

Follow-up Audits Report by the National Audit Office 2022

Volume I





Follow-up Audits Report 2022

Volume I

Report by the Auditor General
June 2022

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Foreword

For the sixth consecutive year, the National Audit Office has undertaken another extensive Follow-up Audits assignment which essentially evaluates the level of implementation by the Executive of the main recommendations made by our respective audit teams.

In this first volume for 2022, our Financial and Compliance team has based its review on ten audits carried out recently by this same section, as can be seen in the Table being inserted after this Foreword.

Reaffirming that the main objective of our audit work is essentially to promote good governance across the public sector, ultimately in the best interest of our citizens, the timely and efficient implementation of our recommendations is therefore of critical importance to the National Audit Office.



Charles Deguara
Auditor General

June 2022

GUIDELINES FOR THE CLASSIFICATION OF THE IMPLEMENTATION OF RECOMMENDATIONS FOLLOWED UP BY THE NATIONAL AUDIT OFFICE

RATING	EXPLANATION
Fully Implemented	The action taken met the intent of the recommendation and issues were rectified. Structures and processes were in place to prevent a repetition of shortcomings. Sufficient evidence was provided to demonstrate action taken.
Partly Implemented	This category encompasses one or more of the following considerations: <ul style="list-style-type: none"> • Action taken was less extensive than recommended by the National Audit Office. Action either fell short of the intent of the recommendation, or only addressed some of the identified risks and/or issues. • The auditee may have established structures and processes but only within some parts of the organisation, although some achieved results were identified; however, plans exist for the full implementation of the recommendation. • The specific action noted in the recommendation was not complete at the time of the assessment. • The auditee may have commenced action to address a recommendation, but subsequent policy changes may have influenced how it might be implemented.
Significant Progress	The auditee demonstrated that it made all preparations for implementing a recommendation, including a clear path (plan) duly approved at the proper executive level. It also showed that it had a clear timeline for completion and closure of the issue.
Insignificant Progress	This category may include one or more of the following: <ul style="list-style-type: none"> • Action to address recommendation was very limited. • No supporting evidence that action has been undertaken. • Albeit unintentional, action taken does not address the recommendation. • Actions such as having meetings, discussions and generating informal plans, should be regarded as insignificant progress.
Not Implemented	No effort was made by the auditee to address the recommendation. <i>(This may also include those instances where the auditee did not provide any evidence suggesting efforts to implement the recommendation.)</i>
Not Accepted	The auditee did not accept the recommendation in the first instance.
No Longer Applicable	In instances when the recommendation ceased to apply.

TABLE OF IMPLEMENTATION FOR EACH INDIVIDUAL FOLLOW-UP AUDIT

Title of Follow-up	Developments						Totals	Implemented in Full or in Part or Significant Progress registered
	Fully Implemented	Partly Implemented	Significant Progress	Insignificant Progress	Not Implemented	No Longer Applicable		
Mater Dei Hospital- Revenue from Foreign Patients	3	3	1		3		10	70%
Pharmacy of Your Choice Scheme	1	5		2	3		11	55%
Arts Council Malta	3	2		2	1	3	11	45%
Malta Libraries	2	1		1			4	75%
Foundation for Social Welfare Services- Agency for Community and Therapeutic Services	4	1					5	100%
Retirement Pensions	2						2	100%
Office of the State Advocate	1		1	1			3	67%
Information and Communication Technology	2		1				3	100%
Environmental Contribution	6	1		1			8	88%
Compensation Payments	3						3	100%
Totals	27	13	3	7	7	3	60	72%
Totals in Percentages	45.00%	21.67%	5.00%	11.67%	11.67%	5.00%	100.00%	71.67%

List of Abbreviations

A&E	Accident and Emergency
ACM	Arts Council Malta
CBM	Central Bank of Malta
CFMS	Corporate Financial Management Solution
CfR	Commissioner for Revenue
CPAS	Central Patients Administrative System
CPSU	Central Procurement and Supplies Unit
DAS	Departmental Accounting System
DSS	Department of Social Security
EC	Environmental Contribution
FSWS	Foundation for Social Welfare Services
ICT	Information and Communication Technology
IT	Information Technology
MDH	Mater Dei Hospital
MFIN	Ministry for Finance
MHAS	Ministry for Home Affairs and National Security
ML	Malta Libraries
MPF	Malta Police Force
MTA	Malta Tourism Authority
NAO	National Audit Office
POYC	Pharmacy of Your Choice
RoFP	Return of Foreign Patient
VAT	Value Added Tax

Ministry for Health



Mater Dei Hospital - Revenue from Foreign Patients

Background

Mater Dei Hospital (MDH) is the primary state hospital, serving mainly as an acute general hospital and offering a full range of services. In the Annual Audit Report for 2017, the National Audit Office (NAO) published the outcome of an audit which covered fees charged by the hospital to foreign nationals who do not qualify for free healthcare in terms of Healthcare (Fees) Regulations (S.L. 35.28).

The scope of this audit was to analyse whether bills charged to foreign patients were exhaustive and properly raised, while revenue was duly received and satisfactorily accounted for. The administrative and management procedures covering the billing process, as well as the adequacy of internal controls, were also assessed.

Key Issues

Unreliable Billing Process

Various departments within MDH operated on different clinical software systems, which resulted in unconsolidated information regarding medical services provided to any particular patient. Furthermore, the foregoing were not connected to any of the two billing systems. Thus, it could not be ensured that all administered services were charged accordingly.

Billing Officers generated invoices from the accounting system after the inputting of information was recorded manually on the Return of Foreign Patient (RoFP). At times, they had to verbally consult the ward clerk to establish the medical procedures performed on a foreign patient. Testing confirmed that certain bills were not comprehensive of all services given.

The Office had recommended the establishment of a comprehensive patient billing system, automated and fully interfaced with other hospital information systems, such as medical records and clinical systems.

Developments: *Partly Implemented*

In August 2020, the billing module on Central Patients Administrative System (CPAS) was activated, facilitating the generation of invoices. However, this procedure was still prone to error, as details had to be extracted from different sources and inputted manually.

The Revenue Section monitored the admissions to the wards, as well as the Accident and Emergency (A&E) Department, to identify and invoice paying patients on a daily basis. Ward staff was being notified accordingly that the respective patients were expected to be accompanied to the Billing Section upon discharge.

The procedure adopted at the Outpatients Department was different. The Foreign Patients Policy Circular MDH/88/2014 required that pre-planned interventions were to be paid in advance. However, NAO was not provided with evidence of any monitoring to confirm that all services rendered were invoiced and duly paid.

Testing also revealed the following concerns:

- Two out of three randomly selected sampled patients from the A&E admissions had their respective invoices reissued to include additional services; however, a credit note to reverse the previous bill was not raised. This led to overstated debtors' balances.
- No evidence was provided confirming that the hospital fees pertaining to one of ten sampled¹ patients from the foregoing Department, amounting to €4,762², were claimed from the country of origin through the European Health Insurance.

Moreover, the file of one of the randomly selected patients could not be reviewed as it remained untraced by the end of the audit.

No reconciliation to ensure Completeness of Bank Deposits

The Billing Section issued invoices to foreign patients through the Hospital's accounting system. Meanwhile, the A&E Department issued invoices from CPAS. Information from these systems was not extracted for reporting purposes and no reconciliation was being performed to corroborate the related invoices to the deposits made, to ensure completeness of revenue.

Instead, A&E and Billing Section maintained separate lists of foreign patients on monthly spreadsheets and entered the respective information about bills, income and debtors' balances accordingly. Such spreadsheets were the source of information used for revenue reporting purposes. NAO had reservations with respect to this information as spreadsheets lacked adequate audit trail and various anomalies were noted in the A&E records for 2017.

Sound internal controls and a complete audit trail within the revenue recording process were recommended. Moreover, the use of spreadsheets was to be avoided.

Developments: Partly Implemented

Reports constituting receipts generated by each cashier were extracted through CPAS and reconciled with the actual cash takings. These were then posted on the Corporate Financial Management Solution and the respective deposits effected. However, evidence of reconciliation to bank statements was not provided in order to ensure that proceeds were deposited in their entirety.

Untraced Documents leading to Loss of Revenue

A&E Revenue Section generated bills from CPAS after staff analysed the medical notes³ to establish the chargeable treatment. Such details were written on RoFP and subsequently entered in CPAS. In some cases, the prices were not pre-set on the system and the cost had to be obtained from a manual price list dated 30 January 2007.

The list of bills issued by A&E Revenue Section during 2017 included 112 patients who were listed as ineligible to free treatment, but were deemed as exempt from paying, as their medical notes were not received by the foregoing section. Consequently, the respective bills were not raised.

More effort was expected to minimise the loss of revenue to Government in this regard.

¹ Different samples were chosen to test the reliability of internal controls.

² These included a surgical intervention, five bed days, consultations and blood tests, amongst others.

³ Referred to as casualty notes.

Developments: Fully Implemented

This issue is no longer a concern as, apart from the daily monitoring of foreign patients by the Billing Section, the medical notes can be accessed online.

Control Issues

Minimal Effort to Collect Public Dues

The audit revealed the following concerns with respect to credit control:

- a. Although, upon discharge from MDH wards, patients who were ineligible for free healthcare should have been escorted to the Billing Section in order to be presented with an invoice and settle their dues, this Office did not obtain the comfort that this procedure was adhered to. Moreover, A&E Department did not have an established procedure to ensure that patients were accompanied to the Revenue Section upon discharge. Furthermore, the tested invoices were not issued immediately upon the respective patient's discharge but between one and fifteen days later.*
- b. Credit control procedures, to collect outstanding dues in respect of pending invoices, were lacking. The invoices reviewed did not include payment terms and were unsettled by year-end. Additionally, the collection of revenue was hindered as specific patient details were consistently omitted on RoFP.*

Immediate action was required to curtail abuse and maximise revenue collection. Clear credit control policies and procedures, as well as the assignment of competent staff for this specific task, was also recommended. Invoices were to be issued promptly upon discharge, with clear payment terms indicated and patients were to be requested to settle bills prior to leaving the hospital.

Developments: Partly Implemented

Auditors satisfactorily noted that invoices were issued upon patient discharge and included a maximum credit term of 30 days. Information provided by MDH showed that bank deposits in connection with foreign patient treatment amounted to €1,274,079 in 2021, implying a growth of 129% when compared to 2017 (€556,857).

However, the following concerns were noted:

- Management confirmed that comprehensive standard operating procedures were not yet formalised.
- Although reminder letters were sent to debtors, these did not include the aggregate amount due by a patient to date. Instead, separate notifications were raised according to the number of days a debtor balance had been outstanding⁴.
- One of the sampled patients was registered as living in a specific local hotel. However, at time of the follow-up audit, i.e., end of 2021, MDH had not yet taken any action to recoup the amount which had been outstanding since June 2021, despite also having the respective email address and a contact number. Moreover, MDH did not provide any plan of action how it intended to recover similar amounts when patients' permanent address was unavailable.

⁴ For example: 0-30 days, 31-60 days, 61-90 days, 91-120 days and 120+ days.

Unrecoverable Long Outstanding Fees

The possibility of recouping the respective debt was minimal once foreign patients did not settle their bills immediately upon discharge. As a result, the amounts recorded as due for hospital fees were increasing at an alarming rate.

As at 31 December 2016, outstanding amounts due to Government under Hospital Fees (accumulated since 2006) had reached a total of €4,316,681. NAO questioned the collectability of such amounts, but MDH was not in a position to confirm the maximum period established by law, following the expiry of which, pending amounts become statute-barred. According to Director General (Health), the prescription period varies between two and five years. Hence, the figure reported as collectable was not considered realistic.

