.4, a discount rate of 0.4078825 per cent on the monthly repayments (equivalent to the estimated prevailing EAR of 5.0059 per cent) for such costs. This monthly rate was derived in order to have it aligned with the monthly repayments as per contract.

iii. The apportionment from the chargeable rate estimated to finance the capital project amounted to a fixed monthly charge of €57,303 as from March 2008 when the first residents were admitted in the Home.

iv. The chargeable rates were adjusted with the prevailing increase in the retail price index. The increase beyond 2016 was assumed to be two per cent.

5.3.19 Table 17 summarises the results of the assessment of the financing of the 2007 Mellieħa Home Project.

Table 17 : Assessment of the Mellieħa Home project financing

Cost of Construction and Refurbishment Works	€ 7.59 million
Estimated effective annual interest rate of monthly repayments for the above cost of works	8 per cent
Estimated effective EAR of Government Bond financing at time of contract	5.0059 per cent
Estimated Present Value of Total Repayment outflows	€9.91 million
Net Present Value of Repayments over cost of original Construction and Refurbishment Works	€2.32 million (Loss)

5.3.20 Table 17 shows that the cost of financing the €7.59 million of construction and refurbishment works over the 25-year period for the 130 LTC beds is now estimated at an effective annualised interest rate of eight per cent. In addition, taking *circa* five per cent per annum as a reasonable discount rate mirroring alternative Government

financing possible at the time, the cost was increased to €9.91 million in April 2007 value terms, an adverse difference of €2.32 million (€7.59m - €9.91m). It may also be noted that, as in the Żejtun Home Project case, reliance of Government bond funding would also have had estimated one-time commissions and advertising fees of around 0.5 per cent. Nonetheless, despite this minor mitigating factor, the indications persist that it should have been discernible at the time that the selected type of financing would be somewhat high for the Government.

5.4 Conclusions

5.4.1 This Chapter evaluated the degree to which the financing of the PPP ventures entered into by the DfE with respect to construction and refurbishment works at the Żejtun and Mellieħa Homes constituted value for money. One of the major benefits derived through these initiatives between governmental entities and third parties relates to expediting project implementation through build and operate agreements. To a large extent, the PPP ventures attained this objective since, in both Homes, the construction phase of these projects were generally delivered according to the agreed time frames.

5.4.2 These ventures also offered alternative project financing opportunities to the DfE to those usually employed by governmental entities. The latter arrangements usually relate to Government borrowing, such as through the issue of bonds at varying rates of interests and dates of maturity, which are ultimately influenced by prevailing economic conditions. While the financing options referred to herein both have their advantages and disadvantages, the approaches chosen to finance the construction and refurbishments works at the Żejtun and Mellieħa Homes proved costlier than if financing was carried out through the traditional approaches adopted by Government.

5.4.3 Various references have already been made in this Report, including this Chapter, that, at least at departmental and ministry level, comprehensive documentation evaluating the different financing options was not available. Such a state of affairs does not only deviate from Ministry for Finance issued PPP guidelines but precludes robust project appraisal analysis.

5.4.4 The NAO can note that the chosen method of financing resulted into higher costs of borrowings, particularly at the Żejtun Home. Nevertheless, it is to be noted that the scope of this audit did not extend to any evaluation of possible opportunity costs at a macro level if other financing options beyond that taken up were to be considered at the time of the project commencement.

5.4.5 Following this evaluation of the capital-financing element included in the daily chargeable rate, the next Chapter of this Report discusses other main element of the daily pppn rate. To this end, the discussion will focus on various evaluations undertaken with respect to operational costs incurred in residential LTC homes.

Chapter 6
Operational costs of residential LTC homes for the elderly

Chapter 6 - Operational costs of residential LTC homes for the elderly

6.1 Introduction

6.1.1 The daily chargeable rate of residential LTC homes may comprise both capital expenditure and relative financing as well as operational costs. In practice, both of these cost components tend to compensate for each other during negotiations relating to the overall daily chargeable rate agreed between the contracting authority and potential operators. For analytical purposes, this performance audit distinguished between capital-financing and operational costs, particularly to determine the extent to which operational costs agreed constituted favourable terms.

6.1.2 Operational costs, as reflected by the chargeable daily rates *pppn* accommodated at residential LTC Homes for the elderly, constitute a significant expenditure. These costs mainly comprise hotel services as well as the provision of caring and nursing services. However, for a number of reasons, there were considerable differences in operational costs across the four Homes under review since these ranged from €32.97 to €66.66 *pppn*. These operational costs were derived from the total chargeable daily rate, which in a number of cases may have included costs related to the financing of construction or refurbishment works. Additionally, the afore mentioned costs were subject to adjustments to assimilate caring and nursing services which were not catered for in contracts between the DfE and operators.

6.1.3 In recent years, the DfE has adopted various operational models to ascertain that the service provided through homes for the elderly was cost effective and efficient. These operational models included government-owned homes, whose management and service provision was entirely provided or under the direct responsibility of the DfE (for example, Mtarfa Home). As indicated in Figure 1, other operational models related to the PPP models whereby the DfE awarded a long-term contract for the construction, management and the provision of hotel, nursing and caring service. Another model, which also entailed a high degree of partnership with the private sector, involved the procurement of residential LTC beds for the elderly from private operators, more commonly referred to as the '*Buying of Beds*' scheme.

6.1.4 This Chapter focuses on the latter two models and discusses the extent to which agreements between the DfE and operators constituted value for money. For the purpose of this exercise, the NAO analysed the operational costs with respect to the four sampled Homes for the elderly, that is, Żejtun, Mellieħa, Roseville and Casa Leone Homes.

6.1.5 At the outset, this Chapter will outline the methodology adopted to determine the operational costs incurred by the four Homes under review. The discussion then proceeds to compare the resultant operational costs. The final part of this Chapter will focus on the cost-effectiveness of the operational arrangements, as outlined in the different contractual agreements, in the different residential LTC Homes for the elderly.

6.1.6 Determining the extent of operational costs incurred, with respect to the four Homes under review, was undertaken in two main phases. The first stage entailed establishing the operational costs on a *pppn* basis. The second phase focused on analysing the resultant costs, firstly on a Home-by-Home basis and secondly between the four sampled Homes. All evaluations and conclusions presented in this Chapter relating to operational costs are based on data and information pertaining to August 2013.

6.1.7 Cost-related information was derived from three main sources. These included the contracts between the DfE and the private operators and the relative invoices raised by the respective operators. Additionally, information relating to costs incurred by the DfE was sourced directly from this Department. NAO officials verified this information through integrity checks. Where necessary, this information was supplemented with further clarifications derived through interviews with DfE officials and the respective operators' representatives.

