



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

June 2022



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Report by the Auditor General
June 2022

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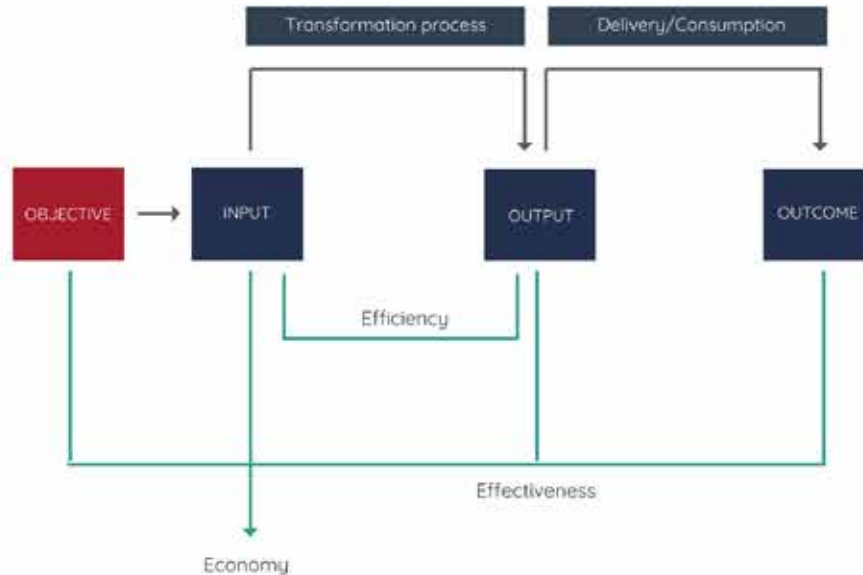
List of Abbreviations

| | |
|---------|--|
| AACC | Active Ageing and Community Care |
| CBA | Cost Benefit Analysis |
| COE | Council of Europe |
| COFOG | Classification of the Functions of Government |
| COO | Chief Operations Officer |
| CPAS | Centralised Patient Administrative System |
| CPS | Child Protection Services |
| CSS | Child Safety Services |
| CWS | Community Work Scheme |
| CWSE | Community Work Scheme Enterprise |
| DAS | Department Accounting System |
| DFA | Department of Fisheries and Aquaculture |
| DoC | Department of Contracts |
| DPD | Directorate for Projects and Development |
| ECA | European Court of Auditors |
| ERA | Environment and Resources Authority |
| ERDF | European Regional Development Fund |
| ESF | European Social Fund |
| EU | European Union |
| FMZ | Fisheries Management Zone |
| FPOs | Fisheries Protection Officers |
| GWU | General Workers Union |
| HR | Human Resources |
| ICT | Information Communication Technology |
| INTOSAI | International Organization of Supreme Audit Institutions |
| ISSAI | International Standards of Supreme Audit Institutions |
| IT | Information Technology |
| KPIs | Key Performance Indicators |
| LOs | Landing Officers |
| MCH | Mount Carmel Hospital |
| MDH | Mater Dei Hospital |
| MEEF | Ministry for Education, Employment and Family |
| MFIN | Ministry for Finance |
| MIS | Management Information System |
| MNA | Malta National Aquarium |
| MOU | Memorandum of Understanding |
| MPAs | Marine Protected Areas |
| MSD | Market Surveillance Directorate |
| MTA | Malta Tourism Authority |

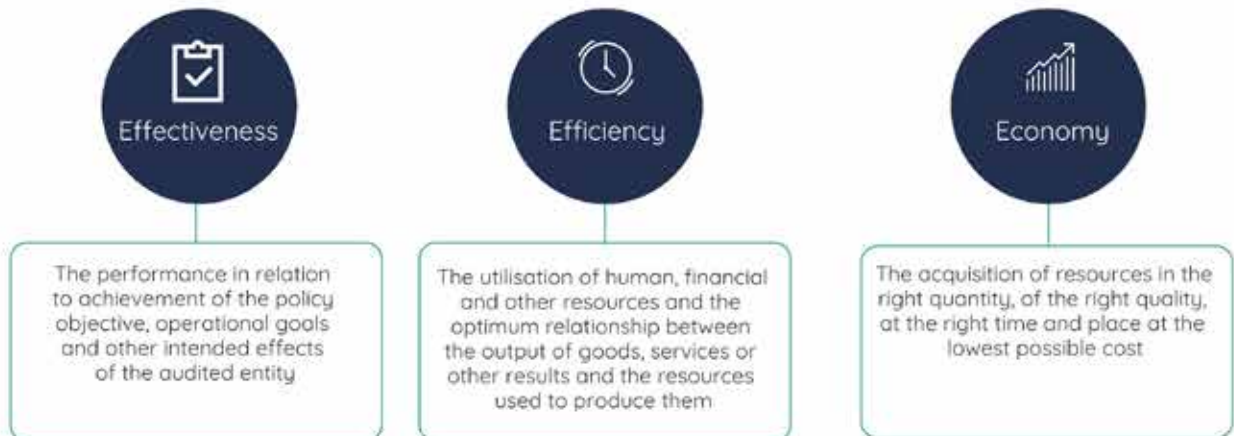
| | |
|-------|--|
| NAO | National Audit Office |
| NBSAP | National Biodiversity Strategy and Action Plan |
| NREAP | National Renewal Energy Action Plan |
| NSPAA | National Strategic Policy for Active Ageing |
| NSSS | National School Support Services |
| OCVO | Office of the Commissioner for Voluntary Organisations |
| OECD | Organisation for Economic Co-operation and Development |
| OHS | Occupational Health and Safety |
| OHSA | Occupational Health & Safety Authority |
| PoMs | Programme of Measures |
| PS | Project Supervisor |
| PV | Photovoltaic |
| RAPEX | Rapid alert system for dangerous non-food products |
| SAIs | Supreme Audit Institutions |
| SOPs | Standard Operating Procedures |
| SPE | Social Purpose Entities |
| SWOT | Strengths, Weaknesses, Opportunities and Threats |
| UN | United Nations |
| VOs | Voluntary Organisations |

Key Facts

Performance Audit Approach



Definitions three Es



Study Objectives

- ❗ • present the main performance audit findings during the period under study.
- discuss and illustrate with case studies specific categories of performance audit findings.
- highlight the causes and effects of these findings.

Results



283

Performance Audit Findings



9

Category of findings

Procurement Procedures, Monitoring and Enforcement, Risk Management, Compliance, Administration, Human Resources, Communication, Technology and Operations



14

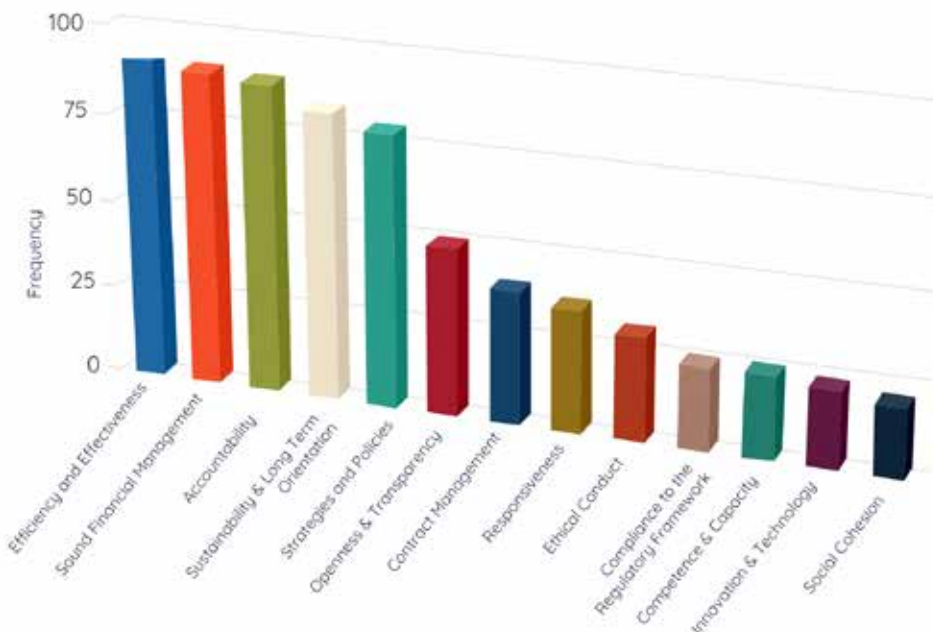
Principles and elements of good governance

Efficiency, Effectiveness, Sound Financial Management, Accountability, Sustainability and Long-Term Orientation, Robustness of Strategies and Policies, Openness and Transparency, Responsiveness, Ethical Conduct, Compliance to the Regulatory Framework, Competency and Capacity, Innovation and Technology, Social Cohesion, Contract Management



Performance audit findings were not generally mutually exclusive and elicited **669** hits against the **14** principles and elements of governance

Good Governance Principles



Audit findings and conclusions encroached on principles and elements of public governance

Executive Summary

Introduction

1. Performance auditing focuses on areas in which it can add value for citizens, and which have the greatest potential for improvement. Subject matters are not limited to specific programmes, entities, or funds, but can include topics like service delivery or the effects of regulations, thereby placing special focus on citizens, as well as issues cutting across many entities. It thereby contributes in a direct way to providing useful information to the citizen, while also serving as a basis for learning and improvements.¹ To this end, performance audits focus on the extent to which an organisation has embraced the principles of economy, efficiency and effectiveness when undertaking its operations and initiatives.
2. Through this publication, we seek to keep our stakeholders abreast and disseminate knowledge on the elements which detract the public service from optimising its performance and value for money considerations. A better understanding of the issues affecting the performance of the public service is firstly conducive to auditees embarking on more expedient remedial action with regards the findings and conclusions raised by the National Audit Office (NAO). But, more importantly, this publication is intended to positively influence public service management and officials in increasingly considering the optimisation and value for money of operations under their charge prior to embarking on new initiatives. This does not only improve the value added brought about through the performance audit process but also contributes to better corporate governance and the sustainability of public services delivered. Ultimately, in the best interest of our citizens.
3. This qualitative review aimed to stocktake, analyse and report on the most frequently occurring performance audit findings, which have been elicited through the NAO's 19 reports published during the period 2017 to 2020 (Appendix I refers). Consequently, the main objectives of this review are to:
 - present the main performance audit findings during the period under study.
 - discuss and illustrate with case studies specific categories of performance audit findings.
 - highlight the causes and effects of these findings.

¹ INTOSAI. *ISSAI 300, Fundamental Principles of Performance Auditing*, p. 3.

Methodology

4. This Review sought to link the performance audits findings of the 19 reports under study to the principles and related elements which constitute good public governance. Nonetheless, it is improbable that any finding would fit neatly and exclusively in any one element of governance. This occurs since performance audit findings tend to have a broad impact on good public governance. Consequently, the 283 performance audit findings were analysed against a construct depicting 14 elements of good public governance. A matrix portraying audit findings against the elements of governance resulted in 669 hits. This can be considered as a minimum, since most of the audit findings, in practice, could affect all aspects of public governance due to the interrelated relationship of these 14 elements. This matrix shows the total number of hits in each of the 14 elements of good public governance. The total scores are not intended in any way to illustrate the importance of a finding or an element of good public governance as this would be tantamount to introduce a methodological bias in the analysis. Such loading would materialise since, generally, the performance audits undertaken tended to focus more on the three Es (Efficiency, Effectiveness and Economy) while in certain cases evaluation in relation to the other elements of good governance tended to be more incidental in nature rather than a direct consideration within the respective audit objectives. In view of the close interrelationships between these governance principles, these statistics do not imply that one governance principle is more important than the other. Moreover, the exercise to categorise audit findings within the 14 elements of good governance entailed professional judgement and, thus, an element of subjectivity. Consequently, this report considered the elements of good governance as equally important.
5. Of note, is that the examples utilised in this study is solely for illustrative purposes since the context within which such issues materialised may have now changed. Moreover, the public entity in question may have already taken remedial action.

Findings

6. As noted in this Executive Summary, the 283 findings, which in many cases were not mutually exclusive, could be classified under nine broad sectors, which NAO considers to be pivotal to the overall optimal function of a government organisation. These include (but are not limited to): Procurement Procedures, Monitoring and Enforcement, Risk Management, Compliance, Administration, Human Resources, Communication, Technology and Operations.
7. This Summary has already noted that these audit findings resulted in 669 hits within the matrix listing the 14 elements of good public governance adopted for the purpose of this review. The principles of governance adopted are enshrined in the Strategy on Innovation and Good Governance at local level, endorsed by the Council of Europe in 2008. In addition to these

principles, for the sake of practicality in presenting this Report, we considered other (sub) elements of governance which became apparent when analysing the findings emanating from the review of the performance audits falling within the scope of this study.

8. Figure 1 depicts the frequency with which the 283 audit findings impacted a particular governance principle or element was affected by the overall shortcomings.

Figure 1: The impact of audit findings on good governance principle



9. Figure 1 shows that the categorisation of 283 performance audit findings during the period 2017 to 2020 spanned across the various principles and (sub elements) of good governance. This analysis clearly showed that the NAO's performance audits' main findings revolved around the governance principles and elements involving Efficiency and Effectiveness, Sound Financial Management, Sustainability and Accountability.

Overall Conclusions

10. Performance audits typically assess if a government is making good use of resources to effectively deliver its policy goals and achieve its intended impact. Such audits often intend to examine the implementation of a policy or policies. This Report evaluated performance audit findings elicited through a review of 19 performance audit reports which were published by

the NAO over a four year span up to end 2020. To varying degrees, these findings impacted good public governance. These findings included issues related to Procurement Procedures, Monitoring and Enforcement, Risk Management, Compliance, Administration, Human Resources, Communication, Technology and Operations.

11. The public sector has over time made great strides forward in improving its administrative capacity, management function and has invested significantly on introducing and upgrading its Information Communication Technology (ICT). There is plenty of evidence that public organisations have always delivered in difficult and complex circumstances. This can also be seen by various indices which register improvements in the quality of life of Maltese citizens.
12. These performance audit reports show that the opportunity existed that the successes brought about through the work of public organisations could have, at times, been achieved through less human and financial resources, more expediently and / or in accordance to predetermined objectives and goals.
13. Among the best practices noted, when the findings elicited through the 19 performance audit report are analysed against principles of governance, a range of common denominators emerges. It becomes apparent that at least some of the findings reported could have been avoided through more robust planning, strategic and policy direction, control, communication with stakeholders as well as monitoring. In part, these situations materialise in the absence of reliable or fragmented information which detract management from taking decisions on the basis of comprehensive and timely data.
14. This Report has been prepared with the intention of sharing the knowledge accrued on the contribution of performance auditing to good public governance. It is augured that this exercise provides more information on the benefits of performance audits but more importantly it is hoped that this study promotes a stronger public governance environment to ascertain sustainable development through the work of public organisations.

Recommendations

15. In many ways, this Report echoes the ethos illustrated in the recently published Strategy *“Achieving a Service of Excellence, A 5-year strategy for the Public Service, Quality, Accountability & Sustainability”*. This strategy sets a vision that is not solely centred on financial returns but encompass a broader spectrum of inter-related variables. The attainment of this vision is operationalised by the mission statement, *“We deliver reliable quality services to individuals and society at large based on their needs in a flexible manner which are both financially and ecologically sustainable.”*² Additionally, the Principal Permanent Secretary of the Public Service

² GOVERNMENT OF MALTA, OFFICE OF THE PRINCIPAL PERMANENT SECRETARY, OFFICE OF THE PRIME MINISTER, 2021. *Achieving a Service of Excellence, A 5-YEAR STRATEGY FOR THE PUBLIC SERVICE, QUALITY, ACCOUNTABILITY & SUSTAINABILITY*, p. 14.

recently launched an initiative to reduce waste within public organisations. The foregoing implies that a major objective of the public service is to operate within the parameters of good governance by recognising the importance of the principals of performance audits revolving around efficiency, effectiveness and economy.

16. With the exception of follow-up reports, the performance audit reports falling within the scope of this audit all proposed recommendations aimed at improving performance and consequently public governance, of the activities under audit. It is not the intention of this Report to replicate them herein. Nonetheless, this Report will propose strategic recommendations in terms of the main categories of findings identified in this evaluation. The following refers:
- i. **Procurement Procedures:** Public entities are encouraged to plan procurement procedures thoroughly and in good time. This entails considering the lead time required to follow the procurement procedures stipulated in the Public Procurement Regulations (2016). This will influence the procurement procedure adopted and hence strive to further nurture a culture of fairness and competition. Moreover, planning and conducting comprehensive business cases is conducive for more favourable negotiations to better safeguard Government's and citizens' interests. Through the implementation of this recommendation, public entities will embrace further the principles of good governance as the concepts of social benefit, sustainability and value for money will be further promoted.
 - ii. **Monitoring and Enforcement:** Public entities are to step-up their efforts to deploy various mechanisms, including key performance indicators, to monitor and measure performance. Examples in this regard relate to benchmarking exercises and the analysis of data derived from management information systems. Moreover, Government is to further enhance its monitoring function through the use of available technologies such as using in-built functions to generate management information reports. The use of technology can also be used to enhance enforcement action. Timely and effective enforcement will further contribute to the promotion of the rule of law as well as further encouraging equality and fairness.
 - iii. **Risk Management Operations:** Public entities are to further strengthen the preparatory work involved prior to embarking on projects. It is to be acknowledged that such a task would necessitate further investment in both human and financial resources. Nevertheless, the outcomes of assessments such as Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis, baseline assessments and cost-benefit analysis help to identify areas of potential efficiencies, the entity's strengths as well as propose the best possible solution that returns the most socio-economic return without environmental degradation.

- iv. **Compliance:** Government organisations are to further increase their compliance levels with national and European Union (EU) regulations. While acknowledging that compliance may necessitate more investment in human and financial resources, this would offset government's potential legal, financial and social liabilities – including those related to EU obligations. In this respect, compliance to laws and regulations further nurtures a culture of ethical behaviour as well as a culture of good governance.
- v. **Administration:** Public authorities are to further consolidate their efforts to ensure that the information gathered through the various processes is adequately maintained to generate management information reports. In this way, information gathering through the various services provided is not an end in itself but serves as a critical input to decision making. Moreover, public entities are to ascertain that data and information gathering is supported by in-built mechanisms that provide an audit trail and adheres to the provisions of the Data Protection Act. This enhances transparency and accountability. Moreover, the availability and, more importantly, the evaluation of data enables the administration to extend the establishment of Key Performance Indicators (KPIs), compile Standard Operating Procedures (SOPs) in relation to critical operations and establish or upgrade quality service charters to ensure that the services delivered meet citizen's expectations.
- vi. **Human Resources:** The public service needs to continue to strengthen its human resources pool, in terms of both competence and capacity. Having the required set of resources in terms of quality and quantity is considered as a pre-requisite for sustaining a country's development as well as considered an important input for policy change and its subsequent implementation. This will entail that the deployment of resources across all levels will be in accordance to the skills and aptitudes of personnel within governmental entities. To this end, the ongoing exercise by the People and Standards Division to maintain a database of the skills-set of public employees is strongly encouraged.
- vii. **Communication:** A number of public entities provide a complementary yet a distinct service. In this regard, public entities are to step-up their efforts to better communicate in order to coordinate and share information to ascertain the timely and effective response to prevailing societal needs.
- viii. **Technology:** Public authorities are to intensify even further their efforts to exploit the benefits associated with Information Technology. The use of technology facilitates day-to-day operations and the maintenance of audit trails. Thus, influencing efficiency gains, transparency and accountability. Through technology, national authorities can also improve service delivery, monitoring and subsequently enforcement action.

- ix. **Operations:** Public Authorities need to do their utmost to optimise service delivery at the most favourable unit cost. This includes streamlining operations, having an effective management structure and enforcing accountability functions. These circumstances would facilitate public entities' work to attain the anticipated objectives including the social benefits associated with the initiatives in question. An example in this regard would be the provision of health care within a reasonable time at a more favourable unit cost.

Chapter 1 | Terms of Reference

1.1 Introduction

- 1.1.1 Governments are constantly under pressure to improve the performance within the Public Sector while simultaneously managing expenditure growth. Demographic factors such as ageing populations lead to an increase in Health Care and Pension costs, which consequently demand a more efficient approach to budgetary measures. Citizens expect transparency and accountability from the Administration in terms of what is achieved with the taxpayers' money.³
- 1.1.2 These pressures have over the years prompted Supreme Audit Institutions (SAIs), including the National Audit Office, (NAO), to continuously develop and broaden its performance audit function. Although not precluded previously, the 1997 legislative enactments further underlined their importance through the specific provisions in the Auditor General's mandate to conduct performance audits in all Ministries, Departments as well as Public Entities.
- 1.1.3 The Fundamental Principles of Performance Auditing, as stated in International Standards of Supreme Audit Institutions (ISSAI) 300, define performance auditing as an independent, objective and reliable examination of whether Government undertakings, systems, operations, programmes, activities or organisations are operating in accordance with the principles of economy, efficiency and effectiveness and whether there is room for improvement.⁴
- 1.1.4 Further to laying out the structure and providing an outline to the objectives, scope and methodology of this Review, this introductory Chapter aims also to primarily provide an overview of the objectives, scope and intended impact of performance audits and discuss the main reasons for its undertaking.

1.2 An Overview on Performance Auditing

- 1.2.1 The main objective of performance auditing is constructively to promote economical, effective, and efficient governance. It contributes significantly to accountability and transparency. It does this by examining whether decisions by the legislature or the executive are efficiently and effectively prepared and implemented, and whether the taxpayers or citizens have received value for money. It does not, however, question the intentions and decisions of the

³ OECD, 2007. *Improving Public Sector Efficiency: Challenges and Opportunities* by Teresa Curristine, Zsuzsanna Lonti and Isabelle Joumard in OECD JOURNAL ON BUDGETING – VOLUME 7 – No. 1, p. 2.

⁴ INTOSAI. ISSAI 300, *Fundamental Principles of Performance Auditing*, p. 2.

legislature, but examines whether any shortcomings in the laws and regulations or their way of implementation have prevented the specific objectives from being achieved.

1.2.2 The foregoing clearly highlights the critical importance of the three Es within the performance audit context. ISSAI 300 defines the principles of economy, efficiency and effectiveness as follows:

- The principle of **economy** means minimising the costs of resources. The resources used should be available in due time, in and of appropriate quantity and quality and at the best price.
- The principle of **efficiency** means getting the most from the available resources. It is concerned with the relationship between resources employed and outputs delivered in terms of quantity, quality and timing.
- The principle of **effectiveness** concerns meeting the objectives set and achieving the intended results.

1.2.3 The conduct of performance audits is to varying degrees, subject to methodological limitations. Generally, these limitations are mitigated through professional judgement or by qualifying audit findings. Such limitations are mainly related to the non-availability of structured and reliable data which would facilitate analysis. Within this context, performance audit encounters data fragmentation and, on occasions, data of questionable integrity. Moreover, value for money assessments within the public sector tend to be detracted by the absence of management accounts and unit costings. Performance audits are also subjected to limitations arising from the absence of key performance indicators. This renders assessment more complex since the NAO has no option but to devise reliable and practical criteria against which to evaluate performance. The performance audit methodology also encompasses benchmarking or comparative analysis. However, the latter methodological approaches are generally subject to various degrees of qualification to better cater for the local context.