Long outstanding debts should be analysed and an adequate provision estimated in order to obtain a more realistic recoverable figure, until the amounts in question are eventually written off.

Developments: Not Implemented

The situation had even worsened by the time this follow-up audit was concluded. The aged analysis revealed that debtors, accumulated since 2006, amounted to €9,421,056 as at end December 2021. Of this amount, nearly €4 million had been outstanding between five and fifteen years.

Technical Concerns hindering the Completeness of Revenue

In line with S.L. 35.28 Article (1)(c), healthcare fees do not apply to persons paying the prescribed contribution under the Social Security Act (Cap. 318). According to the Billing Office, foreign patients are requested to provide the previous month's payslip, as evidence of such exemption. However, the following concerns were noted:

- *This legal provision is subject to interpretation, as it does not stipulate the minimum number of National Insurance contributions required for a person to qualify for free healthcare.*
- *No checks were performed to confirm that the claimed employment is regular in terms of the Social Security Act.*
- *At A&E Department, foreigners who presented a payslip of up to two months before the episode, as compared to one month at the Billing Office, were also entitled to free treatment.*

Legal advice was to be sought to address deficiencies and/or anomalies emanating from the prevailing legal provisions. Moreover, to avert fraud, the introduction of a proper employment verification system was also recommended to ensure authenticity of the respective documentation produced by a foreign patient.

Developments: Fully Implemented

As from October 2021, payslips were no longer being requested, as the eligibility to free healthcare started to be confirmed through the Entitlement National Application. Patients were requested to provide official documentation supporting their claims when these differed from information recorded on the foregoing system⁵.

⁵ As a result of events, such as marriages and births, which are registered abroad, and which may not necessarily be registered locally. There could also be a time lag in the updating of employment records.

Legislation for Medical Fees not revised to cover Costs

S.L. 35.28 was amended last in 2007. Since a considerable time span had elapsed, the applicable fees charged to patients were not up-to-date considering the actual operational and overhead costs. For example, the basic charge for transportation of a patient by ambulance still stood at €23. This charge is expected to, at least, cover the pro-rata salary of staff accompanying the patient, including the driver, fuel costs and an element of wear and tear of the ambulance.

A draft legal notice had been drawn up to reflect revised fees based on a costing exercise commissioned to be performed on behalf of MDH. However, a copy of the respective working papers, to compare the actual cost versus the applicable fees, could not be traced by MDH.

A revision of such charges by MDH in collaboration with the pertinent authorities was encouraged so that amounts claimed would reflect more realistically the costs incurred.

Developments: Not Implemented

Although significant progress was noted in the pricing of medical services as indicated hereafter, the pertinent legislation remained unchanged since the original audit was performed.

Other Billing Concerns

- *S.L. 35.28 Article 3(1) established the daily bed fees for inpatient treatment, which did not include the cost of any surgical operation or any extraordinary medical investigation which may be carried out. It also indicated that any other extraordinary medical investigation or procedure shall be charged at cost. However, the term extraordinary was not defined and was subject to interpretation.*
- *MDH offered an extensive range of hospital services that were not catered for in the foregoing legislation. Thus, the accounting system used at the Billing Section was programmed with the applicable charges, reproduced in a 58-page report, covering different medical supplies, treatments and services. However, in view that not all the prices within the report were legally sanctioned, NAO questioned whether the generation of hospital bills in line with these prices was legitimate.*
- *Discrepancies were noted between the abovementioned 58-page report and another price list dated 30 January 2007, which was still being used for billing purposes.*

Management was to take remedial action with respect to the enactment of the necessary legislative amendments. The pre-set costs recorded in the accounting package were to be the only source of applicable prices when generating invoices. Therefore, such records were to be reviewed and updated, as necessary.

Developments: Significant Progress

By the first quarter of 2022, MDH had registered significant progress in the pricing of medical services which were subsequently being consistently charged accordingly.

Accounting for Revenue not in line with the Financial Budget Estimates

Revenue from Hospital Fees (Item 0434) was estimated at €150,000 for the year 2017. However, no postings were traced in this account. Meanwhile, the Income by Category report generated through the Departmental Accounting System showed actual revenue of €581,858 in this regard.

It later transpired that hospital fees were deposited in a below-the-line account, risking that this income could be used to supplement MDH allocated budget without the necessary approval.

All revenue generated from hospital fees is to be posted to the appropriate account in order to ensure completeness and transparency.

Developments: Fully Implemented

Revenue generated from foreign patients was posted to line item 0434, particularly under responsibility centre 1730, in line with the Financial Estimates.

Compliance Issue

Remittances to Bank not effected in a Timely Manner

The Billing Section deposited its revenue at the Central Bank of Malta approximately once weekly. This led to considerable amounts of cash and cheques kept on the premises. The value of the highest single deposit amounted to €55,989⁶. On the other hand, the Revenue Section within the A&E Department submitted aggregate receipts to the Billing Office and deposited monthly. The average value of these deposits exceeded the €16,000 mark.

The abovementioned procedures do not conform with the General Financial Regulations, which require the daily deposit of any cheques and also any sum of or exceeding €100, unless authorised by the Permanent Secretary, which approval in this case was not sought.

Unless otherwise authorised by the Permanent Secretary, bank deposits are to be made in accordance with prevailing regulations, to ensure that public funds are duly safeguarded.

Developments: Not Implemented

Notwithstanding NAO's recommendation, it was noted that by year-end 2021, only 19 deposits were effected with an aggregate value of €1,323,804. The highest deposit, amounting to over €394,000 and covering an eight-week period, was made on 4 February 2021. Management intended to request Permanent Secretary's authorisation for an exemption from the respective requirement; however, by the time of writing of this write-up, documentation to this effect was not made available.

Conclusion

While the accounting for revenue from foreign patients improved notably since the previous audit, the recoverability of long outstanding dues has worsened. Management is to ensure that, an adequate provision is taken for long outstanding figures. More effort is required to address the pending issues highlighted throughout this write-up, particularly, for the revision of the pertinent legislation to reflect current cost scenarios, whilst also including medical services introduced by MDH since the law was enacted.

⁶ These deposits also consist of income from the sale of medicines and from the loan of medical aids, amongst others.

Pharmacy of Your Choice Scheme

Background

In its Annual Audit Report for 2018, the National Audit Office (NAO) published the outcome of an audit which focused on the Pharmacy of Your Choice (POYC) scheme. The objective of this audit was to ensure the effective functioning of this scheme and to determine the level of controls in place with respect to payments made to pharmacies for the distribution of medicines to patients. The audit also focused on analysing the adequacy of stock maintenance both at POYC and pharmacy level.

Key Issues

Insufficient Human Resource Capacity

Testing carried out revealed that, while the POYC Unit was continuously aiming to improve the service provided to patients making use of the scheme, the administrative aspect was hampered, mainly due to human resource constraints.

The human resource capacity was to be reviewed, thereby enabling improvement of the internal control setup should the necessary deployment take place and reducing inherent risks while providing a vital step in the growth of the POYC Unit.

Developments: *Insignificant Progress*

The Human Resources Plan provided for audit purposes, dated May 2021, reported both administrative and technical vacancies within the POYC Unit. Audit fieldwork further revealed that, due to staff turnover, the total number of vacant posts had further increased and at end October 2021 stood at 27, comprising 15 administrative, 10 technical and 2 support positions.

NAO was informed that, to mitigate the situation, POYC Unit hired temporary contractual staff until public officers were successfully recruited and that formal recruitment procedures were being pursued.

Multiple Information Technology Systems for the Management of Patients' Medicinal Entitlement

The lack of an integrated Information Technology (IT) system for the operation and management of the POYC scheme resulted in the use of multiple fragmented applications running in parallel. Apart from duplication of work, such methodology is highly prone to errors due to substantial manual intervention.

Management's intention to integrate the IT systems was commendable, thereby streamlining the current processes while minimising duplication of work and facilitating the overall management of the scheme.

Developments: *Partly Implemented*

During March 2019, a new integrated stock management system was launched at the POYC Unit. However, up to date of this follow-up audit, this new system had only been internally consolidated. This means that the system was only linked with the Central Procurement and Supplies Unit (CPSU), thereby enabling the tracking of stock from initial input at CPSU to output from POYC stores.

This Office was informed that the system was expected to be fully implemented by the third and fourth quarters of 2022, wherein it will also include stock tracing from CPSU to pharmacies. Once implemented, a particular batch of medications can be tracked from CPSU stores, through POYC stores, through pharmacy and down to individual patients.

Control Issues

Pharmacy of Your Choice Level

As part of the audit fieldwork, during 2018, NAO Officers carried out a physical audit inspection and stocktake of a sample of pharmaceutical items. The observations highlighted below describe the then encountered weaknesses followed by the respective developments emerging from the follow-up exercise.

Poor Access Controls

Strict access controls were applied in the rooms assigned for the storage of named patient items and dangerous drugs; however, no other restrictions were in place to limit the right of entry to staff to the main stores during working hours. The only security control noted in the area was limited to a closed-circuit television camera, covering the loading bay.

To minimise the risk of possible intrusion and theft, POYC officers were to be assigned physical access only to designated areas, as required, to enhance accountability. Entry by outsiders was to be strictly forbidden. The installation of closed-circuit television cameras capturing all areas of the stores was also recommended.

Developments: Fully Implemented

Stricter access controls have been implemented at POYC stores. In April 2019, a second heavy duty security door was installed in front of the other security doors. The new door can only be operated by authorised personnel having access rights. External closed-circuit television cameras, capturing all areas of POYC stores, were also installed.

Multiple Stock Management Systems

Review of the Unit's stock management systems revealed that stock records were being maintained on two separate IT systems, as well as bin cards. The following shortcomings were noted:

- a. Issues of stock items which were not barcoded were recorded manually in the IT system, thus making stock records more susceptible to human error and intervention.*
- b. There was a lapse of two days prior to recording the same stock movements in the other IT system, hindering reconciliation between the respective stock reports.*
- c. Although it was confirmed that bin cards were to be discontinued to avoid duplication of work, stores officers stated that they worked overtime hours to make up for the backlog and update the bin cards up till the end of October 2018.*

Accurate and updated stock records are essential for good inventory management. The Unit was to actively consider introducing a real-time stock management system whereby all stock was barcoded and scanned accordingly, thus reducing any manual interventions, as well as human error to a bare minimum.

Developments: *Partly Implemented*

While the use of bin cards was discontinued, the follow-up exercise revealed that certain stock items were still not barcoded and were being manually recorded in the stock system. Consequently, the issue concerning the lapse of two days prior to recording the stock movements in the IT system was not entirely eliminated. However, in this regard, Management stated that, as part of the systems upgrade, intended to be launched in the third and fourth quarters of 2022, hand-held scanning devices will be introduced, and eventually stock movements will be recorded in real time from the different designated store areas within POYC.

Stock Discrepancies and Write-offs

The stocktake undertaken by the POYC Unit in March 2018 revealed 282 instances where stock records differed from actual physical stock, resulting in a net negative variance of €8,610. Although the variance of a number of items was fairly significant in quantity and/or value, investigations to identify the reason behind the discrepancies were only undertaken in five instances. In the 277 remaining cases, the stock system was just adjusted accordingly to reflect the actual physical quantities found, without obtaining prior higher approval to write off the said loss.