6.1.8 The foregoing, however, did not lead to appropriately structured and homogenous operational cost information at a single point in time, with respect to the four Homes under review. These circumstances mainly arose since the different contractual arrangements did not always cater for the same provision of services or breakdown operational costs into its various components, namely hotel, caring and nursing services. To mitigate these limitations, the costing exercise was subject to a number of assumptions and adjustments. These will be indicated when presenting operational costs incurred by each of the Homes under review in Sections 6.2 and 6.3 of this Chapter.

6.1.9 Determining costs on a *pppn* basis also necessitated information related to the number of residents and their respective dependency levels in the Homes falling within the scope of this exercise. To this end, elderly residents were classified into their respective dependency categories, namely semi and high dependence. Such categorisations are as at end August 2013 and are based on Barthel index assessments performed by DfE personnel.[27]

6.2 Operational costs of the Homes under review ranged from €32.97 to €66.66 *pppn*

6.2.1 This Section of the Report portrays the operational costs of the four Homes under review. The operational costs of the two Homes pertaining to PPP schemes, namely Żejtun and Mellieħa Homes were derived by deducting the cost of financing capital works from the daily chargeable rate stipulated in the respective contracts. In addition, the resultant balances of this calculation, where appropriate, had to take into consideration other costs incurred directly by the DfE, such as the provision of caring and nursing services.

6.2.2 On the other hand, the operational costs of Roseville and Casa Leone Homes, whose services were procured through the '*Buying of Beds*' scheme are reflected in the daily chargeable rates per person stipulated in the respective contracts.

[27] The Barthel index relates to a scale used to measure residents' performance in activities of daily living.

6.2.3 This Section proceeds to illustrate how the operational costs of the Homes under review were derived. To this end, the discussion focuses on each specific residential LTC Home for the elderly.

Żejtun Home

6.2.4 As pointed out at various junctures in this Report, the contractual arrangements regulating the Żejtun Home's operations have mainly evolved since the Residence's Extension Agreement in 2003. The various contractually agreed changes ultimately resulted in the admission of 107 persons to increase the Home's capacity to 167 by end 2003. Furthermore, in 2013, a new Addendum contract was signed to reflect the introduction of a 47-bed HDU and increase the overall Home's capacity to 204.[28] For the scope of determining the weighted average operational cost on a pppn basis, this Section distinguishes between the costs pertaining to the 47-bed HDU and the remaining 156 beds within the rest of the Home as at end August 2013.[29]

6.2.5 ***Żejtun Home (156 Beds)*** - Table 18 shows the estimated weighted average operational costs of the 156 beds at the Żejtun Home which do not pertain to the HDU. This table shows the derivation of this estimate following the deduction of capital-financing costs, where applicable, from the total daily chargeable rate indicated in the respective contracts. The estimation of the weighted average operational costs also entailed considering the number of residents at the Home and the level of care that they were receiving as at August 2013.

Table 18 : Weighted average operational costs of the Żejtun Home (156 Beds)

Żejtun Home section (156 Beds)	Total daily rate as per contract (€)		Capital Element (€)	Operational cost element in total chargeable rate (€)		Extra Care (€)	No. of persons		Weighted average daily rate (€)
	Semi	High		Semi	High		Not receiving Extra Care	Receiving Extra Care	
'Old Part' (Prior 2003)	24.44		0	24.44		7.00	18	16	27.73
'Extension Part' (2003)	35.49		11.05	24.44		7.00	66	40	27.08
16-Bed Extension (2013)	35.49		11.05	24.44		7.00	12	4	26.19
Totals							**156**		**27.13**

6.2.6 Table 18 shows that, as at August 2013, the weighted average operational cost at the Żejtun Home (156 Beds) is €27.13. This amount is exclusive of the estimated capital-financing element included in the daily chargeable rate. The weighted average operational cost is derived through three different agreements, two of which were signed in 2003, while the latest rates were negotiated in 2013.

6.2.7 The first rates negotiated in 2003, were based on the prevailing status of the Home at that time, which entailed that the contractor manages and operates the government-owned residence. Consequently, the rate of €24.44 related exclusively to the operation and maintenance of the Home. Moreover, this rate did not distinguish between residents' dependency levels. To this end, in cases where residents' dependency levels deteriorated and thus required extra care, an additional daily fee of €7 became applicable. When considering the number of residents receiving extra care services, the weighted average operational daily rate pertaining to the 34 beds covered by the 'Old Part' contract was estimated at €27.73.

[28] Prior to the 2013 Addendum, the Żejtun Home comprised 167 beds. This Addendum established a 47-bed HDU and set the capacity of the remaining area of the home to 157 beds. Consequently, in total, the Żejtun Home's capacity is 204.

[29] It is pertinent to note that during August 2013 the Żejtun Home was accommodating 203 residents out of a total capacity of 204 beds. The 203 beds were composed of 47 beds situated in the HDU, while the remaining 156 beds were situated within the rest of the home.

6.2.8 The extension of the Home in 2003 increased the Home's capacity through the build, finance, maintain and operate PPP contract. These circumstances introduced the capital component in the daily chargeable rate for the residents that were to be accommodated in this part of the Home. This contract was to be applicable to a minimum of 80 beds and retained the previous operational and extra care daily rates of €24.44 and €7 respectively. However, the 2003 extension contract also incorporated a charge of €11.05 to finance the construction works undertaken by the operator. This latter charge resulted in a new daily chargeable rate of €35.49 for the residents accommodated in this area of the Home. This state of affairs resulted in the weighted average daily operational rate being estimated at €27.08.

6.2.9 In 2013, the Żejtun Home set-up was changed, mainly through the establishment of the HDU, which necessitated that a number of beds be redesignated. The relative construction and refurbishment works amounting to €407,445 was financed directly by the DfE. This new set-up resulted in a further 16 beds being allocated within the 'Extension Part' of the Home. Neither the 2013 contract nor documentation made available distinguished whether the daily chargeable rate of €35.49 comprised a capital component or catered exclusively for operational costs. It was deemed practical to assume that the same conditions as those which applied to beds accommodated in the 'Extension Part' would apply. This assumption is based on the premise that the 2003 'Extension Part' contract stipulated that this section of the Home was to accommodate at least 80 beds. Moreover, the contract regulating the additional 16 beds retained the same daily chargeable and extra care rates as in the 2003 extension contract. The risks associated with this assumption is considered marginal since if the daily chargeable rate is considered to cater fully for operational costs the resultant weighted average operational daily cost would only be subjected to minimal variances. In view of the foregoing, the estimated weighted average operational cost of the additional 16 beds within the 'Extension Part', which were introduced in 2013, amounted to €26.19.