1.2.4 Performance auditing focuses on areas in which it can add value for citizens, and which have the greatest potential for improvement. Subject matters are not limited to specific programmes, entities, or funds, but can include topics like service delivery or the effects of regulations, thereby placing special focus on citizens, as well as issues cutting across many entities. It thereby contributes in a direct way to providing useful information to the citizen, while also serving as a basis for learning and improvements.⁵

⁵ INTOSAI. ISSAI 300, *Fundamental Principles of Performance Auditing*, p. 3.

1.2.5 Value is provided in terms of:

- New analytical insights (broader or deeper analysis or new perspectives);
- Accessibility to existing information for various stakeholders;
- An independent and authoritative view based on audit evidence; and
- Effective recommendations based on an analysis of audit findings.

1.3 Objective, Scope and Methodology

1.3.1 This qualitative review aims to stocktake, analyse and report on the most frequently occurring performance audit findings, which have been elicited through the 19 reports published during the period 2017 to 2020. The list of performance audit reports included in the scope of this review are attached in Appendix I.

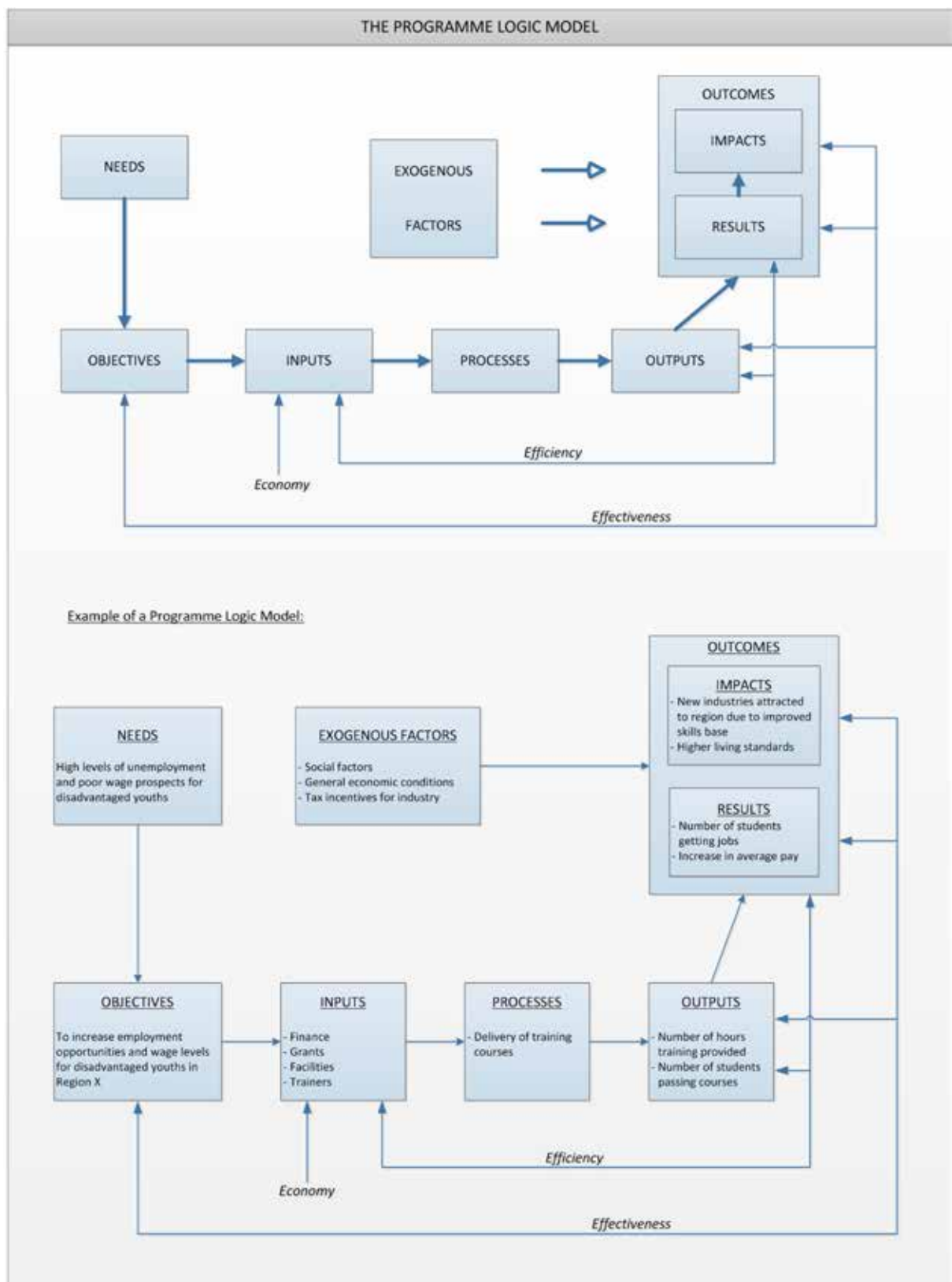
1.3.2 Consequently, the main objectives of this review are to:

- present the main performance audit findings during the period under study.
- discuss and illustrate with case studies specific categories of performance audit findings.
- highlight the causes and effects of these findings.

1.3.3 Through this publication, we seek to keep our stakeholders abreast and disseminate knowledge on the elements which detract the public service from optimising its performance and value for money considerations. A better understanding of the issues affecting the performance of the public service is firstly conducive to auditees embarking on more expedient remedial action concerning the findings and conclusions raised by the NAO. But, more importantly, this publication is intended to positively influence public service management and officials in increasingly considering the optimisation and value for money of operations under their charge prior to embarking on new initiatives. This does not only improve the value added brought about through the performance audit process but also contributes to better corporate governance and the sustainability of public services delivered.

1.3.4 Figure 2, through the 'logic model', illustrates the performance audit approach. Therein it takes into consideration the inputs, processes and results in terms of outputs, outcome and impact.

Figure 2: The performance audit approach



Source: ECA, 2017. Performance Audit Manual, p. 17.

- 1.3.5 The logic model shows that theoretically, it should be possible for performance audits to scrutinise all components and relationships by focusing on the 3 E's - economy, efficiency and effectiveness. The European Court of Auditors (ECA) performance audit manual notes that regardless of its nature (policy, programme, measure, project), a public intervention can be analysed as a set of financial, organisational and human resources mobilised to achieve, in a given period of time, an objective or set of objectives, with the aim of solving or overcoming a problem or difficulty affecting targeted groups.
- 1.3.6 The use of logic models can help the audit team to identify and set out the relationship between the socio-economic needs to be addressed by the intervention and its objectives, inputs, processes, outputs, and outcomes, which include results (immediate changes that arise for direct addressees at the end of their participation in a public intervention) and impacts (longer-term effects of the intervention).
- 1.3.7 Within this context, to varying degrees, the NAO's performance audits follow the logic model outlined in Figure 2. This model served as an important tool in the undertaking of the performance audit reviews listed in Appendix I, and which provided the main inputs and sources for this review.

Methodology

- 1.3.8 Attaining this Review's objectives entailed various methodological approaches. The following refers:
- **Literature review:** At the outset, we referred to literature available on the subject. This included ISSAI guidelines on performance audit and other publications compiled by Supreme Audit Institutions.
 - **Qualitative research:** Performance audit findings reported during the period under review were elicited through qualitative research methods. For practical reasons, these were subsequently categorised into broader topics.
 - **Categorisation:** Categorisation of findings was mainly an exercise based on professional judgement. Literature available on the subject matter did not specifically refer to categorisations of findings or else such classifications did not readily lend themselves for the purpose of this Review. The findings were generally categorised primarily in terms of the principles of governance, which comprise value for money considerations in terms of the three Es, Robustness of Strategies and Policies, Responsiveness, Openness & Transparency, Compliance to the Regulatory Framework, Ethical Conduct, Competence & Capacity, Innovation, Sustainability & Long Term Orientation, Social Cohesion and Accountability. Other classifications, such as Contract Management, encompassed internal controls as well as the safeguarding of government and citizen interests.

- **Analysis:** Findings were then analysed in terms of their common characteristics. These enabled us to determine whether findings featured across the various audit topics or were audit field specific.

1.3.9 The methodology adopted encountered a degree of limitations since the performance audit reports published are not fully representative of the range of topics within the audit field. This circumstance materialises since the NAO chooses audit topics in accordance with the risk posed and on the basis of management discretion. Despite this limitation, the number of performance audit publications reviewed enabled robust conclusions to be reached.

1.4 Report Structure

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

- Chapter 2 provides an understanding of the principles that govern performance and value for money audits as well as presents the results pertaining to the analysis of the performance audit findings. These findings were categorised in order to determine the existence or not of any common denominators and how these are featured across the board.
- Chapters 3 - 17 present an in-depth observation of each of the 14 good governance principles extracted from the audit findings and will revolve around the cause and effect of these findings. Wherever possible, the issues presented will be complemented by case studies elicited from the performance audit reports included in the scope of this Review.
- Chapter 18 presents the Conclusions on this Assignment.

Chapter 2 | Overview of the performance audit findings

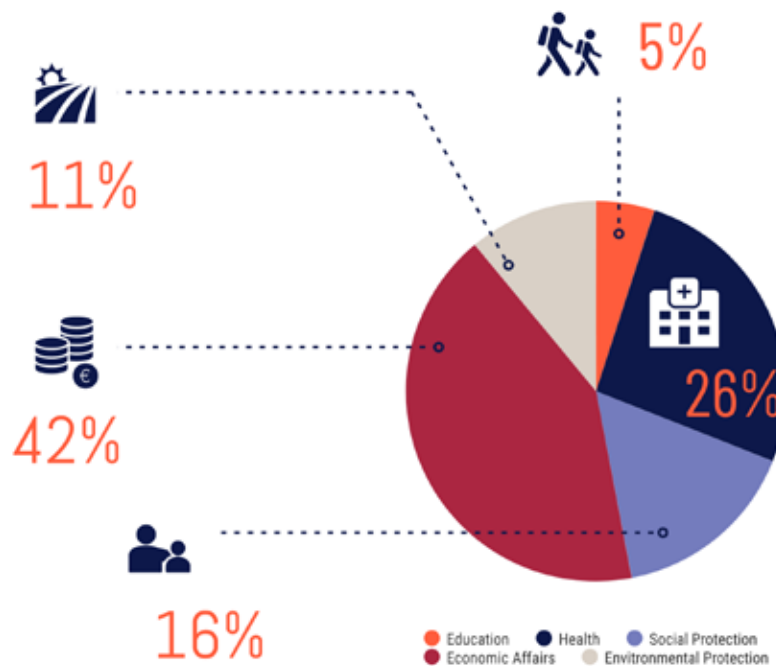
2.1 Introduction

2.1.1 This Chapter presents an overview of the performance audit findings noted in the reports which were included within the scope of this audit. These findings were categorised to determine the existence or not of any common denominators and how these impact public governance, which ultimately influences the responsible conduct of public affairs and the management of public resources.

2.2 Overview of Performance Audit Reports

2.2.1 The list of performance audit reports (Appendix I) included in this review cover a broad spectrum of Government functions as determined by the Classification of the Functions of Government (COFOG). This classification was developed in its current version by the Organisation for Economic Co-operation and Development (OECD) and published by the United Nations (UN) as a standard classifying the purposes of government activities. The classification has three levels of detail: divisions, groups, and classes. Divisions describe the broad objectives of government, while groups and classes both define how these broad objectives are achieved. The intention of this Review was to adopt a practical approach which facilitated analysis. To this end, the evaluation presented in this Chapter will consider the broader level of the COFOG category, that is, the analysis will be based on the COFOG divisions. Figure 3 depicts the percentage reporting coverage of COFOG function classification on a division level.

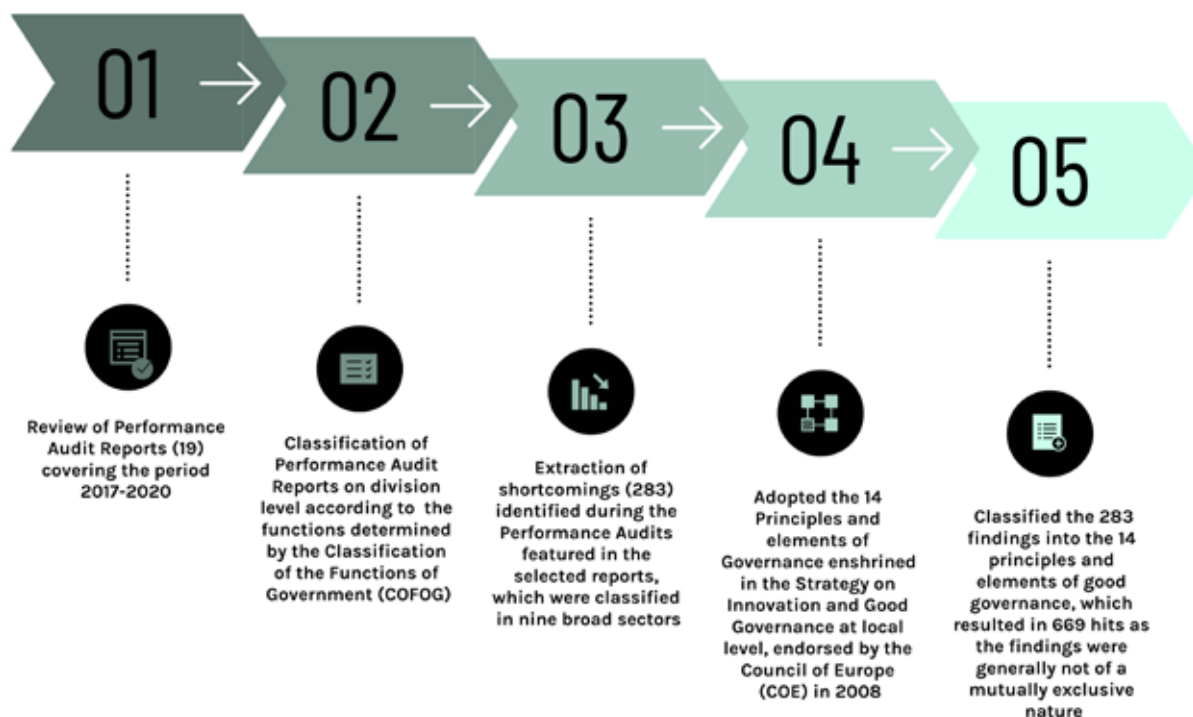
Figure 3: Percentage of Government functions covered by reports scoped for the period 2017-2020



2.2.2 This Review scoped a total of 19 performance audit reports which were published by the National Audit Office (NAO) between 2017 and 2020. Figure 3 illustrates that most performance audits undertaken during the period within the scope of this Review related to Economic Affairs, Social Protection and the Environment. This is in line with the NAO’s approach to its risk-based performance audit selection criteria where aspects related to sustainability, materiality and social well-being are generally given priority over other subject areas. Of note is that performance audits did not address any areas pertaining to the COFOG Divisions relating to defence, public order and safety, housing and community amenities, as well as recreation, culture and religion.

2.2.3 The NAO’s performance audits carried out during the period 2017 to 2020 and considered for the scope of this publication pertain to COFOG divisions which between them constituted 80 percent of Malta’s General Government expenditure in 2020. But as outlined in the preceding paragraph, the NAO’s risk assessment adopted for the choice of audit topics consider various criteria encompassing materiality, sensitivity, management concerns and the control environment.

2.2.4 Figure 4 provides an outline of the methodology adopted to link performance audit shortcomings to the COFOG categories and ultimately to the principles of public governance.

Figure 4: Adopted Methodology⁶

2.2.5 Among the limitations posed by the above methodology, the 19 reports covered are not in themselves substantive in quantity to enable statistical representativeness across all COFOG categories. Another limitation to this Review arises as these 19 reports do not cover the full spectrum of the COFOG divisions. Nonetheless these limitations did not pose any significant bearing on the outcome of this review since the findings elicited across the range of COFOG Divisions from the reports reviewed tended to be consistently similar.

2.2.6 These reports elicited 283 shortcomings, which in many cases were not mutually exclusive. For analytical purposes, as portrayed in Table 1, this review subsequently grouped the 283 shortcomings under nine broad sectors, which NAO considers to be pivotal to the overall optimal function of a government organisation. These include (but are not limited to): Procurement Procedures, Monitoring and Enforcement, Risk Management, Compliance, Administration, Human Resources, Communication, Technology and Operations.

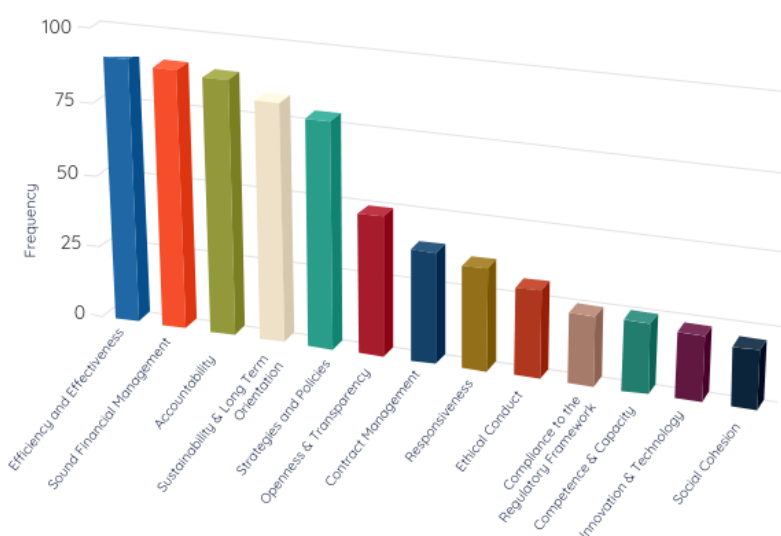
⁶ COE presents 12 principles of Good Governance, however, due to their importance two of these principles are going to be discussed on their own merit. In addition to these principles, for the sake of practicality in presenting this Report, we considered another (sub) element of governance which became apparent when analysing the findings emanating from the review of the performance audits falling within the scope of this Study.

Table 1: Total number of shortcomings divided into categories and respective sector

| SECTOR | CATEGORY OF SHORTCOMING | FREQUENCY |
|----------------------------|---|------------------|
| PROCUREMENT PROCEDURES | Contract and/or Agreement in place does not appropriately safeguard Government's and/or stakeholders' interests | 28 |
| | Absence of formal agreements to regulate a number of contractual services | 5 |
| | Inadequate and/or crude strategic planning | 23 |
| | Inadequate marketing and/or marketing research | 4 |
| | Unbalanced Partnership | 2 |
| | Services procured directly from the open market rather than through a public call for quotations or tenders | 5 |
| | Weak negotiation stance | 6 |
| MONITORING AND ENFORCEMENT | Inadequate monitoring | 29 |
| | Lack of enforcement | 11 |
| | Lack of adherence to policies | 6 |
| | KPIs and commitments not attained | 4 |
| | Breaches in contractual obligations | 6 |
| HUMAN RESOURCES | Insufficient Human Resources to carry out operations | 13 |
| | Lack of clearly defined objectives and KPIs to monitor and control operations | 11 |
| | Insufficient and/or ineffective training programmes | 6 |
| | Inefficient distribution of Human Resources | 12 |
| ADMINISTRATION | Poor documentation and record keeping practices | 19 |
| | Lack of written and/or expired Standard Operating Procedures | 4 |
| | Lack of appropriate certification of services | 5 |
| | Lack of documentation/information required to fulfil contractual obligations | 3 |
| | Cases of incomplete/inaccurate data | 4 |
| COMMUNICATION | Lack of synergy between the various units within an entity | 5 |
| | Inefficient external and internal communication | 6 |
| | Inadequate coordination of entities performing complementary operations | 5 |
| | Prospective relationships not developed | 2 |
| TECHNOLOGY | Inadequate management information systems | 8 |
| | Limited Functionality of I.T. Systems | 1 |
| COMPLIANCE | Non-compliance with financial legal requirements | 2 |
| | Legislation not applied appropriately or needs to be updated | 11 |
| RISK MANAGEMENT | Lack of adequate risk assessment and risk management | 9 |
| OPERATIONS | Inefficient operations | 12 |
| | Customer service is not of appropriate standard | 14 |
| | Inadequate management structure and accountability | 2 |
| | | 283 |

- 2.2.7 NAO further analysed the 283 findings against Good Governance principles, which for the purpose of this review considered 14 main elements. The definitions adopted for the purpose of this review are included in Section 3.2.
- 2.2.8 Good Governance is encapsulated in its principles and the adherence thereof is an indication of how responsibly the Government is acting when conducting public affairs and managing public resources.
- 2.2.9 The principles of governance adopted are enshrined in the Strategy on Innovation and Good Governance at local level, endorsed by the Council of Europe in 2008. In addition to these principles, for the sake of practicality in presenting this Report, we considered other (sub) elements of governance which became apparent when analysing the findings emanating from the review of the performance audits falling within the scope of this study. Figure 5 depicts the frequency with which the 283 audit findings impacted a particular governance principle or element was affected by the overall shortcomings.

Figure 5: The effect of Common Performance Audit shortcomings on the Principles of Governance



- 2.2.10 The 283 findings had a subsequent effect on the Principles of Governance with a span of 669 hits as the findings are not mutually exclusive. The shortcomings depicted in Figure 5 clearly show that the NAO's performance audits' main findings revolved around the governance principles involving Efficiency and Effectiveness, Sound Financial Management and Accountability.
- 2.2.11 Nonetheless, these statistics do not in any way imply that one governance principle is more important than the other. Low occurrence, however, is not to be interpreted that such a

weakness is not significantly impacting aspects of public service performance. Within this context, Chapters 3 to 17 allocate equal importance to each of the 14 governance principles in terms of the NAO's findings.

2.3 Conclusion

- 2.3.1** NAO reviewed 19 performance audit reports covering the period 2017-2020. These reports were classified on division level according to the functions determined by COFOG to establish, which subject issues were being covered. NAO notes that the effect of these shortcomings have wide implications on good governance as enshrined in the Strategy on Innovation and Good Governance at local level, endorsed by the Council of Europe in 2008.
- 2.3.2** The ensuing Chapters delve deeper into the cause and effect of these categories of shortcomings on the Principles of Governance.

Chapter 3 | Impact of audit shortcomings on the principles of good governance

3.1 Introduction

- 3.1.1 This Chapter discusses the impact of the audit shortcomings on the principles of governance. The National Audit Office (NAO) individually addresses the 14 distinct but interrelated elements depicting the principles of governance and complements each one with case studies elicited from the performance audit reports published between 2017 and 2020.
- 3.1.2 According to the International Journal of Government Auditing, research has shown that performance audit can provide a positive impact on audited organisations depending amongst other factors, on the willingness and culture of the audited entity. From several International Organization of Supreme Audit Institutions (INTOSAI) standards and United Nations (UN) resolutions it is evident that the INTOSAI and the UN have created high expectations for Supreme Audit Institutions (SAIs) to contribute to better governance. In addition, the Organisation for Economic Co-operation and Development (OECD)⁷ and many development aid agencies consider SAIs to be ambassadors and promoters at the international level of concepts, such as transparency, accountability, governance and performance.⁸
- 3.1.3 In many strategic plans and annual reports, SAIs view themselves as engines for change. The National Audit Office also acknowledges and seeks to fulfil these expectations as evidenced by its mission statement whereby essentially it seeks to promote accountability, propriety, and best practices in Government operations.