In addition to the yearly stocktake, Management was encouraged to introduce cyclic counting, whereby the entire inventory is divided into groups, with each group being counted on a periodic basis, thereby making it easier to track down the source of any discrepancies without undue delay.

Developments: *Partly Implemented*

In addition to the annual stocktakes carried out at the various POYC designated store locations, cyclical counting, which was introduced in July 2021, was also being carried out on an ongoing basis. The frequency of the cyclical counting varied according to the respective store and department, depending on the level of established risk.

However, following review of the stocktake results¹ provided for audit purposes, NAO noted that, overall, the discrepancies identified were actually physical quantities higher than those recorded in the system. Management in this regard claimed that the overall discrepancy, which amounted to approximately 1.6% of total stock level, was considered to be low. Thus, given the limitations posed by the COVID-19 pandemic crisis, strike action by pharmacy technicians, and the vacant post of the Chief Executive Officer, investigations in this regard were not deemed reasonable by the Management.

Pharmacy Level

Patient's Data not disseminated to Pharmacies

- a. *The dispensing IT system in operation at pharmacies did not provide pharmacists with the facility of viewing a list of their respective patients and the pharmaceuticals they were entitled to. Pharmacists were compiling and maintaining patient's data themselves on separate spreadsheets. However, patient's deaths, as well as transfers to other pharmacies, were not communicated by the POYC Unit, thus increasing the risk of idle or expired stock on the pharmacies' shelves.*
- b. *The lack of information also hinders pharmacists from performing the necessary verifications to confirm correctness of payments received from the POYC Unit.*

Management envisaged to address the abovementioned issues with the implementation of the new dispensing IT system which was intended to come into operation in 2019. To this effect, it was recommended that a list of patients, as well as the respective pharmaceuticals entitlement, was embedded within the dispensing IT system, enabling pharmacists to track patients' movements and return to the POYC Unit any excess medicinal products prior to their expiry.

¹ The data provided related to stocktakes undertaken in November and December 2020. Stocktake for dangerous drugs and non-preferred generic drugs was carried out more frequently; the figures presented to NAO were those pertaining to the October 2021 stocktake.

Developments: *Partly Implemented*

This Office was informed that the new software system installed at pharmacy level contained patients' details and their respective entitlement. POYC Unit also confirmed that this new software was connected to the Common Database Repository whereby automated checks were carried out, and once the latter repository was updated, so were POYC databases. POYC Unit received weekly notifications from Government hospitals², detailing their deceased patients thereby enabling cross checking of data. The relevant community pharmacies were then informed accordingly via email. As regards patients passing away outside these hospitals, the Data Repository electronically marked these patients as deceased when Identity Malta Registry listed the persons as deceased.

However, this new software was still not integrated to the new stock module since, as already indicated, the new stock module was expected to be launched in all community pharmacies in the third and fourth quarters of 2022.

Information Technology System lacking Pertinent Data

The IT system in place to manage pharmaceutical stock at the pharmacies' end was limited to basic data, mainly stock items and quantities. It did not indicate batch numbers and expiry date. Thus, the pharmacy was expected to inspect expiration dates on an item-by-item basis and dispense accordingly.

The IT system that was in the process of being introduced had to incorporate batch numbers, as well as expiration date for all medical supplies.

Developments: *Not Implemented*

The system in place at the pharmacies still did not contain details of batch numbers and expiry dates. These will only be available once the new system is installed at pharmacies.

Physical Stocktake not carried out in a Timely Manner

The Service Level Agreement specified that, on a quarterly basis, pharmacies participating in the POYC scheme were to reconcile the reported closing balances with the physical stock held in stores and submit the respective reconciled report to the POYC Unit.

By end of November 2018, when audit testing was conducted, it was expected that stocktake reports for the first three quarters of the year would be traced for all pharmacies forming part of the POYC scheme. However, although this requirement was not always complied with, no action was taken by the POYC Unit in case of default.

Action was to be taken against those pharmacies that failed to comply with stipulated requirements.

Developments: *Not Implemented*

POYC Unit confirmed that the majority of pharmacies still did not carry out stocktakes, mainly due to the fact that, on 12 June 2020, a joint directive was issued by the Chamber of Pharmacists and the Chamber of Small and Medium Enterprises, directing pharmacies and pharmacists not to carry out such stocktakes. No timeframe was set on the Directive as this was going to be addressed with a new Service Level Agreement, which was still being negotiated with the Ministry for Health.

² Mater Dei Hospital, Saint Vincent de Paul Long Term Care Facility, Mount Carmel Hospital and Gozo General Hospital.

Executive Powers not implemented to the Full

Stock disposed of by the POYC Unit during a 22-month period, between April 2015 and January 2017, amounted to €338,072, of which €282,322 was expired or damaged stock held by different pharmacies. Section 6 of the applicable agreement provided that penalties were to be imposed on pharmacies that fail to align their operations with the Government's stock management and dispensing guidelines. However, it was only in May 2018, that the POYC Unit issued the first invoices to cover the cost of damaged stock at two pharmacies, which in aggregate amounted to €18,858.

A stricter stance was to be taken against those pharmacies failing to adhere to the respective guidelines and, if need be, applicable penalties were to be imposed.

Developments: Insignificant Progress

Management confirmed that, in cases where pharmacies failed to check the expiry dates of stocks, resulting in expired pharmaceuticals, POYC Unit issued a statement of liability on a quarterly basis. Pharmacists were allowed a contestation period of 30 days after which, POYC issued the relevant invoices. Notwithstanding this, the latest quarterly statements of liability issued by POYC at time of follow-up audit, i.e., mid-November 2021, merely related to the first quarter of 2021. Moreover, invoices were not issued to pharmacies in default, claiming that "... discussions on a number of issues, such as COVID-19 mitigation expenses and liabilities are still in the pipeline - their backdrop being the large buffer stocks supplied to pharmacies in May 2020 (upon the onset of COVID-19), to ensure continuity in distribution should an outbreak of COVID-19 positive cases materialise at POYC".

Other Matters

Unreasonable Timeframe on which Pharmacy Fees were calculated

Any pharmacy operating the POYC scheme was guaranteed the payment of the related pharmacy fees for the subsequent six months, even in the event that no further dispensing was effected during that period. By way of example, if a patient collected an entitlement on 2 January, the respective pharmacy was guaranteed payment up to 1 July, irrespective of whether dispensing has been effected or not in the interim.

Management was to consider initiating discussions to shorten the timeframe on which pharmacy fees were calculated.

Developments: Not Implemented

This Office was informed that pharmacy fees were still being guaranteed on a six-month basis. POYC Unit envisaged to address this issue under the new Service Level Agreement which was still under negotiation.

Compliance Issue

Non-submission of Fiscal Receipts

More than 60% (€278,771) of the total payments (€451,997) falling in the audit sample were not covered by a fiscal receipt from the respective pharmacies. Furthermore, despite that Management acknowledged the fact that such pharmacies were in default, these were not listed in the quarterly returns that ought to be submitted

to the Value Added Tax (VAT) Department, as outlined in MF Circular No. 5/2002 – ‘Submission of Fiscal Receipts to Government Departments’.

Management was to ensure that all service providers adhere to the VAT regulations by being furnished with a fiscal receipt upon receiving the respective payments. Defaulters were to be reported to the VAT Authorities.

Developments: *Partly Implemented*

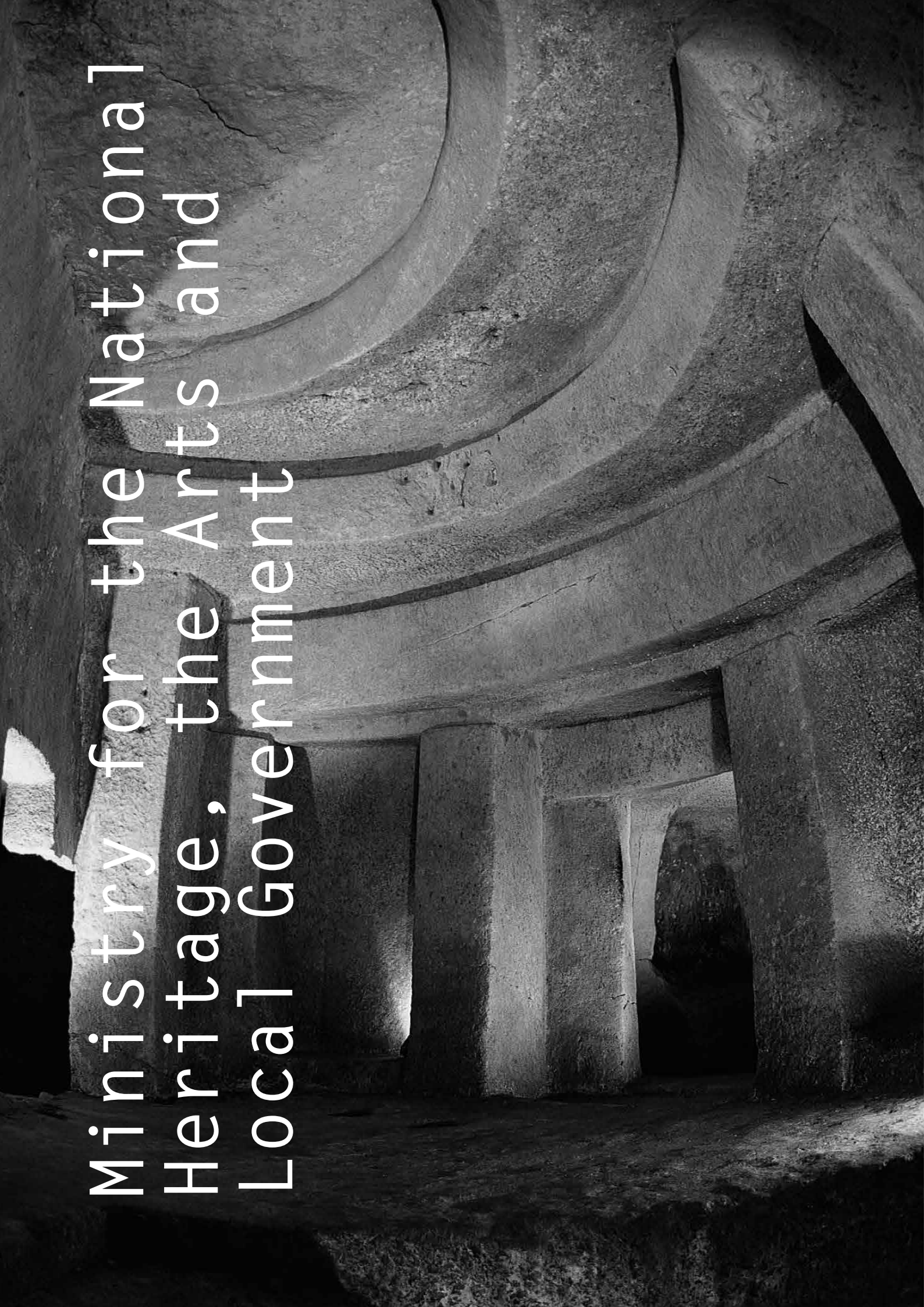
According to POYC Unit, following the necessary measures in compelling community pharmacies to forward the respective fiscal receipts, 70% of the fiscal receipts were collected.

NAO reviewed a sample of 10 random payments issued to pharmacies. The fiscal receipts were submitted; however, one receipt was issued with the wrong amount and was reissued correctly following NAO’s query, whilst another receipt was not dated.

Conclusion

Whilst NAO acknowledges the restrictions related to COVID-19 pandemic, Management was encouraged to direct its attention towards issues which were not fully addressed, particularly those related to the IT system and stock control.