6.2.10 ***Żejtun Home (HDU)*** - The Żejtun Home Addendum to the 2003 extension contract was signed in 2013. The Addendum mainly reflected the introduction of a 47-bed HDU, which effectively increased the overall Home's capacity to 203. This new section mainly caters for semi and high dependency residents deemed to require additional care. Table 19 shows the chargeable rate on a *pppn* basis for residents accommodated within the HDU.

Table 19 : Weighted average operational costs of the Żejtun Home (HDU)

Żejtun Home section	Total daily rate as per contract (€)		Capital Element (€)	Operational cost element in total chargeable rate (€)		Extra Care (€)	No. of persons categorised as Semi Dependant	No. of persons categorised as High Dependant	Weighted average daily rate (€)
	Semi	High		Semi	High				
HDU	44.51	55.64	0	44.51	55.64	-	14	33	52.32

6.2.11 Table 19 shows that the chargeable rates at the HDU do not include a capital element. This situation materialised since the DfE incurred all refurbishment expenditure pertaining to this Unit (€91,812.38).

6.2.12 ***Żejtun Home (Total Capacity)*** - The discussion within this Section established the weighted average daily operational costs of the various units comprising the Żejtun Home. For analytical purposes, the resultant rates were considered collectively to determine the weighted average operational cost pertaining to all LTC beds occupied as at August 2013. Table 20 refers.

Table 20 : Weighted average daily operational rates throughout all sections within the Żejtun Home (August 2013)

Żejtun Home section	Number of Beds	Weighted average daily operational rate (€)
Żejtun Home (156 Beds)	156	27.13
Żejtun Home (HDU)	47	52.32
Żejtun Home (Total Capacity)	**203**	**32.97**

6.2.13 The extent to which these operational rates are considered favourable are discussed in detail in Section 6.3 of this Chapter.

Mellieħa Home

6.2.14 The Mellieħa Home is operated in accordance to PPP principles whereby the operator was contracted to construct, manage and provide hotel services at this Residence. On the other hand, the provision of caring and nursing services falls within the DfE's responsibility. The derivation of the weighted average operational costs of this Home entailed taking into account expenditure incurred to settle the operator's contribution with respect to the provision of hotel services and the DfE's costs mainly regarding the provision of caring and nursing services.

6.2.15 The 2007 Mellieħa Home contract, as well as subsequent Addendum signed in 2013, stipulates the monthly charges for the provision of hotel services and capital-financing with respect to the construction of the Home. This rate mainly covers the hotel services (catering, cleaning, laundry and other ancillary services) and capital -financing for the €7.6 million project relating to the construction of this Home.

6.2.16 Table 21 provides a breakdown of the charges attributed to the total monthly charge due to the operator. This breakdown shows the charges on a per bed basis, in accordance with contractual provisions and the derivation of the Home's operational charges with respect to the provision of hotel services and other ancillary services by the operator.

6.2.17 Table 21 also shows the costs incurred by the DfE mainly with respect to the direct provision of caring and nursing services. DfE financial records were the main source through which this information was derived. Table 21 then proceeds to estimate the weighted average operational cost on a *pppn* basis by considering both hotel services as well as caring and nursing costs provided by the operator and the DfE respectively.

Table 21 : Weighted average operational costs of the Mellieħa Home

	Operator Chargeable Rate				DfE incurred costs			
	Total Monthly Operator Chargeable Rate (excl. VAT)	Total Monthly Capital-Financing Component	Total Monthly Operational Element	Total Daily Chargeable Operational Rate (due to the contractor)	Average Caring cost (*pppn*)	Average Nursing cost (*pppn*)	Other DfE Incurred Costs	Total Operational Rate
	(€)	(€)	(€)	(€)	(€)	(€)	(€)	(€)
130 Beds	209,288.58	57,302.88	151,985.71	38.33				
24 Beds	24,107.60	0	24,107.60	32.93				
26 Beds	25,496.61	0	25,496.61	32.15				
180 Beds			**201,589.92**	**36.72**	**11.86**	**16.83**	**1.25**	**66.66**

6.2.18 Table 21 estimates the weighted average operational costs of the Mellieħa Home at €66.66. This resultant estimated operational cost will be further analysed later in this Chapter.

'Buying of Beds' (Roseville and Casa Leone Homes)

6.2.19 The DfE's bed-stock was further augmented through the procurement of residential LTC beds for the elderly from available capacity from privately operated Homes. To this end, this audit focused on the '*Buying of Beds*' scheme through a review of costs incurred by the DfE with respect to Roseville and Casa Leone Homes, in accordance with the contract signed between the parties involved. The derivation of operational costs with regards these Homes is based on prevailing contractual obligations and information available during August 2013.

6.2.20 The '*Buying of Beds*' agreements distinguishe between Level 1 and Level 2 Homes. Level 1 Homes offer the basic characteristics as licensed by the Health Care Standards Directorate. On the other hand, Level 2 Homes have additional facilities and amenities to the former category of Homes, which imply a qualitative home environment. However, both categories are obliged to provide caring and nursing services to semi and high dependant residents according to standard contractual provisions. The Homes subjected to this review, Casa Leone and Roseville, are categorised as Level 1 and Level 2 respectively.

6.2.21 Table 22 shows the chargeable rates related to these Homes during August 2013 and the derivation of the weighted average operational costs incurred by the DfE. The costs incurred cover the provision of hotel, caring and nursing services.

Table 22 : Weighted average operational cost (Casa Leone and Roseville Homes)

Dependency level	Casa Leone Home (Level 1)		Roseville Home (Level 2)	
	No. of residents	Daily rate (€)	No. of residents	Daily rate (€)
Semi	22	34.82	38	35.85
High	5	44.04	42	45.27
Weighted average cost (*pppn*) (€)		**36.53**		**40.80**

6.2.22 Table 22 shows that the weighted average operational costs incurred by the DfE with respect to Casa Leone and Roseville Homes amount to €36.53 and €40.80 respectively. The main difference in the resultant estimated cost between the two Homes is attributable to the difference in Home classification with regards its facilities and amenities.

6.3 Operational costs offer varying degrees of value for money

6.3.1 This Section seeks to evaluate the extent to which the costs incurred to operate the four Homes under review constitute value for money. This assessment mainly considered the contractual rates and financial information maintained by the DfE which led to the operational costs outlined in the previous Section.

6.3.2 This assessment is subject to a number of limitations that arose as a result that source information available did not fulfill the pre-requisites of comparative analysis, which necessitates a level playing field. This circumstance materialised since the contracts under review were signed at different point in times and related to different modes of service provision and delivery. To varying degrees, the limitations discussed in the preceding paragraph were mitigated.