3.2 The 14 Principles of Governance

3.2.1 The Principles of Good Governance are defined as follows:

1. **Efficiency:** Results meet the agreed objectives. Best possible use is made of the resources available.
2. **Effectiveness:** Meeting the objectives set and achieving the intended results. Effectiveness revolves around making sure that all the core work done by the organisation creates value to their end customer.

⁷ OECD 2015, *Supreme Audit Institutions and Good Governance. Oversight, Insight and Foresight*, OECD Publishing, p. 141.

⁸ Dutzler, B. (2013), *Capacity Development and Supreme Audit Institutions: GIZ's Approach*, in: GIZ & INTOSAI (eds), *Supreme Audit Institutions. Accountability for Development*, pp. 51-68, Baden-Baden: Nomos, p. 281.

3. **Sound Financial Management:** Charges do not exceed the cost of services provided and do not reduce demand excessively, particularly in the case of important public services. Prudence is observed in financial management, including in the contracting and use of loans, in the estimation of resources, revenues and reserves, and in the use of exceptional revenue. Multi-annual budget plans are prepared, following consultation of the public. Risks are properly estimated and managed, including by the publication of consolidated accounts and, in the case of public-private partnerships, by sharing the risks fairly and realistically.
4. **Accountability:** All decision-makers, collective and individual, take responsibility for their decisions. Decisions are reported on, explained and can be sanctioned. There are effective remedies against maladministration and against actions of local authorities which infringe civil rights.
5. **Sustainability and Long-Term Orientation:** The needs of future generations are taken into account in current policies. Decisions strive to internalise all costs and not to transfer problems and tensions, be they environmental, structural, financial, economic or social, to future generations. There is a broad and long-term perspective on the future of the local community along with a sense of what is needed for such development. There is an understanding of the historical, cultural and social complexities in which this perspective is grounded.
6. **Robustness of Strategies and Policies:** Citizens are at the centre of public activity, and they are involved in clearly defined ways in public life at local level either directly or through legitimate intermediate bodies that represent their interests. All voices, including those of the less privileged and most vulnerable, are heard and taken into account in decision-making, including over the allocation of resources. Decisions are taken according to the will of the many, while the rights and legitimate interests of the few are respected while devising robust strategies and effective policies.
7. **Openness and Transparency:** Decisions are taken and enforced in accordance with rules and regulations. There is public access to all information which is not classified for well-specified reasons as provided for by law. Information on decisions, implementation of policies and results is made available to the public in such a way as to enable it to effectively follow and contribute to the work of the local authority.
8. **Responsiveness:** Objectives, rules, structures, and procedures are adapted to the legitimate expectations and needs of citizens. Public services are delivered, and requests and complaints are responded to within a reasonable timeframe.
9. **Ethical Conduct:** The public good is placed before individual interests. There are effective measures to prevent and combat all forms of corruption. Conflict of interest are declared in a timely manner and persons involved must abstain from taking part in relevant decisions.

10. **Compliance to the Regulatory Framework:** The authorities abide by the law and judicial decisions. Rules and regulations are adopted in accordance with procedures provided for by law and are enforced impartially.
11. **Competency and Capacity:** The professional skills of those who deliver governance are continuously maintained and strengthened to improve their output and impact. Public officials are motivated to continuously improve their performance. Practical methods and procedures are created and used to transform skills into capacity as well as to produce better results.
12. **Innovation and Technology:** New and efficient solutions to problems are sought and advantage is taken of modern methods of service provision. There is readiness to pilot and experiment new programmes and to learn from the experience of others. A climate favourable to change is created in the interest of achieving better results.
13. **Social Cohesion:** Within the local authority's sphere of influence, human rights are respected, protected and implemented, and discrimination on any grounds is combated. Cultural diversity is treated as an asset, and continuous efforts are made to ensure that all have a stake in the local community, identify with it and do not feel excluded. Social cohesion and the integration of disadvantaged areas are promoted.
14. **Contract Management:** Contract management is the process of managing agreements from their creation including the establishment of the business case, to their execution and eventual termination. Weaknesses in contract management influence operational efficiency and effectiveness, in terms of attaining project milestones and delivering the project in accordance with the agreed specifications. Moreover, organisations encounter an ever-increasing amount of pressure to reduce costs and improve performance.

3.3 Examples elicited from performance audits on the 14 principles of good governance

- 3.3.1 The above definitions relating to each of the principles provide the context which nurtures and is conducive of sustaining good public governance. To this end, in the following Chapters, this Review will present case-studies elicited from the performance audits undertaken by the NAO during the period 2017 to 2020.
- 3.3.2 The cases being presented are only being used to highlight the causes and effects of a specific principle of good governance. By no means, it is being implied that these issues have not been resolved by the competent authorities or that such situations are solely prevalent within the organisations referred to in the case-studies. In view of their individual and collective importance to good governance, the presentation order of the 14 principles is not in any chronological order of importance but reflect their incidence in the performance audits.

Chapter 4 | Efficiency

4.1 Introduction

4.1.1 Efficiency is a metric that gauges the performance management of projects and entities. Efficiency relates to the entire process of turning public money into positive outcomes for individuals and society. Moreover, it extends to delivering better outcomes and more effective government, while using public money in the smartest possible way.⁹

4.1.2 The performance audits reviewed for the purpose of this publication revealed that 91 out of 669 hits encroached on good public governance by deviating from the principles of efficiency and effectiveness. For the purpose of the preliminary analysis of this study efficiency and effectiveness have been categorised under one heading. However, these terms refer to distinct principles, albeit that they are interrelated. For practicality's sake, this Chapter and the subsequent Chapters deal with efficiency and effectiveness on their own merit.

4.2 Causes leading to weak efficiency

4.2.1 Countries are under pressure to improve public sector performance and at the same time contain expenditure growth. The performance audits undertaken show that over the years, public entities are stepping up their efforts to increase efficiency. This materialises from various factors. Firstly, the increased stringent regulations on an European Union (EU) level that are adopted into the national framework. Secondly, the setting up of various mechanisms on a national level to monitor and assess performance. However, the National Audit Office (NAO) noted a number of issues that were common across a number of audits that hindered the efficiency of processes as well as projects of public entities.

Factors influencing public sector efficiency

4.2.2 Efficiency lacunas can be measured by analysing both input and output variables. The following refers:

- i. **Input variables:** the two key input variables to measure efficiency relate to adequate planning and resource allocation.

⁹ <https://quarterly.blog.gov.uk/2016/01/25/improving-public-sector-efficiency-to-deliver-a-smarter-state/> as at 21 February 2022.

- a. **Planning:** Planning is a key management function. It defines the steps required to reach specific goals, what changes and hurdles to anticipate, and how to utilise human resources and opportunities to reach the expected outcome.

In most cases, the performance audit within the scope of this review noted that while governmental organisations had established regulatory and strategic frameworks within which the public sector could implement its initiatives, these were not always supported in terms of a robust planning function which clearly notes the major milestones, responsibilities, key performance indicators regarding pre-determined goals, costs, risks and human resource allocation. This situation hinders performance management as implementation guidelines are not available to steer the implementing team towards the predetermined objectives. Moreover, planning weaknesses effect other areas of management functions, namely direction, control and the monitoring functions. The latter arises as management do not have appropriate benchmarks against which to assess operations.

The performance audit, *“The designation and effective management of protected areas within Maltese waters”*, 2018 outlined that through EU Directives and national legislation Malta was obliged to designate marine protected areas. To this end, national competent authorities were to compile management plans outlining site-specific measures to safeguard the biodiversity therein. The Report highlighted that:

“The adoption of site-specific management plans is ongoing and in line with legal timelines, although still subject to delays. Whilst Government is committed to have the management measures in place for all the 14 Marine Protected Areas (MPAs) it designated, the six-year time period for developing and adopting management plans outlined by the EU Habitats Directive has elapsed for one out of these 14 sites.

Until the management plans are adopted, it will be problematic for national competent authorities to converge their efforts, rather than safeguarding their particularistic interests, to ascertain the sustainability of marine biodiversity. This state of affairs hinders compliance surveillance and enforcement as National Authorities do not have the common management criteria against which to plan and implement these functions.”¹⁰

- b. **Resource allocation** encompasses the availability of the necessary financial provisions while at the same time maximise available capacity utilisation. The latter includes human and technology / equipment. The number of human resources available influence the degree to which the day-to-day needs are met. A common theme across the performance audits carried out was the limited resources or the inadequate

¹⁰ NAO, 2018. *The designation and effective management of protected areas within Maltese waters*, p. 42 - 43.

distribution of resources. Such situation hinders efficiency gains and thus impinges on the attainment of objectives in a timely manner. Information Technology (IT) facilitates the maintenance of Management Information Systems (MIS), thus enabling the hosting of sufficient data for thorough monitoring and timely decision making. Through a robust MIS, public entities can maximise return on investment in personnel, equipment, and business processes. Moreover, through adequate IT infrastructure, public entities can undergo business process reengineering, whereby processes are facilitated and streamlined. This review however showed that the management information systems and the IT systems maintained by the various government entities were inadequate to address the need of organisations. Such a situation impinges on the degree to which government entities can carry out their processes efficiently.

The performance audit, *“The designation and effective management of protected areas within Maltese waters”*, 2018 outlined that:

*“National Authorities highlighted the need to strengthen their administrative capacity to enable them to implement the measures enlisted within the strategic framework. This implies that National Authorities do not have the appropriate level of funding to engage the necessary expertise and supporting personnel and assets.”*¹¹

- ii. **Outputs variables:** public entities can measure and benchmark efficiency through a number of key factors, namely project timeliness, pricings mechanisms and the monitoring mechanism in place.
 - a. The **timely** completion of projects directly influences costs. Studies have showed that delays are largely attributable to poor and inadequate project planning. This situation can also apply to processes, whereby as a resultant effect there are long waiting lists and times. This review has noted that a number of projects and processes are not delivered in a timely manner and hence are impacting the projects’ financial and social costs.

The Report *“Outpatient waiting at Mater Dei Hospital”*, 2017 outlined that:

“delivering Outpatient services entails an estimated cost of €32.2 million. This figure would in reality increase if Mater Dei Hospital (MDH) managed to recruit additional staff to fill in existing vacancies and to extend outsourcing of services to boost its supply of Outpatient consultation visits. Nevertheless, the following issues lead to inefficiencies within outpatient operations, which also contribute to the disequilibrium between demand and supply for these services:

¹¹ NAO, 2018. *The designation and effective management of protected areas within Maltese waters*, p. 44.

- a. *Non-synchronisation of shifts of the various professionals providing outpatient services: Consequences of this situation range from idle time to the absence of support staff during scheduled and over-running consultation clinic hours.*
- b. *The Hospital being limited on the extent to which it can extend outpatient consultation visits beyond early afternoon on weekdays: This situation materialises as more than two thirds of the consultants are engaged on a Contract B basis, which entitles them to perform duties in both the private and public sector. Moreover, a fifth of the nurses perform duties on a reduced-hour schedule. Consequently, the Hospital encounters chronic difficulties in terms of resource availability to utilise the Outpatient Department infrastructure beyond early afternoons.*
- c. *Inefficient utilisation of the Outpatient infrastructure: Primarily this occurred since a proportion of this infrastructure was not utilised on a 24/7 basis. This state of affairs creates additional problems since the infrastructure was not adequate to cater for outpatient throughput during the morning and early afternoons peak hours.¹²*

The NAO notes that since this audit in 2017, MDH has instigated a number of changes aimed at further utilising infrastructure and resources and thus improving efficiency.

- b. The **pricing policies** of the public sector are not guided by profit maximisation but by social and economic objectives. Nevertheless Government is very often a price-taker in various contracts with third parties. This Study noted that this situation occurs due to negotiation weaknesses during contract award in a number of cases under review.¹³
- c. **Monitoring mechanisms** are key to determine the degree to which public entities are carrying out their work efficiently. Various mechanisms can be deployed to monitor and measure performance. Examples in this regard relate to benchmarking exercises and data derived from management information systems. As we are in a digital transformation age, government entities, can measure performance by using available technology. Nevertheless, the audits under review highlighted various lacunas in this regard. Section 4.2.2.i.b has already referred to these shortcomings and Chapter 16 will provide further detail.

4.3 Effects of efficiency shortcomings

- 4.3.1 This Chapter and the case studies therein has illustrated the main factors contributing to influencing the level of efficiency within public organisations. These factors impinge on the degree to which public entities optimise service delivery at the most favourable unit cost. Moreover, efficiency shortcomings detract from attaining the anticipated social benefit associated with the initiatives in question.

¹² NAO, 2017. *Outpatient waiting at MDH*, p. 6.

¹³ Example *Procuring the State Schools' Transport Service, 2017* and *A Review on the Contract for Mount Carmel Hospital's Outsourced Clerical Services, 2019*.

Chapter 5 | Effectiveness

5.1 Introduction

- 5.1.1 International Standards of Supreme Audit Institutions (ISSAI) 300 outlines that the principle of effectiveness concerns meeting the objectives set and achieving the intended results. Effectiveness revolves around making sure that all the core work done by the organisation creates value to its end customer.
- 5.1.2 The quality of a country's public administration is key to its economic performance and the well-being of its citizens. An effective (and efficient) public administration serves the needs of its citizens. It is essential that public authorities and their managers are able to adjust to changing circumstances, especially in times of crisis.
- 5.1.3 Public entities can measure public sector effectiveness through a number of variables. These variables are to some extent dependable on the maximisation of efficiency variables. Other factors to measure performance relate to outputs, outcomes and impact.
- 5.1.4 Outputs relate to the immediate result of a program or initiative. Examples in this regard relate to the number of children vaccinated, kilometres of roads built, tons of waste picked up or the number of students graduating. Output effectiveness is generally reinforced through measurements of customer satisfaction levels.
- 5.1.5 On the other hand, outcomes relate to the extent to which the expected results have been reached. The main questions addressed in outcome measurement are:
- a. What has changed in the lives of individuals, families, organisations, or the community as a result of this project?
 - b. Has this project made a difference?
 - c. How are the lives of project participants better as a result of the program?¹⁴
- 5.1.6 Impact is yet another level in the effectiveness hierarchy. Impact relates to the positive and negative, primary and secondary long-term effects produced through an intervention. Examples in this regard relates to long term economic prosperity, the mitigation, adaptation or reversal of environmental risks as well as improvements in the quality-of-life indicators.

¹⁴ Compassion Capital Fund National Resource Center, operated by Dare Mighty Things, Inc., in the performance of Health and Human Services Contract Number HHSP23320082912YC. Measuring outcomes, p. 6.

5.2 Factors influencing public sector effectiveness

5.2.1 Performance audits undertaken during the period under review, identified various best practices which are conducive to program or initiative effectiveness. Despite the reported shortcomings, various Government strategies and policies can be considered as the starting point in optimising the effectiveness of public expenditure. In addition, it has now become the norm that public entities subject new strategies and policies to public consultation – thus refining and broadening the needs assessment exercise. Furthermore, Information Communication Technology initiatives are to varying degrees supporting the public management function. Nonetheless, the National Audit Office (NAO) reports within the scope of this review revealed various factors which diminish the effectiveness of programs and initiatives in terms of outputs, outcomes and impacts. The following refers:

- i. **Policy issues:** such a scenario arises through inadequate assessment of needs, unclear or incoherent objectives, inadequate means of intervention or impracticability of implementation.

The NAO report “A Follow-Up on the 2016 Analysis on OHSA’s Operations – A Case Study on the Construction Industry”, which was published in June 2020 lamented that:

“contrary to what was proposed in 2016, the legal responsibility of appointing a Project Supervisor (PS) to oversee Occupational Health and Safety (OHS) considerations in a construction project remains with the client, even though that this latter stakeholder may not be fully knowledgeable on OHS requirements. On the other hand, NAO maintained that the legal responsibility to appoint a PS should be shifted to other, more technically conversant stakeholders. In addition, this Office negatively noted that the inclusion of competent persons (who, in the Authority’s opinion, can adequately fulfil the duties of a PS) on Occupational Health & Safety Authority (OHSAs) website remains voluntary. This goes contrary to NAO’s recommendation that the Authority should vet anyone who wishes to perform these duties, include all those who meet its requirements in a published list, and that those listed should then be the only legally allowable options to be appointed as PSs on construction projects.”¹⁵

- ii. **Management failures:** In such instances, the organisation is not attaining its pre-set objectives or management is not prioritising the achievement of objectives. The performance audits reviewed highlighted various instances where the opportunity existed to improve the planning, direction, control and the monitoring functions within various governmental entities.

¹⁵ NAO, 2020. A Follow-Up on the 2016 Analysis on OHSAs Operations - A Case Study on the Construction Industry, p. 7.

The 2020 OHSA Report, “*A Follow-Up on the 2016 Analysis on OHSA’s Operations - A Case Study on the Construction Industry*” raises various concerns which hinder the management function at OHSA. In this respect the report notes the following:

- a. The OHSA was generally reacting to reports on health and safety concerns rather than being proactive and applying risk analysis techniques.¹⁶
 - b. This Regulator lacked an adequate Information Technology (IT) infrastructure to facilitate its risk assessment, management decision making, and monitoring functions. In the absence of a robust IT infrastructure OHSA was relying heavily on manual systems and making extensive use of Microsoft Excel which precludes OHSA from devising a profiling system through which it could better allocate and prioritise its inspectorate effort.¹⁷
 - c. OHSA was understaffed. This Office also observed that OHSA was understaffed, though this shortage would be mitigated if the automation of certain processes is introduced through the aforementioned MIS. Understaffing also limited severely the scope of OHSA’s regulatory activities.¹⁸
- iii. **Short-termism vs long-term orientation:** Literature outlines that in general, the political will necessary to drive long-term policy-making tends to dissipate over time.¹⁹ This materialises as policy makers tend to see long-term policy making as “someone else’s problem”.²⁰ Short-termism limit the optimisation and sustainable use of resources. To this end project externalities are not given the appropriate attention in lieu of short-term benefits. Examples in this regard relate to the environmental effects which deplete natural resources.

The performance audit report, “*A Follow-Up on the 2016 Analysis on OHSA’s Operations - A Case Study on the Construction Industry*”, 2020 outlined that OHSA’s organisational capacity did not develop in line with the growth of the construction industry. This situation is mainly the result that over time the OHSA may not have had sufficient human and financial resources to adequately execute its monitoring function. Consequently, it became increasingly more problematic for OHSA to carry out more effectively its regulatory function. The high numbers of accidents within the construction industry shows that more work needs to be done to facilitate the shift and the accompanying culture change stimulating further the Maltese workplace to become more of an environment where health and safety

¹⁶ NAO, 2020. *A Follow-Up on the 2016 Analysis on OHSA’s Operations - A Case Study on the Construction Industry*, p. 35.

¹⁷ NAO, 2020. *A Follow-Up on the 2016 Analysis on OHSA’s Operations - A Case Study on the Construction Industry*, p. 27.

¹⁸ NAO, 2020. *A Follow-Up on the 2016 Analysis on OHSA’s Operations - A Case Study on the Construction Industry*, p. 7.

¹⁹ Bob Hudson, David Hunter & Stephen Peckham, 2019. *Policy failure and the policy-implementation gap: can policy support programs help?*, *Policy Design and Practice*, 2:1, 1-14, DOI: 10.1080/25741292.2018.1540378 downloaded from <https://www.tandfonline.com/doi/full/10.1080/25741292.2018.1540378?scroll=top&needAccess=true> on 29 April 2022.

²⁰ Weaver 2010 in Bob Hudson, David Hunter & Stephen Peckham, 2019. *Policy failure and the policy-implementation gap: can policy support programs help?*, *Policy Design and Practice*, 2:1, 1-14, DOI: 10.1080/25741292.2018.1540378 downloaded from <https://www.tandfonline.com/doi/full/10.1080/25741292.2018.1540378?scroll=top&needAccess=true> on 29 April 2022.

are not considered as afterthoughts but are integrated throughout all work systems and processes.²¹

- iv. **Weak regulatory function:** Most Government activities are subject to regulation by independent regulatory bodies. These agencies have an important and increasingly complex role in monitoring the ever-broadening activities of governmental agencies. However, regulatory weaknesses impinge on all aspects of effectiveness. For instance, weak regulation deters from keeping markets efficient and transparent or from making sure customers are treated fairly and honestly. Chapter 14 will discuss in further detail this function.

5.3 Implications of not attaining effectiveness

- 5.3.1 The culmination of public expenditure is the attaining of pre-determined goals, some of which are obligatory under national and EU legislation. This Chapter discussed the effectiveness hierarchy in terms of outputs, outcomes and impact.
- 5.3.2 The discussion herein illustrated that attaining pre-determined goals is more than an evaluation of the short-term outputs of government activity. While a program can deliver immediate benefits, in the medium, and more so in the longer-term externalities can detract or even deviate from the intended social advancement. To achieve these aims, it is imperative that policy designs address long-term needs appropriately through the support of a sound management structure.

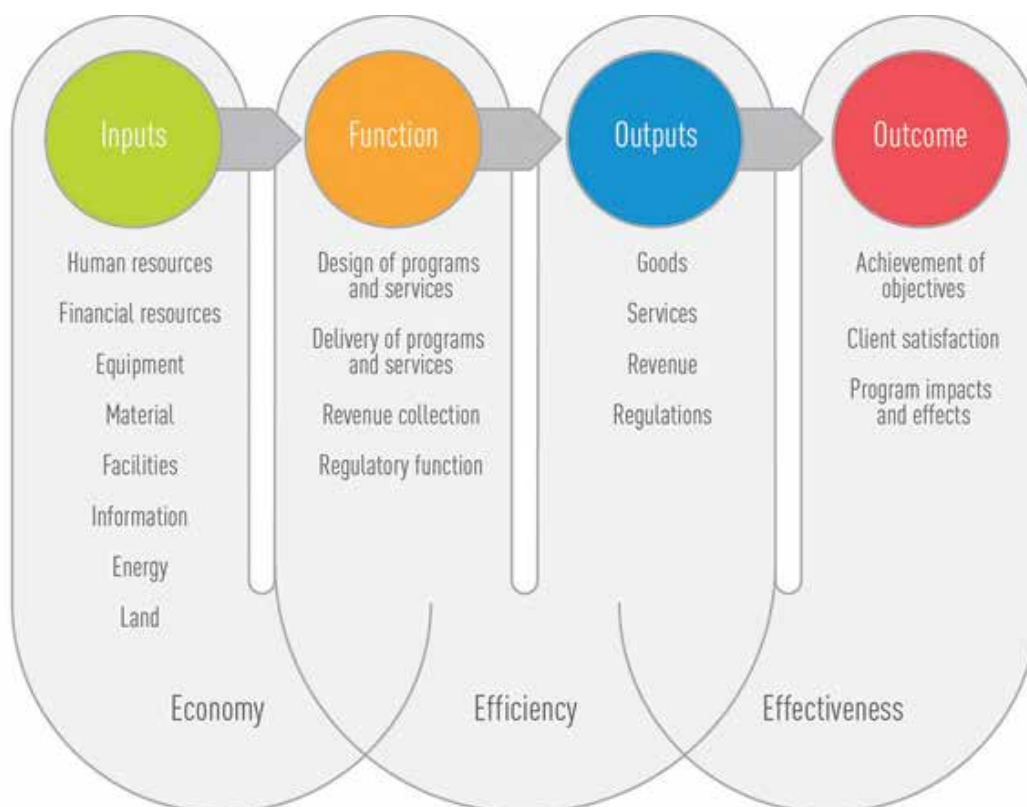
²¹ NAO, 2020. *A Follow-Up on the 2016 Analysis on OHSa's Operations - A Case Study on the Construction Industry*, p. 25.