Ministry for the National
Heritage, the Arts and
Local Government



Arts Council Malta

Background

The Annual Audit Report of 2017 published by the National Audit Office (NAO) included a write-up on the revenue generated and expenditure incurred by Arts Council Malta (ACM). The audit objective was to obtain assurance of good governance and ensure that there were adequate control procedures vis-à-vis expenditure, as well as for the collection and accounting of revenue.

The audit revealed a number of shortcomings, including issues relating to weak credit control, considerable procurement undertaken through direct orders, backlog in bank reconciliations, as well as a number of other concerns impinging on accountability. Governance issues relating to the Council's Board and to the fact that the audit process for financial years 2016 and 2017 was not yet executed, were also highlighted.

Key Issue

Habitual Procurement by Direct Order

In 2017 the Council resorted to direct orders in 224 instances, at a total value of €2,158,038 (VAT excl.). Although in 24% of the cases, making up 76% of the total value of direct orders, approval from the Ministry for Finance (MFIN) was obtained, this was not considered to be promoting good governance since such direct order procedure should have been used in exceptional circumstances only.

Officers in charge of procurement are to keep abreast with and adhere to prevailing procurement legislation. Furthermore, Management is to ensure that, as far as possible, services and/or supplies are procured following a competitive procurement procedure, to ascertain a fair and transparent selection process.

Developments: Partly Implemented

As from the beginning of 2021, a new procurement procedure was implemented whereby an email account for the purpose was set up. Requests for quotations, as well as request for direct orders started to be sent from this account, using a template that was created so that such correspondence was sent in a uniform manner. Moreover, training through the participation in various courses on public procurement and evaluation was provided to 10 officers working in this area.

Changes were made, whereby procurement below €5,000 (VAT excl.) was to be endorsed solely by the Director Corporate Affairs, whilst purchases between €5,000 and €10,000 (both VAT excl.) required both the foregoing and the Executive Chairman's approval. Direct orders over the stipulated threshold of €10,000 (VAT excl.) were passed through the channels prescribed in the Public Procurement Regulations, thus seeking approval from MFIN. By the time this follow-up was concluded, ACM had finalised a tender document on behalf of Pjazza Teatru Rjal for the provision of cleaning services, with an estimated value of €70,331 (VAT excl.). This was expected to be eventually issued once amendments to the Green Public Procurement criteria were received from the Department of Contracts.

As illustrated in Table 1, the amount of procurement effected directly from the open market during 2021 totalled over €856,000 (VAT excl.). Direct orders in 2021 as a percentage of total recurrent expenditure decreased¹ substantially when compared to 2017. Moreover, where applicable such direct procurement was covered by adequate approval from MFIN. However, a list of all procurement exceeding €5,000 (VAT excl.), which was not regulated by an open procedure, as required by standing regulations was not published. Otherwise, NAO recommendation was practically duly implemented.

Table 1: Procurement by Arts Council Malta² directly from the Open Market

	Direct Orders below €5,000 VAT excl. €	Direct Orders above €10,000 VAT excl. €	Total Direct Orders VAT excl. €
Arts Council Malta	38,613	268,281	306,894
Teatru Malta	115,341	23,496	138,837
Pjazza Teatru Rjal	-	115,200	115,200
Żfin Malta	39,500	255,900	295,400
Totals	193,454	662,877	856,331

Control Issues

Insufficient Collection Effort

As at 31 December 2017, ACM had total outstanding debtors of €653,838³, some of which were pending since 2003. As at June 2018, the total amount due decreased to €325,586 since several claims issued during 2017 were settled. Management confirmed that debt collection efforts consisted merely of occasional statements sent to debtors.

The drawing up of clear credit control policies, as well as the assignment of adequate competent staff for this specific task, is a dire need. Additionally, as also highlighted by the Council's auditors, a provision for doubtful debts should be set, based on established management policy, to be in line with international accounting requirements. This provision is to be reviewed periodically in order to assess its adequacy and amended accordingly.

Developments: Fully Implemented

Recommendation was taken on board and a credit control policy was drawn up in September 2018, following which, substantial improvement was registered in this area. According to Management, outstanding balances were monitored on a regular basis and all efforts were being made to recoup all amounts due. As at end of December 2021, pending receivables totalled €61,973 of which €18,738 were settled by the beginning of February 2022. The remaining balance was mainly due from Government ministries, departments and entities.

Income derived from Fondazzjoni Kreattività

An amount of €130,857, 5% (VAT excl.), was accounted for as income received from Fondazzjoni Kreattività⁴. This related to the sale of tickets in respect of a number of performances for one of the Council's events, namely Malta Arts Fest.

¹ Direct orders as a percentage of total recurrent expenditure decreased from 17% in 2017 to 7% in 2021.

² Including procurement carried out by ACM on behalf of Public Cultural Organisations which were still operating under the Council's remit.

³ €542,702 (83%) of this amount was due by Government departments or entities.

⁴ This Foundation is a Government entity.

Admission tickets are sold on the Council's behalf through the Foundation's in-house ticketing system whilst the respective reports list the various performances and support this source of income. The auditors noted that it is common practice to issue complimentary tickets, which peaked at 49% of total admissions for a particular performance. However, in this regard, no agreement was in place to establish the practical arrangements between ACM and Fondazzjoni Kreattività. Consequently, this Office could not confirm completeness of such income.

Although both are Government bodies, Management is still encouraged to establish the terms and conditions of the relationship between the two and formalise the administrative and financial arrangements in writing to avoid potential misunderstanding. This will also enable audit trail and ensure that all income is recorded.

Developments: No Longer Applicable

The ticketing system in use by ACM was discontinued as from 1 January 2020, as public cultural organisations are utilising the Malta Tourism Authority ticketing platform for the selling of tickets.

Credit Card

Although the use of a credit card with a limit of €3,500 was approved by the Board on 29 January 2014, no evidence was provided that this was endorsed by MFIN. The latter's current policy, set in motion in December 2013, was only to grant entities the approval for the use of a debit card with a running balance of €2,500. Moreover, the transactions effected through the credit card were not being monitored independently.

Management is to ensure that the use of such card is regularised. In this respect, the Council needs to make a formal request to MFIN in order to obtain the necessary approval. Furthermore, an officer within the Finance Section is to be identified and held responsible for the monthly monitoring of the related expenditure.

Developments: No Longer Applicable

According to ACM, the respective visa account was closed off, and in fact it did not feature in the list of active bank accounts provided by the bank.

Bar Sales

The nominal ledger showed bar turnover amounting to €12,500 in respect of sale of drinks during activities. However, there were no standard operating procedures in connection with the management of the bar.

Cash register sales reports were certified correct by the Manager, as well as the Director of the Unit responsible for the event, and a corresponding amount was forwarded to the Finance Section for the eventual deposit. However, a statement of income and expenditure showing surplus or deficit from the bar was not prepared.

Documented procedures in order to regulate the setting up of a bar are recommended. Each activity would require a statement of income and expenditure to be prepared, showing the respective surplus or deficit. Management may also consider the possibility of granting the bar concession to third parties.

Developments: No longer Applicable

Following the establishment of Festivals Malta as an independent Agency, as from 1 January 2020, ACM was no longer involved in the organisation of such events.

Authorisation of Bank Signatories not evidenced

NAO was provided with the list of bank signatories and was informed that the authorisation is tied to the position and not the individual. The list consisted of eight positions, of which three were vacant. However, there were no Board minutes or any other official document to substantiate this decision.

It is recommended that the adopted bank signatory policy is formalised through a Board resolution and the relative minutes filed for future reference.

Developments: Fully Implemented

In September 2018, the Council approved a bank signatory policy, which document is revisited and amended accordingly whenever there is a change in ACM's Management. The last approved guideline, dated 31 January 2022, stipulates that bank transactions are to be endorsed by one signatory from each of the two group categories; incidentally one of the groups is composed of only one officer, namely Director Strategy and Funding.

Compliance Issues

Financial Statements not finalised

As per Article 29 of the Arts Council Malta Act (Cap. 542), audited financial statements of the previous year, as well as the auditors' report together with the annual activities report, are to be submitted to the Minister not later than six weeks after the end of the financial year. However, audited accounts for the years 2016 and 2017 were still not prepared by the end of July 2018.

The management accounts for the years in question were also not ready. Management claimed that delays were due to a work backlog, exacerbated by the cultural programme preparations in connection with the 2017 six-month European Union Council presidency, as well as the absence of a Director Corporate Affairs, since the post remained vacant for over a year⁵.

Financial statements are to be finalised in time for the annual statutory audit to be conducted by external auditors, in order to ensure that submissions of the audited accounts are made by the established deadline. Moreover, management accounts are to be prepared quarterly as required by Article 27 of the Act.

Developments: Partly Implemented

This Office acknowledges that the Council is maintaining up-to-date management accounts and managed to conclude the audits for financial years 2016 to 2019, whereby the last one was signed off on 26 November 2021. Yet, by the time the follow-up audit was concluded, i.e., beginning of February 2022, the audit process for financial year 2020 had not yet initiated despite that, in line with Article 29 of the Act, a copy of the audited financial statements of the year in question was to be presented to the Minister by mid-February 2021. This Office is informed that this will commence during the last week of June 2022.

Board Meetings not regularly held

By virtue of the Act, Article 5(1), the Council's Board is composed of a Chairperson and not less than four and not more than eight other members, one of whom nominated by the Minister responsible for Gozo.

⁵ Vacant from sometime during 2016.

Article 6(1) of the Act stipulates that Board meetings are to be held as often as necessary, but at least once every two months. However, NAO was informed that it is not always possible to have a quorum⁶; consequently, only three meetings were held during 2017, which were on 10 January, 18 October and 4 December, revealing a nine-month gap between the first two.

In view of the sporadic manner in which meetings were held during 2017, NAO questions the effectiveness of the Board in carrying out its functions.

Members appointed on the Board are expected to provide constructive contribution towards the attainment of the Board's objectives through regular meetings, as required in terms of the Act.

Developments: Fully Implemented

During financial year 2021, ACM held a total of six Board meetings.

Concerns raised by the Private Auditors

During the audit process, auditors typically encounter internal control weaknesses, operating inefficiencies and other accounting issues which are communicated to the Council at the end of the audit through a management letter. These issues are brought to the Management's attention in a formal way in order to ensure that the necessary remedial action is taken. However, formal feedback to the comments in the 2014 management letter related to the statutory audit was not drawn up. Management claimed that the audit concerns were discussed with the respective auditors during a meeting, yet respective evidence was not provided.

The Council is expected to submit a formal reply to the management letter so as to provide its feedback to the issues highlighted. In order to obtain added value from each audit, Management is to establish an action plan with deadlines by when remedial action is to be taken by designated officer/s, to ensure that shortcomings do not recur.

Developments: Not Implemented

According to Management, the shortcomings highlighted in the latest management letter, i.e., for financial year 2019, were discussed at Board level and a meeting was held with the private auditors. However, no evidence to this effect was provided. A copy of the reply to the management letter compiled by ACM, if any, was also not provided for audit purposes.

Bank Reconciliation

Bank reconciliations were not performed on a monthly basis. Moreover, despite claims that these were performed annually, the one in respect of 2017 was still not available for audit purposes in March 2018. The reconciliation statement made available related to the year 2016 and also included a substantial number of unrepresented cheques at year-end.