6.3.3 As far as reasonably possible, this assessment focused only on the common elements of operational costs implied in the contractual rates pertaining to each Home. For instance, the operational costs under consideration were all adjusted by the rate of the retail price index to ensure that any comparisons pertain to the same period. Additionally, the operational rates under discussion were all adjusted to reflect hotel, nursing and caring services only. Consequently, all rates are exclusive of capital-financing components.

6.3.4 Table 23 summarises the resultant operational daily rates, which were derived through the charges stipulated in the respective contracts pertaining to the four Homes under review. Additionally, Table 23, whenever possible, relates the daily operational rates to the main service delivery components, namely, hotel, caring and nursing services.

Table 23 : Summary of the main similarities and differences in the four sampled Homes

<table>
<tr><th></th><th colspan="2">Operational rates (€)</th><th>LTC Home ownership</th><th>Hotel services</th><th>Caring service (minutes pppn)</th><th>Nursing service (minutes pppn)</th></tr>
<tr><td>Żejtun Home (156 Beds)</td><td>€27.13</td><td rowspan="2">€32.97</td><td>Government</td><td rowspan="5">The delivery of hotel services within each Home is considered similar</td><td>Not Specified</td><td>Not Specified</td></tr>
<tr><td>Żejtun Home (HDU)</td><td>Semi €44.51
High €55.64</td><td>Government</td><td>Semi 117
High 144</td><td>Semi 22.8
High 27</td></tr>
<tr><td>Mellieħa Home</td><td colspan="2">€66.66</td><td>Government</td><td>Semi 92.36
High 110.83</td><td>Semi 43.09
High 51.03</td></tr>
<tr><td>Roseville Home</td><td colspan="2">Semi €35.85
High €45.27</td><td>Private</td><td>Semi 120
High 144</td><td>Semi 22.8
High 27</td></tr>
<tr><td>Casa Leone Home</td><td colspan="2">Semi €34.82
High €44.04</td><td>Private</td><td>Semi 120
High 144</td><td>Semi 22.8
High 27</td></tr>
</table>

6.3.5 The ensuing paragraphs within this Section outlines the issues emanating from Table 23. To this end, the discussion proceeds to discuss the emerging concerns in accordancewto each of the four Homes under review.

Żejtun Home

6.3.6 As at August 2013, the resultant weighted average operational cost pertaining to this Home has been estimated at €32.97. Prima facie, these rates appear to be the most favourable of the Homes under review. However, this operational rate has to be assessed against the following considerations:

i. Analysing the extent to which the Żejtun Home daily chargeable operational rates per person are considered favourable also necessitates taking into consideration the applicable rates with respect to capital construction of this Home. As noted in the previous Chapter, this Home's capital-financing did not prove favourable to the DfE, where the payable interest rate over a 25-year period was estimated at 13 per cent. The high return on investment registered by the private operator for the extension and refurbishment of this Home could potentially compensate for the relatively lower daily operational rate than those of the other sampled Homes.

ii. Prior to the establishment of the HDU, the Home's weighted average operational daily rates, based on its total capacity at the time, amounted to €27.24. On

the introduction of the HDU, the Home's weighted average operational rates increased by 21 per cent to €32.97.

iii. When analysed on its own merits, it is clearly evident that the HDU rates were the main contributory factors which increased the operational rates at this Home. The reasonableness of the HDU rates raises some concerns especially when compared to the payable rates under the '*Buying of Beds*' scheme. To this end, the Żejtun Home (HDU) rates were compared to the two '*Buying of Beds*' contracts, namely those pertaining to Roseville and Casa Leone Homes. These three agreements were signed during February and March 2013. The main operational similarities between these Homes relate to the provision of hotel as well as caring and nursing services. To this end, the HDU rates range between 23 to 24 per cent higher for semi and high dependants when compared to a Level 2 residence under the '*Buying of Beds*' scheme. The difference in rates between the Żejtun Home (HDU) and the two residences pertaining to the '*Buying of Beds*' scheme tend to be more pronounced when the following are considered:

   a) The Żejtun Home (HDU) rates are governed by a long-term contract (15 years to its termination) whereas the '*Buying of Beds*' agreements relate to an annual contract. It seems that the HDU rates do not appropriately reflect the potentially favourable rates, which could potentially be derived through long-term agreements.

   b) The chargeable rates relating to the '*Buying of Beds*' schemes, namely Roseville and Casa Leone Homes remain favourable to the Żejtun Home (HDU) even when considering that the former could potentially have a 'rent' component included. On the other hand, the Żejtun Home Agreement does not make reference to a rental component since this Unit is established on government-owned land.

iv. The preceding paragraph raises an important issue. Documentation available does not make reference as to the extent, if at all, that the issue of rent chargeable to the contractor who is carrying out business activities on government-owned land and premises has influenced the chargeable rates due by the DfE.

v. The extent to which the Żejtun Home daily chargeable operational rates is considered favourable also entails benchmarking service delivery. Chapter Four of this Report has already outlined that there are strong indications that the number of carers and nurses employed at this part of the Residence fares lower to the other Homes reviewed through this performance audit. The main cause of this issue emanates from unclear contractual provisions which do not adequately define the level of caring and nursing services to be provided.