Chapter 6 | Sound Financial Management

6.1 Introduction

6.1.1 Sound financial management is vital for an organisation’s survival and growth. It involves planning, organising, controlling, and monitoring financial resources in order to achieve predetermined business objectives with the aim to fulfil commitments to stakeholders, gain competitive advantage and prepare for long-term financial stability. Central to financial management, especially in the planning phase is the third ‘E’ in ascertaining value for money, that is Economy. The latter relate to getting the right inputs at the lowest cost.²² Figure 6 shows how the Economy element is critical to ascertain value for money.

Figure 6: Relationships between Inputs, Outputs and Outcomes



Source: <https://www.caaf-fcar.ca/en/efficiency-concepts-and-context/efficiency-economy-and-effectiveness> as at 5 April 2022.

²² <https://www.caaf-fcar.ca/en/efficiency-concepts-and-context/efficiency-economy-and-effectiveness> as at 5 April 2022.

- 6.1.2 The performance audits reviewed for the purpose of this publication revealed that 89 out of the 669 hits encroached on good public governance by deviating from the principle of sound financial management.

6.2 Causes leading to weak Financial Management

- 6.2.1 Within the public services, particularly those services which are crucial to the user, charges do not exceed the cost of services provided and are not intended to reduce demand excessively. Prudence is observed in financial management, including in the contracting and use of loans, in the estimation of resources, revenues and reserves, and in the use of exceptional revenue. Multi-annual budget plans are prepared, with consultation of the public. Risks are properly estimated and managed, including by the publication of consolidated accounts and, in the case of public-private partnerships, by sharing the risks realistically. Moreover, procurement procedures in place award contracts to the most advantageous offers. Financial analysis is carried out through continuous monitoring. Some of the major causes leading to weak financial management are:

- i. **Business planning weaknesses:** A business plan establishes short, medium and long-term objectives including the financial means and projections to attain those objectives. To varying degrees, the national budgeting process caters for business planning at the macro and micro levels. Generally, business planning tends to be a hybrid involving incrementalism and references to new projects or programmes.

However, the performance audits reviewed for the purpose of this Study have shown that business planning within the Public Service is not always supported by in-depth feasibility studies which illustrate the extent to which projects and programmes will be financially sustainable.

The performance audit, *“An evaluation of Government’s deal to design, build and operate the Malta National Aquarium”*, 2018 commented that the Malta Tourism Authority (MTA) did not determine prior to project commencement whether Government would recover the opportunity cost tied to the land given through a 50-year rent-free concession to the Contractor. Moreover, there are also a number of challenges to assign value of publicly owned land. These relate to the prevailing practices within public entities to value land at a non-market basis to correct market failures or promote businesses.²³

The performance audit, *“An Evaluation of the Community Work Scheme”*, 2019 highlighted concerns regarding the programme financial planning:

“...the Community Work Scheme (CWS) did not envisage that participants would receive performance bonuses. However, very shortly after the commencement of the Scheme, the

²³ NAO, 2018. *An evaluation of Government’s deal to design, build and operate the Malta National Aquarium*, p. 27.

principle of performance bonuses payable by Social Purpose Entities (SPEs) evolved on the premise that this would motivate even further the participants. While the Concession Agreement did not preclude them, the Agreement does not refer to the payment of performance bonuses.

Within this context, the Foundation signed individual contracts with SPEs. Clauses therein stipulated that the respective SPEs are to pay a performance bonus of up to five per cent to all CWS participants who have shown commitment and consistently performed their set tasks. Despite these developments, the Contracting Authority and the Concessionaire did not sign a side letter or an addendum to the Concession Agreement.”²⁴

- ii. **Weaknesses relating to the procurement of services:** Procurement is guided by the Public Procurement Regulations. The Regulations stipulate that contracts are awarded to the most economically advantageous tender. This Office noted that generally, there is adherence to this clause. Nevertheless, Government workings regarding project feasibility do not always consider the capital assets transferred to third parties to provide the required service. Moreover, this Review also noted cases, whereby the capital assets transferred to third parties as part of the contracts awarded are not attributed their true and fair value, thus not reflecting market prices.

The performance audit, “*Landscaping maintenance through a Public-Private Partnership*”, 2017 commented on the value attributed to the land transferred to the Contractor: “*This Public Private Partnership (PPP) sought to exploit the commercial potential of Wied Incita Nursery, and to maximize its utilization. Depending on whether this site is classified as agricultural land or commercial property, the estimated market value of this 120 tumoli Nursery would range from €19 to €1,400 per square meter respectively. The extent to which the rent element of Wied Incita Nursery, has been computed in the chargeable rate stipulated by the Agreement is not clear.*”²⁵

The performance audit, “*An evaluation of Government’s deal to design, build and operate the Malta National Aquarium*”, 2018 also commented on the value attributed to capital assets in this case land transferred to the contractor: “*The permanent capital injected in the project by the three main contributors amounted to around €15.45 million (€6.6 million by the contractor, €7.5 million by the European Union (EU) and €1.35 million by the Government) – this excluding the present value of the land foregone over the concession period. This performance audit estimates that such present value of land foregone varies between €2.6 million to €28.5 million, depending on the market value that is to be attributed to it. To this end, the NAO attributed an average value of €15.5 million, which represents the semi-commercial nature of the MNA complex. On the other hand, MTA contends that it is the €2.6 million, that is the lower value, which*

²⁴ NAO, 2019. *An Evaluation of the Community Work Scheme*, p. 24.

²⁵ NAO, 2017. *Landscaping maintenance through a Public-Private Partnership*, p. 39.

should be considered for the purpose of this exercise since it reflects the lack of previous market interest in the project. While acknowledging the validity of MTA's argumentation, the National Audit Office (NAO) considers that the value of the site in question is better represented by an average value of €15.5 million attributed for such land. Consequently, the total capital injected in the project would amount to €31 million. On this basis, the proportion of capital forked out by the Contractor will amount to only around 21 per cent. Consequently, the major question lingers as to how sufficient was and is to be the return of capital to Government over the project period. Of relevance in this context is the need to improve systems to ensure the appropriate attribution to the valuation of public land concessions in various commercial, semi-commercial and non-commercial settings.”²⁶

- iii. **The prolonged implementation of Accrual Accounting:** Accrual accounting facilitates better planning, financial management and decision making in government as well as a robust and accepted way of measuring the economy, efficiency and effectiveness of public policies. However, some Government ministries in Malta are still to make the full transition from cash based to accrual accounting. Pure cash accounting has a number of weaknesses from the point of view of government financial transparency, integrity, and accountability. As noted in various NAO publications, including those related to financial audits, cash accounting tends to not maintain comprehensive and up-to-date records of the value of assets and liabilities. This enables them to transfer assets (such as land) or incur liabilities (such as pensions or public-private partnership contracts) to third parties without disclosing their full financial implications for the government and taxpayer.

Within this context, accrual accounting offers substantial benefits over traditional cash accounting from the point of view of government transparency, accountability, and financial management by capturing both cash transactions and non-cash flows in financial statements providing a more comprehensive view of the government's financial performance and the cost of government activities. By reporting stocks and flows within an integrated accounting framework based on internationally accepted standards accrual accounting can improve the reliability and integrity of government financial data.

The performance audit *“Outpatient Waiting at MDH”*, 2017 outlined that:

This Office was constrained “to base the review on activities occurring in 2015 rather than 2016 due to the availability of the Hospital’s management accounts, which were generally concluded by the end of the following year. Such a situation materialises as Mater Dei Hospital’s (MDH’s) accounting records were maintained on a cash basis. Hence, MDH was constrained to undertake an accounting exercise to convert financial estimates from cash to an accrual-based format.

²⁶ NAO, 2018. *An evaluation of the regulatory function of the Office of the Commissioner for Voluntary Organisations*, p. 6.

Furthermore, the financial computerised systems in use at the time by MDH, namely the Department Accounting System (DAS) and Access Dimensions did not assign all costs to a specific department or specialty. Consequently, the generation of activity-based costings was not an automated process.”²⁷

- iv. **Non-availability and / or outdated accounting information:** Accurate and up to date accounting records are a prerequisite to sound financial management. These records provide real time information and are vital to support a reliable decision-making process.

The performance audits within the scope of this Review revealed the absence and/or outdated accounting information. A case in point relates to a situation where many departments or ministries are unaware of costs per unit since they do not compile or maintain management accounts. In turn, this precludes any evaluations on the sustainability of operations, including assessments involving cost-effectiveness and efficiency of processes.

Performance audits have elicited situations where feasibility studies were either absent or not appropriately comprehensive. Several auditees claimed that such studies were carried out informally and although discussed in detail, their methodology or outcome was not fully documented. Such a scenario does not only sever the audit trail to the detriment of accountability and transparency, but the absence of formal feasibility studies also impairs the decision-making process leading to critical and financially material decisions.

From the performance audit reports that were scoped it transpires that most government entities did not prepare or submit their annual audited accounts within the stipulated period prescribed by law. While at face value this constitutes a financial compliance issue, from a performance audit point of view this precludes the analysis of the entity’s financial situation at the earliest possible opportunity, and consequently precludes timely remedial action.

The performance audit, “*An evaluation of the regulatory function of the Office of the Commissioner for Voluntary Organisations*” noted that a number of enrolled Voluntary Organisations were not complying with the provisions of the law to submit the return of financial statements on an annual basis. Apart from the compliance issues, these circumstances prohibited the OCVO from conducting its risk analysis on the basis of up-to-date data. This Office has been informed that OCVO was to enforce more rigorously the provisions of the law concerning annual financial returns as from 2018.²⁸

- v. **Monitoring deficiencies:** Monitoring is a critical management function, which enables continuous evaluation of the extent of progress made by an organisation in achieving its

²⁷ NAO, 2017. *Outpatient waiting at MDH*, p. 49.

²⁸ NAO, 2018. *An evaluation of the regulatory function of the Office of the Commissioner for Voluntary Organisations*, p. 30.

expected results through various investments and/or projects, thereby spotting bottlenecks in implementation and highlighting any unintended effects (positive or negative).

The performance audit reports within the scope of this Review frequently alluded to a weak monitoring function in relation to processes and operations at departmental and Ministry levels resulting in records being unavailable or outdated. Circumstances as such, influences the robustness of financial management and has a direct bearing on the extent of monitoring effectiveness that can be undertaken.

The performance audit, *“An evaluation of Government’s deal to design, build and operate the Malta National Aquarium”* 2018 noted that the Malta Tourism Authority (MTA) monitoring function was weak including when it comes to financial monitoring. In this regard, the report commented that: *“... financial monitoring of the Malta National Aquarium (MNA) complex includes audited financial statements. These audited statements are prepared by a firm appointed by the Contractor and referred to MTA in accordance with Clause 4.25 of the concession Agreement. However, MTA’s financial monitoring of the MNA complex is subject to the following issues:*

- a. MTA is not aware of revenue generated by specific streams as the audited financial statements present a global total of revenues generated by the various facilities within the MNA Complex. This implies that MTA is not in a position to:*
 - i. compare between the projected and actual revenue by different streams as expressed in the Cost Benefit Analysis (CBA) submitted by the Contractor and MTA.*
 - ii. undertake financial monitoring of the different amenities within the complex.*
- b. As the MTA monitoring team does not include expertise related to financial matters, the coverage of financial monitoring becomes somewhat limited. These circumstances arise as MTA’s financial monitoring does not extend to the company’s financial structure and subsequent inter-company transactions and the gearing ratio.”*²⁹

6.3 Effects of Financial Management Weaknesses

6.3.1 In practice, this Review has shown the ensuing negative impact of weak financial management mainly arising from the issues outlined above. Simultaneously this study also highlighted the heightened risks to sound public governance emanating from the deficiencies noted. The direct and indirect effects of financial management weaknesses manifested themselves in:

- Operational inefficiencies and increasing overheads;
- Inefficient stock and asset control systems;
- Problems in securing funding;
- Inability to tackle problems as they arise;
- Lack of proper recording of revenues, expenditures, assets and liabilities with resultant risk of taking wrong decisions based on incomplete and/or inaccurate financial statements.

²⁹ NAO, 2018. *An evaluation of Government’s deal to design, build and operate the Malta National Aquarium*, p. 44.

Chapter 7 | Accountability

7.1 Introduction

- 7.1.1** Accountability means taking responsibility for a particular action.³⁰ Governments spend large sums of public money on a range of services and infrastructure for their citizens. Moreover, in times of crisis, such as the 2008 global financial crisis, and more recently the COVID-19 global pandemic, governments increasingly use fiscal policy measures to support public social, infrastructure and health systems, as well as provide direct financial support to businesses and citizens through measures such as income support and unemployment benefits. Only governments are able to provide this kind of support at scale during these crises. Decisions made by governments today will impact generations to come, and will have implications for future policy, tax, and spending decisions. The basic social contract between governments and citizens is continually changing, and therefore, there is heightened need for better governance, including accountability. Good public governance is an essential requirement to help citizens understand how public funds are being managed and spent, how decisions are made and why, as well as providing the general public with the evidence and information leading to government decisions.³¹
- 7.1.2** The Public Administration Act, 2019 specifies a number of values that public employees need to uphold and promote. This includes accountability. Within this context, this Act stipulates that public officers must be ready to have their actions judged and to give a clear explanation of their judgements, actions and behaviour to any stakeholder authorised to demand such explanation. This Act also obliges public officials to act in terms of the Public Service Code of Ethics and co-operate with investigations by any authorised person or entity. To this end, this Act expands on the principle of accountability by demanding that public officers are to shoulder responsibility for their actions and behaviour appropriate to their posts.³²
- 7.1.3** The performance audits reviewed for the purpose of this publication revealed that 88 out of the 669 hits encroached on good public governance by deviating from the principles of accountability.

³⁰ <https://clearimpact.com/public-sector-accountability/> as at 25 March 2022.

³¹ <https://www.ifac.org/what-we-do/speak-out-global-voice/points-view/greater-transparency-and-accountability-public-sector> as at 25 March 2022.

³² NAO (2020). *A review of the ethical framework guiding public employees*, p. 20 - 21.

7.2 Causes leading to weak accountability

7.2.1 Governments are under continuous scrutiny by citizens and agents responsible for public financial oversight both on national, European and international level. Various standards had been set to increase accountability in the public sector. Nevertheless, the performance audits undertaken during the four-year period under review, highlighted a number of concerns relating to accountability. The following refers:

- i. **Lack of audit trails:** Audit trails are the manual or electronic records that chronologically catalogue events or procedures to provide support documentation and history that is used to authenticate security and operational actions or mitigate challenges. Audit trails provide a historical record of progression based on a sequence of events. These records provide proof of compliance and operational integrity. Audit trails can also identify areas of non-compliance by providing information for audit investigations. Whether it is logging the design changes of a product build, keeping the record of financial transactions, communication transactions, healthcare activity, or legitimizing the outcome of an election, an audit trail validates actions and outcomes. Audit trail records will contain details that include date, time, and user information associated with the transaction.³³ This Study has identified a number of instances whereby national public entities did not maintain the required level of audit trails. These range from minutes of meetings outlining the reasons for a particular decision to registering of referral tickets. Consequently, such a situation impinges on the level of good governance practices adopted.

The performance audit, *“Outpatient waiting at MDH”*, 2017 outlines that:

*“Walk-ins are intended to fast-track urgent cases. However, there is ample evidence to imply that many walk-ins are bypassing the Hospital’s appointment procedures, and can thus be considered as queue jumpers.”*³⁴

The performance audit *“A Review on the Contract for Mount Carmel Hospital’s Clerical Services”* 2019 noted that Mount Carmel Hospital (MCH) did not maintain any documentation on a needs assessment relating to the number of clerical hours required to address staff shortages within the Hospital. Furthermore, a capacity building exercise undertaken in 2017 by the Hospital did not consider the outsourced clerical hours on the premise that the persons providing these services were not public service employees. This lack of audit trail diminishes evidence in relation to the responsibilities involved when deciding on the acquisition of additional staff and their allocation of duties.³⁵

³³ <https://www.smartsheet.com/audit-trails-and-logs> as at 5 April 2022.

³⁴ NAO, 2017. *Outpatient waiting at MDH*, p. 6.

³⁵ NAO, 2019. *A Review on the Contract for Mount Carmel Hospital’s Outsourced Clerical Services*, p. 19.

- ii. **The non-identification of responsible entities / persons:** The principle of accountability revolves around the clear allocation of responsibilities. The performance audit under review noted various instances where strategic direction and priorities of the organisation did not always identify the officials responsible for specific tasks or job descriptions were of a generic nature. In addition, the allocation of tasks did not always clearly establish the expected outputs in terms of volume, quality and time.³⁶ As already indicated in the previous Chapters, public entities are setting up the strategic objectives. Nevertheless, resources are not immediately allocated following the drafting of the strategy, which leads to a situation where public service employees cannot be held accountable for the attainment of strategic objectives. Another example where the principle of accountability is not fully upheld arises out of situations related to ministries, departments or officials being allocated collective responsibilities for the attainment of predetermined objectives set out in national strategies. In these circumstances, the principle of individual responsibility becomes more problematic to enforce.

The performance audit, “A Review on the Contract for Mount Carmel Hospital’s Outsourced Clerical Services” 2019, outlined that MCH directly employed 717 persons.

“In order to bolster its own internal resources, MCH procured the services of a significant number of outsourced personnel, which among others included those engaged for clerical services. Specifically, as at September 2018, 156 outsourced clerks were deployed throughout MCH, which service cost the hospital approximately €3 million (that is, around 9% of MCH’s annual budget allocation) between October 2017 and this date.”³⁷

“The management of the contract referred to in the preceding paragraph used to fall under the responsibility of the Chief Operations Officer (COO) between December 2016 and the latter’s resignation in January 2018. Following this resignation, the position of COO within MCH remains vacant as at time of writing of the performance audit report in question. Although MCH’s Information Technology (IT) Director was subsequently appointed as Acting-COO, the National Audit Office (NAO) was informed that this official was not assigned with the responsibility to manage this contract. Given that MCH does not have a contracts manager in its employ, this Office observed that the responsibility for the management of this contract is currently not officially and directly assigned to anyone, which leaves the hospital with no focal person specifically and officially tasked to ascertain that the conditions of the contract under review are being adhered to consistently and comprehensively. During its review, NAO noted that general issues (such as attendance, checking of palm readings, vetting of invoices and general communication with the contractor) are handled by the Human Resources (HR) and Finance Departments. Other arising challenges are absorbed, in a fragmented manner, by different officials within the hospital (generally the deployed staff’s direct supervisors or line managers).”³⁸

³⁶ https://www.who.int/about/who_reform/managerial/accountability-framework.pdf as at 5 April 2022.

³⁷ NAO, 2019. *A Review on the Contract for Mount Carmel Hospital’s Clerical Services*, p. 7.

³⁸ NAO, 2019. *A Review on the Contract for Mount Carmel Hospital’s Clerical Services*, p. 17.

- iii. **Absence of Key Performance Indicators (KPIs):** Establishing KPIs entails that public entities set a measurable value that demonstrates the degree to which it is achieving its objectives.³⁹ The attainment of KPIs is dependent on the routine monitoring of important results, interpreting those results and initiating action.⁴⁰ Through such a process, accountability is enshrined. The audits within the period under review showed that a substantial number of public entities did not establish pre-determined KPIs for specific functions. In turn, this influenced the data collected to analyse performance and the monitoring undertaken. Hence, it affected the degree to which employees can be held individually or collectively accountable for any missed targets.

The performance audit, “Evaluation of Feed-In Tariff Schemes for Photovoltaics” 2018 outlines that:

“Implementation of the measures listed in the National Renewable Energy Action Plan (NREAP) 2015-2020, which are intended to facilitate the path for attaining the 2020 target is, to varying degrees, hindered. In this respect, the NREAP poses some limitations as it does not comprehensively support the listed measures with details of their implementation, particularly in terms of the budgetary requirements, the identification of quantitative KPIs and the relative milestones. Shortcomings concerning these factors influence management planning, control and monitoring over the exploitation of Photovoltaics (PVs) within the residential as well as non-residential sectors, including solar farms.”⁴¹

- iv. **Lack of management accounts:** For practicality reasons, national budgetary allocations are disbursed by Government Ministry and Department rather than by each Department function. As a result, public entities report on financial matters on a Ministry/Department level. Identifying the cost per function increases accountability as it is a means to analyse performance.⁴² This Review identified that a number of public entities either do not compile management accounts or these accounts are not communicated to enable senior management to be cognisant of how the operations within their remit are performing. These situations show that many public entities do not analyse the performance of each section, in terms of resource allocated against deliverables.

The performance audit, “Outpatient waiting at MDH”, 2017 commented that:

“Hospital’s line management, including the Clinical Chairs and Outpatient Coordinator are not cognisant of costs incurred within this Department. The lack of visibility of such costs restricts the Outpatient Coordinator’s remit in the optimal allocation of resources in order to ascertain efficient operations and accountability.”⁴³

³⁹ <https://www.klipfolio.com/resources/articles/what-is-a-key-performance-indicator> as at 28 March 2022.

⁴⁰ <https://www.staceybarr.com/measure-up/whats-your-definition-of-accountability/> as at 28 March 2022.

⁴¹ NAO, 2018. *Evaluation of Feed-In Tariff Schemes for Photovoltaics*, p. 22.

⁴² <https://www.wellersaccountants.co.uk/blog/what-to-include-in-the-preparation-of-monthly-management-accounts> as at 25 March 2022.

⁴³ NAO, 2017. *Outpatient waiting at MDH*, p. 48.

Moreover, the determination of unit costs can be considered as another element or Key Performance Indicator against which management can be held to account.

7.3 Effects of weak accountability

7.3.1 This Chapter discussed some of the causes leading to weak accountability. While public entities are stepping up their efforts to increase accountability, this Chapter has shown that significant progress is still required. Within this context, this Chapter has shown that the opportunity exists for stronger audit trails relating to the decision making and operational processes. Similarly, the principle of accountability would be further embraced by maintaining more reliable and timely data which would enable performance measurement in terms of attaining operational, financial and programme targets. Weak accountability detracts from good public governance since citizens are entitled to hold officials in charge of public money to account for their action. Moreover, robust accountability mechanisms can lead to other positive benefits since public officials will be motivated to further ascertain that their actions stand-up to predetermined goals and targets in the knowledge that their actions can be scrutinised at various levels.

Chapter 8 | Sustainability and Long-Term Orientation

8.1 Introduction

8.1.1 The United Nations Conference on Sustainable Development or as it is known RIO+20 outcome document outlines the importance that all layers of government and legislative bodies promote sustainable development.⁴⁴ Literature in this regard shows that the concept of sustainable development has been adopted by policymakers around the world, but problems materialise on how to operationalise such a concept.⁴⁵

8.1.2 The Council of Europe recognises Sustainability and Long-Term Orientation as one of the pillars to attain good governance. It defines this concept as:

- The needs of future generations are taken into account in current policies.
- The sustainability of the community is constantly taken into account.
- Decisions strive to internalise all costs and not to transfer problems and tensions, be they environmental, structural, financial, economic or social, to future generations.
- There is a broad and long-term perspective on the future of the local community along with a sense of what is needed for such development.
- There is an understanding of the historical, cultural and social complexities in which this perspective is grounded.⁴⁶

8.1.3 The performance audits reviewed for the purpose of this publication revealed that 82 out of the 669 hits encroached on the principles of good governance as public entities did not consider sustainability and long-term implications. Within this context, these findings mainly encompassed aspects related to financial, social and environmental factors.