A bank reconciliation should serve to identify any errors or unusual transactions. In this regard, the Council is advised to perform bank reconciliations within a few days after the end of every month so as to ensure that all transactions are legitimate and the cash book is duly updated. Failing this, Management will be forced to take decisions on the basis of inaccurate information due to incorrect balances shown in the Council's records. Moreover, the difficulty faced when reconciling accounts with a voluminous number of transactions pertaining to a whole year cannot be overlooked.

⁶ Half the number of Board members but in no case less than three members.

Developments: Insignificant Progress

As at end of financial year 2021, ACM maintained six bank accounts. It was claimed that reconciliations were carried out on a quarterly basis; however, from the documentation provided, it was noted that such procedure is executed sporadically. In fact, two particular accounts were only reconciled at end of October and December 2021. Moreover, as at end of December 2021, unreconciled transactions in bank account XXX4336 totalled €1,277,529 of which €15,985 dated back to 2020.

Absence of a Fixed Asset Register

The Council did not have a fixed asset register or inventory records that met the expected standards which should include, amongst others, details of the respective assets' location. The absence of this important mechanism diminishes control over the Council's assets. Furthermore, the fixed assets accounts generated from the system included values that were deemed immaterial and therefore should not have been capitalised.

A fixed asset register is to be compiled in accordance with the established guidelines without undue delay. This will assist ACM to exert better control over the custody of the assets, thus ensuring they are safeguarded.

Developments: Insignificant Progress

A list of the assets under the category of information technology, falling under the remit of ACM, was provided for audit purposes; however, this was not maintained in line with the requirements outlined in MF Circular No. 14/99 – 'Government Accrual Accounting: Revised Inventory Control Regulations'. The asset identification number, date of procurement, quantity, total cost or value of asset, as well as indication of whether it was a normal asset, donated or a heritage item, were not disclosed therein.

Conclusion

NAO acknowledges that effort was made by ACM to take on board a number of recommendations put forward in the 2017 Audit Report; however, a number of concerns still prevail. In particular, the bank reconciliation, the absence of a fixed asset register and formal response to the management letter provided by the private auditors, are to be addressed without undue delay.

Malta Libraries

Background

The findings of the expenditure audit at the Malta Libraries (ML) were published by the National Audit Office (NAO) in the Annual Audit Report for 2018. The main objectives of this audit were to determine the level of internal controls over procurement and to verify that payments for expenditure in general, including allowances paid to employees, were in line with pertinent regulations and circulars. The audit also sought to establish whether Government resources were used prudently and in a judicious manner by ML.

Amongst the shortcomings noted was the lack of recognition of non-current assets in the financial statements, as well as the procurement of services through expired contracts.

Key Issue

Non-current Assets not recognised

NAO was informed that ML did not maintain inventory records and that the opening balance of the net book value of the non-current assets was ignored, with a note entered in the Notes to the Accounts reflecting such position¹.

This approach resulted in an understated value for these assets in the financial statements as at end 2018 and thereafter.

According to International Financial Reporting Standard 3 – ‘Business Combinations’, in such circumstances, assets acquired are to be measured at fair value. Furthermore, in line with best practice, a register of assets held by ML was to be compiled and each item valued accordingly. This ensures better control over the assets owned by the entity.

Developments: Insignificant Progress

Management confirmed that the position remained unchanged and reiterated that since many assets were acquired several years back, any attempt to carry out an exercise to establish the purchase price and date of acquisition would result in a nil or negligible net book value. In ML’s opinion, this exercise would not be cost effective, especially when considering the difficulty in accessing data from the accounting system previously used, namely the Departmental Accounting System.

In September 2020, ML purchased an inventory software; however, it still had to recruit an officer to manage its inventory. In the meantime, the Operations Department Section in Gozo, which falls under the remit of ML, was compiling a register of non-current assets for the Gozo National and Public Libraries. Once completed, the data will be incorporated in the new inventory software. However, until this situation is resolved, non-current assets purchased by ML since 2018 have only been recorded in the accounting software; the inventory module has not been updated accordingly.

¹ *It was claimed that it is basically impractical to go over records which are 10 years old to retrieve information which is of very little use and it is very difficult if not almost impossible to retrieve such information with a certain level of accuracy.*

Control Issue

Procurement of Cleaning and Security Services through Expired Contracts

- a. *Two contracts for cleaning services, both valid for a period of one year, were entered into in October 2016. However, following expiry of the contract period, up to time of audit, i.e., two years later, ML had already procured services outside the contract, in aggregate totalling €59,213, from the two contractors on the basis of these agreements².*

Moreover, although the services were still ongoing, no performance guarantees were provided from the respective contractors to cover the period from October 2017 onwards³.

- b. *In May 2016, ML published a tender in the Government Gazette for the provision of security services. Although it was originally envisaged that the tender period was to cover two years, starting from August 2016, the contract with the winning bidder was only signed almost two years after the issue of the tender.*

In the meantime, ML was compelled to extend the services of the previous contractor until 31 March 2018, with €235,382 being expensed since the expiry of the contract. However, this extension was not covered by the necessary approval from the Ministry for Finance.

ML is to ascertain that before expiry of the term of an agreement, a fresh procurement process is initiated by issuing a new call for tenders or by obtaining quotations, as applicable. This will ensure fairness and provide an equal opportunity to all interested parties.

If for valid reasons, which are outlined in the legislation, the service is acquired directly from the open market, the respective procurement has to be approved by the Ministry for Finance prior to the actual commitment. Such services are also to be backed up by a valid agreement, clearly laying down the terms and conditions agreed between the contracting parties.

ML is also to ensure that a valid performance guarantee is in hand before the effective date of the contract, to provide adequate safeguard in case of default by the contractor.

Developments: Partly Implemented

The cleaning services contract in force, valid for three years, was signed on 3 April 2020. A performance guarantee was submitted by the service provider; however, its value was less than that required by the respective agreement. Furthermore, upon expiry of this guarantee, the subsequent one was dated three weeks later; thus, ML was not adequately covered for the whole contract period.

As regards the provision of security services, a fresh call for tenders⁴, covering a period of 36 months, was only published after the expiry of the previous contract⁵.

Following evaluation, three bidders submitting identical financial bids for these services were deemed to be compliant, and ML entered into separate contracts with each of them, for successive one-year periods⁶. The first of the three agreements, covering one year from September 2020 and amounting to €156,468 excluding Value Added Tax (VAT), was signed in retrospect on 23 October 2020.

² According to ML, the process to publish a new tender for cleaning services started in July 2019, i.e., at time of audit.

³ ML forwarded performance guarantees for both contractors, valid for one year, commencing September and October 2019 respectively, i.e., during the audit.

⁴ Issued by the Department of Contracts.

⁵ While the previous contract expired on 15 March 2020, the new tender was published on 1 April 2020.

⁶ The order in which the three contractors were to provide security services to ML as per evaluation report differed from the details published in the Government Gazette. According to Management, the order in the evaluation report was the correct one.

In the meantime, until the foregoing contract was signed, the previous agreement was first extended by three months up to 14 June 2020⁷, and then by a further month commencing 20 September 2020. In both cases, performance guarantees were extended accordingly. However, no formal contract extensions were traced for the period between 15 June and 19 September 2020. Furthermore, Finance approval for services procured through these extensions was not obtained.

All three successful bidders submitted performance guarantees, even if they had to commence services the following year or two years later. However, although the guarantee should be submitted by the contractor before the agreement is signed, it did not cover ML for the entire contract period⁸.

Furthermore, the contractor providing services in the second year⁹ extended the performance guarantee 10 days after its expiry.

Compliance Issues

Publications of Direct Orders in the Government Gazette

Contracts Circular No. 2/2017 – ‘Submission of a List of Contracts by Contracting Authorities’, and Regulation 111(2) of the Public Procurement Regulations, specifically require all Heads of Contracting Authorities to publish in the Government Gazette every six months, a full list of departmental contracts exceeding €5,000 (VAT excl.). However, details for contracts awarded by ML in 2018 were only published in the Government Gazette on 17 September 2019, upon being queried by NAO.

For the sake of transparency, ML is to ensure that it publishes the full list of contracts awarded in the Government Gazette as per standing regulations, within a reasonable time.

Developments: Fully Implemented

ML is complying with the requirements of the abovementioned circular by publishing notices in the Government Gazette on a regular basis. To this effect, notices pertaining to contracts awarded between June and December 2020 were published on 29 January 2021, whilst those for the period January to June 2021 were published on 28 September 2021.

Fiscal Receipts obtained during the Audit

Fiscal receipts for an aggregate value of €126,365, covering 20 of the 48 sampled invoices for cleaning and security services paid in 2018, were only obtained in August 2019, i.e., during the audit. This is not in line with the VAT Act (Cap. 406), which requires a fiscal receipt to be issued immediately after payment has been effected.

ML is to ascertain that appropriate fiscal documentation is obtained upon making the respective payments for the purchase of goods or services, in line with VAT legislation.

⁷ This was done through a letter, signed by ML’s Chief Executive Officer, and citing Section 246(2)(b) of the Public Procurement Regulations. However, this was possibly meant to refer to Section 246(1)(b), as the section cited in the letter does not exist. In any case, this relates to ‘Modification of Contracts during their term’ which is not applicable in this circumstance. Furthermore, such modification would still have required prior approval from the Director of Contracts.

⁸ The contract covered one year from September 2020; however, although the performance guarantee covered the total contract value, it was only issued on 15 October 2020.

⁹ The contract covered a one-year period starting September 2021 while the performance guarantee, originally drawn up on 9 October 2020, was valid for one year.

Developments: *Fully Implemented*

Fiscal receipts covering payments made during 2021, in respect of cleaning and security services, were timely obtained by ML.

Conclusion

NAO acknowledges that significant efforts were made by Management to take on board certain recommendations put forward in the 2018 Annual Audit Report. However, there is still room for improvement in the maintenance of inventory records and procurement is to be in line with standing regulations.

Ministry for Social
Justice and Solidarity,
the Family and
Children's Rights



Foundation for Social Welfare Services - Agency for Community and Therapeutic Services

Background

The National Audit Office (NAO) published a report entitled 'Foundation for Social Welfare Services – LEAP Community Resources Centres' in its Report by the Auditor General – Public Accounts 2017. The objective of this audit was to ascertain that adequate internal controls were exercised over recurrent expenditure, which included personal emoluments and various disbursements classified under Operational and Maintenance.

The main concern encountered during the initial audit was the absence of control over Government-owned assets. Other shortcomings included the lack of verification against contract agreement before payment is effected and insufficient control over vacation leave.

In 2019, LEAP Community Resources Centres were amalgamated with the home-based therapy service and community social work service under the new Agency for Community and Therapeutic Services within the Foundation for Social Welfare Services (FSWS) and, as a result, this follow-up audit was carried out on the operations of this Agency.

Key Issue

Inadequate Inventory Management

Testing of inventory items, including a physical inspection thereof, could not be carried out in order to ascertain that proper inventory management was being exercised, since neither a fixed asset register nor room inventory lists were prepared. Control over inventory items was limited to details of laptops in use by LEAP.

All assets are to be recorded accurately in a fixed asset register. These are to be adequately identifiable and traceable to the respective location. Room inventory lists are also to be kept and regularly updated. Furthermore, periodical physical verification of inventory items is also recommended, to ensure adequate control over Government-owned assets.

Developments: *Partly Implemented*

Follow-up testing revealed that the Foundation engaged a Risk and Control Officer who updated the Agency's information and communications technology hardware register, and included the laptops which were distributed to the staff. However, although this register is being regularly updated, it only comprises the information technology equipment.