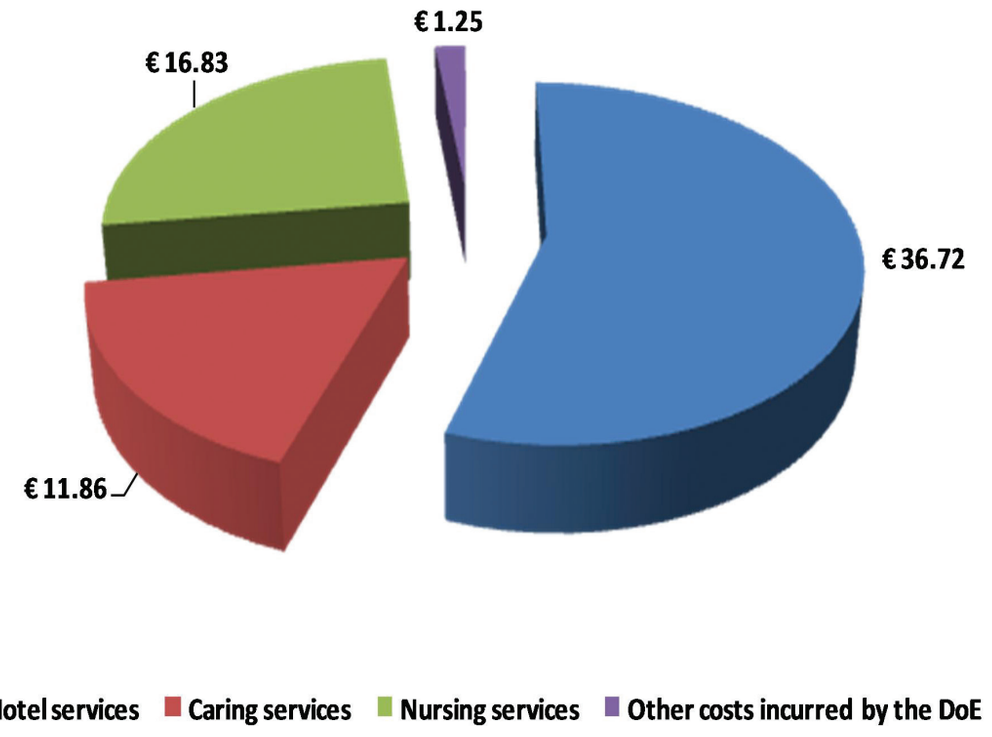
vi. Additionally, the preceding paragraph raises the question as to why such unclear provisions prevailed even though various contractual changes were carried out in the 2013 Addendum contract. In these circumstances, the contracting authority potentially forfeited the opportunity to rectify these contractual shortcomings (see Section 4.2) when it was negotiating new rates with the Home's operator. To this end, caring and nursing staff ratios were only defined for the 47-bed HDU.

Mellieħa Home

6.3.7 As outlined in Table 21 & 23, the weighted average operational cost for the Mellieħa Home, as at August 2013, was estimated at €66.66 per resident per night. This constitutes the highest operational costs when compared to the other residential LTC

Homes for the elderly subjected to this performance audit. Chart 4 reproduces a breakdown of the main components comprising operational costs of the Mellieħa Home as at August 2013.

Chart 4 : Breakdown of Mellieħa Home's operational costs



6.3.8 One of the main elements attributing to such a high cost is the hotel service (catering, cleaning, laundry and other ancillary services). The weighted average cost paid to the private operator to provide these services amounts to €36.72 per resident per night. This chargeable operational rate is almost equivalent to the semi-dependant rates secured under the '*Buying of Beds*' scheme, which also include the provision of caring and nursing services.

6.3.9 Chart 4 also shows that a substantial proportion of operational costs relate to the provision of caring and nursing services whose average costs during August 2013 were estimated at €11.86 and €16.83 respectively. It is to be noted that such services are provided directly by the DfE. In the absence of national standards relating to caring and nursing, any further analysis on the reasonableness or adherence to such costs is not deemed feasible.

6.3.10 The audit, however, identified a source of cost-inefficiency in the provision of caring and nursing services at the Mellieħa Home. The delivery of these services is not governed by any documented guidelines outlining the required level of caring and nursing. In the absence of such documentation, such a calculation was made through the application of contractual provisions relating to other homes, which stipulate the caring and nursing hours to be afforded to residents on a daily basis. Table 24 compares these contractual provisions to the situation at the Mellieħa Home.

Table 24 : Benchmarking of Caring and Nursing services at Mellieħa Home with contractual provisions relating to other Homes

Home	Dependency level	Mellieħa Home	'*Buying of Beds*' Homes	Żejtun Home (HDU)
		Minutes / *pppn*	Minutes / *pppn*	Minutes / *pppn*
Caring Ratios	Semi	92.36	120	117
	High	110.83	144	144
Nursing Ratios	Semi	43.09	22.8	22.8
	High	51.03	27	27

6.3.11 Table 24 shows that to varying degrees, the DfE is utilising nurses in lieu of carers. Given the higher rate of remuneration received by nurses, such a situation is conducive to inflate the costs of these services.

6.3.12 The foregoing cost-efficiency concerns raise the point as to whether it would have been more beneficial if caring and nursing services were also contracted out to the incumbent operator who was also responsible for delivering the Home's hotel services. The DfE's retention of this core service does not fully adhere to PPP principles which aim to transfer operational risks from the governmental entity to the private operator. Moreover, as discussed in this Report (refer to Section 6.2), the DfE would have lowered its caring and nursing services costs considerably. The counter argument would be that, as already pointed out in this Report, various operators failed to comply to contractual provisions relating to caring and nursing. However, the solution to this state of affairs was to ensure that effective enforcement measures were invoked against operators in terms of existing contractual provisions.

6.3.13 Similarly to the Żejtun Home, the incumbent Mellieħa Home operator is carrying out business activities on government-owned land and premises. The same situation as that relating to the former Home materialised since documentation available does not make reference regarding the extent to which a rental component for the government-owned assets influenced the daily rates charged. A comparison with other rates secured by the DfE for residential LTC beds for the elderly, particularly through the '*Buying of Beds*' scheme, is clearly indicative that an opportunity existed to negotiate more favourable rates with respect to the Mellieħa Home. Such a prospect would have been realised by increasing the revenue potential through the imposition of a rental value for undertaking business activities on government-owned assets.

'Buying of Beds' (Roseville and Casa Leone Homes)

6.3.14 This Chapter has already highlighted that the '*Buying of Beds*' scheme utilised to procure residential LTC services at Roseville and Casa Leone Homes proved to be more favourable than the rates secured by the DfE with respect to the Żejtun Home (HDU) and Mellieħa Home. The major benefit of procuring services through this scheme further emanate from the fact that services are readily available since in many cases these are being supplied through the excess capacity within the market. Moreover, such services were secured through short-term contracts that offer both parties greater flexibility.

6.4 Conclusions

6.4.1. This Chapter sought to evaluate the extent to which the respective operational costs of the four Homes under review constituted value for money. To this end, a primary consideration related to the two approaches invoked by the DfE for the delivery of residential LTC services in these Homes, namely the PPP ventures at Żejtun and Mellieħa Homes as well as the '*Buying of Beds*' scheme at Roseville and Casa Leone Homes.

6.4.2. This review revealed that operational costs within the four Homes under review varied significantly, where the Mellieħa Home proved to have the highest costs. Similarly, the Żejtun Home (HDU), which according to the relative contractual provision was providing a comparable service to that provided at the two Homes under the '*Buying of Beds*' scheme, also proved to be costlier than the latter.

6.4.3. The foregoing clearly shows that the DfE managed to secure more favourable operational rates through the '*Buying of Beds*' scheme. There are a number of contributory factors leading to such circumstances. Over time, the number of residential LTC beds in privately owned and managed homes increased substantially, a situation, which implies a higher degree of competition within an ever-expanding market. The increased number of suppliers and bed availability in the private sector has strengthened the DfE's bargaining power, which ultimately translated itself into a situation where the Department could negotiate better rates.