8.2 Causes of weak sustainability and long-term orientation in public entities action

8.2.1 Over the years, public entities have stepped up their efforts to work towards sustainability. Policies are generally medium to long-term oriented and consider environment, social, health and economic factors that will contribute to attaining targets or reversing current trends in a

⁴⁴ https://www.un.org/waterforlifedecade/waterandsustainabledevelopment2015/stakeholders_governments_and_local_authorities.shtml as at 11 April 2022.

⁴⁵ Sumantri Nopran, 2017. Government's Sustainability Development Performance and National Culture: A study of OECD and EU Countries, p. i.

⁴⁶ [https://www.coe.int/en/web/good-governance/12-principles#{%2225565951%22:\[8\]}](https://www.coe.int/en/web/good-governance/12-principles#{%2225565951%22:[8]}) as at 11 April 2022.

specific area. This drive was facilitated through obligations on a European level as well as the global agenda. In the latter case, amongst others these governance principles were brought forward by the Sustainable Development Goals.

8.2.2 Nevertheless, through the various performance audits undertaken, this Office noted that delays in conducting baseline assessments, problems to operationalise plans, cost-efficiency and absence of long-term maintenance plans were the root cause of sustainability and long-term orientation. The following refers:

i. Delays in conducting baseline assessments: A baseline study is an analysis of the current situation to identify the starting points for a programme or project. It looks at what information must be considered and analysed to establish a baseline or starting point, the benchmark against which future progress can be assessed or comparisons made.

Baseline studies tend to be expensive, complex and lengthy. A number of performance audits, irrespective of the topic under review, concluded that these elements were the main stumbling blocks in embarking on comprehensive baseline studies. Environmental topics more readily lend themselves as an example of the foregoing. Within this context the performance audit *“The designation and effective management of protected areas within Maltese waters”*, 2018 discussed the importance of establishing the current status of marine biodiversity within Maltese waters. The National Audit Office (NAO) reports acknowledged the Environment and Resources Authority’s (ERA’s) efforts in conducting assessments of Malta’s waters but commented that these assessments were not comprehensive since:

- a. *“Two out of the five Assessments extended only to the 12 nautical miles around Malta, which constitute national territorial waters, and consequently excluded research within the Fisheries Management Zone (FMZ), which also falls within Malta’s jurisdiction. The reason for this being that the feature being studied did not occur at depths within the whole 25 nautical mile zone. ERA contends that most of the FMZ is characterised by deep waters which rendered such studies significantly more complex.*
- b. *None of the Assessments undertaken extended beyond the 25 nautical mile zone around Malta. While the legal provisions to carry out research in the high seas are available, political and diplomatic issues within the Mediterranean region influences the undertaking of research in these areas.*
- c. *The Assessments undertaken led to the designation of 14 Marine Protected Areas (MPAs). However, the full value of these studies is to be reaped when ERA concludes its work on the relative management plans and programme of measures. While the European Union (EU) obligations provide for a six-year period from designation of sites to the adoption of area specific management measures, Malta has to ensure that implementation delays do not raise the risks of degradation of the marine ecosystem.*

- d. *The five Assessments undertaken complied with EU requirements. Nonetheless, financial and technical expertise limitations prohibited National Authorities from embarking on these studies at an earlier date. Consequently, National Authorities, for a considerable period of time, were in possession of data which was collated through methods which are now considered outdated. In this regard, ERA contend that data available prior to the conclusion of the Assessments delayed decision making regarding a number of parameters including the marine waters bathymetry and habitats.*⁴⁷
- ii. **Operationalisation of strategies:** In its reports, the NAO referred to a scenario where increasingly governmental entities are embarking on long term-strategies. In its performance audits, the NAO generally acknowledged that these strategies provide the foundations for the sustainability of a project or initiative. The drawback, however, is that such strategies are not immediately operationalised to plans highlighting milestones over time or are not appropriately resourced. A potential reason for such circumstances is that governments have tended to prioritise projects and initiatives which tend to render returns immediately or over a short period.

The Report *“The designation and effective management of protected areas within Maltese waters”* 2018 outlined that the cabinet approved *“strategic framework or related documentation did not refer to the resource requirements for its implementation. To this effect, the public entities involved, namely the Ministry for the Environment, Sustainable Development and Climate Change, ERA as well as Malta Maritima Agency did not manage to secure an immediate budgetary allocation with respect to the strategic framework. These circumstances limit entities from building up their respective administrative capacity to enable the expedient implementation of measures.”*⁴⁸

The performance audit report *“Community Care for Older Persons”* 2020, portrays a similar context, albeit in different circumstances. While the Active Ageing and Community Care (AACC) has developed the long-term strategy, the National Strategic Policy for Active Ageing (NSPAA), it has only operationalised elements which were identified in the electoral manifesto. With respect to the latter plans, *“AACC has established implementation timelines and keeps regular track of progress achieved. However, documentation maintained in this regard does not relate to future resource requirements or the extent to which services will be broadened in accordance with the afore mentioned national strategy, the NSPAA.”*⁴⁹

- iii. **Cost-efficiency shortcomings:** Cost efficiency is critical to ensure the long-term sustainability of a project or initiative. The rate of return on investment makes it economically viable to further investment in sustainability initiatives. Performance audits dealing with topics

⁴⁷ NAO, 2018. *The designation and effective management of protected areas within Maltese waters*, p. 35.

⁴⁸ NAO, 2018. *The designation and effective management of protected areas within Maltese waters*, pp. 27-28.

⁴⁹ NAO, 2020. *Community Care for Older Persons*, p. 28.

relating to renewable energy, and recycling of material make reference to the relationship between cost-efficiency and sustainability.

The report, *“Outpatient Waiting at MDH”*, 2017 raises similar concerns albeit within a different context. This report outlines that:

“MDH is encouraged to step up efforts to ascertain the coordination and cooperation of the various professional bodies providing services at the Outpatient Department. This enables better synchronisation of resources, improves efficiency of operations and ascertains that the Hospital infrastructure is increasingly utilised for longer periods and this rendering them sustainable. Changes to historic work practices entails that these are complemented with the appropriate level of change management. Changes in current work practices become more critical given the significant investment in the new Outpatient block, which was scheduled for completion by 2020/2021.”⁵⁰

- iv. **Absence of Long-term maintenance plans:** The sustainability of a project largely depends on its condition throughout its lifecycle. Unless, for example, a road is serviced regularly, then the risk increases that this road will become damaged, is conducive to additional danger for its users and will need to be reconstructed before its predetermined end of life date. An extension of this example is portrayed in the Report, *“Maintaining and Repairing the Arterial and Distributor Road Network in Gozo”*, 2017.

“NAO was informed that in order for the Directorate for Projects and Development (DPD) to bring the entire Gozitan arterial and distributor road network up to the required standard, it would require a total sum of €21 million. In view of this, the Directorate puts forward an annual request to the Ministry for Finance (MFIN) averaging approximately €4 million so that it could carry out its planned projects. It is here important to highlight DPD’s assertion that this figure is only intended to address already identified damages, and therefore omits any emerging needs. NAO was additionally informed that the Directorate considers this figure as a required bare minimum to reactively address the damages present on the Gozitan road network, and is therefore insufficient for DPD to carry out any proactive maintenance works. Notwithstanding the above considerations however, the Directorate is allocated a far lesser sum of around €1.5million annually.

DPD’s Officials remarked that the limited allocated roads budget at times constrains the Directorate to carry out a single project in phases rather than in one intervention. This, NAO notes, would mean that certain fixed costs normally attributed to a single road related project, would have to be incurred multiple times, thus raising the risks of financial unsustainability.”⁵¹

⁵⁰ NAO, 2017. *Outpatient waiting at Mater Dei Hospital*, p. 9.

⁵¹ NAO, 2017. *Maintaining and Repairing the Arterial and Distributor road Network in Gozo*, p. 12.

8.3 Effects of unsustainable practices

- 8.3.1 Sustainable development is development that meets the needs of the present, without compromising the ability of future generations to meet their own needs. Therefore sustainability, in all its connotations, is fundamental to good governance. There are many factors which detract governmental organisations from giving due importance to long-term considerations. This Chapter mentioned four such considerations, namely the establishment of reliable baselines, operationalisation of strategies, cost efficiency and long-term planning.
- 8.3.2 Shortcomings in one or more of these elements detract from attaining sustainable projects or initiatives. The effects can manifest themselves in project failures, financial over-runs, unsustainable costs or a range of environmental concerns. This ultimately has an effect on public governance, which in turn results in the degradation of the quality of life of citizens.

Chapter 9 | Strategies and Policies

9.1 Introduction

9.1.1 Policies provide the vision, while the strategic document provides a more detailed exposition of the problem as well as a high-level solution. A policy document precedes a strategy. A good strategy must diagnose the problem, set a guiding policy that will address the problem and propose a set of coherent actions that will help to attain the set vision.⁵² Government through the various thematic strategic documents in place, sets the specific activities that the public service will undertake to attain the pre-determined goals. The strategic framework identifies the logical steps that lead the public service from start to finish.⁵³ For the purpose of this analysis, policies and strategies are going to be collectively referred to as the strategic framework.

9.1.2 The performance audits reviewed revealed that 78 out of the 669 findings encroached on good governance as weaknesses in the strategic framework were identified.

9.2 Factors influencing the robustness of the strategic framework

9.2.1 The strategic framework is considered as a key document as without it the projects undertaken will only attain goals in a piecemeal manner. The key stages of strategic planning can be considered to be six. Figure 7 refers.

Figure 7: Key components of strategic planning



Source: <https://www.thespurgroup.com/blog/the-6-elements-of-effective-strategic-planning> and NAO

⁵² <https://www.hallandpartners.com/thinking/blog/three-elements-of-good-strategy/> as at 24 March 2022.

⁵³ <https://medium.com/@KeithKrach/5-key-components-of-a-powerful-strategic-plan-4fbb6f15eae3> as at 24 March 2022.

- 9.2.2 The performance audits undertaken show that over the years, public entities are stepping up their efforts to have a robust strategic framework in place. Firstly, the European Union (EU) in various areas, requires that public entities draft, submit and implement a strategy within a specific timeline. Secondly, from an EU and national funding point of view, the strategic document is considered critical to secure project or programme funding.
- 9.2.3 The National Audit Office (NAO) noted the various good practices which embrace the principles illustrated in Figure 7. The following refers:
- i. **Strengths, weaknesses, opportunities, and threats (SWOT) analysis:** The Reports on Marine Protected Areas and Community Care for the Elderly showed that their respective strategies considered the different opportunities, pitfalls as well as the assets that Government can draw on to attain the vision.⁵⁴ At this juncture it is important to highlight that public entities are investing a lot of funds in the commissioning of feasibility studies prior to the drafting of strategies.
 - ii. **Consultation:** Most reports within the scope of the exercise referred to a public consultation process to support the compilation of Governmental strategies. In accordance with the principles shown in Figure 7, through the public consultation process Government entities are acknowledging the benefits of considering the voices of all the key stakeholders of an organisation. Government has facilitated public consultation through the publication of strategic documents on the online portal www.konsultazzjoni.gov.mt.
 - iii. **Mission and vision:** All of the strategies encountered during the compilation of Reports within the scope of this exercise included a mission statement outlining the overall goals that need to be accomplished. The statement will be brief and provides a snapshot of the projected vision for a specified timeline, in the short-term or long-term.
- 9.2.4 Despite the improvement noted on this front, the NAO also commented on a number of common issues that weakened the strategic framework and consequently its management. Mainly the weaknesses noted were deviations from the principles portrayed in Figure 7. The following refers:
- iv. **Approach and tactics:** The performance audits carried out between 2017 and 2020 identified instances whereby the tactics part was either not carried out or was delayed. Within this context the approach stage is to focus on initiatives, projects or programs that aim to execute the strategic plan.⁵⁵ This implies that strategies need to be supported by operational and financial plans. A case in point elicited during this Review relates to “*The designation and effective management of protected areas within Maltese waters*”, 2018. Therein the NAO reported that mitigating and dealing with threats to marine biodiversity has been problematic as site-specific management plans were as yet not compiled.⁵⁶

⁵⁴ NAO, 2018. *The designation and effective management of protected areas within Maltese waters*, p. 34; NAO, 2020. *Community Care for Older Persons*, p. 26.

⁵⁵ <https://www.thespurgroup.com/blog/the-6-elements-of-effective-strategic-planning> as at 5 April 2022.

⁵⁶ NAO, 2018. *The designation and effective management of protected areas within Maltese waters*, p. 7.

Another example in this regard related to The National Strategic Policy (2014 to 2020) on Active Ageing:

“Until recently, the national strategy was not supported by an action plan which outlines implementation schedules as well as ownership of the respective policy recommendations. To date, implementation progress is mainly being registered on measures elicited in the electoral manifesto.”⁵⁷

- v. **Funding streams:** A common factor noted throughout the strategies reviewed related to the delays or inadequate allocation of financial and human resources. Strategies were not always supported by the necessary budgets, at times even after the measures therein had been approved by Cabinet. The Report *“The designation and effective management of protected areas within Maltese waters”*, 2018 outlined that the cabinet approved strategic framework or related documentation did not refer to the resource requirements for its implementation. To this effect, the public entities involved, namely the Ministry for the Environment, Sustainable Development and Climate Change, the Environment and Resources Authority (ERA) as well as Marittima Agency did not manage to secure an immediate budgetary allocation with respect to the strategic framework. “These circumstances limit entities from building up their respective administrative capacity to enable the expedient implementation of measures.”⁵⁸

- vi. **Monitoring:** Key Performance Indicators are conducive to gauge performance against the pre-determined goals which should have been included in the strategic framework. Figure 7, illustrates the importance of measuring performance and hence KPIs since these enable the tracking of output and performance against regularly scheduled targets. The Reports *“Evaluation of Feed-In Tariff Schemes for Photovoltaics”* and *“Community Care for Older Persons”* noted shortcomings in this regard and recommended that the entities involved establish KPIs and other outputs and outcome measurements to ensure the effective and efficient implementation of the relative strategic framework.⁵⁹

9.3 Effects of a limited strategic framework

- 9.3.1 This Study has shown that public entities are generally implementing the foundation work associated with the strategic framework. This involves conducting SWOT analysis, eliciting feedback through public consultation exercises as well as setting the strategic mission and vision. Nevertheless, the success of the strategic framework is hindered as resources are not allocated to actually ensure the implementation of the strategy. Moreover, the lack of pre-established KPIs hinders public entities from carrying out monitoring to determine the degree to which the strategy is being implemented and attaining the set vision. Strategic weaknesses at any stage of its management process was seen to impact the efficiency, effectiveness and economy of projects and programmes.

⁵⁷ NAO, 2020. *Community Care for Older Persons*, p. 10.

⁵⁸ NAO, 2018. *The designation and effective management of protected areas within Maltese waters*, pp. 27-28.

⁵⁹ NAO, 2018. *Evaluation of Feed-In Tariff Schemes for Photovoltaics*, p.6; NAO, 2020. *Community Care for Older Persons*, p. 14.

Chapter 10 | Openness and Transparency

10.1 Introduction

10.1.1 Transparency is a key element to build accountability and trust, considered as pre-requisites for the functioning of democracies and market economies.⁶⁰ The Journal of Management Policy and Practice outlines that transparency “*addresses the rights of citizens to know about activities of their government.*”⁶¹ Secrecy about government operations can lead to abuse of power and a lack of accountability. Lorraine Smith argues that the following six elements must be in place to fulfil the principle of transparency:

- i. **Right information where** data needs to be correct.
- ii. **Right stakeholders where** this correct information needs to reach the stakeholders who need it to make better decisions (others can have it, too, but they may not need it).
- iii. **Right format where** appropriate attention is given to the way and medium to communicate data.
- iv. **Right time where** successful corporate transparency efforts are timed in such a way that they enable stakeholders to act in order to improve possible outcomes.
- v. **Right frequency where information is presented** at a rate that is useful and meaningful.
- vi. **Right intentions:** where there is a genuine reason in the way and the purpose that the information is being made available.

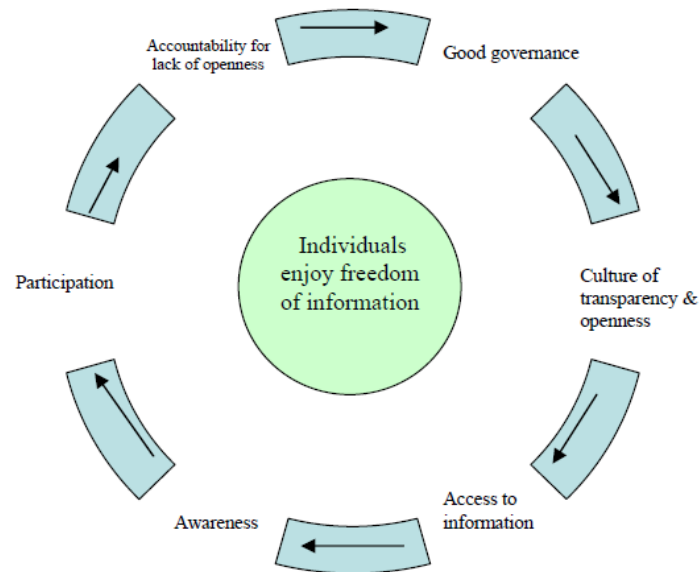
10.1.2 Through transparency, Government builds trust and confidence, as well as demonstrates integrity.⁶² Figure 8 illustrates the preconditions required for good flow of information in public institutions.

⁶⁰ <https://www.oecd.org/corruption/opennessandtransparency-pillarsfordemocracytrustandprogress.htm> as at 8 April 2022.

⁶¹ <https://www.powerdms.com/policy-learning-center/importance-of-openness-and-transparency-in-local-government> as at 8 April 2022.

⁶² <https://www.powerdms.com/policy-learning-center/importance-of-openness-and-transparency-in-local-government> as at 8 April 2022.

Figure 8: Elements required for individuals to enjoy freedom of information



Source: Danish Institute for Human Rights, 2005. *An Introduction to Openness and Access to Information*, p.8.

10.1.3 Governments can embrace the principles of transparency by:

- providing access at their own initiative to information they hold;
- providing access upon request to information they hold;
- involvement of the public through hearings, open meetings and campaigns; and
- involvement of the public in policy formulation and implementation through participation in relevant committees, boards etc.

10.1.4 The foregoing illustrated that public authorities' have a duty to provide information. Moreover, public entities have the right to acquire information from other authorities for a number of purposes, such as to fulfil oversight functions, reporting for statistical purposes and the provision of information to the general public. Cases in point relate to the Office of Ombudsman, the National Audit Office (NAO), the National Statistics Office, the Treasury and the Central Bank of Malta. Transparency is also a requirement to fulfil European Union (EU) obligations, in terms of reporting on the various activities undertaken by Governmental entities.

10.1.5 The performance audits reviewed for the purpose of this publication revealed that 48 out of the 669 findings encroached on the principle of transparency.

10.2 Causes of limited transparency

10.2.1 Over the years, Government has stepped up its efforts to embrace the principles of transparency at various levels. Malta, generally, has the required mechanisms in place, such as legislative requirements providing for the publication of statistical and financial reports as well as public

consultation documents relating to national strategies. The element of public consultation / public awareness was facilitated through the use of various technologies and platforms as tools to increase accessibility as well as the availability of information and communication held by public institutions. Examples in this regard relate to the publication of tenders through the portal www.etenders.gov.mt and www.konsultazzjoni.gov.mt. This modus operandi required the adoption of various mechanisms to ensure data security and protection of sensitive information. On a national and European level there was the adoption of the General Data Protection Regulations.

10.2.2 Nevertheless, this study elicited findings common across a number of audits, whereby public entities encroached on the principle of transparency. The following refers:

- i. **Entities do not submit or refer information in a timely manner to oversight bodies:** The performance audit within the scope of this review have on occasions noted that auditees did not always submit information or referred to the NAO or other oversight bodies in a timely manner. In such instances, the principle of transparency is encroached upon since oversight bodies, including Parliament or the Parliamentary Public Accounts Committee do not have the requested information to enable them to fulfil their function. The reasons for such circumstances are usually that the auditee does not collate the information requested or the sourced data is in a different format from that requested. In other instances, the process for referring data to this Office or other oversight bodies is prolonged due to technical or legislative requirements. The technical aspect relates to instances where customised reports have to be generated or data fragmentation necessitates complex technical and laborious processes to retrieve the information requested. Legislative requirements may also prolong the referral of data since approvals need to be sought by auditees from a regulatory body, such as the commissioner for data protection. In other instances, however, some departments tend to deviate from the spirit of the law – which clearly lays down the mechanisms for information to be forwarded to oversight bodies. The principle of transparency is also encroached upon in cases where public officials opt not to provide information to oversight bodies, including this Office or the Public Accounts Committee. Such circumstances are tantamount to withholding information and also compromise the principle of accountability.

The performance audit, “*Procuring the State Schools’ Transport Service*” 2017 outlined that:

“Documented information provided to NAO spanning over the three phases of this procurement process, was practically limited to voluminous inter-Ministry correspondence, together with the Ministry for Education, Employment and Family’s and the Department of Contract’s official files on the Phase 2 process. It is here important to note that, while voluminous, this Office cannot conclude that the above- mentioned compilation of correspondence (which was received by this Office only in printed format) included all communication exchanged during this process. In addition, NAO here notes that any other

*supporting documentation, such as potential market studies, correspondence with service providers and minutes of meetings, were not made available to this Office by either the involved stakeholders (who may have not been occupying a public role at the time of writing) nor the current incumbent MEDE Officials. This situation meant that, at times, NAO was forced to base some of its observations, particularly those revolving around suppliers' conduct, on secondary (albeit reliable information gathered from the abovementioned inter-Ministry correspondence) rather than on primary information (that is, from communication involving service providers directly)."*⁶³

- ii. **Limited or lack of Audit-trails:** This Review has alluded about the importance of audit trails when discussing audit findings within the context of accountability (para 7.2.1.i). Audit trails also promote the principles of transparency by ensuring that oversight bodies and citizens are aware and able to judge the rationale of the decision-making process and operational impacts. However, the performance audits reviewed have frequently lamented about the lack or severed audit trails. For example, many meetings discussing financially or socially material aspects are not always recorded in minutes. Furthermore, financial decisions are not always supported by comprehensive business cases to enable a robust trail leading up to decisions taken.

The report, "*Outpatient Waiting at MDH*" 2017, at the time found that:

"Management control mechanisms were not appropriately robust when dealing with walk-in and priority cases. While walk-ins constitute an essential mechanism to deal with urgent or high priority cases, the Hospital lacked robust internal controls to ascertain audit trails and transparency concerning these cases.