NAO reiterates that it is in the Agency's interest that all assets are duly recorded in a fixed asset register; MF Circular No. 14/99 – 'Government Accrual Accounting: Revised Inventory Control Regulations' can be referred to as guidelines.

Control Issues

Lack of Verification against Contract

In February 2016, FSWS entered into a one-year contract with a telecommunications company for the provision of 3G data service for 32 mobile users. This agreement was followed by an extension of the same contract conditions for another year, ending February 2018. Both the agreement and relative extension granted a discount of €221 per month.

Audit testing revealed that whilst the discount was deducted correctly during the first year of service, this was not applied during the tested period (2017). Following NAO enquiry, LEAP officers contacted the supplier, who confirmed the mistake. As a result, a credit refund representing the overcharge from February 2017 to January 2018, totalling €2,652, was given to LEAP as part of the January 2018 invoice.

All invoices are to be invariably verified and certified as factually and mathematically correct by the officers in charge, in order to confirm their accuracy before they are processed for payment.

Developments: Fully Implemented

A sample of three invoices relating to the provision of 3G data service for mobile users, selected from the 2021 nominal ledger transactions, was checked against the respective agreements. All invoices had evidence that they were verified, as well as certified as factually and mathematically correct by the officers in charge before they were processed for payment.

Insufficient Control over Vacation Leave

Although vacation leave hours were authorised, very often, there was no evidence of any end-of-year certification to ensure accuracy of the accumulated unutilised leave hours.

For control purposes, the Human Resources Section is to verify vacation leave entitlement for the year against the hours availed of by each employee to ascertain accuracy of the unutilised leave to be carried forward from one year to another. Such verification should be endorsed and dated accordingly.

Developments: Fully Implemented

Testing was carried out on 10 officers selected at random from the list of employees to verify requests to carry forward vacation leave from 2021 to 2022. From the Leave History Reports and internal correspondence provided, it was confirmed that all leave carried forward by the sampled officers was accurate and authorised from the right level of authority.

Absence of Documented Procedures regarding Flexi-time

FSWS collective agreement stipulated that officers may submit a written request to their superiors to work on a flexi-time basis, which request shall be approved and agreed upon in writing, according to the exigencies of work. However, there was no written policy regulating how the flexi-time system operates.

It was recommended that a formal policy is introduced to regulate the way the flexi-time system shall operate. Such policy usually indicates the core hours, as well as an agreed number of hours during a settlement period.

Developments: Fully Implemented

FSWS introduced a formal policy to regulate the flexi-time system which was included in its Manual of Procedures.

Compliance Issue

VAT Defaulters not reported to the Authorities

Returns listing those suppliers who defaulted from sending a fiscal receipt to LEAP were not being submitted to the Value Added Tax (VAT) Department on a quarterly basis, as required by MF Circular No. 5/2002 – ‘Submission of Fiscal Receipts to Government Departments’ and subsequent update through MFEI Circular No. 2/2012. During the audit, this shortcoming was brought to the attention of LEAP officers and immediate action was taken.

LEAP is to ascertain that all suppliers or service providers, who have received payments in part or in full for goods or services provided, adhere to VAT regulations by furnishing the former with a fiscal receipt. Quarterly returns listing defaulters are to be compiled on a timely basis and submitted to the relevant authority within the stipulated timeframes. Nil returns are also to be forwarded accordingly, where applicable.

Developments: Fully Implemented

It was confirmed that all quarterly defaulters’ returns for the year under review were submitted to the Office of the Commissioner for Revenue.

Conclusion

NAO acknowledges the significant efforts made by the Agency to take on board most of the recommendations put forward in the 2017 Report. However, in order to enhance good governance further, the key issue related to inventory management must be fully addressed as soon as possible.

Retirement Pensions

Background

The National Audit Office (NAO) published a write-up entitled 'Retirement Pensions', in the Report by the Auditor General – Public Accounts 2017. The audit was to assess the procedures and controls within the Department of Social Security (DSS), in relation to the disbursement of the Contributory Retirement Pension, as per the Social Security Act (Cap. 318), by the then Ministry for the Family, Children's Rights and Social Solidarity. During this audit, this Office satisfactorily noted that procedures and controls in relation to the initial calculation of the retirement pensions were in place. However, due to the Department's limited resources, contributory pensions were not being reassessed on an annual basis as required by the pertinent legislation.

Control Issues

Lack of Reassessment Policy and Resources

The Department confirmed that it did not have the necessary resources to enable it to conduct reassessments; there was also no policy in place to ensure that such reassessments cover all pensions over a period of time. While some of the pensioners were reassessed even up to five times, others never had their retirement pension reviewed. In fact, it transpired that only an average of 18% of the total eligible individuals were subject to reassessment between 2015 and 2017.

In view of the large number of pending pensions to be reviewed, it was recommended that a reassessment policy with applicable procedures is issued to ensure that the Department's resources are deployed in a manner to cover all pensions over a specified timeframe.

Developments: Fully Implemented¹

A five-year reassessment plan was prepared, following the drawing up of a Reassessment Policy and Procedure for Contributory Pensions. To supplement the work carried out by the Department, the actual task of reassessment was outsourced and in accordance with said policy, it was ensured that all pensions were reassessed by the end of 2021. DSS confirmed that, since 2017, a total of 101,095 reassessments were carried out, representing around 99% of all persons in receipt of a retirement pension as at end of 2021.

However, to achieve this progress, the Department outsourced this task from the same service provider as from July 2016 through a number of direct orders, bypassing normal tendering procedures. Evidence of approvals to this effect from the Ministry for Finance was traced in DSS files, but NAO also noted that in more than one occasion, the foregoing Ministry suggested that these services are to be provided inhouse in order to avoid a precarious situation of resorting to direct orders.

This Office was provided with seven agreements covering pension reassessments, as well as related services, including the calculation of new claims and tentative or retrospective pensions which were entered into between February 2017 and June 2021, with an aggregate contract value capped at €446,000 (VAT excl.). It later transpired

¹ Fully implemented with reservations.

that at least another contract was in place starting July 2016, capped at €40,000 (VAT excl.). The first two contracts were negotiated with the service provider in a personal capacity, whilst the remaining six were signed with a private company owned by the foregoing.

Testing revealed that in actual fact, the total amount paid to the service provider for reassessments and other related work provided to DSS during the period July 2016 till June 2021 amounted to €691,904 (VAT excl.); thus, exceeding the amount approved by the Ministry for Finance and related agreements' value by not less than €205,000. This amount was backed by receipts of payments extracted from the Departmental Accounting System and the Corporate Financial Management Solution. However, not all invoices were traced in files.

In August 2021, following normal tender procedures, the Department of Contracts, on behalf of DSS, entered into a three-year agreement with the same service provider, for the provision of pension assessments, at the hourly rate of €17 (VAT excl.), for a total value not exceeding €617,917 (VAT excl.). This agreement was twofold; Lot 1 (€358,021, VAT excl.) covering new, tentative and retrospective missing contributions assessment claims, and Lot 2 (€259,896, VAT excl.) covering annual reassessments as stipulated in the Social Security Act.

Individuals omitted from the List

Information obtained from the Department showed that pensioners were split into a number of categories for the purpose of reassessments. However, from a total of 62,272 pensioners who were assigned a reassessment category, it was noted that there were another 2,552 individuals who were not included under any of the categories, hence they could not have been selected for a reassessment.

To this effect, NAO recommended that reconciliations should be carried out to identify any pensioners who were not included in the reassessment categories.

Developments: Fully Implemented

With respect to the omissions referred to in the 2017 Annual Audit Report, DSS provided an extract from the Sistema għall-Amministrazzjoni tal-Benefiċċji Soċjali (SABS), indicating corrections carried out during the month of November 2021. Evidence of regular reconciliation was also provided, thus showing action taken to resolve the issue.

DSS also confirmed that all the individuals are now classified in the respective category. Details on the type of category are inputted in the foregoing system when a person applies for a retirement pension. This included name of last employer of claimant or details of self-employment; thus, assisting DSS to classify pensioners in the categories required for reassessment purposes.

Conclusion

NAO satisfactorily noted that the Department addressed the shortcomings highlighted in the 2017 Report. However, unfortunately, the pertinent procurement regulations were not always followed to achieve this progress.

Ministry for
Justice and
Governance



Office of the State Advocate

Background

A write-up on the audit of the Office of the Attorney General published by the National Audit Office (NAO) in its Annual Audit Report for 2016 covered the revenue generated from judicial fees. This comprised an evaluation of the internal controls and procedures in place, with respect to the collection of revenue falling in arrears. NAO also aimed to obtain reasonable assurance that all monies were accurately recorded and duly covered by supporting documentation and determine the degree of compliance with the applicable rules and regulations. Areas of concern with respect to the procedures in place for receiving, handling, safeguarding and depositing of monies were identified and recommendations thereto were provided.

Up to mid-December 2019, the Office of the Attorney General had a dual role, that as public prosecutor and of a principal legal counsel to the Government in all other legal spheres. At that time, the Office was divided into two main units, namely, the Criminal Law and Prosecutions Unit and the Civil, Constitutional and Administrative Law Unit.

Subsequently, a separate entity, namely the Office of the State Advocate, was constituted to take over the Government legal advisory role of the Attorney General with the coming into force in year 2019 of the State Advocate Act (Cap. 603). The former Civil, Constitutional and Administrative Law Unit, which was responsible for the collection of the respective judicial fees, formed the basis of the Office of the State Advocate whilst the Office of the Attorney General became a specialised prosecution service.

Key Issues

No Debtors' Register in place

In its Annual Audit Report for 2002, NAO had reported that no official register was being kept by the Office of the Attorney General to record amounts outstanding by third parties for judicial fees and, as a result, amounts due could not be ascertained. The same situation still prevailed in 2016. It was at the discretion of the officers in charge within the Civil, Constitutional and Administrative Law Unit whether to hold such records or not. Only two out of the nine officers within the Unit had a spreadsheet readily available for audit purposes. Six others compiled the data following NAO's request; however, the amounts therein were not substantiated. In the absence of a debtors' register, the Office of the Attorney General did not have an adequate control mechanism towards timely debt recovery of public funds.

Developments: Insignificant Progress

The Office of the State Advocate merged the separate spreadsheets being kept by the individual officers into one, showing a total of 95 debtors with an aggregate outstanding balance of €238,247 at end 2021. However, confirmation of a sample of 15 random balances against amounts in the Clients Payments Receipts report revealed discrepancies in 5 entries, in aggregate amounting to €3,024. Moreover, the Debtors' Control Account showed a balance of €277,784 as at 31 December 2021, resulting in a variance of €39,537 between the foregoing balance and the outstanding amount in the spreadsheet.

To ascertain accuracy of the amounts in the spreadsheet provided, nine random files were also reviewed. Discrepancies between the amounts recorded in files and those in spreadsheet were again noted in three of these files. Furthermore, one debtor included in the spreadsheet showed no balance as the respective file could not be found. This test also revealed that the Office does not perform any follow-up with the banks when a garnishee order is issued and no evidence of action to this effect was taken by the latter; certain files were even put-away following the issue of the garnishee order, notwithstanding that no feedback was received from any of the banks. In such instances, the balance remained outstanding.

According to the Head of Corporate Services of the Office of the State Advocate, a comprehensive exercise was underway, whereby the whole debt collection process was being reviewed and documented in order to ameliorate the state of affairs. Each file was in the process of being checked to ascertain correctness of the data on record. Action will be taken to ensure prompt and accurate recording in the accounting system, while contents of files pertaining to the listed debtors were being scanned for easier access and visibility. Target completion date was the second quarter of 2022. The auditee also expressed its concern on the lack of human resources that it has at its disposal, especially since the position of Finance Manager had been vacant since August 2021, thus creating a number of difficulties in the respective Unit.