6.4.4. On the other hand, the PPP agreements reached resulted in less favourable operational rates. To a great extent this is due to a limited number of suppliers in the market – a situation which stifled competitive pricing. Moreover, the DfE's bargaining position when dealing with suppliers have tended to be weakened, particularly since the Department was constantly under severe pressures to address demand related issues. As has been noted in previous Chapters of this Report, the DfE's negotiating position as well as subsequent management of PPPs was further compromised since the Department lacked the appropriate organizational structure to handle the complexities of partnerships with private sector operators.

6.4.5. Other factors, namely negotiations and contractual related issues, also influenced the less favourable outcome derived through the PPP agreements at Żejtun and Mellieħa Homes. At the negotiation level, evidence was not available to show the extent to which the agreed charges took cognisance of the fact that business activities were being carried out on government-owned property. The principle of charging rent for a business activity remains applicable in these agreements even if the business undertaken was commissioned to a third party by a governmental entity to provide a critical social service. These circumstances translate themselves into a situation where Government is not being accredited for having its property being utilised by private operators although it is separately paying interest on the repayment of capital works undertaken on such properties – which at times surpassed commercial rates.

6.4.6 This performance audit reviewed two PPP models, both of which led to operational concerns relating to the service delivery of caring and nursing services. In the Żejtun Home, the operator was contractually obliged to provide these services. On the other hand, in the Mellieħa Home, the provision and management of caring and nursing services remained the responsibility of the DfE. In the latter case, the emerging cost-efficiency concerns raise the point as to whether it would have been more beneficial if the same PPP approach, as was the case in the Żejtun Home, was adopted. The aggregation of services, in terms of PPP principles, would have transferred operational

and financial risks from the governmental entity to the private operator with respect to this core service. In this way, the DfE would have, through the potential efficiency gains, lowered its caring and nursing services costs.

6.4.7 The counter argument to the foregoing is that, as already pointed out in this Report, various operators failed to comply with contractual provisions relating to caring and nursing services. However, the solution to this state of affairs was to ensure that effective enforcement measures were invoked in a timely and decisive manner against operators in terms of existing contractual provisions.

Appendices

Appendix I – Applicants awaiting admission to a residential LTC home for the elderly as at June 2014

Table 1 shows the number of outstanding applications for admission to a government-funded residential home as at end of June 2014. The data presented therein was sourced from the DfE and Karen Grech Rehabilitation Hospital. The salient points emanating from this Table are discussed in paragraph 2.4.5.

Table 1 : Outstanding applications for admission into a residential LTC home for the elderly by year of submission as at end of June 2014

Priority Type	Outstanding applications by year of submissions																		Total	Percentage of Total
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014		
Urgent	0	0	0	0	0	0	0	0	0	0	0	1	0	2	5	21	37	29	95	4.5
High Priority	0	0	0	0	0	1	0	0	0	1	2	2	3	9	10	25	70	64	187	8.8
Medium Priority	0	0	0	1	0	1	0	0	1	2	0	2	6	5	13	16	49	19	115	5.4
Low Priority	0	0	1	2	0	2	0	0	0	0	3	2	8	3	4	24	62	12	123	5.8
On Hold	0	0	0	0	0	0	0	0	0	0	0	1	3	3	1	6	25	5	44	2.1
Application still to be prioritized	2	2	1	1	3	1	7	5	5	21	45	58	73	111	150	377	374	320	1,556	73.4
Total	2	2	2	4	3	5	7	5	6	24	50	66	93	133	183	469	617	449	2,120	100

Appendix II – Daily Variance between contractual agreements and actual caring services provided

The NAO sought to determine the degree to which the provision of caring services complied with contractual obligations. To this end, various indicators relating to the number of caring staff deployed in the sampled Homes were sought. For ease of reference, the approaches and their ensuing limitations, which were utilised at this end and presented in Section 4.2, are being reproduced in this Appendix.

The first approach adopted considered the various reports relating to surprise inspections carried out by the DfE's Audit and Management Team during the period from May to September 2013. These inspections had a wide-ranging scope including compliance testing of caring ratios with contractual provisions or other generally accepted practices.

The second approach adopted considered the average complement deployed in the four Homes during August 2013. This month was chosen for two main reasons. The first was that this month proved to be practical with respect to the scheduling of this audit. Secondly, discussions between the NAO and the DfE did not reveal any factors which would impinge on the representativeness of the case studies undertaken on the four Homes.

The third approach entailed that the NAO together with the DfE's Audit and Management Team perform surprise inspections at each of the sampled Homes. These inspections were carried out between 21 January 2014 and 5 February 2014. For this purpose, the inspection sought to establish the caring staff complement deployed at the respective Homes on the day through collating information from staff time sheets maintained by the contractor.

The three approaches outlined above pose two main limitations. The first relates to the different periods when each of the three approaches was undertaken. On the other hand, the different time frames can also be viewed positively since they provide information over a wider period.

The second limitation concerns the absence of information relating to:

i. the caring requirements of private residents accommodated in homes operating both privately and government-funded residential LTC beds (see paragraphs 4.2.7 to 4.2.8); and

ii. agreements which do not clearly specify the required caring hours to be provided (see paragraph 4.2.9).

Mitigation of this limitation entailed the assumption that all residents in the Homes under audit require the minimum levels of caring services as noted in various contracts signed between the DfE and contractors. This approach, which invokes the prudence concept, is based on the premise that:

i. The contractual clauses relating to caring are based on best practices and is applicable to the Homes under review.

ii. The rates agreed by the DfE with contractors regarding the provision of caring services are classified into two main dependency levels – the semi and high dependency levels. Consequently, it is being presumed that staffing levels would reflect such dependency categorisations.

Each sub-section within this Appendix illustrates the resultant daily variance between contractual agreements and actual caring services provided as determined for each of the four Homes under review in accordance with the three approaches outlined above. The resultant variance emanating from the three approaches for each Home are reproduced in Table 9 and discussed in detail in paragraphs 4.2.18 to 4.2.31.