*... The continued oscillation of patients between the private and the public sector implies consumer choice, but such circumstances also influence the Hospital's Outpatient Department on various levels. Most walk-in patients pertain to clinicians working in both the public and private sectors. However, the Hospital did not always have robust internal controls to ascertain a strong audit trail and transparency associated with these cases."*⁶⁴

- iii. **Reporting obligations are not adhered to:** The performance audit reports under review noted instances where entities prolonged or did not comply with national or EU reporting obligations. These instances encroach on the principles of transparency since the information is not passed on to oversight bodies or the public. In case of EU reporting obligations, delays or non-submission are usually subject to infringement procedures – this highlighting the importance of the principle of transparency to ensure compliance with the EU's regulatory framework.

⁶³ NAO, 2017. *Procuring the State Schools' Transport Service*, p. 8.

⁶⁴ NAO, 2017. *Outpatient waiting at Mater Dei Hospital*, p. 7.

The Report, *“The designation and effective management of protected areas within Maltese waters”*, 2018 outlined that:

*“The Programme of Measures (PoMs) which contributes to the implementation of the National Biodiversity Strategy and Action Plan (NBSAP) is afforded legal status through SL 549.62. The provisions therein stipulate that the PoMs was to be drafted by 2016 and in operation by 2017. However, this process was prolonged due to the need for an adequate and appropriate inter-Ministerial and public consultation processes; in this respect, the PoMs were eventually finalised and approved by Cabinet during April 2017. prolonging the implementation of the PoMs, to varying degrees, raises the risks of environmental degradation as National Authorities would not be in a position to take the necessary actions. Moreover, such delays increase the risk that Malta will not fulfill the relative EU targets emanating out of the NBSAP.”*⁶⁵

- iv. **Limited use of a Management Information System (MIS):** Literature shows that technology helps public entities to effectively manage and process information, to fulfil transparency related obligations. The main role of management information systems is to enhance citizen participation and involvement and be a tool for better governance.⁶⁶ Through MIS, public entities can easily generate, analyse, share, disseminate and structure information.⁶⁷

Performance audit reports, published over the last four years, noted various aspects where MIS were not used to their full potential to enable transparency. The use of technology enhances visibility and control over many processes, for example hospital appointments, tracking of the asylum process and traceability of agricultural produce.

The report, *“Outpatient Waiting at MDH”* 2017 outlined that the Outpatient Booking Office did not process Hospital referral tickets pertaining to some specialities. The non-centralisation of this function prevailed despite the availability of Information Technology systems to enable such processing. The bypassing of the Central Booking Office implied that MDH management did have the appropriate visibility and controls over the issue of appointments to the detriment of sound audit trails and transparency.⁶⁸

The report, *“A Strategic Overview on the Department of Fisheries and Aquaculture’s Inspectorate Function”*, 2018 commented that:

“While the NAO considers the Department of Fisheries and Aquaculture’s (DFA’s) Fisheries Information Systems as a relatively robust system which can handle the considerable amount of data generated by the Department, it is nonetheless concerned with the fact

⁶⁵ NAO, 2018. *The designation and effective management of protected areas within Maltese waters*, p. 28.

⁶⁶ Anastasiadou, Santos and Montargil, (2021) in Omotayo Taiwo Fashina, *The role of management Information systems in enhancing Interoperability in E-governance*, p. 11.

⁶⁷ (Masuku, et. al., 2017) in Omotayo Taiwo Fashina, *The role of management Information systems in enhancing Interoperability in E-governance*, p. 11.

⁶⁸ NAO, 2017. *Outpatient waiting at Mater Dei Hospital*, p. 46.

that this system is still not fully automated. This Office therefore notes that the identified shortcomings in this IT system are exerting significant, otherwise avoidable, laboriousness on the Department's already stretched human resources to fulfil all expected reporting requirements.”⁶⁹

The aforementioned situation deviates from the principle of transparency.

10.3 Effect of limited openness and transparency

10.3.1 This Chapter discussed the concepts of openness and transparency within the framework of the performance audits carried out over the last four years. These principles of good governance become potentially eroded when robust audit trails are not in place. Moreover, the non-availability or limited use of MIS further detracts from ensuring transparency. Lack of transparency deviates from the principles of good governance since its citizens are not kept fully informed with meaningful and reliable information in a timely manner. Moreover, transparency issues impinge on aspects related to the fair treatment of users of public services.

⁶⁹ NAO, 2018. A Strategic Overview on the Department of Fisheries and Aquaculture's Inspectorate Function, p. 16.

Chapter 11 | Contract Management

11.1 Introduction

11.1 Contract management is the process of managing agreements from their inception, including the establishment of the business case, to their execution and eventual termination. Weaknesses in contract management influence operational efficiency and effectiveness which in turn affect financial provision. Public entities enter into different types of contracts with third parties to deliver public goods and services. Thus, effective contract management is critical to such entities as it influences deliverables and ultimately impinge on project costs.

11.2 The performance audits reviewed for the purpose of this publication revealed that 38 out of the 669 findings encroached on this principle of good governance. These situations were mainly brought about through weaknesses in project management namely with respect to planning, contract drafting and award, implementation and monitoring.

11.2 Causes leading to weak contract management

11.2.1 This Review has noticed that governmental entities to varying degree adopt contract management techniques to safeguard national interests. This situation mainly materialise as public entities are guided by public procurement regulations that establish a set framework to the award of contracts to third parties. Nevertheless, this Office has noted that there were contractual weaknesses at various stages. The following refers:

- i. **Planning:** The foundations for effective and successful contract management depend on the comprehensive and thorough implementation of this phase. This stage comprises the identification of organisation needs, establishing goals and determining the feasibility of the project. This Office has noted that a number of public entities either do not develop the business case or its contents are not robust enough to enable Government to leverage its position during negotiations with third parties. This situation impinges on the degree to which government ascertains good value for money through the contract entered into with third parties.

The planning phase also extends to the procurement mechanisms adopted. Procurement is regulated by the Public Procurement Regulations. The performance audits under review

mostly focused on the more financial material projects, which generally would have required a call for tenders or approvals to procure goods and services through a negotiated procedure (direct order). Nevertheless, this Review elicited instances whereby due to weaknesses in the planning stage such as not considering the time required to issue a call for tenders, public entities had to resort to methods which are not regarded as best practices.

The performance audit, “A Review of the Contract for Mount Carmel Hospital’s Clerical Services” (2019) noted that:

“... a new tender for clerical services was not awarded before the end-date of the previous one. Instead Mount Carmel Hospital (MCH) resorted to one year negotiated procedure. Such a situation exposed the hospital to two main risk areas. The first relates to good governance risks, particularly that this course of action has served as a barrier to competition to other potential bidders who could have submitted offers if a tender was issued on time. Secondly, the National Audit Office (NAO) perceives significant risks through the fact that MCH and the service provider did not sign any actual addendum or formal extension. This situation leaves MCH in a significantly disadvantaged position, particularly if it would need to ascertain the level of service provision through the enforcement of conditions as set in the original contract.”⁷⁰

- ii. **Contract drafting and award:** this phase entails negotiations with third parties and the actual award of the contract. An arrangement that is properly drafted will cover every detail from start to finish, without leaving out essential terms and conditions. Literature in this regard identified that the common provisions generally included are Access and disclosure, Key personnel, Assistance provided to the contractor, Liabilities and indemnities, EU specific clauses, Payments, Confidential information, Penalties and incentives, Conflict of interest, Securities and guarantees, Contract variations, Sub-contracting, Disclosure of information (confidentiality), Termination and contract end dates, Dispute resolution, Transition arrangements, Insurance, Warranties and fitness for purpose and intellectual property rights.

The performance audits undertaken during the four-year period under review have elicited situations whereby weak negotiations and, to some degree, limited foresight have led to contract clauses that do not appropriately address public entities’ requirements. Thus, weak contractual clauses effect the degree to which deliverables are in line with public entities’ requirements and government’s interest is duly safeguarded.

The performance audit, “An evaluation of Government’s deal to design, build and operate the Malta National Aquarium”, 2018 outlined that:

“... most of the contractual provisions were drafted in line with good practices. Nonetheless,

⁷⁰ NAO, 2019. *A Review of the Contract for Mount Carmel Hospital’s Clerical Services*, pp. 10-11.

some contractual clauses within the three agreements governing the Malta National Aquarium (MNA) project do not appropriately safeguard Government's long-term interests.

In instances, this performance audit raised questions on the extent to which the granting of this 50-year rent free land concession will prove favourable to Government. Despite the claw-back clauses therein, the contractual framework further impinges on value for money issues as Government will not receive a share of revenues or other benefits generated by the project throughout the 50-year concession period. Potentially, this situation becomes more aggravated for Government as the Contractor is obliged to invest abnormal profits within the complex thus generating further revenues to the same operator. To a great degree, this situation has arisen, as, at the time of drafting the Concession Agreement, the upward economic trends, as well as the substantial increase in tourist arrivals were not anticipated.”⁷¹

iii. **Implementation:** After the contract has been formulated and awarded, the process turns to service delivery. The degree to which public entities are able to manage a contract influence the project success as how a contract is implemented plays a direct role in its outcome. Project management is the application of processes, methods, skills, knowledge and experience to achieve specific project objectives according to the project acceptance criteria within agreed parameters. Project management has final deliverables that are constrained to a finite timescale and budget.⁷² Literature, outlines a four-point criteria to reduce risk and improve value from contracts through successful contract management implementation. The following refers:

- a. Develop an implementation plan;
- b. Have a formal handover process between the team involved in negotiations and the one implementing the project;
- c. Use specific / available tools for contract management; and
- d. Keep an Eye Out for Red Flags.⁷³

The performance audit, “A Review of the Contract for Mount Carmel Hospital’s Clerical Services” (2019) outlined that:

“Although NAO understands the challenges presented by MCH’s considerable HR shortages it remains significantly concerned that a number of clerks deployed under this contract were assigned tasks not associated with clerical duties. This Office feels that deploying such personnel under a contract calling for a completely different service creates challenges for MCH to manage these personnel and consequently their performance, as well as to address any shortcomings through legally binding contractual mechanisms. Furthermore,

⁷¹ NAO, 2018. *An evaluation of Government’s deal to design, build and operate the Malta National Aquarium*, p. 39.

⁷² <https://www.apm.org.uk/resources/what-is-project-management/> as at 1 May 2022.

⁷³ <https://www.contractworks.com/blog/4-tips-to-ensure-successful-contract-management-implementation> as at 29 April 2022.

*this Office also feels that maintenance and security related tasks involve a much more 'physical' element than in the case of their clerical counterparts. In view of this, not being covered with a contract that specifically provides for associated risks is, in NAO's opinion, unacceptable and may be exposing MCH to avoidable and unnecessary liability."*⁷⁴

- iv. **Monitoring:** A key function to ascertain the successful completion of a project is monitoring and subsequent enforcement. This Study has elicited situations of inadequate monitoring of contract deliverables. Consequently, there are missed milestones, the possibility of contract breach and the lack of penalties issued. Ultimately this situation will affect project deliverables and the total project costs as well as milestones connected to deliverables.

The performance audit, *"An evaluation of Government's deal to design, build and operate the Malta National Aquarium"*, 2018 commented that:

*"... the contractual framework permits comprehensive monitoring of all aspects of the Malta National Aquarium (MNA) complex. However, the Malta Tourism Authority's (MTA's) coverage does not extend to all aspects of the design, build and operate Agreement. Limitations in the scope of the monitoring function led to a number of implications. Firstly, such a situation transgressed on transparency and accountability issues associated with contract implementation. Secondly, these circumstances influenced timely interventions for corrective action. Thirdly, such a situation has a direct bearing on Government's position as a partner in this venture, particularly with respect to financial and operational performance of the complex. This materialises since Government would not always be adequately informed on the progress of a key element of Malta's tourism product."*⁷⁵

11.3 Effects of contract management weaknesses

- 11.3.1 This Chapter has illustrated that contract management weaknesses affects to a considerable extent project efficiency gains. These in turn lead to additional expenditure and increased risk, particularly by exposing government to avoidable situations of potential liability.
- 11.3.2 Contract governance is the approach taken to ensure that the agreed outcomes between a business and suppliers are being fulfilled. The objective of contract governance is to set goals, develop strong relationships with suppliers to ensure delivery, commit to compliance and deliver value to the governmental organisations and its end-users. Conversely, deviations from these principles prohibit good governance in terms of the attainment of social benefit, sustainability, service delivery and value for money.

⁷⁴ NAO, 2019. *A Review of the Contract for Mount Carmel Hospital's Clerical Services*, p. 24.

⁷⁵ NAO, 2018. *An evaluation of Government's deal to design, build and operate the Malta National Aquarium*, p. 44.

Chapter 12 | Responsiveness

12.1 Introduction

12.1.1 Responsiveness entails that objectives, rules, structures and procedures are adapted to the legitimate expectations and needs of citizens. Public services are delivered and requests, as well as complaints, are responded to within a reasonable timeframe.⁷⁶

12.1.2 The performance audits reviewed for the purpose of this publication revealed that 35 out of the 669 hits encroached on the principles of good governance as public entities did not deliver or respond in a timely manner to matters at hand. Inaction and delays are tantamount to inadequate responsiveness, which directly or indirectly is detrimental to the fulfilment of citizens' needs.

12.2 Causes of delayed responsiveness

12.2.1 This Review elicited a number of good practices where governmental entities to varying degrees responded to the needs of citizens in a timely manner. Such instances relate for the timely update of strategies to reflect prevailing and future societal needs. Operationally such examples relate to the timely provision of public services like the provision of social benefits. Moreover, Government has long adopted the practice whereby it identifies citizens' needs through commissioned studies and public consultations. Performance audits also reported other best practices. These included how Government responsiveness was expedited through various media platforms or e-government services such as the those relating to the notifications by Mater Dei Hospital on Outpatient appointments.

12.2.2 Nevertheless, this Office has noted that the public service did not always respond to citizens' needs in a timely manner. The following refers:

- i. **Coordination between public entities:** In a number of cases, the attainment of pre-determined objectives required coordination on a horizontal level between a number of public entities. However, the performance audit reports within the scope of this exercise noted that the appropriate level of coordination was not always in place and led to delays to the implementation of initiatives. In many cases, coordination between Government Departments tended to be on an informal level. To this effect, coordination was not always formalised through Memoranda of Understanding (MOU). The Reports

⁷⁶ [https://www.coe.int/en/web/good-governance/12-principles#%2225565951%22:\[1\]](https://www.coe.int/en/web/good-governance/12-principles#%2225565951%22:[1]) as at 28 March 2022.

“Protecting Consumers through Market Surveillance Directorate Monitoring Role” 2017 and “The designation and effective management of protected areas within Maltese waters” 2018 proposed recommendation in this light since both reviews noted that the lack of coordination between departments was hindering the attainment of policy goals.⁷⁷

- ii. **Non-synchronisation of resources:** This Study has also elicited findings, whereby national authorities are not synchronising available resources thus impinging on the timely response to clients’ needs. The Report, *“Outpatient waiting at MDH”*, 2017 outlined that:
“Nurses deployed at the Outpatient Department generally perform duties between 7am and 3pm. However, this schedule implies that the nurses’ shift is not synchronised with consultants’ roster. On the other hand, according to the Hospital’s centralised patient administration system, consultants pertaining to the five specialties under review generally commence their duties at the Outpatient Department by 08:30 hours. Clinics’ ending time ranged from 9:15 to 16:00 hours. These consultancy hours contrast with the nurses’ roster.”⁷⁸

Problems in the synchronisation of resources such as different shift types or shortages in one type of resource affects the timeliness-of-service delivery and consequently impinges on waiting times and waiting lists.

- iii. **Communication between entities:** Communication is fundamental to the management function since it is an umbrella term referring to the flow of information within an organisation/s. Within a public service context, it focuses on reaching a company's target audiences - consumers, employees, vendors, media groups, etc. - by planning and implementing myriad methods of communication. However, the performance audit reports within the scope of this exercise have noted that the appropriate level of communication was not always in place. The National Audit Office (NAO) reported communication issues on a number of levels:
 - o **Internal communication:** As with all types of communication, the NAO reports noted that, on occasions, the informal type of communication prevailed even in cases of high importance. While the NAO acknowledges the importance of collegiate and informal communication, the NAO encountered many occasions where records of communication is neither kept in the form of formal documentation nor in any other format. The Report *“An Evaluation of the Community Work Scheme”* 2019, cited that the Community Work Scheme Enterprise (CWSE) Foundation which deploys participants in the Scheme to Social Purpose Entities (SPEs) did not communicate with the latter information such as CVs with the latter.⁷⁹ This resulted in SPEs allocating work to participants without being fully aware of their skills and aptitudes.

⁷⁷ NAO, 2017. *Protecting Consumers through the Market Surveillance Directorate’s Monitoring Role*, pp. 13 - 14, and NAO, 2018. *The designation and effective management of protected areas within Maltese waters*, p. 10.

⁷⁸ NAO, 2017. *Outpatient waiting at MDH*, p. 37.

⁷⁹ NAO, 2019. *An Evaluation of Community Work Scheme*, p. 36.

- o **Public information notices:** The performance audit, *“Protecting Consumers through the market surveillance Directorate’s monitoring role”*, 2017 outlined that: *“Between 2014 and 2016, only 47 businesses were informed of the 2,684 Rapid alert system for dangerous non-food products (RAPEX) notifications. The situation materialised since practices relating to RAPEX notifications entail that the Market Surveillance Directorate (MSD) only informs businesses listed on its records following previous surveillance initiatives. This approach, however, implies that many businesses do not receive MSD’s notices of RAPEX alerts since they do not feature on the Directorate’s records. To partially mitigate this situation, MSD forwards RAPEX alerts to two main industry organisations to enable the dissemination of such communications to their respective members. However, economic operators that are not affiliated with these organisations remain unaware of RAPEX notifications. Additionally, consumers may not have been aware of the alert system available on the RAPEX portal and also through Malta Competition and Consumer Affairs Authority’s website.”*⁸⁰

This becomes more problematic since MSD made only limited use of other communication channels.

- o **Medium of communication and sharing of information:** Choosing the right medium is important for ensuring that public entities’ message arrives to the intended audience and that the audience accurately understands the purpose and meaning of the message. When choosing the right medium, the recipient is more likely to read, hear or see the statement and understand public entities’ message. In addition, the medium of communication could relate to the sharing of information between stakeholders, while safeguarding the provisions of Data Protection Act. The NAO noted that the opportunity existed to further enhance the communication mediums which facilitate the sharing of information such as through the use of technology between the Active Ageing and Community Care (AACC) and health service providers with respect to older persons health records. This would expedite and qualitatively improve clients’ treatment.⁸¹
- iv. **Prolonging the implementation of strategies:** The performance audit reports published during the period 2017 to 2020 noted that increasingly Government’s strategic management was being given more importance. Nevertheless, as already referred to in previous Chapters, public entities sometimes tend to fall short of providing the required level of resources necessary for the implementation of strategies. This situation impinges on the expediency to which the pre-established objectives are attained to the detriment of efficient and effective response to prevailing circumstances. The Report *“Community Care for Older Persons”*, 2020 outlined that:

⁸⁰ NAO, 2017. *Protecting Consumers through the Market Surveillance Directorate’s Monitoring Role*, p. 29.

⁸¹ NAO, 2020. *Community Care for Older Persons*, p. 16.

*"Increasing demand and customer expectations were not always balanced with the appropriate level of resources at both AACC and at the Contractors delivering community services such as Home Help Services. Contract implementation, on occasion, deviated from the relative provisions."*⁸²

12.3 Effects of limited responsiveness

12.3.1 This Chapter has sought to determine the causes of weak responsiveness by public entities to address the public needs. To this effect, the discussion herein illustrated with case studies that a number of factors can have a detrimental effect on citizen's and customers' responsiveness. While acknowledging the improvements in compiling comprehensive strategies which generally involved stakeholders, policy documents were not always supported with the appropriate level of resources thus delaying implementation and prolonging the attainment of strategic goals. Moreover, communication, coordination and synchronisation need to be in place to ascertain timely and effective response from Government entities to prevailing societal needs.

⁸² NAO, 2020. *Community Care for Older Persons*, p. 13.

Chapter 13 | Ethical conduct

13.1 Introduction

13.1.1 Ethics and good governance are intimately interrelated. In the field of corporate governance, awareness of ethical issues ensures that managers do not abuse their power or undertake improper actions that could result in questionable behaviours and practices within organisations (Mercier, 2004).⁸³ This implies a connection between the management, governance and control regimes of a public organisation. In practice, ethics within a public governance context implies the way an organisation control, protect and develop the integrity of their actions. To this end, the public service has its code of ethics which is built around eight universal moral values which expect employees to act with integrity, respecting others, showing loyalty, being worthy of trust, striving for quality standards and improvements, being accountable for their performance and for their behaviour, acting in a manner that does not discriminate and being impartial.⁸⁴

13.1.2 While legal liability of public sector organisations is deepening, what has been described as an emerging and hardening moral liability is exerting increasing influence. In this respect the legislative process lags behind what society thinks, values and respects. Moral liability occurs when public organisations violate stakeholder expectations of ethical behaviour in ways that put societal benefits at risk. There is an increasing convergence between these two forms of liability, as corporations come under scrutiny both by the law and—often more immediately and pointedly—by public opinion (SustainAbility 2004, 5).⁸⁵ In effect this emphasises the need for public administration to further integrate corporate governance, corporate social responsibility and corporate sustainability.

13.2 Causes of encroaching on the ethics of business processing in public organisations

13.2.1 Generally, the performance audits under review took note that most of government activities have built-in features to ascertain ethical behaviour. Laws and regulations governing administrative matters consider ethical behaviour of public officials and organisations. Specifically, in total, the spirit of the Public Administration Act is to ensure the ethical conduct of public organisations and officials. To this end, this Act also includes a code of ethics for public employees.

⁸³ Dessain, V., Meier, O. & Salas, V. (2008). Corporate Governance and Ethics: Shareholder Reality, Social Responsibility or Institutional Necessity?. *M@n@gement*, 11, 65-79. <https://doi.org/10.3917/mana.112.0065>.

⁸⁴ Public Administration Act, Cap 595.

⁸⁵ https://www.bbvaopenmind.com/wp-content/uploads/2013/02/Ethics-Values-and-Corporate-Governance_Thomas-Clarke.pdf as at 5 April 2022.