Substantial Amount of Debtors omitted from Arrears of Revenue Return

When the Civil, Constitutional and Administrative Law Unit notified the third parties with the bill of costing, it did not pass on this information to the Accounts Section and hence the latter was not aware of what bills were outstanding.

Due to this lack of communication between the two sections, the gross closing balance of €40,996, reported in the Return of Arrears of Revenue as at end 2016, was underestimated by at least €250,438. This amount related to pending dues from 257 individuals.

Developments: Significant Progress

Gross outstanding arrears as at 31 December 2020 stood at €288,736. This was almost in line with the 2021 opening balance of the Debtors' Control Accounts, which stood at €290,072. However, due to the aforementioned limitations, accuracy of these figures cannot be ascertained.

Control Issue

Remittances to the Public Account not effected in a Timely Manner

The Office of the Attorney General took long intervals to deposit its revenue at the Central Bank of Malta. From a total of 19 deposits effected during the year under review, in three instances cash and cheques, which accumulated to rather substantial amounts, were retained for more than 30 days when, in line with Article 35 of the General Financial Regulations, such deposits should have been effected daily.

Developments: Fully Implemented

Regular deposits into the Office of the State Advocate's bank account were noted. However, Management is advised to perform reconciliations between amounts collected and those eventually forwarded to the Public Account.

Conclusion

Although efforts were being made by the Office of the State Advocate to address some of the long-standing concerns identified in past audit reports, it still needs to invest significant resources to ensure that an effective and efficient debt collection process is in place and the respective data is accurate and reliable.



Ministry for Home Affairs, National Security and Law Enforcement

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A1

Information and Communication Technology

Background

Audit findings on expenditure incurred on Information and Communication Technology (ICT), by the then Ministry for Home Affairs and National Security (MHAS), were published by the National Audit Office (NAO) in its Annual Audit Report for 2017.

Besides the Ministry, the ICT budget also covered the requirements of the five entities falling under its portfolio, namely Armed Forces of Malta, Civil Protection Department, Correctional Services, Malta Police Force (MPF) and Probation and Parole Services.

The aim of the audit was to ascertain that, during financial year 2017, expenditure incurred on ICT was duly authorised and properly accounted for, and that the respective procurement was in line with the regulations, as well as other relevant circulars. The procedures for the administration and management of ICT inventory items were also analysed.

Key Issues

Inadequate Inventory Management

Fifty desktop computers were procured by MHAS on behalf of MPF in December 2017 for a total cost of €49,954. The following were noted:

- a. The computers in question were not recorded on a fixed asset register or inventory database that met the expected standards for good asset management. Records held at MPF were kept on a bespoke computer program which excluded basic information, such as date of purchase and cost price. On the other hand, records of the same computers held by MHAS on the Asset Management System did not include cost, exact location and officer to whom the individual items were assigned.*
- b. Room inventory lists were last updated in December 2013. Furthermore, NAO was informed that information technology equipment was not recorded on such lists, while basic details with respect to the other recorded assets was also lacking.*

A proper fixed asset register was to be compiled in accordance with the respective guidelines without undue delay. Besides exerting better management and control over the custody of Government-owned assets, this was to assist MPF in preparation for the forthcoming implementation of the accrual accounting across Government.

Developments: Significant Progress

This Office acknowledges that the core group of the Chief Information Officers was in discussions with the Ministry for Finance and Employment in view that the Corporate Financial Management Solution (CFMS) inventory module did not cater for all ICT requirements. These discussions are held to establish whether Information Management Units will need to have an additional module that is common for all Ministries and which eventually would integrate with CFMS.

Given that action that could be taken by MPF was limited, during an onsite visit to the respective ICT section, it was confirmed that the computer equipment was still recorded on the bespoke computer program. Moreover, only one room inventory list was available, which was not even updated.

Stock of Unutilised Computers

The first computer from those purchased was only assigned to a user more than four months after acquired. Moreover, by the last week of September 2018, nearly half (23) of these computers were still unutilised in the stores. In the meantime, their three-year warranty was running and the respective licences were also paid accordingly.

In view that the supplier (through Malta Information Technology Agency) was bound by contract to deliver the computer orders within a reasonable timeframe, MPF was encouraged to keep stock to a minimum and request quantities from the supplier as necessary.

Developments: Fully Implemented

As per Management comments submitted at the end of October 2018 in response to the original audit, MPF adopted a policy of keeping 10 computers in stock as backup, to be readily available for use. In fact, during 2021, only three computers were actually supplied to MPF.

However, during an onsite audit visit in January 2022, NAO was informed that, following a regeneration exercise¹ made by MPF, the Ministry procured 450 computers that were delivered to MPF in December 2020. From these computers, 45 were still in store, out of which 15 were dispatched within a week of NAO's visit, and another 6 were kept as backup, while the remaining 24 were already approved for deployment. Further feedback received from MPF in beginning March 2022 indicated that all computers were distributed and stock was according to the agreed minimum levels.

Control Issue

Estimated Amount approved for Negotiated Procedure exceeded

The Department of Contracts granted MHAS approval to enter into a negotiated procedure with one of the local service providers to upgrade the infrastructural set up for Emergency Services and the Single European Emergency call number for the estimated value of €3,422,000. However, the total value of the agreement signed between MHAS and the service provider on 26 April 2017 amounted to €3,475,100, exceeding the approved amount by €53,100.

The Ministry was to ensure that approvals obtained were sufficient to cover planned expenditure. Any shortfalls were to be addressed prior to entering into additional commitments.

Developments: Fully Implemented

During this follow-up exercise, testing was performed to confirm that the value of three agreements signed with the same service provider, which were in force during 2022, did not exceed the estimated cost of the amount indicated in the respective negotiated procedures approved by the Department of Contracts.

¹ In accordance with OPM Circular No. 4/2019 – 'Management of Technology Equipment (Devices)'.

Conclusion

NAO noted that significant efforts were made to take on board the recommendations put forward in the 2017 Annual Audit Report. Whilst also acknowledging that most of the changes relating to inventory management that are still to be implemented are beyond the Ministry's control, NAO encourages the continuous active participation in the discussions of the CFMS core group related to inventory, in order to address the remaining concern as early as possible.



Ministry for Finance and
Employment

Environmental Contribution

Background

In its Annual Audit Report for 2017, the National Audit Office (NAO) published a write-up entitled 'Environmental Contribution'¹ (EC). The objective of the respective audit was to evaluate the level of controls in place at the Office of the Commissioner for Revenue (CfR), being the Competent Authority in the collection of EC. Despite the good practice noted in the information technology component, the audit revealed a number of limitations, mainly surrounding the controls pertaining to enforcement.

Key Issues

Limitations in Enforcement Action

Audit testing revealed a number of limitations in relation to the enforcement action in the process of collecting EC. Difficulties mainly arose because of the absence of sufficient data and tools for enforcement.

Inspections should be coordinated, where possible, with those carried out by the Value Added Tax (VAT) Department in order to ensure better use of public resources and minimise the burden on regulating operators.

Developments: Fully Implemented

Over the last years, the Compliance Section within CfR started carrying out inspections on operators involved in the accommodation sector. These inspections were intended to ensure that the latter were registered for the purposes of EC, that a separate tax invoice or fiscal receipt for the contribution charged to customers was issued and the applicable returns together with respective payments were submitted to CfR.

Table 1 shows the number of inspections carried out during years 2019, 2020 and 2021, as well as the number of reported cases falling under the category of rental and operating of own or leased real estate, or holiday and other short stay accommodation. This also included operators who were acting as intermediaries for licence holders.

Table 1: Number of Inspections from 2019 to 2021²

Year	Number of Inspections	Reported Cases of Concern ³
2019	306	19
2020	87	16
2021	173	18

¹ According to the second schedule to the Eco-contribution Act (Cap. 473), the eco-contribution charge is of €0.50 per night per person who is 18 years of age or older, on accommodation provided for a consideration or otherwise. This contribution is capped at a maximum of €5 per person per visit and is payable, amongst others, on accommodation in hotels, guesthouses, hostels, resorts, apartments, farmhouses, time share and host families.

² Inspections may include follow-up inspections on same operators and the reported cases referred to Technical Section for onward legal action.

³ Such cases of concern included those where the operator was not registered for EC, where a separate tax invoice or fiscal receipt was not issued to customers and when the applicable returns were not being submitted.

The reduced number of inspections during 2020 was due to the unprecedented level of disruption in the tourism sector caused by COVID-19. However, during 2021, the Compliance Section concentrated its efforts towards visiting agencies renting farmhouses in Gozo. Furthermore, operators who, according to data from VAT and EC systems, were charging 7% VAT on accommodation as declared in their returns, but still failed to submit the obligatory tax returns and respective EC payments for the same tax periods, were also being contacted. Up to this point, penalties were not being imposed as the revised penalty structure was planned to be incorporated into the EC system following the legal amendments to the underlying regulations.

Discrepancies between the Departmental Accounting System and Supporting Documentation

Payments made directly to the Central Bank of Malta

Payments made by various operators by means of direct transfers into the Central Bank of Malta (CBM) account, in settlement of their EC for the years 2016 to 2018, were not shown as paid on the EC system even though they were correctly credited into the relevant Departmental Accounting System (DAS) account. As a result, the amount that was actually still owed by operators was substantially overstated.

To this effect, since the EC system did not include all the payments made by the respective operator, any collection or enforcement action vis-à-vis operators with substantial balances due would very often be a waste of resources.

Corrective action is to be taken to ensure that the EC system reflects all the payments made, irrespective of mode of settlement by the respective operators; hence a realistic figure of outstanding amounts will be shown.

Developments: Fully Implemented

The issue of overstated EC balances in the underlying system has since been solved. A small inevitable time lag still occurs between the acceptance of actual payment via CBM and its acknowledgement through a proper receipt. In such cases, officers receiving payment at CfR match the reference given by CBM with the type of tax for which the payment is intended to cover. However, this is a manual process that depends on the operator to quote the correct reference number, failing which, receiving officers must decide on correct allocation.

EC payments can also be received through internet banking in any of the five bank accounts held with local commercial banks, as well as through the payment gateway in another two commercial bank accounts. The same seven accounts are also utilised for receiving VAT payments. A system is in place for CfR to be informed by the banks of amounts received on a daily basis, to ensure that all the payments are successfully updated into the systems. Transfers are then made from the commercial banks to the Public Account held with CBM, in line with the standard operating procedure.

Payments not updated in the Departmental Accounting System

Transactions effected using the Government Payment Gateway were deposited into a local commercial bank account separate from the Public Account, but not accounted for in DAS. This resulted in DAS being understated by €114,328. Moreover, funds were remaining idle in this bank account since, according to CfR, withdrawals from the account could not be made due to the applicable thresholds.

Another amount of €257,093, collected through internet banking and duly recorded as received in the EC system for December 2016, could also not be traced to the related DAS figure.

Any issues with the local bank are to be resolved without undue delay so that funds relating to the EC are withdrawn and included in the relevant DAS account. These are to be used as intended, i.e., for the benefit of tourism projects.

Developments: Fully Implemented

Once the reconciliation between the revenue reports generated through the internal systems⁴ and the CfR's bank accounts is completed, a journal entry is raised in the Corporate Financial Management Solution to update the respective accounts with corresponding amounts.