Appendix 2.1 Daily Variance between contractual agreements and actual caring services provided at Żejtun Home

Approach 1: Daily Variance between contractual agreements and actual caring services provided, based on the DfE's Audit and Management Team surprise inspection (*2 September 2013*)

Dependency Level	HDU LTC beds (*caring & nursing ratios stipulated by contract*)	Remaining LTC beds (*caring and nursing ratiosnot stipulated by contract*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	14	124	138	117	16,146			
High	33	33	66	144	9,504			
Total	***47***	***157***	***204***		***25,650***	***13,530***	***(12,120)***	***(202 hrs)***

Approach 2: Daily Variance between contractual agreements and actual caring services provided during August 2013

Dependency Level	HDU LTC beds (*caring & nursing ratios stipulated by contract*)	Remaining LTC beds (*caring and nursing ratios not stipulated by contract*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	14	123	137	117	16,029			
High	33	33	66	144	9,504			
Total	***47***	***156***	***203***		***25,533***	***14,877***	***(10,656)***	***(177 hrs 36 min)***

Approach 3: Daily Variance between contractual agreements and actual caring services provided, based on the NAO and DfE's Audit and Management Team surprise inspection (*21 January 2014*)

Dependency Level	HDU LTC beds (*caring & nursing ratios stipulated by contract*)	Remaining LTC beds (*caring and nursing ratios not stipulated by contract*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	14	124	138	117	16,146			
High	33	33	66	144	9,504			
Total	***47***	***157***	***204***		***25,650***	***14,130***	***(11,520)***	***(192 hrs)***

Appendix 2.2
Daily Variance between contractual agreements and actual caring services provided at Mellieħa Home

Approach 1: Daily Variance between contractual agreements and actual caring services provided, based on the DfE's Audit and Management Team surprise inspection (*20 August 2013*)

Dependency Level	Total LTC beds	Minutes as per other LTC contracts	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	136	117	15,912			
High	44	144	6,336			
Total	***180***		***22,248***	***17,395***	***(4,853)***	***(80 hrs 53 min)***

Approach 2: Daily Variance between contractual agreements and actual caring services provided during August 2013

Dependency Level	Total LTC beds	Minutes as per other LTC contracts	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	133	117	15,561			
High	46	144	6,624			
Total	***179***		***22,185***	***17,381***	***(4,804)***	***(80 hrs 4 min)***

Approach 3: Daily Variance between contractual agreements and actual caring services provided, based on the NAO and DfE's Audit and Management Team surprise inspection (*22 January 2014*)

Dependency Level	Total LTC beds	Minutes as per other LTC contracts	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	136	117	15,912			
High	44	144	6,336			
Total	***180***		***22,248***	***17,395***	***(4,853)***	***(80 hrs 53 min)***

Appendix 2.3
Daily Variance between contractual agreements and actual caring services provided at Roseville Home

Approach 1: Daily Variance between contractual agreements and actual caring services provided, based on the DfE's Audit and Management Team surprise inspection (*27 May 2013*)

Dependency Level	Government-funded LTC beds	Private LTC beds (*no contractual agreement*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	35	58	93	120	11,160			
High	45		45	144	6,480			
Total	***80***	***58***	***138***		***17,640***	***15,555***	***(2,085)***	***(34 hrs 45 min)***

Approach 2: Daily Variance between contractual agreements and actual caring services provided during August 2013

Dependency Level	Government-funded LTC beds	Private LTC beds (*no contractual agreement*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	35	58	93	120	11,160			
High	45		45	144	6,480			
Total	***80***	***58***	***138***		***17,640***	***15,243***	***(2,397)***	***(39 hrs 57 min)***

Approach 3: Daily Variance between contractual agreements and actual caring services provided, based on the NAO and DfE's Audit and Management Team surprise inspection (*3 February 2014*)

Dependency Level	Government-funded LTC beds	Private LTC beds (*no contractual agreement*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	35	60	95	120	11,400			
High	45		45	144	6,480			
Total	***80***	***60***	***140***		***17,880***	***15,225***	***(2,655)***	***(44 hrs 15 min)***

Appendix 2.4
Daily Variance between contractual agreements and actual caring services provided at Casa Leone Home

Approach 1: Daily Variance between contractual agreements and actual caring services provided, based on the DfE's Audit and Management Team surprise inspection (*22 May 2013*)

Dependency Level	Government-funded LTC beds	Private LTC beds (*no contractual agreement*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	19	64	83	120	9,960			
High	5		5	144	720			
Total	***24***	***64***	***88***		***10,680***	***8,550***	***(2,130)***	***(35 hrs 30 min)***

Approach 2: Daily Variance between contractual agreements and actual caring services provided during August 2013

Dependency Level	Government-funded LTC beds	Private LTC beds (*no contractual agreement*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	21	61	82	120	9,840			
High	6		6	144	864			
Total	***27***	***61***	***88***		***10,704***	***8,676***	***(2,028)***	***(33 hrs 48 min)***

Approach 3: Daily Variance between contractual agreements and actual caring services provided, based on the NAO and DfE's Audit and Management Team surprise inspection (*5 February 2014*)

Dependency Level	Government-funded LTC beds	Private LTC beds (*no contractual agreement*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	27	54	81	120	9,720			
High	7		7	144	1,008			
Total	***34***	***54***	***88***		***10,728***	***8,550***	***(2,178)***	***(36 hrs 18 min)***

Appendix III – Daily Variance between contractual agreements and actual nursing services provided

The NAO sought to determine the degree to which the provision of nursing services complied with contractual obligations. To this end, various indicators relating to the number of nursing staff deployed in the sampled Homes were sought. For ease of reference, the approaches and their ensuing limitations, which were utilised at this end and presented in Section 4.2, are being reproduced in this Appendix.

The first approach adopted considered the various reports relating to surprise inspections carried out by the DfE's Audit and Management Team during the period from May to September 2013. These inspections had a wide-ranging scope including compliance testing of nursing ratios with contractual provisions or other generally accepted practices.

The second approach adopted considered the average compliment deployed in the four Homes during August 2013. This month was chosen for two main reasons. The first was that this month proved to be practical with respect to the scheduling of this audit. Secondly, discussions between the NAO and the DfE did not reveal any factors, which would impinge on the representativeness of the case studies undertaken with respect to the four Homes.

The third approach entailed that the NAO together with the DfE's Audit and Management Team perform surprise inspections at each of the sampled Homes. These inspections were carried out between 21 January 2014 and 5 February 2014. For this purpose, the inspection sought to establish the nursing staff complement deployed at the respective Homes on the day through collating information from staff time sheets maintained by the contractor.

The three approaches outlined above pose two main limitations. The first relates to the different periods when each of the three approaches was undertaken. On the other hand, the different time frames can also be viewed positively since they provide information over a wider period.

The second limitation concerns the absence of information relating to:

i. the nursing requirements of private residents accommodated in homes operating both privately and government-funded residential LTC beds (see paragraphs 4.2.7 and 4.2.8); and

ii. agreements which do not clearly specify the required nursing hours to be provided (see paragraph 4.2.9).