- 13.2.2 The performance audits under review did not specifically refer to circumstances where ethical concerns related to individuals. But the main issues discussed in these reports related to the extent to which organisational action embraced and adopted legal and regulatory, fair, and transparent processes to reach their objectives. These three elements are fundamental to ethical business processes adopted by public organisations. This Report has already discussed and presented examples linked to these three elements individually. This Chapter aims to extend this discussion by treating these three elements collectively when focusing on ethics.
- 13.2.3 To discuss these three elements, this Chapter further draws examples from the performance audit report: *“Procuring the State Schools’ Transport Service”*, 2017. Procurement is regulated by law to ensure legality, fairness and transparency. However, due to a number of circumstances, delays materialised in the relative procurement processes.
- 13.2.4 The procurement regulations provide that financially material contracts such as this (estimated at around €6.1 million annually for seven years) are awarded following a call for tenders.⁸⁶ The Ministry for Education had originally planned to follow the same procedure as it has adopted in previous agreements, that is, by re-negotiating the terms of the preceding contract with the only three providers at the time, rather than engaging in a fully-fledged competitive process. It is here important to note however that, for the procurement process under review, this direction was disapproved of by the Department of Contracts (DoC) from the start. The then Director General DoC, in fact directed the Ministry to extend the original contract by only one year (while retaining the same terms and conditions of the same agreement) so that the Ministry for Education, Employment and Family (MEEF) could make up for the late initiation in the procurement process and be able to go through with a tendering procedure during this one-year period. Of note is that this Ministry followed the DoC’s recommendation.⁸⁷
- 13.2.5 This case raises various issues. Firstly, the law provides for circumstances where goods and services could be procured through a negotiated procedure. Nonetheless, the spirit of the procurement regulations is that a competitive call for tenders is, as far as possible, resorted to. Secondly, by opting to engage in a negotiated procedure is tantamount to not fully respecting the principle of fairness. In these situations, potential service providers are excluded from bidding to provide goods and services. Moreover, Government has forfeited the opportunity of benefitting economically from the competitive environment brought about by a call for tenders. Thirdly, the circumstances leading up to the decision to opt for a negotiated procedure were not in the public domain. The principle of transparency was further infringed as neither supporting documentation, such as market studies nor correspondence exchanges with the involved stakeholders were made available to the National Audit Office (NAO).⁸⁸

⁸⁶ NAO, 2017. *Procuring the State Schools’ Transport Service*, p. 5.

⁸⁷ NAO, 2017. *Procuring the State Schools’ Transport Service*, p. 15.

⁸⁸ NAO, 2017. *Procuring the State Schools’ Transport Service*, p. 9.

13.2.6 The above case-study illustrated that three main principles impacted on ethical processing – in this case related to procurement, were not fully embraced. While this case study is not in any way intended to imply that any official behaved unethically, the end result encroached on the principles of legality and regulation, fairness and transparency which collectively constitute ethical business processing.

13.3 Effects of encroaching on the ethics of business processing in public organisations

13.3.1 Business ethics is too often conceived as a set of impositions and constraints, obstacles to business behaviour rather than an intrinsic part and the driving force of ethical business processes. The narrow focus of corporate governance exclusively upon the internal control of a public organisation and simply complying with regulation is no longer tenable. If such a circumstance was to prevail and objectives were solely focused on “wealth generating” than the results will manifest themselves in the loss of well-being to communities, including the ecology sustaining them.⁸⁹

13.3.2 In conclusion this Chapter has shown that governance essentially will involve sustained and responsible monitoring of not just the financial health of the department/entity, but also the social and environmental impact of all decisions and processes. To this end, public organisations are obliged to evaluate the extent to which the resultant externalities of their actions also measure up against the criteria of ethical processing.

⁸⁹ https://www.bbvaopenmind.com/wp-content/uploads/2013/02/Ethics-Values-and-Corporate-Governance_Thomas-Clarke.pdf as at 5 April 2022.

Chapter 14 | Compliance to the Regulatory Framework

14.1 Introduction

14.1.1 For the purpose of this analysis regulatory framework is going to be discussed from two points of view, namely the regulation and the role of regulatory authorities. This approach is being adopted since the National Audit Office (NAO) reports reviewed made reference to both of these elements within the regulatory framework. Within this context, the regulation encompasses the legal mechanisms on national and international levels, which Governmental entities are obliged to implement and adhere to.⁹⁰ On the other hand, the role of the Regulatory Authority is established by Government to oversee the functioning and fairness of various processes such as those relating to utility companies. The goal of regulators is to prevent and investigate fraud, keep markets efficient and transparent, and make sure customers and clients are treated fairly and honestly.

14.1.2 The performance audits reviewed for the purpose of this publication revealed that 24 out of the 669 hits related to the regulatory function and, to varying degrees, encroached on principles concerning the rule of law, which is paramount to good governance.

14.2 Causes influencing regulation

14.2.1 The regulatory framework encompasses the legal mechanisms that exist on national and international levels.⁹¹ Regulations are indispensable to the proper function of economies and societies. They create the “rules of the game” for citizens, business, government, and civil society. They underpin markets, protect the rights and safety of citizens, and ensure the delivery of public goods and services. At the same time, regulations are not costless.⁹² Compliance costs lead also to increase in administrative workload.

14.2.2 In this regard, the public service operations should comply to the pre-established regulatory framework, namely all the laws, regulations, and policies. Moreover, the implementation and enforcement of this legal framework also entails that the Public Service adheres to the spirit and provisions of specific legislation regulating the Executive itself. This includes the Constitution of Malta and the Public Administration Act.⁹³ Regulatory compliance ensures that the public service acts responsibly and follow regulations including those related to labour, work safety,

⁹⁰ <https://securitysectorintegrity.com/standards-and-regulations/procurement-monitoring-evaluation/> as at 6 April 2022.

⁹¹ <https://securitysectorintegrity.com/standards-and-regulations/procurement-monitoring-evaluation/> as at 6 April 2022.

⁹² <https://www.ced.org/reports/regulation-and-the-economy> as at 8 March 2022.

⁹³ <https://publicservice.gov.mt/en/Pages/The%20Public%20Service/RegulatoryFramework.aspx> as at 6 April 2022.

finance, data protection and operations.⁹⁴ Thus, the public service should comply to economic, social, and administrative regulations.

14.2.3 The performance audits carried out between the period 2017 to 2020 elicited issues whereby the national entity under review did not fully comply to the regulatory framework.

14.2.4 The performance audits mostly noted that non-compliance with the provisions of the law were generally related to procurement issues. The procurement regulations encourage fairness and competition, transparency, ethical conduct as well as value for money. Moreover, the national procurement regulations reflect European Union (EU) principles and ensure that Malta fulfils its EU legal requirements. In its performance audit reports, the NAO identified the following factors as the main elements which deviate from full adherence to the procurement regulations. The following refers:

- i. **Planning:** Procurement planning is critical in view of the administrative and technical complexities involved. Moreover, the Procurement Regulations establish various timeframes which procuring agencies are legally obliged to respect. Consequently, procurement of high financial materiality is subject to a significant lead time.

The performance audit “*Procuring the State Schools’ Transport Service*” 2017, raised issues relating to the procurement procedures adopted to procure school transport services. This Report noted that the procedures applied at the various phases of the procurement process, did not fully embrace the provisions in the Public Procurement Regulations. Firstly, the competition principle was not embraced since the Ministry for Education, Employment and Family extended the original contract past its end date through a direct order rather than planning in good time to ensure that a competitive call for tenders is issued in terms of the Public Procurement Regulations.⁹⁵ While all the legally required approvals were in place, this situation did not fully embrace the spirit of the public procurement regulations.

The NAO reported a similar situation in its performance audit report, “*Landscaping maintenance through a Public-Private Partnership*”, 2017. This Report noted that the original contract was extended by means of a direct order two times. In this case, all the legally required administrative approvals were also in place.⁹⁶ It is to be noted that during 2022 the Department of Contracts awarded a contract for landscaping services following a call for tenders. In such cases, the NAO commented that the circumstances within which contracts were awarded negatively impacted on the overall attainment of value.⁹⁷

- ii. **Administrative capacity:** The performance audit report, “*Maintaining and Repairing the Arterial and Distributor Road Network in Gozo*”, 2017 commented on a situation whereby

⁹⁴ <https://www.v-comply.com/impact-of-non-compliance-on-organizations/> as at 7 March 2022.

⁹⁵ NAO, 2017. *Procuring the State Schools’ Transport Service*, p. 47.

⁹⁶ NAO, 2017. *Landscaping maintenance through a Public-Private Partnership*, p. 37.

⁹⁷ NAO, 2017. *Landscaping maintenance through a Public-Private Partnership*, p. 21

the relationship between Government and the Contractor was not regulated by a contract. This was evidenced by documentation by a Ministry for Gozo senior official clearly stating that “no contract was drafted” for this particular project. The NAO was informed that there were occasions in which works started immediately after the issuance of the Letter of Acceptance, without signing any official contract. DPD Officials further informed NAO that it was an accepted practice that the Letter of Acceptance, together with the contractor’s Bill of Quantities and tender submission, formed the framework for the execution of the works. Such circumstances do not appropriately safeguard Government’s interests it exposes public entities to avoidable situations of potential liability. The Directorate in question contended that it was constrained to resort to such practices as the Procurement Unit was still being set up.⁹⁸

- iii. **Compliance risk management:** compliance risk is an organisation’s potential exposure to legal penalties, monetary fines, reputation damages and material loss, caused by a failure to act in accordance with government laws, industry regulations, or prescribed best practices. The performance audits under review, did not specifically comment on compliance risk management. On the other hand, neither did these audits remark that any of the public entities under review had organisational structures or robust internal mechanisms in place, to ascertain compliance with laws and regulations. At this point, it is opportune to draw on recent reports by the Auditor General Annual Report. For the last years, these reports have directly and indirectly referred to a broad range of non-compliance in public service operations. Of note is that the audit opinion on compliance issues expressed in these Reports has consistently been an adverse one.

Compliance risk management draws on four main elements, namely:

- Inform staff of their responsibilities and role in compliance efforts.
- Monitor business trends, financials, data management, and regulatory updates to anticipate new risks.
- Change activities should be handled carefully.
- Conduct regular internal audits.⁹⁹

Despite these seemingly evident steps, most performance audits reviewed either noted or proposed recommendations in this respect.

Regulatory Authorities

- 14.2.5 To further strengthen the public services’ embracing and adherence of laws, regulations and policies, it is critical that regulatory authorities have a strong mandate and the administrative

⁹⁸ NAO, 2017. *Maintaining and Repairing the Arterial and Distributor Road Network in Gozo*, p. 21.

⁹⁹ <https://www.ispartnersllc.com/blog/avoid-common-compliance-risks/> as at 29 April 2022.

capacity in place to perform their oversight role and ascertain the fair treatment of citizens. These agencies have an important and increasingly complex role in the delivery of regulatory regimes and regulations. Within this context, the goal of regulators is to prevent and investigate fraud, keep markets efficient and transparent, and make sure customers and clients are treated fairly and honestly. The Organisation for Economic Co-operation and Development (OECD) established seven governance principles for regulators.¹⁰⁰ Below figure refers.

Figure 9: Governance principles for regulators



Source: OECD

14.2.6 For ease of reference, Appendix II, presents a broad outline relating to the points noted in Figure 9. A number of the performance audits dealt with the regulatory function of various Authorities. These performance audit reports commented on a number of aspects which hindered the regulator's function effectiveness. Some of these issues are noted in Figure 9 while others fit in as sub-elements.

- i. **Role clarity:** For a regulator to understand and fulfil its role effectively it is essential that its objectives and functions are clearly specified in the establishing legislation. The regulator should not be assigned objectives that are conflicting or should be provided with management and resolution mechanisms in case of conflicts. The legislation should also provide for clear and appropriate regulatory powers in order to achieve the objectives and regulators should be explicitly empowered to co-operate and co-ordinate with other relevant bodies in a transparent manner.

¹⁰⁰ <https://www.oecd.org/gov/regulatory-policy/governance-of-regulators.htm> as at 23 March 2022.

In its report, *“An evaluation of the regulatory function of the Office of the Commissioner for Voluntary Organisations”* 2018, the NAO reported that the legal mandate pertaining to the Office for Voluntary Organisations was not appropriately robust to enable the Commissioner to execute his regulatory function effectively. This Report noted that the Office of the Commissioner for Voluntary Organisations (OCVO) did not have full access to Voluntary Organisations (VOs) financial information to enable more effective monitoring. Of note, is that since the publication of this Report, through the November 2018 legislative changes, OCVO’s remit has been strengthened while at the same time streamlining VOs’ obligations.¹⁰¹

The report, *“The designation and effective management of protective areas within Maltese waters”*, 2018 provides another example where a regulatory authority had two potentially conflicting roles.

“The Environment and Resources Authority’s (ERA’s) dual role becomes emphasised in circumstances where national strategies and plans – such as those related to the National Biodiversity Strategy and Action Plan and Programme of Measures allocate implementation responsibilities to this Authority. While acknowledging that ERA houses key marine sector expertise, the Authority’s main role as national regulator should trump all other considerations”.¹⁰²

- ii. **Administrative capacity:** Administrative capacity is critical to enable an organisation to execute its mandate efficiently and effectively. To this end, human resources constitute the most important asset within an organisation. The Performance Audit, *“An evaluation of the regulatory function of the Office of the Commissioner for Voluntary Organisations”* 2018, noted that the OCVO was not adequately resourced to enable it to fulfil its mandate to the full. This audit noted that the OCVO lacked the required level of expertise. Since the publication of the audit and the enactment of the new legislative provisions, OCVO carried out a business process re-engineering programme, whereby the OCVO organigram has changed to enable more efficient and effective procedures to be implemented.¹⁰³

The Report, *“A Strategic Overview on the Department of Fisheries and Aquaculture’s Inspectorate Function”* 2018 noted that the Department of Fisheries and Aquaculture (DFA) had a severe staff shortage, namely it lacked the right number of Landing Officers (LOs) and Fisheries Protection Officers (FPOs). The Department contended that this situation had negative repercussions on its operations including its enforcement function.¹⁰⁴

- iii. **Enforcement:** This regulatory function is critical since it contributes to the effective implementation of laws and regulations. The performance audit report, *“A Follow-Up*

¹⁰¹ NAO, 2017. *An evaluation of the regulatory function of the Office of the Voluntary Organisations*, p. 13.

¹⁰² NAO, 2018. *The designation and effective management of protective areas within Maltese waters*, p. 10.

¹⁰³ NAO, 2017. *An evaluation of the regulatory function of the Office of the Voluntary Organisations*, pp. 38-39.

¹⁰⁴ NAO, 2018. *A Strategic Overview on the Department of Fisheries and Aquaculture’s Inspectorate Function*, pp. 9-10.

on the 2016 Analysis on OHSA's Operations - A Case Study on the Construction Industry" 2020, outlined that the Occupational, Health and Safety Authority's (OHSA's) organisational capacity did not develop in line with the growth of the construction industry. Consequently, it became increasingly more problematic for OHSA to carry out more effectively its regulatory function, including its enforcement role. The high numbers of accidents within the construction industry shows that more enforcement is required, and more work needs to be done to facilitate the shift and the accompanying culture change stimulating further the Maltese workplace to become more of an environment where health and safety are not considered as afterthoughts but are integrated throughout all work systems and processes.¹⁰⁵

- iv. **Monitoring:** The central function of the regulatory or supervisory body, is to ensure that the regulations or agreements put into place in an earlier period are complied with.¹⁰⁶ The Performance Audit "A Strategic Overview on the Department of Fisheries and Aquaculture's Inspectorate Function" 2018, outlined that:

*"DFA's visibility on the sector in question is limited and that its effort allocation can be better managed. Specifically, NAO saw how a very small portion of the local registered fishing fleet is equipped with remote tracking devices and that physical inspections at sea are very limited. This Office also observed that the Department's efforts in conducting inspections on land is largely asymmetrical, with a wide range of the Department's inspectorate remit being somewhat neglected in favour of a small number of select areas. NAO also remarked how inspections at retail stage (the final level of control for it to detect, and act upon, any irregular fishing activity through traceability review) are severely lacking."*¹⁰⁷

14.3 Effects of weak regulation

- 14.3.1 This Chapter has discussed the factors that are leading to weak regulatory framework and regulatory authorities. From the examples discussed in this Chapter, it is evident that the regulatory framework will not be effectively implemented unless a public entity has a clear and unequivocal mandate, the right organisational structure and resourced appropriately to enable it to perform its functions as intended. These three factors influence the degree to which the regulatory authority can carry out its enforcement and monitoring function effectively. Weak regulation is tantamount to a situation which deviates from the principles of good governance particularly in terms of the rule of law, fairness, value for money, transparency and accountability.

¹⁰⁵ NAO, 2020. A Follow-Up on the 2016 Analysis on OHSA's Operations - A Case Study on the Construction Industry, p. 25.

¹⁰⁶ <https://aceproject.org/main/english/me/med02a.htm> as at 29 April 2022.

¹⁰⁷ NAO, 2018. A Strategic Overview on the Department of Fisheries and Aquaculture's Inspectorate Function, p. 4, 21.

Chapter 15 | Competence and Capacity

15.1 Introduction

15.1.1 One of the pillars of good governance relates to ascertaining the competence of staff employed and having the available human resource capacity to address the organisational, programme or project objectives. Competence is the combination of knowledge, skills as well as attitudes and personal traits and implies ongoing professional and technical development. Through the competence of human resources employed, public entities put operational processes into motion as this factor is considered as the building blocks and the control factors that determine optimum long-term performance and strategy, given the available resources.¹⁰⁸

15.1.2 Human resource capacity is defined by Groot and Molen (2000) as the development of knowledge, skills and attitudes in individuals and groups of people relevant in design, development, management and maintenance of institutional and operational infrastructures and processes that are locally meaningful.¹⁰⁹

15.1.3 The Council of Europe (COE) outlines that the governance principle of Competence and Capacity is attained by:

- The professional skills of those who deliver governance are continuously maintained and strengthened in order to improve their output and impact.
- Public officials are motivated to continuously improve their performance.
- Practical methods and procedures are created and used in order to transform skills into capacity and to produce better results.¹¹⁰

15.1.4 The performance audits reviewed for the purpose of this publication revealed that 24 out of 669 hits registered encroached on good public governance by deviating from the principles of competence and capacity.

15.2 Causes of weak competence and capacity

15.2.1 Over the years, public entities have engaged more specialised staff through the increasingly available national pool of graduates. Additionally, public service employees can benefit from

¹⁰⁸ <https://www.ag5.com/whats-the-difference-between-capacity-and-competence/> as at 3 May 2022.

¹⁰⁹ International Journal of Human Resource Studies, 2014. The Link between Human Resource Capacity Building and Job Performance, p. 139.

¹¹⁰ [https://www.coe.int/en/web/good-governance/12-principles#{%2225565951%22:\[6\]}](https://www.coe.int/en/web/good-governance/12-principles#{%2225565951%22:[6]}) as at 3 May 2022.

the training provided by the Institute for the Public Services and the award of scholarships to further their academic achievements.

15.2.2 Moreover, competence and capacity are considered as the input for policy change. Currently, the Public Service is in full swing to introduce accrual accounting within all government departments. In August 2017, during the launch of an estimated €11.6m investment in a Corporate Financial Management Solution, Government committed to train existing and new employees as otherwise the full potential of this venture would not be reaped.¹¹¹

15.2.3 Recruiting of staff is regulated by the Public Service Administration Act and subject to annual budgetary allocations by the Ministry for Finance and Employment. As referred to in various chapters of this Report, the allocation of financial resources in instances hinders the expedient allocation / recruitment of human resources.

15.2.4 In addition to limited financial resources various audits reported a number of issues that are hindering the degree to which, public entities can foster a culture of increased competence and capacity. The following refers:

- i. **Limited national and/or international supply of specialised skills sets:** A vulnerability experienced by microstates is the limited supply of various specialities. Amongst these, globally, there is an acute shortage of human resources for health.¹¹² Countries at all levels of socioeconomic development face, to varying degrees, difficulties in the education, deployment, retention, and performance of their workforce.¹¹³ Malta is facing a similar situation and the performance audits undertaken during the period under review, highlight this concern.

The performance audit, “Outpatient waiting at MDH”, 2017 reported a similar situation. In this regard, this report outlined that at times:

“Mater Dei Hospital (MDH) efforts to recruit specialists and other health professionals did not achieve the desired results. A case in point relates to the Vascular clinical specialty where, between 2007 and 2014, MDH efforts in the national and international arenas to recruit specialist proved to no avail.”¹¹⁴

The performance audit, “Tackling Child Abuse”, 2020 outlined that during:

“the initial stages of the National Audit Office (NAO’s) fieldwork Appogg was severely understaffed, with the latter’s management quoting a shortage of sixteen social workers. It is however to be noted that, at the time of writing “Tackling Child Abuse” report, 2020, the

¹¹¹ <https://contracts.gov.mt/en/NewsAndInfo/Pages/MaltaShiftsToAccrualAccounting.aspx> as at 4 May 2022.

¹¹² Miseda, M.H., Were, S.O., Murianki, C.A. et al. The implication of the shortage of health workforce specialist on universal health coverage in Kenya. *Hum Resour Health* 15, 80 (2017). <https://doi.org/10.1186/s12960-017-0253-9>.

¹¹³ WHO, 2016. *Global strategy on human resources for health: Workforce 2030*, p. 10.

¹¹⁴ NAO, 2017. *Outpatient waiting at MDH*, p. 38.

NAO was informed that although Child Protection Services (CPS) still experienced a human resource shortage, the situation has improved as only seven vacant positions remained to be filled from the Unit's 42 strong complement.

When queried about the reason for this long-standing shortage, the Agency asserted that this is mainly due to an overall shortage in the country's supply of social workers. NAO observes that the Agency has to compete with other entities (both public and private) for these professionals and from a yearly graduate pool which the Agency asserts is insufficient to satisfy the aggregate demand. Appoġġ however highlighted that in order to mitigate this phenomenon, it is endeavouring in bolstering its human resource complement in other areas (such as counsellors and social support workers) intended to support their social workers and therefore alleviate the workload.”¹¹⁵

- ii. **Attracting and retaining employees:** Recruiting and retaining employees is critical to an organisation's success. An organisation is only as strong as the collective talent of the people who work there.¹¹⁶ The public service is no exception.

The performance audit, “*A Strategic Overview on the Department of Fisheries and Aquaculture's Inspectorate Function*”, 2018 discussed the problems relating to attracting and retaining employees. In this regard, it outlined that:

“The significant number of vacant positions within the Department of Fisheries and Aquaculture (DFA) is an obvious cause for concern. If the 64 vacant positions (over a current staff complement of 119) are truly needed and justified, the Department will find itself in a situation of severe understaffing and consequently it cannot be expected to carry out its mandate to its fullest extent. This situation, is further accentuated by the high rate of resignations DFA asserts it is experiencing.”¹¹⁷

- iii. **Inefficient allocation of human resources:** The optimal allocation of human resources is considered as one of the daily challenges of many organisations leading to efficiency problems.¹¹⁸ Chapter 4 of this Report has already referred to human resources as one of the inputs influencing public sector efficiency. The optimal allocation of human resources influences the degree to which national authorities can ascertain value for money from their operations.

¹¹⁵ NAO, 2020. *Tackling Child Abuse*, pp. 18-19.

¹¹⁶ Barry Savanah. *How Learning Programs Attract and Retain Top Talent*, p. 3.

¹¹⁷ NAO, 2018. *A Strategic Overview on the Department of Fisheries and Aquaculture's Inspectorate Function*, p. 12.

¹¹⁸ Rahim Khanizad & Gholamali Montazer | Saurabh Pratap (Reviewing Editor) (2018) Optimal allocation of human resources based on operational performance of organizational units using fuzzy game theory, *Cogent Engineering*, 5:1, DOI: 10.1080/23311916.2018.1466382.

The performance audit, “*Maintaining and Repairing the Arterial and Distributor Road Network in Gozo*”, 2017 commented that:

*"[The] Directorate for Projects and Development (DPD) generally does not lack human resources, yet the deployment of further personnel points at significant inefficiencies in this area. NAO questioned the reason for the staff complement to be augmented by a further 14 employees during the progression of this study, when DPD Officials themselves had earlier asserted that the Directorate has no staff shortage."*¹¹⁹

- iv. **Imbalance between expertise and pay-grade:** Salaries that are commensurate for the work carried out help public entities to ascertain that they attain value for money. Moreover, this principal contributes to good governance as it instils a culture of fairness. While various mechanisms are in place, such as the annual performance reviews, this Office still notes cases where this situation still materialises.