CfR was also ensuring that all payments were being accounted for by matching payments extracted from the system after the loading of data, against the original source of funds.

A sampled reconciliation covering a number of days was reviewed by NAO and the respective amounts were found to be in agreement with the amounts in the underlying bank statements. The balances in the reconciliation exercise were also traced to the Corporate Financial Management Solution.

Limitation on Payment Threshold in Government Payment Gateway

The audit revealed that a €4,000 threshold existed in the EC system for payments processed via the Government Payment Gateway. This was creating a bureaucratic process for deposits above this threshold since the amounts had to be split into multiple payments against a specific declaration from an operator.

CfR was to consider the possibility of increasing the threshold in question. This may facilitate the process for operators who would otherwise have no option but to make multiple payments through a lengthy process.

Developments: Fully Implemented

NAO confirmed that this payment capping was removed.

Control Issues

Limited System Functionality

The EC system was limited in its functionality in issuing a statement to show the total balance due by an operator at any point in time. In such absence, CfR may not be in a position to enforce the payment of its dues in Court, if and when necessary.

This Office was also informed that the penalties imposed by the underlying legislation in relation to EC were deemed to be disproportional to its levied value. CfR was however committed to follow cases before the EC Tribunal in order for decisions in relation to the proportionality of penalties to be taken, and changes to the legislation to be proposed.

Discussions should be held to assess the possibility of enhancing the EC system to allow for an automatic calculation of these penalties. This would ensure that CfR holds appropriate records in relation to the full amounts due by the operators.

Ongoing discussions between the parties involved are to be held on a regular basis to ensure clarification about their respective roles vis-à-vis collection and enforcement of EC. This would also go a long way in ascertaining that any potential changes to the legislation are effectively brought forward by the responsible party.

⁴ These indicate the amount of EC and VAT generated from each bank on a daily basis.

Developments: *Partly Implemented*

Eco-contribution Regulations (S.L. 473.02) was amended through the Eco-contribution (Amendment) Act (Act XIV of 2020), published on 3 April 2020. As per Articles 4 and 5 of the foregoing, late return and late registration penalties were capped to a maximum of €250 each.

At least up to March 2022, CfR had only viewing access, same as that of an individual taxpayer. A system enabling the issuing of statements to taxpayers, also showing the balance due, inclusive of penalties, was not yet available. This was only available by means of an ad hoc data extraction software. Consequently, the amounts declared were being listed manually in a spreadsheet, indicating those paid, as well as the amounts due, but excluding penalties.

Up to the beginning of 2022, sittings to follow up the EC cases were only held at EC Appeals Board's level⁵ and were never heard before the Administrative Review Tribunal as initially intended. These were followed by the Appeals Section within CfR. However, the most recent sitting was held in April 2018; thus, there were no sittings of the Appeals Board during the last four years.

Trust Fund not yet established

According to the underlying legislation, a Board of Trustees was to administer the funds collected from EC, which were to be held into a Tourism Environmental Trust. However, the Board was not yet set up by the time the audit was concluded. Furthermore, as stated by the Ministry of Tourism at the time, the set-up of the Trust itself had encountered a number of teething problems, and as at end of September 2018, had not yet been established.

The Ministry is to ensure that the correct setup is in place without undue delay so that the funds are used effectively and for their intended legal purpose.

Developments: *Fully Implemented*

The Tourism Projects Advisory Committee was set up in July 2018. Its mandate is to ensure that EC funds originating from accommodation, which are made available to the Ministry, are administered in a cost-efficient way and in a manner that would be of most benefit to improve and enhance Malta's touristic product.

Amongst the completed and ongoing projects which were approved by this Committee, were resurfacing works in a number of touristic areas, as well as the Balluta Bay regeneration project.

Registration and De-registration Process

With the introduction of EC in 2016, a number of operators registered with CfR for a VAT number, as well as with the Malta Tourism Authority (MTA), in order to obtain a licence number in accordance with the Malta Travel and Tourism Services Act (Cap. 409). However, the audit revealed that certain operators were still registered on only one system, i.e., either CfR or MTA database.

Both CfR and MTA agreed that, going forward, new MTA registrations were not being permitted if a VAT number is not available, or at least, before an application for a VAT number is filled in.

Since accommodation operators pay 7% VAT on the income earned from short-term rental operations, NAO recommended that VAT officials involved in the Enforcement Section make use of periodical reports from the VAT

⁵ The EC Appeals Board deals with issues directly related to EC whereas the VAT Review Tribunal is intended for appeals in relation to VAT.

system to identify all the relevant operators. As a result, enforcement action could be directed towards those who neither have a VAT nor an MTA number duly registered. Those operators, who are either not registered or are not paying the EC, will also be easily identified and necessary action can be taken accordingly.

MTA and CfR were both encouraged to continue to cooperate in order to maximise the Government's potential revenue in terms of the EC, and thus ensure proper collection and utilisation thereof.

Developments: Fully Implemented

MTA has made the VAT number a requirement to be submitted when applying as Tourism Accommodation Establishments, including applications for Holiday Premises Licences. The application form also informs the applicant that the data related to VAT will be automatically shared with CfR for automatic EC registration purposes.

Once MTA licences are approved, they are individually uploaded onto a database, which is specifically designed to facilitate the sharing of data with CfR. This is normally updated on a monthly basis by MTA, and CfR is allowed to extract data from this database. However, given the COVID-19 circumstances in 2021, uploading of data by MTA was only carried out three times, in April, September and December. During 2022, updated data started being shared between MTA and CfR on a weekly basis. NAO positively noted that an operating procedure in this regard was also in place.

Lack of System Notification

It was observed that after the end of every quarter, the operator had to declare and pay any contributions due through the EC system. However, the operators were not being notified through a formal reminder of their obligations, both in terms of tax and penalties. A generic notification was only shown on the homepage upon successfully logging on to the EC system.

CfR is to take remedial action so that the EC system automatically generates a notification every quarter, through an email, text message, or both, whereby the operator is reminded to submit the declaration and settle any amount outstanding. In the absence of other tools for enforcement, such notifications would assist in the process of collection of the EC due by the respective operator.

Developments: Insignificant Progress

Quarterly notifications to operators for submission of EC declarations and payments were issued until December 2019 through manual intervention using the EC system. However, because of this reliance on the manual process, staff shortages within the Information Technology Section after 2019 led to the cessation of notifications for the subsequent two years.

Notifications were then resumed in February 2022; however, these were still reliant on a manual process to identify the list of taxpayers to whom the notification was to be sent.

Conclusion

NAO satisfactorily noted that considerable effort was made by CfR to address most of the shortcomings highlighted in the 2017 Annual Audit Report in order to strengthen controls and ensure compliance. It is now encouraged to focus on the few remaining concerns that are still pending.

Compensation Payments

Background

In its Annual Audit Report for 2017, the National Audit Office (NAO) published a write-up entitled 'Compensation Payments'. The main scope of the audit was to ensure that payments effected directly by the then Ministry for Finance (MFIN) in connection with cases of injustice or grievance suffered by officers in the public service, were free from material misstatements. Furthermore, NAO sought to determine the level of internal controls over this expenditure.

Key Issue

Insufficient Documentation maintained

Documentation maintained by MFIN, in support of payments made, was lacking in the following instances:

- a. No record of the officers receiving the compensation and the amount to which they were entitled, was traced for six payments made to four Government entities, for a total of €12,153,941.*
- b. Proof that the respective Ministry and/or Department had actually paid the compensation to the aggrieved officer/s was also not traced, for a total of €12,419,943. In these cases, MFIN relied on the amount of compensation declared by the respective entity.*
- c. Although, according to MFIN, copies of the Grievance Board Decisions were always obtained prior to effecting reimbursements, these were not available in respect of three payments for an aggregate amount of €17,000.*

All reimbursements issued by MFIN are to be duly supported by documentation proving that the compensation payment has been authorised and settled by the respective entity, thus ensuring that the funds allocated are utilised for their intended scope. To this effect, a copy of the official decisions is to be retained in file, especially when the payment to the aggrieved officer is made directly by MFIN.

Developments: Fully Implemented

NAO was informed that all supporting documentation submitted by the respective ministries and/or departments was being kept in file. From testing carried out on the two files¹ reviewed, NAO traced the necessary documentation for total payments of €636,475, which during 2021², were paid directly by Ministry for Finance and Employment.

¹ The first file reviewed concerned one beneficiary who was paid the amount of €180,275, while the second case pertained to 49 individuals who were paid an aggregate amount of €456,200.

² Up till mid-October 2021.

Control Issues

Board Decision not detailed to confirm eligibility for Compensation

A reimbursement of €21,891, effected by MFIN to a Department, was supported by a Board decision which however failed to indicate the names of the officers being compensated. Consequently, NAO could not validate the amount in question, since it could not establish whether the officers actually receiving the payment were eligible for compensation.

In cases where the information contained in the Board decision is insufficient, MFIN is to liaise with the respective ministry and/or department and obtain assurance, as well as supporting documentation, to confirm that reimbursements are only issued in respect of officers who were eligible to receive compensation.

Developments: Fully Implemented

The Ministry confirmed that the Grievance Board decisions were vetted to ascertain that all information was obtained before payments were effected. A detailed list of individuals was in fact traced in both files reviewed.

Discrepancies in Compensation Payments

During 2017, MFIN reimbursed €265,000 to a particular Ministry, covering compensation payments effected to various officers. However, inconsistencies were noted between the respective amounts decided by the Board and the actual payments.

MFIN is to perform the necessary checks to ensure that compensations reimbursed to other ministries and/or departments reflect the amounts actually paid to aggrieved officers. Any differences or inconsistencies are to be duly queried upon and a justification obtained.

Developments: Fully Implemented

The Ministry stated that verifications were made to ensure that the aggrieved officers were being paid the amount actually entitled to. NAO confirmed that the compensation paid to the respective individuals in 2021, as evidenced in the applicable accounting system, namely the Corporate Financial Management Solution, was accurate.

Conclusion

NAO satisfactorily noted that the shortcomings highlighted in the 2017 audit were adequately addressed and related payments were supported with relevant documentation and approvals.

2021-2022 (to date) Reports issued by NAO

NAO Annual Report and Financial Statements

May 2021 National Audit Office Annual Report and Financial Statements 2020

NAO Audit Reports

June 2021 Follow-up Reports by the National Audit Office 2021 Volume I

July 2021 Performance Audit: Fulfilling obligations in relation to asylum seekers

October 2021 Information Technology Audit: Examinations Department

October 2021 Follow-up Reports by the National Audit Office 2021 Volume II

November 2021 Performance Audit: Smart and RF meters' contribution to more accurate and timely utilities billings

November 2021 Information Technology Audit: IT Asset Management across Government Ministries and Departments

December 2021 Performance Audit: A Strategic Overview on the Correctional Services Agency's Operations at the Corradino Correctional Facility

December 2021 Report by the Auditor General on the Public Accounts 2020

December 2021 Report by the Auditor General on the Workings of Local Government for the year 2020

December 2021 An audit of matters relating to the concession awarded to Vitals Global Healthcare by Government Part 2 | A review of the contractual framework

May 2022 Performance Audit: Assisting Individuals with Dementia and their Caregivers within the Community

May 2022 Ministry for Finance and Employment: An Analysis on Revenue Collection Financial Year 2020

May 2022 Joint Report on Management of Plastic Waste in Europe

June 2022 An evaluation of performance audits in the public sector: Common audit findings (2017 – 2020)