Mitigation of this limitation entailed the assumption that all residents in the Homes under audit require the minimum levels of nursing services as noted in various contracts signed between the DfE and contractors. This approach, which invokes the prudence concept, is based on the premise that:

i. The contractual clauses relating to nursing are based on best practices and is applicable to the Homes under review.

ii. The rates agreed by the DfE with contractors regarding the provision of nursing services are classified into two main dependency levels – the semi and high dependency levels. Consequently, it is being presumed that staffing levels would reflect such dependency categorisations.

Each sub-section within this Appendix illustrates the resultant daily variance between contractual agreements and actual nursing services provided as determined for each of the four Homes under review in accordance with the three approaches outlined above. The resultant variance emanating from the three approaches for each Home are reproduced in Table 10 and discussed in detail in paragraphs 4.2.32 to 4.2.46.

Appendix 3.1
Daily Variance between contractual agreements and actual nursing services provided at Żejtun Home

Approach 1: Daily Variance between contractual agreements and actual nursing services provided, based on the DfE's Audit and Management Team surprise inspection (*2 September 2013*)

Dependency Level	HDU LTC beds (*caring & nursing ratios stipulated by contract*)	Remaining LTC beds (*caring and nursing ratios not stipulated by contract*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	14	124	138	22.8	3,146			
High	33	33	66	27	1,782			
Total	***47***	***157***	***204***		***4,928***	***1,800***	***(3,128)***	***(52 hrs 8 min)***

Approach 2: Daily Variance between contractual agreements and actual nursing services provided during August 2013

Dependency Level	HDU LTC beds (*caring & nursing ratios stipulated by contract*)	Remaining LTC beds (*caring and nursing ratios not stipulated by contract*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	14	123	137	22.8	3,124			
High	33	33	66	27	1,782			
Total	***47***	***156***	***203***		***4,906***	***1,584***	***(3,322)***	***(55 hrs 22 min)***

Approach 3: Daily Variance between contractual agreements and actual nursing services provided, based on the NAO and DfE's Audit and Management Team surprise inspection (*21 January 2014*)

Dependency Level	HDU LTC beds (*caring & nursing ratios stipulated by contract*)	Remaining LTC beds (*caring and nursing ratios not stipulated by contract*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	14	124	138	22.8	3,146			
High	33	33	66	27	1,782			
Total	***47***	***157***	***204***		***4,928***	***1,800***	***(3,128)***	***(52 hrs 8 min)***

Appendix 3.2
Daily Variance between contractual agreements and actual nursing services provided at Mellieħa Home

Approach 1: Daily Variance between contractual agreements and actual nursing services provided, based on the DfE's Audit and Management Team surprise inspection (*20 August 2013*)

Dependency Level	Total LTC beds	Minutes as per other LTC contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	136	22.8	3,101			
High	44	27	1,188			
Total	***180***		***4,289***	***8,060***	***3,771***	***62 hrs 51 min***

Approach 2: Daily Variance between contractual agreements and actual nursing services provided during August 2013

Dependency Level	Total LTC beds	Minutes as per other LTC contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	133	22.8	3,032			
High	46	27	1,242			
Total	***179***		***4,274***	***8,079***	***3,805***	***63 hrs 25 min***

Approach 3: Daily Variance between contractual agreements and actual nursing services provided, based on the NAO and DfE's Audit and Management Team surprise inspection (*22 January 2014*)

Dependency Level	Total LTC beds	Minutes as per other LTC contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance (*Hours / Minutes*)
Semi	136	22.8	3,101			
High	44	27	1,188			
Total	***180***		***4,289***	***8,060***	***3,771***	***62 hrs 51 min***

Appendix 3.3
Daily Variance between contractual agreements and actual nursing services provided at Roseville Home

Approach 1: Daily Variance between contractual agreements and actual nursing services provided, based on the DfE's Audit and Management Team surprise inspection (*27 May 2013*)

Dependency Level	Government-funded LTC beds	Private LTC beds (*no contractual agreement*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance *(Hours / Minutes)*
Semi	35	58	93	22.8	2,120			
High	45		45	27	1,215			
Total	***80***	***58***	***138***		***3,335***	***1,350***	***(1,985)***	***(33 hrs 5 min)***

Approach 2: Daily Variance between contractual agreements and actual nursing services provided during August 2013

Dependency Level	Government-funded LTC beds	Private LTC beds (*no contractual agreement*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance *(Hours / Minutes)*
Semi	35	58	93	22.8	2,120			
High	45		45	27	1,215			
Total	***80***	***58***	***138***		***3,335***	***1,647***	***(1,688)***	***(28 hrs 8 min)***

Approach 3: Daily Variance between contractual agreements and actual nursing services provided, based on the NAO and DfE's Audit and Management Team surprise inspection (*3 February 2014*)

Dependency Level	Government-funded LTC beds	Private LTC beds (*no contractual agreement*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance *(Hours / Minutes)*
Semi	35	60	95	22.8	2,166			
High	45		45	27	1,215			
Total	***80***	***60***	***140***		***3,381***	***1,350***	***(2,031)***	***(33 hrs 51 min)***

Appendix 3.4 Daily Variance between contractual agreements and actual nursing services provided at Casa Leone Home

Approach 1: Daily Variance between contractual agreements and actual nursing services provided, based on the DfE's Audit and Management Team surprise inspection (*22 May 2013*)

Dependency Level	Government-funded LTC beds	Private LTC beds (*no contractual agreement*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance *(Hours / Minutes)*
Semi	19	64	83	22.8	1,892			
High	5		5	27	135			
Total	***24***	***64***	***88***		***2,027***	***1,980***	***(47)***	***(47 min)***

Approach 2: Daily Variance between contractual agreements and actual nursing services provided during August 2013

Dependency Level	Government-funded LTC beds	Private LTC beds (*no contractual agreement*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance *(Hours / Minutes)*
Semi	21	61	82	22.8	1,870			
High	6		6	27	162			
Total	***27***	***61***	***88***		***2,032***	***1,865***	***(167)***	***(2 hrs 47 min)***

Approach 3: Daily Variance between contractual agreements and actual nursing services provided, based on the NAO and DfE's Audit and Management Team surprise inspection (*5 February 2014*)

Dependency Level	Government-funded LTC beds	Private LTC beds (*no contractual agreement*)	Total LTC beds	Minutes as per contract	Total Minutes as per contract	Actual minutes provided	Estimated Variance (*Minutes*)	Estimated Variance *(Hours / Minutes)*
Semi	27	54	81	22.8	1,847			
High	7		7	27	189			
Total	***34***	***54***	***88***		***2,036***	***1,980***	***(56)***	***(56 min)***

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