The performance audit, “*Maintaining and Repairing the Arterial and Distributor Road Network in Gozo*”, 2017 outlined that the DPD lacked the necessary level of expertise.

*"The NAO does not understand why the distribution of human resource complement leaned more towards relatively higher pay-grades in July 2017 when compared to March 2017, when there was no change in functions. It must here also be noted that these figures should not be taken in isolation, but rather compounded on the prevailing inefficiencies which were already identified as at March 2017, which primarily took form of personnel not being of an adequate standard and lacking expertise. These considerations become especially pivotal in view of the shortage of funds, which impedes the Directorate from fulfilling its yearly plan."*¹²⁰

- v. **Training:** Human resources training and development help to contribute towards public authorities service delivery. Through training, employees can deliver the service in a more economic, efficient and effective way, thus offering an enhanced service delivery to their respective clients.

The performance audit, “*Community Care for Older Persons*”, 2020 outlined that:

"[the Active Ageing and Community Care (AACC)] social workers had several years of experience working with vulnerable groups, with over half of the social workers having spent years working directly with older persons within AACC or elsewhere. However, the Units' social workers have not been formally exposed to specialist knowledge and training related to the ageing process and models of ageing, the impact of age-related health issues, losses and transitions, communication with people with dementia or other age-related conditions, social work in different settings such as within care homes or end-of-life

¹¹⁹ NAO, 2017. *Maintaining and Repairing the Arterial and Distributor Road Network in Gozo*, p. 15.

¹²⁰ NAO, 2017. *Maintaining and Repairing the Arterial and Distributor Road Network in Gozo*, p. 15.

care. Despite their years of experience, the lack of continued professional development in gerontology represents a loss of opportunity for this Unit to deal with cases more effectively and efficiently.”¹²¹

During the concluding phase of the audit, AACC noted that it is ring-fencing a budget for training and will also be sponsoring interested employees for the Masters in Gerontology programme. Moreover, in 2019, AACC requested its Social Work Unit to propose relevant training programmes.¹²²

15.3 Effects of weak competence and capacity

15.3.1 This Chapter has sought to determine the degree to which public entities are contributing to good governance by employing human resources with the right skills set and in the right quantities. Public entities have stepped up their efforts to improve these two factors. Nonetheless this Chapter has identified areas where the administrative capacity was not at the required level. This situation deviated from good public governance by the resultant inefficiencies and increase in costs. Within this context, having the required set of human resources is considered as a pre-requisite for sustaining a country’s development and an important input for policy change and its subsequent implementation.

¹²¹ NAO, 2020. *Community Care for Older Persons*, p. 31.

¹²² NAO, 2020. *Community Care for Older Persons*, p. 31.

Chapter 16 | Technology

16.1 Introduction

16.1.1 Technology is instrumental to the attainment of good governance. A digital transformation promotes efficient and effective delivery of public goods and services as well as facilitates the management function. Within this context, Information Communication Technology (ICT) enables the automation of work processes, which encourage better management direction, planning, control and monitoring – which in many cases results in better cost efficiency and effectiveness. Government over the years has invested heavily in technology through infrastructural upgrades across many public entities. These systems, generally, facilitated the entities’ operations, improved reporting and decision-making. The use and availability of technology also affects processes and the degree to which they are efficient. Government has digitally transformed a number of its processes such as the tendering procedure and introduced a spectrum of e-government services. Examples in this regard, relate to servizz.gov, which is Government’s one stop shop portal for online services, myHealth, and myGozo.

16.1.2 The foregoing is in line with Malta’s National Digital Strategy 2014 – 2020. This Strategy recognises the benefits outlined herein and further states that ICT empowers the economy and society, directly and indirectly since it is both a critical infrastructure and an enabling tool.¹²³ This context clearly establishes the importance of ICT within a framework of good governance.

16.1.3 The performance audits reviewed for the purpose of this publication revealed that 22 out of the 669 hits encroached on the principles of good governance as public entities did not adequately use technology to facilitate work processes. At this junction, it is to be noted that this Office published a number of ICT audits during the period under review. However, as the scope of this analysis is limited to performance audits carried out between 2017 and 2020, these ICT audits were not included.

16.2 Factors influenced by technology

16.2.1 The performance audits reviewed for the purpose of this publication to varying degrees commented on the extent to which technology was being utilised within the entities under audit. Despite the countless benefits brought about by the investment in ICT, 22 out of the 669 hits reported by the National Audit Office (NAO) in the performance audit reports within the scope of this review, related to the availability, limited or lack of use of technological tools.

¹²³ MITA, MCA, Parliamentary Secretary for Competitiveness and Economic Growth, 2014. *Digital Malta, National Digital Strategy 2014 – 2020*, p. 6.

16.2.2 These findings can be broadly categorised as follows:

- i. **Weak data collection mechanisms:** Technology facilitates the data collection process which in turn is used as an input to ascertain the attainment of good governance by contributing toward the management function, the provision of timely information and more efficient and effective processes. This Review noted that in a number of cases, public entities maintained poor documentation, including the gathering of incomplete and inaccurate data. These circumstances impinge on all aspects of the auditees' performance. This situation materialises since some public entities do not always use Information Technology (IT) tools to assist them in data collection. A number of audits reported that data collected was not always being inputted directly into ICT systems through tablets, laptops, and other tools. This does not only impact the cost efficiency of operations since data is first being recorded manually and then inputted into ICT systems. Furthermore, such methods are liable to transcription errors and increase the lead time within which data is available for analysis.

The Report *"The designation and effective management of protected areas within Maltese waters"* 2018 outlined that:

*"Data fragmentation and integrity concerns delayed the commencement of Assessments. The prolonged commencement of these studies influenced the designation of Marine Protected Areas (MPAs). This state of affairs had two main impacts. Firstly, the integrity of data pertaining to the marine environment, which was available prior to these Assessments was based on studies conducted through non-systematic methodological, occasional and ad hoc Assessments using different non-comparable methodologies and consequently could not be relied on for decision-making purposes. Secondly, delays in undertaking these Assessments raised the risk of environmental degradation. To mitigate such impacts, the Environment and Resources Authority (ERA) is developing a digital database structure to ensure an appropriate consolidation of datasets and their sharing; such work is being co-funded by the European Union through the ongoing European Maritime and Fisheries Fund Marine Monitoring Project."*¹²⁴

- ii. **Data fragmentation:** The performance audits within the scope of this exercise made a number of references to the setting-up of a number of stand-alone systems to cater for various phases of specific processes. In instances these stand-alone systems are maintained in MS Excel format which does not offer robust data integrity control systems. Apart from this, in many cases these stand-alone systems were not integrated to enable management to have a broader visibility on all aspects of a project or action. For example, the Performance Audit, *"Protecting Consumers through the Market Surveillance Directorate's Monitoring Role"*, 2017 outlines that the Market Surveillance Directorate was hindered from undertaking

¹²⁴ NAO, 2018. *The designation and effective management of protected areas within Maltese waters*, p. 7.

more comprehensive risk assessments due to the fragmentation of various technical information.¹²⁵

- iii. **Limited availability of IT systems:** The performance audit within the scope of this exercise reported that in some cases critical processes were not supported by IT systems. For instance, it was reported that the Department of Fisheries and Aquaculture (DFA) was not using IT systems to record the DFA's inspections, which amounted to 35 different inspection types. Instead, such information was manually recorded; an approach which limits data analysis, and report generation.¹²⁶ A similar situation was reported in the audit, "*Assessing the Public Transport Contract and Transport Malta's visibility on the service*" 2020. In this case the NAO reported that the Public Transport Unit is constrained to elicit information about the late arrival of buses through labour intensive calculations since this Unit does not have an IT programme which automatically analyses daily Global Positioning System data provided by the service provider.¹²⁷

16.3 Effects of weak technology use

- 16.3.1 This Chapter has discussed the business functions that are being affected by the availability of the current IT infrastructure. The non-utilisation of adequate IT facilities hinders the maintenance of reliable audit trails which in turn influence transparency and accountability. Such a situation also impinges on the degree to which management can carry out monitoring. Thus, the non-adequate use of technology affects the attainment of good governance principles.

¹²⁵ NAO, 2017. *Protecting Consumers through the Market Surveillance Directorate's Monitoring Role*, pp. 10-11.

¹²⁶ NAO, 2018. *A Strategic Overview of the Department of Fisheries and Aquaculture's Inspectorate Function*, p. 16.

¹²⁷ NAO, 2020. *Assessing the Public Transport Contract and Transport Malta's visibility on the service*, p. 22.

Chapter 17 | Social cohesion

17.1 Introduction

17.1.1 The Council of Europe defines social cohesion as *“the capacity of a society to ensure the welfare of all its members, minimising disparities and avoiding polarisation. A cohesive society is a mutually supportive community of free individuals pursuing these common goals by democratic means.”*¹²⁸

17.1.2 Thus, to attain good governance, public authorities are to ascertain that human rights are respected, protected and implemented, and discrimination on any grounds is combated without exception or fail. Cultural diversity is treated as an asset, and continuous efforts are made to ensure that all have a stake in the local community, identify with it and do not feel excluded. Social cohesion and the integration of disadvantaged areas are promoted. Access to essential services is preserved, in particular for the most disadvantaged sections of the population.

17.1.3 The performance audits under review, elicited 20 out of 669 hits that deviate from the principle of social cohesion.

17.2 Causes of weak social cohesion

17.2.1 Over the years, public entities have stepped up their efforts to embrace social cohesion concepts. This was facilitated through the European Union’s (EU’s) Economic and Social Cohesion Policy, which is the principal tool through which the Union seeks to improve the quality of individual lives by funding projects from European Regional Development Fund (ERDF), the European Social Funds (ESF) and the Cohesion Fund. As at 2020, Malta has been awarded more than €1.5 billion on a variety of initiatives which have improved educational and health facilities, enhanced historical assets, trained thousands of individuals and supported numerous businesses in their road towards innovation, growth and job creation.¹²⁹ The European Council has allocated Malta €842 million for the period 2021 to 2027 under the core Cohesion Policy, while an additional €92 million were allocated to Malta as part of the Recovery Instrument – ReactEU (Cohesion Policy).¹³⁰

¹²⁸ COE, 2004. *A new strategy for Social Cohesion*, p. 3.

¹²⁹ ourEU.mt: <https://youtu.be/2WvORggXwLg>.

¹³⁰ <https://www.gov.mt/en/Government/DOI/Press%20Releases/Pages/2020/July/21/pr201382en.aspx> as at 9 May 2022.

17.2.2 Nevertheless, this Office has noted that there are a number of shortcomings that are influencing the degree to which public entities embrace the principles of social cohesion. The following refers:

- i. **Shortages in required level of human resources:** Paragraph 15.2.4.i has already alluded to the National Audit Office (NAO) comments presented in the performance audit, *“Tackling Child Abuse”*, 2020. Therein it was stated that Appoġġ was severely understaffed. This situation inevitably effects the services provided by this Agency which in turn may have an adverse effect on socially vulnerable people. As noted earlier in this Study, NAO observed that Appoġġ was in competition with both public and private entities to attract and retain professionals in the social work field.

“Appoġġ however highlighted that in order to mitigate this phenomenon, it is endeavouring in bolstering its human resource complement in other areas (such as counsellors and social support workers) intended to support their social workers and therefore alleviate the workload.”¹³¹

- ii. **Limited cooperation between involved stakeholders:** The performance audit, *“An Evaluation of the Community Work Scheme”*, 2019 outlined that:

“The Concession Agreement stated that General Workers Union (GWU) was to set up a Community Work Scheme Enterprise (CWSE) Foundation to provide the Community Worker Scheme’s participants with employment opportunities. However, the Foundation, at its own costs, subcontracted the management and operation of the Community Work Scheme (CWS) to District Operations Limited. The GWU established the Foundation and District Operations Limited simultaneously.

The Foundation fulfilled its legal obligations by seeking written consent from Jobsplus in relation to subcontracting, in terms of the Concession Agreement. However, Jobsplus, as the Contracting Authority, remains partially uninformed about the subcontracting arrangements since the relationship between the CWSE Foundation and District Operations Limited is not regulated by a subcontracting agreement.

The Foundation contends that it remains responsible towards the Contracting Authority for all obligations assumed under the Concession Agreement, including the engagement of community workers, which is the core deliverable. The Foundation remarked that the assignment of administrative responsibilities to a company within the GWU group was an internal decision that does not in any way affect the terms contracted between the Contracting Authority and the Concessionaire.”¹³²

¹³¹ NAO, 2020. *Tackling Child Abuse*, p. 18.

¹³² NAO, 2019. *An Evaluation of the Community Work Scheme*, p. 20.

- iii. **Programme implementation shortcomings:** The performance audit, *“Tackling Child Abuse, (2020)* noted that there were implementation shortcomings on three counts. These related to:
- a. **A waiting list prevails for Child Protection Services (CPS’s) services:** *“CPS waiting list has somewhat decreased since June 2019, however it remains concerned about the significant number of cases still posted to it. Considering the social impact that cases of child abuse naturally carry with them, having a waiting list means that these sensitive situations are allowed to prevail for a longer period of time than strictly necessary.”*¹³³
 - b. **A Child Safety Services (CSS) service gap during the summer scholastic holiday period:** *“NAO acknowledges the somewhat unavoidable difficulties of accessibility posed by the fact that students are not required to attend school during the summer holidays. It however remains concerned that significant HR related issues prevail when it comes to the address of such cases during the summer period, making the possibility of a continued service even more improbable.”*¹³⁴
 - c. **Insufficient available placements to home children on care orders:** *“NAO shares CSS’s and CPS’s expressed concerns about the insufficient number of available placements to house children who would have to be removed from their home through a care order. Such a situation exposes unnecessary risks to the victims by having to reside in an abusive and/or inadequate environment for a longer period than strictly necessary. This Office also acknowledges the difficulties posed by the occurrence of placement breakdowns, and commends the Foundation’s efforts to mitigate this phenomenon through the rental of premises and the provision of resources for their operation.”*¹³⁵

17.3 Effects of limited social cohesion

- 17.3.1 A socially cohesive society is one which works towards the wellbeing of all its members, fights exclusion and marginalisation, creates a sense of belonging, promotes trust and offers its members the opportunity of upward mobility. Fostering social cohesion is about striving for greater inclusiveness, more civic participation and creating opportunities for upward mobility.
- 17.3.2 The NAO’s performance audit reports acknowledge that Government strategies and policies address social cohesion on two fronts, firstly as an end in itself and secondly as a means to an end. Ultimately, no society can prosper if its citizens are not adequately protected against life risks which threaten their well being and security, nurture a spirit of trust towards the institutions of the state, and, most importantly, have the facility to work towards a better future for themselves and their families.

¹³³ NAO, 2020. *Tackling Child Abuse*, p. 20.

¹³⁴ NAO, 2020. *Tackling Child Abuse*, p. 21.

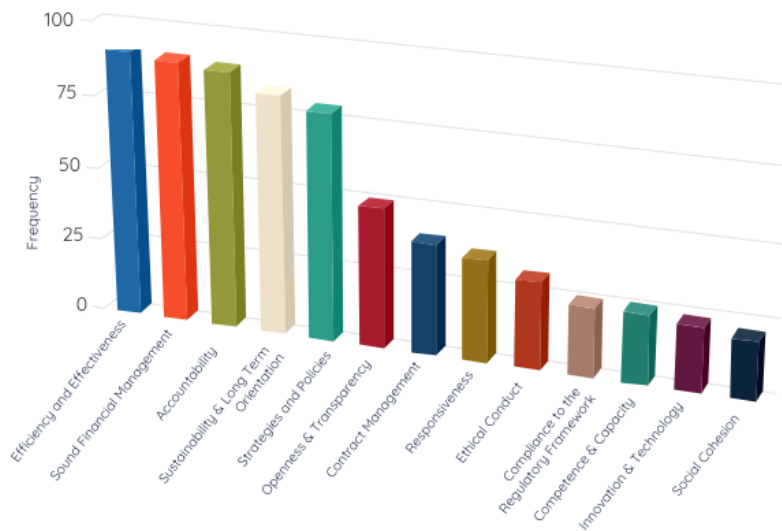
¹³⁵ NAO, 2020. *Tackling Child Abuse*, p. 22.

Chapter 18 | Conclusions

- 18.1** This Study illustrated the relationship between performance audits and good public governance. By definition, performance audit is an independent, objective and reliable examination of whether Government undertakings, systems, operations, programmes, activities or organisations are operating in accordance with the principles of economy, efficiency and effectiveness and whether there is room for improvement.¹³⁶ This definition provides a clear link to public governance in two ways. Firstly, performance audits typically test if a government is making good use of resources to effectively deliver its policy goals and achieve its intended impact. Secondly, Governments are constantly under pressure to improve the performance within the Public Sector while simultaneously managing expenditure growth.
- 18.2** This Review sought to link 283 performance audits findings elicited from 19 reports which were published by the National Audit Office (NAO) over a four year span up to end 2020 to the principles and related elements constituting good public governance. These 283 findings could be classified in nine broad categories, namely: Procurement Procedures, Monitoring and Enforcement, Risk Management, Compliance, Administration, Human Resources, Communication, Technology and Operations.
- 18.3** This study showed that due to the interrelationship of governance principles and element, these 283 findings could not be solely evaluated in terms of just one principle or element of public governance adopted for the purpose of this study. This occurs since performance audit findings tend to have a broad impact on public governance.
- 18.4** These findings were subsequently analysed against a construct depicting 14 elements of good public governance. A matrix portraying audit findings against the elements of governance resulted in 669 hits. This can be considered as a minimum, since most of the audit findings, in practice, could affect all aspects of public governance due to the interrelated relationship of these 14 elements. Figure 10 refers.

¹³⁶ INTOSAI. *ISSAI 300, Fundamental Principles of Performance Auditing*, p. 2.

Figure 10: The effect of Common Performance Audit shortcomings on the Principles of Governance



- 18.5 The shortcomings depicted in Figure 10 clearly show that the NAO’s performance audits’ main findings revolved around the governance principles involving Efficiency and Effectiveness, Sound Financial Management (Economy) and Accountability. Nonetheless, these statistics do not in any way imply that one governance principle is more important than the other. Low occurrence, however, is not to be interpreted that such a weakness is not significantly impacting aspects of public service performance.
- 18.6 Further analysis of the findings elicited through the 19-performance audit report in terms of the principles and elements of governance shows that a range of common denominators emerges. It becomes apparent that at least some of the findings reported could have been avoided through more robust planning, strategic and policy direction, control, communication with stakeholders as well as monitoring. In part, these situations materialise in the absence of reliable or fragmented information which detract management from taking decisions on the basis of comprehensive and timely data.
- 18.7 The public sector has over time made great strides forward in improving its administrative capacity, management function and has spent significantly on introducing and upgrading its Information Communication Technology (ICT). There is plenty of evidence that public organisations have always delivered in difficult and complex circumstances. This can also be seen by various indices which register improvements in the quality of life of Maltese citizens. Nonetheless this Study has shown that better results is definitely within the Public Service’s potential, particularly through greater awareness of the three Es which provide the foundations for improved performance. In turn, this will contribute to better public governance by encouraging further sustainable development.

18.8 In view of the foregoing, the NAO proposes nine strategic broad recommendations in terms of the main categories of findings identified in this evaluation as portrayed in paragraph 18.2 of this concluding Chapter. These recommendations are presented within the Executive Summary of this Study at page 11.

Appendix I: List of Reports included in the scope of this Study

| TITLE OF REPORT | MONTH | YEAR |
|--|--------------|-------------|
| An analysis of Malta Medicines Authority recruitment process | Nov | 2020 |
| A Follow-Up on the 2016 Analysis on OHSA's Operations - A Case Study on the Construction Industry | June | 2020 |
| Tackling Child Abuse | May | 2020 |
| Assessing the Public Transport Contract and Transport Malta's visibility on the service | Feb | 2020 |
| Community care for older persons | Jan | 2020 |
| An analysis of issues concerning the Cooperative Movement in Malta | Nov | 2019 |
| Joint Audit: An Evaluation of the Community Work Scheme | June | 2019 |
| A Review on the Contract for Mount Carmel Hospital's Outsourced Clerical Services | March | 2019 |
| An evaluation of the regulatory function of the Office of the Commissioner for Voluntary Organisations | Dec | 2018 |
| A Strategic Overview on the Department of Fisheries and Aquaculture's Inspectorate Function | Nov | 2018 |
| An evaluation of Government's deal to design, build and operate the Malta National Aquarium | Sep | 2018 |
| A Strategic Overview of Mt. Carmel Hospital | Jul | 2018 |
| Evaluation of Feed-In Tariff Schemes for Photovoltaics | Mar | 2018 |
| The designation and effective management of protected areas within Maltese waters | Jan | 2018 |
| Outpatient waiting at Mater Dei Hospital | Nov | 2017 |
| Maintaining and Repairing the Arterial and Distributor Road Network in Gozo | Oct | 2017 |
| Landscaping Maintenance through a Public-Private Partnership | Sep | 2017 |
| Procuring the State Schools' Transport Service | July | 2017 |
| Protecting Consumers through Market Surveillance Directorate Monitoring Role | May | 2017 |

Appendix II: Governance principles for regulators

The Organisation for Economic Co-operation and Development defines seven principles for regulators. The following refers:

1. **Role clarity:** An effective regulator must have clear objectives, with clear and linked functions and the mechanisms to co-ordinate with other relevant bodies to achieve the desired regulatory outcomes.
2. **Preventing undue influence and maintain trust:** It is important that regulatory decisions and functions are conducted with the upmost integrity to ensure that there is confidence in the regulatory regime. This is even more important for ensuring the rule of law, encouraging investment and having an enabling environment for inclusive growth built on trust.
3. **Decision making and governing body structure for independent regulators:** Regulators require governance arrangements that ensure their effective functioning, preserve its regulatory integrity and deliver the regulatory objectives of its mandate.
4. **Accountability and transparency:** Businesses and citizens expect the delivery of regulatory outcomes from government and regulatory agencies, and the proper use of public authority and resources to achieve them. Regulators are generally accountable to three groups of stakeholders: i) ministers and the legislature; ii) regulated entities; and iii) the public.
5. **Engagement:** Good regulators have established mechanisms for engagement with stakeholders as part of achieving their objectives. The knowledge of regulated sectors and the businesses and citizens affected by regulatory schemes assists to regulate effectively.
6. **Funding:** The amount and source of funding for a regulator will determine its organisation and operations. It should not influence the regulatory decisions and the regulator should be enabled to be impartial and efficient to achieve its objectives.
7. **Performance evaluation:** It is important for regulators to be aware of the impacts of their regulatory actions and decisions. This helps drive improvements and enhance systems and processes internally. It also demonstrates the effectiveness of the regulator to its stakeholders and further helps to build confidence in the regulatory system.

2021-2022 (to date) Reports issued by the NAO

NAO Annual Report and Financial Statements

May 2021 National Audit Office Annual Report and Financial Statements 2020

NAO Audit Reports

May 2021 Performance Audit: Preliminary review: NAO's role in reviewing Government's measures relating to the COVID-19 pandemic

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